

**Morag Keith**

## **European Structural and Investment Funds**

### **Introduction**

I welcome the opportunity to respond to the Economy & Fair Trade Committee's Inquiry into European Structural & Investment Funds in Scotland. I am submitting this response in an individual capacity, having more than twenty years' experience of the operation of European Funds in Scotland, including involvement in Plan Teams, Programme Monitoring Committees and Working Groups for the development of previous Programmes. I have also worked as an international expert in the European Social Fund (ESF), supporting the implementation of Programmes in other Member States and, most recently, have been engaged as an expert in the delivery of two European Commission projects: ***Study on Mid-term Review of Simplified Grants***, under Framework Contract EAC-47-2014 and ***Developing 'Off the Shelf' Simplified Cost Options (SCOs) under Article 14.1 of the European Social Fund (ESF) Regulation, under Framework Contract VT/2017/010.***

### **Current Spending Priorities and Approval Processes**

Scotland has been a major beneficiary of European Funding since 1975. The operational model has developed and changed over time, with the Operational Programme (OP) model being introduced from 1994. The development of the OP would, traditionally, involve the establishment of Plan Teams populated by key representatives from a wide range of stakeholder agencies. The Plan Teams, supported by economic analysis, would identify key priorities and consult widely with public, private and 3<sup>rd</sup> sector organisations to refine the Programme priorities; agree the funding allocations and determine the outputs and indicators. This partnership approach ensured that the Intervention logic was sound; that priorities were realistic and relevant; that the funds were spatially targeted towards the areas of greatest need and that the outcomes were specific, measurable and achievable.

Similarly, the mid-term Review of the Operational Programmes was an extensive and consultative exercise which was intended to review performance, take account of any changes to the external environment and changes to the Government's policy priorities and to make relevant adjustments to the Programmes to ensure their relevance and capacity to deliver optimum benefit to the economy.

The 2014-20 Programme, for the first time, deviated significantly from this procedure. Effectively, the European Structural Funds Division (ESFD) brought the entire process in-house. A limited number of Government Departments and Public Bodies were invited to develop a 'wish-list' of proposals and the Operational Programmes were written to incorporate those ideas. Two consultations were conducted:

- 14 May 2013 – Consultation on the proposals for the 2014-20 Programmes<sup>1</sup>
- 10 December 2013 – Consultation to provide further clarification on issues raised by respondents during the May 2013 consultation<sup>2</sup>

The majority of respondents raised concerns about the lack of engagement and consultation and about the OPs being written around the fifteen 'Strategic Initiatives' (SIs) rather than setting out an 'intervention logic' directing funds towards wider strategic priorities where they would achieve the greatest impact. No significant changes were made, indeed the fifteen SIs were progressed even before the second consultation was completed.

Similarly, the interim review of the current OPs involved only those agencies who are currently involved in the delivery of those Strategic Initiative projects. Effectively, the European Structural Funds Division asked the agencies who are currently in receipt of ESIF funds whether they believed that the current portfolio of Strategic Initiatives was still relevant and whether they should continue to receive funds. Unsurprisingly, those agencies agreed that only minor tweaks were required to the OPs and, despite the poor performance to date, the remaining funds should, in the main, be assigned to continue these SIs. Further, they agreed that the intervention rates should be increased to allow them to claim more funding to deliver the same activities.

I draw attention to a comparison of these approaches not to suggest that the procedure should be re-run, but rather to invite the Committee to take the most creative, innovative and far reaching decisions to correct the weaknesses that exist in the current Programmes and their Governance. At this stage of the Programme, there is sufficient time to make bold, unfettered and imaginative changes to ensure that the ESIF funds achieve the optimum benefit to the Scottish economy; to ensure that maximum absorption is achieved and to provide evidence that will support the Scottish Government's negotiations for replacement funds post Brexit.

Observation and analysis of the current Programmes' performance to date shows that (i) existing projects are failing to achieve projected spend levels, (ii) exchange rate fluctuations have resulted in a significant increase in available EU funding, (iii) €22.2m has been lost due to the failure to achieve N+3 and (iv) the Programmes are now in suspension

As a consequence, there is a genuine risk that the present programme performance will result in (further) losses of funding to Scotland due to the following factors:

1. the current portfolio of projects is demonstrably not sufficient to achieve full spend,
2. further funds will be lost due the current SIs lack of capacity to achieve future N+3 targets

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<sup>1</sup> <http://www.gov.scot/Publications/2013/07/6575>

<sup>2</sup> <http://www.gov.scot/Publications/2014/04/3646/2>

3. and performance will fall short of the level required to allow Scotland to claim the Performance Reserve.

