

SCOTTISH GOVERNMENT: FAIR WORK FIRST

Supporting Guidance on limited exceptions to the real Living Wage condition in public sector grants

The Scottish Government or other relevant funder may apply limited exceptions to meeting the real Living Wage condition where the potential grant recipient genuinely cannot afford to pay the real Living Wage to part(s) or all of its workforce.

In such circumstances, a potential grant recipient can request a limited exception for consideration by a senior authorising/accountable officer of the funder.

A limited exception should be considered in the first instance for targeted parts of the workforce while continuing to require payment of at least the real Living Wage to the rest of the workforce.

The request must define for which part(s) of the workforce an exception is being sought and provide suitable evidence regarding the organisation's current financial position, the costs of uprating the pay of that part (or parts) of the workforce, and any consequential or additional costs.

Where an organisation's request for an exception to the real Living Wage condition for part(s) or all of its workforce is approved, the organisation would still be expected to work towards meeting the condition in full within a reasonable timescale and to demonstrate progress during the lifetime of the grant. The grant funder should reflect any approved exception in the grant award documentation, and they may also wish to consider including relevant milestones.

Where an exception is approved, that exception will also apply through a supply chain, if there is one, apart from instances where public procurement rules apply.

Where an exception is approved, the organisation would still be required to meet the effective voice condition and expected to demonstrate its commitment to the remaining Fair Work First principles.

Any limited exception that is approved is valid for the grant in question and throughout the funded period of that grant.

There should be no assumption that approval of an exception is a guarantee of grant nor that all individual grants will be awarded, as other factors will be taken into account, particularly in relation to competitive grants. Where an organisation applies for multiple grants, it may use the same case for a limited exception, however it should not be assumed that approval for a limited exception for one grant will mean approval for another, as these decisions are taken on a case by case basis. Should a grant recipient wish to seek an exception for repeat funding, it will be required to re-submit a request for consideration by the relevant grant funder.

Seeking and approving/declining a request for an exception to the real Living Wage condition

General

An organisation which believes it genuinely cannot afford to meet the real Living Wage condition may seek a limited exception for part(s) or all of its workforce.

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A grant funder may wish to use the relevant template, available in the supporting documents of the guidance, to allow an organisation to request a limited exception. This will enable a senior authorising/ accountable officer of the grant funder to consider if such an exception is appropriate for part(s) or all of the workforce and to advise the organisation accordingly, providing feedback on any requests that are refused.

The case for an exception must address, but need not be limited to, the following points:

- (1) Define which part(s) of the workforce the organisation is requesting a limited exception for, for example, apprentices, 16-17 year olds.
- (2) Detail the current size of the overall organisation's workforce.
- (3) Detail number of workers currently in each part(s) of the workforce identified at (1).
- (4) Detail the wage rates for each part(s) of the workforce identified at (1).
- (5) Explain why meeting the conditionality for the part(s) of the workforce identified at (1) is genuinely unaffordable and provide suitable evidence regarding the organisation's current financial position, the costs of uprating the pay of that part (or parts) of the workforce, and any consequential or additional costs.
- (6) Outline the action the organisation will take towards meeting the real Living Wage condition for the part(s) of the workforce identified at (1) and the related timescales.

Scottish Government grants to local authorities

A streamlined process for requesting exceptions to the standard real Living Wage grant condition for local authorities has been agreed by the Scottish Government and COSLA. This approach recognises the volume of grants local authorities receive from the Scottish Government and seeks to alleviate the administrative burden that could otherwise arise.

As such, any local authority which believes it cannot meet the real Living Wage condition for part(s) of its workforce may submit a single request for a limited exception relating to all grants awarded by the Scottish Government to the local authority and, if approved, will be valid for grants awarded in the financial years 2023-24 and 2024-25. A separate template is available in the supporting documents of the guidance.