

## Joint Investment Committee and Growth Fund Management Group Terms of Reference

Agreed by the Joint Investment Committee on 12 December 2018

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The Joint Investment Committee (“**JIC**”) is authorised by Big Society Capital (“**BSC**”), Big Lottery Fund (the “**Fund**”) and Access - the Foundation for Social Investment (“**Access**”) to oversee the strategy, policy and activities of the Growth Fund. This includes making funding decisions on the £22.5 million of the Fund grant budget and at least £22.5 million BSC loan funding in accordance with the agreed Growth Fund Investment Policy, with Access’s Service Level Agreement with the Fund, the Memorandum of Understanding between BSC and Access and the Memorandum of Understanding between the BSC, Access and the Fund.

The JIC has created the Growth Fund Management Group (“**GFMG**”) and delegated authority to manage and oversee the operational aspects of the Growth Fund portfolio, as further detailed in paragraph 11.

### 1. Aims of the Growth Fund

The Growth Fund was established as a response to the lack of more risk bearing investments of less than £150,000 available for voluntary, community or social enterprise (“**VCSE**”) organisations.

By creating blended financial packages in appropriate forms to these organisations who are currently likely to be excluded from most forms of repayable finance, the Growth Fund expects:

At the level of incorporated VCSE organisations:

- VCSE organisations will be able to develop their enterprising activity in order to deliver social impact on a more sustainable basis and/or increase their social impact. This might lead to growth or to stronger more resilient VCSEs which are better able to generate social impact from their activities over the longer term;
- The portfolio of investments to demonstrate new approaches to investment by blending grants with loans in simple, smaller size products which meet the needs of VCSEs;
- To see a greater appetite by VCSEs to manage and mitigate the risks to social impact alongside the financial risks when taking on social investment.

At SIFI level

- The investment activities of SIFIs will be extended to include those VCSEs who previously have not managed to access social investment, as a result of the incentives created through the package received from the Growth Fund;
- New partnerships will be formed between those with lending expertise and organisations with the ability to reach new frontline organisations;
- To support the creation and sustainable growth of new SIFIs and develop an understanding of what is required to operate in the market (resourcing, infrastructure etc.);
- A likely increased efficiency through, for example, developing lean operating models;

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- Greater understanding of performance risks including costs, efficiency as well as financial risks undertaken by investing in this target group of front line organisations (which could be further categorised by geography or sector over time) and of the VCSEs' own risks;
- A change in behaviours of SIFIs to become more responsive to the needs of VCSEs;
- A greater understanding for SIFIs and the wider social investment market of the trade-offs within investments between social and financial returns, and clarity on how SIFIs will best assess collate and report on social impact.

Market level (supported by evaluation throughout the lifetime of the Growth Fund):

- To see new models of social investment that appropriately support VCSEs;
- A greater understanding of the likely SIFI operating costs needed to support the investment strategy, and the trajectory of these over time;
- A better availability of information on the actual financial and social risk of social investment to enable market development;
- An evidence base / longitudinal cohort of organisations from whom to track social and financial returns arising from a range of different product combinations;
- Effective learning for funder organisations, service providers and others in the social investment market about the level of actual performance risks, impact risks and financial risks and the role of grant as complement to stimulating investments to finance the delivery of longer lasting change through increased social outcomes.

## **2. Membership and Attendance of the JIC**

The JIC will be chaired by a non-voting representative of Access.

The members of the JIC are appointed by the Investment Committee of BSC, the Board of Access and the Chief Executive Officer of the Fund.

Members of the JIC shall comprise:

- 2 representatives from Access (in addition to the non-voting Chair of the JIC). Trustees may choose to nominate the CEO as one of the representatives on the JIC.
- 2 representatives of the Fund.
- 2 representatives of BSC's Investment Committee.

The JIC shall comprise a balance of appropriate experience and expertise in both social sector and investment areas. The Fund, BSC and Access can nominate alternatives if one or two of their respective representatives are unable to attend a meeting.

