



Organisations withdrawing from the National Portfolio and being funded by an alternate mechanism¹

In exceptional circumstances, it may be determined (by the Arts Council or by an organisation) that it would be better for an organisation to withdraw² from the National Portfolio and be funded through an alternate mechanism.

An example of when this could occur is if a National Portfolio Organisation experiences financial difficulty, such that it is, or is likely to be, in breach of its funding agreement. This could be because the organisation has not achieved its budgeted outcome in the business plan, causing acute financial difficulty such as potential insolvency.

It is essential that, at all points during the funding relationship, any perceived difficulty in an organisation delivering against the terms of the funding agreement (and against its own business plan objectives) should be clearly documented in the Arts Council's risk assessment and communicated to the organisation at the earliest opportunity. This allows for constructive discussion, and for plans to be developed to address identified issues. The organisation should also be clearly advised of actions that the Arts Council could take, including withdrawal of funding.

If an organisation wants to withdraw from the Portfolio, but maintain its funding through an alternate mechanism

It is possible that, after discussion with the Arts Council, an organisation's board may determine that the most appropriate course of action for it to take to ensure the organisation's recovery and/or sustainability is for it to withdraw from the National Portfolio and be funded through another mechanism. This would mean that, after following the process set out below, a different funding agreement could

¹ Subject to review in November 2018

² It is anticipated that in most cases the organisation would request to withdraw from the National Portfolio. It would be possible, however, for the Arts Council to determine that this would be the most appropriate course of action, in which case the same process would be followed

be negotiated, and the organisation could receive funding to support, for example, debt mitigation or organisational change, subject to an appropriate application being successful. This would allow the organisation to take time to develop appropriate, realistic and achievable plans with a view to sustaining the organisation through a period of transition.

Should the Arts Council decide that it would not be willing to support a request from the organisation to withdraw from the National Portfolio and be funded through an alternate mechanism, the organisation would be expected to resolve its difficulties without additional financial support. If it failed to do so it is recognised that this could result in the organisation ceasing to trade and/or funding being withdrawn.

Should the Arts Council decide that it would be willing to support a request from the organisation to withdraw from the National Portfolio and be funded through an alternate mechanism, the organisation's board should make a formal decision to request withdrawal from the National Portfolio, recording this in minutes. The request should be sent to the Arts Council's Director, Funding Programmes (signatory on funding agreement) by the Chair, together with a copy of the approved minutes.

This would be acknowledged with a note from the Arts Council about what will happen next and the likely timeline.

If continued funding is supported, consideration would be given to as to whether funding would be at the same or other level. The amount currently allocated to the organisation as part of the National Portfolio ie the balance of the current grant, would be viewed as a starting point. Consideration of the appropriate level of funding would take into account the activity to be delivered alongside any change programme, for example. Consideration should also be given to whether funding should be phased against achieving key milestones, and whether any additional conditions would be imposed, although this would fully be addressed at the point of issuing a new funding agreement.

Should organisations be funded outside the portfolio, it would, however, be communicated to them that this is because of a serious breach of the funding agreement, such that funding could have been withdrawn. Further failure to stabilise the organisation and deliver effectively against revised plans could still result in withdrawal. Both the organisation and the Arts Council should be also

aware that failure to stabilise the organisation would put any future application to the National Portfolio at risk.

While both the organisation and the Arts Council would need to develop independent communications material, the relevant personnel from each organisation should ensure that messages are aligned.

The Arts Council would anticipate working with the organisation to consider how this information is made public. Reactive communications would also be developed by the Arts Council. As referenced above, prior to the communications material being used, the organisation should be consulted as aligned comms messages would be desirable.

How to do it

Where it has been agreed that an organisation would be withdrawn from the National Portfolio, the grant would be withdrawn on Grantium using the grant withdrawal procedure.

If the organisation is to continue to receive funding, consideration would be given to timing to ensure that there is as little disruption to payment schedules as possible to avoid exacerbating the organisation's financial situation.

In these circumstances, a new funding agreement would be developed (subject to necessary approvals) using the Investment Funds³ process.