Therefore, it is apparent that the Programme review should have considered whether the current scope of the existing identified Priorities exploits the full potential of what is eligible and what is required in Scotland. To that end, I cite the following examples:

- At the start of the Programmes, the Scottish Prison Service (SPS) attempted to be included as a delivery organisation to secure funds to support the Scottish Government's ambitions for reducing re-offending. They were advised that the funding **had already been assigned** and their proposals could not be included. The review of the OPs could have provided an opportunity to allow the SPS to introduce an additional SI to support activities such as training, personal development and mentoring programmes for offenders who are within six months of their release from prison as well as those under community orders.
- In May 2017, the Scottish Government launched the Independent Care Review. This is a significant policy development that has taken place since the original OPs were written. It would be appropriate for consideration to be given to whether ESIF funds might be aligned to support initiatives emerging from the review.
- The Scottish Government's strategy for Digital Health & Care is due to be published this month. Significant investment is required to develop the Digital Infrastructure to underpin its ambitions. It would be appropriate to consider if ESIF funds could be assigned to support the ambitions set out in the strategy.

The Programme review was also an opportunity to determine if any gaps could be identified in the OPs that could have been addressed by requesting changes to the OPs in order to expand the eligible activities within existing Priorities.

There is a credible argument for the Programme review to have taken due consideration of the impact of the Brexit decision. Since the Operational Programmes are written with an assumption of a stable external environment, the decision to leave the European Union fundamentally undermines this assumption. Therefore, it would be justifiable for the Programme review to have considered whether changes could be introduced to the OPs to anticipate the needs of the Scottish economy as it seeks to identify and change to meet future requirements (thrust upon it by Brexit). For example, consideration could have been given to identifying those sectors which will face the greatest challenges and adapting the Programmes to anticipate and respond: Health and Social Care, Fisheries, Agriculture, Tourism and the Food and Drink industry are economic sectors that have already indicated that they will face difficulties in filling vacancies and sustaining operations.

A creative and innovative suggestion would be for the Scottish Government to ask the UK Government, as the Member State, to introduce an additional Thematic Objective - TO11<sup>3</sup> - Institutional Capacity Building – which would allow funding to be assigned towards building the capacity of public services to become fit for purpose for a post-Brexit future. This Thematic Objective can be implemented by a Member State if there is an Objective 1 eligible area in that Member State. The UK qualifies since Wales and Northern Ireland have Objective 1 eligible areas. It would allow Government Departments to develop their skills and capacity to better meet future needs.

The European Commission produces extensive guidance documentation for Member States, to guide them through the process of developing the Partnership Agreement and Operational Programmes.<sup>4</sup> In response to demands from Member States, the principle of **subsidiarity** has been respected and expanded, so that responsibility for the content of the Operational Programmes and their delivery rests with the Member State. The Commission's role is, principally, to guide and ensure compliance with the Regulations.

The Commission is not responsible for the content of the OPs other than to agree that they are compliant with the Regulations.

At this stage, it is worth pointing out to the Committee that the European Commission has established a number of Transnational Co-operation (TNC) Thematic Networks.<sup>5</sup> There are currently nine Thematic Networks, which bring together key players from Managing Authorities, policy experts, stakeholders, academics and third sector partners to share knowledge and learning in order to improve the performance of their ESIF Programmes. Of particular note – there is a thematic network on Simplification – which is intended to extend and promote the use and adoption of simplified costs, to reduce audit errors - there is no representation from Scotland on that group. The performance of the Scottish Programmes could be greatly improved if the Managing Authority used some of its Technical Assistance funding to enable individuals from the Scottish Government and from those organisations who deliver Strategic Initiatives to participate in relevant Thematic Networks.

