Capital investment: Large capital grants, Round 5
Guidance for stage two applicants

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Section one: introduction

Welcome
This guidance should give you the information you need to apply for stage two funding, so please read it carefully before you fill in the online application form. This document includes the sections from the stage one guidance that are relevant to your stage two application.

We need to remind you that:

- being invited to make a stage two application is not a guarantee that we will fund your project or that any sum that may be granted will be the full amount requested
- unless we have already offered you a development grant, you are responsible for any costs involved in developing your stage two application
- if you wish to continue progress on your project during our assessment of your stage two application, you will need to cover these costs from other sources of funding. We are unable to support costs you have to pay for before we make a decision on your stage two application

We will keep in touch with you as your project progresses to making a stage two application. If your project changes significantly since your stage one application, we may decide to withdraw our support before a stage two application is submitted.

The aims of our capital investment
Since 1994, Arts Council England has supported capital developments with £1.5 billion of Lottery funding. This investment has supported an unprecedented number of building projects, both as refurbishments and extensions to existing arts buildings, and entirely new buildings in places where access and engagement in the arts was limited. Our investment has changed the arts infrastructure of England and improved experiences for both artists and the public.

Given our significant capital investment since 1994, it is now the right time to consider the improved resilience and environmental sustainability of the existing arts infrastructure.

Our capital investment will help us achieve our aims set out in Great art and culture for everyone, particularly the aims within goal 3. Over the period 2015–18, our capital investment will prioritise the consolidation and improvement of the existing arts infrastructure, rather than investing in significant expansion or new buildings. We will support organisations to develop resilience by having the right buildings and equipment to deliver their work and become more sustainable and innovative businesses. This includes increasing the environmental performance of buildings and equipment to support a reduction in carbon emissions.

Digital technologies can play a central role in future-proofing arts and culture. Digital is both an overarching context for our ten-year strategy and runs through all our five goals. We will use our capital funding to further develop digital infrastructure for the arts sector and to support the quality, volume and reach of digital content.
We will support organisations that deliver arts activities that engage people in England or that help artists to carry out their work. Our priority will be to support National portfolio organisations who can demonstrate that capital investment will increase their resilience in the longer term.

We are committed to sustainable development and expect projects, as far as possible, to take account of all long-term benefits and costs – environmental, social and economic. Organisations should respond to legislative changes around climate change and acknowledge the increasing public pressure for responsible sustainable development. We expect organisations applying for capital investment to consider energy efficiency as a priority.

We believe that our national diversity is one of our great resources and we expect the work that we fund to reflect this and to be alive to the opportunities that diversity offers. Our definition of diversity encompasses race, ethnicity, faith, disability, age, gender, sexuality, class and economic disadvantage and any social and institutional barriers that prevent people from creating, participating in or enjoying the arts. We expect that organisations in receipt of capital funding will not only observe minimum legal standards in terms of the Equality Duty 2011 and Equality Act 2010 in delivering their proposed capital projects, but will also demonstrate a willingness to set high standards of practice across all areas of their work. Further information can be found here.

We do not expect to fund all of the project costs and expect funding to be secured from other sources as well.

We want to ensure that the projects we support are financially viable. You should consider the impact on your organisation and its activities, both during the project and on its completion, as there will be no additional funding (capital or revenue) available from us at a later stage.

The outcomes we expect to see from our investment are:

- our mission of great art and culture for everyone, particularly goal 3, ‘The arts, museums and libraries are resilient and environmentally sustainable’, is achieved
- the conditions are created for great art to be made, experienced and appreciated by everyone
- organisations are resilient, more sustainable and innovative businesses by improving their existing buildings and equipment
- increased environmental performance of buildings and equipment, supporting the reduction in carbon emissions in the arts sector
- greater impact from our investment in the arts by securing funding from other sources
- arts facilities are sustainable without the need for unplanned revenue funding from us

We will be evaluating how effective our capital investment has been in meeting our aims and outcomes. It is a requirement of our funding that organisations undertake project evaluation. We recommend you set aside some of your project budget for evaluation, depending on the size and scale of your capital project.
**When you can apply**
You must submit your application within 18 months of our stage one decision. We will agree with you the timetable for sending your stage two application.

If you do not make an application within 18 months of our stage one decision or your stage two application is unsuccessful, you will need to consider resubmitting a stage one application in a future round.

**Further advice**
This guidance aims to give you advice on completing your application. However, if you need further advice, you should contact your area office. Depending on the risks identified at stage one, we may seek a follow-up meeting to discuss your stage two application prior to submission.

You are responsible for getting any management, business, VAT recovery, artistic, planning, procurement and development advice. You must also ensure that you comply with all relevant legislation in developing and delivering your project. Our website provides some useful [contacts and guidance](#).
Section two: applying at stage two

This diagram shows what happens to your stage two application:

- Contact us to agree the timescale for submission of your application.
- Complete your application online and submit your supporting material.
- Is your application eligible to be assessed?
  - Yes
    - We may contact you for more information if needed. This may include attending a site visit if necessary. We will assess your application against the published criteria. This could be via independently appointed assessors.
    - A decision will be made by the Arts Council.
      - Successful
        - We write to offer you a grant.
      - Unsuccessful
        - We write to tell you the main reasons why your stage one application was unsuccessful.
  - No
    - We tell you why we cannot assess your application.
**Five steps to applying for stage two funding**

There are five steps to applying for stage two funding:

1. Read this guidance carefully as it gives you information on how to apply for funding, and answers some common questions.

2. Agree with us the timescale for submission of your application.

3. Fill in the online application form (successful applicants will be provided with a unique URL) to tell us about your capital project in more detail.

   The form also asks for information that we may use to report to government or to monitor the different backgrounds of people who receive funding. We will not use this information to assess your application.

   You must apply online; printed applications will not be accepted. If you have difficulty applying online please contact our Enquiries team at enquiries@artscouncil.org.uk or by phoning 0845 300 6200.

4. Provide the information we have asked for. The information we require is set out in section four of this guidance. We will not consider any additional information you send after you have submitted your application, unless we have specifically asked for it.

   All applicants can send this supporting information in a digital file.

5. Submit your application online. Once you have registered online you can start your application, save your work and come back at any time to complete it at https://forms.artscouncil.org.uk/officeforms/arts_projects.ofml.

**Who can apply**

To be eligible to apply for stage two funding, you must meet the following criteria:

1. You have our written agreement inviting you to make a stage two application.
2. You are applying for the amount we have set aside on a conditional basis at stage one.
3. You are making an application within 18 months of the date of the invitation to apply letter.
4. The project remains as outlined in your stage one application. Significant changes may make your application ineligible. This includes, but is not limited to:

   - the need for your project
   - the project description
   - the property where your project will take place
   - your proposed outcomes
   - meeting our goals and priorities
   - a significant change (increase or decrease) in the total project cost
   - a significant change to the amount to be raised from other sources
   - a change in the amount required from us
   - a significant change in the timing of project delivery
You should get in touch with us in advance of submitting your stage two application if you think there have been significant changes to your project since your stage one application. We will confirm in writing whether we agree to these changes or not.

5. If you are applying for a building project, your project should be developed to at least RIBA Work Stage D (RIBA Plan of Work 2007) or completed RIBA Work Stage 3 (RIBA plan of Work 2013) and planning applications, if required, have been or will be submitted.

6. If we have offered you a development grant, the work you have undertaken should be completed by the time of the submission of your stage two application.

**What you can and cannot apply for**
The following lists give you an idea of the type of spending that we can and cannot pay for. They are not exhaustive and we may want to discuss this in detail to include or exclude some items when assessing your stage two application.

**What you can apply for**
- refurbishing, modernising or improving existing arts buildings
- buying assets such as equipment, instruments and vehicles, including installing new technologies
- improving facilities that will enhance access to and enjoyment of arts and culture by audiences with special educational needs and disabled audiences
- installing new technologies and upgrading buildings to deliver increased production and broadcast capacity
- buying buildings that are ancillary to the main arts building(s) and arts uses that will lead to increased revenue generation
- purchasing freehold or leasehold interest buildings that meet the requirements set out in section three: our capital requirements
- professional fees associated with capital spending on your project, providing the appointments have been made in accordance with the procurement requirements set out in section three: our capital requirements
- legal fees associated with capital spending on your project. If you are offered a grant, we will require the provision of specific legal documents such as a legal opinion, certificate of title, deed of covenant, restriction on title and/or a legal charge
- VAT that you cannot recover from HM Revenue and Customs
- closure costs – costs resulting from temporarily having to stop activities during the capital project
- environmental sustainability costs including installing or retrofitting sustainable technologies
- costs towards evaluating your project
- commissioning artists or craftspersons to contribute to the capital project
- additional staffing for specific work during the capital project

**What you cannot apply for**
In general, we will not normally pay for:
• converting an existing building for arts purposes if you do not have our written agreement beforehand
• extending an existing arts building if you do not have our written agreement beforehand
• new buildings for the arts if you do not have our written agreement beforehand
• capital assets that you plan to sell
• increased costs for projects where construction is underway
• costs you have to pay for before we make a decision on your stage two application, unless we have given you a development award
• the purchase of a leasehold that does not meet the requirements set out in section three: our capital requirements
• projects that demonstrate little or no potential benefit to the public
• costs that are already covered by other funding
• general running costs and overheads that are paid for by other income, including your own funds after the project is complete. This includes overheads related to equipment or buildings, such as insurance and maintenance costs
• additional revenue funding to support increased running costs
• capital projects required to support activities for educational purposes necessary by law
• goods and services, including consultants and contractors that have not been appointed in accordance with the procurement requirements set out in section three: our capital requirements

How we will make our decision
When we receive your stage two application we will first check that it is eligible. All eligible applications will then be assessed on their own merits and on how far they meet the following criteria:

1. Leadership, governance and project management: you should have appropriate governance, leadership and project management in place to deliver the scale and complexity of the project proposed, including plans for managing risks.

2. Sustainability and resilience: you should have considered the project’s long term effect on your organisation and ensured that the project will improve your resilience, when completed, without the need for unplanned revenue from us.

3. Partnership funding: you should ensure that appropriate fundraising plans are in place to meet the project’s timetable and cash flow requirements.

4. Capital costs: your project costs should be based on professional advice and include appropriate allowances for such things as, but not limited to, specialist equipment, furniture, fittings and equipment, contingency, inflation and VAT.

5. Quality of the capital proposals: your project should meet high standards, taking due notice of priorities such as fitness for purpose, environmental standards, energy efficiency, accessibility and cost effectiveness. You should have appropriate procurement policies in place in relation to purchasing goods and services.

