



**Cardiff Council**

**Childcare Business Support Grant**

**Terms & Conditions**

**2020/21**



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## **Cardiff Council Childcare Business Support Grant Terms & Conditions 2020-21**

The approval and payment by the Council of Grant or financial support to an organisation will be subject to the following terms and conditions together with variations or such other special conditions as the Council may specify in writing at the time of approval.

### **Definitions**

Within the Terms and Conditions the following words shall have the following meanings:

Agreement	shall mean those documents referred to in clause 4
Grant	the sum or sums stated in the offer letter
Grantee	the organisation or body named in the offer letter
Council	The County Council of the City and County of Cardiff
Project	a programme of actions, research, development, or other activities set out in the application or specification

### **General**

- 1 The Grantee shall accept all these terms and conditions in writing before any Grant shall be paid and in default or delay of acceptance by the Grantee of any Grant or any part of the Grant these terms shall be deemed accepted.
- 2 Any Council Grant awarded shall be used only for the purposes approved in the Council letter making the offer of Grant. Where no purposes are specified in that letter the approved purposes shall be those specified by the Grantee in the application form and/or Grant specification and any agreed supplement attached. Those approved purposes may however be modified by agreement in writing between the Council and the Grantee. The default position shall always be those purposes specified in the application form, Grant specification and any agreed supplement. In those cases where the Council deems a grant agreement is desirable the release of Grant may be conditional upon the Grantee signing an agreement.
- 3 Any Grant is made in reliance of the information given in the application form and/or Grant specification and any supplementary information given by the Grantee and any misrepresentation, including concealment or withholding of relevant information by the Grantee shall constitute at the Council's discretion a failure to comply with these terms and conditions.
- 4 The application form, Grant specification and any agreed supplemental information together with any offer letter, acceptance form and this Grant agreement (if required) shall form the entire basis for the Grant and no oral representations made by the Grantee or Council shall be deemed incorporated as a term or condition of the offer or acceptance of the Grant or any part of it.

- 5 The award of a Grant in one financial year (1 April to 31 March) shall not be deemed to imply any guarantee that a Grant will be awarded for the following year unless the terms of the formal offer so specify. The Council shall not be liable for any commitments made by the Grantee in anticipation of a Grant not subsequently awarded.
- 6 The Council may indicate it is minded to award a Grant of up to three years duration. Such a Grant will be subject to the provisions of paragraph 5 above, and continuation of the grant in years two and three shall be at the Council's discretion and subject to performance monitoring, financial monitoring and budget availability.
- 7 Where a Grant is payable by instalments, payment of any instalment or instalments or part thereof may be withheld if the Grantee fails to satisfy the Council that it has been applied or will be applied in future solely for the approved purposes or if the Council consider that any of the other terms or conditions of the Grant are not being fulfilled or in the circumstances specified in paragraph 44 below.
- 8 No part of the Grant shall be used for party political purposes, and no aspect of the Grant aided activities shall be party political in intention, use or presentation.
- 9 If prior to any Grant approval being issued, there is any change to any information provided to the Council during the application process, the Grantee shall notify the Council immediately.
- 10 Grant approval will not normally be given retrospectively for projects already underway, work completed or equipment purchased prior to the date of application. Only in extraordinary circumstances will such an application be considered. The Grantee shall repay any Grant applied retrospectively without the Council's knowledge or consent.
- 11 As a matter of good practice the Grantee shall use its best endeavours to obtain financial support from a variety of sources and shall endeavour not to rely solely on the Council for funding.
- 12 The grantee should be efficient in its management of resources. Where a grantee is in receipt of recurrent funding from the Council it is expected that the grantee will be able to demonstrate the delivery of operational efficiencies over a period of time.
- 13 In its publicity material, the Grantee shall acknowledge the financial contribution made to its activities by the Council except that the Grantee shall not use the Council's copyright logo on any publicity material or documents unless specific prior consent to its use in each setting has been obtained from the Council.
- 14 In the spirit of co-operation and partnership working the Grantee agrees, in the first instance, to afford the Council an opportunity to respond to any criticism or

concerns it has. The Council will also adhere to this principle and discuss any concerns it has with the grantee in the first instance.

- 15 In exceptional circumstances where concerns of a financial nature arise, the Grantee shall give the Council access to all books, accounts and vouchers, including Bank statements, return cheques and cheque stubs within 10 working days of any request or as soon as possible after the request. By accepting the Grant or any part of it the Grantee gives authority to the Council to approach the Grantee's Bank or Accountant and gives that Bank or Accountant unconditional consent to provide to the Council any information regarding any transactions made by the Grantee in relation to the Grant funds. The Grantee consents to the Council providing a copy of the application form, Grant specification, offer letter, acceptance form and these terms and conditions to that Bank or Accountant to confirm the position.

