

# **GSK ENTERPRISE FUND**

*GUIDELINES*

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## **PART 1: BACKGROUND**

The GSK Enterprise Fund is administered by Cumbria Chamber of Commerce, a company limited by guarantee and registered in England, registration number 04211364.

The fund was established by GSK as part of a package of measures which aims to address the local economic impact of job losses resulting from restructuring of the GSK Ulverston antibiotics business. During 2019 and 2020 GSK will progressively discontinue manufacture of sterile antibiotics at its Ulverston factory but will continue to invest in production of its globally competitive oral antibiotics.

The fund aims to achieve those objectives by offering grants to businesses and start-ups of all sizes in eligible areas to encourage investment which will create new jobs or safeguard existing jobs, promoting competitiveness, sustainability and growth. It will be run primarily as a monthly review cycle with closing dates for applications published on the Cumbria Business Growth Hub website ([www.cumbriagrowthhub.co.uk](http://www.cumbriagrowthhub.co.uk)).

### **Application process**

The application process is competitive. Grants may be offered to projects that:

- offer good value for money, measured by the value of the grant offered per new job created/existing job safeguarded
- make a clear and reasonable case for needing grant support
- have adequate funding towards the balance of the project
- can complete within the required timescales
- demonstrate alignment to objectives of the Cumbria Local Industrial Strategy (presently in draft), for example, support introduction or growth of innovative products or services, are high value adding, high value jobs, create opportunity in areas of relative deprivation

(See Parts 2 and 3 for further details).

Grants are discretionary and there is no obligation on the GSK Enterprise Fund panel to offer grants even where all the above criteria appear to have been met.

The application process comprises the following stages (see Part 3 for more details):

- Submission of an Expression of Interest (EOI) form which can be found at [www.cumbriagrowthhub.co.uk](http://www.cumbriagrowthhub.co.uk).
- Review of the EOI against scheme criteria.
- If the EOI is accepted, a full application will be invited. There will be a monthly deadline (published on the Cumbria Business Growth Hub web portal) for submission of full applications, with the opportunity, at the discretion of the Grant Panel, for consideration of individual applications between these deadlines where the opportunity is time dependent. Growth Hub advisers may be available, at no charge to the applicant, to support completion of applications by small and medium sized businesses (SMEs).
- Assessment will be carried out against the scheme criteria, with recommendations made to a Grant Panel which will make the decisions on grants.
- Following this the applicant will usually be advised of the decision and made an offer or not. If required the Panel may request additional information or clarification before making a decision.

### **Eligible businesses and geographic location**

Businesses of any size and start-ups located or setting up an operation in the following areas are eligible to apply:

- LA7, LA8, LA9, LA10, LA11, LA 12, LA20, LA21, LA22, LA23 of South Lakeland District Council area.
- LA12, LA13, LA14, LA15, LA16, LA17 of Barrow Borough Council area.
- LA18, LA19, LA20 in Copeland Borough Council area.

Any jobs created/safeguarded must be in the above areas, although the Grant Panel may approve a grant outside this area/for jobs outside this area at its absolute discretion.

(See Parts 2 & 3 for more details).

## Project timescales

The intention is to close the scheme to new applications no later than Q4 2021. Projects should be substantially complete by end 2022 and all claims for grant payment submitted by end Q1 2023. No claims for grant payments can be accepted after this date.

## Eligible project expenditure

Projects may involve investment in activities, new assets or in Research & Development (R&D) leading to the creation or safeguarding of jobs.

For grants of over £5,000 expenditure must be incurred and fully defrayed before grant claims relating to that expenditure can be submitted, other than expenditure via HP, leases and capitalised salaries. In the latter cases only the amount actually defrayed at the time of the claim can be included. At no stage of the project will the payment of grant exceed the applicant's actual cash expenditure.

Examples of eligible expenditure can include the following:

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### CAPITAL EXPENDITURE

- Land and buildings, including the purchase or lease of larger premises and premises extension and re-fit
- Plant, equipment and machinery

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### R&D EXPENDITURE (SEE ANNEX D)

- Eligible costs for R&D include salaries (supported by timesheets), overheads, consultancy and materials
- Costs of instruments and equipment
- Consultancy and other external costs

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### TRAINING EXPENDITURE (IF ASSOCIATED WITH AN INVESTMENT PROJECT WHICH WILL CREATE/SAFEGUARD JOBS)

- Trainers' personnel costs for time spent delivering training
- Trainers' and trainees' operating costs directly linked to the project
- Consultancy and other external costs

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### REVENUE EXPENDITURE

- Salaries and related employment costs of new employees
- Sales and marketing activities and collateral such as marketing materials and attendance at trade fairs
- Purchase of small items of equipment not classified as capital
- Other revenue costs at the discretion of the panel

(See Part 2 for more details).

## Job creation and safeguarding

All investment projects must create or safeguard sustainable direct jobs, normally within the applicant business. Priority will be given to projects which create new permanent jobs. For safeguarded jobs, the applicant must be clearly able to demonstrate that the jobs are at imminent risk (within the next 12 months) if the project does not go ahead. Indirect jobs created within the supply chain will not normally be taken into account.

The ratio of grant to jobs created/safeguarded and the cost per job will be taken into account in assessing value for money.

The intention must be for jobs created/safeguarded by the project to be maintained for a minimum of five years (three years for SMEs) after the whole investment has been completed.

(See Parts 2 and 3 for more details).

## Levels of grant support available

(See Part 3 for more details).

The minimum grant available is **£2,000** per project and the maximum is £100,000 (or exceptionally up to £200,000 at the discretion of the panel where the level of job creation presents an exceptional opportunity). A business may apply for and receive more than one grant under the scheme, but the total of the awards made must not exceed £100,000 (the Panel will have discretion to exceed this limit subject to exceptional project applications received).

The maximum percentage of grant support offered for any project depends on the size of the business. Grants are offered as a percentage of eligible project expenditure as shown in the table below. The percentage indicated is the maximum permissible percentage of grant support that can be offered in each case.

The SME definition is available at

[http://ec.europa.eu/enterprise/policies/sme/files/sme\\_definition/sme\\_user\\_guide\\_en.pdf](http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf)

The guidance limits for the rate of assistance are:

| Size of company | Maximum Percentage of Grant |
|-----------------|-----------------------------|
| Large           | 10%                         |
| Medium          | 20%                         |
| Small           | 30%                         |

## **PART 2: ELIGIBILITY CRITERIA**

The GSK Enterprise Fund may offer discretionary grants to businesses which fulfil the criteria set out in these guidelines. The following key criteria are described further in this section:

- Location
- Eligible activity
- Eligible project costs
- Creation or safeguarding of jobs
- Viability
- Additionality – there must be an incentive effect
- No prior start

### **Location**

Businesses of any size and start-ups located or setting up an operation in the following areas are eligible to apply:

- LA7, LA8, LA9, LA10, LA11, LA 12, LA20, LA21, LA22, LA23 of South Lakeland District Council area.
- LA12, LA13, LA14, LA15, LA16, LA17 of Barrow Borough Council area.
- LA18, LA19, LA20 of Copeland Borough Council area.

Any jobs created/safeguarded must be in the above areas, although the Grant Panel may approve a grant/jobs outside this area at its absolute discretion.

### **Eligible activity**

All projects should contribute positive benefits the economy. The impact of the proposed investment on other UK businesses must be considered during the assessment of any application for GSK Enterprise Fund support.

The factors taken into consideration include the income generated directly by a project, export and/or re-shoring activity, the displacement effects on other businesses and the wider benefits to the competitiveness of the economy at large.

Relocation projects qualify for support where the relocation involves expansion and creation of jobs new to the UK.

Projects which are likely to have a major negative impact on jobs in other businesses within the grant area or the UK more widely will not be eligible. For example, if the applicant operates in a sector where it supplies only UK customers and this market is already fully supplied by UK-based businesses, then any new project jobs are likely to result in the loss of jobs within competitor businesses.

The above will not apply to small start-up businesses.

Grants will not be available to the public sector.

Grants are available to commercial organisations, including social enterprises. To qualify as a commercial activity at least 50% of income or profits must be derived from business trading.

