



CODE OF PRACTICE – FOLLOWING THE PUBLIC POUND: ABERDEENSHIRE PROCEDURES

1. Scope of the Procedure

- 1.1 The 'Code of Guidance on Funding External Public Bodies and Following the Public Pound' which was published by the Convention of Scottish Local Authorities (COSLA) and the Accounts Commission in 1996 contains six key principles which should be considered when determining funding for arms length and external organisations (ALEOs). These are:
- Purpose – the council is clear about its reasons for transferring funds to the ALEO
 - Financial regime – the council has a clear and robust financial regime in place
 - Monitoring – the council has robust arrangements for monitoring its relationship with an ALEO
 - Representation – the council is clear about the purpose of any officer or member representation on ALEOs, and representatives discharge their responsibilities with due regard to the objectives of the council
 - Limitations – in entering into a substantial funding commitment with an ALEO, the council lays down a timetable for the achievement of its objectives
 - Accountability – the council makes arrangements for suitable access by external audit
- 1.2 These procedures, in conjunction with the application process and any service agreement, set out how these principles will be applied in Aberdeenshire Council.
- 1.3 The scope of this procedure is set out in Appendix A. This definition is not exhaustive, and any issues should be discussed with the Chief Accountant in the first instance.
- 1.4 The level of financial checks required will correlate with the funding given to each organisation, to minimise the risk to the Council and also to ensure that the requirements on small organisations are not too onerous.

- 1.5 In setting out the checks required, the following funding bands will be used:
- annual funding in excess of £100,000
 - annual funding between £10,000 and £100,000
 - annual funding less than £10,000
- 1.6 The council will identify for all organisations who receive such grants:
- the budget holder within the service
 - the accountant responsible
 - the budgeted contribution.
- 1.7 This information will be held in a central database. The Chief Accountant will ensure the database is kept updated through the accountancy teams. A pro-forma for updating the database is attached at Appendix B.

2. Accounting Requirements Applicable to All Organisations

- 2.1 In respect of registered companies, the funded organisation should submit to the Council, a copy of their accounts prepared and audited in accordance with the requirements of the Companies Act 2006.
- 2.2 In respect of small charities that are not charitable companies, the funded organisation should submit to the Council, a copy of their accounts prepared and audited in accordance with the Charities Accounts (Scotland) Regulations 2006.
- 2.3 In respect of charitable companies that are large companies, are over the audit threshold set out in the Companies Act 2006 and require to have an audit under that legislation as well as the Charities Accounts (Scotland) Regulations 2006, the funded organisation should submit to the Council a copy of their accounts prepared and audited in accordance with both the Charities Accounts (Scotland) Regulations 2006 and the Companies Act 2006.
- 2.4 In respect of voluntary organisations and community groups that are not Charities, or other incorporated bodies, the criteria set out in the Charities Accounts (Scotland) Regulations 2006 will be used to determine the accounting information that requires to be submitted to the Council. Where the Council funding to the organisation is less than £3,000 per annum, an independent examiner's report on the accounts is not required.
- 2.5 A typesigned copy of the final accounts is acceptable.
- 2.6 A summary of the accounting requirements of the Companies Act 2006 and the Charities Accounts (Scotland) Regulations 2006 is set out in Appendix C.

2.7 Where it is considered that the organisation seeking funding is carrying out an economic activity, the application should be referred to the European Unit who will carry out a State Aid risk assessment.

3. Where Annual Funding from the Council is Greater than £100,000 per annum

3.1 Information Required from the Funded Organisation by the Service Budget Holder

3.1.1 The following list determines the minimum information requirements of Aberdeenshire council and the timescales in which these are required for existing providers.

- Detailed one year business plan and summary three year business plan provided at least one month before the commencement of Aberdeenshire's financial year for the project if part of a larger organisation or for the whole organisation. The business plan should include financial information.

