

# Agenda



## Delegated Decisions - Leader

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Date: Tuesday, 11 January 2022

To: Councillor J Mudd

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Item		Wards Affected
1	<u>Award of UK Community Renewal Fund to Newport City Council</u> (Pages 3 - 48)	All Wards

Contact: Anne Jenkins, Governance Team Leader  
Tel: 01633 656656  
E-mail: Cabinet@newport.gov.uk  
Date of Issue: 31 December 2021

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# Report

## Leader of the Council

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### Part 1

Date: 11 January 2022

**Subject** Award of UK Community Renewal Fund to Newport City Council

**Purpose** The purpose of this report is to advise the Leader of the Council of the Department for Levelling Up, Housing and Communities of a £2.8m award of UK Community Renewal Fund.

**Author** Director of Transformation and Corporate, Strategic Director – Environment and Sustainability

**Ward** All Wards

**Summary** In March 2021, the UK Government (Department for Levelling Up, Housing and Communities) launched the UK Community Renewal Fund (UK CRF) for local authorities. The purpose of the Fund is to support local communities and economy through its 'Levelling Up' agenda focusing on investment in skills, local business, communities and place, and supporting people into employment; with emphasis also on decarbonisation and climate change initiatives:

Each local authority could submit any number of applications to the Department up to the combined value of £3 million through an open competitive process for private, public sectors including local authorities, charities, not for profit and education establishments. In May 2021, the Council launched its invitation to organisations to submit their application. Eight projects were selected for submission to the Department.

In November, the Department announced the outcome of the process and Newport was successful in obtaining funding for seven out of eight projects submitted. All organisations were contacted to inform them of the outcome of the award. For the seven projects accepted, these organisations will see £2.7m that will deliver projects to 30<sup>th</sup> June 2022.

**Proposal** To accept the award of £2.8m of UK Community Renewal Fund to be distributed to the seven successful organisations to deliver their projects over the next six months.

**Action by** Director of Transformation and Corporate

**Timetable** Immediate

This report was prepared after consultation with:

- Chief Executive
- Head of Finance (Chief Finance Officer)
- Head of Law and Regulations (Monitoring Officer)

**Signed**

## Background

In March 2021, the UK Government (Department for Levelling Up, Housing and Communities) launched the UK Community Renewal Fund (UK CRF) for local authorities across the UK to access. The UK CRF acts as a precursor to the UK Shared Prosperity Fund that will EU Structural Funds in 2022. The purpose of the Fund is to support local communities and economy through its 'Levelling Up' agenda focusing on four themes with emphasis also on decarbonisation and climate change initiatives:

1. Investment in skills
2. Investment for local business
3. Investment in communities and place
4. Supporting people into employment

Each local authority could submit any number of applications to the Department up to the combined value of £3 million through an open competitive process for private, public sectors including local authorities, charities, not for profit and education establishments.

In May 2021, the Council launched its invitation to organisations to submit their application. Eleven applications were submitted in total and subject to a Panel Assessment by the Council and representatives from the One Newport Public Services Board. Eight projects were selected for submission to the Department. A full copy of the Cabinet Report submitted in June 2021 on the outcome of the application process can be viewed [here](#).

The Department originally set a date in August for Councils across the UK to announce the outcome of the evaluation and award of the funding. However, this announcement was delayed due to the number of applications that were received and needed to be evaluated.

### **Award of UKCRF to Newport City Council**

On 3<sup>rd</sup> November, the Department announced the outcome of the process and Newport was successful in obtaining funding for seven out of eight projects submitted. All organisations were contacted to inform them of the outcome of the award. For the seven projects accepted, these organisations will see £2.7m that will deliver projects to 30<sup>th</sup> June 2022.

Organisation	Project	Total Project Fund (£)	UKCRF Contribution (£)	Match Funding (£)
Ffilm Cymru Wales	Foot in the Door	£913,028	£841,806	£71,222
WIDI – University of South Wales	Development of Welsh Institute of Digital Information	£862,226	£730,997	£131,229
Volunteering Matters	Newport 360	£400,540	£400,540	£0
TGP Cymru	Sgiliau	£328,879	£328,879	£0
Business in Focus	Young Enterprise Newport	£213,126	£213,126	£0
Maindee Unlimited	Greening Maindee	£173,020	£173,020	£0
Pobl Cymru	Business Support in Pillgwenlly	£59,550	£59,550	£0
<b>Total</b>		<b>£2,950,369</b>	<b>£2,747,918</b>	<b>£202,451</b>

To support the projects to deliver over the next seven months, Newport Council will receive 2% of each project (total - £55k) to assist in the monitoring and reporting of the projects but also to support the organisations to help engage with communities and promote their delivery across Newport.

Initial contact has been made to all seven organisations to notify them the award and the next steps to help them get started in delivering their projects. The Department asked local authorities to also contact each organisation to ensure that they can deliver their projects in terms of their finances, scope and delivery dates outlined by the Department. All seven organisations have confirmed that they can still deliver their projects within the timescale.

### **UK CRF Agreement**

As a 'Lead Authority' Newport Council will be responsible for overseeing and distributing the funding to the organisations to deliver their projects. Following confirmation to the Department, as Senior Responsible Officer, the Director for Transformation and Governance received the Agreement to receive and deliver the funding to the organisations outlined in the table above.

Following review from the Council's Finance and Legal teams we have agreed to the terms and conditions outlined in the agreement and to also receive the funding to distribute to the organisations. See attached at Appendix 1.

As outlined in the agreement, Newport Council will receive 5/8<sup>th</sup> of the funding to cover 62.5% of project delivery in advance. The Council (through guidance from the Finance and Legal teams) will establish separate agreements with each organisation to pay the funding in advance (subject to completion of a monthly monitoring form).

For the last 3 months, projects may have difficulty to deliver the projects without the grant funding in advance. The Council has requested each organisation to provide a detailed cash flow forecast that will enable us to identify how much Council support needs to be provided in advance. This funding will be recovered from the final grant payment.

Newport Council will also be appointing a fixed term Programme Manager that will be responsible for the monitoring, reporting and liaising with the organisations and service areas across the Council to support the delivery of these projects. This role will also support future UK Government funding such as the Shared Prosperity Fund. The post and responsibility will be in the new Communities and Housing service area once established.

### **Appendix 1 – UKCRF and Newport City Council UKCRF Agreement**

#### **Financial Summary (Capital and Revenue)**

- The Year 1 (21/22) grant will be the first payment that the Council will receive and distribute across all of the organisations subject to completion of the monitoring form. This amount includes Newport Council's Management Costs.
- The Year 2 (22/23) grant payment will be subject to completion of the projects and submission of final monitoring and reporting forms before the Council submits a final claim to the Department for Levelling Up, Housing and Communities. This amount is subject to change.

	<b>Year 1 21/22 (Current) £</b>	<b>Year 2 22/23 £</b>	<b>Year 3 £</b>	<b>Ongoing £</b>	<b>Notes including budgets heads affected</b>
<b>UKCRF Grant</b>	<b>£1,751,855</b>	<b>£1,051,113</b>	<b>N/A</b>	<b>N/A</b>	The Year 2 income will be subject to audit and review on the delivery of the projects.

#### **Risks**

It is important to identify and manage any project or scheme's exposure to risk and have in place controls to deal with those risks.

<b>Risk Title / Description</b>	<b>Risk Impact score of Risk if it occurs* (H/M/L)</b>	<b>Risk Probability of risk occurring (H/M/L)</b>	<b>Risk Mitigation Action(s)</b> What is the Council doing or what has it done to avoid the risk or reduce its effect?	<b>Risk Owner</b> Officer(s) responsible for dealing with the risk?
UK CRF Grant agreement not signed off within 10 working days	M	M	The Director of Transformation and Corporate is leading on reviewing and signing off the agreement within 10 working days collaborating with Finance and Legal teams	Director of Transformation and Governance.
Funding is not awarded and allocated to organisations to deliver their projects	M	M	Legal team is drafting legal template on back of the NCC and Department for Levelling Up.	Director of Transformation and Governance Head of Law and Regulations
Council does not support the programmes in meeting their objectives.	H	L	Key contacts across service areas to work with the organisations to deliver the projects.	CMT
Projects are not able to deliver their projects to time, scope and finance.	H	M	The Council has requested cashflow statements from each organisation to identify any cashflow pressures. Monthly statements will be required from each organisation to monitor and report progress against their projects.	Director of Environment and Sustainability Head of Finance (Chief Finance Officer)

\*Taking account of proposed mitigation measures

### **Links to Council Policies and Priorities**

One Newport Well-being Plan 2018-23  
Corporate Plan 2017-22

### **Options Available and considered**

1. Leader of the Council agrees to accept the award of £2.8m of UK Community Renewal Fund to be distributed to the seven successful organisations to deliver their projects over the next six months.
2. Leader of the Council rejects the proposal and the Council does not accept the Agreement and the award from UK Government.

### **Preferred Option and Why**

Option one is the preferred option that will enable the Council to receive the funding to distribute across the seven projects.

### **Comments of Chief Financial Officer**

Acceptance of this grant will have no adverse budgetary impact. The £2.8m grant award is predominantly revenue based with a small amount of capital and will be distributed to the seven organisations in a pre determined structured manner. A further administrative grant of £55k will also be received and will be used to resource a Programme Manager role which will oversee the delivery of the work programmes and monitor spend in accordance with the terms and conditions of the grant.

There are some financial risks associated with this grant in that the Council will likely need to support some or all of the organisations 'cash-flow' for the latter months of the projects and therefore needs to have monitoring in place to ensure the projects will be completed and receive the last tranche of external funding in order for the cash-flow support to be reimbursed to the Council. The legal agreements

between the Council and the obligations and conditions contained in those plus on-going monitoring are key to managing this risk.

Payments made in advance are not recommended and where unavoidable, should be limited in value.

### **Comments of Monitoring Officer**

There are no legal issues arising from the Report as it is recommending acceptance of the award of £2.8m grant funding from the UK Community Renewal Fund, to deliver the seven approved projects set out in the report. There are no match-funding or other financial implications for the Council and there is provision within the funding to cover the cost of managing the programme, so the projects are fully-funded. However, the Council will be responsible for ensuring that the projects are delivered successfully by the relevant organisations and that the necessary outcomes and objectives are achieved. The Council will be required to enter into a legal agreement with UK CRF to secure the delivery of the projects and, therefore, it will be necessary to have back-to-back agreements with all the grant recipients to ensure that the Council is able to meet its obligations under the grant agreement. The back-to-back agreement will need to contain suitable indemnities for the Council from the relevant organisations in the event of any breach of the grant conditions or non-delivery of the projects. In the event of UK CRF seeking to claw-back any of the grant funding due to default or non-performance, then the Council will be liable to repay the funding and will then have to recover the costs from the relevant organisations. Unlike other, property-related, grant funding agreements where such liability can be secured as a charge against property assets, there will be no collateral security in these cases because of the nature of the projects. Therefore, programme management and monitoring of delivery will be critical, to ensure that the grant does not become repayable.

### **Comments of Head of People and Business Change**

The delivery of the UK Community Renewal Fund will provide significant benefit to Newport and its communities that will not only support economic growth but provide opportunities some of the city's most vulnerable and disadvantaged communities and groups. The delivery of the projects are aligned to the Council's Corporate Plan, One Newport Wellbeing Plan and the Council's Strategic Recovery Plan. As this is a pilot programme from the UK Government the success and lessons learned from the projects will enable the Council to prepare effectively locally and regionally with other Local Authorities to deliver the future Shared Prosperity Fund.

The funding provided by the UK CRF will provide an opportunity to recruit a Programme Manager that will have the resource to oversee and support more effectively the delivery of the projects with organisations.

### **Comments of Non-Executive Members**

Councillor M Evans:

Very happy to support these worthy projects and the big investments in the city.

### **Scrutiny Committees**

Not applicable as the Cabinet Report is to confirm the agreement of the UK CRF award which does not require Scrutiny Committee review.