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### **CONTRACT BIDS**

Assistance will not be offered to underpin a contract bid under the rules of a competitive tender. In addition to the potential distortion of price, the benefit could also be to the detriment of other bidders. Projects based on single contracts also carry more risk with regard to sustainability.

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### **R&D PROJECTS**

Research grants help businesses assess the technological and commercial feasibility of an innovative technology. These projects will involve planned research or critical investigation aimed at producing new scientific or technical knowledge, which may be useful in developing new products, processes or services. 'Blue skies' research is not eligible.

Projects may include: conceptual formulation and design, technical feasibility studies, trials and testing, small-scale demonstration to provide basic proof of technical feasibility, IP protection, investigation of production and assembly options, pre-clinical research studies including target identification and validation.

Research Projects will aim to:

- confirm the original technical and commercial aims are viable
- carry out any basic research <sup>1</sup> needed to define the objectives
- define the operational, technical and design aspects
- consider action on any intellectual property arising from or needed by the project
- determine the prospective benefits, including the potential outputs
- determine the longer term market effects and the possibility of exploitation
- set overall and phase objectives and target dates for the full project and subsequent exploitation and
- define the economic, commercial and dissemination objectives.

Development projects will shape the results of industrial research into a plan or design for a new, altered or improved product, process or service for commercial use, including creating an initial prototype which could not be used commercially. It does not include the routine or general changes made to products, production lines, manufacturing processes, existing services and other operations in progress, even if those changes may represent improvements.

Development projects will aim to:

- create a pre-production prototype (i.e. up to but not including industrial application and commercial exploitation, but including pilot and demonstration prototypes) or carry out Phase 0 trials
- define the operational, technical, design and manufacturing aspects of the final product, process or service
- consider the ownership or licensing of intellectual property arising from or needed by the project
- determine the prospective benefits, including the potential outputs
- determine the longer term market effects and exploitation
- set objectives and target dates for subsequent exploitation, and
- define the economic, commercial and dissemination objectives for exploitation.

### **Eligible project costs**

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#### **INVESTMENT SUPPORT**

In order to be considered an eligible cost for the purposes of the GSK Enterprise Fund, investments shall consist of an investment in tangible and/or intangible assets or revenue activity relating to the setting-up of a new establishment, the extension of the capacity of an existing establishment, diversification of the output of an

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<sup>1</sup> Basic research is defined as original theoretical or experimental work to achieve a new or better understanding of the laws of science, engineering and technology as they might apply to the full project. This may involve the creation of an early "bench top" experimental model.

establishment into products not previously produced in the establishment or a fundamental change in the overall production process of an existing establishment.

A grant will not be offered to a beneficiary (at the group level) which has closed down the same or a similar activity in the two years preceding its application for GSK Enterprise Fund or which, at the time of the application, has concrete plans to close down such an activity within a period of up to two years after the initial investment for which the grant is requested is completed.

For relocation projects only the expansion element of any costs will be eligible.

Assistance can be provided for the purchase of the assets or, if appropriate, the business of another company in receivership or liquidation where it is clear that there is only one realistic bidder. Such assistance can also be provided if there is a clear and imminent threat to employment even if the business in question is not in receivership or liquidation. These circumstances apart, assistance should not be provided to one company in order that it might take over another company.

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#### **EXPENDITURE ASSOCIATED WITH TANGIBLE AND INTANGIBLE ASSETS**

In order to be considered eligible costs for the purposes of the GSK Enterprise Fund tangible or intangible assets must be purchased from third parties under market conditions, without the acquirer being in a position to exercise control on the seller or vice versa. Self-built assets, or newly built assets acquired from other companies within the same group are considered to fulfil the conditions of this paragraph if the assets are independently valued.

For projects relating to a fundamental change in the production process, the eligible costs must exceed the depreciation of the assets linked to the activity to be modernised in the course of the preceding three fiscal years.

For projects relating to the diversification of an existing establishment, the eligible costs must exceed by at least 200% the book value of the assets that are reused as registered in the fiscal year preceding the start of works.

In the case of the acquisition of an establishment, only the costs of buying assets from third parties shall be taken into consideration, and only where the transaction has taken place under market conditions. Where the acquisition is accompanied by other investment, the costs relating to the latter shall be added to the cost of the purchase. If aid has been granted for the acquisition of assets prior to their purchase, the costs of those assets shall be deducted from the eligible costs related to the acquisition of the establishment.

Costs related to the acquisition of assets under lease, other than land and buildings, shall only be taken into consideration if the lease takes the form of financial leasing and contains an obligation to purchase the asset at the expiry of the term of the lease. For clarity, Hire Purchase ("HP") agreements which include an option to purchase the asset at the end of the term will be eligible providing the applicant confirms that they will pay the option to purchase fee. For a capitalised lease of land and buildings to be regarded as eligible expenditure it must continue for at least five years after the anticipated date of the completion of the investment project or three years in the case of SMEs. Land and building leases with related parties will not be eligible. Land and building leases should not normally be capitalised for longer than the minimum period specified by State Aid rules, nor should a land and building lease be capitalised over a period where the company has an option to terminate the lease. In unusual situations where it is desirable to capitalise a land and building lease for longer than the minimum specified then the phasing of the grant (and therefore the conditions period) should be extended by an equal amount.

Except in the case of SMEs and takeovers, the assets acquired shall be new to the company and must not replace existing assets.

The investment must be maintained in the project area for at least five years, or three years in the case of SMEs, after the whole investment has been completed. This shall not prevent the replacement of plant or equipment that has become outdated due to rapid technological change, provided that the economic activity is retained in the region for the minimum period.

Grants will not be provided for routine investment, including routine upgrading of products with a short life span, unless there is convincing evidence that the alternative is to relocate.

Intangible assets are eligible if they fulfil all of the following conditions:

- they must be used exclusively in the establishment receiving the aid
- they must be amortisable
- they must be purchased under market conditions from third parties unrelated to the buyer
- they must be included in the assets of the undertaking receiving the aid and must remain associated with the project for which the aid is granted for at least five years, or three years in the case of SMEs.

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### EXPENDITURE ASSOCIATED WITH JOB CREATION

In order to be considered an eligible cost for the purposes of the GSK Enterprise Fund, employment directly created by an investment project shall fulfil the following conditions:

- each post shall be filled within three years of completion of works
- the investment project shall lead to a net increase in the number of employees in the establishment concerned, compared with the average over the previous twelve months, meaning that any job lost shall be deducted from the apparent created number of jobs during that period
- the intention is that each job created through the investment will be maintained in the area concerned for a period of at least five years from the date the post was first filled, or three years in the case of SMEs

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### R&D COSTS

Only costs that can be properly defrayed (that is, money that has in effect been paid from the grant recipient's bank account) on the project are eligible for support. "In kind" contributions are not eligible.

The following costs are eligible for grant support:

- Personnel costs of researchers, technicians and other supporting staff to the extent employed on the project.
- Costs of instruments and equipment to the extent and for the period used for the project. Where such instruments and equipment are not used for their full life for the project, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible.
- Costs of buildings and land, to the extent and for the duration used the project. With regard to buildings, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible. For land, costs of commercial transfer or actually incurred capital costs are eligible.
- Costs of contractual research, knowledge and patents bought or licenced from outside sources at arms' length conditions, as well as costs of consultancy and equivalent services used exclusively for the project.
- Additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project.

All eligible costs may be subject to agreed adjustments for residual or recoverable value.

Where any project cost incurred has a residual value to the applicant at the conclusion of a project, or a scrap recovery value applies, only a proportion of that project cost may be considered eligible for grant support. In the case of capital equipment that eligible proportion will be equivalent to the depreciation charge over the life of the project.

Further details of eligible costs for R&D projects are included at Annex D.

Grants will not be offered for costs which could be covered through R&D Tax Credits so applicants must explore these as an option first.

