



# GOVERNANCE HANDBOOK

14th Edition  
February 2017

# **NHS Education for Scotland**

## **GOVERNANCE HANDBOOK**

### Contents

- Board Membership List
- Board Members' Biographies
- Board and Committees Chart
- Board Meeting Dates
- Board Standing Orders
- Roles of Board Members
- Code of Conduct
- Bribery Act – Guidance
- Advice on Relations between Members and Employees of Devolved Public Bodies
- Advice on the Use of Social Media for Members of Devolved Public Bodies
- “On Board” Training: Briefing Note
- On Board: A Guide for Board Members of Public Bodies in Scotland
- Scheme of Delegation
- Standing Financial Instructions (SFIs): Contents

# NHS Education for Scotland

## Board Members (as at 23<sup>rd</sup> June 2016)

- **Non-Executive Members**

**Dr Lindsay Burley CBE (Chair)**

Business Coach and Consultant, Musselburgh

**Ms Susan Douglas-Scott**

Consultant, Glasgow

**Ms Liz Ford**

Employee Director

NHS Education for Scotland, Edinburgh

**Mr Douglas Hutchens**

Consultant, South Lanarkshire

**Dr Doreen Steele**

Independent Human Resources and Strategic Planning Consultant, Hawick

**Ms Susan Stewart**

Director of The Open University in Scotland

**Dr Andrew Tannahill**

Retired Public Health Specialist, Glasgow

**Ms Carole Wilkinson (Vice Chair)**

Consultant, Edinburgh

- **Executive Members**

**Ms Caroline Lamb**

Chief Executive

**Dr Colette Ferguson**

Director of Nursing, Midwifery and Allied Health Professions

**Professor Stewart Irvine**

Director of Medicine and Deputy Chief Executive

**Mrs Audrey McColl**

Director of Finance

# **NHS Education for Scotland**

## **Board Members' Biographies**

### **Non-Executive Board Members**

#### **Dr Lindsay Burley CBE - Chair of NES**

Lindsay Burley was appointed Chair of NES in April 2010, having served on the Board since 2002. In 2003, after a thirty year career as a doctor and senior manager in the Scottish Health Service, she became the first Chair of the National Waiting Times Centre Board, with responsibility for the Golden Jubilee Hospital and Beardmore Conference Centre at Clydebank. Lindsay chairs the Scottish Association for Mental Health. She lives in Musselburgh and runs a coaching and mediation business with her husband, Robin. She is a Fellow of the Royal College of Physicians of Edinburgh, the Royal College of General Practitioners, the Royal Society for the Encouragement of the Arts, Manufactures and Commerce and was appointed a Commander of the British Empire in December 2010.

#### **Ms Susan Douglas-Scott**

Susan stepped down as the Chief Executive of the Long Term Conditions Alliance for Scotland (LTCAS) in May 2010. She continues her involvement with LTCAS as an external consultant. As a founding LTCAS Board member and as its first Chief Executive, Susan was pivotal in developing the organisation to where it is today. Her previous voluntary sector roles include Chief Executive of Epilepsy Scotland, Chief Executive of PHACE (Promoting Health and Challenging Exclusion) Scotland, Director of FPA (Family Planning Association) Scotland and Head of Services for Sense Scotland.

Before this, Susan enjoyed a 16 year career within local authorities, initially as an occupational therapist. Susan's professional experience in the disability and equalities field, along with her personal experience as a disabled woman, has given her the opportunity to develop her thoughts on disability and the impact of long term conditions on the individual and society. She is committed to continuing to challenge services to ensure all people are supported to live well.

#### **Mr Douglas Hutchens**

Douglas joined the NES Board in March 2015. He spent almost 25 years in NHS management and planning, mainly in Glasgow and Lanarkshire, then latterly as Director of Planning and Corporate Affairs of a national NHS Board. He is a Non-Executive Director of the Scottish Government, a member of the UK Judiciary Appeals Tribunal and is also a director of a small consultancy organisation working mainly with public sector and third sector organisations. He also supports the Joint Improvement Team and was previously the Vice Chair of the Scottish Association for Mental Health and the Vice Chair of the Care Inspectorate.

Douglas recently co-chaired the Ministerial Task Force on the Future of Residential Care in Scotland, which will shape residential care for older people for the next 20 to

30 years and is passionate about the quality of services offered to the public, particularly the more disadvantaged within society. Douglas believes he brings a general, non-clinical, wider system perspective to the role, providing an additional understanding to national issues.

He is married, lives in South Lanarkshire and has a son training as a doctor in Scotland.

### **Ms Liz Ford**

Liz has worked at SCPMDE and now NES for over 10 years, starting out in Corporate Services before moving to the Medical Directorate. She is the Lead Unison Officer and was elected as the Staff Side Chair of the NES Partnership Forum in 2008. Liz now works full time as the NES Employee Director/Staff Side Chair and has a key role in taking forward the Partnership and Staff Governance agenda for staff/trade unions.

### **Dr Doreen Steele**

Dr Doreen Steele brings over 30 years of experience in the NHS and Local Government as a Chief Executive, Director of Human Resources, Director of Learning and Development and Chair of a College of Further Education. She is a Chartered member of the Chartered Institute of Personnel & Development; a member of the Institute of Directors and of the Institute of Healthcare Management. She is also educated and trained in group and family therapy which she practised in the USA.

Doreen is currently an independent Human Resources and Strategic Planning Consultant, a Director of a Registered Social Landlord and a non-executive director of a social care partnership.

Doreen was appointed as a Non Executive Director of NHS Borders in 2009 and became Vice Chair in 2013.

### **Ms Susan Stewart**

Susan joined the NES Board as a Non-Executive Director in March 2015. She is the former owner of Susan Stewart Communications and has extensive experience in strategic communications and public affairs. During the Scottish Independence vote, she was Director of Communications for the YesScotland campaign. Prior to that role, Susan has held a number of senior communications and public affairs roles including Director of Corporate Communications at the University of Glasgow; First Secretary, Scottish Affairs, at the British Embassy in Washington DC; Depute Head of the Press Office, Scottish Executive and Chief Media and Public Information Officer at Glasgow City Council. She has also been a political journalist working at Scottish Television. Susan was appointed as the Director of The Open University in Scotland towards the end of 2015.

Susan is a Fellow of the Chartered Institute of Public Relations and of the Royal Society of Arts and is a Board member of the Glasgow Film Theatre and founder member of the Globalscot Network.

### **Dr Andrew Tannahill**

Dr Andrew Tannahill has extensive and varied experience in the fields of health and health-related education, gained as a doctor and public health specialist, as chief executive of a special health board (the former Health Education Board for Scotland), and as an academic. He has served as an executive NHS Board Member at both national and local levels, and has had considerable involvement in policy, strategy and service development, in education and training for a range of health professionals, and in organisational governance. Since retiring from public health medicine in 2011, Andrew has maintained an interest in applying ethical principles and evidence in decision-making.

### **Ms Carole Wilkinson**

Carole Wilkinson was the Chief Executive of the Scottish Social Services (SSSC) from 2001-2009. She was responsible for establishing the organisation and overseeing the implementation of the regulation and registration of social services workers. The SSSC was also responsible for regulating education and training for the care sector and establishing the qualifications required by the workforce. Before moving to the SSSC Carole held the post of Director of Housing and Social Work for Falkirk Council.

During her career she has held a number of senior management posts in England and spent a period in higher education teaching social workers and social care staff. She has served on a number of Scottish Government working groups advising on workforce development matters and on future workforce needs. This has included looking at how health and social care staff could be supported to work and learn together.

Her current interests include ensuring the workforce are supported and developed to deliver integrated services and that individuals and families are at the centre of service delivery.

Carole was appointed as Vice Chair of the Board in February 2016.

## **Executive Board Members**

### **Ms Caroline Lamb – Chief Executive**

Caroline is the Chief Executive of NHS Education for Scotland, appointed in October 2015.

Caroline graduated from Kings College London and trained as a Chartered Accountant with KPMG, working with clients including Castle Cement, Citibank, Nestle and the International Committee of the Red Cross in Geneva. After qualifying as a Chartered Accountant Caroline moved to Scotland and her first Director of Finance post was at Edinvar Housing Association. From Edinvar she moved into

Higher Education, joining the University of Abertay Dundee as Director of Finance and then moving to the post of University Secretary and Director of Operations.

Caroline joined NES in 2004 as Director of Finance and Corporate Resources and Deputy Chief Executive and was appointed Chief Executive of the organisation in October 2015.

Caroline is a Trustee of Circle, a Scottish Charity working with families affected by parental substance abuse and imprisonment; she is also a Non Executive Director of Tabula Rasa, a Scottish Dance Company.

### **Dr Colette Ferguson – Director of Nursing, Midwifery and AHPs**

Colette had a long-standing career in Nursing practice and education before taking up a national post with NHS Education for Scotland in 2003. She is a graduate of the University of Edinburgh, where she was awarded an Msc in nursing and education in 1992 and a PhD in 2000. Colette's specific area of interest and expertise is in practice-based learning and she has led and implemented a national network of Practice Education Facilitation and an education support system of nurses and midwives across Scotland.

More recently, Colette's leadership has focussed on strengthening access to education for Nurses, Midwives, Allied Health Professionals and their support workers across a range of settings including the health and social care workforce.

### **Professor Stewart Irvine – Director of Medicine and Deputy Chief Executive**

Graduated from the University of Edinburgh, and completed postgraduate training in obstetrics and gynaecology in Edinburgh and Aberdeen. Held academic training posts in the University of Edinburgh and Aberdeen, followed by a clinical consultant post within the MRC Human Reproductive Sciences unit in Edinburgh, with clinical and research interests in the field of reproductive medicine - particularly issues affecting male reproductive health.

Held posts as RCOG College Tutor and Regional College Advisor, before assuming the responsibility of Associate Postgraduate Dean in South-East Scotland Deanery, responsible for training in the 'surgical' specialties.

From 2008, was Deputy Director of Medicine for NHS Education for Scotland - a special health board responsible for the education and training needs of all staff within NHSScotland. With respect to postgraduate medical education, the 4 Scottish postgraduate deaneries are an integral part of NES. Dr Irvine had particular responsibility for quality management of PGME across Scotland, and for the performance management of the Medical ACT funding used to support undergraduate medical students in clinical placements.

As a General Medical Council (GMC) Associate, he sits on the GMC Quality Scrutiny Group, and has been extensively involved as a GMC Visitor to medical schools and postgraduate deaneries elsewhere in the UK.

Appointed Director of Medicine for NES from April 2012 and awarded an Honorary Professorship by the University of Edinburgh in August 2013. In January 2016, appointed as Deputy Chief Executive of NES.

**Mrs Audrey McColl – Director of Finance**

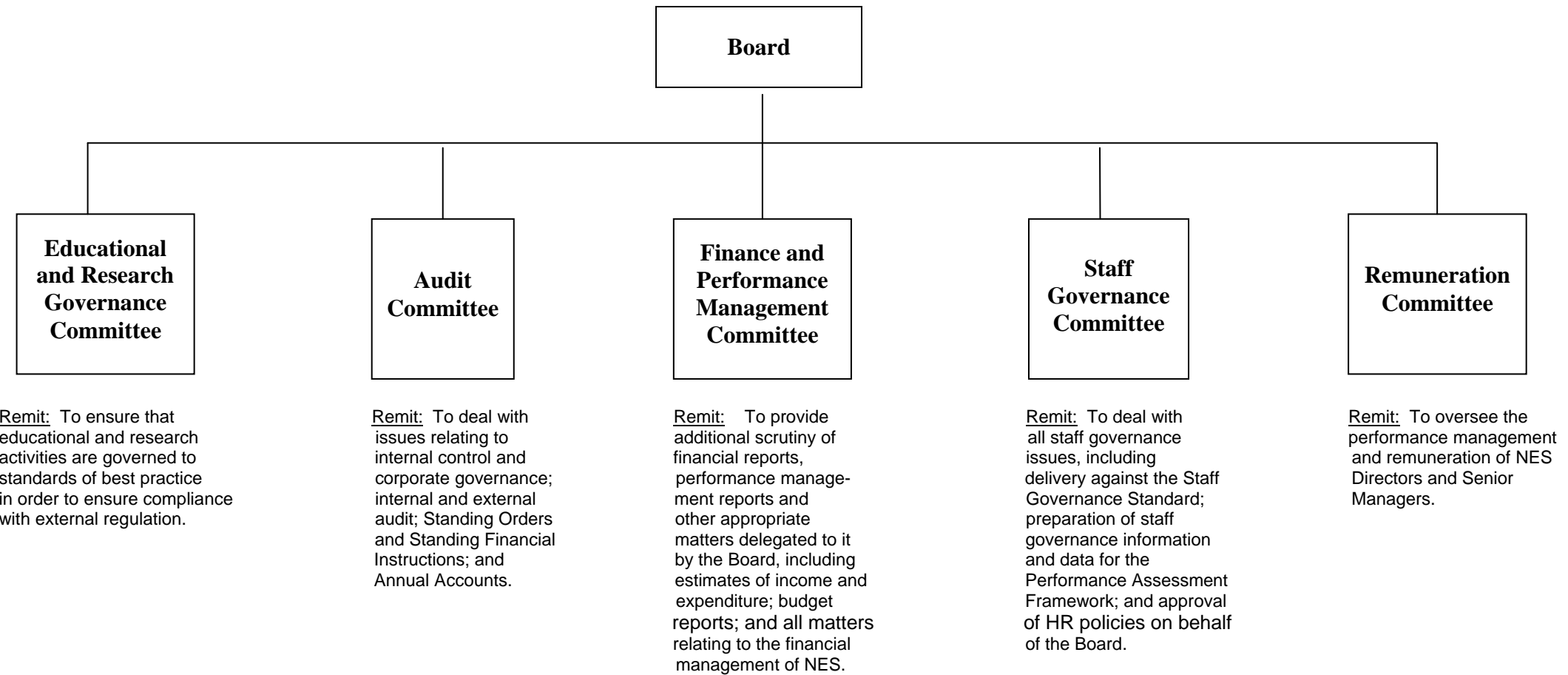
No biography currently available.

Last updated in February 2017



# NHS Education for Scotland (NES)

## Board and Standing Committees



**NHS Education for Scotland**

**Board Schedule for the period April 2017 to March 2018**

**(a) Business Meetings**

**2017**

Wednesday 19th April 2017

Thursday 29th June 2017

Thursday 3rd August 2017

Thursday 14<sup>th</sup> September 2017

Thursday 26th October 2017

Thursday 7th December 2017

**2018**

Wednesday 24<sup>th</sup> January 2018

Thursday 8<sup>th</sup> March 2018

**(b) Planning Days**

Thursday 11th May 2017

Thursday 12th October 2017

NES  
July 2016  
DJF

VERSION 5

NHS Education for Scotland

**STANDING ORDERS AND INSTRUCTIONS  
FOR THE  
REGULATION OF THE BUSINESS OF THE BOARD  
(IN ACCORDANCE WITH THE NHS EDUCATION FOR SCOTLAND  
ORDER 2006 No. 79)**

JUNE 2010

## CONTENTS

	<b>Page</b>
Constitution and Standing Orders .. .. .	1
Functions of the Board .. .. .	1
Membership .. .. .	2
Arrangements for Board Meetings .. .. .	3
Order of Business .. .. .	4
Conduct of Business .. .. .	5
Press and Public .. .. .	9
Board Minutes .. .. .	10
Committees of the Board .. .. .	10
Amendment or Suspension of Standing Orders .. .. .	11
Schedule of Decisions Reserved for the Board .. .. .	12
Schemes of Delegation .. .. .	12
Exclusion from Delegations.. .. .	13

# **NHS Education for Scotland**

## **1. Constitution and Standing Orders**

NHS Education for Scotland (NES) was constituted as a Special Health Board on 1<sup>st</sup> April 2002 under the terms of The NHS Education for Scotland Order 2002 (Scottish Statutory Instrument 2002 No. 103), as amended by The NHS Education for Scotland Order 2006 (Scottish Statutory Instrument 2006 No. 79).

## **2. Functions of the Board**

The Board has key functions for which it is held accountable by the Scottish Government Health Directorates on behalf of the Scottish Ministers:

- To set strategic direction of the organisation within the overall policies and priorities of the Government and NHSScotland, define its annual and longer term objectives and agree plans to achieve them;
- To oversee the delivery of planned results by monitoring performance against objectives and ensuring corrective action is taken when necessary;
- To ensure that there is effective dialogue within the organisation and between the organisation and key stakeholders on its plans and performance and that these are responsive to stakeholders' needs
- To ensure effective financial stewardship through value for money, financial control and financial planning and strategy;
- To ensure that high standards of corporate governance and personal behaviour are maintained in the conduct of the business of the whole organisation; and
- To appoint, appraise and remunerate senior executives.

In fulfilling these functions the Board should:

- Specify its requirements in organising and presenting financial and other information succinctly and efficiently to ensure the Board can fully understand its responsibilities;
- Be clear what decisions and information are appropriate to the Board and draw up standing orders, a schedule of decisions reserved to the Board and standing financial instructions to reflect this;
- Establish performance and quality targets that maintain the effective use of resources and provide for money;
- Ensure that management arrangements are in place to enable responsibility to be clearly delegated to senior officers for the main programmes of action and for performances against programmes to be monitored and senior officers held to account;

- Establish committees, including audit and remuneration committees, on the basis of formally agreed terms of reference which set the membership of the committees, the limit to their powers, and the arrangements for reporting back to the Board; and
- Act within statutory, financial and other resource constraints.

### **3. Membership**

The Board shall consist of a Chair and such members as are appointed by Scottish Ministers.

#### **3.1 Chair of the Board**

The Chair is responsible for leading the Board and for ensuring that it discharges successfully its overall responsibility for the organisation as a whole.

It is the Chair's role to:

- Provide leadership to the Board;
- Ensure that the Board acts as a team and enable all Board members to make a full contribution to the Board's affairs;
- Ensure that key and appropriate issues are discussed by the Board in a timely manner;
- Ensure that the Board has adequate support and is provided with all the necessary data on which to base informed decisions; and
- Advise the Cabinet Secretary for Health and Wellbeing, through the Head of the Scottish Government Health Department, on the performance of non-executive directors.