3.1.2 Where funding is given for new providers, in addition to the above information, a copy of the memorandum and articles of association, constitution or trust deed will also be required.

3.1.3 In addition, other appropriate information will be sought as good practice, for example:

- regular performance measures e.g. visitor numbers, waiting lists.
- copies of minutes of the board of directors or trustees' meeting.

3.2 Financial Checks and Risk Assessment to be completed by Aberdeenshire Finance

3.2.1 The following list details the financial checks and risk assessment that must be carried out by Aberdeenshire Finance and the timescales for completing these checks.

3.2.2 The Council will carry out the following check every three years:

- ensure the organisation has adequate rules in place to govern the way their finances are handled

3.2.3 A rolling programme will be determined to ensure that checks are carried out on approximately one third of the ALEOs each year.

3.2.4 The Council will carry out the following checks on an annual basis:

- check that the projections in the business plan for the project or organisation are realistic and achievable. This should be completed by checking projections with past performance and extrapolation of current trends

- check that enough cash exists to ensure the monthly cash flow projections can be financed
- ensure that the organisation has adequate insurance cover for public and employers' liability
- check that any other material sources of external funding are secure. This should be evidenced in writing.

3.2.5 When the above checks have been completed to the satisfaction of the accountant an annual risk assessment should be carried out on the project or organisation's business plan. The purpose of this is to ensure that the Council is not subject to undue financial or reputational risk.

3.2.6 The risk assessment which should be conducted is outlined in Appendix D.

3.2.7 Where a risk analysis is not deemed to be appropriate, the requirements of paragraph 2.2.6 can be waived with the agreement of the Chief Accountant.

4. Where Annual Funding from the Council is between £10,000 and £100,000 per annum

4.1 Information Required from the Funded Organisation by the Service Budget Holder

4.1.1 The following determines the minimum information requirements of Aberdeenshire council and the timescales in which these are required.

- a copy of the memorandum and articles of association, constitution or trust deed
- Details of expenditure requirements and income expected for the forthcoming year.

4.1.2 In addition, other appropriate information will be sought as good practice, for example:

- regular performance measures e.g. visitor numbers, waiting lists.

4.2 Financial Checks and Risk Assessment to be completed by Aberdeenshire Finance

4.2.1 The following details the financial checks and risk assessment that must be carried out by Aberdeenshire Finance and the timescales for completing these checks.

4.2.2 Steps 3 to 5 of the risk assessment should be conducted as outlined in Appendix D. There is no need to carry out steps 1 and 2 as financial risk is minimised through the payment framework set out in Section 5.

4.3 *Annual checks:*

- check that sufficient cash exists to ensure the viability of the organisation throughout the course of the financial year
- check that any other material sources of funding are secure. This should be evidenced in writing.

5. Where Annual Funding from the Council is less than £10,000 per annum

5.1 Financial Checks and Risk Assessment to be completed by Aberdeenshire Finance

5.1.1 Where Aberdeenshire Council's funding constitutes more than 50% of the organisation's funding, steps 3 to 5 of the risk assessment should be conducted as outlined in Appendix D. There is no need to carry out steps 1 and 2 as financial risk is minimised through the payment framework set out in Section 5. Where the Council funding is less than £3,000 per annum, no risk assessment is required.

6. Payments

6.1 A schedule of payments will be agreed with the receiving organisation prior to the commencement of the financial year. The payments should be tailored to meet the cash flow projections, per the business plan. Payments in excess of £10,000 but less than £25,000 per annum should be made in no less than four instalments. Payments in excess of £25,000 should be made monthly in advance. This will minimise the Council's exposure in the event of the organisation encountering financial difficulties.

6.2 Prior to any payment being made to an organisation, checks must be made to ensure no sundry debts or business rates are owed by the organisation. If any such debts are due and are past the second stage in the recovery process (i.e. final notice), then this debt must be deducted from the next payment to the organisation.