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### TRAINING COSTS

The GSK Enterprise Fund may consider supporting training costs associated with an investment project which will create new jobs. The eligible costs of a training project are:

- Trainers' personnel costs, for the hours during which the trainers participate in the training
- Trainers' and trainees' operating costs directly relating to the training project such as travel expenses, materials and supplies directly related to the project, depreciation of tools and equipment, to the extent that they are used exclusively for the training project (accommodation costs are excluded except for the minimum necessary accommodation costs for trainees who are workers with disabilities)
- Cost of advisory services linked to the training project



- Trainees' personnel costs and general indirect costs (administrative costs, rent, overheads) for the hours during which the trainees participate in the training

Training which could be funded under the European Social Fund will not be eligible.

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## **REVENUE EXPENDITURE**

Eligible revenue costs include:

- Salaries and related employment costs of new employees
- Sales and marketing activities and collateral such as marketing materials and attendance at trade fairs
- Purchase of small items of equipment not classified as capital
- **Other revenue costs at the discretion of the Panel**

## **Creation or safeguarding of jobs**

All investment projects must create or safeguard sustainable direct jobs, normally within the applicant business. Priority will be given to projects which create new permanent jobs. For safeguarded jobs, the applicant must be clearly able to demonstrate that the jobs are at imminent risk (within the next twelve months) if the project does not go ahead. Indirect jobs created within the supply chain will not be taken into account.

Projects which are likely to create over-capacity and/or displace jobs from elsewhere in the UK do not qualify for a grant.

The ratio of grant to jobs created/safeguarded will be taken into account in assessing value for money.

The intention must be that the job creation associated with the project must occur within three years of project completion (see Annex A) and each job created/safeguarded must be maintained for a minimum period of five years in the case of employment by a large company and three years in the case of employment by a SME.

The GSK Enterprise Fund programme will favour projects which create highly skilled sustainable jobs.

R&D projects must be able to demonstrate a clear link to the creation or safeguarding of jobs within the applicant business.

## **Viability**

The business undertaking the investment project must be able to demonstrate that it is viable, and the project must have a good chance of being self-sustaining by the completion of the investment.

The GSK Enterprise Fund cannot be used to support undertakings or firms in difficulty, unless the Grant Panel is satisfied that the project and company are viable. A definition of a firm in difficulty is included at Annex A of these guidelines.

Further details to be considered when appraising viability are outlined in Part 3 of these guidelines.

## **Additionality**

The applicant must be able to demonstrate convincingly that without the GSK Enterprise Fund assistance the project would not go ahead at all or on the proposed scale or in the proposed timescale. Details of how additionality will be appraised are included in Part 4 of these guidelines.

## **Incentive effect**

A grant may only be awarded when it produces an incentive effect, which is to say it positively influences the behaviour of the recipient and facilitates investments that would not otherwise happen or would work differently in the absence of the grant.

It is also considered to have an incentive effect if, in the absence of the grant, the investment project would not have been carried out in the area concerned.

Grants to SMEs will be considered to have an incentive effect if, before work on the project or activity has started, the beneficiary has submitted an application to the GSK Enterprise Fund explaining to the satisfaction of the Grant Panel why the grant is necessary for viability of the project

Note that it will not be acceptable to state as a reason that the organisation has a policy not to borrow.

Grants to large enterprises shall be considered to have an incentive effect if, in addition to fulfilling the condition above, it can be verified, before the grant offer is made, that documentation prepared by the beneficiary establishes one or more of the following criteria:

- a material increase in the size of the project due to the grant
- a material increase in the scope of the project due to the grant
- a material increase in the total amount spent by the beneficiary on the project due to the grant
- a material increase in the speed of completion of the project concerned, or
- that the project would not have been carried out as such in the area concerned in the absence of the grant.

Large companies must be able to provide evidence of an internal document showing the applicant has analysed the viability of the project with and without a grant and that the internal document contains a credible analysis and demonstration of the incentive effect of the aid as defined above. A declaratory statement from an applicant that the grant helps to increase the scope or size of a project is not considered sufficient to demonstrate the incentive effect.

## **Eligible Bodies**

GSK Enterprise Fund support can be awarded to companies, partnerships or sole traders, including social enterprises.

In these Guidelines the term “company” includes all legal vehicles for carrying on business (including partnerships, limited liability partnerships, sole traders, companies limited by guarantee and companies registered in other jurisdictions as well as limited liability companies registered in Great Britain) unless the context dictates otherwise. Public sector organisations are not eligible.

Grants can only be awarded to commercial organisations. To qualify as a commercial activity at least 50% of income or profits must be derived from business trading.

## **No prior start**

If work on a project has started, then it is ineligible for GSK Enterprise Fund support. An application for assistance must be submitted and a firm offer made before work on the project is started. “Start of work” is defined in Annex A.

If, during the course of an appraisal, it becomes clear that an applicant has incurred, or wishes to incur, expenditure on a project before the Grant Panel has decided whether assistance is justified, this would normally nullify the additionality case. However, there are exceptions to the “no prior expenditure” rule, for example research and feasibility work undertaken or planned to help identify the options or secure the possibility of an option.

A more serious difficulty may arise if the applicant incurs significant expenditure on physical assets associated with the project, for example on land and buildings or plant and machinery, before the appraisal has been completed. Whilst each application must be treated on its merits, in most cases such commitments or expenditures demonstrate the intention to carry out the project irrespective of assistance and should result in the application being rejected.

## **PART 3: APPLICATIONS AND APPRAISAL**

### **Process**

The GSK Enterprise Fund is a discretionary programme. In order for a project to be eligible for a GSK Enterprise Fund grant it must comply with all of the criteria outlined in Part 2.

The Fund will be operated on a competitive basis, with monthly deadlines for submission of applications, plus, at the discretion of the Grant Panel, the opportunity for assessment of individual applications outside these rounds where the opportunity is time dependent:

- The first stage is submission of an Expression of Interest form (available at [www.cumbriagrowthhub.uk](http://www.cumbriagrowthhub.uk)). This is reviewed against scheme criteria and if it is accepted a full application is invited.
- Cumbria Growth Hub advisers may be available, at no charge to the applicant, to support completion of applications by small and medium sized businesses (SMEs).
- **Monthly** deadlines are published on the Cumbria Business Growth Hub web portal for submission of full applications. At the discretion of the Grant Panel individual applications may be considered between these deadlines where the opportunity is time dependent.

All full applications over £5,000 must include the following information:

- A fully completed application form and financial appendices
- The applicant's most recent financial statements (if applicable)
- Up to date management accounts for the current year (if applicable)
- If applicable, the most recent financial statements for the group
- Cash flow forecasts for the period of the project
- CVs for the project management team and directors
- A business plan (where the application is for over £50,000 or if the applicant is a start-up and cannot provide at least one year's accounts)

Applications under £5,000 may be subject to a lighter touch requirement.

Any application which does not include all the above information will not be considered further for the competition, although the business can re-apply to the next monthly competition.

Fully complete applications submitted by the deadline will be reviewed by the Chamber and recommendations submitted for consideration by the Grant Panel.

The appraisal by the Chamber will include due diligence at a level appropriate to the business and the size of the application in order to confirm that:

- The project is compliant with the scheme guidelines
- The grant will provide an incentive effect
- The project offers value for money
- The project is viable and deliverable

Applicants may be required to submit further information at this stage.

Once the appraisal has been completed, a report will be produced by the Chamber which will include recommendations and conclusions on the following aspects of the application:

- compliance with scheme guidelines (including eligibility of activity and costs) additionality and whether the grant has an incentive effect
- the minimum amount of grant required
- viability of the project and the existing business and group (where applicable), including the management team
- employment impacts
- employment impacts and displacement of other jobs within the grant area and the UK

The Chamber will provide an appraisal report on these to the Panel for discussion and decision.

Exceptionally additional due diligence work and costs may be required which will need to be covered by the applicant. Such due diligence would take place after a decision in principle by the Panel. Any costs will be agreed with the applicant in advance and re-charged to the applicant. The applicant cannot commit to the project until the due diligence is completed however in exceptional circumstances a conditional authority to proceed may be given, although the applicant will take the risk that the application could be rejected at the due diligence stage.

### **Decisions by the Grant Panel**

The Grant Panel will be chaired by Stuart Klosinski, Furness Enterprise Development Fund, and will include Cumbria Chamber of Commerce, Cumbria LEP, South Lakeland District Council and two accountancy practices. The Chair will have the casting vote if required.