The Access CEO has the right to attend meetings of the JIC, whether or not appointed as a member of the JIC. BSC, the Fund and Access staff may attend meetings as observers or as support for their organisation's members if required. Advisors may be invited to attend and express their views as required by the JIC.

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### **3. Secretary**

The Chair will nominate the Secretary of the JIC. It is expected that the Secretary will be a member of Access staff – they will not form part of the membership of the committee and will hold no voting rights.

### **4. Quorum and voting rules of the JIC**

A quorum for meetings of the JIC shall be five members. For any decision on grant funding, the two representatives of the Fund (or their nominated alternates) must be present for quorum to be reached and must vote in favour of the proposal for the vote to be carried. For any decision on loan funding, the two representatives of BSC (or their nominated alternates) must be present for quorum to be reached and must vote in favour of the proposal for the vote to be carried.

Subject to the above, a duly convened meeting of the JIC at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the JIC.

Members may be present for the purposes of a meeting of the JIC in person or by conference call, provided all those present can hear one another.

Decisions will be made by 75% majority in number effectively giving Access, BSC and the the Fund respective vetoes. If the meeting is not quorate from the time appointed for the start of the meeting, or if during the meeting the JIC ceases to be quorate, recommendations will have to be ratified by a quorate committee meeting or by correspondence (ratified by 75% of all voting-eligible representatives).

The JIC may make decisions via correspondence, in place of a meeting, however any proposal will require 75% of all voting-eligible representatives to vote in favour for the proposal to be approved. For the avoidance of doubt the quorum and voting provisions set out above in relation to decisions on grant funding and loan funding still apply.

### **5. Frequency of JIC Meetings**

The JIC will meet as often as required. Once the Growth Fund funding is nearing full commitment and is in the portfolio management phase, the JIC will meet quarterly, on a cycle aligned to the quarterly portfolio reports.

### **6. Notice of JIC Meetings**

Meetings of the JIC shall be called by the Secretary of the JIC at the request of the Chair.

Unless otherwise agreed, notice of each meeting confirming the venue, time and date will be forwarded to each member of the JIC, and any other person required to attend, at least three weeks in advance of the meeting. An agenda of items to be discussed together with supporting papers shall be sent to JIC members (and observers) at least 7 days before the meeting. These notice requirements can be waived by the JIC at a suitably quorate meeting.

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### 7. Minutes of JIC Meetings

The Secretary shall minute the procedures and resolutions of all meetings of the JIC and will circulate them to all members of the JIC with the papers for the next meeting of the JIC.

### 8. Reporting

The Chair will update the Fund, BSC and Access on the activities and decisions of the JIC on a quarterly basis via the presentation of the quarterly Portfolio Report. The update will include how funding decisions are supporting the strategy of the Growth Fund. There will be a review of the JIC's and GFMG's activities and decisions on an annual basis, to ensure they continue to be fit for purpose.

### 9. Duties of the JIC

The JIC shall:

- Approve the investment policy, in line with the intended outcomes of the Growth Fund;
- Make decisions on the Fund's and BSC's funding to SIFIs (for this purpose meaning the SIFI and its wholly owned subsidiary), including the use of residual, repaid and unspent grants;
- Oversee all EOIs submitted to Access by reviewing monitoring reports produced by Access's Investment Manager;
- Take decisions on significant changes to approved investments in the form of a variation in terms (see paragraph 12 for further details of what constitutes significant changes);
- Oversee the performance of the Growth Fund portfolio of investments in relation to the Growth Fund's aims (stated above);
- Receive updates from the Growth Fund Management Group ("**GFMG**") and consider any issues referred to it by the GFMG;
- Consider any other issues related to investments made by the JIC.