6.3 Payments will only be made to the organisation if all financial checks have been completed to the satisfaction of Aberdeenshire Finance, and all information submitted as required by the organisation. In exceptional circumstances, where the level of funding is still under discussion, payment may continue at the same level as the previous year, as long as approval is given by the Chief Accountant, and a suitable deadline is put in place for resolution.

7. Service Agreement

- 7.1 All organisations covered within the scope of this procedure must have a service agreement (SA) where the funding from the Council is substantial (generally greater than £10,000 per annum), or a letter setting out the conditions of the grant where a lower level of funding is given. The length and detail of any service agreement will vary depending upon the nature and size of the funding given. Where possible, the SA should be completed at least one month before the commencement of the financial year.
- 7.2 This agreement will include non-financial targets and information, but as a minimum the following must be included.
- Detailed schedule of deficit funding from the Council, specifying when each payment will be made.
 - The requirement for information to be submitted to the Council as per the above procedures and a clear statement that should this not be received, no additional payment will be made to the organisation concerned.
 - Ability of the Council to deduct any debts due to the council prior to making any further payments
 - Access by Council officials and external auditors to the accounting records of the organisation.
 - Procedures for cancelling the service agreement.

APPENDIX A

SCOPE OF THE POLICY¹

This policy applies to organisations which are legally separate from the Council to which either financial or non-financial support is given. This will include charities, companies, and voluntary/community bodies. They will have their own governing documents which specify their organisational/legal status and the rules under which they operate. In the case of companies this will consist of a memorandum and articles of association. In the case of unincorporated voluntary organisations, this should be a constitution.

There is a growing trend for councils to move away from grant funding of Arms Length External Organisations towards commercial contracts for the procurement of services. However, this policy covers the Council's financial involvement which is outwith the terms of a normal commercial contract and does not involve a straightforward payment for services. The table below, taken from a recent Scottish Executive publication, gives a quick guide to the main differences between commercial contracts, Service Level Agreements (SLAs) and grants:

	Procurement contract	Service level agreement	Grant
Intention	Contract	Quasi-grant	Grant aid
Opportunity/ purpose	Purchase of service	Development of service	Grant funding of service
Primary method	Tender	Negotiation	Application
Relationship	Contractual	Service level agreement	Monitoring

Source: Tendering for Public Sector Contracts, Scottish Executive, June 2004 – page 14.

Many types of arrangements exist and the table² below, defining what is included, will not be exhaustive. If you are in doubt, please discuss the issue with the Chief Accountant in the first instance.

¹ Adapted from the guidance notes of Audit Scotland, Following the Public Pound Follow-Up Study, January 2004

² [Guide to} Company formation, brochure GBF1, Companies House, September 2003, www.companieshouse.gov.uk/about/pdf/gbf1.pdf