### **Fairness and Equality Impact Assessment:**

- **Wellbeing of Future Generation (Wales) Act**
- **Equality Act 2010**
- **Socio-economic Duty**
- **Welsh Language (Wales) Measure 2011**

These areas are covered in the first Cabinet Report in June 2021 [here](#). The process undertaken by Newport Council in the application process aligned to the Council's Corporate Plan and Well-being Plan of the Public Services Board.

**Consultation**

Not Applicable as this is a decision whether to accept or not the agreement and funding from UK Government.

**Background Papers**

UK Community Renewal Fund Cabinet Report June 2021

**Dated: 11 January 2022**



UK Government

FUNDING AGREEMENT FOR THE UK COMMUNITY RENEWAL FUND  
BETWEEN  
THE SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND COMMUNITIES  
**and**  
NEWPORT CITY COUNCIL

## Table of Contents

1.INTRODUCTION .....	4
2.DEFINITIONS AND INTERPRETATION.....	5
CONDITIONS.....	12
3.DURATION AND PURPOSE OF THE GRANT .....	12
4.PAYMENT OF GRANT AND GRANT CLAIM PROCEDURE .....	12
5.ELIGIBLE AND INELIGIBLE EXPENDITURE .....	14
6.GRANT REVIEW.....	16
7.MONITORING AND REPORTING.....	17
8.PROJECT EVALUATION, AUDITING AND ASSURANCE .....	19
9.FINANCIAL MANAGEMENT AND PREVENTION OF BRIBERY, CORRUPTION, FRAUD AND OTHER IRREGULARITY.....	20
10.CONFLICTS OF INTEREST .....	21
11.CONFIDENTIALITY .....	21
12.TRANSPARENCY .....	21
13.STATUTORY DUTIES.....	22
14.PUBLIC PROCUREMENT AND DATA PROTECTION.....	22
15.SUBSIDY CONTROL .....	24
16.INTELLECTUAL PROPERTY RIGHTS.....	25
17.ENVIRONMENTAL REQUIREMENTS .....	25
18.ASSETS .....	26
19.INSURANCE .....	27
20.ASSIGNMENT.....	27
21.SPENDING CONTROLS – MARKETING, ADVERTISING, COMMUNICATIONS AND CONSULTANCY.....	27
22.LOSSES, GIFTS AND SPECIAL PAYMENTS .....	28
23.BORROWING.....	28
24.PUBLICITY .....	28
25.CHANGES TO THE SECRETARY OF STATE’S REQUIREMENTS.....	29
26.CLAWBACK, EVENTS OF DEFAULT, TERMINATION AND RIGHTS RESERVED FOR BREACH AND TERMINATION.....	29
27.DISPUTE RESOLUTION .....	34
28.LIMITATION OF LIABILITY .....	34
29.VAT .....	34
30.CODE OF CONDUCT FOR LEAD AUTHORITIES .....	35
31.NOTICES.....	35

32.GOVERNING LAW .....	35
ANNEX 1: PROJECT ACTIVITIES .....	37
ANNEX 2: FUNDING AND OUTPUTS.....	38
ANNEX 3: LEAD AUTHORITY'S BANK DETAILS AND AUTHORISED SIGNATORIES .....	42
ANNEX 4: CONTACT DETAILS .....	44

**This Grant Funding Agreement** is made on 22<sup>nd</sup> December 2021

**Between:**

- (1) **THE SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND COMMUNITIES**, whose principal address is at 2 Marsham Street, London SW1P 4DF (the “**Secretary of State**”)
- (2) **NEWPORT CITY COUNCIL** whose principal address is at Civic Centre, Godfrey Road, Newport, NP20 4UR (the “**Lead Authority**”).

## **BACKGROUND**

- A. Her Majesty’s Government (the UK Government) is providing £220 million of funding through the UK Community Renewal Fund to support pilot programmes and test new approaches to support local economic growth, prior to the introduction of the UK Shared Prosperity Fund.
- B. The UK Community Renewal Fund invests in projects that cover one or more of the investment priorities of skills, community and place, local business, and supporting people into employment. In Great Britain the Fund is managed in partnership with local authorities who act as Lead Authority for their area.

Funds provided under the UK Community Renewal Fund are provided pursuant to section 50 of The United Kingdom Internal Market Act 2020.

- C. The Secretary of State administers the UK Community Renewal Fund for the UK Government.
- D. The Lead Authority is a Mayoral Combined Authority, a County Council, a Unitary Authority or the Greater London Authority and has invited bids from a range of project applicants, appraised those projects and submitted a shortlist to the UK Government, which has selected projects to fund based on published assessment criteria.
- E. The UK Government will provide funds to the Lead Authority for the selected projects and the Lead Authority will enter into funding agreements with and administer the distribution of funds to the selected projects’ deliverers and thereafter monitor and assure the successful delivery of those projects.

The conditions collectively (the **Conditions**) are as follows:

### **1. INTRODUCTION**

- 1.1. In consideration of the Parties’ respective obligations contained in this Funding Agreement the Secretary of State offers the Grant and the Lead Authority accepts the Grant up to the Maximum Sum on the Conditions of this Funding Agreement.
- 1.2. This Grant Funding Agreement sets out the conditions which apply to the Lead Authority receiving the Grant from the Secretary of State up to the Maximum Sum.

- 1.3. The Secretary of State and the Lead Authority have agreed that the Secretary of State will provide the Grant up to the Maximum Sum as long as the Lead Authority uses the Grant in accordance with this Grant Funding Agreement.
- 1.4. The Secretary of State makes the Grant to the Lead Authority on the basis of the Lead Authority's grant application and the Project Deliverers grant applications contained within the Lead Authority's grant application. The description of the project proposed in the Project Deliverers grant application is attached at Annex 1 (the **grant application**). The purpose of the Grant and the Funding are as set out in the grant applications.
- 1.5. The Parties confirm that it is their intention to be legally contractually bound by this Grant Funding Agreement.

## 2. DEFINITIONS AND INTERPRETATION

- 2.1. Where they appear in these Conditions:

**Annex** means the annexes attached to these Conditions which form part of the Funding Agreement;

**Asset** means any assets that are to be purchased or developed using Funding including equipment or any other assets which may be a Fixed Asset as appropriate in the relevant context, and **Assets** will be construed accordingly;

**Asset Owning Period** means a three-year period from the 30 June 2022.

**Bribery Act** means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning this legislation;

**Code of Conduct** means the Code of Conduct for Recipients of Government General Grants published by the Cabinet Office in November 2018 which is available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/754555/2018-11-06\\_Code\\_of\\_Conduct\\_for\\_Grant\\_Recipients.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/754555/2018-11-06_Code_of_Conduct_for_Grant_Recipients.pdf), including any subsequent updates from time to time;

**Commencement Date** means the date on which the Grant Funding Agreement comes into effect, being the 3<sup>rd</sup> November 2021.

**Confidential Information** means any information (however conveyed, recorded or preserved) disclosed by a Party or its personnel to another Party (and/or that Party's personnel) whether before or after the date of the Grant Funding Agreement, including but not limited to:

- (a) any information that ought reasonably to be considered to be confidential (whether or not it is so marked) relating to:
  - (i) the business, affairs, customers, clients, suppliers or plans of the disclosing Party; and
  - (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing Party; and

- (b) any information developed by the Parties in the course of delivering the Funded Activities;
- (c) the Secretary of State Personal Data;
- (d) any information derived from any of the above.

Confidential Information shall not include information which:

- (a) was public knowledge at the time of disclosure (otherwise than by breach of paragraph CONFIDENTIALITY of these Conditions;
- (b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- (c) is received from a Third Party (who lawfully acquired it) without restriction as to its disclosure; or
- (d) is independently developed without access to the Confidential Information.

**Confirmation of Bank Details and Signatories Form** means that form at Annex 4 of the Funding Agreement;

**Contracting Authority** means any contracting authority (other than the Secretary of State) as defined in regulation 2 of the Public Contracts Regulations 2015 (as amended);

**Controller and Processor** take the meaning given in the GDPR;

**Change of Control** means the sale of all or substantially all the assets of a Project Deliverer; any merger, consolidation or acquisition of a Project Deliverer with, by or into another corporation, entity or person, or any change in the ownership of more than fifty percent (50%) of the voting capital stock of a Project Deliverer in one or more related transaction;

**Crown Body** means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on a Crown Body's behalf;

**Data Protection Legislation** means (i) the GDPR; (ii) the Data Protection Act 2018 to the extent that it relates to the processing of Personal Data and privacy; and (iii) all applicable Law relating to the processing of Personal Data and privacy;

**Delivery Partner** means a third party that (in collaboration with a Project Deliverer) shall deliver the Project, itself defray expenditure to be claimed and carry out the Project Activities in accordance with clause 4 and which third party is not intended by either party or a Project Deliverer to be providing services or works under a contract for services or works;

**Disposal** means the disposal, sale, transfer of an Asset or any interest in any Asset and includes any contract for disposal and **Dispose** and **Disposed** shall be construed accordingly;

**Domestic Law** means an applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any regulatory body, delegated or subordinate legislation which replaces EU law as a consequence of the UK leaving the European Union;

**Duplicate Funding** means funding provided by a Third Party to the Lead Authority, which is for the same purpose for which the Grant was made, but has not been declared to the Secretary of State;

**Eligibility Criteria** mean the Secretary of State's selection criteria used to determine who should be grant recipients including the Lead Authority;

**Eligible Expenditure** means the expenditure incurred by the Lead Authority or a Project Deliverer during the Funding Period for the purposes of delivering the Project Activities which comply in all respects with the rules set out in paragraph ELIGIBLE AND INELIGIBLE EXPENDITURE of these Conditions;

**Eligibility Rules** means the rules governing eligibility of expenditure for payment of UK Community Fund Grants and Funding contained in the Technical Documents;

**EIR** means the Environmental Information Regulations 2004 (SI No 2004/3391) together with any guidance and/or codes of practice issued by the 'Information Commissioner' (as referred to therein) or relevant Crown Body in relation to the EIR;

**Evaluation Guidance** means the UK Government's Monitoring and Evaluation Guidance which can be found at <https://www.gov.uk/government/collections/new-levelling-up-and-community-investments#the-uk-community-renewal-fund>

and as may be updated or replaced from time to time.

**Event of Default** means an event or circumstance set out in paragraph The Secretary of State may exercise its rights set out in paragraph Where, the Secretary of State determines that an Event of Default has or may have occurred, the Secretary of State shall take any one or more of the following actions: if any of the following events occur;;

**Final Accounting Date** means the 30 June 2022;

**Financial Year** means from 1<sup>st</sup> April to 31<sup>st</sup> March;

**First Grant Payment** means the initial payment made in accordance with paragraph 4.11;

**Fixed Assets** means any Asset which consists of land, buildings, plant and equipment acquired, developed, enhanced, constructed in connection with the Funded Activities which has a value as at the date of this Funding Agreement of at least £5,000 (five thousand pounds);

**FOIA** means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;

**Funding** means the funding payable by a Lead Authority to a Project Deliverer for the Eligible Expenditure incurred by the Project Deliverer in performing the Project Activities in respect of the Project Deliverer's Project and forming, in part or in full, the Grant and Funded shall be construed accordingly;

**Funding Agreement** means these Conditions together with its annexes and schedules;

**Funding Period** means the period for which the Grant is awarded starting on the Commencement Date and ending on 30 June 2022;

**Gateway Criteria** means the Great Britain, Stage 1. Gateway criteria of the UK Government's document: UK Community Renewal Fund, Assessment Process, March 2021, which can be found at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/972992/UKCRF\\_assessment\\_criteria\\_v1.1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972992/UKCRF_assessment_criteria_v1.1.pdf) ;

**General Data Protection Regulation** and **GDPR** means the General Data Protection Regulation (EU) 2016/679;

**Grant** means the sum or sums the Secretary of State will pay to the Lead Authority in accordance with paragraph PAYMENT OF GRANT and subject to the provisions set out at paragraph CLAWBACK, EVENTS OF DEFAULT, TERMINATION AND RIGHTS RESERVED FOR BREACH AND TERMINATION.