#### **3.2 Deputy Chair**

The Board shall appoint a non-executive member to be the Deputy Chair. Any person so appointed shall hold office for such period as the Board may determine, not exceeding the term of office as a non-executive member.

#### **3.3 Resignation and Removal**

A member who wishes to resign his/her membership shall give written intimation of their resignation to Scottish Ministers and the Chair of the Board.

- 3.3.1 Where a member has not attended any meeting of the Board or of any committee of the Board for a period of six consecutive months, Scottish Ministers shall, unless satisfied that her/his absence was due to illness or other reasonable cause, declare that her/his seat on the Board has become vacant and that person shall cease to be a member.

### 3.4 Co-opted Members

3.4.1 NHS Education for Scotland may co-opt for any of the meetings of its committees and sub-committees, representatives of organisations having a special interest in a particular matter, or persons not being members of the Board who may serve the purpose of the Board.

3.4.2 Co-opted members shall not have voting rights and shall serve for a specified period of time, not exceeding 3 years, in the first instance.

### 3.5 Appointment of Additional Members to Board Committees

The procedure for making such appointments shall be as follows:

The proposed nomination of an additional member shall be considered by the relevant committee. The Chair of the relevant committee shall discuss the proposed appointment with both the Chair and the Chief Executive. Consequently, the Chair of the relevant committee shall submit a short paper to the Board seeking authorisation for the proposed appointment.

### 3.6 Observers

Observers from the Scottish Government shall be invited to attend ordinary meetings of the Board. Observers may participate in discussion if invited to do so by the Chair, but shall not have the right to vote. If requested to do so, they shall retire from the meeting. They must withdraw from the meeting while any issue concerning remuneration is being considered.

### 3.7 Members of Staff In Attendance

It shall be the right of the Chair to determine the members of staff of the Board, other than the executive members, who shall be in attendance, and the nature of their participation.

### 3.8 Suspension or Disqualification

A member may be suspended from or disqualified by the Chair from taking part in any business of the Board on reasonable cause being shown.

### 3.9 Directions by Scottish Ministers

The foregoing provisions relating to membership shall be subject to such orders and directions which may be given and/or changes made by Scottish Ministers from time to time.

## **4. Arrangements for Board Meetings**

4.1 The Chair shall preside, or, in her/his absence, the Deputy Chair. In the event of neither being present, the Board shall appoint a Chair, from the non-executive members present, to preside at that meeting.

- 4.2 Ordinary meetings of the Board shall be held on a regular basis, at a frequency agreed by the Board from time to time, with a minimum of six meetings per year.
- 4.3 An extraordinary meeting of the Board may be convened at any time. The Chair shall, within fourteen days of receipt of a written request from three members, convene an extraordinary meeting of the Board. In each case, the business they desire to be considered should be clearly stated and must fall within the remit of the Board.
- 4.4 The Chief Executive shall cause notices and agendas for all ordinary meetings of the Board, together with any supporting papers to reach members not less than three clear working days before the date of the meeting. The business of the Board shall not be invalidated where any member fails to receive notification.
- 4.5 Requests for inclusion of any item on the agenda of meetings shall be sent to the Chief Executive so as to be received not less than fourteen days before the date of that meeting.
- 4.6 The quorum of the Board shall be six members, of whom at least three shall be non-executive members.

## **5. Order of Business**

- 5.1 The business shall be dealt with in the order specified in the agenda, unless the Board agrees otherwise.
- 5.2 At ordinary meetings, the business shall be transacted as nearly as may be practical in the following order:-
  - 5.2.1 The Chair shall open the meeting.
  - 5.2.2 Apologies for absence shall be intimated.
  - 5.2.3 Names of members present shall be recorded. Where a member is not present for the whole of the meeting, this shall also be recorded.
  - 5.2.4 The minutes of the previous ordinary meeting and any special or additional meetings shall be submitted for approval. Any amendments which are approved to previous minutes shall be duly recorded. The Chair shall subsequently sign the final approved minutes.
  - 5.2.5 Any matter arising from previous meetings, and which requires to be progressed further at the current meeting.
  - 5.2.6 Matters and business of which prior notice has been submitted to the Chief Executive for inclusion in the agenda.



5.2.7 Consideration of recommendations and reports of Committees and other items properly submitted.

5.2.8 Any other business of a competent and urgent nature raised by members of the Board.

## **6. Conduct of Business**

### **6.1 Conduct and Accountability**

6.1.1 The business of the Board will be conducted in accordance with the NHS Code of Conduct and Accountability for NHS Boards published by the Scottish Government Health Department. The principles underlying the Code are reflected in these Standing Orders.

6.1.2 The Scottish Government has identified the following nine key principles underpinning public life in Scotland. These incorporate the seven Nolan Principles and introduce two further principles (see \*).

*Public Service	Holders of public office have a duty to act in the interests of the public body of which they are a Board member and to act in accordance with the core tasks of the body.
Leadership	Holders of public office should promote and support these principles by leadership and example.
Selflessness	Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or other friends.
Integrity	Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
Objectivity	In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Honesty	Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
Accountability	Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
*Respect	Holders of public office must respect fellow members of their public body and employees of the body and the role they play, treating them with courtesy at all times.
Openness	Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

- 6.1.3 All Board members are required, on appointment, to subscribe to the Code of Conduct and Accountability.
- 6.1.4 All staff should subscribe to the principles in the Code of Conduct and Chairmen, Directors and their staff should be judged upon the way the Code is observed.
- 6.2 No business other than that specified on the agenda shall be conducted at any meeting, unless with the consent of the majority of members present.
- 6.3 Any member unable to attend a meeting of the Board may submit written comments on any item of the agenda, provided these are received no later than the day prior to the relevant meeting of the Board. These comments shall be copied to members or read out in their entirety by the Chair.
- 6.4 The normal practice of the Board shall be to reach agreement by consensus. Following discussion of each item on the agenda, the Chair shall summarise the decision or other conclusion reached. If agreement cannot be reached by this means, then the following formal procedure shall be invoked:
- 6.4.1 Every motion or amendment shall be moved and seconded, and shall, if the Chair so requests, be given to her/him in written form, and shall be read out by the Chair before it is further discussed or put to the meeting.

6.4.2 Items raised by members (notice of motions) shall be in writing, signed by the member concerned, and shall be given or sent to the Chief Executive.

6.5 Declaration of Interest

6.5.1 During the course of a meeting, if a conflict of interest is declared the member shall withdraw and take no part in the relevant discussion or decision, or vote on any question relating to that matter. Such declarations of interest shall be recorded in the minutes of Board meetings.

6.5.2 At the discretion of the Chair, with the agreement of the Board, the requirement to withdraw or not to participate in the discussion may be waived.

6.6 Voting

Where the Board cannot reach a decision by consensus, the question shall be decided on a show of hands by a majority of members present and voting. Any member can call for a division, in which case the names of members for and against, and those who abstained from voting, shall be recorded and entered in the minutes. The Chair shall have a second or casting vote in the case of equality of votes.

6.7 If the Chair so rules, a ballot shall be taken of those Board members present at the meeting.

6.8 If a Board member so proposes, and if the proposal is seconded and supported by a simple majority, voting shall be by ballot.

6.9 The Chair shall decide upon any point of order or procedure, and her/his decision shall be final.

6.10 Closed Session

The Chair may propose, or may accept a member's proposal, that any item on the agenda be taken in closed session, and, if this proposal is agreed by the Board members present, those persons who are not members of the Board shall withdraw, unless invited by the Chair to remain.

6.11 Adjournment of Meetings

6.11.1 During any meeting of the Board, it shall be competent for a member, at any time, except in the course of a speech by another member, to move that the meeting be adjourned, but no motion for adjournment may be made within thirty minutes of a motion for adjournment having previously been rejected if the Board is still considering the same item of business.

- 6.11.2 A motion for adjournment shall have precedence over all other motions and, if moved and seconded, shall be put to the meeting without discussion or amendment.
- 6.11.3 If the motion is carried, the meeting shall be adjourned until the date and time, and at the venue specified in the motion. Unless the time and place are specified in the motion for adjournment, the adjournment shall be until the next ordinary meeting of the Board or relevant committee.
- 6.11.4 Where a meeting is adjourned without a time for its resumption having been fixed, it shall be resumed at such other time as may be fixed by the Chair.
- 6.11.5 When an adjourned meeting is resumed, the proceedings shall be commenced at the point at which they were interrupted by the adjournment.
- 6.11.6 The Chair may adjourn any meeting of the Board if he/she is of the opinion that the conduct of the meeting cannot properly be conducted by reason of disorder. Such adjournment shall be signified by the Chair rising and quitting the Chair and shall be for one hour or such shorter period as may be specified by the Chair at that time.

## 6.12 Duration of Meetings

- 6.12.1 Every meeting of the Board shall end not later than five hours after the time at which the Board commenced.
- 6.12.2 It shall, however, be competent, before the expiry of the time limit, for any member to move that the meeting be continued for such further period as deemed appropriate.

## 6.13 Questions

- 6.13.1 At any ordinary meeting of the Board, a member may put a question to the Chair or to the Chair of any standing committee relating to the functions of that committee, irrespective of whether the subject matter of the question relates to the business which would otherwise fall to be discussed at that meeting, provided that notice in writing of the question, duly signed, has been delivered to the Board Secretary (Board Services Manager), not later than ten working days before the meeting.
- 6.13.2 The original questioner may ask a supplementary question, limited to seeking clarity on an answer given.
- 6.13.3 No discussion shall be permitted on any question or answer which does not relate to an item of business otherwise falling to be considered at that meeting.

6.13.4 Questions of which notice has been given in terms of 6.13.1 above and the answers thereto, shall be recorded in the minutes of the meeting only if the questioner so requests, but any supplementary questions and answers thereto shall not be recorded.

6.14 Alteration or Revocation of Previous Decision

6.14.1 A decision shall not be altered or revoked within a period of six months from the date of such decision being taken.

6.14.2 Where the Chair rules that a material change of circumstances has occurred to such extent that it is appropriate for the issue to be reconsidered, a decision may be altered or revoked within six months by a subsequent decision arising from:-

- A recommendation to that effect, by an executive member or other officer in a formal report; or
- A motion to that effect of which prior notice has been given in terms of notice of motions' requirements.

6.14.3 This Standing Order shall not apply to the ongoing progression or development of an issue on which a decision is required.

**7. Press and Public**

7.1 Business meetings of the Board shall be open to the press and public, to the extent to which accommodation permits.

7.2 It shall be open to the Chief Executive, with the consent of the Chair, to show, on a separate agenda, any items which it is considered should be taken in closed session.

7.3 The Board shall reserve the right, at any time during a business meeting, to take an agenda item, or part of an item, in closed session.

7.4 Representatives of the press and members of the public admitted to meetings of the Board shall not be permitted to make use of photographic or recording apparatus of any kind.

7.5 Except as provided for above, no communications, pronouncements or information shall be made or released on behalf of or in the name of the Board and/or any of its committees to any person, other body or bodies, press or other media except by or through the Chair, Chief Executive or other officer authorised to so do by the Chief Executive.

## **8. Board Minutes**

- 8.1 The minutes of the proceedings of each Board meeting shall be drawn up on behalf of the Chief Executive and kept as a permanent record. The names of members present shall be recorded in the minutes.
- 8.2 Where a member attends part of a meeting only, the minutes shall show, under the list of those attending, the items for which that member was present.
- 8.3 Copies of the minutes shall be sent to members prior to the next meeting at which the minutes are submitted for approval.
- 8.4 The minutes shall be submitted for approval at the following Board meeting and, subject to any agreed amendments, shall be signed by the Chair as a true record.
- 8.5 Approved minutes of Board meetings may be made available to interested parties, on request, at the discretion of the Chief Executive.

## **9. Committees of the Board**

- 9.1 The Board has established the following five standing committees:
  - Audit Committee
  - Educational and Research Governance Committee
  - Finance and Performance Management Committee
  - Remuneration Committee
  - Staff Governance Committee
- 9.2 All of the standing committees shall consist of, or have a majority of, non-executive Board members.
- 9.3 Board members will normally be appointed to committees for an initial period of 3 years, which may be extended following review. The remits of the standing committees are included as an Appendix to the Standing Orders.
- 9.4 The Board shall establish such other standing committees as it deems necessary.
- 9.5 The Board shall appoint or re-appoint the members of any committees constituted by the Board at its discretion.
- 9.6 Any vacancy which occurs on any of these committees may be filled by the Board at such future meeting of the Board as may be convenient, and the person appointed to the vacancy shall hold

office for the remainder of the term of the person in whose place she/he was appointed.

- 9.7 When a vacancy on a committee requires to be filled, the Board Chair shall formulate a proposal for the Board's consideration, following consultation with the Chair of the committee concerned.
- 9.8 The Board shall appoint the Chairs of its committees, except where the authority is delegated to a committee to select a Chair from its members.
- 9.9 Minutes of the proceedings of a meeting of a committee shall be drawn up by or on behalf of the Chief Executive and, whenever practical, be submitted for adoption by the appropriate standing committee at the first ordinary meeting of the standing committee held after the date of the meeting of the committee.
- 9.10 The Board may delegate aspects of its functions to its standing committees. Any delegation shall be specified clearly in the remit approved by the Board for the standing committee and may include the authority to appoint a sub-committee and to authorise Board officers to exercise specified responsibilities on behalf of the standing committee.
- 9.11 Notwithstanding any delegation of authority, the Board reserves the right to review and, if necessary, alter decisions made by its standing committees, in appropriate circumstances. A schedule of decisions reserved for the Board is included under Section 11 of these Standing Orders.
- 9.12 No expenditure shall be incurred by a committee without the consent of the Chief Executive.
- 9.13 The quorum of a standing committee of the Board shall normally be two non-executive members.
- 9.14 Orders relating to procedures for business of the Board shall apply, as appropriate, to committees of the Board.

## **10. Amendment or Suspension of Standing Orders**

- 10.1 Any one or more of these Standing Orders may be suspended at any meeting of the Board, by the agreement of the Board, whether by consensus or by invoking formal voting procedures.
- 10.2 These Standing Orders may be amended at any time by a decision of the Board.

## **11. Schedule of Decisions Reserved for the Board**

The Board shall reserve to itself decisions on all matters of and pertaining to its powers, responsibilities and functions and the making, application and execution of its policies, except where explicitly delegated, including:-

- Strategy, business plans and budgets
- Standing Orders
- Standing Financial Instructions
- The establishment of terms of reference and reporting arrangements for all sub-committees acting on behalf of the Board
- Approval of Annual Report and Accounts
- Financial and performance reporting arrangements
- The foregoing list shall not be held as exhaustive and may be altered or extended at any time as the Board may deem necessary.

## **12. Schemes of Delegation**

12.1 Without prejudice to its overall authority, the Board delegates to its Chief Executive all matters not particularly reserved by the Board for its own decision and in particular the Chief Executive shall have overall responsibility for the effective management, commissioning and purchasing functions of the Board.

12.2 The Board may delegate its responsibilities for the conduct of its business to committees, to individual directors, or to senior officers.

12.3 The Board may also delegate the responsibility for certain matters to the Chair for her/his action. In such circumstances, the Chair's action should be homologated at the next ensuing ordinary meeting of the Board.

12.4 The Board has a responsibility to prepare and submit corporate and financial plans in accordance with the requirements of the Scottish Government.

12.5 The Board's Scheme of Delegation is to be found within the Standing Financial Instructions.

## **13. Exclusion from Delegations**

There shall be excluded from any delegation:

- The incurring of expenditure for which no provision or insufficient provision has been made in the budget of NES;
- The dismissal of executive members of the Board, and other senior members of staff, where the filling of the posts concerned requires the involvement of non-executive members of the Board;



- The making, alteration and revocation of the Code of Corporate Governance;
- Any matter involving the determination of differences between committees.

NHS Education for Scotland  
June 2010  
KS/DF/TN

TN/BS/Boards/General/Documents/Standing OrdersVersion5June2010

Remits of Standing Committees

1. Audit Committee

(a) Internal Control, Risk Management and Corporate Governance

- to assess the scope and effectiveness of the risk management processes;
- to review the system of internal control and to evaluate the control environment and decision-making processes;
- to receive reports from management on the effectiveness of internal controls;
- to review and recommend for approval by the Board, the corporate governance disclosures on audit and risk management in the annual accounts; and
- to review internal arrangements by which staff may raise concerns about possible improprieties.

(b) Internal Audit

- to approve the appointment and termination of Internal Audit and to ensure that appropriate resources are devoted to Internal Audit;
- to review and approve Internal Audit's remit, including liaison with external audit;
- to review and approve the Internal Audit annual work plan;
- to receive regular Internal Audit reports and to review management responsiveness to recommendations and findings; and
- to review the annual Internal Audit report.

(c) External Audit

- to review the External Audit strategy and plan;
- to hold discussions with External audit;
- to review the External Audit management letters; and
- to ensure co-ordination between Internal and External Auditors.

(d) Standing Orders (SOs) and Standing Financial Instructions (SFIs)

- to review changes to the SOs and SFIs;
- to examine the circumstances associated with each occasion when SOs are waived; and
- to review the Scheme of Delegation.

(e) Annual Accounts

- to review the Financial Statements including significant financial reporting issues and judgements;
- to review the clarity and completeness of disclosures in the financial statements;
- to approve changes in accounting policies; and
- to report its views on the Financial Statements to the Board.

**2. Educational and Research Governance Committee**

- To provide assurance to the Board as to the effective management and improvement of the quality of NES's education and research activities
- To alert the Board to any matters requiring governance action, and oversee such action on behalf of the Board
- To oversee the development, implementation and updating of strategies, policies, structures and processes for the governance of education and research
- To be assured of the effective management of education and research programmes, including the identification and management of related risk
- To monitor compliance of education and research activities with statutory and regulatory requirements, including equality legislation
- To monitor NES's compliance with the statutory duty of involvement
- To monitor compliance of education and research activities with NHSScotland policy and NES priorities in relation to equality and diversity, person-centred care and participation, and educational/research quality
- To monitor approval processes for disbursement of funds for research
- To promote collaboration within NES and with external agencies in relation to educational and research governance
- To work collaboratively with other Board standing committees

The remit of the Committee will be reviewed annually.

