

## Prestwick Sailing Club CAT Proposal – Subsidy Control Assessment

### 1.0 UK Subsidy Control Regime

- 1.1 The subsidy control regime (under the Subsidy Control Act 2022) does not apply to all types of financial assistance given by public authorities. In the early stages of decision-making, it is therefore key that public authorities assess whether the financial assistance that is given falls under the definition of a subsidy that is set out in the Act. (*Statutory Guidance for the United Kingdom Subsidy Control Regime, section 2.1*)
- 1.2 The definition of a subsidy consists of a four-limbed test, of which **each condition must be met in order for the financial assistance to constitute a subsidy**. (*Guidance, section 2.3*)
- 1.3 Financial assistance is a wide concept including any kind of support or market transaction that is considered to have a financial value for the recipient. It can include (*Guidance, section 2.5*):
- a direct transfer of funds (such as a grant, a loan or an equity investment);
  - a contingent transfer of funds (such as a loan or rent guarantee);
  - the forgoing of revenue that is otherwise due (such as a tax relief or exemption);
  - the provision of goods or services (either as a benefit-in-kind where no payment is received, or where payment is received); or
  - the purchase of goods or services (where payment is given in return).

### 2.0 Prestwick Sailing Club CAT Request

- 2.1 Prestwick Sailing Club (PSC) has submitted a Community Asset Transfer (CAT) request, under Part 5 of the Community Empowerment Act (Scotland) 2015 to take over ownership of the land currently occupied by PSC under lease from South Ayrshire Council, located at 31 Grangemuir Road, Prestwick.
- 2.2 The CAT proposal from PSC seeks to create a hub for the whole community to sail, paddle, swim, row or windsurf. The Club plans to redevelop the clubhouse to install a lift, accessible showers and toilets and improved changing facilities.
- 2.3 An independent valuation of the asset was undertaken on 19th September 2024 by J&E Shepherd, Surveyors, and the opinion of the valuer is that the market value of the requested asset is £75,000 (seventy five thousand pounds).
- 2.4 PSC has offered to purchase the asset for £10,000 (ten thousand pounds), giving their reasons for requesting a discount of £65,000 on market value as the:
- 2.4.1 Community Benefits arising from the transfer

**2.4.2** Planned investment of £550,000 into improving Club facilities which they hope will increase the accessibility of sailing and attract national sailing events to Prestwick. This investment will come from Club reserves and grant funding.

**2.5** PSC was established in 1959 and is the only venue offering dinghy sailing training between Stranraer and Largs. PSC currently occupies the property at Grangemuir Road under lease from the Council, paying an annual rent of £650. The current lease runs until 2038 but the remaining period of 13 years is less than grant funders require in order to invest in improving the facilities. PSC wish, therefore, to secure ownership of the site via CAT and then go onto secure grants for the improvement works.

**2.6** The property, as part of the larger Prestwick foreshore area, is regarded as inalienable Common Good.

**3.0 Is it a subsidy? The four-limbed test.**

**3.1** Financial assistance will be considered a subsidy where it satisfies all four of the following ‘limbs’ of the test contained in the Act. The Guidance states it is important to emphasise that there are many examples of financial assistance that satisfy one or more limbs, but not all four – these are therefore not subsidies.

<b>3.2 Coylton Tennis Club CAT - Subsidy Control Four-Limbed Test of Financial Assistance</b>	
<p><b>Limb A:</b> The financial assistance is given, directly or indirectly, from public resources by a public authority. Public authorities include any entity which exercises functions of a public nature. Public resources include public funds that are administered by the UK Government, the devolved governments, or local authorities, whether they are given directly, through other public bodies (e.g., agencies), or through private bodies.</p>	<p>This test is met.</p> <p>The proposed financial assistance comes from public resources and is provided by South Ayrshire Council directly to PSC.</p>
<p><b>Limb B:</b> The financial assistance confers an economic advantage on one or more enterprises. This limb has two components. Firstly, the recipient of the assistance must be an enterprise: any entity (that is, any person, or groups of persons under common control) that is engaged in an economic activity, which means offering goods and services on a market. If the recipient is engaged in both economic and non-economic activity, it should be considered an enterprise only in relation to its economic activity.</p>	<p>This test is met.</p> <p>PSC, operates as a members’ sailing club and as a provider of training in non-motorised water sports. Members pay an annual subscription and anyone participating in training, including non-members, will pay the appropriate fee.</p> <p>PSC is a registered Scottish Charitable Incorporated Organisation (SCIO) and as such, operates on a ‘not-for-profit’ basis with Charitable Purposes:</p>