**Grant Claim** means the payment request form submitted by the Lead Authority to the Secretary of State for payment of the Second Grant Payment;

**Grant Manager** means the individual who has been nominated by the Secretary of State to be the single point of contact for the Lead Authority in relation to the Grant;

**HRA** means the Human Rights Act 1998 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;

**Ineligible Expenditure** means expenditure incurred by the Lead Authority which is not Eligible Expenditure and as set out in paragraph ELIGIBLE AND INELIGIBLE EXPENDITURE of these Conditions;

**Information Acts** means the Data Protection Legislation, FOIA and the EIR, as amended from time to time;

**Intellectual Property Rights** or **IPRs** means copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs, know-how, trade secrets and any modifications, amendments, updates and new releases of the same and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

**IP Completion Day** has the meaning given to it in the European Union (Withdrawal) Act 2018;

**IPR Material** means all material produced by the Lead Authority or its Representatives as the case may be the Project Deliverer or its Representatives in relation to the Funded Activities during the Funding Period (including but not limited to, materials expressed in any form of report, database, design, document, technology, information, know how, system or process);

**Law** means any applicable law, statute, byelaw, regulation, order, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any regulatory body, delegated or subordinate legislation;

**Losses** means all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and **Loss** will be interpreted accordingly;

**Match Funding** means any contribution to the Funded Activities, whether identified in Annex 2 or not, made by the Project Deliverer to meet the balance of Eligible Expenditure not supported by the Grant or Funding or by a Third Party to the Lead Authority or to a Project Deliverer to meet the balance of the Eligible Expenditure not supported by the Grant or Funding;

**Maximum Sum** means the total maximum amount of Grant the Secretary of State will provide to the Lead Authority for the Project Activities and Projects as stated in Annex 2 and subject to paragraph CLAWBACK, EVENTS OF DEFAULT, TERMINATION AND RIGHTS RESERVED FOR BREACH AND TERMINATION;

**Northern Ireland Protocol** means the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;

**Party** means the Secretary of State or Lead Authority and **Parties** shall be each Party together;

**Personal Data** has the meaning given to it in the Data Protection Legislation as amended from time to time;

**Procurement Regulations** means the Public Contracts Regulations 2015, Concession Contracts Regulations 2016, Defence Security Public Contracts Regulations 2011 and the Utilities and Contracts Regulations 2016 together with their amendments, updates and replacements from time to time;

**Prohibited Act** means:

- (a) directly or indirectly offering, giving or agreeing to give to any servant of the Secretary of State or the Crown any gift or consideration of any kind as an inducement or reward for:
  - (i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of the Funding Agreement; or
  - (ii) showing or not showing favour or disfavour to any person in relation to the Funding Agreement;
- (b) committing any offence:
  - (i) under the Bribery Act;
  - (ii) under legislation creating offences in respect of fraudulent acts; or
  - (iii) at common law in respect of fraudulent acts in relation to the Funding Agreement; or
- (c) defrauding or attempting to defraud or conspiring to defraud the Secretary of State or the Crown;

**Project** means a project described in Annex 1 and **Projects** shall be construed accordingly;

**Project Activities** means the activities set out in Annex 1 in respect of each Project to be delivered by a Project Deliverer and Funded by the Lead Authority in part or in full utilising the Grant and Project Activity shall be construed accordingly;

**Project Deliverer** means the applicant for funding shown in the Application for a Project and which term may include the Lead Authority and **Project Deliverers** shall be construed accordingly;

**Prospectus** means the UK Community Renewal Fund: prospectus 2021-22 published at: <https://www.gov.uk/government/publications/uk-community-renewal-fund-prospectus/uk-community-renewal-fund-prospectus-2021-22>;

**Publication** means any announcement, comment or publication of any publicity material by the Lead Authority or by the Secretary of State concerning the Funded Activities;

**Remedial Action Plan** means the plan of action submitted by the Lead Authority to the Secretary of State following an Event of Default pursuant to the process set out in paragraph Where the Lead Authority is provided with an opportunity to submit a draft Remedial Action Plan in accordance with paragraph give the Lead Authority an opportunity to remedy or give the Lead Authority an opportunity to give the Project Deliverer an opportunity to remedy the Event of Default (if remediable) in accordance with the procedure set out in paragraphs, the draft Remedial Action Plan shall be submitted to the Secretary of State for approval, within 5 Working Days of the Lead Authority receiving notice from the Secretary of State.;

**Representatives** means any of the Parties' or the Project Deliverer's duly authorised directors, employees, officers, agents, professional advisors and consultants as the context permits;

**Second Grant Payment** means the Grant Claim paid in accordance with paragraph 4.12;

**Secretary of State Personal Data** means any Personal Data supplied for the purposes of, or in connection with, the Grant Funding Agreement by the Secretary of State to the Lead Authority;

**Special Payments** means *ex gratia* expenditure paid by the Lead Authority to a third party where no legal obligations exists for the payment and/or other extra-contractual expenditure. Special Payments may include, but are not limited to, out-of-court settlements or compensation;

**State Aid Law** means the law embodied in Articles 107 to 109 of the Treaty for the Functioning of the European Union and any related legislation adopted by the Council, European Parliament and/or the Commission (including implementing legislation), regulations, decisions and communications to the extent it applied or continues to apply at any time in the United Kingdom;

**Subsidy** means a financial benefit which is subject to the Subsidy Control Rules;

**Subsidy Control Rules** means State Aid Law, Articles 363 to 375 of the Trade and Cooperation Agreement, the World Trade Organisation Agreement on Subsidies and Countervailing Measures, Article 2 of the World Trade Organisation Agreement on Trade-Related Investment Measures and any and all applicable subsidy control rules under any current Free Trade Agreements between the United Kingdom and another state;

**Technical Documents** means the Prospectus and associated documents, including the Places and Lead Authorities document, the UK Community Renewal Fund: Prioritisation of places methodology note document, the UK Community Renewal Fund: assessment criteria document, the UK Community Renewal Fund: application form documents, the Lead Authorities Technical Note, Project Applicants and Deliverers Technical Note, and the UK Community Renewal Fund: frequently asked questions document, all published at:

<https://www.gov.uk/government/publications/uk-community-renewal-fund-prospectus>;

**Third Party** means any person or organisation other than the Lead Authority, the Secretary of State or the Project Deliverer;

**Trade and Cooperation Agreement** means the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part (as that agreement is modified or supplemented from time to time in accordance with any provision of it or of any other future relationship agreement);

**UK Community Renewal Fund** means the UK Government fund as described in the Prospectus;

**Unspent Monies** means any monies paid to the Lead Authority in advance of the Lead Authority or Project Deliverer incurring Eligible Expenditure, which remains unspent and uncommitted at the end of the Funding Period or because of termination or breach of these Conditions;

**VAT** means value added tax chargeable in the UK;

**Working Day** means in England and Wales, any day from Monday to Friday (inclusive) which is not specified or proclaimed as a bank holiday in England and Wales pursuant to section 1 of the Banking and Financial Dealings Act 1971 including Christmas Day and Good Friday and in Scotland, any day from Monday to Friday (inclusive) which is not a statutory bank holiday in Scotland.

2.2. In these Conditions, unless the context otherwise requires:

- (i) the singular includes the plural and vice versa;
- (ii) reference to a gender includes the other gender and the neuter;
- (iii) references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
- (iv) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
- (v) any reference in these Conditions which immediately before IP Completion Day was a reference to (as it has effect from time to time):
  - (i) any EU regulation, EU decision, EU tertiary legislation or provision of the European Economic Area (“EEA”) agreement (“**EU References**”) which forms part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
  - (ii) any EU institution or EU authority or other such EU body shall be read on and after IP Completion Day as a reference to the UK institution, authority or body to which its functions were transferred;
- (vi) the words "including", "other", "in particular", "for example" and similar words will not limit the generality of the preceding words and will be construed as if they were immediately followed by the words "without limitation";

- (vii) references to “writing” include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing will be construed accordingly;
- (viii) references to “representations” will be construed as references to present facts, to “warranties” as references to present and future facts and to “undertakings” as references to obligations under the Grant Funding Agreement;
- (ix) references to “paragraphs” and “Annexes” are, unless otherwise provided, references to the paragraphs and annexes of these Conditions and references in any Annex to parts, paragraphs and tables are, unless otherwise provided, references to the parts, paragraphs and tables of the Annex in which these references appear; and
- (x) the headings in these Conditions are for ease of reference only and will not affect the interpretation or construction of these Conditions.

2.3. Where there is any conflict between the documents that make up this Grant Funding Agreement the conflict shall be resolved in accordance with the following order of precedence:

- (1) the Conditions set out within this Grant Funding Agreement;
- (2) the Annexes in order;
- (3) the Technical Documents in the order that they appear in the definition at paragraph 2.1

## **CONDITIONS**

### **3. DURATION AND PURPOSE OF THE GRANT**

- 3.1. The Funding Period starts on the **Commencement Date** and ends on 30 June 2022 unless terminated earlier in accordance with the Funding Agreement.
- 3.2. The Lead Authority will ensure that a Project starts on the Commencement Date but where this is not possible, that the Project starts no later than 3 months after the Commencement Date.
- 3.3. The Lead Authority shall use the Grant solely to provide Funding for the delivery of the Project Activities. The Lead Authority may not make and shall ensure that the Project Deliverer does not make any changes to the Project Activities without the prior written agreement of the Secretary of State.
- 3.4. If the Lead Authority wishes to request any changes to the Project Activities it shall set out the proposed changes in writing and if requested by the Grant Manager complete a project change request form.
- 3.5. If the Secretary of State wishes to make a change to the Project Activities (including for example reducing the Grant or removing some of the Projects or Project Activities from the Grant) it may do so on 28 days’ written notice to the Lead Authority.

### **4. PAYMENT OF GRANT AND GRANT CLAIM PROCEDURE**

- 4.1. Subject to the remainder of this paragraph PAYMENT OF GRANT the Secretary of State shall pay the Lead Authority an amount not exceeding the Maximum Sum. The Secretary of State shall pay the Grant in pound sterling (GBP) and into a bank located in the UK.

- 4.2. The Lead Authority must complete and sign the Confirmation of Bank Details and Signatories Form (Annex 4) as part of their acceptance of the Funding Agreement. No Grant Claim payment will be made in advance of receipt of a correctly completed and signed Confirmation of Bank Details and Signatories Form.
- 4.3. The signatory to the Confirmation of Bank Details and Signatories Form must be the chief finance officer, treasurer or someone with proper delegated authority. Any change of bank details or signatory must be notified as soon as possible using the Confirmation of Bank Details and Signatories Form and signed by the chief finance officer, treasurer or someone with proper delegated authority.
- 4.4. The Grant represents the Maximum Sum the Secretary of State will pay to the Lead Authority under the Funding Agreement. The Maximum Sum will not be increased in the event of any overspend by the Lead Authority or a Project Deliverer in their delivery of the Project Activities.
- 4.5. The Secretary of State will only pay the Grant to the Lead Authority in respect of Eligible Expenditure incurred by a Project Deliverer to deliver the Project Activities. The Secretary of State will not pay the Second Grant Payment until the Secretary of State is satisfied that:
  - 4.5.1. the Lead Authority has paid the Funding for the Project Activities in full;
  - 4.5.2. the Project Activities have been delivered; and
  - 4.5.3. the Eligible Expenditure was incurred during the Funding Period.
- 4.6. The Lead Authority will provide the Secretary of State with evidence of the costs / payments, which are classified as Eligible Expenditure, which may include (but are not limited to) receipts and invoices or other documentary evidence as may be specified by the Secretary of State.
  - 8.1.1. The anticipated Match Funding for each Project is summarised in Annex 2. If the Lead Authority or a Project Deliverer intends to apply for, is offered or receives any further Match Funding during the Funding Period, the Lead Authority shall notify the Secretary of State before the Lead Authority or Project Deliverer accept or use any such Match Funding. On notifying the Secretary of State of the Match Funding the Lead Authority shall confirm the amount, purpose and source of the further Match Funding and the Secretary of State shall confirm whether he is agreeable to the Lead Authority or Project Deliverer accepting the Match Funding. If the Secretary of State does not agree to the use of Match Funding the Secretary of State shall be entitled to terminate the Grant Funding Agreement in accordance with paragraph the Lead Authority fails to declare any Match Funding received by it or a Project Deliverer in accordance with paragraph 4.7;
- 4.7. the Lead Authority or Project Deliverer receives funding from a Third Party which, in the opinion of the Secretary of State, undertakes activities that are likely to bring the reputation of the UK Community Renewal Fund, the Project, the Project Activities or the Secretary of State into disrepute; and where applicable, require all or part of the Grant to be repaid.
- 4.8. Where the use of Match Funding is permitted the Lead Authority shall set this out in the Grant Claim. This is so the Secretary of State knows the total funding the Project Deliverers have received for the Project Activities.
- 4.9. The Lead Authority agrees and shall ensure that each Project Deliverer agrees that:

