

CAIRNGORMS LAG
RESPONSE TO 2017 LEADER MONITORING VISIT
REPORT ISSUED 31 MAY 2017

Introduction

1. This paper sets out the Cairngorms LEADER team's response to the Scottish Government Business Assurance Team's Monitoring Visit and review of the Cairngorms LEADER Programme conducted in May 2017.
2. The paper sets out our responses and actions taken and to be taken on those elements of the review report that are accepted. We have highlighted these items of the monitoring report as green for ease of reference.
3. The monitoring report also sets out a number of items which are questioned by the Cairngorms LEADER team in terms of their accuracy or appropriateness of interpretation. These items will require further review and may on occasion require input from elsewhere – from example references to state aid which may have been interpreted incorrectly by the monitoring team. We have highlighted these items as amber for reference. These items are therefore open and clarification required before any action can be taken, if indeed action is required.
4. Some items in the monitoring report are incorrect and therefore not accepted. There will be no action taken on these items. These are marked red for reference.
5. Where possible, responses and actions taken have been set directly against the relevant item in the Monitoring Report, appended below.
6. Some responses required more detail and these are set out in this covering paper.

Summary of the Visit

7. The report notes that it was not possible to meet with the internal auditors during the visit. This is a consequence of a request being made to meet with the internal auditors only a few days prior to the visit, despite a request from the Cairngorms LEADER team for a specification or terms of reference for the visit some weeks prior to its taking place. As noted in the prior year annual certificate, internal audit is outsourced, and therefore time with the contractor needs to be arranged, with some lead time required.
8. The business assurance team were contacted for their availability to meet with the internal auditors and Accountable Body representative in Glasgow or Edinburgh. Having confirmed that dates in June or July would be suitable the date of 24 July was proposed. However, the business assurance team have now informed the Accountable Body that this date is now not suitable as the lead for the monitoring visit is now taking leave.
9. **A clearer schedule of requirements issued some weeks in advance of the visit by the business assurance team will support a more efficient process for these visits in future years. This requires action within the LEADER**

teams. We believe this is a programme level requirement and will flag it with the Accountable Bodies' Group.

Farm Diversification

10. Discussions on the day of the visit between Larry Rosie (LR) and David Cameron (DC) suggested that LR's view is that all economic development and farm diversification grants are state aid. LR suggested that the state aid rules applied therefore all such interventions were state aid. LR's view expressed on the day of the visit appears to be clearly confirmed by the monitoring report.
11. We do not agree with this interpretation.
12. We do not dispute the point that state aid rules apply – as set out in Article 81 of 1305/2013.
13. However, our understanding is that while the state aid rules apply, each individual grant intervention requires separate, specific assessment as to whether the grant intervention is classified as state aid within the rules. We do not agree with the interpretation that the articles provide for some form of blanket assessment resulting in all LEADER grant interventions as state aid.
14. Our assessment of this project, as a small scale replacement of some tourism accommodation with new, enhanced accommodation is that it could not be assessed as interrupting the flow of trade between member states. As such, it does not satisfy all four criteria of state aid assessment, and is not state aid.
15. Should the business assurance team continue with their view, **the Cairngorms LAG recommends that this point should be clarified with the State Aid Unit** as we are aware from informal contact that other LAG areas are in agreement with our opinion. **This point therefore represents a programme level requirement for resolution by the LEADER teams that should be flagged with the Accountable Bodies' Group and the wider network.**
16. As a point of context, the lead Director for the AB has responsibility for state aid matters within the AB and has had prior training on state aid matters, therefore with some experience of this subject.
17. In terms of the wider discussion set out in the report on this project, a couple of further wider issues arise for resolution.
18. Firstly, there was a suggestion made that all farm diversification projects funded through LEADER are expected to be assessed for eligibility under Article 42 as referenced in the report. Hence the monitoring report highlights that a full review of the project was not undertaken as the grant awarded exceeded the limit allowed for under this Article. We are not aware of any such requirement and a brief informal check with other LAGs also highlights no awareness of any specification for farm diversification to fall under a specific Article. **This is a matter of programme level significance for resolution by the LEADER teams if this stated interpretation is correct.**