We will make our assessment on the basis of the information you provide in your stage two application and supporting documents, our current knowledge of your organisation, if applicable, and any further information that we request.
Our assessment will use the expertise of our staff, including independently appointed assessors, to judge how well your application meets each of the five criteria. Identifying and considering the level of risk in your capital project and what plans you have in place to mitigate these risks is an important part of our assessment. A visit by our staff and independently appointed assessors may form part of the assessment process.

**Who will make the decision**
Decisions will be made by the Arts Council.

**When you will know**
We will make a decision within 20 weeks of submission of your stage two application. If we need to request further information, this may delay the assessment of your application and we will advise you of any revised decision date.

**If you are successful**
Any decision to offer funding will be subject to acceptance of a Funding Agreement. The offer may be for a different sum than that requested by you in your stage two application. Further details are provided at section five of this guidance.

**If you are unsuccessful**
We will write to you giving reasons why your application was unsuccessful and telling you who to contact if you would like more detailed feedback. If you would like to reapply, you may wish to resubmit a stage one application in a future round.
Section three: our capital requirements

All organisations applying for stage two funding should consider our requirements below and ensure that they have taken them into consideration in the planning, timetable and budget for their project.

Standard terms and conditions for capital grants
If you are awarded a grant you will have to accept our standard terms and conditions for capital grants (Annex A) which form part of the Funding Agreement. Please read them to ensure you will be able to accept them. Your Funding Agreement will also include any conditions specific to your project.

Partnership funding
We want to make our funding go further, and we expect you to make the most of other sources of income available to you. Although we have not set a minimum partnership funding requirement, the Arts Council would normally expect to fund no more than 70 per cent of the total cost and in most cases substantially less. Other sources can include:

- funding from public organisations such as local authorities
- cash donations from individuals or companies
- grants from other lottery distributors
- donations of land, buildings, equipment or materials subject to suitable valuations
- grants from trusts and foundations
- public appeals and fundraising events
- a contribution from your organisation
- in-kind support

We may count any money you spend on an earlier phase of the project as partnership funding, as long as you have spent it within the 18 months before you make a stage two application.

We expect you to have secured at least 90 per cent of the required partnership funding prior to you agreeing a contract to start the construction work. You must also provide us with details on how you will raise the remaining identified gap between the amounts confirmed or pledged and the amount required to complete the project. You should therefore consider your project timetable carefully and whether you will have secured the required funding to start your project.

If we offer you a stage two grant, we will set deadlines for raising funds in your funding agreement. If you are unable to raise the funds to meet the project timetable you outlined in your application, we may not agree to the delay and may decide to withdraw our offer of a grant.

Sustainability
As energy consumption is most often the highest contributor to the carbon footprint of cultural buildings, organisations applying for capital investment should consider energy efficiency as a priority. There are a number of environmental assessment guides and tools available. Julie’s Bicycle website (www.juliesbicycle.com) provides guidance on how to embed sustainability into your project from the early planning stage through to development and implementation.
We expect you to consider:

- sustainability as a core consideration in the design of your building
- renewable energy generation
- whole-life costs in the selection of materials, plant and equipment
- sourcing environmentally sustainable materials and goods
- sustainable construction practices
- sustainable waste management for construction
- improved sustainability in the operation of your building – this may include improving awareness in your organisation and building users to reduce energy demand, waste and water consumption and maximise recycling
- developing an environmental action policy and an annual action plan to improve environmental performance and reduce carbon emissions

We expect organisations to measure their reduction in energy use and carbon footprint as part of the evaluation of their project. It is therefore essential that you have a clear understanding of your current carbon footprint and energy usage and how your project is likely to impact on these.

If you are planning a project involving construction works, there are a number of recognised building environmental assessment methods and ratings which can serve as a useful guide on the issues to consider. One such method is BREEAM - the Building Research Establishment Environmental Assessment Method - which originated in the UK. Organisations which choose to follow the BREEAM methodology should aim as a minimum for a ‘very good’ rating (or equivalent).

We recognise that more sustainable solutions may involve higher upfront costs. We are prepared to fund these extra costs if your stage two application demonstrates that a higher capital investment at the outset will reduce maintenance and running costs, and that these savings will outweigh the initially higher capital costs.

**Quality of design and construction**

We want to ensure that projects meet high standards of design and construction, taking due notice of priorities such as fitness for purpose, environmental standards, energy efficiency, accessibility, cost effectiveness and value for money. The way the project is planned and designed, the site and building, including the proposed method of procurement for construction works, must be appropriate to the specialist needs of arts buildings.

All projects must ensure maximum independent access for disabled people (visitors, participants, artists and members of staff); you should ensure that an appropriate independent access audit is undertaken and demonstrate that its findings are reflected in the project. *Building inclusion: Physical access guidance for the arts* is a tool that will enable you to plan for equal access by considering what is needed to create an inclusive environment.

We have published *Building excellence in the arts: a guide for clients* to support organisations undertaking capital development work to arts buildings. It follows a logical pattern through the construction process, from inception to completion, and covers several key themes such as brief writing, sustainability and accessibility.
**Procurement**

You must comply with all applicable current UK public regulation procurement laws when buying any goods or services that will be used directly or indirectly in relation to the capital project. In relation to contracts for good or services, you must:

- demonstrate that procedures to recruit consultants and contractors are fair and open and keep to the relevant legislation
- have quotations and tenders for contracts for goods or services available for inspection by us
- have contract appointment procedures available for inspection by us if requested before the terms and conditions of each appointment are agreed

In addition to our requirements set out above, your project may be covered by European Union (EU) procurement rules. You will need to follow the Public Procurement Regulations if your goods, works or services are above certain financial thresholds and if:

- you are subject to the Public Procurement Regulations in your own right
- the amount of money given solely by Arts Council England, or in conjunction with other public funding or other lottery distributor, exceeds 50 per cent of your project costs

This means that all services for both fees and construction will need to be tendered through the Official Journal of the European Union (OJEU).

Please note that financial thresholds apply to all individual consultants appointments (or to the aggregate fee as a single appointment) and to construction works.

**Ownership of land and buildings**

If we offer you a stage two grant, you will need to demonstrate to us that you have the necessary security of tenure, being either the freehold ownership or leasehold ownership of the land and buildings and that the land and buildings can be used for the project purposes. The number of years that need to be remaining on your lease will be calculated from the date of practical completion of any proposed building works and depends on the amount of grant awarded:

- grants used for refurbishment works of up to and including £500,000: freehold (registered or unregistered) or a registered and assignable lease of at least 5 years, without a break clause
- grants used for an asset purchase of up to and including £500,000: freehold (registered or unregistered) or a registered and assignable lease of at least 10 years, without a break clause
- grants of more than £500,000 and less than £1 million for refurbishment works and/ or asset purchase: freehold (registered or unregistered) or a registered and assignable lease of at least 10 years without a break clause
- grants of £1 million or more but less than £5 million for refurbishment works and/ or asset purchase: freehold (registered or unregistered) or a registered and assignable lease of at least 20 years without a break clause
- grants of £5 million and above for refurbishment works and/ or asset purchase: registered freehold or a registered and assignable lease of at least 30 years without a break clause
If you have leasehold ownership of the land and buildings where the project is to take place, you must ensure that the lease contains no prohibition on charging or you must obtain the consent of your landlord to charge your leasehold interest in the Arts Council’s favour.

**Security requirements**
When we make a capital grant for more than £500,000, we must ensure that the buildings and equipment will be used for the grant purposes. This means we require you to make legal commitments to us to secure the grant purpose. The form these take depends on the amount of grant and the type of organisation receiving the grant and will be set out in our Funding Agreement. These legal commitments will need to be in place prior to the release of any grant funding, which may affect your project cashflow.

**Building projects**
If your Grant is to be used for any building works, you must ensure that you put in place all necessary contracts with contractors and professional advisors on standard terms and conditions that an employer with appropriate experience would enter into for projects of the same value, size and complexity. You should also ensure that you use building professionals that have all necessary professional indemnity insurance cover.

**Performance Bonds**
You must ensure that the tender documents for building contractors and nominated or named subcontractors include the requirement for the completion of a performance bond. The performance bond must be entered into by all relevant parties prior to works commencing on site. The Performance Bond must be backed by a reputable Guarantor and be of an amount equivalent to 10% of the contract sum. The bond will need to:

- be executed as a Deed;
- be a tripartite agreement between Employer, Guarantor and Contractor;
- expire no earlier than 90 days after the issue of certificates or certificate of practical completion for the whole of the works; and,
- be able to be assigned by the employer without the consent of the guarantor.

**Other documents and requirements**
Depending on the type of project and capital asset that you hold, we may ask to see other legal documents and requirements before we are able to release any capital payments. These additional documents and requirements will be requested from your solicitor.
Section four: preparing your stage two application

This section gives support on completing your stage two application and the information we ask you to provide. The application form asks you to update or add information from your stage one application to take account of your project’s development.

What your application should include – checklist
Your stage two application should include the following information:

- completed online application form
- any additional information we have requested (to be submitted in electronic format)

The application form asks you to provide information about:

- the building ownership and confirmation of security of tenure
- any further steps you have put in place to strengthen your capacity, skills and experience as an organisation to take on the project proposed since your stage one application
- the management structure for the project
- any further financial assessment you have undertaken since your stage one application
- the effect of the project on your organisation and its activities during the purchase, planning, design and construction period
- details of your maintenance plans following completion of the project
- your current energy performance and how you will reduce energy consumption when your project is completed
- the steps you will take to minimise the environmental impact of your project
- how you have evaluated your options for using sustainable technologies
- how much funding from other sources you have already raised and the timescale and resources for raising the remaining funds
- the options you have explored if you are unable to raise all the funding
- any changes to the size of your building when the project is complete
- the estimated building costs
- how you will ensure that you address quality in your project
- what consultation you have undertaken with your staff, artists and users
- your proposed method of procurement for the construction works or the purchase of goods
- the details of the professional team appointed and how they were procured
- the details of your project income and expenditure, including the professional advice you have received on irrecoverable VAT
- how you will monitor and evaluate the project outcomes outlined in your application

Completing the application
The following gives support on completing the different sections of your application and the information we ask you to provide.
1. Project details

Project information
The following information you provided at stage one will be prepopulated in your stage two application:

- project description
- project outcomes
- the need for the project

You should tell us of any changes since your stage one application. Significant changes to these details from your stage one application may make your application ineligible.