- 4.9.1. it will not apply for or obtain Duplicate Funding in respect of any part of the Project Activities which have been paid for in full using the Grant; and the Secretary of State may refer the Lead Authority and or a Project Deliverer to the police should either or both dishonestly and intentionally obtain Duplicate Funding for the Project Activities.
- 4.10. The Secretary of State will not make the First Grant Payment unless or until, the Secretary of State is satisfied that the Grant will be used only for Eligible Expenditure.
- 4.11. Following execution of the Funding Agreement the Secretary of State will pay the Lead Authority an initial Grant Payment for 62.5% (sixty two point five percent) of the Eligible Expenditure predicted to be incurred by the Project Deliverers to deliver the Project Activities for the Projects.
- 4.12. By the 31<sup>st</sup> August 2022 the Lead Authority shall submit a Grant Claim for the Second Grant Payment together with any other documentation as prescribed by the Secretary of State, from time to time. The Grant Claim for the Second Grant Payment and supporting documentation shall be provided whether the Grant Claim for the Second Grant Payment would result in a payment or repayment of Grant. If at the Final Accounting Date the total Eligible Expenditure for the Projects does not exceed the amount of the First Grant Claim the Lead Authority shall immediately repay to the Secretary of State the unused part of the First Grant Claim. If the Lead Authority fails to repay the due sum immediately the sum will be recoverable summarily as a civil debt
- 4.13. Unless otherwise stated in these Conditions:
- 4.13.1. the First Grant Payment will be made within 30 days of the execution of the Funding Agreement by both Parties; and
- 4.13.2. The Second Grant Payment will be made within 30 days of the Secretary of State approving the Lead Authority's Grant Claim for the Second Grant Payment.
- 4.14. The Secretary of State will have no liability to the Lead Authority or the Project Deliverer for any Losses caused by a delay in the payment of the First Grant Payment or Second Grant Payment howsoever arising.
- 4.15. The Secretary of State reserves the right not to pay any Grant Claims which are not submitted by the date set out in paragraph 4.12 or Grant Claims which are incomplete, incorrect or submitted without the full supporting documentation.
- 4.16. The Lead Authority shall promptly notify and repay immediately to the Secretary of State any money incorrectly paid to it either as a result of an administrative error or otherwise. This includes (without limitation) situations where the Lead Authority is paid in error before it has complied with its obligations under the Grant Funding Agreement. Any sum, which falls due under this paragraph 4.16 shall fall due immediately. If the Lead Authority fails to repay the due sum immediately the sum will be recoverable summarily as a civil debt.
- 4.17. The Lead Authority shall enter into a funding agreement with each Project Deliverer before the Lead Authority provides Funding to a Project Deliverer (the **Project Deliver Funding Agreement**). A Project Deliver Funding Agreement shall, with such changes as need to be made, reflect the terms and conditions of this Funding Agreement.
- 4.18. The Lead Authority will be responsible for paying the Funding to a Project Deliverer. The Secretary of State has no responsibility for paying any Project Deliverer or any Third Party invoices or payment demands.

- 4.19. Onward payment of the Grant through Funding payment to Project Deliverers and the use of sub-contractors shall not relieve the Lead Authority of any of its obligations under the Funding Agreement, including any obligation to repay the Grant.
- 4.20. The Lead Authority may not retain any Unspent Monies without the Secretary of State's prior written permission.

## **5. ELIGIBLE AND INELIGIBLE EXPENDITURE**

- 5.1. The Secretary of State will only pay the Grant Claim for the Second Grant Payment in respect of Eligible Expenditure incurred by the Project Deliverer to deliver the Project Activities and the Lead Authority will use the Grant solely for the payment of Funding to a Project Deliverer for the delivery of the Project Activities (as set out in Annex 1 of these Conditions);

### **Match Funding**

- 5.2. The payment of Grant is conditional upon the receipt by the Project Deliverer of the Match Funding or if the Project Deliverer is using its own funding as Match Funding that funding being committed.
- 5.3. The Match Funding shall be compliant with the provisions of the Eligibility Rules.
- 5.4. The Lead Authority shall notify the Secretary of State in writing immediately of any failure by the Project Deliverer or a Third Party to make a contribution due as Match Funding, or any circumstance that affects or might affect the payment or availability of Match Funding.

### **Amount of Grant Payable**

- 5.5. The amount of Grant payable to the Lead Authority for the Projects shall be the sum of the Eligible Expenditure for the Projects less the sum of the Match Funding for the Projects up to the Maximum Sum.
- 5.6. The Grant shall only be payable where the Lead Authority has entered into a Project Deliverer Funding Agreement for each Project. The Project Deliverer Funding Agreement shall reflect the terms of this Funding Agreement.

### **Eligible Expenditure**

- 5.7. The following costs or payments will be classified as Eligible Expenditure if incurred for the purposes of the Project Activities and within the Funding Period:
  - 5.7.1. fees charged or to be charged to the Project Deliverer by external auditors/accountants for reporting/certifying that the Funding paid was applied for its intended purposes.
  - 5.7.2. giving evidence to Parliamentary Select Committees;
  - 5.7.3. attending meetings with government ministers or civil servants to discuss the progress of this taxpayer funded grant scheme; and
  - 5.7.4. responding to public consultations, where the topic is relevant to the objectives of the Project Activities or the UK Community Renewal Fund. To avoid doubt, Eligible Expenditure does not include the Project Deliverer spending the Grant on lobbying other

people to respond to any such consultation (unless explicitly permitted in this Funding Agreement).

- 5.8. The Lead Authority's management and administration costs as set out in Annex 2 will be considered Eligible Expenditure and may include:
  - 5.8.1. fees charged or to be charged to the Lead Authority by external auditors / accountants for reporting/certifying that the Grant paid was applied to Funding the Project Activities; and
  - 5.8.2. fees charged to be charged to the Lead Authority by external lawyers for the provision of legal services in respect of the Project, the Project Activities or the Project Deliverer Funding Agreement.
- 5.9. The Eligible Expenditure may not in any circumstance include any of the following non-exhaustive list: The list below does not override activities which are deemed eligible in these Conditions:
  - 5.9.1. paid for lobbying, which means using the Grant or Funding to fund lobbying (via an external firm or in-house staff) in order to undertake activities intended to influence or attempt to influence Parliament, government or political activity; or attempting to influence legislative or regulatory action;
  - 5.9.2. using the Grant or Funding to directly enable one part of government to challenge another on topics unrelated to the agreed purpose of the Projects;
  - 5.9.3. using the Grant or Funding to petition for additional funding;
  - 5.9.4. expenses, such as for entertaining, specifically aimed at exerting undue influence to change government policy;
  - 5.9.5. input VAT reclaimable from HMRC;
  - 5.9.6. payments for activities of a political or exclusively religious nature; or
  - 5.9.7. payments for publicity, including brochures, pamphlets, flyers or other material promoting or otherwise publicising the Project and Project Activities that do not comply with paragraph 24 of this Funding Agreement.
- 5.10. Other examples of expenditure, which are prohibited, include the following:
  - 5.10.1. interest payments or service charge payments for finance leases;
  - 5.10.2. gifts;
  - 5.10.3. statutory fines, criminal fines or penalties, civil penalties, damages or any legal costs associated with any criminal or civil court proceedings or any regulatory investigation;
  - 5.10.4. payments for works or activities which the Lead Authority or Project Deliverer or any member of the Project Deliverer's Partnership has a statutory duty to undertake, or that are fully funded by other sources;
  - 5.10.5. bad debts to related parties;

- 5.10.6. payments for unfair dismissal or other compensation;
- 5.10.7. depreciation, amortisation or impairment of assets; and
- 5.10.8. liabilities incurred before the Commencement Date unless agreed in writing by the Secretary of State.

## **6. GRANT REVIEW**

- 6.1. The Secretary of State will review the Grant during the delivery of the Project Activities and at the conclusion of a Project. The Secretary of State will take into account the Project Deliverer's delivery of the Project Activities against the agreed outputs set out for each Project in Annex 2 in accordance with paragraph 7 of these Conditions.
- 6.2. Each review may result in the Secretary of State deciding that (an example and non-exhaustive list):
  - 6.2.1. the Project Activities and the Funding Agreement should continue in line with existing plans;
  - 6.2.2. there should be an increase or decrease in the Maximum Sum;
  - 6.2.3. the outputs should be re-defined and agreed;
  - 6.2.4. the Lead Authority should provide the Secretary of State with a draft Remedial Action Plan setting out the steps the Lead Authority or a Project Deliverer will take to improve delivery of the Project Activities;
  - 6.2.5. the Secretary of State should recover any Unspent Monies; and
  - 6.2.6. the Grant be terminated in accordance with paragraph Notwithstanding the Secretary of State's right to terminate the Funding Agreement pursuant to paragraph give the Lead Authority an opportunity to remedy or give the Lead Authority an opportunity to give the Project Deliverer an opportunity to remedy the Event of Default (if remediable) in accordance with the procedure set out in paragraphs above, either Party may terminate the Grant Funding Agreement at any time by giving at least 3 (three) months' written notice to the other Party. of these Conditions.
- 6.3. If the Lead Authority is required to submit a draft Remedial Action Plan in accordance with paragraph the Lead Authority should provide the Secretary of State with a draft Remedial Action Plan setting out the steps the Lead Authority or a Project Deliverer will take to improve delivery of the Project Activities;, the Remedial Action Plan process set out in paragraph Where the Lead Authority is provided with an opportunity to submit a draft Remedial Action Plan in accordance with paragraph give the Lead Authority an opportunity to remedy or give the Lead Authority an opportunity to give the Project Deliverer an opportunity to remedy the Event of Default (if remediable) in accordance with the procedure set out in paragraphs, the draft Remedial Action Plan shall be submitted to the Secretary of State for approval, within 5 Working Days of the Lead Authority receiving notice from the Secretary of State. to The Secretary of State shall not by reason of the occurrence of an Event of Default which is, in the opinion of the Secretary of State, capable of remedy, exercise its rights under either paragraphs 26.3 unless the Lead Authority or as the case may be the Project Deliverer has failed to rectify the default to the reasonable satisfaction of the Secretary of State. shall apply.

- 6.4. The Lead Authority may make representations to the Secretary of State on its own behalf and on behalf of a Project Deliverer regarding the Secretary of State's decision made in accordance with paragraphs 6.1 and Each review may result in the Secretary of State deciding that (an example and non-exhaustive list):. The Secretary of State is not however obliged to take such representations into account when making its decision as any such decision will be final and at the Secretary of State's absolute discretion.