The Panel may invite others to attend as observers to provide technical support, but they will not have voting rights.

Any Panel member with a conflict of interest relating to a particular application will not take part in the, appraisal, discussion of and decision on that application.

The ultimate decision on whether a project should be supported under GSK Enterprise Fund rests with the Grant Panel.

Once the Grant Panel has made its decision the applicant is informed in writing, along with a formal offer letter. The applicant can commit to the project once this formal offer of assistance has been made but not before.

### **Appeals**

As the GSK Enterprise Fund is a competitive scheme applications which meet the scheme criteria may still be rejected if they do not provide value for money compared to other applications being considered.

Appeals may be made in writing to the Deputy Chief Executive, Cumbria Chamber of Commerce, providing any relevant supplementary information. An appeal will only be considered if there is a material change in the circumstances of the applicant's project.

Where an appeal is made the decision will be reviewed at the next Grant Panel meeting. The final decision will rest with GSK, taking into account the advice provided by the Grant Panel. The decision will be advised to the applicant in writing.

There is no further right of appeal.

### **Record keeping**

Reasons for decisions about applications and claims will be recorded properly on file at all stages. This record keeping will ensure that there is a clear audit trail for all applications. Administrative records will be maintained for all applications irrespective of whether they were successful.

### **Publicity**

Brief details of all offers made under the GSK Enterprise Fund will be published on the Cumbria Growth Hub web portal once the offer has been accepted.

More detailed case studies of projects will be used on an ongoing basis to promote the scheme and its success through a range of media.

### **Third party advice to applicants**

Third parties such as consultants may advise businesses with regard to GSK Enterprise Fund applications, or even provide information on behalf of the applicant. If the third party continues to play an active role in the application after the application form has been submitted, the Chamber will request that the applicant business designates an in-house point of contact. All correspondence regarding the appraisal of the GSK Enterprise Fund application should then be copied to this contact. It is the responsibility of the applicant to ensure that any information

submitted on its behalf is accurate and complete. It may be difficult to incorporate changes late in the appraisal process.

If the Chamber or Grant Panel believe that information provided by a third party is not a true and fair reflection of the applicant's business/business plan, then they have a duty to:

- request confirmation from the applicant that the data presented in the application form and financial appendices is accurate and reflects their business model
- ensure that the final recommendation or decision regarding the application records these concerns

## **Jobs**

Employment estimates provided by businesses will be critically examined. The Grant Panel will need assurance that the number and timing of jobs forecast accords with the investment proposed and the applicant's existing staffing arrangements or with the normal employment densities for the industry in question. Only jobs created or safeguarded by the applicant company as a direct consequence of the project will normally be taken into consideration, although where appropriate other jobs the applicant is prepared to commit to may also be included. Indirect employment on the project through sub-contracting of support activities permanently based on site such as maintenance engineers, security and catering staff may sometimes qualify under this standard.

On occasions staffing of an establishment may be wholly contracted to an independent agency that supplies staff on an individual contractual basis. Providing that the contracts are for a fixed term with the applicant business, such arrangements may qualify for assistance. Amongst other things it will be necessary to show that the jobs created will be an integral and permanent part of the project. Temporary employment cannot be considered. Jobs which involve the transfer and/or retraining of existing employees are safeguarded jobs and cannot be considered to be new.

It is important to specify the exact nature and location of safeguarded jobs within the plant or premises. This will form part of the schedules to the offer letter. Where site or company employment totals are included, the offer letter should also make clear whether such base employment totals are expected to be preserved as part of the offer.

Where safeguarded jobs form part of a project, applicants must be able to clearly demonstrate that these jobs will be lost if the project does not go ahead. We would usually expect the jobs to be lost within twelve months of the project commencing.

R&D projects must be able to demonstrate that the project will create or safeguard jobs within the applicant business.

Jobs must be created/safeguarded in the project area, although this may be allowed at the discretion of the Grants Panel.

## **Viability**

Viability means that after receiving assistance, the project/business will become sufficiently profitable for the associated employment to be sustained without further subsidies. It is important to establish that a project has a good chance of being viable. Properly analysed financial and commercial data are the foundation of the viability assessment. However, other factors will also be taken into account.

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## **MARKET PROSPECTS**

A realistic appraisal of the market for the applicant company's products, at home and overseas, and of the company's ability to sell in those markets, is essential. GSK Enterprise Fund support will rarely be justified for projects that only serve declining markets (because it is unlikely that the project would be sustainable) or markets which are over-supplied by existing UK suppliers. Applications relating to export and/or re-shoring will be particularly welcome. For R&D projects, this appraisal will be based on the commercial potential of the product or process which results from the R&D project.

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## **MANAGEMENT**

An assessment of the quality of the management of the applicant company is important. An investment project is more likely to succeed and be sustainable if the management of the company is of good quality. The project plan will examine the project plan for the investment project will be examined, and the company management will be

probed with regard to contingency planning. Curricula Vitae should be provided for all directors and other key personnel and these will be examined for evidence of successful past project management.

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## **COSTS**

If the applicant operates in a sector that is facing or expected to face considerable import penetration the long-term running costs of the project should be analysed critically. In reviewing viability, a judgement will be made as to whether the applicant will be capable of paying its debts as they fall due for the foreseeable future. In many cases this decision will not be clear cut. However, if their view is that there is at least a 50:50 chance that the business will survive in both the short-term, and will be able to deliver sufficient profits to embed the business and related jobs in the region, then support can be offered.

Where a director of a business applying for a grant is known to have been bankrupt but is now discharged or has been given permission by the bankruptcy court to be a director, this would not automatically rule out acceptance of the grant application but it is a factor that would have to be taken into account in considering the viability and probity of the applicant company. Where a director was found to be an undischarged bankrupt who was not entitled to be a director of a company, this would be likely to lead to rejection of the grant application (as acting as a director in such circumstances would be a criminal offence).

Caution will be exercised when handling applications from “phoenix” businesses. Reasons for failure of the previous business should be investigated and special attention should be paid to the viability of the new operation. Checks should also be made into the financial history of the directors involved in the new business.

When an offer is accepted by a subsidiary within a group, the subsidiary undertakes obligations to repay any assistance if it defaults on the conditions set out in the offer letter. Although the obligations in the offer letter are for the subsidiary it is standard practice to obtain a parental guarantee where the grant recipient is a subsidiary company.

Where the grant cannot be underwritten by a parent guarantee or alternative security, payment should be backloaded.

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## **TECHNICAL FEASIBILITY**

For R&D projects, one of the factors considered during appraisal and by the Grant Panel will be whether the project is deemed to be technically feasible.

## **Additionality/evaluating alternative locations**

The aim of the additionality criterion is to establish whether assistance is necessary for the project to go ahead at all or whether its quality, scale, timing or location (or any combination of these factors) would justify the provision of assistance.

Analysing the additionality of a potential Fund award is a key condition for determining whether it would be value for money. The additionality test is an assessment of whether the proposed award will induce undertakings to pursue an investment which they would not otherwise have pursued. In testing the additionality of a grant award the following elements will be taken into consideration:

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## **INCENTIVE EFFECT**

Consideration must be given to the level of intended activity with and without Fund support. The difference of the two scenarios is considered to be the impact of the Fund award and describes the incentive effect.

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## **LEVEL OF PROFITABILITY**

If a project would be more profitable at an alternative location it is more likely that the GSK Enterprise Fund will have an incentive effect. Standard financial methodologies should be used to evaluate the overall profitability (or lack thereof) of a project – these may include calculating the Net Present Value (the sum of the discounted expected cash flow resulting from the investment minus the investment cost), the internal rate of return (IRR) or the return of capital employed (ROCE) for the project. Financial reports and internal business plans containing information on demand forecasts; cost forecasts; financial forecasts, documents that are submitted to an internal investment committee and which elaborate on various investment scenarios, or documents provided to the financial markets should be used as evidence.

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### AMOUNT OF INVESTMENT AND TIME PATH OF CASH FLOWS

High start-up investment costs, limited appropriable cash flows and a significant fraction of cash flows arising in the very far future should be considered positive elements in assessing the additionality of a GSK Enterprise Fund award.

