

# Ethnic Intersectionality Incentive(EII) Grant Rules

## 1. Background

Intersectionality is a recognition that the combination of a person's social identities and characteristics can result in marginalisation, discrimination and/or privilege. For example, an individual may be disadvantaged progressing into education or employment as a result of both their race and their gender, sexual orientation, religion or belief, disability, or as a result of having been care experienced.

In Scotland black women, ethnic minority women and disabled women are among the most disadvantaged with Muslim women experiencing particular disadvantage. Similar disadvantage is often experienced by gay or lesbian members of ethnic minorities. In 2021/22 just 3% of starts in the MA were from black minority ethnic (BME) backgrounds. Evidence shows that people from BME communities are disadvantaged in seeking entry to the workplace, and also as a result of intersectionality. For example, the same individual may have a combination of the following challenges to entering the workplace: being from a BME community: not being a native English speaker and requiring ESOL support; not being accepted culturally because of their sexuality; living in an area of deprivation; and/or (particularly in the case of women) delayed entry to the workplace due to child raising responsibilities, or gender stereotyping.

MA Training Providers identified that BME candidates with additional barriers such as those described above were harder to recruit and sometimes required significant specialised or additional support. Accordingly, SDS introduced the Ethnic Intersectionality Incentive, a grant of £1000 to offset the costs of servicing additional needs such as targeted marketing and specialised/additional support to recruit certain groups into the MA programme.

This document contains the rules that shall apply in relation to the Ethnic Intersectionality Incentive (EII) Grant.

## 2. Interpretation

### 2.1. We use the following terms in these Rules:-

Term	Meaning
<b>Care experienced</b>	a person who is or was formally looked after by a local authority, in the family home (with support from social services or a social worker) or elsewhere, for example, in foster care, residential/secure care, or kinship care (with family friends or relatives).
<b>EII Agreement</b>	means each agreement between the Provider and SDS comprising: (i) the relevant EII Application from the Provider, (ii) the acceptance email

	from SDS, (iii) these Rules and (iv) all other applicable terms and conditions of the Modern Apprenticeship.
<b>EII Application</b>	each application form for the EII Grant completed by the Provider, using the application form template available at <a href="#">Funding - forms and guidance   Skills Development Scotland</a>
<b>EII Grant</b>	the grant payment of £1000 (one thousand pounds Sterling).
<b>Eligible Candidate</b>	an individual who meets all of the eligibility requirements to become a Modern Apprentice, as set out in the SDS Modern Apprentice Programme Specification in force at the date when the individual is registered as a Modern Apprentice on SDS's FIPS system.
<b>FIPS</b>	SDS's electronic database for registering details relating to an Eligible Candidate
<b>MA Contract</b>	the contract between SDS and the Provider that is in force on the date the EII Application is submitted to SDS, for the provision by the Provider of modern apprenticeship services
<b>Modern Apprenticeship</b>	the modern apprenticeship to which the EII Application submitted to SDS relates
<b>Protected Characteristic</b>	has the meaning given in section 4 of the Equality Act 2010;
<b>Provider</b>	the training provider registering the Eligible Candidate for a Modern Apprenticeship on FIPS in accordance with the provisions set out in the MA Contract
<b>Rules</b>	these Ethnic Intersectionality Incentive(EII) Grant Rules (as may be amended by SDS from time to time)
<b>SDS</b>	The Skills Development Scotland Co. Limited, a company registered in Scotland under company number SC202659, and having its registered office at Floor 1, Monteith House, 11 George Square, Glasgow G2 1DY
<b>Targeted Group</b>	black, Asian, and minority ethnic (BAME) meaning mixed or multiple ethnic groups, Asian, Asian Scottish or Asian background. Non-ethnic and non-visible ethnicity groups including but not limited to white – Scottish, white – other British, White – Irish, White – Polish, White – Gypsy/Traveller and White – other, are deemed not to fall within the definition.
<b>Year</b>	each period between 1 April and the following 31 March during the period when the EII Grant is available.