## **7. MONITORING AND REPORTING**

- 7.1. The Lead Authority shall closely monitor the delivery and success of the Project Activities throughout the Funding Period to ensure that the aims and objectives of the UK Community Renewal Fund and the Project Activities are achieved and the Technical Documents are complied with.
- 7.2. The Lead Authority shall provide the Secretary of State with all reasonable assistance and co-operation in relation to any ad-hoc information, explanations and documents as the Secretary of State may require, from time to time, so the Secretary of State may establish if the Lead Authority or a Project Deliverer has used the Grant or Funding in accordance with the Funding Agreement.
- 7.3. The Lead Authority shall provide the Secretary of State with an interim monitoring report and a final monitoring report:
- 7.3.1. on the progress made towards achieving the agreed activities and outputs for each Project set out in Annex 2 of these Conditions;
  - 7.3.2. where possible, each report will quantify what has been achieved by reference to each Project and the Project Activities' targets for that Project;
  - 7.3.3. if relevant, provide details of any Assets either acquired or improved using the Grant and the Funding;
  - 7.3.4. the interim monitoring report will be provided no later than 31<sup>st</sup> Marchr 2022; and
  - 7.3.5. the final monitoring report shall be provided after the Funding Period and no later than the submission of the Grant Claim for the Second Grant Payment.
- 7.4. The Lead Authority will permit any person authorised by the Secretary of State reasonable access, with or without notice, to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Lead Authority's fulfilment of its obligations under the Grant Funding Agreement and will, if so required, provide appropriate oral or written explanations to such authorised persons as required during the Funding Period.
- 7.5. The Lead Authority will ensure that each Project Deliverer will permit any person authorised by the Secretary of State reasonable access, with or without notice, to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Project Deliverer's fulfilment of its Project's Project Activities and, if so required, to provide appropriate oral or written explanations to such authorised persons as required during the Funding Period.

- 7.6. The Lead Authority will ensure that each Project Deliverer records in its financial reports the amount of Match Funding it receives together with details of what it has used that Match Funding for.
- 7.7. The Lead Authority will notify the Secretary of State as soon as reasonably practicable of:
- 7.7.1. any actual or potential failure to comply with any of its obligations under the Funding Agreement, which includes those caused by any administrative, financial or managerial difficulties; and
- 7.7.2. actual or potential variations to the Eligible Expenditure and/or any event which materially affects the continued accuracy of such information.
- 7.8. The Lead Authority shall ensure that each Project Deliverer notifies the Lead Authority as soon as reasonably practicable and that the Lead Authority notifies the Secretary of State as soon as reasonably practicably of:
- 7.8.1. any actual or potential failure by the Project Deliverer to comply with any of its obligations under the Project Deliverer Funding Agreement, which includes those caused by any administrative, financial or managerial difficulties; and
- 7.8.2. actual or potential variations to the Eligible Expenditure in respect of the Project Deliverer's Project and/or any event which materially affects the continued accuracy of such information.
- 7.9. The Lead Authority represents and undertakes (and shall repeat such representations on delivery of its interim and final report):
- 7.9.1. that the reports and information it gives pursuant to this paragraph MONITORING AND REPORTING are accurate;
- 7.9.2. that it has diligently made full and proper enquiry of the matters pertaining to the reports and information given; and
- 7.9.3. that any data it provides pursuant to an application for the Grant or for the Funding or during the course of the Funding Period or related auditing or assurance may be shared within the powers conferred by legislation with other organisations for the purpose of preventing or detecting crime.

## **8. PROJECT EVALUATION, AUDITING AND ASSURANCE**

### **Project Evaluation**

- 8.2. The Lead Authority shall ensure that the Project Deliverer Funding Agreement provides for:
- 8.2.1. each Project to be evaluated in accordance with the Secretary of State's Evaluation Guidance; and
- 8.2.2. the Secretary of State to use the output of such evaluation:
- (i) as part of the evaluation of the UK Community Renewal Fund; and
- (ii) for publicity purposes in accordance with paragraph 24.

- 8.2.3. the Lead Authority shall provide the Secretary of State with a copy of the final report shall include a copy of the project evaluation for each Project in accordance with the Evaluation Guidance. The Lead Authority shall retain a copy of the each final report including the project evaluation for each Project for a period of 7 (seven) years from the date of submission of the final report;

### **Auditing and Assurance**

- 8.3. The Lead Authority shall before or at the time of the Grant Claim for the Second Grant Payment provide the Secretary of State with assurance that the Grant and Funding have been used for delivery of the Project Activities.
- 8.4. The Secretary of State may, at any time during and up to seven years after the end of the Funding Period, conduct additional audits or ascertain additional information where the Secretary of State considers it necessary.
- 8.5. The Lead Authority agrees to and shall ensure that the Project Deliverer agrees to grant the Secretary of State or its Representatives access, as required, to all Project Activity sites and relevant records.
- 8.6. The Lead Authority will ensure that it and the Project Deliverer ensure that necessary information and access rights are explicitly included within all arrangements with sub-contractors. In the event the Secretary of State requires further information, explanations and documents, in order for the Secretary of State to establish that the Grant has been used properly in accordance with the Funding Agreement, the Lead Authority will, within 5 Working Days of a request by the Secretary of State, provide the Secretary of State, free of charge, with the requested information and ensure that the Project Deliverer provides any requested information free of charge.
- 8.7. The Lead Authority shall:
- 8.7.1. ensure that it and the Project Deliverer maintain a record of internal financial controls and procedures and provide the Secretary of State with a copy if requested;
- 8.7.2. ensure that it and the Project Deliverer shall retain all invoices, receipts, accounting records and any other documentation (including but not limited to, correspondence) relating to the Eligible Expenditure; income generated by the Project Activities during the Funding Period for a period of 7 (seven) years from the date on which the Funding Period ends;
- 8.7.3. ensure that all its sub-contractors and the Project Deliverer's subcontractors retain each record, item of data and document relating to the Project Activities for a period of 7 (seven) years from the date on which the Funding Period ends; and
- 8.7.4. promptly provide revised forecasts of income and expenditure at the request of the Secretary of State.

### **9. FINANCIAL MANAGEMENT AND PREVENTION OF BRIBERY, CORRUPTION, FRAUD AND OTHER IRREGULARITY**

- 9.1. The Lead Authority will and shall ensure that the Project Deliverer will at all times comply with all applicable Laws, statutes and regulations relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act.

- 9.2. The Lead Authority must have and shall ensure that the Project Deliverer has a sound administration and audit process, including internal financial controls to safeguard against fraud, theft, money laundering, counter terrorist financing or any other impropriety, or mismanagement in connection with the administration of the Grant or the Funding. The Lead Authority shall require that its and the Project Deliverer's respective internal/external auditors report on the adequacy or otherwise of those systems.
- 9.3. All cases of fraud or theft (whether proven or suspected) relating to the Project Activities must be notified to the Secretary of State as soon as they are identified. The Lead Authority shall explain to the Secretary of State what steps are being taken to investigate the irregularity and shall keep the Secretary of State informed about the progress of any such investigation. The Secretary of State may however request that the matter be referred (which the Lead Authority is obliged to carry out) to external auditors or other Third Party as required.
- 9.4. The Secretary of State will have the right, at its absolute discretion, to insist that the Lead Authority address any actual or suspected fraud, theft or other financial irregularity and/or to suspend future payment of the Grant to the Lead Authority and that the Lead Authority suspend any future payment of the Funding to the Project Deliverer. Any grounds for suspecting financial irregularity includes what the Lead Authority or Project Deliverer, acting with due care, should have suspected as well as what it actually proven.
- 9.5. The Lead Authority agrees and accepts that it may become ineligible for Grant support and may be required to repay all or part of the Grant if it or a Project Deliverer engages in tax evasion or aggressive tax avoidance in the opinion of Her Majesty's Revenue and Customs.
- 9.6. For the purposes of paragraph The Secretary of State will have the right, at its absolute discretion, to insist that the Lead Authority address any actual or suspected fraud, theft or other financial irregularity and/or to suspend future payment of the Grant to the Lead Authority and that the Lead Authority suspend any future payment of the Funding to the Project Deliverer. Any grounds for suspecting financial irregularity includes what the Lead Authority or Project Deliverer, acting with due care, should have suspected as well as what it actually proven. "financial irregularity" includes (but is not limited to) potential fraud or other impropriety, mismanagement, and the use of the Grant or Funding for any purpose other than those stipulated in the Funding Agreement. The Lead Authority may be required to provide statements and evidence to the Secretary of State or the appropriate organisation as part of pursuing sanctions, criminal or civil proceedings.

## **10. CONFLICTS OF INTEREST**

- 10.1. Neither the Lead Authority nor its Representatives shall engage in any personal, business or professional activity which conflicts or could conflict with any of their obligations in relation to the Funding Agreement and shall ensure that neither the Project Deliverer nor its Representatives shall engage in any personal, business or professional activity which conflicts or could conflict with any of their obligations in relation to the Project of Project Activities.
- 10.2. The Lead Authority must have and will keep in place adequate procedures to manage and monitor any actual or perceived bias or conflicts of interest and shall ensure that the Project Deliverer has and will keep in place adequate procedures to manage and monitor any actual or perceived bias or conflicts of interest.

## **11. CONFIDENTIALITY**

- 11.1. Except to the extent set out in this paragraph CONFIDENTIALITY or where disclosure is expressly permitted, the Lead Authority shall treat all Confidential Information belonging to the Secretary of State as confidential and shall not disclose any Confidential Information belonging to the Secretary of State to any other person without the prior written consent of the Secretary of State, except to such persons who are directly involved in the provision of the Project Activities and who need to know the information.
- 11.2. The Lead Authority gives its consent for the Secretary of State to publish the Funding Agreement in any medium in its entirety (but with any information which is Confidential Information belonging to the Secretary of State, the Lead Authority or the Project Deliverer redacted), including from time to time agreed changes to the Funding Agreement.
- 11.3. Nothing in this paragraph CONFIDENTIALITY shall prevent the Secretary of State disclosing any Confidential Information obtained from the Lead Authority:
  - 11.3.1. for the purpose of the examination and certification of the Secretary of State's accounts; or pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Secretary of State has used its resources; or
  - 11.3.2. to any government department, consultant, contractor or other person engaged by the Secretary of State, provided that in disclosing information under the Secretary of State only discloses the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate; and
  - 11.3.3. where disclosure is required by Law, including under the Information Acts.
- 11.4. Nothing in this paragraph CONFIDENTIALITY shall prevent either Party from using any techniques, ideas or know-how gained during the performance of its obligations under the Funding Agreement in the course of its normal activities or business, to the extent that this does not result in a disclosure of the other Party's or Project Deliverer's Confidential Information or an infringement of the other Party's or Project Deliverer's Intellectual Property Rights.

## **12. TRANSPARENCY**

The Secretary of State and the Lead Authority acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the Information Acts, the content of the Funding Agreement is not confidential and that Lead Authority shall ensure that the Project Deliverer acknowledges that, except for any information which is exempt from disclosure in accordance with the provisions of the Information Acts, the Project Deliverer's information contained in the Funding Agreement is not confidential.

## **13. STATUTORY DUTIES**

- 13.1. The Lead Authority agrees to adhere and shall ensure that the Project Deliverer adheres to their respective obligations under the Law including but not limited to the Information Acts and the HRA.
- 13.2. Where requested by the Secretary of State, the Lead Authority will provide reasonable assistance and cooperation to enable the Secretary of State to comply with its information disclosure obligations under the Information Acts and the Lead Authority shall ensure that the Project Deliverer shall provide reasonable assistance and cooperation to enable the Secretary of State to comply with its information disclosure obligations under the Information Acts.

- 13.3. On request from the Secretary of State, the Lead Authority will provide the Secretary of State with all such relevant documents and information relating to the Lead Authority's data protection policies and procedures as the Secretary of State may reasonably require.
- 13.4. The Lead Authority acknowledges that the Secretary of State, acting in accordance with the codes of practice issued and revised from time to time under the Information Acts, may disclose information concerning the Lead Authority and the Funding Agreement without consulting the Lead Authority or the Project Deliverer.
- 13.5. The Secretary of State will take reasonable steps to notify the Lead Authority of a request for information to the extent that it is permissible and reasonably practical for it to do so. Notwithstanding any other provision in the Funding Agreement, the Secretary of State will be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the Information Acts.

