

**CAIRNGORMS NATIONAL PARK AUTHORITY
FINANCE AND DELIVERY COMMITTEE**

FOR DECISION

Title: LEADER PROGRAMME: PROPOSED SERVICE LEVEL AGREEMENT WITH SCOTTISH GOVERNMENT

Prepared by: David Cameron, Director of Corporate Services

Purpose

To seek approval from the Finance and Delivery Committee to enter into a Service Level Agreement (SLA) with Scottish Government, formalising the Authority's role as Accountable Body for the Cairngorms LEADER programme for 2014 to 2020.

Recommendations

The Finance and Delivery Committee is requested to:

- a) Consider the terms of the proposed SLA;
 - b) Consider the specific points of representation made to Scottish Government on the terms of the SLA as set out in this paper;
 - c) Subject to any agreed amendments or conditions required, approve the SLA and therefore formally approve the Authority as Accountable Body for Cairngorms LEADER programme 2014 – 2020;
 - d) Approve delegation of authority for signature of the SLA to David Cameron, Corporate Services Director, as the lead Director responsible for compliance with the SLA; and
 - e) Approve authority to David Cameron, Corporate Services Director, as the lead Director responsible for compliance with the SLA, for agreeing any minor amendments to the SLA, provided that such amendments do not incur additional financial commitments above those of the Corporate Services Director's delegated authority limits.
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Background

1. The full Board has received regular updates on the development of the 2014 to 2020 Cairngorms LEADER programme over the last 18 months. Over this time the Board has approved the principle of the Authority once again acting as lead partner for the LEADER programme in the Cairngorms. This role is now termed the Accountable Body for the 2014 – 2020 LEADER Programme. The Board has also agreed an annual contribution of £70,000 to support the administrative and salary costs of the programme development and delivery. The most recent update to the Board in June 2015 highlighted that the final SLA covering the administrative and other requirements of the Authority as an Accountable Body would be brought to the Finance and Delivery Committee for consideration.
2. The Cairngorms Local Action Group (CLAG) received confirmation of approval of its Local Development Strategy by letter dated 29 June 2015, together with confirmation of the “in principle” LEADER funding allocation of £2.969 million. The allocation will only be confirmed upon signature and return of the SLA, together with accompanying documentation:
 - a) A Fair Processing Notice: a document setting out how information received from applicants and third party organisations will be stored and shared;
 - b) A Data Sharing Agreement
3. The SLA is set out in full at Annex I to this paper for consideration. The other supporting documents are less contentious and subsidiary to the SLA. However, matters arising pertaining to these supporting documents are referred to in the following parts of this paper.

Service Level Agreement (SLA)

4. The SLA mechanism was also employed to support the 2007 – 2013 LEADER Programme and therefore is not new to the Authority. The SLA seeks to set out the responsibilities of the Accountable Bodies for the delivery of the LEADER programme.
5. There are a number of issues to be resolved and the following matters have been raised with Scottish Government for consideration.

Sub-contracting Services and Internal Audit

6. Section 13.5 requires the Accountable Body to seek written consent to assign or sub-contract any services under the SLA. The Authority’s internal audit function is delivered through an out-sourced contract. This is currently in the last year of a contract with KPMG, until March 2016. A procurement process is planned for later in 2015/16 to secure an internal audit firm for the next 3 to 5 year period. We therefore require written consent of the acceptability of the Authority’s out-sourced internal audit arrangement.