<p>Secondly, it must confer economic advantage, meaning that the financial assistance is provided on favourable terms. Financial assistance will not confer an economic advantage if it could reasonably be considered to have been given on the same terms as it could have been obtained on the market. This is known as the Commercial Market Operator (CMO) principle.</p>	<ol style="list-style-type: none"> <li>1) The advancement of public participation in sailing and other non-motorised water sports.</li> <li>2) The provision of recreational facilities, or the organisation of recreational activities with the object of improving the conditions of life for the persons for whom the facilities are intended.</li> </ol> <p>The Subsidy Control Team at Scottish Government were contacted for guidance. In their view:  <i>'a sailing club that offers training is likely to be considered an enterprise, regardless of their SCIO status. In addition, Members pay an annual subscription and anyone participating in training, including non-members, will pay the appropriate fee. We feel this strengthens the argument that it meets the definition of an enterprise'</i>.</p> <p>It is likely, therefore, that this test is met.</p>
<p><b>Limb C:</b> The financial assistance is specific, such that it benefits one or more enterprises over one or more enterprises with respect to the production of goods or provision of services. This definition covers financial assistance that is provided directly or indirectly to specific beneficiaries determined on a discretionary basis by the public authority, as well as assistance that benefits (directly or indirectly) only enterprises in a particular sector, industry, or area, or with certain characteristics.</p>	<p>This test is met.</p> <p>Circumstances where specific assistance exists include where authorities have discretion in deciding which enterprises can benefit from financial assistance. In the case of PSC, the decision on whether to award the requested discount is at the discretion of Cabinet.</p>
<p><b>Limb D:</b> The financial assistance has, or is capable of having, an effect on competition or investment within the UK, or on trade or investment between the UK and another country or territory, or both. Financial assistance envisaged by public authorities must be capable of producing a relevant effect, such that it is capable of having a genuine, adverse effect that is more than incidental or hypothetical on competition or investment in the UK, or international</p>	<p>This test is met.</p> <p>PSC operates on a not-for-profit basis, seeking to advance public participation in sailing and provide recreational facilities. There are other sailing clubs nearby but these operate on a similar basis to PSC and there is no evidence that there is competition for members. PSC is the only club in the area offering dinghy sailing training courses.</p>

<p>trade or investment, in order to constitute a subsidy.</p>	<p>Guidance from the Subsidy Control Team at Scottish Government:          ‘We consider this limb is met as upgraded facilities may attract members from other sailing clubs. Additionally, you’d need to be content those other sailing clubs wouldn’t want to/ be able to offer training courses if they were to receive a similar amount of financial assistance’.</p> <p>‘You might want to check if PSC have scope to receive this as a MFA* award and if not, you’d need to think about putting either a new subsidy scheme in place or making this as a standalone award. Given the overall value is £65,000 there wouldn’t be a huge amount of work involved in completing a principles assessment’.</p>
<p>*Minimal Financial Assistance (MFA)</p>	<p>Minimal Financial Assistance (MFA) allows public authorities to award low value subsidies without needing to comply with the majority of the subsidy control requirements. MFA has a financial threshold so no recipient can receive more than £315,000 over the applicable period. The applicable period is:</p> <ul style="list-style-type: none"> <li>• The elapsed part of the current financial year (i.e., from 1 April), and</li> <li>• the two financial years immediately preceding the current financial year.</li> </ul> <p>Subsidies given under MFA provisions are very unlikely to have any appreciable distortive impacts on domestic competition or investment or international trade or investment.</p>

#### 4.0 Assessment and Recommendation

4.1 Based on the results of the four-limbed test as described above, it appears all four limbs are met and the financial assistance is likely to constitute a subsidy.

4.2 It is recommended, therefore, should Cabinet decide to approve the CAT request at the discounted purchase price of £10,000, it is offered to PSC under Minimal Financial Assistance terms. PSC would be required to agree to those terms.