Types of funding arrangement		Types of ALEO	
I N C L U D E	<p>1. Grant – a payment based on an application for funding, usually subject to conditions. But exclude grants to an individuals, eg housing improvement grants.</p> <p>2. Service level agreement – to provide a certain minimum level of service.</p> <p>3. Deficit funding agreement – may be set up where there is a charge for services provided by an organisation but this is set below a commercial rate at the request of the council, to encourage take up of services, eg sports and leisure facilities or cultural activities.</p> <p>4. Loan agreement – loan agreements should be included where these are on other than normal commercial terms, eg where the council makes a loan to an ALEO at a preferential rate or there is a flexible repayment period.</p> <p>5. Loan guarantee – the council acts as a guarantor against a loan to an ALEO by another organisation, eg the Public Works Loan Board or a commercial lender.</p> <p>6. Joint funding agreement – eg with other public sector bodies or with the private sector, where this leads to joint funding of a discrete financial/organisational vehicle. But council funding which forms part of a 'mainstream' joint funding arrangement with organisations such as NHS Trusts or with other councils for the support of Joint Boards (eg for Police, Fire, Bridge, the Assessor) should be excluded. If the council simply earmarks funds in its budget but pays for goods and services directly, these funds should also be excluded.</p> <p>7. Match funding – the council provides funding to an ALEO to supplement its funding from another source (eg the EU or the Scottish Executive). The amount of funding provided by the council should be included but not contributions by other bodies.</p> <p>Discretionary rating relief</p> <p>8. Other arrangements not excluded below.</p>		<p>1. Charity – to be a Scottish Charity, an organisation must apply to the Office of the Scottish Charity Regulator (OSCR) for recognition. If its application is accepted, the organisation becomes a 'recognised body' and is entitled to call itself a Scottish charity. It is given a unique number with a prefix of SC, is listed on the index of Scottish charities, and becomes regulated by the Office of the Scottish Charities Regulator. English and Welsh Charities require to be registered with the Charities Commission. The charity number should appear on all its official documents. Please include any charity funded by the council irrespective of the geography of its operation, eg whether it operates across the UK, Scotland, on a regional level, a council-wide level, or in a locality within the bounds of the council. Please include all charities whether they are incorporated (ie a company) or unincorporated.</p> <p>2. Company – Please include only those companies that are not charities (ie include charities that are companies under '1. Charities'. Companies must be registered with Companies House and have a companies' registration number. They are likely to include the word 'Limited' in their name. The registration number should appear on all the documents of the company. There are four main types of company:</p> <p>Private company limited by shares – members' liability is limited to the amount unpaid on shares they hold.</p> <p>Private company limited by guarantee – members' liability is limited to the amount they have agreed to contribute to the company's assets if it is wound up.</p> <p>Private unlimited company – there is no limit to the members' liability.</p> <p>Public limited company (PLC) – the company's shares may be offered for sale to the general public and members' liability is limited to the amount unpaid on shares held by them.</p> <p>Companies may be set up on a commercial or charitable/not for profit basis. Include holding companies, operating companies, and companies wholly- or part-owned by the council.</p> <p>3. Voluntary organisations and community groups that are not charities or companies</p> <p>4. Other unincorporated bodies and bodies not excluded below.</p>

E X C L U D E	<p>1. Commercial contract – to purchase goods and services, eg payments to independent sector providers for residential home places, and spot purchase arrangements.</p> <p>2. Situations where the council simply administers funds under the control of another agency or acts as a banker, (eg Social Inclusion Partnerships).</p> <p>3. PFI contract – typically involves contracting with the private sector to finance, build, extend/refurbish facilities and manage them for an extended period.</p>	<p>1. Trades unions, COSLA, Social Inclusion Partnerships, Pension schemes, Educational endowments</p> <p>2. Common good funds or other trusts where all members of the governing body are councillors</p> <p>3. Funding to other statutory bodies as part of the council's core business, eg: Police authority/Fire authority, Joint bridge authority</p>
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APPENDIX B

ORGANISATIONS MEETING THE CRITERIA OF FOLLOWING THE PUBLIC POUND

Number	1
Identified by	Principal Accountant (P&ES)
Service Budget Holder	Head of Environmental Health
Service Contact	Housing Liaison Officer
Aberdeenshire Service	Planning & Environmental Services
Sub-Service	Environmental Services
Organisation Name	ABC Ltd
Type of Body	Charity
Expenditure Category per BVACOP	Housing – Private Sector Renewal
Service Agreement	Being finalised
Revenue Funding <fin year>	£0
Capital Funding <fin year>	£110,000
Loans Funds Advance <fin year>	£0
Revenue Funding 12 Months Equivalent	£0
Capital Funding 12 Months Equivalent	£110,000
Loans Fund Advance 12 Months Equivalent	£0
Total 12 Months Equivalent	£110,000
Funding Band	£100,000 to £249,000
Benefit in Kind Narrative	N/A
Low Cost or 'free' use of Council Property	£0
Low Cost or 'free' use of other Council facilities	£0
Budgeted Contribution	£110,000
Note	Check not included in capital return.
Appointed Councillors	
Appointed Officers	

The above is an example of the information requested for illustrative purposes only. The actual return will be in spreadsheet format.