**3. Finance and Performance Management Committee**

The Finance and Performance Management Committee is a governance committee of the Board, responsible for providing additional scrutiny of financial reports and other reports and proposals delegated to it by the Board and for reporting the results of its deliberations, together with recommendations as to decisions, back to the board. This shall include specifically the following areas of work:

- providing detailed scrutiny and oversight of the annual budgets and longer term Financial Plans for NHS Education for Scotland (NES) and making recommendations on these to the Board;

- providing detailed scrutiny of the estimates of income and expenditure associated with significant new developments;
- providing detailed consideration of quarterly reports concerning expenditure against budgets and the reasons for variances and making recommendations concerning these reports to the Board;
- monitoring compliance of finance and performance management activities with statutory duties, NHSScotland policy and NES priorities in relation to equality and diversity;
- providing detailed consideration of quarterly reports covering key performance indicators for the Board;
- considering the annual financial statements and in particular the financial performance analysed therein, and making recommendations to the Board;
- considering and making recommendations to the Board on matters relating to the financial management of NES, including purchasing and procurement, efficiency programmes and resource allocation and the financial arrangements governing relationships with other organisations;
- considering and making recommendations to the Board on policy regarding organisational and administrative matters other than in relation to staffing;
- considering and making recommendations to the Board on matters relating to NES infrastructure support services, including IM&T, Properties and Facilities Management; and monitoring developments relating to the NHS Shared Services agenda; and
- dealing with any such matters as may be assigned to the Committee by the Board and making recommendations to the Board thereon.

#### **4. Remuneration Committee**

- (a) to agree all terms and conditions of employment for Senior Managers of the Board, including job description, job evaluation, terms of employment, basic pay, performance pay and bonuses and benefits;
- (b) to agree objectives for Senior Managers of NES, normally before the start of the year in which performance is assessed;
- (c) to monitor the performance of Senior Managers of NES, in accordance with their performance plans;
- (d) to conduct regular reviews of NES policy for the remuneration and performance management of Senior Managers, in the light of any guidance issued by NHS Scotland;
- (e) to delegate responsibility to a sub-group of the committee to act as the Appeals body for Senior Managers and Directors of NES who have a grievance concerning their terms and conditions of service; and

- (f) together with the Chief Executive of NES, make recommendations regarding the citation of doctors and dentists to the Scottish Clinical Leadership and Excellence Awards.

## **5. Staff Governance Committee**

The Staff Governance Committee is a standing committee of the Board, with the primary purpose to monitor the development and maintenance of a culture throughout NHS Education for Scotland (NES) where delivery of the highest possible standard of staff management is understood to be the responsibility of everyone working within the organisation, built on partnership and collaboration.

The specific responsibilities of the Staff Governance Committee are:

- to monitor and evaluate strategies and implementation plans relating to people management;
- to review the implementation of policies, procedures and practices through regular and routine scrutiny of statistics in relation to Gender, Race, Disability and other diversity strands and ensure that the outcomes of these reviews are published;
- to monitor the operation of processes and progress against agreed action plans to ensure that momentum of delivery against the national Staff Governance Standard is maintained;
- to propose and/or support any policy amendment, funding or resource submission to achieve the full Staff Governance Standard;
- to monitor NES compliance with all staff governance information required for national and statutory obligations for monitoring;
- to monitor compliance of staff governance activities with statutory duties, NHSScotland policies and NES priorities in relation to equality and diversity;
- to monitor benefit realisation processes of major initiatives, e.g. pay modernisation;
- to monitor trends and performance in relation to sickness absence management, recruitment and staff turnover and recommend actions as appropriate;
- to receive an Annual Report on the work of the Remuneration Committee at the last meeting in the calendar year, in order to give the Board assurance that systems and procedures are in place for the proper operation of performance management;
- to receive the minutes of the NES Health, Safety and Wellbeing Committee;
- to receive any recommendations from the Partnership Forum;
- to provide staff governance information for any internal control purposes; and

- to ratify NES HR policies and procedures on behalf of the Board.

NES  
Updated December 2015  
DJF

# NHS Education for Scotland

## Roles of Board members

The table below illustrates the different roles of members of the Board.

	Chair	Chief Executive	Non-Executive	Executive
Formulate Strategy	Ensures Board develops vision, strategies and clear objectives to deliver organisational purpose	Leads strategy development process	Brings independent oversight, external perspectives, skills, and challenge to strategy development	Takes lead role in developing strategic proposals – drawing on professional and clinical expertise (where relevant)
Ensure Accountability	<ul style="list-style-type: none"> <li>Makes sure the Board understands its own accountability for governing the organisation</li> <li>Ensures Board committees that support accountability are properly constituted</li> <li>Holds CE to account for delivery of strategy</li> <li>Leads the Board in being accountable to Scottish Ministers</li> </ul>	<ul style="list-style-type: none"> <li>Leads in the delivery of strategy</li> <li>Establishes effective performance management arrangements and controls</li> <li>Acts as Accountable Officer</li> </ul>	<ul style="list-style-type: none"> <li>Holds the Executive to account for the delivery of strategy</li> <li>Offers purposeful, constructive scrutiny and challenge</li> <li>Chairs or participates as a member of key committees that support accountability</li> <li>Account individually and collectively for the effectiveness of the Board</li> </ul>	<ul style="list-style-type: none"> <li>Leads implementation of strategy within functional areas</li> <li>Manages performance within their area and deals effectively with poor performance</li> </ul>
Shape Culture	Provides visible leadership in developing a healthy culture for the organisation, and ensures that this is reflected and modelled in their own and in the Board's behaviour and decision-making	Provides visible leadership in developing a healthy culture for the organisation, and ensures that this is reflected in their own and in the Executive's behaviour and decision-making.	<ul style="list-style-type: none"> <li>Actively supports and promotes a healthy culture for the organisation and reflects this in their own behaviour</li> <li>Provides visible leadership in developing a healthy culture so that staff believe Non-Executives provide a safe point of access to the Board for raising concerns</li> </ul>	<ul style="list-style-type: none"> <li>Actively supports and promotes a positive culture of the organisation and reflects this in their own behaviour</li> <li>Nurtures good leadership at all levels, actively addressing problems impacting staff's ability to do a good job</li> </ul>

	Chair	Chief Executive	Non-Executive	Executive
Intelligence	Ensures requirements for accurate, timely and clear information to Board are clear to the Executive	Ensures provision of accurate, timely and clear information to the Board	Satisfies themselves of the integrity of financial and quality intelligence including getting out and about, observing and talking to staff and patients	Takes principal responsibility for providing accurate, timely and clear information to the Board
Engagement	Plays key role as ambassador and building strong partnerships with patients and public, staff, other stakeholders	Plays key leadership role in effective communication and building strong partnerships with patients, public, staff, stakeholders	Ensures Board acts in best interests of patients and public	Leads on engagement with specific internal or external stakeholder groups

Adapted from 'The Healthy NHS Board', 2013, NHS Leadership Academy



# **NHS Education for Scotland**

## **Code of Conduct for Board Members**

**April 2014**

(Based on the Model Code of Conduct for Members of Devolved Public Bodies, Scottish Government, February 2014)

# NHS Education for Scotland

## CODE OF CONDUCT FOR BOARD MEMBERS

<b>CONTENTS</b>	<b>Page</b>
<b>Section 1: Introduction to the Code of Conduct</b>	<b>3</b>
Appointments to the Boards of Public Bodies	3
Guidance on the Code of Conduct	4
Enforcement	4
<b>Section 2: Key Principles of the Code of Conduct</b>	<b>4</b>
<b>Section 3: General Conduct</b>	<b>5</b>
Conduct at Meetings	6
Relationship with Board Members and Employees of NHS Education for Scotland (NES)	6
Remuneration, Allowances and Expenses	6
Gifts and Hospitality	6
Confidentiality Requirements	7
Use of NES Facilities	7
Appointment to Partner Organisations	7
<b>Section 4: Registration of Interests</b>	<b>8</b>
Category One: Remuneration	8
Category Two: Related Undertakings	9
Category Three: Contracts	9
Category Four: Houses, Land and Buildings	10
Category Five: Interest in Shares and Securities	10
Category Six: Gifts and Hospitality	10
Category Seven: Non-Financial Interests	10

<b>Section 5: Declaration of Interests</b>	11
General	11
Interests which Require Declaration	12
Your Financial Interests	12
Your Non-Financial Interests	13
The Financial Interests of Other Persons	13
The Non-Financial Interests of Other Persons	14
Making a Declaration	14
Frequent Declaration of Interests	14
Dispensations	15
<b>Section 6: Lobbying and Access to Members of Public Bodies</b>	15
Introduction	15
Rules and Guidance	15
<b>Annexes</b>	
<b>Annex A:</b> Sanctions Available to the Standards Commission for Breach of Code	17
<b>Annex B:</b> Definitions	18

## **SECTION 1: INTRODUCTION TO THE CODE OF CONDUCT**

1.1 The Scottish public has a high expectation of those who serve on the boards of public bodies and the way in which they should conduct themselves in undertaking their duties. You must meet those expectations by ensuring that your conduct is above reproach.

1.2 The Ethical Standards in Public Life etc. (Scotland) Act 2000, “the Act”, provides for Codes of Conduct for local authority councillors and members of relevant public bodies; imposes on councils and relevant public bodies a duty to help their members to comply with the relevant code; and establishes a Standards Commission for Scotland, “The Standards Commission” to oversee the new framework and deal with alleged breaches of the codes.

1.3 The Act requires the Scottish Ministers to lay before Parliament a Code of Conduct for Councillors and a Model Code for Members of Devolved Public Bodies. This Model Code for members was first introduced in 2002 and has now been revised following consultation and the approval of the Scottish Parliament. These revisions will make it consistent with the relevant parts of the Code of Conduct for Councillors, which was revised in 2010 following the approval of the Scottish Parliament.

1.4 As a member of the Board of NHS Education for Scotland (NES), it is your responsibility to make sure that you are familiar with, and that your actions comply with, the provisions of this Code of Conduct.

### **Appointments to the Boards of Public Bodies**

1.5 Public bodies in Scotland are required to deliver effective services to meet the needs of an increasingly diverse population. In addition, the Scottish Government’s equality outcome on public appointments is to ensure that Ministerial appointments are more diverse than at present. In order to meet both of these aims, a board should ideally be drawn from varied backgrounds with a wide spectrum of characteristics, knowledge and experience. It is crucial to the success of public bodies that they attract the best people for the job and therefore it is essential that a board’s appointments process should encourage as many suitable people to apply for positions and be free from unnecessary barriers. You should therefore be aware of the varied roles and functions of NES and of wider diversity and equality issues. You should also take steps to familiarise yourself with the appointment process that NES (if appropriate) will have agreed with the Scottish Government’s Public Appointment Centre of Expertise.

1.6 You should also familiarise yourself with how the NES policy operates in relation to succession planning, which should ensure public bodies have a strategy to make sure they have the staff in place with the skills, knowledge and experience necessary to fulfil their role economically, efficiently and effectively.

## **Guidance on the Code of Conduct**

1.7 You must observe the rules of conduct contained in this Code. It is your personal responsibility to comply with these and review regularly, and at least annually, your personal circumstances with this in mind, particularly when your circumstances change. You must not at any time advocate or encourage any action contrary to the Code of Conduct.

1.8 The Code has been developed in line with the key principles listed in Section 2 and provides additional information on how the principles should be interpreted and applied in practice. The Standards Commission may also issue guidance. No Code can provide for all circumstances and if you are uncertain about how the rules apply, you should seek advice from NES. You may also choose to consult your own legal advisers and, on detailed financial and commercial matters, seek advice from other relevant professionals.

1.9 You should familiarise yourself with the Scottish Government publication “On Board – a guide for board members of public bodies in Scotland”. This publication will provide you with information to help you in your role as a member of a public body in Scotland and can be viewed on the Scottish Government website.

### **Enforcement**

1.10 Part 2 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 sets out the provisions for dealing with alleged breaches of this Code of Conduct and where appropriate the sanctions that shall be applied if the Standards Commission finds that there has been a breach of the Code. Those sanctions are outlined in **Annex A**.

## **SECTION 2: KEY PRINCIPLES OF THE CODE OF CONDUCT**

2.1 The general principles upon which this Code is based should be used for guidance and interpretation only. These general principles are:

### **Duty**

You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interests of NES and in accordance with its core functions and duties.

### **Selflessness**

You have a duty to take decisions solely in terms of public interest. You must not act in order to gain financial or other material benefit for yourself, family or friends.

**Integrity**

You must not place yourself under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.

**Objectivity**

You must make decisions solely on merit and in a way that is consistent with the functions of NES when carrying out public business including making appointments, awarding contracts or recommending individuals for rewards and benefits.

**Accountability and Stewardship**

You are accountable for your decisions and actions to the public. You have a duty to consider issues on their merits, taking account of the views of others and must ensure that NES uses its resources prudently and in accordance with the law.

**Openness**

You have a duty to be as open as possible about your decisions and actions, giving reasons for your decisions and restricting information only when the wider public interest clearly demands.

**Honesty**

You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership**

You have a duty to promote and support these principles by leadership and example, and to maintain and strengthen the public's trust and confidence in the integrity of NES and its Board members in conducting public business.

**Respect**

You must respect fellow members of your Board and employees of NES and the role they play, treating them with courtesy at all times. Similarly you must respect members of the public when performing duties as a member of the NES Board.

2.2 You should apply the principles of this Code to your dealings with fellow members of the NES Board, its employees and other stakeholders. Similarly you should also observe the principles of this Code in dealings with the public when performing duties as a member of the NES Board.

**SECTION 3: GENERAL CONDUCT**

3.1 The rules of good conduct in this section must be observed in all situations where you act as a member of the NES Board.

## **Conduct at Meetings**

3.2 You must respect the Chair, your Board colleagues and employees of NES in meetings. You must comply with rulings from the Chair in the conduct of the business of these meetings.

## **Relationship with Board Members and Employees of the Public Body (including those employed by contractors providing services)**

3.3 You will treat your fellow Board members and any staff employed by NES with courtesy and respect. It is expected that fellow Board members and employees will show you the same consideration in return. It is good practice for employers to provide examples of what is unacceptable behaviour in their organisation. Public bodies should promote a safe, healthy and fair working environment for all. As a Board member you should be familiar with the policies of NES in relation to bullying and harassment in the workplace and also lead by exemplar behaviour.

## **Remuneration, Allowances and Expenses**

3.4 You must comply with any rules of NES regarding remuneration, allowances and expenses.

## **Gifts and Hospitality**

3.5 You must not accept any offer by way of gift or hospitality which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour, or disadvantage, to any individual or organisation. You should also consider whether there may be any reasonable perception that any gift received by your spouse or cohabitee or by any company in which you have a controlling interest, or by a partnership of which you are a partner, can or would influence your judgement. The term "gift" includes benefits such as relief from indebtedness, loan concessions or provision of services at a cost below that generally charged to members of the public.

3.6 You must never ask for gifts or hospitality.

3.7 You are personally responsible for all decisions connected with the offer or acceptance of gifts or hospitality offered to you and for avoiding the risk of damage to public confidence in NES. As a general guide, it is usually appropriate to refuse offers except:

- (a) isolated gifts of a trivial character, the value of which must not exceed £50;
- (b) normal hospitality associated with your duties and which would reasonably be regarded as appropriate; or
- (c) gifts received on behalf of NES.

3.8 You must not accept any offer of a gift or hospitality from any individual or organisation which stands to gain or benefit from a decision NES may be involved in determining, or who is seeking to do business with NES, and which a person might reasonably consider could have a bearing on your judgement. If you are making a visit in your capacity as a member of the NES Board then, as a general rule, you should ensure that NES pays for the cost of the visit.

3.9 You must not accept repeated hospitality or repeated gifts from the same source.

3.10 Members of the NES Board should familiarise themselves with the terms of the Bribery Act 2010 which provides for offences of bribing another person and offences relating to being bribed.

### **Confidentiality Requirements**

3.11 There may be times when you will be required to treat discussions, documents or other information relating to the work of NES in a confidential manner. You will often receive information of a private nature which is not yet public, or which perhaps would not be intended to be public. You must always respect the confidential nature of such information and comply with the requirement to keep such information private.

3.12 It is unacceptable to disclose any information to which you have privileged access, for example derived from a confidential document, either orally or in writing. In the case of other documents and information, you are requested to exercise your judgement as to what should or should not be made available to outside bodies or individuals. In any event, such information should never be used for the purposes of personal or financial gain, or for political purposes or used in such a way as to bring NES into disrepute.

### **Use of Public Body Facilities**

3.13 Members of the NES Board must not misuse NES facilities, equipment, stationery, telephony, computer, information technology equipment and services, or use them for party political or campaigning activities. Use of such equipment and services etc. must be in accordance with NES's policy and rules on their usage. Care must also be exercised when using social media networks not to compromise your position as a member of the NES Board.

### **Appointment to Partner Organisations**

3.14 You may be appointed, or nominated by NES, as a member of another body or organisation. If so, you are bound by the rules of conduct of these organisations and should observe the rules of this Code in carrying out the duties of that body.



3.15 Members who become directors of companies as nominees of NES will assume personal responsibilities under the Companies Acts. It is possible that conflicts of interest can arise for such members between the company and NES. It is your responsibility to take advice on your responsibilities to NES and to the company. This will include questions of declarations of interest.

## **SECTION 4: REGISTRATION OF INTERESTS**

4.1 The following paragraphs set out the kinds of interests, financial and otherwise which you have to register. These are called “Registerable Interests”. You must, at all times, ensure that these interests are registered, when you are appointed and whenever your circumstances change in such a way as to require change or an addition to your entry in NES’s Register of Board Members’ Interests. It is your duty to ensure any changes in circumstances are reported within one month of them changing.

4.2 The Regulations<sup>1</sup> as amended describe the detail and timescale for registering interests. It is your personal responsibility to comply with these regulations and you should review regularly and at least once a year your personal circumstances. **Annex B** contains key definitions and explanatory notes to help you decide what is required when registering your interests under any particular category. The interests which require to be registered are those set out in the following paragraphs and relate to you. It is not necessary to register the interests of your spouse or cohabitee.

### **Category One: Remuneration**

4.3 You have a Registerable Interest where you receive remuneration by virtue of being:

- employed;
- self-employed;
- the holder of an office;
- a director of an undertaking;
- a partner in a firm; or
- undertaking a trade, profession or vocation or any other work.

4.4 In relation to 4.3 above, the amount of remuneration does not require to be registered and remuneration received as a member does not have to be registered.