### **Taxation**

- 16 The Grantee shall bear its own liability for any taxation or duty chargeable in the United Kingdom in respect of its participation in the Agreement and undertakes to indemnify the Council in respect of any such taxation assessed on and paid by the Council for which the Grantee is primarily liable.
- 17 Value Added Tax (V.A.T.) will only be Grant aided when the Grantee is not registered for V.A.T. purposes or where it can prove that it cannot recover all or part of the V.A.T from H.M. Customs and Excise.

### **Proper Conduct**

- 18 a) The Grantee shall at all times comply with all relevant legislation and with its statutory and legal obligations (e.g. any lease/tenancy agreement, planning permissions, employment, equal opportunities, taxation, insurance, health and safety, data protection, licensing laws and regulations etc) which may affect its activities and in all respects shall not deliberately or negligently commit acts or omissions that result in misapplication or waste of Grant funding.
- b) The Grantee in submitting its grant application form is deemed to have considered if the award of the grant would raise any possible State Aid implications (in terms of the totality of funding that the Grantee may have received from any public body over the previous 3 years) and if any such potential issues are identified it will expressly raise the same with the Council in its application for the grant. Further, the Grantee will provide the Council with such information as it may reasonably be required to enable the Council to undertake an assessment of the Project to consider if it complies with the State Aid Rules, though any such assessment carried out by the Council shall not alleviate the Grantee of any of its obligations under this Agreement, including and without limitation, its obligations to repay the grant under clause 52. It is the Grantee's responsibility to ensure that in entering into this Agreement that the amount of grant, intended purpose of grant, actual application or use of grant and other relevant matters pertaining to the grant do not breach any conditions of a relevant State Aid exemption or authorisation pursuant to which the grant may be given or would otherwise cause the grant amount to be unlawful State Aid. The Council

takes no responsibility for any statements or information it may give to the Grantee in relation to the applicability or otherwise of State Aid and no inference should be drawn from the decision to make the grant or its implementation (including the entry into this Agreement) that the Council is satisfied that the grant would not amount to State Aid. For further advice on State Aid Rules, please visit [www.gov.uk/government/publications/state-aid-the-basics](http://www.gov.uk/government/publications/state-aid-the-basics)

- 19 Where the Grantees activities involve working with children and young persons the Grantee shall ensure that those persons it arranges to contact or work with them have been thoroughly checked as suitable, to include Disclosure and Barring (DBS) checks as appropriate.
- 20 The Children Act 2004 guidance for Wales requires local authorities and their partners to have regard to the duties and principles enshrined in the United Nations Convention on the Rights of a Child (UNCRC). The Council expects that a grantee, funded in support of relevant activities, adheres to the same duties and principles.

### **Health and Safety**

- 21 The Grantee shall be responsible for the health and safety of its own employees and sub-contractors whilst implementing the Project and shall ensure that they receive appropriate instruction in safety procedures and are provided with all safety equipment required by law or which is generally accepted best practice from time to time.
- 22 The Grantee shall be responsible for the safety, proper functioning, fitness for purpose and compliance with all legal requirements of all tools and equipment provided by it for the purposes of performing the Project and for the avoidance of doubt this responsibility shall extend to ensuring the safety, proper functioning and fitness for purpose of the tools and equipment in the hands of the employees or sub-contractors of any other party or any other parties, including without limitation, any person who may make proper use of them or may be exposed to them.
- 23 The Grantee shall be responsible for the stability, safety and fitness of any premises owned and/or occupied by it and upon which the Project is or may be performed.
- 24 In the event of:
  - (A) a successful claim being brought against the Council howsoever arising whether in respect of negligence, nuisance, breach of statutory duty, or any other tort or in respect of any other legal right or remedy, howsoever arising out of the Agreement, or
  - (B) a successful prosecution against the Council or its employees in respect of any failure to comply with any legal requirement to be complied with as a result of this Agreement

then as between the Council and the Grantee all liabilities, costs, claims, demands, expenses, fines and other penalties (including legal fees and expenses) arising therefrom or in any way relating thereto shall be borne by the Grantee to the extent of its responsibility therefor, determined in accordance with clause 21 and the provisions of this agreement generally, and the Grantee shall indemnify and keep indemnified and account to the Council accordingly.

- 25 The provisions of clauses 21 - 23 shall survive the termination of the grant funded arrangements.