The Arts Council would consider the following in making the business case for investment through an alternate mechanism:

- why the organisation is felt to have strategic significance, ie the organisation is critical to the Arts Council achieving its goals as set out in *Great Arts and Culture for Everyone* and:
 - has national reach and impact on audiences and/or artform
and/or
 - is deemed to be critical to the success and vitality of an Area and/or national portfolio
and

³ This can only be achieved with Grant in Aid funding. If the organisation receives National Lottery funding, it could not be funded outside the Portfolio unless an application was solicited – all the requirements of solicitation would need to be fulfilled

- its activity could not be replicated/replaced by any other means
- what the organisation is expected to deliver eg programme of activity, and what public benefit is to be derived
- expectations regarding which requirements of the previous National Portfolio funding agreement should be delivered eg Creative Case for Diversity, digital, Audience Finder, Data sharing agreements
- for what period a funding agreement should be issued (consideration needs to be given carefully to the appropriate period, taking into account the Arts Council's own funding agreement/terms with Government and the organisation's circumstances⁴)
- where the funding is to come from eg ringfenced National Portfolio funding, contingency
- why the organisation should continue to receive funding, having failed to comply with the requirements of the funding agreement⁵
- the level of funding to be allocated

If a decision is taken to increase funding eg for transitional support or debt mitigation⁶, this must be in response to a written application submitted by the organisation (this applies whatever the source of funding).

The standard terms and conditions would be utilised for any successful grant, with additional conditions applied as appropriate.

Should funding be approved (in accordance with the Scheme of Delegated Financial Authority⁷), a new funding agreement would be issued and an appropriate monitoring regime established. This could include regular meetings with a board sub-group, increased financial reporting etc, but should appropriately reflect the level of investment and its purpose.

⁴ For example, the organisation may need to cease activity for a period to stabilise its financial situation – with the Arts Council's agreement, it may therefore be appropriate to limit the initial funding agreement to this period with further funding being dependent on realistic, achievable plans. It should also be borne in mind that if the organisation is to withdraw, or be withdrawn, from the Portfolio it should not be seen as simply continuing on the same basis as previously

⁵ For example, is leadership change likely to make a difference?

⁶ Note that non-National Portfolio Organisations cannot receive financial intervention funding (as per current guidance) – the purpose of any additional funding must be clearly identified for inclusion in the funding agreement

⁷ Note that if a grant in excess of £5m was proposed, it would need to be approved by National Council

Other implications/actions for consideration (where an organisation is funded outside the National Portfolio)

- If an organisation leaves the National Portfolio it cannot be readmitted during the same investment period. Withdrawing an organisation from the National Portfolio is a response to a serious breach of the funding agreement. It could only be readmitted when a new programme is run (subject to a successful application being made) to ensure fairness and transparency
- The National Portfolio is an open application programme with fixed points for submitting applications. Applications are assessed and considered as part of a national balancing process prior to decisions being made. Withdrawing from the National Portfolio removes this 'status' and changes the nature of the relationship with the Arts Council and the rest of the National Portfolio
- The organisation would not be eligible for any funds only available to National Portfolio Organisations
- The organisation would be discouraged from applying to other funds for which it becomes eligible eg Arts Council National Lottery Project Grants. Should organisations apply to other funds, information we hold on the organisation would be taken into account and assessments would include consideration of financial viability
- The impact on the organisation, its board and staff would be significant – this should be considered within the context of the ongoing relationship and the ability of the organisation to deliver any required change programme
- The organisation would be removed from the schedule of National Portfolio Organisations published on the Arts Council's website
- Invitations may, however, be extended to general National Portfolio events to ensure that the organisation maintains knowledge about developments
- The organisation would not be able to describe itself as a National Portfolio Organisation in any communications (including other funding applications)
- The National Portfolio budget allocation is reported by the Arts Council at the point of decision-making – withdrawal of an organisation from the National Portfolio therefore does not impact on this or on reporting the allocation of funding in or outside London in respect of the National Portfolio
- Risk reporting would be separated from that for the National Portfolio
- While the organisation would be required to complete an annual survey, this data would not be included in Arts Council reporting for the years (or part-

year) in which it is not in the Portfolio. This data may be reported separately. Data would be required so that comparisons could be made with previous and/or subsequent data sets for reporting purposes (where the organisation had previously been in the National Portfolio or was successful in future applications)

- It is likely that any in-year cuts to would have to be applied to the organisation in a similar way to other funded organisations eg National Portfolio Organisations, recipients of other large grants. This would be made explicit in the funding agreement
- Non-National Portfolio Organisations are not eligible for financial intervention (current guidance, under review). Any additional investment agreed after the issuing of a new funding agreement as described above, would be subject to the appropriate Investment or Development Funds processes eg PID or solicitation (depending on the source of funding) and must be supported by an application. If solicitation, this would include the test as to whether other funds were available/applicable eg Arts Council National Lottery Project Grants