4.5 If a position is not remunerated it does not need to be registered under this category. However, unremunerated directorships may need to be registered under category two, “Related Undertakings”.

4.6 If you receive any allowances in relation to membership of any organisation, the fact that you receive such an allowance must be registered.

---

<sup>1</sup> SSI - The Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003 Number 135, as amended.

4.7 When registering employment, you must give the name of the employer, the nature of its business, and the nature of the post held in the organisation.

4.8 When registering self-employment, you must provide the name and give details of the nature of the business. When registering an interest in a partnership, you must give the name of the partnership and the nature of its business.

4.9 Where you undertake a trade, profession or vocation, or any other work, the detail to be given is the nature of the work and its regularity. For example, if you write for a newspaper, you must give the name of the publication, and the frequency of articles for which you are paid.

4.10 When registering a directorship, it is necessary to provide the registered name of the undertaking in which the directorship is held and the nature of its business.

4.11 Registration of a pension is not required as this falls outside the scope of the category.

### **Category Two: Related Undertakings**

4.12 You must register any directorships held which are themselves not remunerated but where the company (or other undertaking) in question is a subsidiary of, or a parent of, a company (or other undertaking) in which you hold a remunerated directorship.

4.13 You must register the name of the subsidiary or parent company or other undertaking and the nature of its business, and its relationship to the company or other undertaking in which you are a director and from which you receive remuneration.

4.14 The situations to which the above paragraphs apply are as follows:

- you are a director of a board of an undertaking and receive remuneration declared under category one – and
- you are a director of a parent or subsidiary undertaking but do not receive remuneration in that capacity.

### **Category Three: Contracts**

4.15 You have a registerable interest where you (or a firm in which you are a partner, or an undertaking in which you are a director or in which you have shares of a value as described in paragraph 4.19 below) have made a contract with NES:

- (i) under which goods or services are to be provided, or works are to be executed; and
- (ii) which has not been fully discharged.

4.16 You must register a description of the contract, including its duration, but excluding the consideration.

#### **Category Four: Houses, Land and Buildings**

4.17 You have a registerable interest where you own or have any other right or interest in houses, land and buildings, which may be significant to, of relevance to, or bear upon, the work and operation of NES.

4.18 The test to be applied when considering appropriateness of registration is to ask whether a member of the public acting reasonably might consider any interests in houses, land and buildings could potentially affect your responsibilities to NES and to the public, or could influence your actions, speeches or decision making.

#### **Category Five: Interest in Shares and Securities**

4.19 You have a registerable interest where you have an interest in shares comprised in the share capital of a company or other body which may be significant to, of relevance to, or bear upon, the work and operation of (a) NES and (b) the nominal value of the shares is:

- (i) greater than 1% of the issued share capital of the company or other body; or
- (ii) greater than £25,000.

Where you are required to register the interest, you should provide the registered name of the company in which you hold shares; the amount or value of the shares does not have to be registered.

#### **Category Six: Gifts and Hospitality**

4.20 You must register with the NES Standards Officer (currently the Board Services Manager) the details of any gifts or hospitality received within your current term of office. This record will be available for public inspection. It is not however necessary to record any gifts or hospitality as described in paragraph 3.7 (a) to (c) of this Code.

#### **Category Seven: Non-Financial Interests**

4.21 You may also have a registerable interest if you have non-financial interests which may be significant to, of relevance to, or bear upon, the work and operation of NES. It is important that relevant interests such as membership or holding office in other public bodies, clubs, societies and organisations such as trades unions and voluntary organisations, are registered and described.

4.22 In the context of non-financial interests, the test to be applied when considering appropriateness of registration is to ask whether a member of the public might reasonably think that any non-financial interest could potentially affect your responsibilities to NES and to the public, or could influence your actions, speeches or decision-making.

## **SECTION 5: DECLARATION OF INTERESTS**

### **General**

5.1 The key principles of the Code, especially those in relation to integrity, honesty and openness, are given further practical effect by the requirement for you to declare certain interests in proceedings of NES. Together with the rules on registration of interests, this ensures transparency of your interests which might influence, or be thought to influence, your actions.

5.2 Public bodies inevitably have dealings with a wide variety of organisations and individuals and this Code indicates the circumstances in which a business or personal interest must be declared. Public confidence in NES and its Board members depends on it being clearly understood that decisions are taken in the public interest and not for any other reason.

5.3 In considering whether to make a declaration in any proceedings, you must consider not only whether you will be influenced but whether anybody else would think that you might be influenced by the interest. You must, however, always comply with the objective test (“the objective test”) which is whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a member of the NES Board.

5.4 If you feel that, in the context of the matter being considered, your involvement is neither capable of being viewed as more significant than that of an ordinary member of the public, nor likely to be perceived by the public as wrong, you may continue to attend the meeting and participate in both discussion and voting. The relevant interest must however be declared. It is your responsibility to judge whether an interest is sufficiently relevant to particular proceedings to require a declaration and you are advised to err on the side of caution. If a board member is unsure as to whether a conflict of interest exists, they should seek advice from the Board Chair.

5.5 As a member of the NES Board you might serve on other bodies. In relation to service on the boards and management committees of limited liability companies, public bodies, societies and other organisations, you must decide, in the particular circumstances surrounding any matter, whether to declare an interest. Only if you believe that, in the particular circumstances, the nature of the interest is so remote or without significance, should it not be declared. You must always remember the public interest points towards transparency and, in particular, a possible divergence of interest between NES

and another body. Keep particularly in mind the advice in paragraph 3.15 of this Code about your legal responsibilities to any limited company of which you are a director.

### **Interests which Require Declaration**

5.6 Interests which require to be declared, if known to you may be financial or non-financial. They may or may not cover interests which are registerable under the terms of this Code. Most of the interests to be declared will be your personal interests but, on occasion, you will have to consider whether the interests of other persons require you to make a declaration. The paragraphs which follow deal with (a) your financial interests (b) your non-financial interests and (c) the interests, financial and non-financial, of other persons.

5.7 You will also have other private and personal interests and may serve, or be associated with, bodies, societies and organisations as a result of your private and personal interests and not because of your role as a member of the NES Board. In the context of any particular matter you will need to decide whether to declare an interest. You should declare an interest unless you believe that, in the particular circumstances, the interest is too remote or without significance. In reaching a view on whether the objective test applies to the interest, you should consider whether your interest (whether taking the form of association or the holding of office) would be seen by a member of the public acting reasonably in a different light because it is the interest of a person who is a member of a public body as opposed to the interest of an ordinary member of the public.

### **Your Financial Interests**

5.8 You must declare, if it is known to you, any financial interest (including any financial interest which is registerable under any of the categories prescribed in Section 4 of this Code).

There is no need to declare an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

You must withdraw from the meeting room until discussion of the relevant item where you have a declarable interest is concluded. There is no need to withdraw in the case of an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

## **Your Non-Financial Interests**

5.9 You must declare, if it is known to you, any non-financial interest if:

- (i) that interest has been registered under category seven (Non Financial Interests) of Section 4 of the Code; or
- (ii) that interest would fall within the terms of the objective test.

There is no need to declare an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

You must withdraw from the meeting room until discussion of the relevant item where you have a declarable interest is concluded. There is no need to withdraw in the case of an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

## **The Financial Interests of Other Persons**

5.10 The Code requires only your financial interests to be registered. You also, however, have to consider whether you should declare any financial interest of certain other persons.

You must declare if it is known to you any financial interest of:-

- (i) a spouse, a civil partner or a co-habitee;
- (ii) a close relative, close friend or close associate;
- (iii) an employer or a partner in a firm;
- (iv) a body (or subsidiary or parent of a body) of which you are a remunerated member or director;
- (v) a person from whom you have received a registerable gift or registerable hospitality;
- (vi) a person from whom you have received registerable expenses.

There is no need to declare an interest if it is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

You must withdraw from the meeting room until discussion of and voting on the relevant item where you have a declarable interest is concluded. There is no need to withdraw in the case of an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

5.11 This Code does not attempt the task of defining “relative” or “friend” or “associate”. Not only is such a task fraught with difficulty but is also unlikely that such definitions would reflect the intention of this part of the Code. The key principle is the need for transparency in regard to any interest which might (regardless of the precise description of relationship) be objectively regarded by a member of the public, acting reasonably, as potentially affecting your responsibilities as a member of the NES Board and, as such, would be covered by the objective test.

## **The Non-Financial Interests of Other Persons**

5.12 You must declare if it is known to you any non-financial interest of:-

- (i) a spouse, a civil partner or a co-habitee;
- (ii) a close relative, close friend or close associate;
- (iii) an employer or a partner in a firm;
- (iv) a body (or subsidiary or parent of a body) of which you are a remunerated member or director;
- (v) a person from whom you have received a registerable gift or registerable hospitality;
- (vi) a person from whom you have received registerable election expenses.

There is no need to declare the interest if it is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

There is only a need to withdraw from the meeting if the interest is clear and substantial.

### **Making a Declaration**

5.13 You must consider at the earliest stage possible whether you have an interest to declare in relation to any matter which is to be considered. You should consider whether agendas for meetings raise any issue of declaration of interest. Your declaration of interest must be made as soon as practicable at a meeting where that interest arises. If you do identify the need for a declaration of interest only when a particular matter is being discussed you must declare the interest as soon as you realise it is necessary.

5.14 The oral statement of declaration of interest should identify the item or items of business to which it relates. The statement should begin with the words "I declare an interest". The statement must be sufficiently informative to enable those at the meeting to understand the nature of your interest but need not give a detailed description of the interest.

### **Frequent Declarations of Interest**

5.15 Public confidence in a public body is damaged by perception that decisions taken by that body are substantially influenced by factors other than the public interest. If you would have to declare interests frequently at meetings in respect of your role as a NES Board member you should not accept a role or appointment with that attendant consequence. If members are frequently declaring interests at meetings then they should consider whether they can carry out their role effectively and discuss with their chair. Similarly, if any appointment or nomination to another body would give rise to objective concern because of your existing personal involvement or affiliations, you should not accept the appointment or nomination.

## **Dispensations**

5.16 In some very limited circumstances dispensations can be granted by the Standards Commission in relation to the existence of financial and non-financial interests which would otherwise prohibit you from taking part and voting on matters coming before the NES Board and its committees.

5.17 Applications for dispensations will be considered by the Standards Commission and should be made as soon as possible in order to allow proper consideration of the application in advance of meetings where dispensation is sought. You should not take part in the consideration of the matter in question until the application has been granted.

## **SECTION 6: LOBBYING AND ACCESS TO MEMBERS OF PUBLIC BODIES**

### **Introduction**

6.1 In order for NES to fulfil its commitment to being open and accessible, it needs to encourage participation by organisations and individuals in the decision-making process. Clearly however, the desire to involve the public and other interest groups in the decision-making process must take account of the need to ensure transparency and probity in the way in which NES conducts its business.

6.2 You will need to be able to consider evidence and arguments advanced by a wide range of organisations and individuals in order to perform your duties effectively. Some of these organisations and individuals will make their views known directly to individual members. The rules in this Code set out how you should conduct yourself in your contacts with those who would seek to influence you. They are designed to encourage proper interaction between members of public bodies, those they represent and interest groups.

### **Rules and Guidance**

6.3 You must not, in relation to contact with any person or organisation that lobbies do anything which contravenes this Code or any other relevant rule of NES or any statutory provision.

6.4 You must not, in relation to contact with any person or organisation who lobbies, act in any way which could bring discredit upon NES.

6.5 The public must be assured that no person or organisation will gain better access to or treatment by, you as a result of employing a company or individual to lobby on a fee basis on their behalf. You must not, therefore, offer or accord any preferential access or treatment to those lobbying on a fee basis on behalf of clients compared with that which you accord any other person or organisation who lobbies or approaches you. Nor should those lobbying on a fee basis on behalf of clients be given to understand that



preferential access or treatment, compared to that accorded to any other person or organisation, might be forthcoming from another member of the NES Board.

6.6 Before taking any action as a result of being lobbied, you should seek to satisfy yourself about the identity of the person or organisation that is lobbying and the motive for lobbying. You may choose to act in response to a person or organisation lobbying on a fee basis on behalf of clients but it is important that you know the basis on which you are being lobbied in order to ensure that any action taken in connection with the lobbyist complies with the standards set out in this Code.

6.7 You should not accept any paid work:-

- (a) which would involve you lobbying on behalf of any person or organisation or any clients of a person or organisation.
- (b) to provide services as a strategist, adviser or consultant, for example, advising on how to influence NES and its Board members. This does not prohibit you from being remunerated for activity which may arise because of, or relate to, membership of the NES Board, such as journalism or broadcasting, or involvement in representative or presentational work, such as participation in delegations, conferences or other events.

6.8 If you have concerns about the approach or methods used by any person or organisation in their contacts with you, you must seek the guidance of NES.

## **ANNEX A**

### **SANCTIONS AVAILABLE TO THE STANDARDS COMMISSION FOR BREACH OF THE CODE**

- (a) Censure – the Commission may reprimand the member but otherwise take no action against them;
- (b) Suspension – of the member for a maximum period of one year from attending one or more, but not all, of the following:
  - i) all meetings of the NES Board;
  - ii) all meetings of one or more committees or sub-committees of the NES Board;
  - (iii) all meetings of any other public body on which that member is a representative or nominee of the NES Board.
- (c) Suspension – for a period not exceeding one year, of the member's entitlement to attend all of the meetings referred to in (b) above;
- (d) Disqualification – removing the member from membership of the NES Board for a period of no more than five years.

Where a member has been suspended, the Standards Commission may direct that any remuneration or allowance received from membership of the NES Board be reduced, or not paid.

Where the Standards Commission disqualifies a member of a public body, it may go on to impose the following further sanctions:

- (a) Where the member of a public body is also a councillor, the Standards Commission may disqualify that member (for a period of no more than five years) from being nominated for election as, or from being elected, a councillor. Disqualification of a councillor has the effect of disqualifying that member from their public body and terminating membership of any committee, sub-committee, joint committee, joint board or any other body on which that member sits as a representative of their local authority.
- (b) Direct that the member be removed from membership, and disqualified in respect of membership, of any other devolved public body (provided the members' code applicable to that body is then in force) and may disqualify that person from office as the Water Industry Commissioner.

In some cases the Standards Commission do not have the legislative powers to deal with sanctions, for example if the respondent is an executive member of the board or appointed by the Queen. Sections 23 and 24 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 refer.

Full details of the sanctions are set out in Section 19 of the Act.

## ANNEX B

### DEFINITIONS

“**Chair**” includes Board Convener or any person discharging similar functions under alternative decision making structures.

“**Code**” code of conduct for members of devolved public bodies

“**Cohabitee**” includes a person, whether of the opposite sex or not, who is living with you in a relationship similar to that of husband and wife.

“**Group of companies**” has the same meaning as “group” in section 262(1) of the Companies Act 1985. A “group”, within s262 (1) of the Companies Act 1985, means a parent undertaking and its subsidiary undertakings.

“**Parent Undertaking**” is an undertaking in relation to another undertaking, a subsidiary undertaking, if a) it holds a majority of the rights in the undertaking; or b) it is a member of the undertaking and has the right to appoint or remove a majority of its board of directors; or c) it has the right to exercise a dominant influence over the undertaking (i) by virtue of provisions contained in the undertaking’s memorandum or articles or (ii) by virtue of a control contract; or d) it is a councillor of the undertaking and controls alone, pursuant to an agreement with other shareholders or councillors, a majority of the rights in the undertaking.

“**A person**” means a single individual or legal person and includes a group of companies.

“**Any person**” includes individuals, incorporated and unincorporated bodies, trade unions, charities and voluntary organisations.

“**Public body**” means a devolved public body listed in Schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, as amended.

“**Related Undertaking**” is a parent or subsidiary company of a principal undertaking of which you are also a director. You will receive remuneration for the principal undertaking though you will not receive remuneration as director of the related undertaking.

“**Remuneration**” includes any salary, wage, share of profits, fee, expenses, other monetary benefit or benefit in kind. This would include, for example, the provision of a company car or travelling expenses by an employer.

“**Spouse**” does not include a former spouse or a spouse who is living separately and apart from you.

“**Undertaking**” means:

- a) a body corporate or partnership; or
- b) an unincorporated association carrying on a trade or business, with or

without a view to a profit.



## Bribery Act 2010 - Guidance

The Bribery Act 2010 came into force on 1<sup>st</sup> July 2011 and makes it a criminal offence to take part in **active bribery** (making a bribe) or **passive bribery** (receiving a bribe) (see definitions (a) and (b) below).

(a) Active Bribery: Section 1 of the Act makes it an offence for a person to offer, give or promise to give a financial or other advantage to another individual in exchange for improperly performing a relevant function or activity.

(b) Passive Bribery: Section 2 of the Act makes it an offence for a person to request, accept or agree to accept a financial or other advantage in exchange for improperly performing a relevant function or activity.

You must be committed to the prevention of bribery and all forms of corruption. You should note that NES operates a zero tolerance approach to bribery committed by any person working at NES and any person who provides services for or on behalf of NES and that any allegation of bribery by a Board member or NES employee will be investigated in accordance with relevant processes and procedures and may be reported to the authorities, as appropriate.

NES has a justified reputation for acting with integrity, transparency and honesty. You must be committed to the prevention of bribery, in recognition of the importance of maintaining the reputation of NES and the confidence of the public, partner organisations and other stakeholders.

You should note that NES will not work with other organisations who it considers do not share its commitment to preventing bribery and corruption.



INTEGRITY IN PUBLIC LIFE

---

## ADVICE ON RELATIONS BETWEEN MEMBERS AND EMPLOYEES OF DEVOLVED PUBLIC BODIES

---

### 1. Introduction

1.1 Section 3 of the Model Code of Conduct for Members of Devolved Public Bodies (the Code) concerns issues relating to the general conduct expected following an appointment as a member of a devolved public body. Section 3 of the Code governs various matters, which includes relationships with other Board Members and employees of the public body.

