Skills Development Scotland

Flexible Workforce Development Fund (FWDF) – SDS Route

Frequently asked questions

August 2021

Q1. What is the Flexible Workforce Development Fund for?

The Flexible Workforce Development Fund is available to all Scottish employers, including small and medium enterprises (SMEs). The Fund supports businesses in Scotland to up-skill and re-skill their Scottish employees to support inclusive economic growth in Scotland.

As an employer you can use it to address priority skills gaps and get training tailored to your needs.

Q2. Who can access the FWDF?

Establishing the Fund was in direct response to the level of employer support expressed in the consultation the Scottish Government undertook on the introduction of the Levy. The FWDF is a further expansion of the package of skills and training measures available in Scotland to support levy-payers develop their workforce.

There are 3 routes available to employers in Scotland:

Levy-paying employers can access up to £15,000 of the FWDF fund through 2 routes –

- Through local college provision - Scottish Funding Council - FWDF

- Through private training provision administered by Skills Development Scotland - Our Skillsforce Flexible Workforce Development Fund

SME's can access up to £5,000 of the FWDF fund through 1 route *only* –

- Through local college provision or Open University - Scottish Funding Council - FWDF

The following questions relate to Levy-paying businesses applying through the FWDF SDS route (other routes will have their own FAQ's)

Q3. What is the maximum amount that a Levy-paying business can claim?

Levy-paying employers can claim up to £15,000 through SDS or the college network. It should be noted that each employer can only make one application within the annual academic period.

Q4. Why is an employer cap applied to FWDF?

The FWDF is designed to maximise the potential number of levy-paying employers who can access the Fund, while providing a degree of simplicity for employers.

Q5. What happens if the cost of an employer's training needs exceeds the capped amount for the FWDF?

FWDF can be used as part-payment towards training of a higher cost.

Q6. Can an employer access more than one strand of the FWDF?

No, levy-paying employers can **only** access **either** the FWDF through college provision **or** private training providers via SDS only once in the academic year.

Levy-paying SME's must choose between accessing the fund through the levy-paying routes outlined above **or** access the SME route through college/Open University provision. Levy-paying SME's accessing through this latter route will be bound by the terms outlined in the SME guidance document published on the Scottish Funding Council website – Flexible Workforce Development Fund (sfc.ac.uk).

Q7. What happens if I am part of a Group?

The FWDF – SDS route is only available to employers who can evidence that they pay the Levy. Employers who are part of a group can only claim once per academic year for the whole group (if single payroll function) unless they can evidence that each employer (in the group) is a separate legal entity with separate payroll paying into the Levy.

Q8. Are public funded bodies eligible for FWDF?

The Fund is available to all Levy-paying employers and SMEs in Scotland across the private, public and third sectors. However, the FWDF – SDS route is only available to Levy-payers.

Q9. What evidence is required from Levy-payers to demonstrate eligibility?

Levy-payers are required to submit evidence of their eligibility to pay the levy to accompany their FWDF application. This should normally take the form of a copy of the relevant part of the most recent Employer Payment Summary (EPS) which reports the level of apprenticeship levy contribution. HMRC guidance is available at the following link:

https://www.gov.uk/guidance/what-payroll-information-to-report-to-hmrc

Alternatively, a P32/P35 or other document generated by employers' payroll systems that show Levy payments is also acceptable.

Q10. Why is the FWDF only available to employees who work and live in Scotland?

As skills and education are under the powers of the devolved administration, the Scottish Government are responsible for outlining the strategy and budget for Scotland's skills landscape. Other home nations have the same responsibility, and you can access this information here:

England – Education and Skills Funding Agency (EFSA) - Manage Apprenticeship Funds

Wales – Education and Skills - Post 16 Education and Skills

Northern Ireland – Employment and Skills - Employer Support Programmes

Q11. Is a Training Needs Analysis (TNA) required?

Yes, all applications must be supported by a relative training needs analysis. SDS can provide a template TNA for a business to use.

Q12. Why is a Training Needs Analysis necessary?

Through engagement between a Levy-paying employer and SDS (and supply-chain company where relevant), an agreement should be reached about what the levy-payer needs are, based on increasing productivity and tackling known skills gaps, including those of priority groups, and what they will apply to the FWDF for.

This should also reflect on the impact of COVID-19. This process should be proportionate to the size of the business and Fund size available. The analysis should form the basis of their application and SDS are available to work with levy-payers to support the application process.

Q13. Can a training needs analysis be taken from a Skills for Growth programme?

Yes, if a business has gone through the Skills for Growth process this could be used as part of a training needs analysis.

Q14. What training courses are **not** supported by the FWDF?

- Training which is a statutory requirement based on legislation for the individual's continuing employment, including any training which an employee is required by law to undertake in order to carry out the duties associated with his or her employment (e.g., certain health & safety training).
- Lessons towards attaining a driving licence category A or B.
- Outward bound type courses: and leisure or sporting activities other than those that lead to a recognised coaching or teaching qualification.
- VAT is not payable.

Q15. Does the FWDF cover training required by law?

The FWDF does not support provision of industry qualifications/training where there is a statutory obligation required by law. This remains the employer's responsibility and will not be provided through FWDF.

Q16. What is the difference between statutory and mandatory training and when could FWDF be used towards this training?

As outlined, FWDF does not support provision of training where there is a statutory requirement for the individual's continuing employment, including any training which an employee is required by law to undertake in order to carry out the duties associated with his or her employment. In other words, it is training legally required for a business to operate.

However, where employers can evidence additional training needs (over and above those already provided to meet statutory requirements) as a result of COVID-19, and as training is adjusted to meet, for example, physical distancing and hygiene guidance, this training can be considered.