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### LEVEL OF RISK INVOLVED IN THE PROJECT

The Fund will not normally be additional where a project is low risk unless there is an alternative location, usually overseas. Project risk should be assessed, drawing on feasibility studies and expert opinions where these are available, and in particular take into account the irreversibility of the investment, the probability of commercial failure, the risk that the project will be less productive than expected, the risk that conducting the project would undermine other activities and the risk that the project costs undermine the undertaking's financial viability.

In assessing additionality, the following points will be addressed:

- identifying what precisely the GSK Enterprise Fund will cause to happen which would not happen without assistance
- challenging why the company considers that the grant is required
- making a judgement about whether the additionality case is convincing

The burden of proof in demonstrating that additionality is satisfied rests on the applicant. Businesses should be made aware at the application stage that the project will have to pass an additionality test. The full appraisal will include testing whether the case is convincing and challenging it where appropriate. For example, in the case of a large firm which claims that although it has sufficient funds, a project would not go ahead without assistance because it does not meet the firm's internal criteria, evidence of the implementation of this criterion will be required. The criterion must be accepted as reasonable by the Grant Panel.

In the case of large companies, the incentive effect of the grant must be demonstrated as set out in Part 2 of these guidelines. This would normally be evidenced by a board minute accompanied by the submission which was made to the board, for example a financial comparison of the alternative project locations, or the project returns with and without grant assistance.

It is acceptable for businesses to base their need for grant on the additional cost of doing business in the grant area. However, this argument will be tested.

If the amount of assistance in prospect is small in relation to project costs, the appraisal will consider whether it is credible a grant would make the difference between a positive and negative decision on the project.

Where a project is strategic, and financial implications may not be relevant, then the case for grant support may be weak.

Appraisal should be stringent where subsidiaries claim to be unable to proceed because of internal decision rules, particularly when subsidiaries of large, cash rich companies are involved.

Finally, the following questions will be directly addressed when appraising an application:

- is there evidence that the applicant has explored alternative sources of finance?
- has the applicant company produced a convincing rationale for needing the assistance?
- is the case for any alternative project location credible?

When an applicant bases their GSK Enterprise Fund application on the existence of an alternative project location the credibility of the alternative location should be tested by monetising the costs and benefits associated with siting the project at each location. The value of the different locations should be appraised in the context of the applicant's overall strategy and the full costs and risks of each location should be considered, not just particular elements, such as comparative wage rates.

Specifically, answers will be sought to the following questions:

- is the overall strategy based on a distribution of capacity over main markets of which the UK is one?
- is there evidence that the business has seriously assessed the costs and risks of alternative project locations?

- how would relocation to an alternative site affect distribution, marketing costs and the ability to win contracts?
- how do labour costs compare, taking account of relative productivity, employer social security contributions and hiring and firing costs?
- what would be the costs to the business of closing the facility and relocating elsewhere?
- are any claims about foreign assistance credible and/or documented?

Evidence of other UK operations being closed and moved to overseas locations will help to demonstrate the mobility of a project.

### **Level of assistance**

When appraising an investment project, a judgement will be made on how much support is appropriate. This amount, which is known as the “quantum”, should be the minimum necessary for the project to proceed in the specified location. The following should be taken into account when considering the minimum necessary:

- the quantum must not be greater than the maximum permitted by the Fund rules set out in Part 2
- the cost per job for the project must be consistent with the overall targets for the GSK Enterprise Fund
- once the level of Fund support has been agreed by the recipient it cannot normally be revised upwards to reflect increased project expenditure or employment

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### **QUALITY**

Higher quality projects may attract higher levels of GSK Enterprise Fund. Wage and skill levels are normally the best measures of job quality. Detailed information on pay scales is obtained at appraisal and this provides a sound basis for assessing job quality. If the level of assistance is not being calculated on the basis of each individual project job, an assessment of average job quality should be made on the basis of the average wage and skill levels for the project.

New work practices may require a continuous re-skilling of employees. In addition to assessing the quality of work provided by the project, the value of training will be assessed. This will be done by examining the extent to which a firm is prepared to fund training of employees, thereby adding to the stock of trained labour in the area.

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### **PAYMENT OF GRANT**

GSK Enterprise Fund support will take the form of a grant, payable in instalments triggered by the achievement by the recipient company of specific expenditure and/or job creation milestones that must be set out in the offer letter for the grant.

The grant will be recoverable in part or in whole in cases where the project associated with the grant does not satisfy the conditions set out in the offer letter. The prospect of recovery should not influence the assessment of a GSK Enterprise Fund application.

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### **NEGOTIATION**

In negotiating the appropriate level of assistance, regard will be given to such factors as the profitability of the project, the degree of risk, the extent to which the project is internationally or nationally mobile and the number of jobs to be created. It is normally helpful to think of the grant in terms of “what it is buying for the UK, for Cumbria and for the grant area.”

Once the size of grant has formally been agreed with a company (i.e. the business signs the offer letter) it cannot be revised upwards to reflect additional project costs).

Grant payments should be phased in line expenditure and/or job creation. At no stage of the project should the payment of grant exceed the applicant’s actual cash expenditure on project assets (**other than for grants under £5,000**).

### **The offer letter**

The payment of grant must be linked to the achievement of specific project milestones. The triggers for payments will be negotiated by the Chamber and set out in the offer letter. Triggers must be related to the disbursement of expenditure, the creation/safeguarding of job and (for R&D) the achievement of technical milestones.



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The offer letter template provides a standardised structure and text. This text is non-negotiable, although it may be necessary to add clauses to ensure that all of the conditions associated with the grant are accurately reflected in the offer letter.

Applicants can be told on the telephone that their application has been approved prior to the issue of the offer letter. The offer letter will be issued as soon as practicable after this conversation. The Chamber may indicate the level of assistance and draw attention to the conditions associated with the grant, bearing in mind that if, as a result of inaccurate or misleading advice given by telephone (or in writing), an organisation suffers a financial loss, they may take legal action against the Chamber.

## **PART 4: MONITORING**

The Chamber has a responsibility, on behalf of GSK Enterprise Fund, to obtain enough information to assess the continuing viability of the business and progress of the project, to ensure that the assistance is being used for the purposes for which it was provided and to confirm that related assets and jobs stay in place in accordance with the terms of the offer letter.

This section provides guidance on monitoring GSK Enterprise Fund supported projects. It sets out:

- the role of the monitoring officer
- the mechanics of project monitoring
- guidance for dealing with changes in projects

### **Role of the monitoring officer**

A monitoring officer within Cumbria Chamber will be assigned to monitor each project.

The essential tasks of the monitoring officer are:

- to ensure that the funds are used for the purpose for which they were provided (including the achievement of skills benchmarks in addition to the normal capital expenditure and job creation/safeguarding conditions)
- to ensure that the business complies with the terms of the offer letter and to give consent to variations where these are justified
- to consider the factors critical to the success of the project and be satisfied about its continuing viability at each stage
- to check whether the project is proceeding according to plan or whether there are substantial variations in its scale, nature or timing
- if there are changes to the project plan, to assess the impact of these changes with regard to the scheme criteria
- to safeguard the GSK Enterprise Fund and Chamber's position wherever necessary either by reducing, delaying or withholding payment or by requiring the repayment of part or all of the assistance already provided
- where a parental undertaking or guarantee has been obtained to monitor the financial status of the parent with regard to the value of that guarantee

Monitoring officers should rely as far as possible on the information produced for the grant recipient's own management purposes and on audited accounts where available. The complexity of additional information required of the business and the monitoring approach used (for example visits and written requests) should be proportionate to the amount of expenditure at risk.

All contact with companies and the reasons for decisions taken during monitoring must be properly recorded on file by the monitoring officer.

Monitoring will be at a level appropriate to the business and the level of grant awarded.

### **Mechanics of project monitoring**

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#### **LEGAL ENTITLEMENTS AND ADMINISTRATIVE PRACTICES**

Payment is made on the basis of a legally binding agreement between the business and the Chamber (the offer letter). The terms of the offer letter, once accepted by the company, impose legally enforceable obligations on both the business and the Chamber and the monitoring officer should ensure that these are properly observed. In negotiating any reduction or repayment of assistance with a company in the event of it being in default of its obligations, the monitoring officer must make the legal basis for the action clear to the business and should consider at an early stage whether legal advice is needed. Where an applicant's legal entitlement to some financial or other benefit has been established, that entitlement must be met.