1.2 Paragraph 3.3 of the Code states:

*You will treat your fellow board members and any staff employed by the body with courtesy and respect. It is expected that fellow board members and employees will show you the same consideration in return. It is good practice for employers to provide examples of what is unacceptable behaviour in their organisation. Public bodies should promote a safe, healthy and fair working environment for all. As a board member you should be familiar with the policies of the public body in relation to bullying and harassment in the workplace and also lead by exemplar behaviour.*

1.3 The advice note is intended to assist members in complying with the provisions of the Code in their dealings with employees. However, given the variety of circumstances and situations which may arise, this advice note is intended to be a starting point and is not to be perceived an exhaustive or definitive guide.

### 2. Distinction between Roles of Members and Employees

2.1 Members should not be involved in the delivery of services supported or provided by the devolved public body – that is the role of the employees. However as an employer, a board also has a duty of care to its employees. It must abide by its employment responsibilities and ensure that the body has the right number of staff with the right skills to deliver its services.

## 2.2 Members are expected to:

- Provide leadership, direction, and support to the body, agreeing its strategic aims and business priorities;
- Promote commitment to the values and ethos of the organisation including equality and diversity;
- Ensure satisfactory delivery of the body's performance and financial objectives;
- Be accountable to and maintain the trust of key stakeholders;
- Ensure identification and control of the main risks associated with the delivery of the body's responsibilities and business objectives;
- Ensure employees have the appropriate skills, knowledge, culture and working environment; and
- Scrutinise the body's performance and, when necessary, provide challenge to senior employees.

2.3 Employees are expected to deliver the body's performance and achieve the strategic objectives set by the board.

## 3. General

3.1 Members and employees should work in an atmosphere of mutual trust and respect, with neither party seeking to take unfair advantage of their position.

3.2 The most common contacts between members and employees will be at Chief Executive or senior management level, therefore this guidance mainly concerns those contacts. However, there may also be many contacts between board members and other employees in their daily business, and the principles of the guidance also apply to them. The particular position of employees who provide direct support services for board members is dealt with separately at section 5 of the Guidance.

3.3 It is in the interests of both employees and board members to build a healthy relationship of mutual respect and understanding. The role of members is to scrutinise and hold employees to account for delivery of the organisation's objectives but it is also to provide support, guidance and understanding. Members who are too close to staff or who just assume that everything is fine may be failing in their responsibilities. On the other hand, members who are too confrontational or too quick to doubt employees will not gain the best from the partnership.

3.4 In order to develop a constructive and professional partnership with employees, members may wish take time to understand the roles of individual employees. Members should recognise what is a professional relationship and should endeavour to maintain this with employees.

## 4. Scrutiny Role

4.1 If a member has concerns about something employees are doing or a proposal they have made, in the first instance the member may wish to check whether other



members share these concerns. Employees take instruction from the board as a whole, not individuals.

- 4.2 Members will not have a full awareness of the priorities and workload of individual employees. Therefore, any issues about conflicting priorities, conduct or performance must be referred to the employee's line manager in accordance with the body's agreed procedures.
- 4.3 Members should make sure that the body has a strong performance management framework to measure both qualitative and quantitative achievements against planned objectives.
- 4.4 Members should ask for assurance and evidence that actions to mitigate risks to the body's business objectives are being taken and that risks are being properly recorded and managed.
- 4.5 Often the most effective ways to challenge employees is to simply ask for more information or to seek confirmation of the evidence behind a recommendation or action proposed. It may help if members explain why they are asking for such information.
- 4.6 Members should ensure that the Board has mechanisms for keeping in touch with the opinions and experiences of employees, not only the views passed on to them by senior staff.

## **5. Access and Support**

- 5.1 Where bodies arrange for employees to support members directly in carrying out their duties, particular considerations should be applied. Such employees are normally involved in providing administrative and practical support to members. While they may operate to the requirements of individual members in their daily business, members should remember that the employees remain accountable to their line managers for their actions and activities.
- 5.2 Members are entitled to seek advice, support and information in respect of matters relating to the body. If a member is seeking assistance that is outwith an employee's normal duties, the request should be made to, and approved by, the employee's line manager. Employee support in these circumstances must not extend beyond providing information, assistance and advice in relation to matters directly concerning the body's business.

## **6. Delegated Authority and Committees**

- 6.1 Members should be aware that where authority is delegated, the employee to whom it is delegated may consult them about the action they propose to take. However, the responsibility for the final decision remains with the employee who is accountable for the action or decision. Members should bear this in mind when discussing proposed action with employees.
- 6.2 The Chair of the Board or any committee will often be consulted on the preparation of agendas and reports. Employees will always be fully responsible for the contents of

any report submitted in their name and have the right to submit reports to members on their areas of professional competence. While employees will wish to listen to the views of members, they must retain final responsibility for the content of reports.

6.3 It is clearly important that there should be a close professional working relationship between the Chair of a committee and the director or senior manager of any service which reports to that committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an employee's ability to deal impartially with other members, and the ability of Chairs to deal impartially with other employees.

## **7. Public comment**

7.1 Members should not raise matters relating to the conduct or capability of employees in public and must accord to employee the respect and courtesy due to them in their various roles. Any issues about the conduct, capability or performance of an employee should be raised in accordance with the body's procedures.

## **8. Communications**

8.1 Members should ensure that all communications with employees are professional, respectful and courteous in both tone and content. In return, members should expect to be treated with courtesy and respect by employees.

## **9. Appointments**

9.1 Where members are involved in the appointment of employees they must act fairly and openly and judge candidates solely on merit.

## **10. Social relationships**

10.1 The relationship between members and employees depends upon trust and this will be enhanced by the development of positive, professional relationships. Members and employees may find themselves in social situations within the community and they have a responsibility to project a positive image of the body. Members should be aware of the potential implications of social relationships with employees, including on whether they can undertake their governance and scrutiny role effectively and also on whether they are perceived to be doing so.

## **11. Other Resources**

11.1 Other guidance that may be of interest includes:

- The Scottish Government's On Board Guidance for Board Members of Public Bodies in Scotland (April 2015), which can be found at [www.gov.scot/Publications/2015/04/9736](http://www.gov.scot/Publications/2015/04/9736).



INTEGRITY IN PUBLIC LIFE

---

# ADVICE ON THE USE OF SOCIAL MEDIA FOR MEMBERS OF DEVOLVED PUBLIC BODIES

---

## 1. Introduction

1.1 Section 3 of the Model Code of Conduct for Members of Devolved Public Bodies concerns the general conduct expected in situations where an individual is acting as a member of a public body. Rules of good conduct in this section govern various matters including relationships with other Board Members and employees of the public body, confidentiality requirements and the use of the public body's facilities.

1.2 In particular, paragraph 3.13 of the Model Code of Conduct states:

*Members of public bodies must not misuse facilities, equipment, stationery, telephony, computer, information technology equipment and services, or use them for party political or campaigning activities. Use of such equipment and services etc. must be in accordance with the public body's policy and rules on their usage. Care must also be exercised when using social media networks not to compromise your position as a member of the public body*

1.3 This advice is intended to assist members in complying with the provisions of the Model Code of Conduct when using social media.

1.4 Social media continues to evolve and, as such, this advice is not an exhaustive or definitive guide. It is intended to be a starting point to understanding issues relating to the use of social media.

## 2. General Advice

2.1 It is very important to note that the rules of good conduct set out in Section 3 must be observed in all situations where you are acting as a member, including representing the body on official business. You should be mindful that your perception of when you are carrying out official business and when you are acting privately may be different to the view of the public. Factors to consider include whether:

- you are representing the body or speaking on behalf of the body; whether you are readily identifiable as a member of your body in the situation / circumstances;
- you are using social media where you are identified as a member;
- your conduct could reasonably be regarded as bringing your position as a member, or your body, into disrepute; and
- you are engaged in activity, or commenting on matters that are within the scope of the body's functions.

2.2 You should always try to think ahead. If you have any concerns about a potential problem or conflict of interest, speak to the Standards Officer or Chief Executive so that advice can be sought and/or action can be taken before a situation becomes a serious problem or before a complaint is made about you.

### **3. Conduct on Social Media**

3.1 The rules of good conduct may apply when you are engaging in media activity including the use of social media. As you will be aware, social media is a term used to describe on-line technologies, applications and practices that are used to share information, knowledge and opinions. The most well-known platforms include Facebook, Twitter, Instagram, YouTube and LinkedIn. The term social media can include, but is not limited to, social networking sites, blogs, wikis, content sharing sites, photo sharing sites, video sharing sites and customer feedback sites.

3.2 The conduct expected of you within a digital medium is no different to the conduct you should employ in other methods of communication, such as face to face meetings and written correspondence. Factors to consider when using social media include whether you:

- are identifiable as a member by directly referring to yourself as such or indirectly as such by referring to the body or through information or images posted;
- are using the body's equipment or your own when accessing or posting on social media platforms;
- have complied with the law including defamation, copyright, data protection, employment and equalities or harassment provisions;
- have complied with any Social Media, General Media, IT or Communications policy your body has produced;
- the information you are posting is confidential and you only have access to it because you are a member of the body;
- are demonstrating bias or pre-determination – do not express an opinion on an matter your body is yet to determine;
- have considered the immediate and permanent nature of the contribution you are about to make. Your comments are immediately available and may become more publicly shared than you intend.

3.3 Even if you are using social media in a private capacity, you should be aware that anything you post or put on your profile is a representation of you. Therefore you

should not put anything online that you do not want to represent you. Remember standards of decency and the law apply.

#### 3.4 You may also wish to think about:

- whether you are treating others with respect and consideration;
- whether 'liking' re-posting and re-tweeting comments or posts, or publishing links to other sites could be reasonably perceived in the circumstances as endorsing the original opinion, comment or information, including information on other sites;
- whether to allow disagreement on your social media pages;
- the tone can be harder to convey online so consider whether humour, irony and sarcasm be perceived as such;
- whether you have to respond. Sometimes people will say nasty things and people in public life can be singled out for abuse. If people criticising you have the wrong information, by all means talk to them. But if they are being sarcastic or downright abusive you should consider whether there is any value in engaging.
- whether anything you post could be considered obscene.

3.5 It is almost impossible to entirely delete anything that goes online. Even if you decided to delete something you have posted straightaway, there is always the possibility that someone has viewed, and even taken a screenshot of, the post in the meantime. What you post online will stay there and may potentially be shared with lots of other people, for both good and bad reasons.

## 4. Other Resources

4.1 Other guidance that may be of interest or assistance includes:

- The Scottish Government's Policy on social media, which can be accessed at [www.gov.scot/About/Information/Social-Media-Policies](http://www.gov.scot/About/Information/Social-Media-Policies);
- The UK Government's Guidance for civil servants: [www.gov.uk/government/publications/social-media-guidance-for-civil-servants/social-media-guidance-for-civil-servants](http://www.gov.uk/government/publications/social-media-guidance-for-civil-servants/social-media-guidance-for-civil-servants) ;
- The Scottish Government's On Board Guidance for Board Members of Public Bodies in Scotland (April 2015); [www.gov.scot/Publications/2015/04/9736](http://www.gov.scot/Publications/2015/04/9736)

# NHS Education for Scotland

## TRAINING AND DEVELOPMENT OF BOARD MEMBERS

### “On Board” Training: Briefing Note

1. “On Board” training courses are run around 3 times per year by CIPFA Scotland, taking place in different parts of Scotland. The courses are based on the Scottish Government publication “On Board: A Guide for Board Members of Public Bodies in Scotland”. The courses cover the following topics in some depth:
  - Governance and Accountability in Context
  - Roles and Responsibilities
  - Managing Relationships
  - Scandal and how to avoid it : Ethical Standards in Practice
  - Accountability : Practical Case Studies
  
2. The Standards Commission for Scotland’s “Guidance Note to Devolved Public Bodies in Scotland and their Members” states, at paragraph 26, that:

“Public bodies should also make arrangements to hold or attend training and induction sessions on ethical standards and they should strongly encourage attendance by all of their members and senior officers at such sessions.”
  
3. The “On Board” courses are fully endorsed by the Scottish Government as highly suitable training in ethical standards for Board members of public bodies in Scotland.

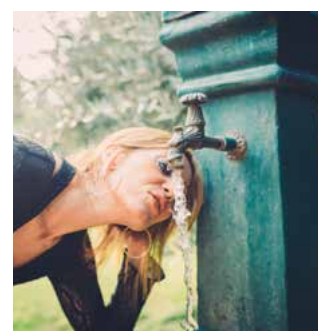
N.B. The CIPFA Scotland “On Board” course is now called “Essential Skills for Board Members”

David Ferguson  
Board Services Manager  
Updated February 2013



# ON BOARD

A GUIDE FOR BOARD MEMBERS OF  
PUBLIC BODIES IN SCOTLAND



➤ Public bodies play an essential role in performing certain functions on behalf of Government. They allow the public sector to benefit from the skills, knowledge, expertise, experience, perspectives and commitment of the members who sit on their Boards and focus in depth on clear and specific functions and purposes.

Public bodies come in a variety of forms, depending on their functions and relationship with Scottish Ministers and/or the Scottish Parliament. Public bodies are set up for specific purposes and there is no set template of what a public body should look like. **Annex A** provides an overview of the classification of public bodies. This classification has important implications for accountability and reporting arrangements. Information on individual bodies and contact details are available from the **National Public Bodies Directory**.

This guidance provides the basic information that you will need to understand your role as a member of the Board of a public body in Scotland and to help make your time with the Board fulfilling and effective. It supplements the information contained in your letter of appointment which formally sets out your specific roles and responsibilities as a Board member.

**This guidance is for all those involved in the Boards of our Non Departmental Public Bodies (NDPBs).** Due to the differing responsibilities of bodies, parts of the guidance may not be wholly appropriate for Board members of other public bodies. However Board members of other bodies may also find sections of the guidance helpful: the Chair or Chief Executive of your public body will be able to provide further advice.

All public bodies should have in place supportive guidance which reflects the specific nature of their work and the extent to which separate arrangements may apply to the work of the Board.

# INTRODUCTION



## ➤ Induction and Training

When a new Board member joins a public body, they may not have had much direct experience of that body. Effective induction serves as a valuable source of information and should provide material on specific job requirements, roles, responsibilities, policies and purposes. This guidance provides the starting point of your induction into the public body that you have joined. You should also receive further induction guidance and training from your public body on a range of topics, including:

- ➔ the structure, governing legislation and work of your public body and links with the sponsor Directorate in the Scottish Government
- ➔ the Ethical Standards Framework and Code of Conduct for Board members
- ➔ corporate roles and responsibilities as a Board member

**Annex B** provides a checklist of the types of induction guidance and training that may be available from your public body. You should refer to this checklist when discussing your induction requirements with the Chair and Chief Executive.




### FURTHER GUIDANCE



Key reference materials and contacts are listed under each of the main sections of this guidance. The main source of further information and guidance will be the public body that you have just joined, particularly the Chair and Chief Executive. Between them, they will be able to provide you with most of the advice and information that you are likely to need during your time as a Board member of a public body in Scotland.

This guidance has been produced in an interactive format to allow users to view documents referenced through the use of hyper-links. The guide will be kept under review to ensure that it continues to help promote best practice for Board members. The guide will not be produced in hard copy by the Scottish Government.

#### Key to document navigation

-  Main contents
-  Guidance note contents
-  Previous Page

# INTRODUCTION

# Guidance notes

The guidance is organised into five main sections:



## Public Service Delivery and Reform Guidance Note 1



## Principles of Corporate Governance Guidance Note 2



## Roles, Responsibilities and Relationships Guidance Note 3



## Effective Financial Management Guidance Note 4



## Ethics and Standards of Behaviour Guidance Note 5



## Annex A Classification of Public Bodies



## Annex B Induction and Training for Board Members



## Public Service Delivery and Reform Guidance Note 1





# Contents

## Public Service Delivery and Reform

Overview

Key Messages

Key References and Contacts

Public Service Delivery and Reform

National Performance Framework

Public Service Reform

The Scottish Approach to Government

Government Economic Strategy

Community Planning

Health and Social Care Integration

Scotland's Digital Future

Best Value, Efficient Government and Relocation



## ➤ Overview

Scottish Ministers are committed to high quality, continually improving, efficient public services that are responsive to local people's needs. To deliver on this commitment it is important that public bodies, third sector and private organisations work effectively in partnership with communities and each other.

This section explains the key policy developments and strategies on the delivery and reform of public services in Scotland, the relevance of public service delivery and reform to you as a Board member of a public body, and the influential role you can play in making a real change to the lives of the people of Scotland.

## ➤ Key References and Contacts

National Performance Framework

Scottish Government Economic Strategy

Christie Report

Scottish Government's Response to the Christie Report

Scotland's Digital Future – Delivery of Public Services

## Key Messages

- ➔ As a Board member, you have a responsibility to ensure the effective governance and financial management of your public body within the context of public service delivery and reform for the benefit of the people of Scotland.
- ➔ Public bodies are required to demonstrate their commitment to public service delivery and reform by recognising their role in the delivery of the Programme for Government and the National Performance Framework.
- ➔ Public service reform is built on four pillars: Prevention, Performance, People and Partnership (supported by Place) – which should be reflected in public bodies' corporate strategic priorities and plans.
- ➔ The Scottish Government has developed a distinct approach to support the achievement of National Outcomes and public service reform. It is centred around empowerment and participation: enabling people to co-design, shape and deliver public services that they use; and building on the strengths of families and communities.





## ➤ PUBLIC SERVICE DELIVERY AND REFORM

In your role as a Board member of a public body in Scotland, you will be required to discharge specific duties in relation to the effective governance and financial stewardship of the body concerned. These duties are covered in sections three to five of this guidance, the body's Framework Document and your letter of appointment.

As a member of a public body in Scotland, you also have a general responsibility to discharge these duties within the context of public service delivery and reform to the benefit of the people of Scotland.

The main policy developments and strategies which have shaped the Scottish Government's approach to public service delivery and reform are:

- ➔ The outcomes-based approach of the **National Performance Framework**
- ➔ The **Christie Report** and the Scottish Government's **Four Pillars of Public Service Reform**
- ➔ The strategic priorities of the **Government Economic Strategy**
- ➔ **Community Planning** whereby local authorities, public bodies, the Scottish Government and the third sector work together and with the local community
- ➔ Increased participation and delivery of public services through digital technology as described in **Scotland's Digital Future: Delivery of Public Services**
- ➔ The **Scottish Approach** centred around the core concepts of **Participation and Co-production, Assets-based Approaches** and **Improvement Methodology**.

The next section expands upon these policy developments and strategies, and their relevance to you as a Board member of a public body in Scotland.