19. More widely, there was some suggestion that all economic diversification projects are state aid. This appears reinforced by the follow on discussion in the final paragraph dealing with the farmhouse renovation in the report - again **requiring programme level clarification if this stated interpretation is correct.**
20. Thirdly, this discussion raises the wider question of a clarification of what is intended by the ring-fencing of 10% of LEADER allocations for farm diversification projects and economic development projects. A discussion at the most recent AB's Working Group confirms that AB's appear to be working on a set of assumptions and understandings as to how these definitions are to be interpreted and that there are no clear definitions in place to support use of these ring-fenced blocks of funding. **This is a matter of programme level significance for resolution by the LEADER teams.**

Potential Conflict of Interest – Spors Gaidhlig

21. Comment from Roger Clegg, LAG Chair, on the point of potential conflict of interest as regards the Spors Gaidhlig project, is as follows:

“I am uneasy about this apparent interference in our established and agreed procedures as laid out in the CLAG manual section on ‘Declaration of Interests’. In this particular case the Vice Chair correctly declared your membership of the board of SportScotland and referenced that this was also recorded in the published register of interests. However you played no part whatsoever in the preparation of the Spors Gaidhlig application and neither were you approached by any parties involved in this application. Moreover, SportScotland only had an indirect relationship as a potential partner of the applicant. It was therefore my belief and that of the LAG as recorded in minutes that a member of the public, with knowledge of the relevant facts, would not regard this ‘interest’ to be significant and that it would not prejudice your ability either to discuss or to be involved in the decision making process of the CLAG.

As an aside, if we are to ignore our code of conduct and just exclude all LAG members with any sort of background knowledge or peripheral involvement with applicants then we might never have a suitably knowledgeable or experienced LAG to make good decisions.”

22. A couple of wider comments on this point raised in the report.
23. As noted above, SportScotland has a relationship with Glenmore Lodge as a potential partner of an applicant. There are a number of similar points of LAG members noting their interest in potential project partners, rather than with applicants, in other projects reviewed by the Monitoring team. These were not picked up by the Monitoring team and we can only therefore assume that the principles of the Cairngorms LAG's Code of Conduct are accepted by the Monitoring team. We find it curious that this particular potential conflict of interest has been raised on this project when the same point of principle has been accepted in other projects.
24. We also highlight that the finding / issue identified itself is incorrect. Glenmore Lodge is owned by the SportScotland Trust Company, a charity that operates independently

of the SportScotland Board. However, this is somewhat irrelevant as the finding itself is flawed and not accepted.

Farm Diversification

Ref - 06/P00015 – BRN 121636 – Farmhouse Renovation

A full review of the farm diversification project was not carried out as the grant awarded amounted to £121k. During the discussion on the project we explained that article 81 para (1) of the RDP regulation 1305/2013 articles 107, 108 and 109 on the treaty on the functioning of the EU (the state aid rules) apply to support for rural development by member states. Basically, this means state aid rules apply to Pillar 2 of the SRDP which is where LEADER sits in the SRDP.

Para 2 of the same article explains articles 107, 108 and 109 on the treaty on the functioning of the EU shall not apply if the payments made fall within the scope of article 82 of the TFEU. This is the derogation which applies to farmers active in the primary production of agricultural products meaning that if payments to farmers active in the agricultural sector are aligned exactly with the SRDP the state aid derogation applies, copied below.

Article 42

The provisions of the Chapter relating to rules on competition shall apply to production of and trade in agricultural products only to the extent determined by the European Parliament and the Council within the framework of Article 43(2) and in accordance with the procedure laid down therein, account being taken of the objectives set out in Article 39.

The Council, on a proposal from the Commission, may authorise the granting of aid:

- (a) for the protection of enterprises handicapped by structural or natural conditions;*
- (b) within the framework of economic development programmes.*

Consequently for Farmers receiving funding out with primary agricultural production as in Farm Diversification into non- agricultural activity article 81(2) applies the state aid rules to these activities.

The state aid cover obtained by BSAT for the LEADER program uses the Agriculture Block Exemption Regulation 702/2014 article 45 Business start-up aid for non-agricultural activities in rural areas to grant aid to farmers as explained during the discussion, with the main limiting factor being article 45 limits the aid to €70k per beneficiary.