### **Equipment**

- 26 Where the Grant or any part thereof is used by the Grantee to purchase or acquire any interest in any asset (including land and buildings, vehicles, furniture or equipment), and the asset or the interest therein is subsequently disposed of or ceases to be used for the approved purpose for which it was obtained, the Grantee shall if the Council then so demands repay to the Council the full market value of the asset as at the date of disposal or cessation of approved use, or such lesser sum as the Council in its absolute discretion may deem to be a fair proportion of the market value.

### **Private Profit**

- 27 Under no circumstances shall the Grantee apply Grant funding directly or indirectly to the profit of any private individual, company or body of persons without the prior knowledge of or consent of the Council.

### **Insurance**

- 28 The Grantee is responsible for insuring against any risks that may arise in connection with any property of the Grantee or any activity undertaken by the Grantee that is Grant-aided in whole or part by the Council. This includes any loss or personal injury to Grant aided staff or volunteers undertaking those activities. The Council reserves the right to require the Grantee to submit for inspection any relevant documents relating to insurance policies. The Council shall not be under any circumstances liable for any contingency involving property or activities for which it has provided Grant in whole or in part. Responsibility for any such contingencies lies entirely with the Grantee who shall arrange cover for all eventualities by satisfactory insurance policies. The Grantee indemnifies the Council against all costs and claims in that regard.

### **Employment**

- 29 Under no circumstances shall the Grantee by act or omission cause any employee or volunteer of the Grantee to believe that an employment relationship is created or exists between that employee or volunteer and the Council.
- 30 Where the Grant is used or any part of it is used to employ paid staff the following criteria apply:

- The Grantee shall operate an Equal Opportunities Policy and a recruitment procedure in accordance with that submitted to and approved by the Council as part of the application for Grant.
- The Grantee shall ensure that such appointments are made on such pay and conditions as have been notified to and approved by the Council during the application for Grant.
- The Grantee shall ensure that there is a job description and person specification for all Grant aided posts and the appointee has a contract of employment. The Grantee agrees that a Council Officer may attend any interviews for such posts in an advisory capacity.

31 The Grantee shall at all times comply with all relevant legislation relating to employment, labour relations and health and safety at work. A Grantee with employees shall maintain Employers' Liability Insurance.

32 When the Grantee is a voluntary organisation, they shall not employ as a paid member of its staff any member of its Management Committee. If a member of its Management Committee is appointed to a post within the voluntary organisation, he/she must resign from the Management Committee before commencing such employment. Management Committee members who have a close friend or relative employed by the Grantee must declare the relationship in writing to other members of the Committee. Where appropriate Council Officers may attend Management Committee meetings in an advisory capacity only.

### **Change of Personnel or Location**

33 Where the application form and Grant specification indicate that a particular member or team of the Grantees personnel will manage or undertake the Grant aided assistance from a particular location the Grantee shall not change that member or team or location without the consent of the Council but such consent shall not be unreasonably withheld.

### **Accounts**

34 The Grantee shall keep up-to-date accounts for inspection by the Council at any time. The accounts should be drawn-up in accordance with recommended best practice. The financial year 1<sup>st</sup> April – 31<sup>st</sup> March should be used wherever possible, unless the nature of the Grantee's activities prevent this.

35 The Council requires all Grantees in receipt of Grant to provide annual accounts prepared in accordance with the recommended best practice.

36 All accounts shall clearly identify all Council Grants and any other Grants received during that financial year.

37 The accounts shall be prepared in such form that the Council can identify the purpose for which Grant has been applied by the Grantee.

### **Monitoring Progress and Data processing**



- 38 The Grantee shall comply with the monitoring arrangements as set out within the offer letter.
- 39 The Grantee shall, on request, report in writing to the Council on the implementation and progress of the purposes for which the Grant has been awarded. The Grantee shall, without charge, permit any officer or officers of the Council at any reasonable time to visit its premises and/or to inspect any of its activities and/or to examine and take copies of the Grantee's books of account and such other documents or records as in such officers' view may relate in any way to the use of Grant by the Grantee. This condition is without prejudice and subject to any other statutory rights and powers exercisable by the Council or any officer, servant or agent thereof.
- 40 The Grantee shall provide the Council with such other information as to its activities or proposed activities, and as to its use or proposed use of all or any part of the Council Grant as the Council may from time to time require. The Council shall be entitled to use this and all information supplied to it by the Grantee relating to the Grant as it deems fit.
- 41 Part or all of the information provided on the application form will be held on computer and the Grantee consents to the processing of any personal information under the Data Protections Act on the understanding that the data will remain confidential to the Grantee and relevant Council Officers and Members save that where the law permits disclosure of data the Council may do so. This information will be used for the administration of Grant applications and for statistical analysis. Details of all successful Grant applications will be published in an annual report to Council.