**14. PUBLIC PROCUREMENT AND DATA PROTECTION**

**Public Procurement**

- 14.1. The Lead Authority will ensure that it and the Project Deliverer or any of their Representatives involved in the Project Activities will adopt such policies and procedures that are required in order to ensure that value for money has been obtained in the procurement of goods or services funded by the Grant.
- 14.2. Where the Project Deliverer is a Contracting Authority within the meaning of the Procurement Regulations the Lead Authority will ensure that the Project Deliverer complies, as necessary, with the Procurement Regulations when procuring goods and services in connection with the Project Activities and the Secretary of State shall not be liable for the Project Deliverer's failure to comply with their obligations under the Procurement Regulations.
- 14.3. Where the Project Deliverer is not a Contracting Authority within the meaning of the Procurement Regulations the Lead Authority will ensure that the Project Deliverer adopts the following minimum procedures:

<b>Value of contract</b>	<b>Minimum Procedure</b>	<b>Advertising Required</b>
£0 - £24,999	Direct award	None
£25,000 - £181,302 (services) and £4,551,413 (works)	The advert needs to incorporate or direct any interested party to the following information: <ul style="list-style-type: none"> <li>• Details of the opportunity</li> <li>• What is required from all interested parties</li> </ul>	Advertise the opportunity on the organisation's/or other appropriate website for a minimum of 10 days.

	<ul style="list-style-type: none"> <li>• How successful candidate will be chosen</li> <li>• Deadline and details of how to apply</li> </ul> <p>Justification will also be required to demonstrate that the contract award is in line with the advert</p>	
£25,000 - £181,302 (supplies)	<p>3 written quotes or prices sought from relevant suppliers against a clear specification</p> <p>Justification that a reasonable decision has been made on the basis of the quotes/prices</p>	None
Over £181,302 (services and supplies) and £4,551,413 (works).	<p>The advert needs to incorporate or direct any interested party to the following information:</p> <ul style="list-style-type: none"> <li>• Details of the opportunity</li> <li>• What is required from all interested parties</li> <li>• How successful candidate will be chosen</li> <li>• Deadline and details of how to apply</li> </ul> <p>Impartially assess each bid against the same criteria and demonstrate this through use of a score/evaluation sheet; and</p> <p>Provide evidence to demonstrate that the winning bidder has been selected on merit – as a minimum this should include a rationale behind the decision to award</p>	Advertise the opportunity on the organisation's/or other appropriate website for a minimum of 10 days.

## **Data Protection**

- 14.4. The Lead Authority and the Secretary of State will comply at all times with their respective obligations under Data Protection Legislation.
- 14.5. The Lead Authority warrants and represents that it shall:
  - 14.5.1. fully anonymise any Personal Data prior to delivering aggregated data sets to the Secretary of State; and
  - 14.5.2. not transfer any Personal Data to the Secretary of State, or otherwise enable the Secretary of State to access any Personal Data.

## **15. SUBSIDY CONTROL**

- 15.1. The Lead Authority will ensure that delivery of the Funded Activities does not breach the UK's international obligations in respect of Subsidies.
- 15.2. The Lead Authority will maintain appropriate records of compliance with the Subsidy Control Rules and will take all reasonable steps to assist the Secretary of State to comply with the same and respond to any proceedings or investigation(s) into the Project Activities by any relevant court or tribunal of relevant jurisdiction or regulatory body.
- 15.3. The Lead Authority shall ensure that each Project Deliverer maintains appropriate records of compliance with the Subsidy Control Rules and agrees to take all reasonable steps to assist the Secretary of State to comply with Subsidy Control Rules requirements and respond to any investigation(s) or claim(s) in relation to Subsidy Control Rules.
- 15.4. The Lead Authority acknowledges and represents that the Grant is being awarded on the basis that the Project Activities being undertaken using the Grant do not affect trade in goods and wholesale electricity between Northern Ireland and the European Union and shall ensure that the Grant is not used in way that affects any such trade.
- 15.5. The Lead Authority acknowledges it and/or the Project Deliverer has undertaken its own independent assessment of the compatibility of each Project with Subsidy Control Rules and confirms to the Secretary of State that each Project is structured so that it is compliant with Subsidy Control Rules.
- 15.6. The Lead Authority acknowledges a finding of non-compliance with Subsidy Control Rules in respect of a Project by an authority, court or tribunal of competent jurisdiction may lead to the Lead Authority and/or a Project Deliverer being ordered or otherwise required to repay funding received with interest.
- 15.7. The Lead Authority acknowledges and accepts that the Grant is awarded on Lead Authority and/or the Project Deliverer's assessment of its Project and the Project Activities compliance with Subsidy Control Rules

## **16. INTELLECTUAL PROPERTY RIGHTS**

- 16.1. Other than as expressly set out in these Conditions, neither Party will have any right to use any of the other Party's names, logos or trade marks without the other Party's prior written consent.

- 16.2. The Lead Authority grants to the Secretary of State a non-exclusive irrevocable and royalty-free, sub-licensable, worldwide licence to use all the IPR Material for the purpose of supporting the Project Activities and other projects.
- 16.3. The Lead Authority shall procure and ensure that the Project Deliverer grants to the Secretary of State a non-exclusive irrevocable and royalty-free, sub-licensable, worldwide licence to use all the IPR Material for the purpose of supporting the Project Activities and other projects.
- 16.4. Ownership of Third Party software or other IPR necessary to deliver Project Activities will remain with the relevant Third Party.
- 16.5. The Lead Authority must ensure that they have obtained and must ensure that the Project Deliverer has obtained the relevant agreement from the Third Party proprietor before any additions or variations are made to the standard 'off-the-shelf' versions of any Third Party software and other IPR. The Lead Authority and the Project Deliverer will be responsible for obtaining and maintaining all appropriate licences for the Third Party software that they respectively use.

## **17. ENVIRONMENTAL REQUIREMENTS**

- 17.1. The Lead Authority shall perform the Project Activities and shall ensure that the Project Deliverer shall perform the Project Activities in accordance with the Secretary of State's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.
- 17.2. The Lead Authority shall pay due regard to and shall ensure that the Project Deliverer pay due regard to the use of recycled products, so long as they are not detrimental to the provision of the Project Activities or the environment, to include the use of all packaging, which should be capable of recovery for re-use or recycling.
- 17.3. The Lead Authority shall take all possible precautions to ensure and shall ensure that the Project Deliverer shall take all possible precautions to ensure that any equipment and materials used in the provision of the Project Activities do not contain chlorofluorocarbons, halons or any other damaging substances, unless unavoidable, in which case the Secretary of State shall be notified in advance of their use. The Lead Authority shall endeavour and shall ensure that the Project Deliverer endeavours to reduce fuel emissions wherever possible.

## **18. ASSETS**

### **Inventory of the Assets**

- 18.1. The Lead Authority must keep a register of all Assets acquired or improved at a cost exceeding £5,000 (five thousand pounds) wholly or partly using the Grant or the Funding.
- 18.2. Assets purchased by Project Deliverers with Funding must only be used for delivery of the Project Activities.
- 18.3. For each entry in the register the following particulars must be shown where appropriate:
  - 18.3.1. owner of the Asset;
  - 18.3.2. date of acquisition or improvement of the Asset;

- 18.3.3. description of the Asset;
  - 18.3.4. cost of the Asset, net of recoverable VAT;
  - 18.3.5. location of the Asset;
  - 18.3.6. serial or identification numbers of the Asset;
  - 18.3.7. date of any Disposal of the Asset;
  - 18.3.8. depreciation/amortisation policy applied to the Asset;
  - 18.3.9. proceeds of any Disposal of the Asset, net of VAT; and
  - 18.3.10. the identity of any person to whom the Asset has been transferred or sold.
- 18.4. The Secretary of State reserves the right to require the Lead Authority to maintain the above particulars as set out in paragraph 18.3 for any additional items which the Secretary of State considers material to the overall Grant.

#### **Disposal of Asset**

- 18.5. Where the Lead Authority or Project Deliverer uses any of the Grant or Funding to develop, improve or purchase any Assets, the Lead Authority must ensure that the Assets are maintained in good condition over the Asset Owing Period.
- 18.6. The Lead Authority must ensure that during the Asset Owing Period any Assets that have been totally or partly bought, restored, conserved (maintained or protected from damage) or improved with the Funding are not Disposed of without the prior written consent of the Secretary of State. If the Secretary of State grants consent to the Disposal, such consent may be subject to satisfaction of certain conditions, to be determined by the Secretary of State, including repayment of part or all of the Funding by the Project Deliverer to the Lead Authority.
- 18.7. If the Lead Authority allows the owner of an Asset to Dispose of any Asset without the prior written consent of the Secretary of State, or the owner Disposes of any Asset without the prior written consent of the Secretary of State, the Lead Authority must ensure that the owner uses all reasonable endeavours to achieve the market price for the Asset and pays to the Lead Authority a proportion of the proceeds of such sale, equivalent to the proportion of the purchase or development costs of the Assets that was funded by the Funding, provided that the Secretary of State may at its discretion allow the Lead Authority to allow the owner to keep all or a part of the relevant proceeds where:
  - 18.7.1. the sale of the Assets takes place after the end of the Asset Owing Period;
  - 18.7.2. the proceeds of sale are to be applied directly to the purchase by the Project Deliverer of assets that are equivalent to or replacements for the Assets; or
  - 18.7.3. the Secretary of State is otherwise satisfied that the Recipient will apply those proceeds for purposes related to the Project Activities.
- 18.8. The Lead Authority shall hold the proceeds from the Disposal of any Asset received by it on trust for the Secretary of State and shall ensure that until such time as the proceeds from the Disposal of any Asset are paid to the Lead Authority that the Project Deliverer holds those proceeds on trust for the Lead Authority.

## **Charging of any Asset**

- 18.9. The Lead Authority shall not allow and shall ensure that the owner of any Asset does not create any charge, legal mortgage, debenture or lien over any Asset without the prior written consent of the Secretary of State.

## **19. INSURANCE**

- 19.1. The Lead Authority will during the Funding Period, ensure that it or the Project Deliverer as appropriate has and maintains, at all times adequate insurance with an insurer of good repute to cover claims in respect of the Assets, under the Funding Agreement or any other claims or demands which may be brought or made against it or the Project Deliverer by any person suffering any injury damage or loss in connection with the Projects, Project Activities or the Funding Agreement.
- 19.2. The Lead Authority will upon request produce to the Secretary of State its or the Project Deliverer's policy or policies of insurance or where this is not possible, a certificate of insurance issued by the Lead Authority's or the Project Deliverer's insurance brokers confirming the insurances are in full force and effect together with confirmation that the relevant premiums have been paid.

## **20. ASSIGNMENT**

- 20.1. The Lead Authority will not transfer, assign, novate or otherwise dispose of the whole or any part of the Funding Agreement or any rights under it, to another organisation or individual, without the Secretary of State's prior approval.
- 20.2. Any approval given by the Secretary of State will be subject to a condition that the Lead Authority has first entered into a Funding Agreement, authorised by the Secretary of State, requiring the Lead Authority to work with another organisation in delivering the Project Activities.

## **21. SPENDING CONTROLS – MARKETING, ADVERTISING, COMMUNICATIONS AND CONSULTANCY**

- 21.1. The Lead Authority must seek permission from the Secretary of State prior to any proposed expenditure on advertising, communications, consultancy or marketing either in connection with, or using the Grant.
- 21.2. The Lead Authority should provide evidence that any marketing, advertising, communications and consultancy expenditure carried out in connection with, or using the Grant will deliver measurable outcomes that meet government objective to secure value for money.

## **22. LOSSES, GIFTS AND SPECIAL PAYMENTS**

- 22.1. The Lead Authority must obtain prior written consent from the Secretary of State before it or the Project Deliverer:
- 22.1.1. writing off any debts or liabilities;
  - 22.1.2. offering to make any Special Payments; and
  - 22.1.3. giving any gifts,

in connection with this Funding Agreement.

22.2. The Lead Authority will keep a record of all gifts, both given and received, in connection with the Grant, the Funding or any Project Activities.