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[http://ec.europa.eu/regional\\_policy/sources/docgener/informat/2014/guidance\\_fiche\\_thematic\\_objective\\_11\\_en.pdf](http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/guidance_fiche_thematic_objective_11_en.pdf)

<sup>4</sup> [http://ec.europa.eu/regional\\_policy/en/information/legislation/guidance/](http://ec.europa.eu/regional_policy/en/information/legislation/guidance/)

<sup>5</sup> <http://ec.europa.eu/esf/main.jsp?catId=56>

**Current Spending & Performance**

It should be noted that transparency about the performance of the Scottish ESIF programmes could be significantly improved. Minutes of the Joint Programme Monitoring Committee (JPMC) meetings are made available on the Scottish Government's website. The Committee meets twice a year and minutes are posted on the website after they have been approved at the next meeting. This means that performance information is already six months out of date before it's published.

Currently, the most up-to-date details available on the website relate to the meeting of June 2017<sup>6</sup> and indicate that spend levels are alarmingly low, whilst the risk register considers the level of risk as 'amber', despite the fact that just six months later, €22.2m of funding was lost to the Programme under N+3 Rules.

This lack of transparency is symptomatic of poor Governance of the ESIF programmes at all levels. A single JPMC responsible for the oversight of all four ESIF programmes in Scotland, which meets twice a year for half a day cannot possibly provide either the level of scrutiny required or explore actions to correct poor performance. Equally, it is not clear which Committee of the Scottish Parliament has responsibility for oversight of the management and performance of ESIF funding in Scotland. Financial performance is regularly highlighted as 'high risk' within Audit Scotland's Annual Audit Report of the Scottish Government's Accounts, whilst Operational Reports have been reported to the Culture, Tourism, Europe & External Affairs Committee (and to its predecessor European & External Affairs Committee), and now responsibility has been transferred to the Economy, Jobs and Fair Work Committee.

Given Scotland's performance in the operation of ESIF programmes, the Committee might like to consider whether the current Governance arrangements for Management of the ESIF programmes in Scotland could be improved.

A summary of the information presented to the Scottish Parliament's Public Audit Committee and the Culture, Tourism, Europe and External Affairs Committee (and its predecessor European & External Affairs Committee) is provided below. The information dates back to 2010-11 when the scale of financial recovery in the ESIF programmes was the cause of a Section 22(3) Report.

By way of comparison, in Wales, significant audit errors were also uncovered in the financial year 2010-11 which led to a report on Grants Management by the Auditor General. This led to an extensive Inquiry by the Public Audit Committee into the effectiveness of European Structural Funds in Wales. The Inquiry made 15 recommendations – many of which match the recommendations made by the Scottish Parliament's Europe & External Relations Committee Inquiry of 2012. In Wales, The Public Audit Committee monitored the implementation of its

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<sup>6</sup> <https://beta.gov.scot/groups/joint-programme-monitoring-committee/>

recommendations and established a framework for scrutiny and control of ESIF programmes by means of an annual report.

This information is not presented as a criticism, but rather to raise the Committee's awareness of successful models of Governance; to encourage the Committee to link with the Welsh Government as part of this inquiry and to explore the potential for joint working between the Scottish Government and the Welsh Assembly Government to improve the performance of the Scottish ESIF programmes.

It is worth noting that Wales conducts regular evaluations of the *impact* of ESIF funding, which provides their governing committees with robust evidence to inform decision-making and which will provide a clear evidence base to inform their efforts to secure replacement funds post-Brexit.