Monitoring officers may seek authority to bring forward or otherwise vary payments where progress justifies it. Where payments are brought forward the changes must be set out in a letter of variation agreed with the recipient company.

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### PROCESSING OF CLAIMS FOR PAYMENT

Claims must be submitted every quarter, even if there is no expenditure to claim. Claims must be complete, with all monitoring information and progress reporting supplied in full. Claims must be accompanied by an Accountant's Report once a year, and with the final claim for each project, in the format set out in the offer letter for grants over £50,000 and with the final claim only for grants of over £5,000 up to £50,000. The information supplied in support of each application for payment should be carefully examined by the monitoring officer against the offer letter.

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### MONITORING OF ADDITIONALITY

Additionality is established at the point at which the appraisal is made. There is normally no need to monitor additionality unless specifically asked to do so.

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### POST COMPLETION MONITORING

It is important that monitoring ensures that the assets and jobs are maintained for an appropriate period after completion of the project. This "conditions period" is specified in the offer letter and is project specific. The minimum applicable conditions periods are five years for large businesses and three years for SMEs.

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### NUMBER OF CASES TO MONITOR

Post completion monitoring should be carried out on not less than 10% of projects by number or 60% of projects by value. Where less than 100% post completion monitoring is carried out, cases should be selected with a view to factors such as the size of offer, risk, the company's past performance and nature of the project.

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### ACTION WHERE PAYMENT CLAIMS ARE NOT RECEIVED

There is no contractual obligation on the Chamber to issue reminders where payments fall due and consequently no need for any immediate action if a business fails to submit a claim by the due date. However, the reasons for delayed claims should be investigated by the monitoring officers who should write to the recipient company if a claim has not been received within two months of the due date. With this letter the monitoring officer should seek information about the current state of the project and the reasons for the delay in claiming payment. If no reply is received the monitoring officer should follow up by telephone or a site visit.

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### NO OBLIGATION TO PAY DATES

No payments can be made after Q2 2023 and no claims will be accepted after Q1 2023. The No Obligations to Pay Date (NOPD) will be specified in every offer letter and is the deadline after which the Chamber is no longer under any contractual obligation to make payments. This will not be later than Q1 2023. If a business claims an installment before the NOPD, it is entitled to receive that payment, provided it satisfies the conditions set out in the offer letter, even if the time taken to process the claim means that payment is not made until after the NOPD date has passed.

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### REMINDER LETTERS

It is essential for monitoring officers to try to identify and resolve potential problems with claimants at an early stage and minimise the number of late claims. Monitoring officers should make certain that a final reminder letter is sent to all businesses about two months before the NOPD. In addition, where it is clear the business will be unable to claim all the payments before the NOPD, the monitoring officer should take steps to remind the business that the date is approaching. No extension to the NOPD can be made.

## Changes in projects

Offer letters will contain a general provision to allow the recovery of all grant support in the event of a grant not being compliant with the scheme rules.

This general provision gives the Chamber wide ranging powers to withhold, delay, reduce or reclaim (clawback) all or part of the proposed assistance in certain circumstances and in particular in the event of:

- a substantial change in the nature or scale of the project
- the disposal of all or a significant part of the assets provided for the project
- an unsatisfactory rate of progress towards project completion
- employment shortfall, in terms of either numbers or skills

These powers will be used with discretion.

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### **INCREASE IN PROJECT COSTS**

Once the offer has been accepted, no allowance can be given for any subsequent increase in overall project costs.

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### **CLAWBACK**

Careful consideration should be given to the circumstances of the case when determining the level of assistance to be reclaimed. The monitoring officer should consider whether the failure of the business to fulfil the conditions in the offer letter arose from circumstances outside its control, such as a major change in market conditions or technical problems which the business has made reasonable efforts to overcome. The ability of the business to repay assistance should also be taken into account.

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### **EARLY PAYMENT OF GRANT INSTALMENT**

On occasion a business may seek part payment of the planned assistance when the project has not progressed sufficiently to meet the trigger point. This needs to be treated with caution as it can indicate problems with viability. A number of considerations will apply in such circumstances, for example:

- Would a part payment genuinely save the project/business? More often it will be the case that more fundamental re-financing arrangements are required.
- What action if any is necessary to protect GSK Enterprise Fund and the Chamber's position? For example, is there risk to previous payment of assistance to the business? Can this be reduced in any way without risk to jobs?

Normally assistance should not be provided if viability cannot be established.

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### **AID FOR INVESTMENT PROJECTS REDUCED IN SCALE**

Where the scale of the project has been reduced, or the project has underachieved, the level of assistance should normally be reduced pro rata with the reduction in the scale of the project. However, if the monitoring officer considers this justified the grant may be reduced by a different amount.

In assessing the extent of the reduction in scale, the monitoring officer should take account of the extent to which total project costs are reduced, and the implications of any employment shortfall.

Asset sales should be regarded as reducing net project costs. If a significant disposal of assets occurs during the post completion period, or there are sales which alter the character of the project, monitoring officers should take account of the proportion of the conditions period for which an asset has been in place when deciding how much assistance should be recovered.

Changes in scale may impact adversely on productivity and skills mix and both tests should be re-visited to help inform the reduction in grant quantum.

If a business has failed to perform as well as could reasonably have been expected or has made a deliberate decision to abandon a project in order to concentrate resources on other investment, or in obtaining assistance has unreasonably withheld information about difficulties being encountered, a greater clawback than indicated by the pro rata calculation should be considered. Monitoring officers should assess whether all of the paid assistance should be reclaimed in these circumstances.

If a business is sold or if its ownership is otherwise transferred recovery of monies paid should only take place when the obligations of the offer letter (including all guarantees) cannot be novated to the purchaser.

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### **CHANGES IN THE NATURE OF THE PROJECT**

Where the nature of the project alters to such an extent that it effectively represents a different project from that originally considered, a view will need to be taken as to whether the revised project qualifies for GSK Enterprise Fund. In such cases advice should be obtained from the appraisal officer responsible for the original offer of assistance, and potentially the Panel. Examples of this situation include a business choosing to manufacture a different product, failing to purchase a key piece of equipment as described in the original application or altering the general scale of a project.

The monitoring officer needs to take a view as to whether it is best to address changes in the nature of a project by a revised application. In this case the new application should include a reference to the basis for the original award. New accountancy and market advice should also be sought as appropriate. In considering whether support can be given to the revised project, all the normal criteria should be applied including the minimum level of assistance. Alternatively it may be more appropriate to negotiate a variation of the original offer letter.

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#### **CHANGES IN FINANCING**

In some cases, the project may proceed as planned but the business may decide, after the offer of GSK Enterprise Fund grant has been made, to change the basis on which it is financed – for example acquiring under hire purchase or extended credit agreements assets which it had intended to purchase outright. In such cases, the monitoring officer should consider the implications of the revised arrangements for the project and the business. For example, the change in financing arrangement may be an indication that the business has cash flow problems which it is attempting to control by spreading capital payments over a longer period. The monitoring officer should determine whether the offer is still the minimum required to secure the project or whether it should be reduced to take account of any benefits to the business arising from the revised arrangements. The standard offer letter contains a provision for such reconsideration.

At no stage of the project should accrued payments exceed the applicant's actual cash expenditure on the project.

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#### **CHANGES IN OWNERSHIP**

As part of the normal post-completion monitoring the recipient business should be asked if its name, ultimate ownership or company registration number has changed. The implications for the project of any change in business ownership must be analysed by the monitoring officer. In particular an assessment of the viability of the project going forward and the value of any parental guarantee should be made and recorded.

If a GSK Enterprise Fund grant is to be novated it is normal for the purchasing business to “step into the shoes” of the vendor and take on all the obligations associated with the grant. In these circumstances it is not normally appropriate to withhold assistance to a new owner because they may have, for example, sufficient funds to carry out a project without support, as the value of the grant will have already been reflected in the purchase price. Legal advice should be sought in any case where a Receiver or Liquidator is seeking to transfer the project as a way of realising assets. As a general rule the monitoring officer should draw attention to the company's obligations set out in the offer letter and request the potential claim to be noted by the Liquidator/Receiver pending the signing of the novation agreement. If the project is not continued satisfactorily or if a new project owner is unwilling to take over the offer, clawback must be considered.