### **23. BORROWING**

23.1. In accordance with paragraph 18.9 and this paragraph 23, the Lead Authority must obtain prior written consent from the Secretary of State before:

23.1.1. borrowing or lending money from any source in connection with the Funding Agreement; and

23.1.2. giving any guarantee, indemnities or letters of comfort that relate to the Funding Agreement, or have any impact on the Lead Authority's or the Project Deliverer's ability to deliver the Project Activities.

### **24. PUBLICITY**

24.1. The Lead Authority gives consent and shall ensure that the Project Deliverer provides consent to the Secretary of State to publicise in the press or any other medium the Grant, the Funding and details of the Project Activities using any information gathered from the Lead Authority's and the Project Deliverer's applications for funding from the UK Community Renewal Fund or any monitoring reports and or project evaluation reports submitted to the Secretary of State in accordance with paragraph 6 and 7 of this Funding Agreement.

24.2. The Lead Authority will comply with and ensure that the Project Deliverer complies with all reasonable requests from the Secretary of State to facilitate visits, provide reports, statistics, photographs and case studies that will assist the Secretary of State in its promotional activities relating to the Project Activities.

24.3. The Secretary of State consents to the Lead Authority and the Project Deliverer carrying out any reasonable publicity about the Grant, the Funding, The Project and the Project Activities as required, from time to time. Such funding shall comply with the Technical Documents and in particular with:

24.3.1. paragraph 3.10: Branding and Publicity of the Technical Note for Lead Authorities in Great Britain; and

24.3.2. section 8: Branding and Publicity of the Technical Note for Project Applicants and Deliverers.

24.4. Any publicity material for the Project Activities must refer to the UK Community Renewal Fund under which the Grant and Funding was awarded and must feature the UK Government's logo. Where a Project is located fully or partially in Wales the Lead Authority shall ensure that it and the Project Deliverer use the Welsh language variant of the logo as well as the English language variant.

24.5. If a Third Party wishes to use the UK Government logo, in connection with a Project or the Project Activities, the Lead Authority must first seek permission from the Secretary of State.

24.6. The Lead Authority will acknowledge and ensure that the Project Deliverer acknowledges the support of the Secretary of State in any materials that refer to the Project of Project Activities and in any written or spoken public presentations about the Project of Project Activities. Such acknowledgements (where appropriate or as requested by the Secretary of State) will include

the UK Government logo, using the templates provided by the Secretary of State from time to time.

- 24.7. In using the UK Government logo, the Lead Authority will comply with all reasonable branding guidelines issued by the Secretary of State or the UK Government from time to time.
- 24.8. It is the Lead Authority's sole responsibility to ensure compliance with it and the Project Deliverer comply with this paragraph 24.

## **25. CHANGES TO THE SECRETARY OF STATE'S REQUIREMENTS**

- 25.1. The Secretary of State will notify the Lead Authority of any changes to its, the Project or the Project Deliverer's activities, which are supported by the Grant.
- 25.2. The Lead Authority will accommodate any changes to the Secretary of State's needs and requirements under these Conditions.

## **26. CLAWBACK, EVENTS OF DEFAULT, TERMINATION AND RIGHTS RESERVED FOR BREACH AND TERMINATION**

### **Events of Default**

- 26.1. The Secretary of State may exercise its rights set out in paragraph Where, the Secretary of State determines that an Event of Default has or may have occurred, the Secretary of State shall take any one or more of the following actions: if any of the following events occur:
  - 26.1.1. the Lead Authority uses the Grant for a purpose other than the Project Activities or allows the Project Deliverer to use the Funding for a purpose other than the Project Activities;
  - 26.1.2. the Lead Authority fails to comply with its obligations under the Funding Agreement, including in respect of publicity, which is material in the opinion of the Secretary of State;
  - 26.1.3. where delivery of the Project Activities do not start within 3 (three) months of the Commencement Date and the Lead Authority fails to provide the Secretary of State with a satisfactory explanation for the delay, or fails to agree a new date on which the Project Activities shall start with the Secretary of State;
  - 26.1.4. the Lead Authority uses the Grant for Ineligible Expenditure or allows a Project Deliverer to use the Funding for Ineligible Expenditure;
  - 26.1.5. the Lead Authority fails, or the Project Deliverer fails, in the Secretary of State's opinion, to make satisfactory progress with the Project Activities and in particular, with meeting the Agreed Outputs for a Project set out in Annex 2 of these Conditions;
  - 26.1.6. the Lead Authority fails to, or fails to ensure that the Project Deliverer:
    - (iii) submit an adequate Remedial Action Plan to the Secretary of State following a request by the Secretary of State pursuant to paragraph give the Lead Authority an opportunity to remedy or give the Lead Authority an opportunity to give the Project Deliverer an opportunity to remedy the Event of Default (if remediable) in accordance with the procedure set out in paragraphs or paragraph the Lead Authority should provide the Secretary of State with a draft Remedial Action Plan

setting out the steps the Lead Authority or a Project Deliverer will take to improve delivery of the Project Activities;; or

- (iv) improve delivery of the Project Activities in accordance with the Remedial Action Plan approved by the Secretary of State;
- 26.1.7. the Lead Authority is, in the opinion of the Secretary of State, delivering or failing to ensure that the Project Deliverer does not deliver, the Project Activities in a negligent manner (in this context negligence includes but is not limited to failing to prevent or report actual or anticipated fraud or corruption);
- 26.1.8. the Lead Authority fails to declare Duplicate Funding received by it or a Project Deliverer;
- 26.1.9. the Lead Authority fails to declare any Match Funding received by it or a Project Deliverer in accordance with paragraph The anticipated Match Funding for each Project is summarised in Annex 2. If the Lead Authority or a Project Deliverer intends to apply for, is offered or receives any further Match Funding during the Funding Period, the Lead Authority shall notify the Secretary of State before the Lead Authority or Project Deliverer accept or use any such Match Funding. On notifying the Secretary of State of the Match Funding the Lead Authority shall confirm the amount, purpose and source of the further Match Funding and the Secretary of State shall confirm whether he is agreeable to the Lead Authority or Project Deliverer accepting the Match Funding. If the Secretary of State does not agree to the use of Match Funding the Secretary of State shall be entitled to terminate the Grant Funding Agreement in accordance with paragraph the Lead Authority fails to declare any Match Funding received by it or a Project Deliverer in accordance with paragraph 4.7;
- 26.1.10. the Lead Authority or Project Deliverer receives funding from a Third Party which, in the opinion of the Secretary of State, undertakes activities that are likely to bring the reputation of the UK Community Renewal Fund, the Project, the Project Activities or the Secretary of State into disrepute; and where applicable, require all or part of the Grant to be repaid.;
- 26.1.11. the Lead Authority or Project Deliverer receives funding from a Third Party which, in the opinion of the Secretary of State, undertakes activities that are likely to bring the reputation of the UK Community Renewal Fund, the Project, the Project Activities or the Secretary of State into disrepute;
- 26.1.12. the Lead Authority provides the Secretary of State with any materially misleading or inaccurate information and/or any of the information provided by the Lead Authority or Project Deliverer in in the application for Grant or Funding or in any subsequent supporting correspondence or report is found to be incorrect or incomplete to an extent which the Secretary of State considers to be significant;
- 26.1.13. the Lead Authority commits or has committed a Prohibited Act or fails to report a Prohibited Act to the Secretary of State, whether committed by the Lead Authority, its Representatives, the Project Deliverer or the Project Deliverer's Representative, or a Third Party, as soon as they become aware of it;
- 26.1.14. the Secretary of State determines (acting reasonably) that the Lead Authority or any of its Representatives, the Project Deliverer or the Project Deliverer's Representatives, has:

- (i) acted dishonestly or negligently at any time during the term of the Funding Agreement and to the detriment of the Secretary of State; or
  - (ii) taken any actions which unfairly bring or are likely to unfairly bring the Secretary of State's name or reputation and/or the Secretary of State into disrepute. Actions include omissions in this context;
  - (iii) transferred, assigned or novated the Grant or Funding to any Third Party without the Secretary of State's consent;
  - (iv) failed to act in accordance with the Law; howsoever arising, including incurring expenditure on unlawful activities;
- 26.1.15. the Project Deliverer ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
- 26.1.16. the Project Deliverer becomes insolvent as defined by section 123 of the Insolvency Act 1986, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due;
- 26.1.17. the European Commission or the Court of Justice of the European Union requires any Grant or Funding paid to be recovered by reason of a breach of State Aid Law through its application under Article 10 of the Northern Ireland Protocol.
- 26.1.18. a court, tribunal or independent body or authority of competent jurisdiction requires any Grant or Funding paid to be recovered by reason of breach of the UK's obligations under the Subsidy Control Rules or the terms of any UK subsidy control legislation;
- 26.1.19. the Lead Authority breaches the Code of Conduct and/or fails to report an actual or suspected breach of the Code of Conduct by the Lead Authority or its Representatives, or the Project Deliverer or the Project Deliverer's Representatives in accordance with paragraph The Lead Authority shall immediately notify the Secretary of State if it becomes aware of any actual or suspected breaches of the principles outlined in the Code of Conduct whether by the Project Deliverer or the Project Deliverer's Representatives.;
- 26.1.20. a Project Deliverer undergoes or has undergone a Change of Control which the Secretary of State, acting reasonably, considers:
- (a) will be materially detrimental to the Project Activities and/or;
  - (b) the new body corporate cannot continue to receive the Funding because it does not meet the pass / fail criteria within the Gateway Criteria used to award the Funding to the Project Deliverer;
  - (c) the Secretary of State believes that the Change of Control would raise national security concerns and/or;
  - (d) the new body corporate intends to make fundamental change(s) to the Project for which the Funding was awarded or given.

- 26.2. Where the Secretary of State determines that an Event of Default has or may have occurred, the Secretary of State shall notify the Lead Authority to that effect in writing, setting out any relevant details, of the failure to comply with these Conditions or pertaining to the Event of Default, and details of any action that the Secretary of State intends to take or has taken.

**Rights reserved for the Secretary of State in relation to an Event of Default**

- 26.3. Where, the Secretary of State determines that an Event of Default has or may have occurred, the Secretary of State shall take any one or more of the following actions:
- 26.3.1. suspend or terminate the payment of Grant for such period as the Secretary of State shall determine; and/or
  - 26.3.2. reduce the Maximum Sum in which case the payment of Grant shall thereafter be made in accordance with the reduction and notified to the Lead Authority; and/or
  - 26.3.3. require the Lead Authority to repay the Secretary of State the whole or any part of the amount of Grant previously paid to the Lead Authority. Such sums shall be recovered as a civil debt; and/or
  - 26.3.4. give the Lead Authority an opportunity to remedy or give the Lead Authority an opportunity to give the Project Deliverer an opportunity to remedy the Event of Default (if remediable) in accordance with the procedure set out in paragraphs Where the Lead Authority is provided with an opportunity to submit a draft Remedial Action Plan in accordance with paragraph give the Lead Authority an opportunity to remedy or give the Lead Authority an opportunity to give the Project Deliverer an opportunity to remedy the Event of Default (if remediable) in accordance with the procedure set out in paragraphs, the draft Remedial Action Plan shall be submitted to the Secretary of State for approval, within 5 Working Days of the Lead Authority receiving notice from the Secretary of State. to The Secretary of State shall not by reason of the occurrence of an Event of Default which is, in the opinion of the Secretary of State, capable of remedy, exercise its rights under either paragraphs 26.3 unless the Lead Authority or as the case may be the Project Deliverer has failed to rectify the default to the reasonable satisfaction of the Secretary of State.; or
  - 26.3.5. terminate the Funding Agreement.

**Opportunity for the Lead Authority or Project Deliverer to remedy an Event of Default**

- 26.4. Where the Lead Authority is provided with an opportunity to submit a draft Remedial Action Plan in accordance with paragraph give the Lead Authority an opportunity to remedy or give the Lead Authority an opportunity to give the Project Deliverer an opportunity to remedy the Event of Default (if remediable) in accordance with the procedure set out in paragraphs, the draft Remedial Action Plan shall be submitted to the Secretary of State for approval, within 5 Working Days of the Lead Authority receiving notice from the Secretary of State.
- 26.5. The draft Remedial Action Plan shall set out:
- 26.5.1. full details of the Event of Default; and
  - 26.5.2. the steps which the Lead Authority or as the case may be the Project Deliverer proposes to take to rectify the Event of Default including timescales.