We also discussed that as Measure 19 allows LEADER to work within the scope of the article but does not have to match exactly with a measure within the SRDP as long as it complies with article 81(2) (the state aid rules) the simplest solution would be to award this project as industrial de minimis reg 1407/2013 which allows up to €200k to a single undertaking over a period of 3 fiscal years. Refer to articles 1, 2 and 3. This would require that the applicant is able to show that they meet the requirement of the regulation regarding any other industrial de minimis aid.

Annex A

File Review - Specific Findings/Action Point Log

Project Name	BRN	Issue/s identified	Action required	Cairngorms response	SG response
Plantlife	163112	The project will recruit a project conservation officer to develop partnerships with local communities and land managers.			
		<p>The Technical assessment is not signed and dated</p> <p>No minutes on file of the LAG approval.</p>	<p>To be signed and dated.</p> <p>To be added to the record on LARCS</p>	<p>This assessment has been signed and dated by the previous Programme Manager who assessed and approved it as per previous process. See file note AnnexDoc1. Signed Technical Assessment in AnnesDoc11, also on LARCS.</p> <p>These minutes were on file in section 5.2 of the physical file which was viewed by the monitoring team. Accompanying this response document as AnnexDoc2. This</p>	

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		<p>[REDACTED]</p> <p>No benchmarking or grading assessment for either posts on how the salaries have been arrived at. No VFM/ROC information on file.</p> <p>The project officer job description Nov</p>	<p>The applicant should be asked to provide satisfactory evidence.</p> <p>Satisfactory evidence must be provided</p> <p>None</p>	<p>document is also on LARCS.</p> <p>Awaiting response from Plantlife regarding statement as evidence. However, we dispute there is a requirement for the LEADER team to verify applicant recruitment decisions.</p> <p>Awaiting further response from Plantlife regarding benchmarking scale. File has correspondence explaining Plantlife's national salary structures and job placement within those. 28/06/2017 Update – Sent reminder to applicant and asked for this, and the above, documentation within two weeks.</p> <p>No action required</p>	
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		<p>2016 requires the post holder to submit claims and reports as required but this would not be eligible cost. The applicant should be submitting the claim. <i>During the wash up meeting it was explained this has been corrected.</i></p> <p>CRF on file dated 13 Feb 17 and approved 5 April 17 change to recruitment and staff set up now £2267.34. CRF has been submitted after the costs for car hire etc have been incurred.</p> <p>The CRF explains that T&S can only be paid on mileage but costs for hotels, car hire, petrol, applicants travel time have all been incurred before a CRF has been submitted.</p> <p>The costs for wine but not beer have been removed</p>	<p>This should be corrected.</p> <p>If information is available showing this was agreed before these costs were incurred this should be added to the file.</p> <p>These costs must be removed and</p>	<p>Original CR4 letter dated 15/02/2017 mentioned contingency, this letter was subsequently replaced removing contingency however letter was dated 05/04/2017 rather than 15/02/2017.</p> <p>Business Assurance are referring to the first claim & costs incurred. We believe the interview expenses would come under the recruitment budget line (£500 budget) as per applicant guidance 9.2.</p> <p>The Claim was processed with the beer</p>	
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		from the claim.	adjustments made accordingly.	included; an adjustment will be made in Claim 2. NB: the beer was excluded from the costs uploaded to LARCs so there will be no overpayment from SG. Further, while the action references "beer" not removed, the receipt was for a specific brand and therefore not obvious to the person checking the claim if they did not recognise this as a brand of beer.	
Scottish Orienteering Association	244451	The project aims to foster encourage and promote orienteering in Scotland and is working with primary schools relating to after school clubs and festivals. Some checklists were not signed or dated.	This should be rectified.	Form signed 12/06/2017. Accompanying this document as AnnexDoc9.	
Volunteer Cairngorms	175263	The project aims to increase and enhance volunteering within the Cairngorms National Park. The			