### 10. Process of JIC decision making

The role of the JIC is summarised below:

PROCESS	ROLE OF JIC
Submission of EOI	Oversight of
Submission of Application Form	Oversight of
JIC Round 1	Decision on whether to proceed with Due Diligence based on summary of application form
JIC Round 2	Decision on whether to make an investment based on completed Due Diligence
During investment period (of the Growth Fund into SIFIs)	Portfolio management – oversight of and possibility to propose intervention if investments not performing. Oversight of any proposed variations on agreed deal.

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Post completion of investment (Growth Fund's run-off/monitoring period)	Portfolio management – oversight of and possibility to propose intervention if investments not performing. Oversight of any proposed variations on agreed deal. Once VCSE loans have been repaid – decision on whether SIFI is able to maintain leftover residual grant to re-invest into VCSE organisations.
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### Submission of EOI:

The JIC shall have oversight over the EOIs received for the Growth Fund at each meeting through a list presented by the Access team.

### Submission of application form:

The JIC shall have oversight over the applications received for the Growth Fund at each meeting through a list presented by the Access team.

### Joint Investment Committee Round 1 and 2:

The JIC will make funding decisions on applications following a presentation of each SIFI application by the Investment Manager of Access and/or an investment team member from BSC. There will be two rounds to the investment decision process:

1. Round 1 at which the JIC will assess whether the application is suitable to proceed with Due Diligence. This decision will be based on a short assessment report together with the original application form. The aim of the first round is to assess the suitability of the application for the Growth Fund based on the parameters outlined in the Investment Policy and agree any additional areas for due diligence for a decision to be made at the Round 2 of the JIC; followed by
2. Round 2 where a funding decision is taken based on the Due Diligence completed by officers from Access and BSC. At that stage the structure and terms of the proposal should be finalized although the JIC could choose to include conditions precedent to be fulfilled prior to signing.

The JIC can agree to approve an investment at Round 1 in exceptional circumstances, if the due diligence process has already been completed on the SIFI applicant (for example if a SIFI is applying for continuation funding).

### Variation in terms following investment decision prior to signing

Administrative changes, changes to the terms to be incorporated into the legal agreements and amendments to the template documents during the course of negotiations, document execution and non-material variations in terms are delegated to the GFMG and do not require agreement by the JIC. See paragraph 11 for the further detail on the role of the GFMG.

Material variations in investment terms shall be bought back to the JIC for agreement. If necessary, Access can refer to the Chair to determine whether changes to investment are material and the JIC should be updated accordingly.

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### During the investment period:

During the investment period, the JIC will meet quarterly to oversee any on-going Growth Fund matters, including those outlined in the scheme of delegation below. The JIC will delegate operational matters regarding investments in the Growth Fund portfolio to the GFMG, also in accordance with the scheme of delegation.

Following the Growth Fund investment period of 2-3 years, the JIC will continue to meet quarterly to oversee any on-going Growth Fund matters, including the potential resizing of funds and make decisions on residual grant and loan capital budgets.

### Post completion of investment:

Following the completion of the investment, the JIC will be responsible for making a decision on what happens with any remaining Grant capital for that particular investment (this includes residual, repaid and unspent grant) for that particular investment.

### Other

Discussion of policies and broader investment issues relevant to the policy or to the implementation of the Growth Fund can be held at the JIC where relevant and requested by the Chair.

## **11. Growth Fund Management Group**

The JIC has delegated operational matters regarding investments in the Growth Fund portfolio to the GFMG. The scheme of delegation and reserved powers for the JIC are defined below. The GFMG will particularly decide on issues delegated by the JIC. It is recognised that any decisions made will have an impact on the various legal agreements between the SIFIs and BSC and/or the Fund. The Fund, BSC and Access will work to update the relevant legal documents following any decisions made.