Amount requested
Tell us the amount that you are requesting for stage two. This amount should be the amount we have set aside on a conditional basis at stage one. If we have awarded you a development grant, this amount should exclude this sum.

Total project cost
Tell us the total costs of your project. Significant changes to the total costs of your project outlined in your stage one application may make your application ineligible.

2. Meeting our goals

The information you provided at stage one will be prepopulated in your stage two application. You should tell us of any changes since your stage one application, if applicable.

3. Property and timetable

Project dates
Tell us the start and end dates for your project. The start date should be the date that you will agree to start the construction works or the date on which the purchase of goods will commence.

Property address
The information you provided at stage one will be prepopulated in your stage two application. You should tell us of any changes since your stage one application, if applicable.

4. Land information

Confirm the interest that you hold in the land or building. You should tell us if you own the property on a freehold or leasehold basis. If you own a leasehold interest, then you should tell us the number of years remaining on the lease, if the lease contains any break clauses, whether it is assignable, contains any restrictions against charging and whether there are any onerous or unusual terms which will have an impact on the project. If you do not own the land or building, tell us who does and the basis for your right to use the property or land for your project.
It is also important that you inform us of any changes on these matters since your stage one application.

You should consider our requirements on ownership of land and buildings set out in section three of this guidance, together with our other security and legal requirements set out in the standard terms and conditions, available to download from our website at www.artscouncil.org.uk/capital.

5. Project management

Your application should demonstrate that you have the ability to manage and deliver the scale and complexity of the project proposed, including your plans for managing risk. You should set out your plans for project management which show how you will ensure your project will meet the planned timetable and budget.

You should tell us what plans you have in place to measure and track your progress towards achieving your project outcomes and our aims and objectives for capital investment. This includes how you will measure your reduction in energy use and carbon footprint.

This section of the application form asks you to provide the following details:

Capacity, skills and experience of your organisation
The information you provided at stage one will be prepopulated in your stage two application. You should tell us of any changes since your stage one application, if applicable.

Use the application form to describe any further steps you have put in place since your stage one application to strengthen your capacity, skills and experience as an organisation to take on the proposed project.

You should tell us about:

- any changes to those involved in delivering the project
- any further measures you have put in place to ensure you have the capacity to deliver the project successfully
- how these changes affect the current management and staff responsibilities and your ability to deliver the project

Project management and governance
The information you provided at stage one will be prepopulated in your stage two application. You should tell us of any changes since your stage one application, if applicable.

Describe how the project will be managed and any further controls you have put in place since your stage one application to make sure that the project will be delivered successfully. You should tell us about:
• any changes to key responsibilities such as project management, finance and fundraising
• any changes to how the progress of the project will be reported and reviewed, including the involvement of your board and senior management in decision-making
• any changes to how the risks will be assessed and what management procedures will be adopted to manage these risks
• any further steps you have put in place to monitor and report on your project. This includes who is responsible for approving changes in the project such as the specifications, budgets, timetables or the use of contingency funds.

**Management structure**
You need to provide details of the management structure for the project. This should include:

• the role and responsibilities of the project team from your organisation and the appointed consultants for project management. We will also ask you to show this as a diagram or organisational chart attached to your application
• how communication will be managed between the organisation and appointed professional team, if relevant

**Project evaluation**
You need to describe how you will monitor and evaluate the project outcomes outlined in your application. This should include:

• how you will measure and track your progress towards achieving your project outcomes
• how you will use this information to improve how you run your building and the services and activities you offer
• when your evaluation information and evidence will be available to Arts Council England

6. **Resilience**

Your application should demonstrate your project is financially viable and will improve your financial resilience, without the need for unplanned revenue from us when completed.

You should tell us of the project’s impact on the agreed programme of work as part of any other revenue funding agreements we have with you, both during your project’s development and on completion.

This section of the application form asks you to provide the following details:
**Financial resilience**
The information you provided at stage one will be prepopulated in your stage two application. You should tell us of any changes since your stage one application, if applicable.

You should use the application form to provide details of the financial assessment you have undertaken that demonstrates that you have considered the project’s financial impact on your organisation and its activities.

You should tell us of any changes since your stage one application. This includes:

- any further work you have done to assess the financial impact of your project and what this impact will be, both during the project and on its completion
- any changes to how this work demonstrates that your financial resilience will be improved
- any further work you have done to assess the financial risks and how you plan to deal with these risks

**Effect of the project during planning, design and construction**
Provide details of the effect of the project on your organisation during the completion of the project. For building projects, this should cover the planning, design and construction period. This should include:

- the effects on your operations of any period of building closure during the construction works
- the effect on your artistic programme, including the effect on your agreed programme of work, including any revenue agreement you have with us
- how you will keep other funders, stakeholders or building users involved in your plans
- what management procedures you will put in place to mitigate any negative effects

**Maintenance plans**
Provide details of your maintenance plans following completion of the project. This should include:

- how the selection of plant and materials has been made with whole life considerations in mind
- how your current maintenance plans will be affected
- the likely timescales for replacing or upgrading new items and how this has been considered in your overall financial planning, including any funds that you have or plan to set aside for renewing, replacing and insuring items and equipment
- how you will meet any increased maintenance, operating and renewal costs resulting from the project
7. Sustainability

We expect all projects to consider, as far as possible, furthering the objectives of sustainable development. Your application should demonstrate you have considered what positive impact your project will have on the environment and in what ways you will reduce any negative impact.

You should tell us how you will increase awareness in your organisation and building users to reduce energy demand, waste and water consumption and maximise recycling when the project is completed.

This section of the application form asks you to provide the following details:

**Display energy certificates**
If you have a display energy certificate, complete the table to provide details of your actual energy performance and power consumption and that predicted on completion of your project.

If you do not have a display energy certificate, indicate how you will measure your energy consumption prior to undertaking your project and on completion. Include details on how you will ensure there is a reduction in carbon emissions.

**Sustainable technologies**
Complete the table to tell us which sustainable technologies you have considered and those you propose to use. We do not expect you to have considered all of these technologies.

**Evaluation of using sustainable technologies**
Use the application form to explain how you have evaluated your options for using sustainable technologies. This should include:

- any financial appraisals you have carried out to evaluate any payback period on using sustainable technologies
- how the use of the chosen technologies will support you to meet the target reductions in energy consumption and carbon emissions provided in previous questions
- why you considered but proposed not to use sustainable technologies. This may be, for example:
  - capital cost
  - maintenance costs
  - availability
  - unsuitable for building or location

**Environmental impact**
Explain what steps you have taken to minimise the environmental impact of your project. This should include:

- how sustainable development has been accounted for in the design, materials selection and building services specification
• how you and your appointed consultants and contractors, if relevant, will minimise the impact of construction on the environment
• how you will address environmental sustainability in the occupation, operations and management of your building on completion. This may be, for example:
  ▪ the approach to managing the building, eg partial occupation or zoned heating
  ▪ shared facilities
  ▪ equipment use
  ▪ approaches to recycling, water, paper or travel
  ▪ procurement of goods and services

8. Partnership funding

Your application should demonstrate your ability to raise funding from other sources to meet the project’s timetable and cash flow requirements. This includes ensuring that at least 90 per cent of the required partnership funding will be in place prior to construction works or the purchase of goods commencing.

This section of the application form asks you to provide the following details:

Other sources of funding
Tell us how much funding from other sources you have already raised and the timescale and resources for raising the remaining funds. This may include:

• the timescale by which you expect to hear the outcome of funding applications already submitted
• the timescale by which you expect to apply to other funders and when they will make a decision
• how you have assessed the likelihood of success of each application
• who is responsible for fundraising
• how you will ensure that funds are available to meet your cash flow requirements

Contingency plans
Give details of the options you will explore if funding is less than expected and you are unable to deliver every part of your project as originally planned. This should include:

• a list of all contingent items showing their priority
• the impact on the project if you cannot include them
• when you will know whether they can be included

9. Capital costs

Your application should demonstrate that the capital costs are based on professional advice and include appropriate allowances for such things as, but not limited to, specialist equipment, furniture, fittings and equipment, contingency, inflation and VAT. You should consider whole-life costs in the selection of materials, plant and equipment.
You should ensure that the expenditure you are asking us to support is specific to
deliver your project. Details of the type of spending we can pay for as part of your
capital project are set out in section three of this guidance.

This section of the application form asks you to provide the following details:

**Size of building**
Provide details of the size of your building (gross internal floor area) and number of
seats if you have an auditorium. If there will be a change in the size of your building and
the number of seats on completion of the project, please provide details.

**Cost per square metre**
Give the estimated building cost per square metre at current prices. This is the gross
internal floor area divided by the cost of construction or refurbishment. The cost of
construction or refurbishment includes:

- preliminaries
- contingencies
- finishes

It excludes:

- fittings, furniture and loose equipment
- specialist equipment
- external works
- professional fees
- inflation
- VAT
- any costs associated with the property purchase

Your quantity surveyor’s cost plan should give this figure. We can compare the figure to
similar projects to give an indication of value for money, but it will vary with the nature,
specification and scale of the project.

**VAT advice**
Provide details of the professional VAT advice you have received for the project.
Organisations that are VAT registered will not necessarily be able to claim back all of
the VAT against the capital project.

10. **Quality of proposal**

Your application should demonstrate that your project will meet high standards,
taking due notice of priorities such as fitness for purpose, environmental standards,
energy efficiency, accessibility and cost effectiveness.

We expect all projects to consider, as far as possible, furthering the objectives of
sustainable development. You should demonstrate that you have considered what
positive impact your project will have on the environment and in what ways you
will reduce any negative impact.
This section of the application form asks you to provide the following details:

**Quality**
Our aim is to ensure that your project meets high standards. Describe how you will ensure quality is addressed in your project. This might include:

- environmental standards for your project
- how you will address access as part of your project
- cost effectiveness and value for money
- if you are applying for a building project, details of your aims for design and construction and what you want from the building

Our requirements on quality of design and construction, including access, are set out in [section four](#) of this guidance.

**Consultation with staff, artists and users**
Use the application form to provide details of the consultation you have undertaken with your staff, artists and users during project development. You should demonstrate how this has been taken into consideration for your project.

**Project team**
The information you provided at stage one will be prepopulated in your stage two application. You should tell us of any changes since your stage one application, if applicable.

Provide the details of the professional team appointed so we know who you are working with to develop your project.

You should tell us about any changes since your stage one application, including:

- any changes to the individuals or companies (if applicable) you provided in your stage one application. If there are changes, provide details of the processes you undertook to appoint them
- any further appointments that are planned, the process by which you plan to appoint them and the timescale

You should also ensure you have read our procurement requirements in [section three](#) of this guidance.