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**ESIF-012**

Year	Audit Scotland Annual Report to Scottish Parliament Public Audit Committee	Evidence Presented to Scottish Parliament Culture, Tourism, Europe & External Affairs Committee (and Predecessor EERC)	Comparison to Welsh Parliament's oversight of ESIF Funding in Wales
2010-11	<p>Section 22(3) Report on Consolidated Accounts</p> <p>£52m repaid to EC for errors related to the 2000-6 Programme</p> <p>£52m repaid to EC for errors related to the 2007-13 Programme</p> <p>“Issues and Risks associated with Scottish Government Management of EU funds have been reported in annual accounts over a number of years”</p> <p>Major weaknesses in controls.</p>		
2011-12	<p>Self Correction of £3.6m Detailed Management and Control Plan put in place.</p>	<p>EERC conducts Inquiry into European Structural Funds</p> <p><a href="http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/52798.aspx">http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/52798.aspx</a></p> <p>Report makes 17 recommendations on operation of funds.</p>	<p>Auditor General Report on Grants Management in Wales 2011</p> <p><a href="https://www.wao.gov.uk/system/files/publications/Grants_Management_in_Wales_English_2011.pdf">https://www.wao.gov.uk/system/files/publications/Grants_Management_in_Wales_English_2011.pdf</a></p>
2012-13	<p>Provision for self-correction of £15m</p>		<p>Public Audit Committee launches an Inquiry into the effectiveness of European Structural Funds in Wales.</p> <p>Aug 2012 – Interim Report produced</p> <p><a href="https://www.wcva.org.uk/media/173313/grants_management_in_wales_-_interim_report_-_e.pdf">https://www.wcva.org.uk/media/173313/grants_management_in_wales_-_interim_report_-_e.pdf</a></p> <p>Dec 2012 – Final Report Published</p> <p><a href="http://www.assembly.wales/laid%20documents/cr-ld9144%20-%20report%20of%20the%20finance%20committee%20on">http://www.assembly.wales/laid%20documents/cr-ld9144%20-%20report%20of%20the%20finance%20committee%20on</a></p>

			<p><a href="#">%20the%20effectiveness%20of%20european%20structura l%20funds%20in%20wales-17122012-241688/cr-ld9144-e-english.pdf</a></p> <p>Report makes 15 recommendations including:</p> <ul style="list-style-type: none"> <li>• Root and branch review of Welsh European Funding Office (WEFO) and its governance &amp; accountability</li> <li>• Review the role of the PMC and ensure that it meets its Regulatory obligations as a 'critical friend'.</li> <li>• Consider that Management of EU funds should not be seen as a 'typical' civil service role, where staff rotate, but rather as a specialist function that requires expert posts.</li> <li>• Bring together funding expertise to provide a 'one-stop shop' where applicants are supported to the right funding source.</li> <li>• Ensure that WEFO provides explicit guidance to ensure appropriate management of the funds.</li> </ul> <p><b>Progress monitored by means of annual report.</b></p>
2013-14	Programmes suspended		<p>Wales Audit Office Report European Union Funding in Wales.</p> <p><a href="https://www.wao.gov.uk/system/files/publications/WAO_EU_Structural_Funding_English_2013.pdf">https://www.wao.gov.uk/system/files/publications/WAO_EU_Structural_Funding_English_2013.pdf</a></p> <p>Welsh Government – Annual Report on Grants Management 2013</p> <p><a href="http://www.senedd.assembly.wales/documents/s28107/PAC4-16-14p1a.pdf">http://www.senedd.assembly.wales/documents/s28107/PAC4-16-14p1a.pdf</a></p>
2014-15	Self correction of £36m Estimated correction of £1-2m for audit errors	25 June 2015 – Evidence to EERC committee details suspension of 2007-13 programmes. Responsibility placed on applicants. Error rates of 3.9% in H&I and 8.8% in Lowlands Scotland. Following self-corrections,	<p>Welsh Government – Annual Report on Grants Management 2014</p> <p><a href="http://gov.wales/docs/caecd/publications/150212-grant-report-en.pdf">http://gov.wales/docs/caecd/publications/150212-grant-report-en.pdf</a></p> <p><b>Error rate 0.73%</b></p>



