

6. Grant Agreements

*All government grants shall be awarded through **robust grant agreements**, proportionate to the value of the grant and which reflect the Government Functional Standard for general grants, in line with guidance in Managing Public Money. All government grant agreements shall include terms of eligible expenditure.*

Managing Public Money:

1. Departments' primary concern when administering grants is to have due regard to the guidance set out in Managing Public Money; nothing in this document is intended to contradict or override that guidance.
2. This standard is not intended to be an additional spending control; departments retain accountability for decisions on all grant expenditure.

Important note on scope:

3. This standard applies only to **general grants** made by departments and their Arm's Length Bodies (ALBs) using Exchequer funding.
4. It does not apply to **formula grants** or **Grant-in-Aid**.
5. The term 'general grants' is broadly defined below, to assist identification:

General Grants: grants made by departments or their grant making ALBs to outside bodies to reimburse expenditure on agreed items or functions, and often paid only on statutory conditions. These are the grants, which are most closely related in administration to contract procurement, whilst remaining legally distinct.

What?

6. Departments shall ensure that their grant agreements, including those administered through third parties, clearly state the purpose for which the grant is awarded, provide details of approved activity and set out categories of eligible and ineligible expenditure.
7. When developing grant agreements, due regard should be given to ensuring regularity and propriety in the use of public funds. We would recommend that departments and their ALBs use grant agreement templates, which are cleared through internal legal advisers and finance, as a minimum. A standard compliant Model Grant Funding Agreement (MGFA), drafted by Government Legal Department (GLD), which incorporates full guidance notes, is available on the grants Centre of Excellence. GLD have pre-cleared the MGFA with departmental legal advisers across government.

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Minimum Requirements

8. As a minimum, the Cabinet Office would expect government grant agreements to include terms, if necessary supported by guidance, covering the following:
 - a clear description of the scheme and the aims and objectives of the grant;
 - a clear description of how money should be spent;
 - eligible expenditure terms*, which prohibit paid for lobbying and improper expenses;
 - a data protection policy;
 - audit/ assurance;
 - agreed outputs/ KPIs/ milestones/ longer term outcomes;
 - financial and activity based reporting and validation;
 - State Aid compliance;
 - payment suspension and claw-back and grant termination; and
 - evaluation and lessons learned.
9. The Cabinet Office will not specify what detail should be included under the above categories; the grant owner will determine such detail. However, a monitoring programme will be piloted in the first year, following the launch of the standards, to verify the existence of these terms in grant agreements. Where one of the above is absent from a grant agreement, the Cabinet Office would expect that to have been agreed as part of the business case development and sign-off.

Declaration by the Grant recipient: double funding

10. It is good practice, as part of the grant award process, to require grant recipients to declare that acceptance of the funding offered will not result in double funding, for example, so they are not being funded, inappropriately from elsewhere for the same or similar activity. Any match or pooled funding, where declared, would not be considered double funding.
11. The authorised signatory will be liable for any false declaration.

Payments

12. In accordance with the guidance in Managing Public Money, it is expected that grant funding payment models will reflect need, and avoid paying significant portions of funding up-front, except where that can be justified.

Eligible expenditure terms

13. Departments are required to make sure that details of eligible expenditure are included in all their grants agreements, including items of expenditure that are expressly ineligible. The terms must be sufficiently clear, to provide assurance that the grant is only used for the purposes for which it was awarded. By definition, this will preclude activity such as paid for political lobbying, unless a

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specific requirement of the grant, or expenses aimed at exerting undue influence – decisions will be taken locally with regards to the definition of undue influence.

14. Grant recipients must be required to provide evidence of their grant expenditure, for example, through the regular submission of 'Statements of Grant Usage' (SoGU) or an equivalent, which must be validated to ensure accuracy. Failure to submit financial returns, whatever form they take, or if irregularities are identified through validation, should usually result in payment suspension, investigation and in serious cases a full audit to establish the cause.

Why include eligible and ineligible expenditure terms?

15. John Manzoni, Chief Executive of the Civil Service, has made it clear that eligible expenditure terms must be employed in all government grant agreements, to deliver the Government's stated policy that **taxpayers' money is used as intended**.

What activity can be approved?

16. Departments are responsible for defining terms of eligible and ineligible expenditure. Such terms should be clearly drafted to help provide certainty about what a grant recipient may do with the grant. In addition, where appropriate, to add more flexibility, a grant agreement could allow for Government to issue additional internal guidance, clarifying what is permitted by an eligible expenditure clause. In this way, eligible expenditure terms can be managed so as to allow, for example, any of the following list of activities:

- giving evidence to Select Committees;
- attending meetings with Ministers or officials to discuss the progress of a taxpayer funded grant scheme;
- responding to public consultations, where the topic is relevant to the objectives of the grant scheme. This does not include spending government grant funds on lobbying other people to respond to the consultation (unless explicitly permitted in grant agreement);
- providing independent, evidence based policy recommendations to local government, departments or Ministers, where that is the objective of a taxpayer funded grant scheme, for example, 'What Works Centres'; and
- providing independent evidence based advice to local or national government as part of the general policy debate, where that is in line with the objectives of the grant scheme.