**Procurement strategy**
Describe the planned procurement strategy for your project. This might include:

- approach for purchasing goods such as specialist equipment
- proposed method of procurement for professional consultants and construction works
- outline of professional advice sought and an explanation of how the proposed approach complies with all relevant UK and EU public regulation procurement laws

The main procurement routes that are relevant to arts projects are explained in our publication, *Building excellence in the arts: A guide for clients*. 
11. Income and expenditure

The project income and expenditure should provide us with details of the expected costs for your project. When you prepare your costs, you should ensure you have considered what you can and cannot apply for in section two of this guidance.

**Project income**
This should show where the funding to meet your project is coming from. This should include the amount you are requesting from us.

You should tell us where you expect to get any other funding from, how much that will be, whether it is secured or not and, if not, the date by which you expect to secure it and whether it is a non-cash contribution. If you are including non-cash contributions (in-kind support), provide details of the goods or services and who is giving the contribution.
Give an estimated value for each item.

**Project expenditure**
You should provide details of the expenditure for your entire project, including the amount you have spent to date and your planned expenditure.

You should set out your expenditure against the following budget headings:

- **pre-construction** – this may include costs relating to the feasibility study and options appraisal you have carried out and land and property purchase
- **construction** – this may include the estimated construction contingency costs, construction contingency and inflation
- **furniture, fittings and equipment** – this may include loose furniture and equipment of a general nature, eg office equipment
- **specialist equipment** – this may include theatre lighting, sound equipment, musical instruments or vehicles
- **fees and charges** – this may include legal fees, design team’s fees and design contingency
- **client costs** – this may include planning fees and statutory charges, access audit, project evaluation, staff and advisers appointed to help develop the project, fundraising costs and evaluation costs
- **contingency** – that is not shown separately above
- **irrecoverable VAT** – any VAT that you cannot claim back

You should make sure that the costs are as accurate as possible. If you have to spend more to complete your project, we will not contribute to these extra costs.

**Further information**
Unless we have agreed with you in writing beforehand, we require the documents listed below for all stage two applications. If you do not submit all the documents with your application, we may consider your application ineligible. All applicants can send this supporting information in a digital file.
We reserve the right to ask any applicant to provide additional information over and above what you submit to us in your application, either before your stage two application is submitted or as part of the assessment process.

1. Business plan

If you have already have a business plan, we do not expect you to develop a new one specifically for your application but you will need to make sure that it is up-to-date and covers the period of the project, including setting out the financial implications of the project on completion. It should demonstrate your sustainability before the capital project starts and after it finishes – including new costs and revenues.

2. Cash flow forecast

A cash flow template is provided. Your cash flow should demonstrate both project income and outgoings and the expected grant payments from us. You should take the following information into consideration when preparing your cash flow forecast:

- we are unable to pay for costs paid for before the date you accept our Funding Agreement
- we will normally pay the grant in instalments as you spend money on your project
- we expect you to have secured at least 90 per cent of the required partnership funding prior to you agreeing a contract to start the construction work. Further details are set out in section three: our capital requirements
- for building projects, payments are normally based on a percentage ratio of our grant to partnership funding. This will be your grant award divided by your total costs which we will set out in the Funding Agreement. This means that you will need to use partnership funding to meet the element of each payment instalment that we do not pay
- the Funding Agreement will set out conditions to be met before drawdown can commence. Please be aware that we will require security to be in place before funds are released and the time to arrange this should be considered as part of your forecast as outlined in section three: our capital requirements
- we would not normally expect to receive more than one payment request in any one month
- you should assume that grant instalments are paid in the month following your payment request
- we will normally maintain 5 per cent retention of the grant until we are satisfied the project has been finished

3. Fundraising strategy

Your fundraising strategy should include, but not be limited to:

- the research you have undertaken into available sources of project funding
- the amount of money that needs to be raised
- who you will approach to provide the funding
- the methods to be used to raise the funds, eg a fundraising event or campaign
- the timescale for raising the funds
4. Partnership funding

You should provide evidence of the funding you have secured and spent to date as outlined in your project income and expenditure. This may include:

- letters of support from potential funders, if available
- offer letters confirming amounts already secured from other funders, including any conditions attached to this funding
- evidence of any contribution of your own funds, if applicable
- if your partnership funding has already been spent, you should provide evidence that demonstrates that it has been spent within 18 months of your stage two application being submitted

5. Timetable

Provide a detailed timetable for delivery of your project. It should set out and include major milestones and reflect all parts of your project. The level of detail will vary depending on the size and scope of your project but in all cases it should:

- reflect all parts of your project
- show when each part is expected to start and finish

If you are applying for a building project, your timetable should provide details of the design, procurement, construction and commissioning activities. The project programme is a document which you can use to manage project risk and, as such should be as thorough as possible. It should include not just construction activities but key events, for example:

- obtaining necessary legal consents
- obtaining statutory consents (planning/listed building etc)
- key milestone dates such as client final design and sign off of costs

6. Risk register

The risk register should cover all the risks you have identified with your project.

It should include:

- the risk and the likelihood of the risk occurring
- the impact on your project if it does happen
- how much each risk may cost – this will help you to check whether you have enough contingency set aside to avoid cash flow problems if something does go wrong
- how you can prevent the risk or deal with it (mitigate it) if it does happen
- the person responsible for dealing with the risk
7. Management structure

Provide a project management structure as a diagram or organisational chart to show who reports to whom, and clearly indicate any posts that will be created during the project or on completion.

8. Evaluation Framework

Provide details of the evaluation framework and indicators you will put in place to assess the extent to which your outcomes (the changes) are being achieved. You should provide details of:

- the measures of success
- how you will collect data and information to evidence success
- when you will collect the information (eg before the start of the project to establish a baseline against which to measure change, during the project and after completion)

A basic template is provided to help you put in place an appropriate framework but you can upload your own template and evaluation plans.

Additional documents for building projects

If you are applying for a building project, we expect you to provide the following documents in addition to those requested above:

9. Access audit

The access audit should provide details of the specific measures that you propose to incorporate into your design, for example ramp access, induction loops, accessible toilets, clear signage and lifts. Your project must demonstrate how you will provide access for all with particular regard to the relevant legislation.

10. Cost plan

This should be prepared by a professional quantity surveyor and should provide details of the construction, furniture fittings and equipment costs. It should reflect the design stage that your project has reached.

11. CVs for each of the professionals appointed

The CVs should demonstrate their relevant experience for the scale, type and complexity of the project.

12. Design information

The design drawings and specification should be developed to at least RIBA Work Stage D (RIBA Plan of work 2007) or RIBA Work Stage 3 (RIBA Plan of work 2013). They should therefore provide the development of concept design to include structural and building services systems updated outline specifications for submission of a detailed planning permission to be made.
Drawings should be provided with the scale of the drawing clearly shown and all information clearly indexed. The report should be signed off by the client team. As a minimum, the report should include:

- a co-ordinated report with input from all the design team members, including a narrative capturing the design approach, assumptions and current scheme, scaled drawings, 3-D visualisations of the project and existing site information
- an updated design brief and details of any consultation exercises you have undertaken. You should ensure that any report narrative clearly articulates how the project has met the client brief
- the most recent planning application and Building Control information as well as any other statutory consultations undertaken
- details of any conservation or specialist advice you have taken during the design development
- explanation of how the project relates to its surrounding context
- explanation that highlights any constraints that will restrict access during construction or post occupation
- a narrative on the proposed construction methodology and your proposed programme. This should include information about specialist equipment, separate fit out contracts or other elements that you intend to commission
- a statement on the approach to access, including input from an access specialist. This should explain how the proposed project and the site will allow access to, and use by, people with disabilities in accordance with relevant legislation
- a detailed statement on the approach to sustainability within the project including energy efficient measures, specification of materials, site management
- proposals, whole life approach for the completed development and details of any standards (eg BREEAM or British Standards) you will be using in the project
- a schedule of areas, including uses. This should be the gross internal floor space defined by use and by floor

Additional documents for organisations who currently receive revenue funding from us
If you are an Arts Council National portfolio organisation or a major partner museum, and currently receive revenue funding from us, you may send additional information if you wish, especially if there have been major changes in your finances or in the way the organisation is run. If the information we have about you is up-to-date, then you are not required to do so and we will take into account the knowledge and understanding we have of your organisation and information such as your annual reviews and funding agreements.

Additional documents for organisations who do not currently receive revenue funding from us
If you do not currently receive revenue funding from us, you may also provide concise further updated information since your stage one application, such as your most recent financial statements or artistic work.
Section five: managing your stage two grant

This section provides details of what we expect from you if we offer you a grant.

Accepting the agreement
If you are awarded a grant you will have to accept our standard terms and conditions for capital grants (Annex A) which form part of the Funding Agreement. Please read them to ensure you will be able to accept them. Your Funding Agreement will also include any conditions specific to your project.

If you don’t meet the deadline for returning your Funding Agreement, we may withdraw our offer of a grant. Make sure you get in touch with us if you think it might be difficult to meet the deadline.

The Funding Agreement starts on the date you sign it and return it to us and ends when you have met all our terms and conditions. Some of these terms and conditions must be met before we make your first payment – including your legal commitments to us to secure the grant purpose - and some of them still apply after your last payment has been made.

Your Funding Agreement will also include a form which asks for the details of the bank or building society account into which you want us to pay your grant.

Monitoring and evaluation
The Funding Agreement will set out how we will monitor your grant, including any documentation that we will require from you to ensure it meets the agreed outcomes and the requirements set out in the funding agreement. We will set a monitoring and payment plan that is appropriate to the scale and risks of your capital project. We may review your project at key stages of its development.

We may decide to use independent advisors to help with our monitoring of your project. We will let you know as soon as possible if we are going to do this. Our advisors will request progress meetings with you, your project manager and the main members of your project team and will make site inspections. Our appointed advisors cannot agree changes to the approved purposes of your grant.

We will ask you to provide us with progress reports even if you do not request any of your grant during that time. We expect you to progress your project in line with the timescales, specification and budget set out in your stage two application.

We may continue to monitor your project after it is finished to make sure that it still meets the terms of the grant and its outcomes for the duration of the terms of grant as set out in the grant agreement.

We will be evaluating how effective our capital investment has been in meeting our aims and outcomes. We also expect organisations to undertake project evaluation. We may require you to cooperate with us or any appointed independent evaluators.
**Requesting payments**
The stage two grant does not include anything that you have paid for before the date you accept our Funding Agreement.