- 26.6. On receipt of the draft Remedial Action Plan and as soon as reasonably practicable, the Secretary of State will submit its comments on the draft Remedial Action Plan to the Lead Authority.
- 26.7. The Secretary of State shall have the right to accept or reject the draft Remedial Action Plan. If the Secretary of State rejects the draft Remedial Action Plan, the Secretary of State shall confirm, in writing, the reasons why they have rejected the draft Remedial Action Plan and will confirm whether the Lead Authority is required to submit an amended Remedial Action Plan to the Secretary of State.
- 26.8. If the Secretary of State directs the Lead Authority to submit an amended draft Remedial Action Plan, the Parties shall agree a timescale for the Lead Authority to amend the draft Remedial Action Plan to take into account the Secretary of State's comments.
- 26.9. If the Secretary of State does not approve the draft Remedial Action Plan the Secretary of State may, at its absolute discretion, terminate the Funding Agreement.
- 26.10. The Secretary of State shall not by reason of the occurrence of an Event of Default which is, in the opinion of the Secretary of State, capable of remedy, exercise its rights under either paragraphs 26.3 unless the Lead Authority or as the case may be the Project Deliverer has failed to rectify the default to the reasonable satisfaction of the Secretary of State.

#### **General Termination rights – Termination for Convenience**

- 26.11. Notwithstanding the Secretary of State's right to terminate the Funding Agreement pursuant to paragraph give the Lead Authority an opportunity to remedy or give the Lead Authority an opportunity to give the Project Deliverer an opportunity to remedy the Event of Default (if remediable) in accordance with the procedure set out in paragraphs above, either Party may terminate the Grant Funding Agreement at any time by giving at least 3 (three) months' written notice to the other Party.
- 26.12. If applicable, all Unspent Monies (other than those irrevocably committed in good faith before the date of termination, in line with the Funding Agreement and approved by the Secretary of State as being required to finalise the Project Activities) shall be returned to the Secretary of State within 30 days of the date of receipt of a written notice of termination from the Secretary of State.
- 26.13. If the Secretary of State terminates the Funding Agreement in accordance with paragraph Notwithstanding the Secretary of State's right to terminate the Funding Agreement pursuant to paragraph give the Lead Authority an opportunity to remedy or give the Lead Authority an opportunity to give the Project Deliverer an opportunity to remedy the Event of Default (if remediable) in accordance with the procedure set out in paragraphs above, either Party may terminate the Grant Funding Agreement at any time by giving at least 3 (three) months' written notice to the other Party. the Secretary of State may choose to pay the Lead Authority's or the Project Deliverer's reasonable costs in respect of the delivery of the Project Activities performed up to the termination date. Reasonable costs will be identified by the Lead Authority and will be subject to the Lead Authority demonstrating that they and the Project Deliverer have taken adequate steps to mitigate their costs. For the avoidance of doubt, the amount of reasonable costs payable will be determined solely by the Secretary of State.

26.14. The Secretary of State will not be liable to pay any of the Lead Authority's costs or those of the Project Deliverer or any contractor/supplier of the Lead Authority related to any transfer or termination of employment of any employees engaged in the provision of the Project Activities.

### **Change of Control**

26.15. The Lead Authority shall:

26.15.1. notify the Secretary of State immediately in writing and as soon as the Lead Authority is aware (or ought reasonably to be aware) that a Project Deliverer is anticipating, undergoing, undergoes or has undergone a Change of Control, provided such notification does not contravene any Law; and

26.15.2. ensure that the Project Deliverer notifies the Lead Authority immediately in writing and as soon as the Project Deliverer is aware (or ought reasonably to be aware) that it is anticipating, undergoing, undergoes or has undergone a Change of Control, provided such notification does not contravene any Law.

26.16. The Lead Authority shall ensure that any notification made pursuant to paragraph The Lead Authority shall:

26.16.1. notify the Secretary of State immediately in writing and as soon as the Lead Authority is aware (or ought reasonably to be aware) that a Project Deliverer is anticipating, undergoing, undergoes or has undergone a Change of Control, provided such notification does not contravene any Law; and

26.17. ensure that the Project Deliverer notifies the Lead Authority immediately in writing and as soon as the Project Deliverer is aware (or ought reasonably to be aware) that it is anticipating, undergoing, undergoes or has undergone a Change of Control, provided such notification does not contravene any Law. shall set out full details of the Change of Control including the circumstances suggesting and/or explaining the Change of Control.

26.18. Where the Funding has been awarded to a lead Project Deliverer heading a consortium and the lead Project Deliverer has entered into a collaboration agreement, the notification required under paragraph The Lead Authority shall:

26.18.1. notify the Secretary of State immediately in writing and as soon as the Lead Authority is aware (or ought reasonably to be aware) that a Project Deliverer is anticipating, undergoing, undergoes or has undergone a Change of Control, provided such notification does not contravene any Law; and

26.19. ensure that the Project Deliverer notifies the Lead Authority immediately in writing and as soon as the Project Deliverer is aware (or ought reasonably to be aware) that it is anticipating, undergoing, undergoes or has undergone a Change of Control, provided such notification does not contravene any Law. shall include any changes to the consortium members as well as the lead Project Deliverer.

26.20. Following notification of a Change of Control the Secretary of State shall be entitled to exercise its rights under paragraph 26.3 of these Conditions by providing the Lead Authority with notification of its proposed action in writing within three (3) months of:

(i) being notified in writing that a Change of Control is anticipated or is in contemplation or has occurred; or

- (ii) where no notification has been made, the date that the Secretary of State becomes aware that a Change of Control is anticipated or is in contemplation or has occurred.

26.21. The Secretary of State shall not be entitled to terminate where the Secretary of State's written approval was granted prior to the Change of Control.

## **27. DISPUTE RESOLUTION**

27.1. The Parties will use all reasonable endeavours to negotiate in good faith, and settle amicably, any dispute that arises during the continuance of the Funding Agreement.

27.2. All disputes and complaints (except for those which relate to the Secretary of State's right to withhold funds or terminate the Funding Agreement) shall be referred in the first instance to the Parties' Representatives.

27.3. If the dispute cannot be resolved between the Parties Representatives within a maximum of 28 days, then the matter will be escalated to formal meeting between the Grant Manager and the Lead Authority's chief executive officer (or equivalent).

## **28. LIMITATION OF LIABILITY**

28.1. The Secretary of State accepts no liability for any consequences, whether direct or indirect, that may come about from the Lead Authority delivering/running the Project Activities, the use of the Grant or from withdrawal, withholding or suspension of the Grant. The Recipient shall:

28.1.1. indemnify and hold harmless the Secretary of State, its Representatives with respect to all actions, claims, charges, demands Losses and proceedings arising from or incurred by reason of the actions and/or omissions of the Lead Authority in relation to the Funded Activities, the non-fulfilment of obligations of the Lead Authority under this Grant Funding Agreement or its obligations to Third Parties; and

28.1.2. ensure that the Project Deliverer shall indemnify and hold harmless the Secretary of State, its Representatives with respect to all actions, claims, charges, demands Losses and proceedings arising from or incurred by reason of the actions and/or omissions of the Project Deliverer in relation to the Project Activities or its obligations to Third Parties in respect of the Project or the Project Activities.

28.2. Subject to this paragraph LIMITATION OF LIABILITY, the Secretary of State's liability under this Funding Agreement is limited to the amount of Grant outstanding.

## **29. VAT**

29.1. If VAT is held to be chargeable in respect of the Funding Agreement, all payments shall be deemed to be inclusive of all VAT and the Secretary of State shall not be obliged to pay any additional amount by way of VAT.

29.2. All sums or other consideration payable to or provided by the Lead Authority to the Secretary of State at any time shall be deemed to be exclusive of all VAT payable and where any such sums become payable or due or other consideration is provided, the Lead Authority shall at the same time or as the case may be on demand by HMRC in addition to such sums, or other consideration, pay to HMRC all the VAT so payable upon the receipt of a valid VAT invoice.

### **30. CODE OF CONDUCT FOR LEAD AUTHORITIES**

- 30.1. The Lead Authority acknowledges that by signing the Funding Agreement it agrees to take account of the Code of Conduct, which includes ensuring that the Project Deliverer and its Representatives undertake their duties in a manner consistent with the principles set out in the Code of Conduct.
- 30.2. The Lead Authority shall immediately notify the Secretary of State if it becomes aware of any actual or suspected breaches of the principles outlined in the Code of Conduct whether by the Project Deliverer or the Project Deliverer's Representatives.
- 30.3. The Lead Authority acknowledges that a failure to notify the Secretary of State of an actual or suspected breach of the Code of Conduct may result in the Secretary of State immediately suspending the Grant funding, terminating the Funding Agreement and taking action to recover some or all of the funds paid to the Lead Authority as a civil debt in accordance with paragraph the Lead Authority breaches the Code of Conduct and/or fails to report an actual or suspected breach of the Code of Conduct by the Lead Authority or its Representatives, or the Project Deliverer or the Project Deliverer's Representatives in accordance with paragraph .

### **31. NOTICES**

All notices and other communications in relation to this Funding Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, e-mailed, or mailed (first class postage prepaid) to the address of the relevant party, as referred to in Annex 7 or otherwise notified in writing. All notices and other communications must be marked for the attention of the contact specified in Annex 4 (Contact Details). If personally delivered or if e-mailed all such communications shall be deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any Working Day they shall be deemed received on the next Working Day) and if mailed all such communications shall be deemed to have been given and received on the second Working Day following such mailing.

### **32. GOVERNING LAW**

These Conditions will be governed by and construed in accordance with the law of England and Wales and the Parties irrevocably submit to the exclusive jurisdiction of the English and Welsh courts.

## ANNEX 1: PROJECT ACTIVITES

CRF Reference Number	Project Name	Project Activities
CRF998662	Greening Maindee	Maindee Unlimited will undertake a feasibility study that will support future improvements to the Maindee District Centre in Newport. The project will undertake an options appraisal to develop the area into a greener, more sustainable space and complement emerging proposals for active travel and rapid bus travel.
CRF819568	Young Enterprise Newport	Business in Focus are proposing to deliver Young Enterprise pilot in Newport that will engage with economically inactive young people, unemployed and part-time employed as well as women entrepreneurs. The project will also link into the Big Ideas Wales that will provide additional mainstream business support.
CRF825161	Business Support in Pillgwenlly	Pobl Cymru will support high street businesses, employing a High Street manager in Pillgwenlly who will co-ordinate the projects activities including: re-activating of empty shops, creating jobs, workplacements and apprenticeships, strengthening active partnerships through a Business support hub, organising events & activities, development of a Business Support Package for new & existing businesses.
CRF870209	Foot in the Door	Ffilm Cymru Wales, will deliver increased access to employment and skills development, pre-employment training activity for 300 beneficiaries in communities living in the Newport area, education providers and screen sector business. The programme aims to deliver multi-partner benefits & outputs, aligned to wider local, industry, community, and employment priorities.
CRF647536	Development of Welsh Institute of Digital Information (WIDI), Research and Development Centre in Newport	WIDI want to form a R&D Centre at the Newport Campus of University of South Wales. The project will consolidate research across three health boards, prototype an online Digital Health Village, maximise AI in health and care services, incorporate WIDI's activity into a not for profit company.
CRF945673	Newport 360	Volunteering Matters brings together a dynamic local partnership of specialist providers to increase opportunities to upskill economically inactive people in the City of Newport area. We propose working with local businesses to diversify their recruitment processes and provide sector-specific experience and level-up people by providing them with recruitment skills, such as interview techniques and workshops around building a CV.
CRF835944	Sgiliau	TGP Cymru will develop and deliver opportunities for young people aged 16-25 who are care experienced and not in education, employment or training to improve and enhance their prospects of securing an education or training place or employment opportunity and appropriate housing and support.



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