### 3. Eligibility

3.1. A Provider may apply to SDS for the EII Grant for each Eligible Candidate who affirms in the EII Application that they:-

3.1.1. are from the Targeted Group; and

- 3.1.2. have experienced one or more significant barriers in seeking access to a modern apprenticeship in Scotland. A 'significant barrier' must relate to:-
  - 3.1.2.1. being from the Targeted Group,
  - 3.1.2.2. any Protected Characteristic that applies to the Eligible Candidate; or
  - 3.1.2.3. the Eligible Candidate being 'care experienced' (as defined above).
- 3.2. Examples of significant barriers include, but are not limited to the following:-
  - 3.2.1. English is not the Eligible Candidate's first language and the Eligible Candidate has required or requires ESOL support;
  - 3.2.2. The Eligible Candidate's participation in the UK labour market has been materially disrupted and/or delayed due to motherhood and/or caring responsibilities;
  - 3.2.3. as at the date of the EII Application the Eligible Candidate has official refugee status;
  - 3.2.4. The Eligible Candidate was unemployed for the whole of the 4 month period that ends on the date the Eligible Candidate started their Modern Apprenticeship. (Participation in a pre-employment programme, doing voluntary work or employment on a zero hours contract will constitute 'unemployment' for the purposes of this paragraph) and this was due to being from the Targeted Group, being "care experienced" or a Protected Characteristic;
  - 3.2.5. The Eligible Candidate identifies as LGBT+ and this has disrupted their education or otherwise caused a barrier to them entering a Modern Apprenticeship;
  - 3.2.6. The Eligible Candidate has additional support needs due to being from the Targeted Group, being "care experienced" or a Protected Characteristic; or
  - 3.2.7. The Eligible Candidate affirms in their EII Application that they are from a care experienced background and this has caused a barrier to their application to a Modern Apprenticeship.
- 3.3. It shall be for SDS to determine at its sole discretion, whether an Eligible Candidate meets the requirements set out in clause 3.1 above and as otherwise set out in these Rules, including without limitation, whether the Eligible Candidate has experienced a significant barrier in seeking access to a modern apprenticeship in Scotland. The decision of SDS in any such case shall be final and not open to challenge.
- 3.4. A Provider may only apply for one EII Grant in respect of each Eligible Candidate. Where SDS has previously awarded the same or a similar ethnic intersectionality incentive grant to any training provider in respect of the same individual, the EII Grant will not be available in respect of that individual.
- 3.5. Where a Provider enters into at least five EII Agreements in any Year, SDS is under no obligation to consider any further applications received from that Provider in that Year. SDS may reject each such additional application or delay processing each such additional application until a date elected by SDS, to enable other providers to submit EII applications. SDS reserves the right to prioritise EII Applications received from providers who have entered into less than 5 EII Agreements in that Year over EII Applications received from providers who have entered into 5 or more EII Agreements in that Year.