Confidentiality and Data Sharing

7. Section 15.1 requires consent to share information arising as a result of the SLA. Given that the SLA covers all aspects of LEADER application processing and assessment, I read this clause and the clarification clause at 15.5 to cover all aspects of information related to expressions of interest, funding applications and project development and delivery.
8. The potential issue for the Authority in this regard is the capacity for the LEADER team to draw in advice and views on potential projects from interested parties and stakeholders. While the team can draw on advice and guidance from a range of specialists and advisors within the National Park Authority, some areas of advice and guidance may not be available internally within the Accountable Body. It is also the CLAG's natural inclination to work with external agencies as far as possible in ensuring that LEADER investment adds value rather than duplicates activities, or substitutes for cut backs elsewhere. The CLAG would therefore seek to consult with appropriate stakeholders on project ideas in development. Moreover, it is the CLAG's intention to establish an Advisory Network to support the delivery of the LEADER Local Development Strategy, with the expectation that this Network, among other activities, could help advise on project development ideas. This clause would appear to restrict all such activity through an inability to share project information.
9. I have therefore asked Scottish Government to consider waiving this element of the SLA and also amend the Fair Processing Agreement for the Cairngorms NPA to facilitate our effective appraisal of project proposals within the programme.
10. Additionally, the Data Sharing Agreement issued for approval with the Authority makes reference to a requirement for data security in line with normal Public Sector Network (PSN) requirements. As far as I am aware the Authority is not included in this PSN. Given the Authority has acted as lead body for the Cairngorm LAG over the last programme with its current Information Technology and Security Systems, we are requesting the establishment of a side agreement, or amendment to the data sharing agreement, to reflect the existing practices as acceptable to Scottish Government. In the absence of this, we will require clarity on the requirements of the PSN.

Information Requests

11. Section 15.4, dealing with information request responses under various legislative provisions, requires information requests that the Accountable Body cannot fulfil be passed to the paying agency. I do not think this is legally competent, as an information request cannot be passed from one organisation to another. These requests are by definition requests for information which a specific body holds, and are required to be dealt with and responded to as such, and are not transferrable. I have sought clarification and confirmation of the expectations of the Accountable Body under this section of the SLA.

Information Systems Security

12. The EU Directive referenced at Annex D of the SLA, which sets out Information Systems Security requirements, cites that security standards will be based on the criteria laid out in ISO27002 or ISO27001 depending on the financial year in

question and the options sought by member states. The Authority highlighted with Scottish Government in agreeing the SLA at the time of the previous programme that it does not have an ISO accreditation in place, which is relatively costly process to undertake. However, the information security systems are designed to meet these ISO standards. The Regulation appears to require security standards based on the ISO criteria rather than the actual ISO certification to be in place, and therefore a similar process of agreeing systems must comply with requirements may still be acceptable. I have sought confirmation of Scottish Government's requirements on this subject.

Financial Liabilities

13. Committee members' attention is drawn to section 16 of the SLA which sets out the Authority's potential wider financial liabilities in taking on the role of Accountable Body. These liabilities can be split into two types: under-writing liabilities as a consequence of irregularities arising from administrative or processing error; and disallowance of EU funding contributions.
14. Irregularities arise where items of ineligible expenditure are funded in error, or where other errors of administration or checking arise which result in expenditure which cannot be recovered and where the Accountable Body must therefore fund the value.
15. Disallowance arises where audit highlights that EU funding has been applied incorrectly. In this instance it is not the specific item of funding that requires to be refunded. Rather it is the value of the sample size used in testing the expenditure. Therefore, if the audit test is on the basis of every €250,000 and the item tested is found to be ineligible and disallowed, then the full €250,000 requires to be repaid. Section 16.3 highlights that the liability in this instance to the Accountable Body would be a matter for negotiation between the organisation and Scottish Ministers.
16. The Authority must accept the risks around these liabilities as Accountable Body. Our administrative arrangements will seek to minimise these risks in addition to providing for the effective administration of the programme, while the annual internal audit of LEADER programme delivery will test the adequacy of and help build robustness of these internal control arrangements.

Next Steps

17. I wrote seeking clarification from Scottish Government on the preceding matters on 30 July. As at time of writing, I have not received a response. However, I hope to be able to update members at the meeting on 14 August.
18. Subject to receipt of satisfactory responses to the above matters, and subject to any additional matters highlighted at the Committee meeting, if members feel the Authority is in a position to sign off the SLA then the CLAG will be able to make the programme live. This is timely given the planned launch event on 16 September.

19. Work is ongoing within the LEADER and Finance Teams to ensure that administrative and financial processes comply with LEADER requirements, in addition to strategic oversight of the LEADER programme and delivery of the Local Development Strategy by the CLAG. This work on administrative and financial processes in particular remains dependent on release of adequate technical guidance by Scottish Government and on completion of central IT systems.

David Cameron
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