## ➤ NATIONAL PERFORMANCE FRAMEWORK

The Scottish Government's vision for a successful Scotland is set out in the **National Performance Framework**. The Framework actively supports wider engagement between the Scottish Government and its delivery partners, including local government, third sector and public bodies.

It consists of five main parts which support and reinforce each other:

- ➔ The Scottish Government's **Purpose**
- ➔ The **Purpose Targets** to track progress towards the Purpose
- ➔ Five **Strategic Objectives** to focus on action
- ➔ 16 **National Outcomes** describing what the Scottish Government wants to achieve
- ➔ 50 **National Indicators** to track progress towards the Purpose and National Outcomes.



## National Outcomes

A shared approach to the achievement of National Outcomes encourages public service providers to direct attention towards the key long-term challenges for Scotland. As the achievement of shared outcomes is dependent on increased collaboration, effective partnership working and closer alignment of service provision, public bodies are required to ensure that their corporate strategies and plans support the National Outcomes described in the National Performance Framework.

It follows that all public bodies must demonstrate the role that their corporate strategies and plans have in delivering **National Outcome 16** which refers specifically to high quality, continually improving, efficient public services that are responsive to local people's needs.

**Public bodies must also demonstrate their role in delivering the other National Outcomes which are relevant to the type of services they provide**, working closely with partners to the benefit of the people of Scotland. This may involve crossing traditional organisational boundaries between public bodies which have separate and distinct roles but which also have a shared interest in the delivery and reform of particular areas of public service (e.g. health, justice and education). This focus on shared outcomes and partnership working can achieve outcomes which might not otherwise be possible by one body acting alone. It also opens up opportunities for sharing of limited resources to ensure more efficient, effective and sustainable public services.

## Scotland Performs

The **Scotland Performs** website measures and reports on the wide range of indicators set out in the National Performance Framework. As such, it provides an open and transparent account of the progress of government in Scotland in the creation of a more successful country, with opportunities for all through increasing sustainable economic growth.

### ► PUBLIC SERVICE REFORM

#### The Christie Commission

In 2010 the Scottish Ministers invited Dr Campbell Christie to lead a Commission to identify the best ways to address the challenges of delivering public services, based on evidence of what works.

The Christie Commission concluded that to achieve the outcomes that matter most to the people of Scotland, public, third sector and private organisations had to work more effectively in partnership with communities and with each other to design and deliver excellent public services that meet the needs of local people. The need for new ways of delivering public services has never been more important than it is today.

The **Christie Report** provided an assessment of the challenges facing public services and recommended an urgent, sustained and coherent programme of public service reform.



## THE SCOTTISH GOVERNMENT'S FOUR PILLARS OF PUBLIC SERVICE REFORM



In its response to the Christie Report, the **Scottish Government identified four pillars of reform** in order to deliver better outcomes for the people of Scotland, to reduce inequalities and to ensure the delivery of sustainable services now and in the future:

**Prevention** – reduce future demand by preventing problems arising or dealing with them early on. To promote a bias towards prevention, help people understand why this is the right thing to do, the choices it implies as well as the benefits it can bring.

**Performance** – to demonstrate a sharp focus on continuous improvement of the National Outcomes, applying reliable improvement methods to ensure that

services are consistently well designed, based on the best evidence and are delivered by the right people to the right people at the right time.

**People** – we need to unlock the full creativity and potential of people at all levels of public service, empowering them to work together in innovative ways. We need to help create ways for people and communities to co-produce services around their skills and networks.

**Partnership** – we need to develop local partnership and collaboration, bringing public, third and private sector partners together with communities to deliver shared outcomes that really matter to people.

The Scottish Government's approach to public service delivery and reform also focuses on the importance of "place" (locality) in the design and delivery of public services. The focus on place provides the basis for partnership and stronger community participation in the design and delivery of local services, harnessing the full spectrum of talents and capacities of public bodies, citizens, third sector organisations and local businesses.

In the next sections some of the information provided may not directly impact on your role as a Board member of a public body. However, it is essential that Board members have an awareness of work being taken forward by the Scottish Government in relation to public service reform.



## ➤ THE SCOTTISH APPROACH TO GOVERNMENT

The **National Performance Framework** and the **Government's response to Christie** describe 'what' we are trying to achieve, the 'Scottish Approach' describes 'how' it should be delivered; centering around three core elements of Participation and Co-production, Assets and Improvement, as summarised right. →

The approach seeks to safeguard essential services, preserve front-line jobs and secure higher quality services through, for example:

- greater integration of health and social care
- the move to single police, and fire and rescue services
- the reform of post-16 education.

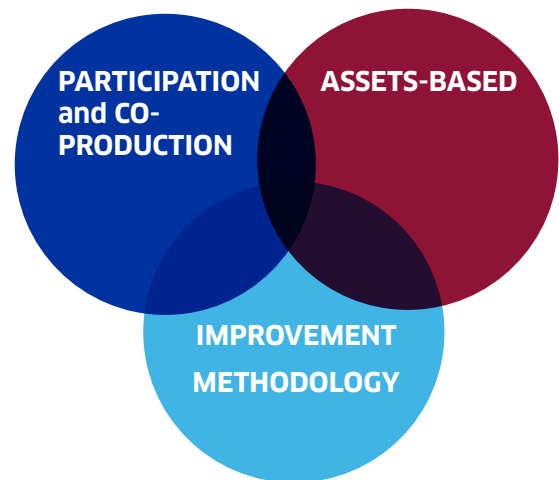
## ➤ GOVERNMENT ECONOMIC STRATEGY

**Scotland's Economic Strategy** reaffirms the Scottish Government's commitment to creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. It sets out an overarching framework for achieving the two mutually supportive goals of increasing competitiveness and tackling inequality in Scotland. It forms the strategic plan for existing and all future Scottish Government policy and prioritises boosting investment and innovation, supporting inclusive growth and maintaining a focus on increasing internationalisation.

## ➤ COMMUNITY PLANNING

**Community Planning** is now firmly established at the heart of public service reform. It involves public services working together and with the local community to understand the different needs of communities in their area in order to resource services which make a real difference to people's lives.

### The Scottish Approach



- **Participation and Co-production** – enabling people to shape and co-design the services they use.
- **Assets-based** – valuing the strengths of people and communities to build social capital and capacity, rather than focusing solely on perceived deficits.

#### ● **Improvement Methodology:**

##### **Creating Conditions for Change**

- Setting out a compelling vision of the future to serve as a reference point as the change process moves forward;
- Backed by a story which helps people to recognise where they have been and where they are going;
- Identifying key actions towards realising the vision.

##### **Making the Change**

- A clear framework for improvement;
- A strategy to engage, empower and motivate the workforce and develop their skills;
- An understanding of how the change will work locally, recognising communities and their assets are different;
- Building the guiding coalitions, governance and data necessary to drive and sustain the change.



## Community Planning Partnerships

**Community Planning Partnerships (CPPs)** bring public service providers (local authorities, NHS Boards, police and fire services, and other participating public bodies) together with communities and the third and private sectors to understand local needs and opportunities, agree locally shared priorities, and develop and deliver a shared plan to improve local outcomes for local people. There are 32 CPPs in Scotland, each one covering a local authority area.

### Single Outcome Agreements

The **Single Outcome Agreement** is a CPP's plan to improve local outcomes. It sets out how the CPP will work towards improving outcomes for local people in a way that reflects local circumstances and priorities, within the context of the **Scottish Government's Purpose and National Outcomes** as set out in the **National Performance Framework**. They also take account of a number of national policy priorities, including economic recovery and growth; employment; safer and stronger communities; and addressing health inequalities.

Each Single Outcome Agreement is approved by the partners in the CPP and signed off by Scottish Ministers and the local council leader.

## Community Empowerment (Scotland) Bill

The **Community Empowerment (Scotland) Bill**, which is currently being considered in the Scottish Parliament with a view to becoming an Act in the summer of 2015 proposes a new legislative framework to strengthen community planning. It changes the statutory purpose of community planning, making it explicitly about how public bodies work together and with the local community to plan for, resource and provide services which improve local outcomes in the CPP area. It applies community planning duties to a number of additional public bodies, and also proposes new duties for governing the CPP on a defined set of public bodies. Bodies which are not covered by the Bill should consider pursuing opportunities for partnership working with other bodies, including local authorities, wherever this can support their respective business objectives.

## ▶ HEALTH AND SOCIAL CARE INTEGRATION

### Public Bodies (Joint Working) (Scotland) Act 2014

The shape of Scottish society is changing. People are living longer, healthier lives and as the needs of our society change, so too must the nature and form of our public services. New legislation in the form of the **Public Bodies (Joint Working) (Scotland) Act 2014** requires Health Boards and local authorities to integrate their health and social care services.

Local teams and professionals across health and social care will work together to deliver quality, sustainable care and services resulting in improved outcomes for the people and families who use these services.



## ➤ SCOTLAND'S DIGITAL FUTURE

The **McClelland Review** of ICT Infrastructure in the Public Sector in Scotland identified that the public sector, at all levels, could do more to transform how it procures, manages and uses digital technology to drive better public service delivery.

In its **response**, the Scottish Government outlined priorities for action to enable public services, citizens and businesses to benefit from increased digital participation and access to digital public services. These priorities are set out in **Scotland's Digital Future: Delivery of Public Services** and include a "digital first" approach to service delivery, with public bodies working collaboratively with each other and service users to develop integrated digital platforms for the delivery of effective, efficient and sustainable public services.

Audit Scotland's report, **Managing ICT Projects**, published in August 2012 set out recommendations for Accountable Officers. These recommendations are supported by a checklist and an overall ICT Assurance Framework to support Accountable Officers in the successful delivery of such projects and programmes.

## ➤ BEST VALUE, EFFICIENT GOVERNMENT AND RELOCATION

Best Value, Efficient Government and Relocation are all essential elements of the public service reform agenda. These issues are covered in **Guidance Note 4**.

### FURTHER INFORMATION



[Community Planning](#)

[Community Empowerment \(Scotland\) Bill](#)

[Improvement Framework](#)

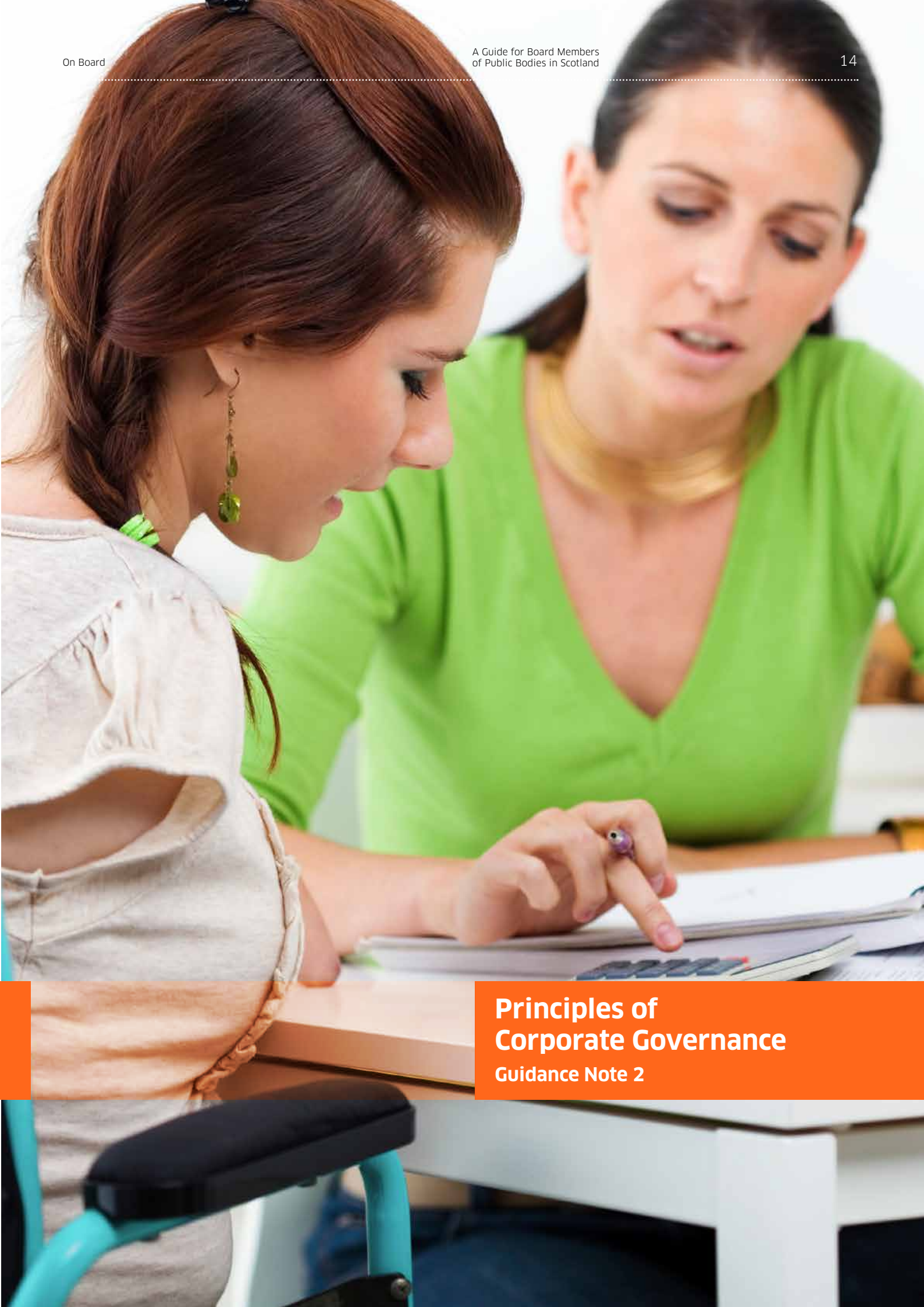
[Improvement Service](#)

[Public bodies \(Joint Working\) \(Scotland\) Act 2014](#)

[McClelland Review](#)

[Central Government ICT Assurance Framework](#)

[Scottish Government's response to the McClelland Review](#)



**Principles of  
Corporate Governance**  
Guidance Note 2



# Contents

## Principles of Corporate Governance

Overview

Key Messages

Key References and Contacts

Corporate Governance

Translating Principles into Action





## ➤ Overview

Corporate governance concerns the strategic direction and effective stewardship of the organisation. A number of concerns have been raised about corporate governance in the private and public sectors in recent years, mainly relating to the perceived lack of control at the top of some organisations and inadequately designed systems that failed to prevent fraudulent, inefficient or inappropriate behaviour.

A number of initiatives have addressed these concerns and strengthened the approach to corporate governance in both the private and public sectors. This section explains the main developments that have led to the principles of corporate governance and how these translate into the conduct and management of public business.

## ➤ Key References and Contacts

[UK Corporate Governance Code](#)

[Ethical Standards in Public Life etc. \(Scotland\) Act 2000](#)

[Good Governance Standard for Public Services](#)

## Key Messages

- ➔ Corporate governance is concerned with the strategic direction and effective stewardship of the organisation.
- ➔ There have been a number of reviews in the private sector which together led to the development and publication of a [UK Corporate Governance Code](#).
- ➔ There are similarities between the public and private sectors in terms of corporate governance principles – but Board members should recognise that it is not always possible to draw a direct parallel between the two.
- ➔ The [Nolan Committee](#) set new standards of conduct for Board members of public bodies in 1995 and the [Ethical Standards in Public Life etc. \(Scotland\) Act 2000](#) introduced the ethical standards framework, which includes Codes of Conduct for Board members, a Chief Investigating Officer and a Standards Commission.



## ➤ Corporate Governance

Corporate governance is the way in which organisations are directed, controlled and led. It defines relationships and the distribution of rights and responsibilities among those who work with, and in, the public body, determines the rules and procedures through which objectives are set, and provides the means of attaining those objectives and monitoring performance. Importantly, it defines where accountability lies throughout the public body.

Corporate governance has been a high-profile topic in recent years, principally because of concern about ensuring control at the top of, and within, organisations. There is a perception that, in certain cases, senior managers appear to have been able to act without restraint and that inadequately designed systems have failed to prevent fraudulent, inefficient or inappropriate behaviour. **The results of poor corporate governance cannot be underestimated.** The international financial crisis was partially attributed to failures in governance within the Boards of major financial institutions.

## Key Developments in the Private Sector

A number of key corporate governance reports in the private sector have contributed to the development of the **UK Corporate Governance Code**:

### Reports that shaped corporate governance in the UK

Cadbury, 1992

Greenbury, 1995

Hampel, 1998

Turnbull, 1999

Myners, 2001

Smith, 2003

Higgs, 2003

Tyson, 2003

Turnbull, updated 2005

Walker, 2009

Women on Boards, 2011

Francis, 2013



## The UK Corporate Code – impact on the public sector

Although there are elements of the UK Corporate Code which are relevant to Board members of public bodies, it applies primarily to companies listed on the London Stock Exchange.

While there are a number of similarities between the public and private sectors in terms of corporate governance principles, Board members should be aware that it will not always be possible to draw a direct parallel between the two. Whilst public bodies face many similar challenges as private organisations, they cannot be considered to be exactly the same.

Effective strategic engagement between the Scottish Government and the public body is essential in order that they work together as effectively as possible to maintain and improve public services and deliver improved outcomes. There is greater accountability, with control over public services handed in greater measure to those who use them, while Scottish Ministers take strategic policy decisions. The varying size and nature of ‘arm’s length bodies’ and the range of functions they carry out means that there is no one absolute template for how the relationship between Scottish Government Directorates and the public body operates. Further consideration on the relationship between Scottish Government Directorates and public bodies is examined in [Guidance Note 3](#).

## Findings from the Financial crisis report – lack of diversity and groupthink

Although the [Walker Report](#) specifically related to the collapse of banks and financial institutions its findings had significant ramifications for the Boards of all types of bodies. A key finding of the review was that ‘groupthink’, attributable in turn to a lack of diversity, had been a major contributory factor to the governance failures of the relevant Boards.

Many subsequent studies have identified that companies with Boards that are apparently more diverse, such as in relation to gender, age and industry background, perform better than those companies with less diverse Boards. The different perspectives that different types of Board members bring mean that they are more likely to be able to constructively challenge proposals. If Board members are too similar to the executives, a Board’s decision-making risks being narrow and blinkered.