Mandatory training required by law and associated with specific job roles, where employers are looking to provide additional training relating to skills out with their employees' core roles and responsibilities or relating to a new area of work – This would be considered as upskilling / reskilling and could be supported by FWDF. Examples of this would be where a traditional plumbing role is being upskilled into a heat pump engineer or where an employer is upskilling their workforce into new areas to address the transition to net zero.

All queries related to Statutory / Mandatory training should be directed to fwdf@sds.co.uk

Q17. Where can FWDF training be delivered?

The most appropriate and practicable arrangements for the delivery of training should be discussed and agreed by the private training provider and employer.

Q18. What is the timeframe for funded activity to take place under FWDF?

All training must be contractually agreed by 31 July 2022 (and have commenced by 31 August 2022). Where there are exceptional or extenuating circumstances (e.g., delivery of SVQ training) levy-paying employers should contact SDS to discuss any possible revision to this deadline. SDS is aware that ongoing COVID-19 related social distancing restrictions may impact on delivery timeframes.

Flexible Workforce Development Fund Year 5		
Training contractually agreed	Training Commenced	Training completed and paid for
No later than 31st July 2022	No later than 31st August 2022	No later than 31st December 2022

Q19. Will the funding go direct to the provider or to the Employer?

The funding will go to the employer. The training will be paid for by the employer and then the funding will be claimed back from SDS, conditional on enough evidence being provided and SDS due diligence being completed.

Q20. What happens if a Levy-paying employer's FWDF application is declined?

A 'training needs analysis' developed with the support of SDS should ensure an employer's identified training needs reflect FWDF criteria and priorities, including the priority groups outlined in the guidance. Levy-payers will be notified by SDS, in writing, if their application has been unsuccessful.

It may be that as a result of high demand for the FWDF – SDS route, an application is unsuccessful; if so, the employer's application will be held on a waiting list until funds are redistributed or until future rounds of funding became available. SDS may refer the employer to the College route as an alternative.

In instances where identified courses can be provided by college provision, SDS will reject the application and refer the employer to this route.

Q21. Can I appeal if my application is declined?

If an employer wishes to appeal a decision taken by SDS they should make an appeal in the first instance to fwdf@sds.co.uk. Approaches will be handled on a case-by-case basis.

Q22. Why are there questions around Fair Work Policies?

Skills Development Scotland is committed to the delivery of high-quality public services and recognise that this is critically dependent on a workforce that is well-motivated, well led, has appropriate opportunities for training and skills development and is engaged in decision making at all levels across the organisation where we promote Everyday Leadership.

To ensure the highest standards of service for FWDF we expect employers as grant recipients to take a similarly positive approach to fair work practices as part of a fair and equitable employment and reward package for all employees whether permanent, temporary or agency.

Levy-payers accessing the fund must outline what measures they undertake in relation to fair work around (but not limited to):

- Having appropriate channels for effective voice and employee engagement, such as trade union recognition
- Commitment to Investment in workforce development
- No inappropriate use of zero hours contracts
- Positive action to tackle the gender pay gap and create a more diverse and inclusive workplace
- Payment of the real Living Wage

Guidance can be found here:

- Fair Work Action Plan
- Fair Work First - Guidance to support implementation
- Fair Work Information Sheet
- Fair Work Toolkit

SDS reserve the right to reject any application that does not meet the expectations of Fair Work First practices.

Q23. How are the Scottish Government and SDS going to monitor the FWDF?

The FWDF will be monitored through regular reporting on the quantitative outputs using the collection of information in the application form and by collating information on employee's equality data who are participating in the training.

SDS is expected to have due regard to public value for money in the use of their FWDF allocations for training. As part of the reporting process SDS will monitor the activity delivered, costs associated with delivery and the volume of learners benefitting from the training.

Q24. What is the current situation with Sate Aid rules (now Subsidy Control)?

SDS considers that the funding constitutes ‘controlled subsidy’ (formerly known as ‘state aid’). Controlled subsidy provisions have been implemented as part of the Brexit arrangements under the UK/EU Trade and Co-operation Agreement (“TCA”). The provisions apply to organisations that are operating in a market in relation to the goods or services that are being subsidised.

Under the old state aid rules, there was an exemption known as ‘de minimis’ available, where funding recipients were able to demonstrate that the total aggregate value of all ‘de minimis’ subsidy they had received over the immediately preceding 3-year fiscal period, did not exceed €200,000.

That provision no longer applies and has been replaced by a new “SDR” arrangement under the TCA. Under the SDR exemption, the funding is permitted only where funding recipients are able to demonstrate that the total value of subsidy they have received, including the FWDF funding, over the immediately preceding 3-year fiscal period, would not exceed 325,000 ‘Special Drawing Rights’. (‘Special Drawing Rights’ is defined by the International Monetary Fund, which organisation also publishes the exchange rate of Special Drawing Rights with currencies including Euros and Sterling from time to time (https://fx-rate.net/SDR/GBP/. SDR conversion rates can fluctuate in value.).

As such, applicants must therefore provide details of all previous ‘de-minimis’ payments and all ‘SDR’ payments received (if any) by the intended recipient of the funds in the relevant 3-year period when submitting their application.

Any contribution awarded to the funding recipient will be relevant if the recipient wishes to apply, or has applied, for any other subsidy. It is strongly recommended that the recipient retains any offer received under this scheme for 3 fiscal years from the date on the offer and produces it on any request by the UK public authorities.

The provisions of the TCA remain subject to clarification, further government guidance and additional regulation. SDS may therefore update the subsidy control provisions and guidance from time to time.

Recipients should be aware that non-compliance with the requirements of the applicable subsidy control requirements may result in a number of legal consequences, including the recipient and or the any of the recipient’s supply chain being under a legal obligation to repay the contribution to SDS together with interest.