APPENDIX C

ACCOUNTING REQUIREMENTS

1) Requirements of the Companies Act 2006

The Companies Act 2006 applies to all registered companies and all registered charities where that charity is also registered as a company. The latter are also known as charitable companies.

All companies, with the exception of dormant companies and certain small companies, require to prepare accounts in a specified format and require to have their accounts audited. For financial periods beginning on or after 1 April 2008 there are no longer special rules regarding audit exemption for charitable companies. They can qualify for audit exemption in the same way as any other company.

To qualify for audit exemption as a small company, the company must:

- qualify as small
- have a turnover of not more than £6.5 million; and
- have a balance sheet total of not more than £3.26 million.

To qualify as small, the company must meet at least two of the following conditions:

- annual turnover must be £6.5 million or less
- the balance sheet total must be £3.26 million or less
- the average number of employees must be 50 or fewer.

Companies which are classed as medium-sized are entitled to prepare abbreviated accounts. To qualify for abbreviated accounts as a medium-sized company, at least two of the following conditions must be met:

- annual turnover must be £25.9 million or less
- the balance sheet total must be £12.9 million or less
- the average number of employees must be 250 or fewer

Unless you are filing your company's first accounts the time normally allowed for delivering accounts to Companies House is:

For a private company, 9 months from the financial year end;

For a public company, 6 months from the financial year end.

2) Charities that Are Not Companies

The Charities Accounts (Scotland) Regulations 2006

For financial years beginning on or after 1 April 2008, small charitable companies are required to prepare their accounts in accordance with the Charities Accounts (Scotland) Regulations 2006. Only where a charitable company is a large company and over the threshold set out in the Companies Act 2006, would it be required to have an audit under that legislation as well as the 2006 Accounts Regulations.

Scope of the Regulations

The Charities Accounts (Scotland) Regulations 2006 apply to all charities (including those governed by other statutes) with a financial year starting on or after 1 April 2006.

A charity's income or asset values for a financial year will determine the type of accounts prepared or external scrutiny that should be carried out. If a charity breaches a threshold in either direction then the new income or asset levels apply for that year.

Accounting Thresholds

Accrued Accounts

Charities with an annual income of £100,000 (£250,000 for accounting periods starting on or after 1 April 2011) or more and charitable companies must prepare fully accrued accounts.

Other Charities with incomes under £100,000 (£250,000 for accounting periods starting on or after 1 April 2011) must also prepare fully accrued accounts if their constitution or any enactment so states, or if the charity trustees have decided they should.

Fully accrued accounts have to be prepared using the 2005 Accounting and Reporting by Charities Statement of Recommended Practice (SORP).

Independent Examination

Charities that have an income of over £500,000 or have gross assets greater than £2.8 million (£3.26 million for accounting periods starting on or after 1 April 2011) or have an income less than £500,000 but their constitution, any enactment or their trustees decide they should, must have a full audit by a qualified auditor or the Auditor General for Scotland.

Charities with incomes below £500,000 can have an independent examination.

For charities with an income of between £100,000 (£250,000 for accounting periods starting on or after 1 April 2011) and £499,999 or with an income of less than £100,000 and which produce fully accrued accounts, the independent examination must be carried out by one of the following:

a) A member of one of the following professional bodies:

- The Institute of Chartered Accountants in England and Wales
- The Institute of Chartered Accountants in Scotland
- The Institute of Chartered Accountants in Ireland
- The Association of Chartered Certified Accountants
- The Association of Accounting Technicians
- The Association of International Accountants
- The Chartered Institute of Management Accountants
- The Institute of Chartered Secretaries and Administrators
- The Chartered Institute of Public Finance and Accountancy
- A full member of the Association of Charity Independent Examiners
- The Auditor General for Scotland
- A person appointed by the Accounts Commission for Scotland

b) For charities with an income below £100,000 (£250,000 for accounting periods starting on or after 1 April 2011) that do not produce fully accrued accounts the independent examiner must be someone the charity trustees believe to have the requisite skills and experience to carry out a competent examination of the accounts.