17. The following list is specific to government research grants, including, for example, those awarded to the National Academies:

- publishing and publicising the results of research paid for using taxpayer funded grants;
- hosting science and research communication events, for example, Science festivals, Royal Society's Summer Science Exhibition, visits,

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breakfasts, dinners or receptions, seminars, the use of newsletters and campaigns, and sharing information with Parliament to expound greater understanding of research outcomes or launch a research project or equipment;

- working with or through a third party organisation or commercial partners, which are not professional lobbying organisations, to conduct, communicate or publish research findings and inform policy;
- contributing expert scientific and academic advice to inform government policy and funding or make the case for science; and
- developing proposals for future research grants.

18. Similarly, Cabinet Office expects that eligible expenditure terms will be used to specifically prevent certain categories of expenditure.

In particular, the expectation from the Cabinet Office, supported by the Chief Executive for the Civil Service, is that all grants must include eligible expenditure terms and that paid for lobbying - unless a requirement of the grant - and attempting to exert undue influence using taxpayer funding, will always be prevented under those terms (see below).

19. Accordingly, eligible expenditure terms should exclude the following types of expenditure, as a minimum, unless permitting them is a specific requirement of the grant agreement. The list below does not override activities, which are deemed eligible in the grant agreement:

- paid for lobbying, which means using grant funds 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;
- using grant funds to directly enable one part of government to challenge another on topics unrelated to the agreed purpose of the grant;
- using grant funding to petition for additional funding;
- expenses such as for entertaining, specifically aimed at exerting undue influence to change government policy;
- input VAT reclaimable by the grant recipient from HMRC; and
- payments for activities of a party political or exclusively religious nature.

20. Other examples of expenditure, which might be prohibited, include the following:

- contributions in kind;
- interest payments or service charge payments for finance leases;
- gifts;
- statutory fines, criminal fines or penalties;
- payments for works or activities which the grant recipient, or any member of their Partnership has a statutory duty to undertake, or that are fully funded by other sources;
- bad debts to related parties; and
- payments for unfair dismissal or other compensation

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21. The above lists are not exhaustive and are not intended as a universal list of what is permissible or otherwise under eligible expenditure terms. The critical point is that the grant-owning department can specify what is and is not included to tailor eligible expenditure terms to the requirements of the grant: so there is no requirement for an exemptions policy.
22. In defining eligible expenditure terms, considerations might include setting clear expectations for grant recipients, including with regards to value for money and proportionality. To ensure the terms strike the right balance between the need to protect taxpayers and ensuring the deliverability of the grant, in terms of compliance costs.

Note: these standards apply only to Exchequer funding. Grant recipients are free to use funding from other sources, as they see fit.

State Aid

23. State aid is the support given in the form of state resources (such as grants) by public authorities (including departments and their ALBs) that creates any advantage on a selective basis to recipients that is potentially anti-competitive and distorts trade anywhere within the European Union (EU). The general rule is that state aid is prohibited within the EU, however, there are some permitted exceptions that allow for good aid, which is needed to deliver growth and other important objectives. Examples include, some forms of research and development, environmental protections, and support to small to medium sized enterprises.
24. The UK Government supports the need for effective state aid rules to prevent distortion of competition and to create an open and competitive market in the EU on which UK firms can fairly compete and grow. More information and guidance can be accessed here: <https://www.gov.uk/guidance/state-aid>
25. The BEIS State Aid panel should be consulted where there is any doubt about compliance with the legislation, contact details can be found here:

<https://www.gov.uk/guidance/state-aid>

Assurance

26. Grant awarding bodies need to gain assurance on how recipients use their grant funding and obtaining an independent accountants' report is one way of doing this. When designing an assurance model, reference could be made to, for example, the guidance contained in Technical Release AAF 01/10:

<https://www.icaew.com/~media/corporate/files/technical/technical%20releases/audit/aaf%200110.ashx>

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27. The guidance in the Technical Release reflects good practice principles that grant-paying bodies may find useful when designing new grant schemes or updating existing schemes.

Meeting the Standard

28. All departments, in the implementation of this standard, are required to consider their existing grant terms and strengthen them where required, using the MGFA as a base. Critically, this will include making absolutely sure that terms covering eligible expenditure are included and that the associated financial and performance monitoring and assurance regime is sufficiently stringent to prevent inappropriate expenditure.
29. This will be assessed in 2018 by the Cabinet Office via a monitoring pilot, which will involve random sampling and assessment against pre-defined criteria covering the government grant standards (see 'Standards Overview' document for details).

Model Grant Funding Agreement (MGFA)

30. Lawyers in the Commercial Legal Group, part of the Government Legal Department, have drafted the MGFA. The MGFA is fully compliant with the Government Functional Standard for general grants, which is itself underpinned by HM Treasury guidance on Managing Public Money.
31. The essential element of the MGFA is that the funds must be freely given and the donor receives nothing in return. Unless the grant agreement is a deed, there is no obligation to pay. A grant is generally outside the scope of VAT.
32. Departments are strongly advised to use the MGFA for their 'general grants', or as a minimum, to base their grant agreements on the content of the MGFA.
33. The standard version of the MGFA should be used in the vast majority of cases, the only exception is where a deed version is considered appropriate.
34. The MGFA can be accessed via the grants hub here:
<https://grantshub.civilservice.gov.uk/DataSolutionLogin>