The Funding Agreement will set out how the grant will be paid. Depending on the type of project, we will normally pay the grant in instalments as you spend money on your project. For building projects, payments are normally based on a percentage ratio of our grant to partnership funding. This will be your grant award divided by your total costs which we will set out in the Funding Agreement.

For example, if the grant percentage is 55 per cent of the eligible costs, we will pay up to 55 per cent of the value of the expenditure for those costs which you provide at any one time. We may at our discretion amend the grant percentage.

We will not normally pay more than 95 per cent of your grant until we are satisfied that:

- the project is finished
- you have met the terms of your grant agreement with us
- we have received an acceptable final payment request and completion report
- appropriate funding acknowledgement is in place
Section six: freedom of information

The Arts Council is committed to being as open as possible. We believe that the public has a right to know how we spend public funds and how we make our funding decisions.

We are also listed as a public authority under the Freedom of Information Act 2000. By law, we may have to provide your application documents and information about our assessment to any member of the public who asks for them under the Freedom of Information Act 2000.

We may not release those parts of the documents which are covered by one or more of the exemptions under the Act. Please see the Information Commissioner’s Office website for information about freedom of information generally and the exemptions.

We will not release any information about applications during the assessment period, as this may interfere with the decision-making process. However, we will after completion of the process publish names of successful applicants.

Section seven: complaints procedure

If you are not happy with the way we dealt with your application, please contact us and we will discuss this with you.

If you are still unhappy, you can ask us for a copy of our complaints procedure. Details are in Making a complaint, which is available on our website, www.artscouncil.org.uk or by contacting our enquiries team by email to enquiries@artscouncil.org.uk or by phoning 0845 300 6200. Please note that you can only complain if you believe we have not followed our published procedures when assessing your application. You cannot appeal against the decision.
### Section eight: glossary of terms

<table>
<thead>
<tr>
<th>Term</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access audit</td>
<td>A part of the process of designing a building or site, which considers how disabled people will be able to access the building or site.</td>
</tr>
<tr>
<td>Architect</td>
<td>An architect is a professional who must be registered with and abide by the code of professional conduct of the Architects Registration Board (ARB). The architect is often the lead member of the design team and coordinates the elements of the design process. The architect’s services should be fully recorded and agreed in a Standard Form of Agreement for the appointment of an architect. The standard form gives guidance about the kinds of services an architect provides and those that will not be covered. (See also Design Team.)</td>
</tr>
<tr>
<td>Assignable Lease</td>
<td>A term used for leasehold land and buildings to show whether the land and buildings can be sold or given to another owner.</td>
</tr>
<tr>
<td>BREEAM</td>
<td>Building Research Establishment’s (BRE) Environmental Assessment Method (BREEAM) is a method to assess the environmental performance of both new and existing buildings. BREEAM assesses the performance of buildings in the following areas: management, energy use, health and well-being, pollution, transport, land use, ecology, materials and water.</td>
</tr>
<tr>
<td>Break clause</td>
<td>A provision in a lease that allows the landlord or the tenant or both to bring the lease to an end before the full period of years has elapsed.</td>
</tr>
<tr>
<td>Brief</td>
<td>The brief is the client’s document of requirements for the project and it is their responsibility to develop it clearly. The brief for the works should be developed through collaboration between the client, the members of the design and construction team and, if possible, users and other interested bodies and persons. The importance of a well-researched and appropriately developed brief should not be underestimated.</td>
</tr>
<tr>
<td>Building Control</td>
<td>Building Control services can be provided by the local authority or by an approved independent inspector. A Building Control inspector inspects building works in the course of construction and only authorises continued construction if satisfied that the works are in accordance with Building Regulations.</td>
</tr>
<tr>
<td>Building Regulations</td>
<td>The Building Regulations, a set of minimum standards, exist to ensure the health and safety of people in and around all types of building projects. Anyone undertaking building work that is subject to the Building Regulations is required by law to make sure it complies.</td>
</tr>
<tr>
<td>Capital Asset(s)</td>
<td>Assets that have a large monetary value such as land, buildings,</td>
</tr>
</tbody>
</table>
equipment, and vehicles.

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Certificate of Title</td>
<td>A written document from a solicitor confirming that the grant recipient is the leasehold or freehold owner of the land and buildings to which the grant relates and that there is nothing about the land and buildings that might stop the grant being used for the grant purpose or make it otherwise than of good marketable title.</td>
</tr>
<tr>
<td>Contingency</td>
<td>This is an allowance in the project budget (usually expressed as a percentage) and cost plan for unforeseen circumstances for client, design and construction issues.</td>
</tr>
<tr>
<td>Contractor</td>
<td>Also referred to as the principle contractor. This is the person or company who is to build the project and with whom the client takes out the construction contract.</td>
</tr>
<tr>
<td>Cost Plan</td>
<td>A Cost plan prepared by a Quantity Surveyor based on drawing specifications.</td>
</tr>
<tr>
<td>Deed of covenant</td>
<td>The Deed of Covenant is a document the grant recipient (as landowner of the freehold or leasehold) must sign to confirm that the land or buildings will be used for the grant purpose and will not be disposed of or transferred without the consent of Arts Council England.</td>
</tr>
<tr>
<td>Design team</td>
<td>This is the group of professionals who are responsible for designing the building project. It will include client, architect, engineers (structural and mechanical &amp; electrical), planning supervisor and quantity surveyor at its core. The team may also include other specialists, depending upon the nature of the project, such as, but not exclusively, landscape architect, acoustic consultant, theatre consultant, catering consultant and artist. The design team meets regularly throughout the design and development of the project. The client will appoint individual members of the team and appointments should be made through a competitive process and with Standard Forms of Appointment.</td>
</tr>
</tbody>
</table>
| Display Energy Certificates | Display Energy Certificates (DECs) are required for public authorities and institutions providing public services to a large number of people that occupy buildings (or parts of buildings that have been designed or altered to be used separately) where the total useful floor area of the building (or part that has been designed or altered to be used separately) exceeds 1000m² and which is frequently visited by the public. An affected organisation must display a DEC in a prominent place clearly visible to the public and have in its possession or control a valid advisory report. The advisory report contains recommendations for improving the energy performance of the building. DEC$s provide an energy rating of the building from A to G, where A
is very efficient and G is the least efficient and are based on the actual amount of metered energy used by the building over a period of 12 months.

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development grant</td>
<td>A grant provided to allow the applicant to commission work or progress designs to make a stage two application.</td>
</tr>
<tr>
<td>Fit-out</td>
<td>The non-structural building works including partitions, finishes, fixtures, electrical and mechanical services. It is usually used when taking on a developed shell and core.</td>
</tr>
<tr>
<td>Fixed and/or floating charge</td>
<td>A charge can be fixed so that it specifically identifies an asset to which it is attached or it can be floating so that it does not attach to a particular asset but attaches to the grant recipient’s assets generally.</td>
</tr>
<tr>
<td>Freehold</td>
<td>The absolute right to own property (land and buildings) in perpetuity.</td>
</tr>
<tr>
<td>Funding Agreement</td>
<td>The funding agreement is an agreement between the Arts Council and the organisation which sets out the terms and conditions upon which the grant is being offered.</td>
</tr>
<tr>
<td>Heads of terms</td>
<td>Heads of terms are used to record what has been agreed in principle between parties prior to reaching the stage of entering into formal, contractual documentation.</td>
</tr>
<tr>
<td>Inflation</td>
<td>An inflation allowance is usually included up to the mid-point of construction.</td>
</tr>
<tr>
<td>Land registry</td>
<td>The government department responsible for registering and holding records of title to land and dealings in land in England and Wales. When land is sold or bought there is a legal requirement to register the sale along with any relevant charges.</td>
</tr>
<tr>
<td>Land search</td>
<td>A search done at the Land Registry which shows who owns the land being searched and whether any charges are registered against the land.</td>
</tr>
<tr>
<td>Land title</td>
<td>The legal right to the possession of land. An interest in land can be freehold or leasehold.</td>
</tr>
<tr>
<td>Lease</td>
<td>A legal agreement through which property is conveyed to a person or organisation for a defined period and in return for the payment of rent.</td>
</tr>
<tr>
<td>Leasehold</td>
<td>A person’s right to use and occupy land and/or building arises under a lease as opposed to freehold ownership.</td>
</tr>
<tr>
<td>Legal Charge</td>
<td>A form of security that links the capital asset to the Arts Council so that if a grant recipient defaults in its obligations under the terms</td>
</tr>
</tbody>
</table>
and conditions of the grant, the Arts Council has the legal right to pursue recovery of the grant from the capital asset. The Arts Council can ultimately require that the capital asset is sold and the Arts Council repaid the grant from the sale proceeds. (see also fixed and or floating charge)

<table>
<thead>
<tr>
<th>Legal opinion</th>
<th>A written document from a solicitor which confirms that they believe the grant recipient has the legal power to sign the terms and conditions of the grant and any legal charge or other document that we may ask the grant recipient to sign.</th>
</tr>
</thead>
<tbody>
<tr>
<td>OJEU</td>
<td>The Official Journal of the European Union (OJEU) is a daily journal used to advertise the service requirements of publicly procured contracts. The OJEU is the method of procuring services or goods through a competitive process. The organisation is obliged to adhere to the regulations where funding, either by Arts Council England solely or in conjunction with other public funders, exceeds 50% of the estimated cost of the contract</td>
</tr>
<tr>
<td>Plan</td>
<td>The drawings of the layout of the rooms and spaces in the building. The scale and detail of the plans increases through the design work stages. Plans should always be read with the sections and elevations.</td>
</tr>
</tbody>
</table>

| Planning application and planning permission | In order to comply with the requirements of the Town and Country Planning Act, projects must submit a Planning Application to the local authority. The planning application is made at the end of RIBA Stage D (RIBA Plan of work 2007) or RIBA Stage 3 (RIBA Plan of work 2013), Detailed proposals. Once full planning permission is granted, development may begin, subject to compliance with Planning Conditions and obtaining any Building Regulation or other approvals. |