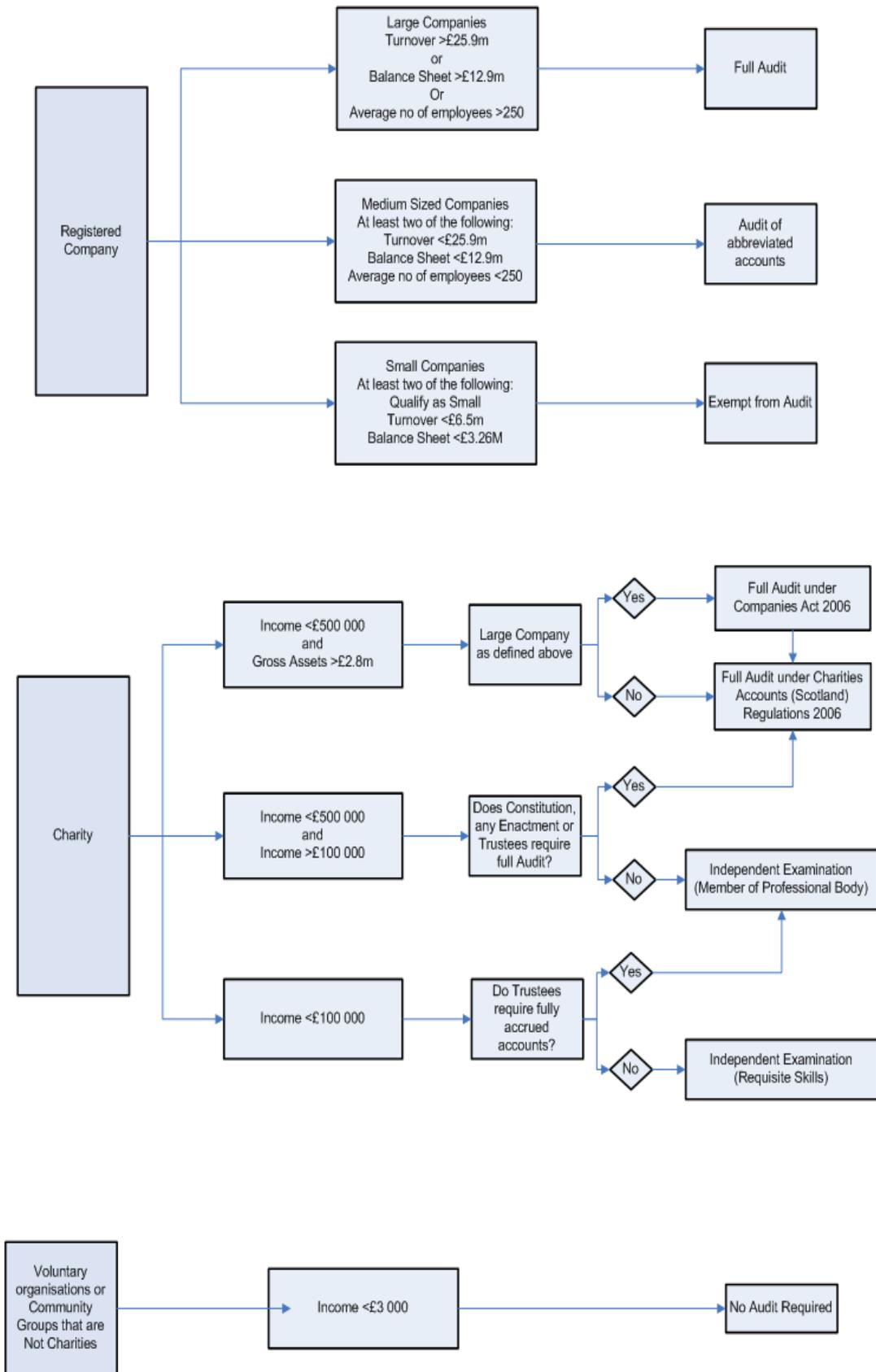
Submission of Accounts to the Office of the Scottish Charity Regulator (OSCR)

Charities must submit to OSCR a copy of their annual statement of account within 9 months of their financial year end.