The GFMG will be chaired by a senior member of staff at Access (who will fully participate in decisions) and will also include one voting member from each of the Fund and BSC, appointed by the JIC and each with sufficient authority to make decisions on behalf of their organisations and making such decisions in the spirit of collective decision making and speed and efficient process. Where the Fund representative needs to seek advice from its own internal legal advisors or seek more senior sign off before it is able to make a decision on behalf of the Fund, any actions relating to such decision will be deferred until the Fund confirm their agreement or otherwise with the decision made during the meeting. The Fund shall procure that any such internal advice or senior sign off is obtained in a timely manner and communicated to the GFMG promptly. Programme Managers at Access and other staff at each of the Fund, BSC, and as necessary or appropriate for any particular investment, any co-investors, may attend the meetings. Appointed members of the GFMG may appoint substitute members for particular meetings as necessary.

Meetings of the GFMG will be scheduled fortnightly, with decision made by email or conference call in between as required. It is anticipated that GFMG meetings will follow a six-weekly cycle, with the first two fortnightly meetings held via conference call and limited to one hour, followed by a longer (typically two hourly) meeting in person of the GFMG representatives. A quorum shall be a representative of each of Access, the Fund and BSC. The Access executive will record all decisions and actions agreed at each meeting of the GFMG and circulate those to the attendees.

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Decisions of the GFMG will be made by consensus of the appointed representatives. If a consensus is not achievable then the issue will be referred to the JIC. The Access executive will prepare a short report for each JIC meeting detailing the decisions taken by the GFMG during the intervening period.

### **12. Reserved Matters for the JIC and the Growth Fund Management Group regarding the Growth Fund Portfolio**

Access, BSC and the Fund have agreed the following scheme of delegation for the management of the Growth Fund portfolio. This will be reviewed periodically by the JIC to ensure that it is providing the necessary oversight to the JIC and funding partners, while allowing effective and efficient decision making to Access and the GFMG.

The Fund and BSC each agree not to enact legal rights under their respective agreements with a SIFI until an agreed course of action has been put in place by the GFMG (or if not possible by the JIC) (unless required under law or by their respective regulator) while at the same time commit to making decisions as quickly as possible to ensure a good user experience for the social investor, and ensure no partner's position or reputation is compromised by the actions of another. Once a course of action has been agreed, appropriate amendments to the legal agreements will be made on a timely basis.

The JIC responsibilities:

- Major changes to the structure of a fund, the parties involved, which are outside of the spirit of the original approval;
- Changes to the funded amounts equal to or greater than 40%;
- Material changes in the outcomes being sought or beneficiaries served;
- Material changes to how the fund operates that differs materially from the original application approved by the JIC (within the funded amounts);
- Early closure / termination of a fund.

The GFMG responsibilities (as delegated by the JIC):

- Changes to the structure of a fund which are within the spirit of the original JIC approval;
- Changes in the terms of a loan agreement that does not fall within the initial JIC approval;
- Significant reduction in the number of loans/ or volumes expected to be made through the fund
- Minor changes to the funded amounts (less than 40%);
- Minor changes or deviations in the outcomes being sought or beneficiaries served;
- Changes to the terms of the service level agreement (“SLA”) (between the ParentCo and NewCo and any third party providers) or material breaches to the SLA;
- Changes in the administration of a fund (e.g. if ceasing to use Street UK or Key Fund);
- Recommending the replacement of accountable officers to the Big Lottery Fund CEO ;
- Approving replacement of Key Persons/ Directors;
- Breach of ACR / EDA provision on 30% under-deployment;
- Other breaches of the EDA;
- Event of default under the loan agreement and security documents;
- Changing the governance arrangements or documents of the delegate or parent if it impacts on security;

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- Application to transfer assets of the delegate.

GFMG will be notified in cases, and the GFMG may consider a response where appropriate, where:

- VCSE mis-use of assets or funded IP;
- Breach of State Aid requirements by SIFI or VCSE;
- VCSE or SIFI SIFI acts unlawfully, illegally or fraudulently;
- Legal notices from a VCSE or SIFI (if urgent, it is anticipated that GFMG partners will be notified immediately of these notices, rather than wait for the next scheduled meeting);
- Expected breach of ACR / EDA provision on 30% under-deployment in subsequent quarter;
- Any complaints.