It is important to understand that a Board made up of people who are ‘visibly diverse’ will not necessarily be immune to groupthink. Visible diversity is simply an indicator but no guarantee that the Board’s members have the diversity of skills, knowledge, experience and perspectives needed to make it effective. Having said that, a lack of diversity on the Boards of Scotland’s public bodies, which can be evidenced in relation to factors ranging from gender to BME status, employment sector and income, is an indicator that our Boards are not yet sufficiently diverse.





## The impact for Scottish Public Bodies

Scottish Ministers are committed to redressing this imbalance with gender parity being a particular area of focus. Boards themselves should give consideration to establishing a committee to consider matters such as planning for succession and Board performance as this should lead to more diversity at Board level. **The aim should be to have 50:50 gender balance by 2020.**

## Key Developments in the Public Sector

There have been a number of high-profile reports and inquiries in Scotland highlighting inadequacies in the governance of public bodies. In one report, a Parliamentary Committee concluded that the governance arrangements in a public body did not identify or prevent a crisis which it should have done. Although not the primary factor, the Committee believed that the Board failed sufficiently to challenge the Chief Executive over a significant operational development that ultimately failed.

In another report, the Scottish Parliament's Public Audit Committee concluded that, on the evidence received, members of the Board of a public body had acted with probity throughout a very difficult period but could not escape criticism for not being aware of problems of which they should have been aware.

As in the private sector, there have been a number of developments aimed at improving corporate governance in the public sector:

## Nolan Principles

In 1995, the **Committee on Standards in Public Life (the Nolan Committee)** identified seven principles of conduct underpinning public life and recommended that public bodies should draw up Codes of Conduct incorporating these principles.

### NOLAN COMMITTEE 1995



#### Recommendation

Public bodies should draw up Codes of Conduct incorporating seven Nolan Principles of:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership.



The then Scottish Executive took the Nolan Committee recommendations one step further with the introduction of the **Ethical Standards in Public Life etc. (Scotland) Act 2000** which brought in a statutory Code of Conduct for Board Members of Devolved Public Bodies and set up a **Standards Commission for Scotland** to oversee the ethical standards framework.

The Scottish Executive also identified nine key principles underpinning public life in Scotland, which incorporated the seven Nolan principles and introduced two further principles, Duty (Public Service) and Respect. These nine principles and their practical implications for Boards and Board members are explored in **Guidance Note 5**.

#### ETHICAL STANDARDS IN PUBLIC LIFE ETC. (SCOTLAND) ACT 2000

##### Provisions

- Statutory Code of Conduct for Board Members of Devolved Public Bodies
- Appointment of a Chief Investigating Officer to investigate and report to the Standards Commission for Scotland (the Standards Commission)
- Standards Commission to oversee ethical standards framework
- Seven Nolan Principles plus two further principles of Duty (Public Service) and Respect.

#### Good Governance Standard for Public Services

In 2004, the Chartered Institute of Public Finance and Accountancy and the Office for Public Management established an **Independent Commission on Good Governance for Public Services**. In 2005, the Independent Commission published its Good Governance Standard for Public Services which set out six core principles of good governance.

#### GOOD GOVERNANCE STANDARD FOR PUBLIC SERVICES

##### Core Principles

- Focus on the organisation's purpose and on outcomes for citizens and service users
- Perform effectively in clearly defined functions
- Promote values for the whole organisation and demonstrate the values of good governance through behaviour
- Take informed, transparent decisions and manage risk
- Develop the capacity and capability of the governing body to be effective
- Engage stakeholders and make accountability real.




## ➤ **Translating Principles into Action**

The remaining sections of this guidance provide the practical advice that is needed to enable public bodies and Board members to apply the concepts of good corporate governance to their own organisations. They pull together good practice from the private and public sectors to provide guidance to Board members across the three main dimensions of corporate governance:

- ➔ Roles, Responsibilities and Relationships (**Guidance Note 3**)
- ➔ Effective Financial Management (**Guidance Note 4**)
- ➔ Ethics and Standards of Behaviour (**Guidance Note 5**)

These guidance notes explain the meaning of these dimensions of corporate governance more fully and their relevance to you as a Board member of a public body in Scotland.



## Roles, Responsibilities and Relationships

### Guidance Note 3



# Contents

## Roles, Responsibilities and Relationships

Overview

Key Messages

Key References

Fundamental Principles of Board Life

Role of the Board

Role of the Board as an Employer

Role of the Board Committees

Role and Responsibilities of the Board Member

Role and Responsibilities of the Chair

Role and Responsibilities of the Chief Executive

Role and Responsibilities of the Accountable Officer

Role and Responsibilities of the Minister

Role of the Scottish Government Sponsor Directorate

Managing Relationships

Further information and contacts





## ➤ Overview

Every member of a Board of a public body must be clear about their specific roles and responsibilities if the Board and the public body are to operate successfully.

This section outlines the roles and responsibilities of the Board, its committees, individual Board members and key internal and external stakeholders, such as the Chief

Executive, Scottish Ministers and the Scottish Government sponsor Directorate. It explains the importance of managing these relationships effectively, including a clear understanding of the strategic governance and decision-making responsibilities of the Board and the operational and statutory accountability responsibilities of the Chief Executive, including as the body's Accountable Officer.

## ➤ Key Messages

- ➔ Board members must adhere to collective corporate responsibility, confidentiality and the highest standards of conduct.
- ➔ Individual Board members should contribute fully to Board deliberations and exercise a healthy challenge function. The Chair will ensure that all Board members have an opportunity to contribute to Board discussions.
- ➔ The four main functions of the Board of a public body are: to ensure that the body delivers its functions in accordance with Ministers' policies and priorities; to provide strategic leadership; to ensure financial stewardship; and to hold the Chief Executive and senior management team to account.
- ➔ Committees are established to deal with particular areas of interest outside main Board meetings and are required to submit substantive reports to summarise issues, debates and decisions.
- ➔ The Chair has additional responsibilities to Board members, particularly leadership, directing a diverse team and harnessing the benefits of this, and the conduct of Board business.
- ➔ The Chief Executive is accountable to the Board for the overall organisation, management and staffing of the public body. Where a public body manages its own budget, the Chief Executive is normally designated as its Accountable Officer with responsibility for the proper management of public funds under the public body's control. The Board should have regard to the issues and concerns of the Accountable Officer.
- ➔ The Board focuses on strategy, performance and behaviour – the Chief Executive advises the Board on all matters and is solely responsible for operational issues. Board members have no authority to instruct the Chief Executive or any member of staff on operational matters.

## ➤ Key References

Audit Committee Handbook  
Audit Scotland – The Role of Boards  
Equality Act 2010

NDPB Model Framework Document  
Scottish Public Finance Manual (Accountability)



## ➤ Fundamental Principles of Board Life

There are three fundamental principles of Board life to which all Board members (including the Chair) must adhere:

### Principle 1 – Corporate Responsibility

While Board members must be ready to offer constructive challenge, they must also share collective responsibility for decisions taken by the Board as a whole. If they fundamentally disagree with the decision taken by the Board, they have the option of recording their disagreement in the minutes. However, ultimately, they must either accept and support the collective decision of the Board – or resign. Board decisions should always comply with statute, Ministerial directions, Ministerial guidance and the objectives of the sponsor Directorate, as appropriate (noting of course that regulatory bodies are required to demonstrate independence in order to maintain credibility).

### Principle 2 – Confidentiality

All Board members must respect the confidentiality of sensitive information held by the public body. This includes commercially sensitive information, personal information and information received in confidence by the organisation. It is also essential that debate of a confidential nature inside the Boardroom is not reported outside it.

### Principle 3 – Conduct

Board members have a responsibility to set an example by demonstrating the highest standards of behaviour. It is important that nothing you do or say when acting in your capacity as a Board member tarnishes in any way the reputation of the public body or the Board. If you have specific concerns about the manner in which the public body is being run, these should be raised with the Chair in the first instance. If you fail to achieve resolution with the Chair, it is open to you to take them to the sponsor Directorate – but you should appreciate that this is a significant step.

## ➤ Role of the Board

The four main functions of the Board are: to ensure that the body delivers its functions in accordance with Ministers' policies and priorities; to provide strategic leadership; to ensure financial stewardship; and to hold the Chief Executive and senior management team to account. It has corporate responsibility, under the leadership of the Chair, for the following:

- ➔ Taking forward the strategic aims and objectives for the body agreed by the Scottish Ministers;
- ➔ Determining the steps needed to deal with changes which are likely to impact on the strategic aims and objectives of the body or on the attainability of its operational targets;



- Promoting the efficient, economic and effective use of staff and other resources by the public body consistent with the principles of Best Value, including, where appropriate, participation in shared services arrangements;
- Ensuring that effective arrangements are in place to provide assurance on risk management, governance and internal control;
- Taking into account relevant guidance issued by Scottish Ministers;
- Receiving and reviewing regularly financial information concerning the management and performance of the public body and being informed in a timely manner about any concerns regarding the activities of the public body;
- Ensuring systems are in place to enable early notification to be provided to the Scottish Government about emerging issues which will impact on the operation or reputation of the public body;
- Appointing (with the approval of the Scottish Ministers) the public body Chief Executive and, in consultation with the Scottish Government, setting appropriate performance objectives and remuneration terms linked to these objectives which give due weight to the proper management and use of resources within the stewardship of the public body and the delivery of outcomes; and
- Demonstrating high standards of corporate governance at all times, including openness and transparency in its decision-making.

### ➤ **Representing Ministerial Interests**

In the majority of cases, Boards of public bodies are appointed by Ministers to ensure delivery of Ministerial policies. **Board members should be clear about Ministerial policies and expectations for their public body.** If they are in any doubt on this point, they should seek clarification from the Chair or sponsor Directorate.

### ➤ **Providing Strategic Leadership**

The Board usually fulfils its leadership role by developing the public body's corporate strategy. The Board then agrees a corporate plan to turn the strategy into action over a period of about three years and promotes continuous improvements in corporate performance over this period. **Both the strategy and corporate plan must align with the National Performance Framework and the National Outcomes and indicate how the public body will contribute to public service reform.**

The corporate plan will usually be approved by the Scottish Ministers. Ministers should write to public bodies at least annually setting out the policies and priorities which they wish them to pursue.





## PROVIDING STRATEGIC LEADERSHIP



### The Board

- Develops and agrees the organisation's strategy;
- Sets cost effective plans to implement the strategy;
- Ensures that the strategy and plans are aligned with the **National Performance Framework** and the public body's statutory duties, and the policies and priorities of the Scottish Government;
- Reviews the public body's corporate and business plans and performance on a regular basis, including their own performance as a Board;
- Establishes a performance management framework which enables under-performance of the body to be addressed quickly;
- Establishes the values and standards of the organisation and ensures that the organisation adopts and complies with Codes of Conduct for Staff and the Board;
- Ensures that the highest standards of governance are complied with, that the organisation complies with all Ministerial guidance, its Framework Document and legislation, and that a framework of prudent and effective controls is in place to enable risks to be assessed and managed;
- Focuses on the positive impact that the organisation is making in the outside world, i.e. effects on customers and citizens;
- Ensures that the public body is a Best Value organisation and delivers Value for Money for the public sector as a whole.

## > Ensuring Financial Stewardship

The Board is collectively responsible for ensuring that the organisation adheres to strict standards of financial propriety, and

complies with the financial requirements contained in the Framework Document and the **Scottish Public Finance Manual**.

## ENSURING FINANCIAL STEWARDSHIP



### The Board

- Satisfies themselves that financial information is accurate and that financial controls and systems of risk management are robust and defensible;
- Considers and approves forward budget allocations and financial targets within key strategic and planning documents, such as corporate and operational business plans;
- Monitors the financial position against budget allocations and key financial targets and takes corrective action where required;
- Has regard to the issues and concerns of the Accountable Officer;
- Approves high value, novel or contentious expenditure proposals, for submission to the Scottish Government and Ministers for approval when it is necessary/appropriate to seek approval from the Scottish Government.



### > Holding the Chief Executive to account

It is the Board's duty to hold the Chief Executive (and senior management team) to account for the operational management of the organisation and the delivery of agreed plans on time and within budget.

#### HOLDING THE CHIEF EXECUTIVE TO ACCOUNT ▾

##### The Board:

- Ensures an effective team and management arrangements are in place at the top level of the organisation;
- Oversees the development (and review) of the corporate strategies, plans and policies of the public body;
- Ensures the operation and work of the public body is closely aligned with the work of other service delivery public bodies in support of the wider aims of public service delivery and reform;
- Oversees the development of performance and key financial targets;
- Monitors performance and ensures that corrective action is taken to address any under-performance;
- Provides continuity of direction and effective management by making appropriate arrangements for delegation.



## ➤ Role of the Board as an Employer

In most cases the Board is the employer of the individuals who work for the public body, although the management of staff, apart from the Chief Executive (whose performance is appraised by the Chair), is a matter for the executive.

The Board should be satisfied that the public body is meeting its moral and legal obligations to its employees and that the senior management team is fulfilling its obligations in this regard.

The Board is usually responsible for the recruitment of the Chief Executive and, in some cases, other senior staff. If you take part in a recruitment exercise, you will need to be familiar with employment legislation and any codes of best practice in relation to equal opportunities issues. You should receive training in recruitment and selection before serving in that capacity.

### ROLE OF THE BOARD AS AN EMPLOYER



#### This includes ensuring that the body:

- ➔ Has policies and procedures that comply with employment law;
- ➔ Avoids discrimination of any kind against current or potential employees and has policies to guarantee equal opportunities and value diversity;
- ➔ Has in place agreed terms and conditions of employment which should reflect the general standards set out in the Model Code for Staff;
- ➔ Has in place clear policies and strategies relating to staff;
- ➔ Complies with all health and safety requirements.

## Diversity

The Scottish Government expects all public bodies to champion diversity and mainstream equal opportunities in their work. The Board should give specific consideration to the impact on equality of opportunity when developing policies and making decisions. The Board should also look at how information can be presented to different groups in formats that best suit their needs and find ways of consulting effectively with people with different needs and backgrounds.

Scottish Ministers particularly welcome applications for public appointments from groups that are under-represented on Scotland's public bodies, with the aim of ensuring that Boards of public bodies are broadly reflective of the wider Scottish population **with a 50:50 gender split by 2020**. Public bodies are expected to take positive action to support and enable greater diversity of Ministerial appointments, through:

- ➔ taking an active role in succession planning, and providing advice to Ministers about the Board's membership needs, both for new and re-appointments;
- ➔ ensuring that suggested criteria for the selection of new Board members meet the needs of the body, are unbiased and are not unnecessarily restrictive;
- ➔ taking action both during and between Board member recruitment exercises to attract the broadest range of candidates to the work of the Board;
- ➔ providing mentoring, shadowing and training opportunities for potential Board members; and
- ➔ considering the role of nominations committees.



The Board of a public body should consider ways to attract new employees from a range of groups and perhaps set targets for increasing the number of women, disabled people and people from minority ethnic groups in the workforce to reflect the diversity of the Scottish population.

The Scottish Government's work on: increasing diversity in leadership across the public, private and third sectors; diversity in Ministerial public appointments; and diversity in the Scottish Government's own leadership, is overseen by the Public Boards and Corporate Diversity Board.

### Equality

Equality and fairness are at the heart of the Scottish Government's ambition for a socially just and inclusive Scotland. They are central to its purpose, outcomes and approach to public service reform.

The public sector equality duty in the **Equality Act 2010** came into force in April 2011 - this is often referred to as the general duty. Scottish public authorities must have 'due regard' to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. Scottish Ministers made regulations in May 2012 placing specific duties on Scottish public authorities, as defined in the regulations, to enable the better performance of the public sector equality duty. These are also known as the Scottish Specific Duties.

Public bodies should ensure that they operate in a way which promotes equality of opportunity and all policies must meet the requirements of equality legislation.

### Human Rights

Under the **Human Rights Act 1998**, it is unlawful for a public body to act in a way that is incompatible with a right under the European Convention on Human Rights. The Board should seek assurances from the Chief Executive that the policies and procedures in place within the public body are compatible with Convention rights. The Board should also be committed to protecting the privacy of individuals in relation to how personal information is used as required by the **Data Protection Act 1998**.



## ➤ Role of the Board Committees

Many Boards establish committees to deal with particular areas of interest outside of main Board meetings. The extent to which Boards use committees will be dependent on the size of the organisation. Examples of Board committees include:

- ➔ Remuneration Committee
- ➔ Audit Committee
- ➔ Nomination Committee
- ➔ Area or Regional Boards where appropriate.

Committees may also be set up to deal with specific aspects of the Board's role, such as:

- ➔ Staff Governance
- ➔ Finance
- ➔ Policy
- ➔ Development
- ➔ Clinical Governance (in the NHS).

Where appropriate, committees can allow for specialist areas relating to the Board's role to be debated in detail by members with the appropriate knowledge or skills. The key points can then be presented to the full Board for ratification, making more effective use of scarce time. As the Board cannot be expected to understand the issues dealt with by the committee from the minutes alone, it will generally require substantive reports from the committee to summarise issues, debates and decisions.

Individuals with specific skills and/or expertise may be invited to serve on committees as co-opted members. Co-opted members do not hold Board member status and must never constitute a majority of the membership of any committee.

## ➤ Role and Responsibilities of the Board Member

Your specific role as a Board member will depend on the role of the Board to which you have been appointed and the capacity in which you have been appointed, but will normally cover a number of general duties and responsibilities.

Individual Board members should act in accordance with the responsibilities of the Board as a whole and comply at all times with the Code of Conduct adopted by the public body and with the rules relating to the use of public funds and to conflicts of interest. In this context 'public funds' means not only any funds provided to the public body by the Scottish Ministers but also any other funds falling within the stewardship of the public body, including trading and investment income, gifts, bequests and donations. General guidance on Board members' responsibilities will be summarised in their letter of appointment.