For accounting periods starting before 1 April 2006 charities have 10 months to submit their accounts.

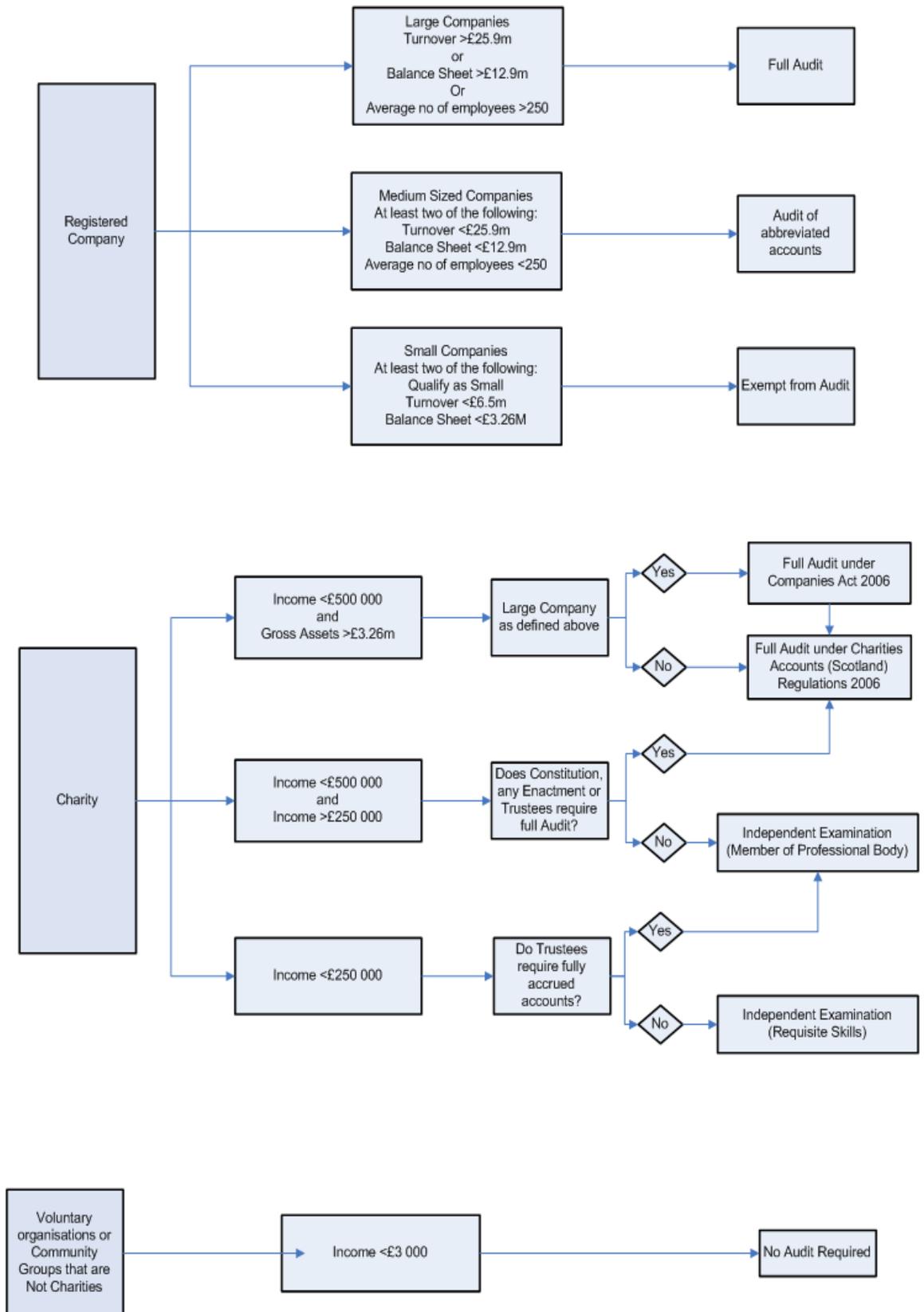
The audit requirements are summarised in the flow charts on the next two pages.