| Procurement route | There are three main methods of procurement: traditional; design and build; and management. The client and design team must decide upon the procurement method before establishing which construction contract will be used. The method chosen will depend upon the nature of the work, how and where responsibility for design will be placed, how the work will be coordinated and on what price basis the contract is to be awarded. Each method places the responsibilities for delivering the project with different parties and places primacy on different aspects of the quality-cost-timing relationship. |
| **Quantity surveyor (QS)** | A quantity surveyor advises on the overall economic and accounting aspects of a project. They prepare RIBA stage cost plans, the bill of quantities for the tender documents and a pre-tender estimate against which the tender returns are assessed. During the construction stages, the quantity surveyor undertakes a valuation of the work undertaken to allow monthly payments to be made. Quantity surveyors are members of the Royal Institute of Chartered Surveyors (RICS), which produces a standard form of contract for the appointment of quantity surveyors. |
| **RIBA plan of work** | Royal Institute of British Architects (RIBA) work stages organise the process of managing and designing building projects and administering building contracts into a number of key work stages from A to L (RIBA Plan of Work 2007) or 0-7 (RIBA Plan of Work 2013). Most UK building projects refer to the RIBA plan of work for their design and construction stages. It is a recognised list of stages and description of the work and tasks involved in each stage. This client has responsibilities at each stage and must sign off or give agreement to proceed to the next stage. |
| **Risk analysis/register** | Risk management allows the client and team to highlight, and consider ways of mitigating, risks to the project. The design team should undertake a risk analysis at an early stage in the design process and review it at regular intervals. The level of risk is evaluated by the relationship between the impact of the event and the probability of its occurrence. |
| **Security of tenure** | A good, strong and well documented right to own or use a property for a period of time. |
| **Security** | A legal commitment from the grant recipient to the Arts Council which links specific grant recipient obligations in the grant terms and conditions to the capital asset. |
| **Specification** | A specification is a written document describing the materials or products to be used, standards of workmanship required, performance requirements and the conditions under which work is to be carried out. The architect is responsible for preparing the specification, with specialist help from other members of the design team. It is used at tender stage and helps the quantity surveyor to prepare the bill of quantities. |
| **Sustainable development** | Sustainable development is a dynamic process through which organisations can begin to achieve a balance between environmental, social and economic activities. Sustainable development must recognise the impacts of a project on these three areas. |
| **Tender** | Tendering is the process of inviting and appointing a contractor or consultant to undertake work. It must be a competitive process between firms or individuals who have the necessary skills, integrity and responsibility to deliver the work. All invited firms must be given the same information and deadline for submitting their tender. |
| **Title restriction** | An agreement where the land owner agrees to do or not to do something with their land and/or building. It is registered at the Land Registry. |
| **Whole-life cost** | The new facility will require maintenance, running and staffing costs that should be factored into a whole-life cost analysis. This means that decisions should be based not only on initial capital cost, but also on the costs of maintenance and day-to-day operations over the expected lifetime of an asset. |
Annex A: Standard terms and conditions
Large capital grants – capital investment 2015-18

1. Definitions

1.1 The “Arts Council”, “we”, “us” and “our” in this document means the Arts Council England and includes its employees and those acting for it.

1.2 The “Organisation”, “You”, “you” and “Your” in this document means the organisation receiving the grant bound by these terms and conditions.

1.3 The “Agreed Capital Project Plan” means the purposes for which you applied for a grant, how you intend to carry out those purposes and the requirements you will have to satisfy in doing so as set out in Schedule 2 and in accordance with this Funding Agreement, but taking account of any changes the Arts Council and you agree in writing.

1.4 The “Agreed Use” means how you will use the Project Assets that are purchased, renovated, created or improved using the Grant fund as set out in Schedule 2.

1.5 The “Application” means any documents or information that you send us to support your request for a grant, a list of which is set out in Schedule 1.

1.6 The “Capital Project” means the project for which the Grant has been awarded as detailed in Schedule 2.

1.7 The “Expected Completion Date” means the date by which you must complete the Capital Project.

1.8 The “Funding Agreement”, means the Agreement which the Organisation has accepted and signed and which includes and incorporates the grant offer letter, these standard capital terms and conditions and attached Schedules together with any other conditions the Arts Council has agreed with the Organisation in writing now or in the future. The date of acceptance by the Organisation of this Funding Agreement is deemed to be the date of the Funding Agreement.

1.9 The “Grant” means the grant funding awarded to the Organisation for the Capital Project, and any changes or other uses we approve in writing.

1.10 The “Grant Percentage” means the Grant divided by the Total Project Cost and multiplied by 100.

1.11 The “Monitoring and Payment Plan” means the details of how we will monitor and pay your Grant as set out in Schedule 3.

1.12 “Partnership Funding” means the funding from other sources in addition to our Grant to complete the Agreed Capital Project Plan.

1.13 The “Payment Expiry Date” means the date by which all payment claims must be made.
1.14 The “Project Assets” means any property (whether real, moveable or intellectual) that is purchased, renovated, created, improved or equipped using the Grant in the course of the Agreed Capital Project Plan.

1.15 The “Property Address” means the address where the Agreed Capital Project Plan will take place as set out in Schedule 2.

1.16 The “Start Date” means the date on which you start the construction works or the purchase of goods commence.

1.17 “Total Project Cost” means the total projected or actual cost of the Capital Project being the amount set out in Schedule 2.

2. **Capital Project**

2.1 The Organisation will deliver the Capital Project and use the Grant exclusively in accordance with the Agreed Capital Project Plan. The Organisation acknowledges that the Grant is paid on trust to the Organisation for the sole purpose of delivering the Agreed Capital Project Plan and the Organisation will hold any unused part of the Grant on trust for the Arts Council at all times and will repay any Grant (including any unused Grant) to the Arts Council immediately upon demand.

2.2 The Organisation accepts that these standard terms and conditions are not negotiable and the Organisation shall have no right to amend or vary the provisions of this Funding Agreement.

2.3 The Agreed Capital Project Plan and the Monitoring and Payment Plan will form part of the basis for the reporting, monitoring and assessment of your performance under this Funding Agreement.

2.4 The Organisation will get the Arts Council’s written agreement before making any changes to the information contained in the Application, the Agreed Capital Project Plan or to its name, aims, structure, delivery, outcomes, duration, design or ownership.

2.5 The Organisation agrees to make satisfactory progress with the Agreed Capital Project Plan and complete it on time or within a reasonable period if the Arts Council has not set a time limit.

2.6 The Organisation will not use the Grant to pay for any spending commitments made before the date that the Funding Agreement is accepted.

2.7 If the Agreed Capital Project contains a Start Date and you have not started the Capital Project by that date, then the Arts Council may withdraw from this Funding Agreement without any further liability on the part of the Arts Council under this Funding Agreement.

2.8 Where required, the Organisation must allow us (or anyone we authorise) to have access to:

2.8.1 inspect the Project Assets and any work to them;
2.8.2 monitor the progress of the Agreed Capital Project, including meetings with your officers or agents at any time up to the Expected Completion Date for the duration of the monitoring period; and/or,
2.8.3 monitor the Agreed Use.

2.9 In carrying out the Agreed Capital Project Plan, the Organisation must obtain all approvals, consent, planning consents, building regulation approvals, licences and any other necessary approvals and consents required by law to deliver the Agreed Capital Project.

2.10 The Organisation will use the Project Assets or allow them to be used, only for the approved purposes set out in the Agreed Capital Project Plan.

2.11 The Organisation will maintain the Project Assets in good repair and condition.

2.12 The Organisation must maintain adequate insurance at all times including any additional cover required as a consequence of construction works and ensure that the interests of the Arts Council are noted on such policy as appropriate.

3. Monitoring

3.1 The Arts Council will designate a member of staff who will be the main point of contact between the Arts Council England and the Organisation during the term of this Capital Funding Agreement and will:

3.1.1 act as the main contact with the Organisation for all matters relating to the Grant and the Agreed Capital Project Plan;
3.1.2 monitor the Organisation ensuring it complies with the terms of this Funding Agreement and other requirements in accordance with the Arts Council’s monitoring requirements, identify issues and share these with relevant colleagues; and,
3.1.3 attend the Organisation’s board meetings (or equivalent) as an observer on a regular or an occasional basis if necessary.

3.2 The Arts Council will review your project at suitable stages to see how it is progressing towards meeting the Agreed Capital Project Plan and the requirements of the Funding Agreement. The Arts Council will decide when to make these reviews based on the nature and/or type of your project and these will be set out in the Monitoring and Payment Plan.

3.3 The Organisation must provide all documents that we ask for to assist the Arts Council in undertaking such reviews.

3.4 The Arts Council may appoint an independent project monitor, at its cost and discretion, to help with its monitoring of the Agreed Capital Project Plan as it may from time to time require. The Arts Council will notify you if it is going to do this.

3.5 The Organisation must provide progress reports to the Arts Council or the independent project monitor if appointed at intervals agreed in the Monitoring and Payment Plan or in a form and on such dates that the Arts Council request.
3.6 The Organisation must take appropriate steps to monitor their own success in achieving the Agreed Capital Project Plan and outcomes outlined in your Application. The Arts Council may request you to undertake an evaluation to demonstrate that the agreed project outcomes outlined on your Application have been met. We may do so at any time from the date of the Expected Completion Date for the duration of the Funding Agreement as specified in Clause 13 and you will be required to provide such information to us on request and shall continue to be accountable to the Arts Council for this.

3.7 The Arts Council may monitor the progress of your Capital Project and will carry out checks after the final payment has been made to confirm it is delivering the expected project outcomes.

3.8 The Organisation will ensure that it obtains sufficient Partnership Funding to meet any part of the Total Project Cost that we do not fund.

3.9 The Organisation acknowledges that the Grant is the total amount of funds we will provide and will not be increased.

3.10 The Organisation will notify us in writing as soon as Total Project Cost is expected or anticipated to increase explaining the reason for any overrun, and how it is intended that any overrun will be funded, together with an updated budget or any other information we request.

4. Payments

4.1 The Monitoring and Payment Plan sets out how the Arts Council will pay you your Grant.

4.2 The Arts Council will not make any payments of your Grant under this Funding Agreement until it has evidence that the terms and conditions have been accepted by the Organisation’s board or equivalent, and the Funding Agreement is properly signed by a board member or equivalent.

4.3 The Arts Council will normally pay the Grant in instalments as you spend money on the Capital Project. The Organisation will send us requests for payments supported with evidence as requested in the Monitoring and Payment Plan.

4.4 If the Agreed Capital Project Plan includes a Grant Percentage, the Arts Council will pay this percentage of the costs you have incurred. The Organisation accepts that it needs to use Partnership Funding to meet costs incurred which are not covered by our payments.

4.5 The Organisation accepts that the Arts Council will not release more than 95% of the Grant until the Capital Project has been completed to the Arts Council’s satisfaction.