- 3.6. Approval of any EII Application is subject at all times to available funding for the EII scheme. Accordingly, there is no right to any EII Grant and approval and payment of such is subject to funding and approval at the discretion of SDS.
  - 3.7. In response to updates to legislation, regulation and government guidance, SDS may, from time to time, amend or expand the requirements for eligibility for the EII Grant.
  - 3.8. SDS's decision to accept or reject any EII Application or to delay the processing of any EII Application, shall be final. SDS reserves the right not to enter into correspondence in relation to any EII Application decision.
4. Recovery of the EII Grant
    - 4.1. Without reducing the scope of any other rights SDS has to recover the EII Grant, SDS may (in its discretion) require the Provider to repay the EII Grant in full to SDS, within 14 days of SDS's demand, in the event that:-
      - 4.1.1. the Eligible Candidate discontinues the Modern Apprenticeship for any reason within the 6 calendar month period following the date the Modern Apprenticeship was registered on FIPS (for example if the individual was registered on January 5<sup>th</sup> as a new start for the Modern Apprenticeship, the EII Grant would be fully repayable if the individual left that Modern Apprenticeship at any time before July 5<sup>th</sup> that year). The Provider shall not require to make any repayment under this Rule 4.1.1 where the Eligible Candidate dies within the 6 month period or continues their Modern Apprenticeship with another provider or employer. Any temporary absence (arising from e.g. sickness or maternity leave, or compassionate leave) shall not be deemed to be a discontinuation of the Modern Apprenticeship, where the Eligible Candidate shall be returning to complete the designated Modern Apprenticeship whether with the Provider or another provider or employer.
      - 4.1.2. the Provider has, in SDS's reasonable opinion, failed to comply with any of these Rules;
      - 4.1.3. the MA Contract is terminated by SDS as a result of the Provider's breach; and/or
      - 4.1.4. the Provider provides (or has provided) SDS with any materially misleading or inaccurate information in relation to any EII Agreement
    - 4.2. Where SDS is entitled to recover any EII Grant payment from a Provider, SDS shall also have the option to offset any sums due by the Provider to SDS in relation to this EII scheme, against any other sums that may be due by SDS to the Provider under any other agreement.
5. Duration of the EII Scheme
    - 5.1. Subject to clause 5.2, Providers may apply for EII Grant payments in the period four weeks before and four weeks after the commencement by the Eligible Candidate of their Modern Apprenticeship (as recorded on FIPS) (the "**Eligible Period**").
    - 5.2. SDS may announce details of opening dates and/or closing dates for the EII Grant Scheme on the SDS website and by contacting providers and employees (the dates in which an application may be made being the "**Application Dates**"). SDS reserves the right to reject any EII Application received outside the Application Dates, and any EII Application received within the Application Dates that is incomplete or otherwise fails to meet the requirements of these Rules. SDS will determine, in its sole discretion, whether or not any application meets the requirements of these Rules and its decision in this regard shall be final.

## 6. Other Funding

6.1. Subject to clause 3.4, payment of the EII Grant shall not restrict eligibility for any applicable other grants or funding in respect of the Eligible Candidate.

## 7. Co-operation with SDS and its Associates

7.1. The EII scheme is one of a number of measures SDS is deploying with a view to diversifying participation in modern apprenticeships within Scotland. By submitting an EII Application, the Provider agrees to co-operate fully with SDS (including any agents SDS may use) in any surveys and/or feedback questionnaires SDS (or SDS's agents) may request in relation to the scheme, with a view to SDS assessing the effectiveness of the scheme.

## 8. Applying for the EII Grant

8.1. The Provider may only submit an EII Application in respect of an Eligible Candidate in the period four weeks before and four weeks after the commencement by the Eligible Candidate of their Modern Apprenticeship (as recorded on FIPS) (the "**Eligible Period**"). No extension of that period shall be made for any public holidays etc. (e.g. where an apprentice's start date is registered on FIPS as 5<sup>th</sup> December, the application must be received in FIPS no later than midnight on 2<sup>nd</sup> January following). Earlier or later applications will be rejected.

8.2. The Provider must read, complete, sign and date section A of the EII Application and arrange for the Eligible Candidate to read section B of the EII Application, and where the Provider is satisfied that the Eligible Candidate has understood the content and implications of Section B, ask the Eligible Candidate to complete, sign and date section B. The Provider should thereafter submit the completed form to [equality.apprenticeships@sds.co.uk](mailto:equality.apprenticeships@sds.co.uk).

8.3. By submitting an EII Application to SDS, the Provider shall be confirming that (i) it has clearly explained all the required information set out in the EII Application to the Eligible Candidate and (ii) the information contained in the EII Application is accurate and up to date as at the date of submission of the form to SDS.

8.4. The EII Application must be password encrypted with the password sent in a separate email and all data transferred in respect of the EII Grant must be sent in accordance with the data transfer provisions of Appendix 2 of the Modern Apprenticeship Programme Conditions.

8.5. If SDS determines, in its sole discretion, that the EII Application of a Provider is successful and a EII Grant is awarded, SDS shall aim to notify the Provider within five days of receipt of the EII Application (with the date of notification being known as the "**Award Date**"). Once a Provider has been notified that it is successful, payment of the EII Grant shall be made in accordance with clause 16.

## 9. Publicity

9.1. SDS reserves the right, at its sole discretion, to disclose to any third party, and through any medium, and at any time, full details of all EII Agreements entered into with SDS and by entering into an EII Agreement, the Provider consents to such disclosure and waives any right it may have to prevent or restrict such disclosure on grounds of commercial confidentiality or otherwise.