Flow Chart of Audit Requirements
for
accounting periods beginning prior to 1 April 2011



Created 30/04/09

Flow Chart of Audit Requirements
for
accounting periods beginning on or after 1 April 2011



Created 15/05/12

APPENDIX D

EXAMPLE RISK ANALYSIS

Step 1

Determine the impact of an increase of 5% in the project or organisation's running costs. The project or organisation should have the ability to meet an increase as above within its available financial resources.

Is the business plan still achievable? _____

Example of a simple risk analysis which should be completed by the accountant.

ABC Ltd Business Plan:

Income

Government grants	5,000	
Visitor income	150,000	
Sales	45,000	
Other Income (donations)	<u>3,000</u>	
		203,000

Expenditure

Salaries & wages	200,000	
Cost of sales	20,000	
Depreciation	3,000	
Running costs	85,000	
Miscellaneous	<u>2,000</u>	
		310,000

Net Operating Loss 107,000

Deficit funding provided 107,000

Balance Sheet

Fixed assets	100,000	
Stocks	3,000	
Debtors	13,000	
Cash	8,000	
Less: Creditors	<u>(5,000)</u>	
		<u>119,000</u>

Financed by

Capital Grants		<u>119,000</u>
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<u>Income</u>		
Government grants	5,000	
Visitor income	150,000	
Sales	45,000	
Other	<u>3,000</u>	
		203,000
<u>Expenditure</u>		
Salaries & wages	210,000	
Cost of sales	21,000	
Depreciation	3,000	
Running costs	89,250	
Miscellaneous	<u>2,100</u>	
		325,350
Operating loss		<u>122,350</u>
Deficit funding		107,000
Shortfall		15,350
Net current assets (ex-stock)		16,000
Cash available		650

Step 2

Note – this step is not required if the Council is providing 100% funding for the project or organisation.

Determine the impact of a 10% reduction on the project or organisation's variable income. The organisation should have the ability to meet the decrease as above within its available financial resources

Is the business plan still achievable? _____

Example of a simple risk analysis which should be completed by the accountant.

<u>Income</u>		
Government Grants	5,000	
Visitor Income	135,000	
Sales	40,500	
Other	<u>2,700</u>	
		183,200
<u>Expenditure</u>		
Salaries & Wages	200,000	
Cost of sales	18,000	
Depreciation	3,000	
Running costs	85,000	
Miscellaneous	<u>1,800</u>	
		307,800

Operating loss	<u>124,600</u>
Deficit funding	107,000
Shortfall	17,600
Net current assets (ex-stock)	16,000
Cash shortfall	<u>1,600</u>

Step 3

Determine through a review of past performance, future predictions and any internal or external changes which the project or organisation is likely to face, whether there is a risk that non-financial targets will not be met.

Assessment

Step 4

Consider whether there is a risk of damage to the Council’s reputation through association with an external organisation if financial or service delivery problems emerge.

Assessment

Step 5

Through consideration of the above determine whether the Council is exposed to a greater than normal business risk. Where this is the case the results of the risk analysis should be communicated to the chief accountant, the budget holder and, where applicable representatives of the organisation. Where necessary officers should require revision to the project or organisation’s business plan and ensure that there are clear exit strategies in place for the Council should problems arise.

Assessment