In certain limited circumstances, it is not necessary to action a novation or transfer agreement:

- If the change occurs early in the life of a project, before expenditure on the project has started, the matter may be dealt with by the issue of a new offer letter to the business undertaking the project with parallel withdrawal of the original offer
- If the change occurs in the post-completion monitoring period, then:
  - for small cases (less than £100k) in the last 12 months of the conditions period the monitoring officer may choose to forego the issuing of novation agreement if, in his/her considered judgement, it is likely that the project will be taken forward satisfactorily by the new owner, or
  - if the monitoring officer would not recommend the exercise of clawback conditions in the event of failure to achieve a novation agreement. This discretion is likely to be used only in cases where the project achievement, at the point of the transfer, can be said to have justified the assistance paid, or where the cost of recovery action is likely to exceed the amount repayable.

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#### **EMPLOYMENT SHORTFALL**

Monitoring of the jobs provided by a project is of paramount importance in ensuring that the purpose for which assistance has been provided is fulfilled. During monitoring, it may become apparent that the company is in fact failing to achieve the level of employment it forecast in its original application for assistance. The monitoring officer should take this up with the company.

#### **Projects given aid for investment**

If the company was simply over optimistic in its original job forecast or if the shortfall is due to substantial change in the scale or nature of the project, for example, because only part of the fixed capital equipment is installed,

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assistance should be withheld unless it is clear that the changes, had they been known about before, would not have affected the amount of assistance offered.

The skill level of jobs created and safeguarded should be assessed at the time of each claim. Any shortfall in the forecast skill levels should be treated in the same manner as a shortfall in employment.

Generally, when accounting for a job creation shortfall in an investment project the following procedure should be adopted:

1. calculate the number of full-time job-year equivalents required by the terms of the offer letter over the relevant time period for the project (i.e. from the date of project commencement until the end of the monitoring period)
2. calculate the number of full-time job-year equivalents associated with the project over the period from the start of the project and the date at which monitoring officer judges that the project has come to end. This data should be supplied by the company and verified by the monitoring officer
3. the ratio of these two quantities should then be used as a guide by the monitoring officer in assessing the appropriate amount of clawback.

The above procedure can also be used where employment has been safeguarded rather than created. However, in this circumstance the relevant time period is the full conditions period for the project. Normally with projects that involve the safeguarding of employment it is more appropriate to look at the amount of jobs that had been protected (i.e. safeguarded) at the end of the conditions period.

## **ANNEX A: DEFINITIONS**

For the purpose of these Guidelines the following definitions shall apply:

**Industrial research** means the planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services. It comprises the creation of components parts to complex systems, and may include the construction of prototypes in a laboratory environment or in an environment with simulated interfaces to existing systems as well as of pilot lines, when necessary for the industrial research and notably for generic technology validation.

**Experimental development** means the acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills with the aim of developing new or improved products, processes or services. This may also include, for example, activities aiming at the conceptual definition, planning and documentation of new products, processes or services. Experimental development may comprise prototyping, demonstrating, piloting, testing and validation of new or improved products, processes or services in environments representative of real life operating conditions where the primary objective is to make further technical improvements on products, processes or services that are not substantially set. This may include the development of a commercially usable prototype or pilot which is necessarily the final commercial product, and which is too expensive to produce for it to be used only for demonstration and validation purposes. Experimental development does not include routine or periodic changes made to existing products, production lines, manufacturing processes, services and other operations in progress, even if those changes may represent improvements.

**Arm's length** means that the conditions of the transaction between the contracting parties do not differ from those which would be stipulated between independent enterprises and contain no element of collusion. Any transaction resulting from an open, transparent and non-discriminatory procedure is considered as arm's length.

**SME** definition is set out at: [http://ec.europa.eu/enterprise/policies/sme/files/sme\\_definition/sme\\_user\\_guide\\_en.pdf](http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf)

**Large enterprises** means undertakings not fulfilling the criteria laid down in the SME definition.

**Control** has the meaning set out in Article 3 of Council Regulation (EC) No 139/2004. Specifically, control shall be constituted by rights, contracts or any other means which, either separately or in combination and having regard to considerations of fact or law involved, confer the possibility of exercising decisive influence on an undertaking, in particular by:

- ownership or the right to use all or part of the assets of an undertaking
- rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an undertaking

Control is acquired by persons or undertakings which:

- are holders of the rights or entitled to rights under the contracts concerned or
- while not being holders of such rights or entitled to rights under such contracts, have the power to exercise the rights deriving therefrom

**Tangible assets** means assets consisting of land, buildings and plant, machinery and equipment.

**Intangible assets** means assets that do not have a physical or financial embodiment such as patents, licences, know-how or other intellectual property.

**Number of employees** means the number of annual labour units (ALU) full time equivalent (FTE) staff, namely the number of persons employed full time in one year, part-time and seasonal work being ALU fractions.

**Undertaking in difficulty** means an undertaking in respect of which at least one of the following circumstances occurs:

- In the case of a limited liability company (other than an SME that has been in existence for less than three years), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that

exceeds half of the subscribed share capital. For the purposes of this provision, "limited liability company" refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU and "share capital" includes, where relevant, any share premium.

- In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, "a company where at least some members have unlimited liability for the debt of the company" refers in particular to the types of company mentioned in Annex II of Directive 2013/34/EU.
- Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.
- Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan.
- In the case of an undertaking that is not an SME, where, for the past two years the undertaking's book debt to equity ratio has been greater than 7.5 and the undertaking's EBITDA interest coverage ratio has been below 1.0.

**Job creation** means a net increase in the number of employees directly concerned with the activity to which the investment relates, including employment created following an increase in the utilisation rate of the capacity created by the investment. The net increase is the increase in employment compared to the average number of employees over the previous 12 months.

**Job safeguarding** for the purposes of GSK Enterprise Fund applicants must be able to clearly demonstrate that these jobs will be lost if the project does not go ahead. We would usually expect the jobs to be lost within fifteen months of the project commencing.

**Wage cost** means the total amount actually payable by the beneficiary of the aid in respect of the employment concerned, comprising over a defined period of time the gross wage before tax and compulsory contributions such as social security, childcare and parent care costs.

**Net increase in the number of employees** means a net increase in the number of employees in the establishment concerned compared with the average over a given period in time, and that any posts lost during that period must therefore be deducted and that the number of persons employed full-time, part-time and seasonal has to be considered with their Annual Labour Unit fractions

**Employment directly created by an investment project** means employment concerning the activity to which the investment relates, including employment created following an increase in the utilisation rate of the capacity created by the investment.

**Completion of works** is defined for the purposes of GSK Enterprise Fund as the date of mechanical completion of the investment project, or the date that the material assets associated with an investment project become operational, whichever is earlier.

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

**Initial investment in favour of new economic activity** means:

- an investment in tangible and intangible assets related to the setting up of a new establishment, or to the diversification of the activity of an establishment, under the condition that the new activity is not the same or a similar activity to the activity previously performed in the establishment
- the acquisition of the assets belonging to an establishment that has closed or would have closed had it not been purchased, and is bought by an investor unrelated to the seller, under the condition that the new activity to be performed using the acquired assets is not the same or a similar activity to the activity performed in the establishment prior to the acquisition.



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## **ANNEX B: ELIGIBLE COSTS FOR R&D PROJECTS**

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### **PAY OF EMPLOYEES**

Pay of employees must only include the pay of personnel employed directly by the company and directly engaged on the project. First-line supervision is allowed, but not managers remote from the project unless the applicant can reliably calculate their contribution to the project. National Insurance contributions and pension contributions are eligible for support but applicants should include them in the amount for overheads (see below). Directors' fees charged as consultants to their own companies are not eligible for grant support.

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### **LIMITED LIABILITY COMPANIES**

Have a separate legal identity from their employees (including directors), who are paid salary from which tax is deducted and accounted for to the Inland Revenue. When applicants include salaries as eligible costs, they must incur and defray them before claiming grant on them.