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		<p>these are reduced to 2.3% and 3.8%</p> <p>Sets out that arrangements for 2014-20 Programmes will reduce risk and audit failures.</p>	<p>Report provides details of EC Audit of WEFO.</p> <p>Investing in growth and jobs – an independent review of arrangements for implementation of European Structural Fund Programmes 2014-20  <a href="http://gov.wales/docs/wefo/publications/130312guilfordreporten.pdf">http://gov.wales/docs/wefo/publications/130312guilfordreporten.pdf</a></p>
2015-16	Provision for £14m correction	<p>9 Feb 2016 – Letter to EERC details 2007-13 programmes remain in suspension.</p>	<p>Welsh Government – Annual Report on Grants Management 2015  <a href="http://senedd.assembly.wales/documents/s49103/PAC4-07-16%20P1%20-%20Welsh%20Government%20Annual%20Report%20on%20Grants%20Management%202015.pdf">http://senedd.assembly.wales/documents/s49103/PAC4-07-16%20P1%20-%20Welsh%20Government%20Annual%20Report%20on%20Grants%20Management%202015.pdf</a>  <b>Error rate 0.67%</b></p>
2016-17	Significant Audit Risks Crystallised repayment of £31m	<p>27 Sep 2017 – Evidence to CTEER details £58m underspend in 2007-13 Programmes            Committee asks for details of the scale of risk associated with meeting N+3 targets – no details provided.</p>	<p>Welsh Government – Annual Report on Grants Management 2016  <a href="http://www.senedd.assembly.wales/documents/s61895/Welsh%20Government%20Grants%20Management%20Report%202015-16.pdf">http://www.senedd.assembly.wales/documents/s61895/Welsh%20Government%20Grants%20Management%20Report%202015-16.pdf</a>  <b>Error rate 1.9%</b></p>
2017-18		<p>11 Jan 2018 – Letter to CTEER details €22.2m returned due to N+3 £31m repaid for 2007-13 Programmes            13 March 2018 – Scottish Programmes are placed into Interruption.</p>	<p>Welsh Government – Interim Annual Report on Grants Management  <a href="http://www.senedd.assembly.wales/documents/s66893/PAC5-25-17%20PTN2%20-%20Welsh%20Government%20Interim%20Annual%20Report.pdf">http://www.senedd.assembly.wales/documents/s66893/PAC5-25-17%20PTN2%20-%20Welsh%20Government%20Interim%20Annual%20Report.pdf</a></p>

The European Commission provides a live data platform which provides up to date information on all 530 ESI Fund programmes for 2014-20.<sup>17</sup> The actual financial performance of the Scottish ESIF Programmes is provided below:

#### Declared Expenditure to 31 December 2017 (cash terms)

PROGRAMME	SCOTLAND	WEST WALES / VALLEYS	EAST WALES	NI	ENGLAND	UK TOTAL
ERDF	€48m	€229m	€90m	€32m	€698m	€1,099m
ESF	€24m	€297m	€130m	€34m	€136m	€622m
YEI	€5m	n/a	n/a	n/a	€46m	€51m
<b>TOTAL</b>	<b>€77m</b>	<b>€526m</b>	<b>€220m</b>	<b>€66m</b>	<b>€880m</b>	<b>€1,772m</b>

#### As % of Programme Budget

PROGRAMME	SCOTLAND	WEST WALES / VALLEYS	EAST WALES	NI	ENGLAND	UK TOTAL
ERDF	5%	13%	22%	6%	11%	11%
ESF	3%	27%	32%	7%	2%	7%
YEI	3%	n/a	n/a	n/a	10%	8%
<b>TOTAL</b>	<b>4%</b>	<b>18%</b>	<b>27%</b>	<b>6%</b>	<b>7%</b>	<b>9%</b>

The successful performance of ESIF programmes in Wales is worthy of note and should surely merit further consideration by the Committee.

#### **Future Programmes**

The value of ESI funding to Scotland is significant. Not only in purely financial terms, but particularly because these funds are intended to be directed towards the most deprived areas and individuals. Over time, however, we have seen Programme eligibility criteria move away from supporting hard infrastructure towards softer types of support. Additionally, within Scotland, the decision to have Scotland-wide Programmes was designed to ensure that poor performance in the hardest-to-reach areas could be absorbed by large-scale projects in wealthier parts of the country.

It is imperative that Scotland is able to make a robust case for funds to replace the ESIF programmes. Such funds should be Regionally-focused and should support the hard infrastructure required by those regions. In addition to assigning Funds regionally, they should not be subject to frivolous additional audit and compliance requirements.

Currently, Scotland's performance in the delivery of ESIF programmes presents a significant risk to the securing of replacement funding and the shaping of how such

<sup>7</sup> <https://cohesiondata.ec.europa.eu/>

funds might be targeted. What limited performance data we have does not provide the evidence to support replacement funds of the scale of the ESIF programmes – underspends, funding repaid, lack of match funding and a real risk of further underperformance. By contrast, Wales has already committed most of its available funds and is on track to have fully spent their funding by 2020.

To be credible, the performance of the Scottish ESIF programmes must significantly improve.

**Morag Keith**

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