4.6 Without prejudice to our other rights under this Funding Agreement, all payments of the Grant are conditional upon the following matters:
4.6.1 the Organisation completes the Agreed Capital Project Plan in accordance with the Funding Agreement;
4.6.2 payment claims are requested no later than the Payment Expiry Date. The Organisation accepts that if a valid payment request is not made by this date, we may reduce or stop your Grant whether we have paid you the full amount or not;
4.6.3 you apply the Grant exclusively to the Agreed Capital Project Plan; and,
4.6.4 we are satisfied that Partnership Funding is sufficient to finance the balance of the Total Project Cost not funded by the Grant (including, for the avoidance of doubt, any cost overruns).

4.7 If any part of the Grant comes from Lottery funding, the Organisation understands that the Arts Council can only guarantee future payments of the Grant as long as funds from the National Lottery are available. Should funding be suspended or stopped from the National Lottery, the Organisation understands that Arts Council may have to reduce or stop Grant payments and Arts Council accepts no liability pursuant to this action.

5. Building projects

5.1 If your Grant is to be used for any building works, the Organisation must ensure:
5.1.1 that you put in place all necessary contracts with contractors and professional advisors on standard terms and conditions that an employer with appropriate experience would enter into for projects of the same value, size and complexity; and,
5.1.2 that you use building professionals that have all necessary professional indemnity insurance cover.

5.2 You must ensure that satisfactory arrangements are made for the retention of all key construction documents for a term of seven years from the last instalment of Grant payment. This is to include but not limited to:

5.2.1 Contract drawings;
5.2.2 As built drawings;
5.2.3 Health and safety files;
5.2.4 Building contract with the main build contractor and key sub or specialist contractors;
5.2.5 Planning and/or listed building consent;
5.2.6 Discharge of reserved building control completion certificate;
5.2.7 Fire officer approval;
5.2.8 Contracts of engagement for professional teams; and,
5.2.9 Any other documents we may request.

5.3 You must ensure that the tender documents for building contractors and nominated or named subcontractors include the requirement for the completion of a performance bond. The performance bond must be entered into by all relevant parties prior to works commencing on site. The Performance Bond must:

5.3.1 be backed by a reputable Guarantor;
5.3.2 be of an amount equivalent to 10% of the contract sum;
5.3.3 be executed as a Deed;
5.3.4 be a tripartite agreement between Employer, Guarantor and Contractor;
5.3.5 expire no earlier than 90 days after the issue of certificates or certificate of practical completion for the whole of the works; and,
5.3.6 be able to be assigned by the employer without the consent of the guarantor.

6. **Your Obligations and undertakings**

6.1 The Organisation will apply the Grant only for the purposes of the Capital Project as defined in the Agreed Capital Project Plan.

6.2 If the Organisation has been or is awarded any other major grant from the Arts Council during the period of this Funding Agreement then the Organisation undertakes to act in accordance with the terms and conditions of both that funding agreement and this Funding Agreement and in the event of any conflict between the two then this Funding Agreement will take precedence in respect of the Agreed Capital Project Plan but in all other matters the major grant funding agreement will take precedence.

6.3 The Organisation will follow the Arts Council’s branding and publicity guidelines at all times and will acknowledge the grant in press, marketing and communications materials, verbally and in writing and on the Grant funded land and buildings.

6.4 The Organisation consents to any publicity about the grant and the Agreed Capital Project as the Arts Council may from time to time require. The Arts Council can carry out any forms of publicity and marketing to promote the award of the Grant as it sees fit and the Organisation will do whatever is reasonably required in order to assist with any form of publicity and marketing, including any press or media related activities.

6.5 If any part of the Grant comes from Lottery funding, then the Organisation must display the Lottery grant award logo both during construction and after the work has been completed on a permanent basis in a public area. Our requirements may change from time to time and you must adopt our changes as and when they occur.

6.6 If the Organisation is a charity, the Organisation will register with the Charity Commission if its income goes over the minimum exemption figure.

6.7 The Organisation will have and keep in place systems to prevent fraud.

6.8 The Organisation will obtain the necessary Partnership Funding if required by the Arts Council.

6.9 The Organisation is fully responsible for every part of its business. This includes, without limitation:

6.9.1 ensuring that all current and future members of its governing body receive a copy of this Funding Agreement while it remains in force and ensuring that the receipt of this Grant and the delivery of the Agreed Capital Project Plan are within the scope of the governing documents;

6.9.2 being responsible for getting your own management, business and artistic advice. This includes considering whether you need to get financial, accounting, tax, solvency, legal, insurance or other types of professional advice;
6.9.3 informing the Arts Council immediately of any changes in the Organisation that may threaten solvency and inform the Arts Council if you enter into or propose any arrangement with any creditors; and,

6.9.4 informing the Arts Council in writing as soon as possible if any legal claim or any regulatory investigations are made or threatened against you and/or which would adversely affect the Agreed Capital Project Plan during the period of the grant (including any claims made against members of your governing body or staff).

6.10 The Organisation will comply with any relevant laws or government requirements and comply with best practice in governance, reporting and operation. This includes, but is not limited to:

6.10.1 following best practice in having appropriate policies and procedures in place to ensure the protection of children, young people and vulnerable adults; and,

6.10.2 having an equal opportunities policy in place at all times;

managing all personal information in accordance with the Data Protection Act 1998.

6.11 The Organisation will take all reasonable steps to obtain value for money when buying assets, goods and services in connection with the Agreed Capital Project Plan by obtaining quotations or applying competitive tendering. You must demonstrate that any assets, works or services will be acquired in an equitable and economic manner with open competition and probity and that the proposed consideration and any related costs and expenses are an accurate reflection of their open market value (including inviting such competitive tenders as we may specify). You must provide to us any information which we request in order to satisfy ourselves that you have done so.

6.12 The Organisation understands that in receiving public funds it must meet the relevant UK and European legislation on procurement together with the provisions of the World Trade Organisation General Procurement Agreement. You must provide to us any information which we request in order to satisfy ourselves that you have done so.

6.13 The Organisation will consider any possible risks involved in the Agreed Capital Project Plan by taking appropriate action to protect everyone involved including maintaining adequate and appropriate insurance at all times.

6.14 The Organisation will act at all times without distinction and in compliance with all relevant legislation as to race, religion, age, gender or disability.

6.15 The Organisation accepts that the Arts Council’s staff, council members and advisers cannot give any professional advice and will not take part in carrying out the Organisation’s business. The Arts Council will not be held responsible for any action the Organisation takes, or fails to take, or for the Organisation’s debts or liabilities. The Arts Council will not be liable for any losses or charges if it does not make any grant payment on the agreed date. The Arts Council will not be responsible to anyone else who may take, or threaten to take, proceedings against the Organisation.

6.16 The Organisation will not sell, give away, lease, licence or borrow against any Project Assets without first receiving the Arts Council’s prior written consent. As the grant has
come from public funds, the Organisation understands and accepts that if the Arts Council provides consent to a disposal it may require that the disposal of the Project Asset is at full market value and/or subject to conditions requiring the Organisation to repay all or part of the Grant.

6.17 If the Organisation wants to use the Project Assets to raise further funding, the Organisation will first need to obtain the Arts Council’s consent in writing, which may be subject to conditions and which the Organisation will have to meet. The Organisation undertakes that:

6.17.1 any loan secured on the Project Assets will be used entirely for the benefit of the Agreed Capital Project Plan; and,
6.17.2 the maximum security for the loan will be no higher than the amount of money being put up by the new lender.

6.18 The Organisation must give the Arts Council, the National Audit Office or any of their agents access to any/all financial records, other information and/or premises, as maybe reasonably requested, relating to the Agreed Capital Project Plan, the Organisation or to any other matter arising under this Funding Agreement and the Arts Council may postpone payment of the Grant or an instalment of the Grant until the Arts Council has received the material it has requested.

6.19 The Organisation must immediately tell the Arts Council about any changes to bank or building society details or any other changes to information previously provided to the Arts Council.

6.20 The Arts Council may share information about the Grant and/or the Agreed Capital Project Plan with third parties. The Arts Council is also subject to the provisions of the Freedom of Information Act 2000 (‘the Act’). This means that any information provided by the Organisation could be released to any person who asks for it under the Act. The Organisation may tell the Arts Council if it thinks that any of the information should be confidential under any of the exemptions of the Act. However the Arts Council will make the final decision in accordance with the Act.

6.21 The Organisation acknowledges that the Grant comes from public funds and will not use the Grant in a way that constitutes unapprovable State Aid. In the event that the Grant is deemed to be unapprovable State Aid, then the Organisation will repay the entire grant immediately.

6.22 The Organisation will seek the Arts Council’s prior written consent before entering into any agreement with any third party whereby any part of the Grant is transferred to that third party and will ensure that no other organisation or individual acquires any third party rights under this Funding Agreement.

6.23 The Arts Council may impose additional terms and conditions on the Grant either in the offer letter and/or if the Organisation is at any time in breach of this Funding Agreement and/or if the Arts Council believes it is necessary to make sure that the Agreed Capital Project Plan is delivered as agreed between the Organisation and the Arts Council and/or the Arts Council has reasonable grounds to believe it is necessary to protect public money.
6.24 The Organisation will get the Arts Council’s written agreement before:

6.24.1 changing your governing document, concerning: your aims, payments to members and members of your governing body, the sharing out of your assets (whether your organisation is dissolved or not), or the admission of any new members; and/or

6.25.1 transferring the whole or a substantial part of the Organisation assets to, or merging or amalgamating with, any other body, including a company set up by you.

6.25 The Organisation will tell the Arts Council in writing as soon as possible of any investigation concerning the Organisation, trustees, directors, employees or volunteers carried out by the Police, Charity Commission, HM Revenue and Customs or any other regulatory body.

6.26 The Organisation will take all reasonable steps to minimise the environmental impact of the Agreed Capital Project.

6.27 The Organisation must give us the right to use the photographs, transparencies or digital images you send us. You must get any permission you need for you and us to use the photographs, transparencies or digital images before you send them to us or before you use them.

6.28 The Arts Council will monitor and assess the Organisation’s activity and how effectively the Grant is being used. To enable this, the Organisation will send the Arts Council all such information as the Arts Council may in its sole discretion reasonably request from time to time. This includes, but is not limited to the information set out in the Monitoring and Payment Plan, and copies of all or any other relevant documentation about the financial and operational running of the Organisation, to include business plans, board papers or equivalent, reserves policies and any other information which the Arts Council deems relevant to its understanding of how the Agreed Capital Project Plan is being delivered and the Grant used.