		<p>volunteer rangers will then recruit volunteers of all ages and abilities from their local areas.</p> <p>The signed grant offer letter was not date stamped or marked with a date when it was received back into the LAG office. However, there was a letter on file from the LAG to the applicant providing them with a project start date</p> <p>The application listed 3 partners as also being involved in the project, however the agreements on file were in form of grant offer letters which were not signed. The grants in question related to the funding of paid ranger roles, which would not be relevant to this project as it focuses on volunteer rangers.</p> <p>Although it had been completed, the claims checklist for the single claim on</p>	<p>This point was discussed at the wash up meeting.</p> <p>This should be clarified</p> <p>This should be</p>	<p>No action required</p> <p>We have contacted the applicant and asked that they contact partners and request confirmation of current partnership arrangements on headed paper. As soon as we have received these, they will be uploaded onto LARCS. A timescale of 3 weeks from 28/06/2017 has been agreed with Volunteer Cairngorms to provide these.</p> <p>The three checklists completed for this claim</p>	
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		file had not been signed or dated.		have been scanned for this response (see AnnexDoc3, 4, and 5). Each of these documents has already been signed and therefore unclear as to what this comment refers to.	
Kingussie Camanachd Club (Kingussie 2017)	243273	<p>The project will refurbish the grounds etc of the club</p> <p>The file is well organised and documentation is clear.</p> <p>Sports Club Insurance Policy document (2:16) has expired and the current document must be sought from the applicant and placed on record.</p> <p>Final planning approval document should be added to LARCS.</p>	<p>Up to date document to be obtained from applicant.</p> <p>To be added to the record.</p>	<p>Updated insurance certificate now on file, see AnnexDoc6, and 7.</p> <p>Full planning cert is already on LARCS system. Amendment to design was approved by Planning Dept on 16/05/17 and email confirming this sent to applicant. No further cert will be issued. Email confirming decision added to</p>	

				LARCS 28/06/17	
Spors Gaidhlig	241652	<p>The project will provide 2 Gaelic speaking outdoor pursuits instructors and 1 Development Co-ordinator.</p> <p>Costs regarding formal training at Glenmore Lodge are not eligible and should be unpicked and removed from the LEADER Project</p> <p>Salaries identified by those being trained and the Development Co-ordinator should be benchmarked by comparison with an organisation that is not the applicant so that VFM and RoC are clearly demonstrated given that the project is 1 year only.</p> <p>All posts must be openly, fairly and transparently recruited. Details of where/when the posts are advertised should be provided. Comments on the</p>	<p>To be removed as required</p> <p>Action as required</p> <p>Action as required</p>	<p>Unclear as to exactly what ineligible training activities there may be in the project, despite now almost 5 months since first enquiry to Scottish Government teams.</p> <p>Comparison Salary Scales submitted from Gaelic job market. AnnexDoc8. There is no requirement in guidance for external benchmark where applicants can demonstrate their internal salary identification processes.</p> <p>No recruitment has been undertaken as this project is not yet live, however the applicant is</p>	

		<p>file indicate that the applicant may have already had approaches from potential participants.</p> <p>Match Funding should be revised to include £15k which has been committed to the project by the Gaelic Team in the Scottish Government. This committed cost may be mirrored by Bord na Gaidhlig and this should be clearly established. The amount awarded by LEADER should therefore be reduced by the levels of additional committed expenditure.</p> <p>Potential for 'Conflict of Interest' – the Vice Chair of the LAG is a member of the board of Sportscotland and this organisation owns Glenmore Lodge where the project will be based. Presentationally, the Vice Chair should be excused from all deliberations around this project.</p>	<p>To be clarified with the applicant.</p> <p>Given the impact of the changes to the application, once the changes have been made, the application should then be re-presented to the LAG for renewed consideration.</p> <p>The Vice Chair should be excused from the process – particular attention must be made</p>	<p>aware of the required recruitment process and this will be checked at first claim, if it becomes live, as per guidance.</p> <p>A revised match funding summary in accompanying document AnnexDoc10.</p> <p>Not accepted. See response from LAG Chair in covering paper. Monitoring team's analysis of potential conflict not accepted as valid and therefore no further action being taken.</p>	
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			to ensure that the LAG meeting remains quorate during the deliberation/decision making process.		
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