## 10. Freedom of Information

10.1. The Provider shall assist SDS without charge in meeting (within a reasonable time) any requests for information in relation to the EII scheme including without limitation, any EII Agreement (or part of such an agreement) which are made to SDS by any party in connection with the Freedom of Information (Scotland) Act 2002 or any related guidelines or codes of practice.

## 11. Monitoring, Audit and Evaluation

11.1. The Provider shall provide SDS, the Auditor General for Scotland, Scottish Government, and/or in each case, its, his or her representatives whomsoever, such information as such party may require for the purpose of auditing compliance with the Rules and/or any EII Agreement, (as applicable).

11.2. The Provider shall permit duly authorised representatives of each of the bodies referred to in Rule 11.1 unlimited access to interview the Eligible Candidates and/or to examine all records and all other supporting documentation relating to any EII Grant awarded. The Provider shall furnish each such party with suitable oral or written explanation if required and shall provide each such party with access to its staff for interviews on matters covered by the EII scheme.

11.3. SDS and the Provider agree that any personal data that is provided to SDS for the purposes of an EII Application is provided by the Provider and is subject to the relevant terms and conditions governing data protection set out in the MA Contract.

## 12. Law

12.1. Each EII Agreement shall be governed and construed in accordance with the laws of Scotland and the Provider and the parties each submit to the exclusive jurisdiction of the Scottish courts in relation to any dispute or claim arising out of or in connection with the EII Agreement or in relation to its existence or validity.

## 13. Entire Agreement

13.1. Each EII Agreement shall constitute the whole agreement between the parties and shall supersede all previous agreements between the parties relating to its subject.

13.2. Each party acknowledges that, in entering into the EII Agreement, it shall not have relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in the EII Agreement. The Provider accepts that SDS has relied on the EII Application in agreeing to make any offer of award for the EII Grant, and by submitting an EII Application, the Provider warrants that each EII Application shall be fully accurate and not in any way misleading.

## 14. Assignment

14.1. The provider shall not be entitled to assign its rights or obligations under the EII Agreement to any other party without the prior written consent of SDS. SDS shall be entitled to assign its rights and obligations in terms of the EII Agreement to any body.

## 15. Complaints

15.1. If something goes wrong or the Provider is dissatisfied with SDS's services, please tell SDS. Details of SDS's complaints procedure are available on the SDS Website at <https://www.skillsdevelopmentscotland.co.uk/about/policies/complaints/>.

## 16. Payment of the EII Grant

- 16.1. In the event that SDS approves any application for the EII Grant, the Provider will be notified in accordance with clause 8.5. Once, SDS has approved the EII Grant, the Provider will be notified through FIPS and will be entitled to claim the payment through FIPS. SDS will aim to active and make the payment of the EII Grant available no later than 4 weeks after the Award Date (as defined in clause 8.5).
- 16.2. The payment can be found in FIPS under 'incentive claims' and will only show if and when approved and activated by SDS.

## 17. Subsidy Control – Minimal Financial Assistance

- 17.1. The EII Grant is offered by SDS as a Minimum Financial Assistance (“**MFA**”) subsidy under the Subsidy Control Act 2022, subject to the Provider’s agreement to, and compliance with, these rules. The amount of MFA offered is £1,000 per Eligible Candidate..
- 17.2. Before making the payment, we require written confirmation in the Application Form section A, that receipt of the payment will not exceed the Provider’s MFA threshold of £315,000 cumulated over this and the previous two financial years, as specified in section 36(1) of the Subsidy Control Act 2022. This means the Provider must confirm that the Provider (and if applicable its corporate group) have not received more than £315,000 minus the cumulative value of the EII Grant awarded to it in MFA subsidies or comparable types of subsidies (see section 42(8) of the Subsidy Control Act) between 1 April 2021 and the Award Date.
- 17.3. We would remind Providers that they are required to keep a written record of the amount of MFA they have received and the date/s when it was received. The written record must be kept for at least three years beginning with the date on which the MFA was given. This will enable Providers to respond to future requests from public authorities on how much MFA they have received and whether they have reached the cumulative threshold. Confirmation must be sent by someone who is authorised to do so on behalf of each Provider.