7. **Security**

7.1 The Organisation understands and accepts that the Arts Council requires security over the Project Assets funded by the Grant. Usually this will be by way of a fixed and floating legal charge in the arts Council’s standard form along with an undertaking from your solicitor to register the legal charge at Land Registry and Companies House within 21 days of completion of the Charge, or if appropriate the Arts Council may request a deed of covenant in standard form along with an undertaking from your solicitor to register a restriction at the Land Registry within 28 days of completion of the deed.

7.2 The Arts Council reserves the right to request any type of security or additional security (now or in the future) or consolidated security if it is considered necessary and desirable given the circumstances of the Agreed Capital Project Plan. We will also consider past capital projects funded by us in reaching a decision as to our requirements. If the Arts Council has asked for security, the Organisation understands that no payments of the Grant will be made until the Arts Council has received the requested documents completed to the Arts Council’s satisfaction.

7.3 The type of security the Arts Council initially requires from you is set out in Schedule 2.
8. **Land and Legal Requirements**

8.1 Pursuant to Clause 7 above and prior to the release of the Grant, the Arts Council will require the following conditions to be met:

- **8.1.1** confirmation (by way of a Certificate of Title, in the Arts Council’s Standard form) from your solicitors that you are the freehold owner or a lessee under a registered and assignable lease on terms acceptable to the Arts Council, of the Project Assets to which the Grant relates and that the Project Assets may be used for the Capital Project;
- **8.1.2** a signed fixed and floating legal charge and solicitors undertaking to register it at the Land Registry and at Companies House upon completion; or
- **8.1.3** a deed of covenant and solicitors undertaking to lodge the restriction at the Land Registry upon completion of the land transfer; or,
- **8.1.4** if the property is unregistered, a deed of undertaking to effect first registration of the restriction thereafter; and,
- **8.1.5** if the grant is for £500,000 or over and the Organisation is not a statutory body, confirmation (by way of a legal opinion in the Arts Council’s standard form) from your solicitors that you have the legal powers necessary to sign all the documents related to the Grant and security.

8.2 If any part of the Grant is to buy land (whether freehold land or leasehold land), the Organisation is to send the Arts Council when asked the following documents:

- **8.2.1** a surveyor’s report on the condition of the property, its value for the purpose of the Capital Project and whether it is suitable for the Capital Project;
- **8.2.2** confirmation by the Organisation’s solicitors that all necessary consents for the use of the property for the purposes of the grant have been obtained;
- **8.2.3** for the purchase of leasehold land, a copy of the future lease and agreement for lease;
- **8.2.4** an undertaking to satisfy all other requirements as set out in Clause 7 and 8.1 upon completion of the purchase of the freehold or leasehold interest; and,
- **8.2.5** any other documents or requirements that the Arts Council may request in order to meet the Legal Requirements.

8.3 If any part of the Grant is to buy or involves leasehold land, then the Organisation must send the Arts Council a copy of the lease and ensure that the lease meets Arts Council standard lease requirements and ensure that the lease is for the minimum term of:

- **a)** For capital grants used for refurbishment works of up to and including £500,000: a lease of at least 5 years, without a break clause.
- **b)** For capital grants used for an asset purchase of up to and including £500,000: a registered and assignable lease of at least 10 years, without a break clause.
9. VAT

9.1 The Organisation acknowledges that for the purposes of VAT the Grant is not consideration for any taxable supply by the Organisation to the Arts Council. The Organisation understands that the Arts Council’s obligation does not extend to paying the Organisation any amounts in respect of VAT in addition to the Grant and that the Grant made by the Arts Council shall be deemed inclusive of any VAT.

9.2 The Organisation agrees to repay the Arts Council immediately any VAT recovered whether by set-off, credit or repayment to the extent that any such VAT cost is included in the Grant.

9.3 The Organisation will notify the Arts Council immediately if any irrecoverable VAT claimed under the Grant becomes recoverable.

9.4 The Organisation will keep proper and up to date records relating to VAT, and will make such records available to the Arts Council to look at and give the Arts Council copies when requested.

9.5 If the Arts Council has funded all of the VAT costs for the Capital Project, the Organisation agrees to refund immediately all of the VAT recovered to the Arts Council.

9.6 If the Arts Council has funded a proportion of the VAT costs for the Agreed Capital Project, the Organisation agrees to refund immediately the same proportion of the VAT recovered to the Arts Council.

10. Dealings with Project Assets

10.1 Without prejudice to the terms of any security over the Project Assets that you give the Arts Council pursuant to Clauses 7 and 8, you must seek the Arts Council’s prior written consent if you wish to sell, let, sub-let or otherwise deal with or dispose of any Project Assets within:

   a) Five (5) years after the date of the Funding Agreement for a grant up to and including £500,000 for building works; or,
   b) Ten (10) years from the date of the Funding Agreement for a grant up to and including £500,000 for a land transfer; or,
   c) Ten (10) years of the date of the Funding Agreement for a grant of over £500,000 but below £1,000,000; or,
   d) Twenty (20)years of the date of the Funding Agreement for a grant of £1,000,000 or over but below £5,000,000; or,
e) Thirty (30) years of the date of the Funding Agreement for a grant of £5,000,000 or above.

10.2 If consent is given and you sell or dispose of the Project Assets, you may have to repay the Arts Council all or part of the money received from the Arts Council. The amount you must repay will be in direct proportion to the share of the project costs that came from the Arts Council. If, with the Arts Council’s consent, you sell the Project Assets wholly or partly bought with the Grant, it will be at full market value and the Arts Council may impose conditions upon the transfer or disposition.

11. **Annual reports and Accounts**

11.1 The Organisation will comply with all relevant laws regarding the submission of accounts, audit or examination of accounts, annual reports, and annual returns.

11.2 The Organisation will acknowledge the Arts Council’s Grant in the annual reports and accounts covering the period of the project.

11.3 The Organisation will show the Arts Council Grant and related expenditure as restricted funds under the description “Arts Council Capital Grant” in the Organisation’s annual accounts. The Organisation will identify unspent funds and assets in respect of the grant separately in accounting records.

11.4 The Organisation will send the Arts Council a copy of the annual accounts as soon as they have been approved in accordance with the Organisation governing document and in any event within ten months of the end of the financial year for each year in which grant payments are made. The accounts will need to be signed by a member of your management committee and externally audited or independently evaluated as appropriate for the Organisation.

11.5 The Organisation will report regularly and fully to all members of the Organisation governing body on the financial position of the Organisation and will put in place procedures to avoid any conflict of interest arising in the provision of goods or services required to deliver the Agreed Capital Project.

11.6 The Organisation will keep proper and up to date accounts and records for at least seven years after the termination of your grant, including summary profit and loss accounts and management accounts, personnel and payroll records and invoices, which show how the grant has been used. The Organisation will make these financial records available to the Arts Council to look at and give copies when requested.

12. **Termination of the Agreement**

12.1 If the Organisation breaches any of the terms and conditions of this Funding Agreement, then the Arts Council in its absolute discretion may withhold or demand repayment of all or part of the Grant. The Organisation will repay any Grant requested immediately upon demand.

12.2 The Arts Council may suspend payment of the Grant if it wishes to investigate any matters concerning the Grant (or any other grants given by the Arts Council to the Organisation). The Organisation understands and accepts that the Arts Council will
accept no liability for any consequences, whether direct or indirect, that may arise from a suspension even if the investigation finds no cause for concern.

12.3 The Arts Council may also withhold or demand repayment of all or part of the Grant or any other grants given by the Arts Council if the Organisation:

12.3.1 closes down its business (unless, with the Arts Council’s prior written consent, it joins with, or is replaced by, another Organisation that can take over this Funding Agreement and carry out the purposes of the Grant to the Arts Council’s satisfaction);
12.3.2 makes significant changes to the Agreed Capital Project Plan without the prior written approval of the Arts Council;
12.3.3 does not fulfil the purpose of the Grant with reasonable care, thoroughness, competence and to a standard that the Arts Council expects from the Organisation;
12.3.4 provides any information to the Arts Council that is wrong or misleading, either by mistake or because it is trying to mislead the Arts Council during the application process or during the period of this Funding Agreement;
12.3.5 becomes insolvent, any order is made, or resolution is passed, for it to go into administration, be wound up or dissolved; an administrator or other receiver, manager, liquidator, trustee or similar officer is appointed over all or a considerable amount of the Organisation’s assets or the Organisation enters into or proposes any arrangement with its creditors;
12.3.6 acts illegally or negligently at any time;
12.3.7 acts in such a way that the Arts Council believes it has significantly affected the Agreed Capital Project Plan, or is likely to harm the Arts Council’s or the Organisation’s reputation or it is in the Arts Council’s discretion necessary to protect public money;
12.3.8 sells or in some other way transfers any part of the Grant, the business or the activity funded under the Agreed Capital Project Plan to someone else without first getting the Arts Council’s approval in writing;
12.3.9 no longer has the necessary resources or funding to complete the Agreed Capital Project Plan; and/ or,
12.3.10 if the Organisation does not meet the requirements of the Monitoring and Payment Plan as set out in the Funding Agreement.

12.4 If the Organisation is in breach of any of the terms of this Funding Agreement and the Arts Council does not enforce one or more of its rights straight away, this does not mean that it will not do so in the future. The Arts Council will give up its right to enforce this Funding Agreement only if it tells the Organisation in writing.

12.5 If the Organisation breaches any of the terms of this Funding Agreement, the Arts Council can choose to treat that as the Organisation breaching the terms of any other funding agreement the Arts Council has with the Organisation. This will allow the Arts Council to take the same actions under those agreements that the Arts Council may take under this Funding Agreement, including making the Organisation pay back the grant(s) and stopping any future payments.
13. **Duration of Agreement**

13.1 This Funding Agreement will remain in force for whichever of these is the longer time:

13.1.1 for capital grants of up to and including £500,000 used to purchase the project asset and/or for building work (on freehold or leasehold land already owned by you): 5 years from the date of this Funding Agreement; or,

13.1.2 for capital grants over £500,000 or above but less than £1,000,000 used to purchase the project asset and/or for building work (on freehold or leasehold land already owned by you): 10 years from the date of this Funding Agreement; or,

13.1.3 for capital grants of £1,000,000 or above but less than £5,000,000 used to purchase the project asset and/or for building work (on freehold or leasehold land already owned by you): 20 years from the date of this Funding Agreement; or,

13.1.4 for capital grants of £5,000,000 and above used to purchase the project asset and/or for building work (on freehold or leasehold land already owned by you): 30 years from the date of this Funding Agreement; and/or,

13.1.5 for as long as the Organisation does not carry out any of the terms and conditions of the Funding Agreement or any breach of them continues (this includes any outstanding reporting on Grant expenditure or Capital Project delivery).