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### **PARTNERSHIPS (INCLUDING LIMITED LIABILITY PARTNERSHIPS) AND SOLE TRADERS**

Do not have a separate legal identity from their businesses. They own the business and accordingly they cannot pay (defray) themselves salaries. They take profits or losses from which tax is deducted and accounted for to the Inland Revenue. They may draw some money, but offset this against their capital/investment. This does not affect the tax position that is computed before any drawings. The value of the work put in to a project by a partner or sole trader as "salary" is purely notional. This means that, when the applicant makes a claim, it cannot be certified as "defrayed". The method of verifying labour expenditure must be agreed at the application stage.

All labour costs, whether for directors, employees or "drawings" must be reasonable and fully justified in relation to the work being done. Labour costs must be consistent with established labour charges within the business. For example, if a senior employee undertakes work that could be done by a junior the eligible cost should be based on the salary rate appropriate to the junior. The rate of remuneration (hourly, daily or weekly rate) and an analysis of each individual's labour put into the project should be agreed at the earliest possible stage of assessment, and the project costs should be modified if necessary before the project is approved. Applicants must also maintain timesheets to record this information.

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### **OVERHEADS**

An allowance covering items of general application across the business (e.g. rent, rates, telephone), often too small or too difficult to establish for a specific project, would not be eligible unless it represents a direct allocation of expense to the R&D project.

Employer National Insurance, pension charges and healthcare contributions related to the labour directly involved in the project should be included under overheads. Such costs can only be included for labour directly involved in the project and exclude ineligible items such as surplus capacity.

The purchase of land and buildings is not eligible for support. Land or building rented or leased wholly and exclusively for the project is eligible for support as part of general overheads.

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### **MATERIALS AND CONSUMABLES**

Items that have an expected useful life of over a year should be considered to be capital. However, items that have a value of less than £500 may be classed as consumables and included under materials. This will be clarified and agreed at the appraisal stage (but in any case, before an offer is made).

All bought-in materials used for the project should be materials purchased from third parties. All items such as materials, equipment or subcontracts, purchased from subsidiaries and associated companies must be charged at cost within the group. Inter-group/associated companies may not add profit or overhead allowances to these charges. When profit has been included, the applicant must make a deduction for profit and overheads, even if this is on an estimated basis. Applicants may include the cost of raw materials up to the normal limit of trial wastage in the industry. However, where scrap material has a significant resale or re-use value, the cost allowed should be net of the estimated disposal value. This should be checked at the final claim/monitoring stage.

Costs have not been defrayed where work/materials/services were obtained free of charge (i.e. in-kind contributions). Such costs are therefore not eligible.

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### **EXTERNAL COSTS**

Where subcontract costs (especially a single subcontract) account for more than 50% of project costs, there is an assumption that the project is not controlled by the applicant and therefore the project will not be eligible for

support. The appraisal process will examine closely the fees charged when one consultant or sub-contractor carries out a major part of the project. This examination will ensure that the contractor or consultant really is a third party and that they do not inflate the charges and discount them later.

Where a grant recipient has sub-contracted work to an organisation part financed by public funding and that body properly invoices the grant recipient, double funding is not considered to have taken place.

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### **CONSULTANCY**

Reasonable charges for external (third party) consultancy work essential to the project are eligible.

Consultancy includes 'intellectual and associated facility' (that is, advice and use of physical resources such as laboratory equipment) support from experts such as Universities and/or technology providers, and professionals such as designers and usability experts who can provide intellectual input and can help guide technical development. All labour costs associated with working with consultants should be included under labour costs. Applicants must justify the need to access the specialist services and explain why work cannot be carried out more effectively and cheaply in-house. The reasonableness of the costs in the context of the total project costs will be clarified and agreed at the earliest possible stage of project assessment.

Confidentiality agreements should be in place between the applicant and the consultant. The consultant should have no rights to the Intellectual Property resulting from the project.

Directors' fees charged as consultants to their own companies are not eligible for grant support.

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### **SUBCONTRACT**

The reasonable charges for external sub-contract work that is essential to the project are eligible. Sub-contract work usually refers to the purchase of a service/building of a piece of kit requiring specialist facilities or equipment but requires no "intellectual input" for example design of printed circuit boards, building of rigs.

Any sub-contractor associated with the applicant or who is a subsidiary or a member of the same group of companies, must exclude its profit from any charge, even if this element has been estimated.

Confidentiality agreements should be in place between the applicant and the sub-contractor. The sub-contractor should have no rights to the Intellectual Property resulting from the project.

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### **LICENSING IN NEW TECHNOLOGY**

The cost to the project of licensing in new technology from technology providers (not involved in the project), which the project will build upon or utilise, is eligible.

Applicants may source technology from suitable technology providers (e.g. RTOs, Contract Research & Technology Organisations, HEIs or other appropriate public or private body). This is subject to them demonstrating they need to undertake further and/or joint development work on the technology and there is still technical risk involved in the project, in addition to any borne by the "technology provider".

Where it makes sense licensing-in should be encouraged (for example, where it would be more expensive or time consuming for an applicant to develop an appropriate technology itself). What is being used and why it is required should be agreed at the application stage. The applicant should provide satisfactory evidence that a licensing agreement is in place and that this covers both the development and exploitation stages of the Project.

Where imported technology accounts for a significant portion of the cost of the project, the Chamber should satisfy themselves that the applicant is proposing additional development to integrate the new technology into the project.

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### **FEES FOR EXTERNAL TRIALS AND TESTING**

Fees for trials and testing are eligible (e.g. EMC testing), but Certification fees (e.g. EMC Certification) are not eligible as such costs are incurred post-production. The scope of the work and the organisation to be used should be agreed at the earliest possible stage of project assessment.

Confidentiality agreements should be in place with the applicant and any external party. The external party should have no rights to the Intellectual Property resulting from the project.

All labour costs associated with working on trials and testing activity should be included under labour costs.

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### **PREPARATION OF TECHNICAL MANUALS**

The cost of preparing draft operating, service and maintenance manuals is eligible (but must be separately identifiable as defrayed expenditure in the independent accountant's Project Audit) but printing such manuals for general commercial supply will not qualify.

The process of authoring technical and user manuals can be a useful design tool helping to consider the product from a user perspective – thinking how the product will be operated, serviced and maintained during the development phase rather than at the end can inform the technical specification of the technology/product.

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### INTELLECTUAL PROPERTY AND PATENT COSTS

Costs for confidentiality agreements, Copyright or any other protection directly associated with the project and protection and maintenance of the IPR are eligible; for example, software copyright - mailing of source code/NCC copyright register. This must be agreed at application/appraisal stage.

The cost associated with taking out and maintaining a patent to protect the Intellectual Property Rights arising from the project (including the cost of patent searches) is eligible for support. It is particularly important to ensure that those applying are not held back because they cannot afford to patent the results of their project. In all cases, applicants will have to demonstrate that patenting to the extent proposed is necessary. For example, there is little point in applying for worldwide patents, if the applicant can obtain appropriate protection through registering patents in the major markets for the product/process.

Projects are focused on R&D work and patent costs (or costs of intellectual property protection) should only form a minor (supporting) part of overall project costs.

The cost of patenting work undertaken during a previous project is not eligible.

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### CAPITAL EQUIPMENT

Depreciation of capital equipment purchased specifically for the project is eligible and should be classed as capital expenditure.

A full list of the capital equipment should be agreed at the earliest possible stage of the project assessment. The residual value and useful life of equipment will be agreed with the applicant as part of the appraisal process. Without clear evidence of the useful life of equipment, 5 years represents a typical useful life for mechanical equipment and 3 years for computer hardware. The depreciation rates used should normally be in line with those used in the annual accounts. Interest payments on hire purchase and leasing of equipment are not eligible for support. The residual value should be deducted at the time of the claim.

Capital equipment purchased for the project is eligible for support on the following basis:

- if the grant recipient does not complete the project, support will be at the percentage of grant agreed in the offer, less the residual value when halted
- if the project finishes, support will be at the percentage of grant agreed in the offer of depreciation costs for the life of the project