### **Freedom of Information**

- 42 The Council may disclose information if the law permits or the Council has a duty to do so. Information received is not subject to a duty of confidentiality within the meaning of Section 41 of the Freedom of Information Act and requests for disclosure under that Act will be handled in accordance with the Code of Practice under Section 45 of the Freedom of Information Act having due regard for the data protection principles in the Data Protection Act 1998 in respect of personal data.

### **Welsh Language Act**

- 43 During the Term of the Agreement the Grantee shall comply with the requirements of:
- 43.1.1 the Authority's Welsh Language Scheme; and
  - 43.1.2 the Welsh Language (Wales) Measure 2011 ("the Measure") as and when the provisions of the Measure come into force and insofar as it relates to the provision of the Grant.

### **Financial Controls**

- 44 The Grantee shall ensure that adequate financial controls eg. ensuring segregation of duties, the maintenance of proper books and records, bank

accounts requiring two signatures and the retention of supporting documentation for audit purposes exist at all times.

- 45 If the Grant is not spent for the approved purposes during the financial year to which it relates, the unspent amount may be recovered by the Council during or at the end of that financial year and/or may be taken into account in determining the amount of Grant to be paid in the following financial year.
- 46 The Grantee shall not assign any part of the Grant to a third party without the prior written consent of the Council.
- 47 The Grantee shall notify the Council as soon as it becomes apparent that an underspending of Grant is likely to arise. The Council may at its discretion approve in writing the use of the unspent amount for other beneficial approved purposes. Such approval is especially likely to be given where the Grantee is to achieve the underspending by improved effectiveness or efficiency in its management of resources, but approval is not likely to be given where the underspending arises from the delayed start of an approved activity.
- 48 The Grantee shall not (and shall ensure that all members of its organisation do not) represent the Grantee in such a way, say or do anything that might lead persons to believe that the Grantee is an agent of the Council or that the Council is responsible for any liability of the Grantee. Nothing in the terms and conditions of Grant shall impose any liability on the Council in respect of any liability incurred by the Grantee to any other person or entity.
- 49 The Council and its officers or agents shall not at any time be liable to any person in relation to any matter arising in connection with the development, planning, construction, operation, management and/or administration of the Grant-aided Project and in particular, but without limitation, shall not be liable to the Grantee for any loss or damage arising directly or indirectly as a result of the compliance with the terms and conditions of the Grant including any losses or costs arising from a failure to make Grant payments on any agreed date.
- 50 If the Grantee is wound up or goes into liquidation (including being subject to an administration order); receivership; bankruptcy; enters into any compromise or other arrangement of its debts with its creditors; or is likely, in the view of the Council, to become unable to pay any of its debts then on the occurrence of any of those events the Council shall be entitled to recover forthwith from the Grantee the Grant paid and no further monies shall be due or payable by the Council to the Grantee or to anyone acting for or on its behalf or in its name. Any references to the amount of Grant paid or to be paid to the Grantee shall be deemed to mean and to be limited to the amount of money actually paid to the Grantee by the Council at the time that any of the events referred to above occurs.

### **Acceptance and Repayment of Grant**

- 51 Any offer of Grant is open for acceptance within 30 days of the date thereon unless otherwise stated. No part of the Grant will be paid by the Council until written acceptance is received. If no acceptance has been received within that time the offer shall be deemed withdrawn but may be re-offered at the discretion of the Council.

52 The Council may, at its discretion, amend cancel or suspend any Grant approval or require the repayment of any Grant already paid, either in whole or in part where:-

- (I) there has been a material breach of any of these standard Terms and Conditions and/or any special conditions attached to the Grant.
- (II) the Grantee ceases to exist.
- (III) the Council has been induced to issue the Grant approval as a result of any incorrect or false information provided by the Grantee.
- (IV) the Grantee has failed to notify the Council of any material change to information previously provided by it, the Grantee or any of its officers servants or agents has acted dishonestly or negligently to the detriment of the project for which Grant aid has been given.
- (V) the Grantee changes or removes its managers or personnel responsible for the Grant aided assistance or changes its location from those disclosed in the application form and Grant specification without the consent of the Council
- (VI) the Grantee or any of its officers servants or agents has acted dishonestly or negligently to the detriment of the project for which Grant aid has been given.
- (VII) the Grantee compounds or makes arrangements with its creditors goes into liquidation (voluntarily or otherwise) other than for the purpose of a bona fide reconstruction or a receiver or manager is appointed in respect of the whole or any part of its business or if any analogous event occurs.
- (VIII) the repayment of any part of the grant is required under European Law (whether under State Aid Rules or otherwise).