**ROLE AND RESPONSIBILITIES OF THE BOARD MEMBER**



**The Board member**

- Understands the operational environment in which their public body operates within the context of the wider public service delivery landscape;
- Attends Board meetings on a regular basis and is well prepared by reading relevant papers in advance and, if necessary, seeks further information to ensure their understanding;
- Attends training events and keeps up to date with subjects relevant to the public body's work;
- Contributes to the work of any committees that have been established by the Board;
- Represents the Board at meetings and stakeholder events when required;
- Contributes to strategic development and decision-making;
- Clarifies which decisions are reserved for the Board and delegation of those which are not;
- Monitors the reporting of performance and holds management to account through purposeful and constructive challenge and scrutiny;
- As necessary, seeks further information than that which is provided to give assurance on organisational performance;
- Questions and, as necessary, challenges proposals made by fellow Board members and the executive team constructively and carefully to reach and articulate a considered view on their suitability;
- Provides a creative contribution to the Board by providing independent oversight on issues of strategy, performance and resources;
- Establishes and promotes the public body's role in the community.





## Performance Appraisal

You have been appointed to the Board because your personal skills, knowledge and experience match the criteria for the post and meet the needs of the public body. Your performance as a Board member will be regularly reviewed throughout the term of your appointment, usually by the Chair of the public body. All Board members should receive a performance appraisal every year that assesses their performance in relation to certain pre-established criteria and objectives, and provides an opportunity for meaningful dialogue.

The Chair is responsible for the annual appraisal of the Chief Executive and the Chair will be appraised on an annual basis by the relevant Scottish Government Director or Deputy Director (as appropriate).

## Succession Planning

The Scottish Ministers are responsible for succession planning to ensure Boards have the skills, knowledge and experience necessary to fulfil their role economically, efficiently and effectively. They will determine the period for which an appointment, re-appointment or extension to an appointment term is to be made, based on the needs of the public body concerned.

The Scottish Ministers will consider whether the needs of a Board will most effectively be met by an appointment, re-appointment or extension to an appointment term subject to any relevant provisions in the legislation which established the public body. They will balance the continuity provided by re-appointment and term extensions with the opportunity to increase the diverse range of relevant skills, knowledge and experience on a Board by making a new appointment through open competition.

## Re-appointment to the Board

You may be re-appointed for second and subsequent terms in the same role without open competition, if you possess the skills and knowledge required on the Board at the time of re-appointment. You will only be considered for re-appointment if your performance has been assessed as effective during the initial period of appointment. The final decision as to whether or not you are re-appointed ultimately rests with the Minister, subject to the specific nature of your public body's constitution, the needs of the Board for the foreseen period of the re-appointment and the terms upon which you are appointed. No member's total period of appointment in the same position may exceed eight years. This eight year maximum is based on the aggregate time in post and applies regardless of whether the time in post was continuous or not. The terms and conditions of re-appointment should be outlined in a re-appointment letter.

## Nomination to the Board of Another Organisation

Some public bodies have the right to nominate one or more Board members to the Board of another organisation. If you are nominated to be a Board member on a public body which is also a limited company, you will assume personal responsibilities as a Company Director under the Companies Acts. Any breach of your legal responsibilities as a Company Director could have serious consequences for you personally. If you are in any doubt as to your position, you should take legal advice from the Board's legal advisers.



## Civil Liability as a Board Member

If you, as an individual Board member, incur a civil liability in the course of carrying out your responsibilities for the Board, you will not have to pay anything out of your own pocket provided that you have acted honestly and in good faith. However, this indemnity does not protect you if you have acted recklessly or in bad faith.

## Removal from Office

In many cases, the founding legislation or the Board's standing orders will set out the grounds on which you may be removed as a Board member, such as:

- Bankruptcy
- Becoming incapable of performing your duties as a Board member
- Being convicted of an indictable offence.

## Charity Trustees

Some public bodies hold charitable status. This has implications for Board members who will also act as charity trustees for the purposes of the **Charities and Trustee Investment (Scotland) Act 2005**. A charity trustee is a person who has the general control and management of the administration of a charity. A charity may refer to its charity trustees in a number of ways including management committee members, directors and Board members. If a Board member is also the trustee of the charity, they will have the same general duties of any other charity trustee as set out at section 66 of the 2005 Act. **The Office of the Scottish Charity Regulator's guidance publication, 'Guidance for Charity Trustees'**, gives further details on the duties of charity trustees.

## The Role of Non-Ministerial Appointed Members

The vast majority of Board members in Scotland are appointed by Scottish Ministers; however there are instances where Board composition varies to include a mix of directly elected or local authority nominated members. Provision for such arrangements will normally be set out in the public body's enabling legislation.

In circumstances where it is considered appropriate, a mix of Board membership is generally designed to deliver a balance between local and national representation in the decision-making process.

However, regardless of composition, all Boards are expected to play a key role in the delivery of the Scottish Government's Purpose through alignment with the **National Performance Framework**, and are required to adhere to the established principles of public sector accountability and governance set out in this guidance, including collective responsibility for decisions and actions and confidentiality. Further clarification about roles and responsibilities should be provided by the Chair and/or the Chief Executive.

## ➤ Role and Responsibilities of the Chair

The Chair has additional responsibilities over and above those of Board members, particularly in relation to leadership and the conduct of Board business. The Chair is accountable to the Scottish Ministers and, in common with any individual with responsibility for devolved functions, may also be held to account by the Scottish Parliament. Communications between the public body Board and the Scottish Ministers should normally be through the Chair. They are responsible for ensuring that the public body's policies and actions support the Scottish Ministers' wider strategic policies and that its affairs are conducted with probity. The Chair is appraised by the





relevant sponsor Director or Deputy Director. Mutual investment in a constructive relationship between the Chair and the

Scottish Government sponsor Directorate is important to supporting the effective performance and delivery of the public body.

## ROLE AND RESPONSIBILITIES OF THE CHAIR



### The Chair

- Leads representation and links with Ministers and Scottish Parliament;
  - Leads the Board, ensures that the Board has the ability to carry out functions effectively and chairs Board meetings;
  - Leads the Board's approach to strategic planning;
  - Leads the Board's approach to the establishment of committees and ensures the Board considers substantive reports from any committees established;
  - Ensures that the work of the Board and any committees is subject to regular self-assessment and that the Board is operating strategically and effectively;
  - Ensures the Board has a balance of skills appropriate to directing the public body's business, in accordance with recognised good practice in corporate governance;
  - Ensures the Scottish Ministers are advised of the body's needs when Board vacancies arise;
- Ensures the Board members are fully briefed on terms of appointment, duties, rights and responsibilities;
  - Together with the other Board members, receives appropriate induction training, including on financial management and reporting requirements and, as appropriate, on any differences that may exist between private and public sector practice;
  - Ensures there is a Code of Conduct for Board members in place, approved by the Scottish Ministers;
  - Assesses the performance of individual Board members on a continuous basis and undertakes a formal appraisal at least annually;
  - In consultation with the Board as a whole, as appropriate, is responsible for undertaking an annual appraisal of the performance of the Chief Executive.



## ➤ Role and Responsibilities of the Chief Executive

The Chief Executive of the public body is employed and appointed by the Board (with the approval of Scottish Ministers). They are the Board's principal adviser on the discharge of its functions and will be accountable to the Board. The Chief Executive's role is to provide operational leadership to the public body, and ensure that the Board's aims and objectives are met and the public body's functions are delivered

and targets met through effective and properly controlled executive action. The Chief Executive's general responsibilities will include performance management and staffing of the public body. In summary, the Board focuses on strategy, performance and behaviour – the Chief Executive advises the Board on all matters and is solely responsible for operational issues.

### ROLE AND RESPONSIBILITIES OF THE CHIEF EXECUTIVE



#### Chief Executive

- ➔ Advises the Board on the discharge of its responsibilities – as set out in the Framework Document, in the founding legislation and in any other relevant instructions and guidance issued by or on behalf of the Scottish Ministers – and implements the decisions of the Board;
- ➔ Ensures that financial considerations are taken fully into account by the Board at all stages in reaching and executing its decisions, and that appropriate financial appraisal and evaluation techniques, consistent with the **Scottish Public Finance Manual**, are followed;
- ➔ Prepares the public body's corporate and business plans, in the light of the strategic aims and objectives agreed by the Scottish Ministers;
- ➔ Advises the Board on the performance of the public body compared with its aims and objectives;
- ➔ Ensures effective relationships with Scottish Government officials – across the wider organisation, as necessary, and with the sponsor Directorate in particular;
- ➔ Ensures that timely forecasts and monitoring information on performance and finance are provided to the Scottish Government; that the Scottish Government is notified promptly if overspends or underspends are likely and that corrective action is taken; and that any significant problems, whether financial or otherwise, and whether detected by internal audit or by other means, are promptly notified to the Scottish Government;
- ➔ Ensures robust performance and risk management arrangements, consistent with the **Scottish Public Finance Manual**, are in place to support the achievement of the public body's aims and objectives and facilitate comprehensive reporting to the Board, the Scottish Government and the wider public;
- ➔ Ensures that the public body adheres, where appropriate, to the **Scottish Government's Programme and Project Management Principles**;
- ➔ Ensures that adequate systems of internal control are maintained by the public body, including effective measures against fraud and theft consistent with the **Scottish Public Finance Manual**;
- ➔ Establishes appropriate documented internal delegated authority arrangements consistent with the **Scottish Public Finance Manual**.



## ➤ Role and Responsibilities of the Accountable Officer

The Permanent Secretary to the Scottish Government is the Principal Accountable Officer of the Scottish Administration. The Principal Accountable Officer designates Directors-General as Portfolio Accountable Officers. The Portfolio Accountable Officer has specific responsibilities with regard to a sponsored public body with its own Accountable Officer. These are set out in a Memorandum sent by the Principal Accountable Officer on appointment.

Where a public body manages its own budget, the Chief Executive will normally be designated as its Accountable Officer. Accountable Officers are personally answerable to the Scottish Parliament for the exercise of their functions, as set out in the Memorandum to Accountable Officers for Other Public Bodies issued to the Chief

Executive at the time of formal designation (normally at the same time as they are appointed as Chief Executive).

It is incumbent on the Chief Executive to combine their Accountable Officer responsibilities to the Scottish Parliament with their wider responsibilities to the Board. The Board and Chair should be fully aware of, and have regard to, the Accountable Officer responsibilities placed upon the Chief Executive.

If the Board has serious concerns about the actions and performance of the public body's Accountable Officer, it can recommend to the Principal Accountable Officer that Accountable Officer status should be withdrawn or suspended. The same option is open to the Principal Accountable Officer in the exercise of their own responsibilities.

### ROLE AND RESPONSIBILITIES OF THE ACCOUNTABLE OFFICER



#### The Accountable Officer

- ➔ Signs the annual accounts and associated governance statements;
- ➔ Ensures the propriety and regularity of the public body's finances and that there are sound and effective arrangements for internal control and risk management;
- ➔ Ensures that the resources of the public body are used economically, efficiently and effectively, and that arrangements are in place to secure Best Value for the organisation and deliver Value for Money for the public sector as a whole;
- ➔ Ensures compliance with relevant guidance issued by the Scottish Ministers, in particular the **Scottish Public Finance Manual**;
- ➔ Has a statutory duty to obtain written authority from the Board/Chair before taking any action which they consider would be inconsistent with the proper performance of the Accountable Officer functions. The Accountable Officer should also notify, where considered appropriate, the relevant Portfolio Accountable Officer;
- ➔ Represents the public body before the **Public Audit Committee of the Scottish Parliament**;
- ➔ May have their Accountable Officer status withdrawn or suspended if the Principal Accountable Officer has serious concerns about their actions and performance.



## ➤ Role and Responsibilities of the Minister

Every public body sponsored by the Scottish Government is expected to be aware of, and work within, a strategic and operational framework determined by the Scottish Ministers. Most fall within the portfolio of a specific Scottish Minister who will set overall policy aims, define expected outcomes arising from implementation of that policy and review progress against outcomes.

Public bodies are sometimes described as operating at 'arm's length' from Ministers but this does not mean that they are outwith Ministerial control. The Minister will decide how much independence and flexibility the public body should have, depending on its size, constitution, the nature of its functions and the legislation under which it operates.

Ministers may seek to increase their understanding of the public body through formal meetings with the public body's Chair and Board and other more informal events. The founding legislation for a public body may also give Ministers the power to issue a formal direction requiring it to take particular action. However, the use of such formal powers is extremely rare.

As Ministers are responsible to the Scottish Parliament, they may be asked at any time to attend Parliament or one of its Committees to answer questions from Members of the Scottish Parliament (MSPs) about the activities of public bodies within their remit.

### ROLE AND RESPONSIBILITIES OF THE MINISTER



#### The Minister

- ➔ Considers and approves the public body's strategic objectives and the policy and performance framework within which it operates;
- ➔ Secures and approves the allocation of public funds for the public body;
- ➔ Approves key documents such as the Framework Document and corporate plan;
- ➔ Makes appointments to the Board;
- ➔ Approves the terms, conditions and remuneration of the Chair and Board members;
- ➔ Approves the Chief Executive's and staff pay remit in line with Scottish Government Pay Policy and lays accounts, together with the annual report, before Parliament;
- ➔ Fulfils any responsibilities specified in the founding legislation, charter or articles of association, such as approving the appointment of the Chief Executive;
- ➔ Issues letters of strategic guidance.



## ➤ The Role of the Scottish Government Sponsor Directorate

The day-to-day link between the public body and the Minister is provided by the sponsor Directorate. Within the sponsor Directorate, a sponsor team will ensure that the public body is adequately briefed about the Scottish Government's policies and priorities. That team will monitor the body's activities on behalf of the Minister. However, civil servants from the sponsor Directorate will not normally attend Board meetings of the public body. On any occasion that they do, they should do so as observers, not participants, and are not party to decisions taken by the Board.

The sponsor team prepares a Framework Document which sets out formally the relationship between the public body and the Minister and officials. While Framework Documents vary according to the functions, powers and finances of the public body, the **Model Framework** in the **Scottish Public Finance Manual** provides a useful template.

The Framework Document will be drawn up by the Scottish Government, in consultation with the public body, and it will be reviewed at least every two to three years.

The key focus for much of the sponsorship role is to support sponsored bodies in being accountable, high performing organisations, delivering Value for Money services, which meet people's needs, as outlined in their business plan. An excellent sponsorship function is underpinned by two key elements:

- ➔ good governance structures and processes; and
- ➔ good relationships with the public body, based on openness, trust, respect and mutual support.

### MODEL FRAMEWORK DOCUMENT



#### Contents:

- ➔ The legislative basis under which the public body was established and its statutory functions, duties and powers;
- ➔ Aims and objectives, how these are to be delivered and the key targets to be achieved;
- ➔ The roles and responsibilities of Ministers, the sponsor Directorate, the Chair, Board members, the Chief Executive and other senior officials; and the public body's accountability to Ministers and to the Scottish Parliament;
- ➔ Arrangements for the planning, budgeting and control of the public body's activities and expenditure, including funding, preparation of corporate and business plans and setting of performance targets;
- ➔ Arrangements for preparation and publication of the annual report and accounts and external audit procedures;
- ➔ Responsibilities of the public body for recruitment, pay, grading and other personnel matters.



## ➤ Managing Relationships

### Strategic and Operational Responsibility

It is important that the Board maintains a focus on strategy, performance and behaviour and is not diverted by detailed operational matters which are the responsibility of the Chief Executive and the Senior Executive Management Team.

The Board should clearly differentiate their role in strategic governance and leadership from that of operational management. The Board should protect the Chief Executive and Senior Executive Management Team from individual Board members becoming involved in operational matters. Individual Board members have no authority to instruct the Chief Executive or any member of their staff on such matters.

### Decision-Making

The Board should give all matters reserved to them due consideration and take ownership of the decisions taken. For instance, the Board should not simply 'rubber stamp' strategy proposals or a draft corporate plan put forward by the Chief Executive. It is important that both the Chief Executive and the Board understand the distinct nature of their roles.

**Audit Scotland's report on The Role of Boards** provides useful information about the operation of Boards in the public sector, including a series of questions at Annex 3 for Boards and individual Board members to ask themselves about how well they are working.

### The Chair and Board Members

Individual Board members should contribute fully to Board deliberations and exercise a healthy challenge function. This expectation extends to Executive Directors (where, as is the case in many NHS bodies, they are Board members). However, it is important that no individual Board member (or Chair) dominates the debates or has an excessive influence on Board decision-making. The Chair has an important role to play in ensuring that all Board members are enabled and encouraged to contribute to Board discussions.

As a Board member, you should support the Chair in their efforts to conduct Board business in an efficient and effective manner. However, you should not hesitate to challenge the Chair if you believe that a decision is wrong (even illegal) or is in contravention of the Framework Document or formal instruction from Ministers, or has been taken without a full and proper debate.

### Relationships with Stakeholders

The Board needs to consider the concerns and needs of all stakeholders and actively manage its relationships with them. Stakeholders – and the general public – should have access to full and accurate information on the decision-making processes and activities of each public body and have the opportunity to influence decisions and actions.

Scottish Ministers expect all public bodies to communicate clearly with their stakeholders, make information widely available, consult thoroughly and imaginatively and seek feedback on the public body's performance, acting on it as appropriate.





**COMMUNICATION WITH STAKEHOLDERS** ▼

**The Board should consider:**

- Holding an Annual Open Meeting;
- Holding Board meetings in public, unless there is a good reason not to;
- Publishing summary reports and/or minutes of meetings;
- Inviting evidence from members of the public in relation to matters of public concern;
- Consulting stakeholders and users on a wide range of issues;
- Making corporate plans and the Annual Report and Accounts widely available.

**FURTHER INFORMATION AND CONTACTS** ▼



- The Data Protection Act 1998
- Equality Act 2010
- Freedom of Information (Scotland) Act 2002
- Information Commissioner’s Office (Data Protection)
- Human Rights Act 1998
- Principles of Strategic Engagement – December 2011
- The Commissioner for Ethical Standards in Public Life
- Scottish Information Commissioner (FOI)
- Standards Commission for Scotland



**Effective Financial  
Management**  
Guidance Note 4







# Contents

## Effective Financial Management

Overview

Key Messages

Key References and Contacts

Scottish Public Finance Manual

Budgeting in a Public Body

Best Value

Efficient Government

Relocation

Annual Reports and Accounts

Performance Measurement and Reporting

Risk Management and Internal Controls

Internal Audit

Audit Committee

External Audit

The Public Audit Committee of the Scottish Parliament

Further Information



## > Overview

The Board, Chief Executive and senior management team must demonstrate effective financial stewardship of public funds. They must meet the requirements of the [Public Finance and Accountability \(Scotland\) Act 2000](#) and the [Scottish Public Finance Manual](#), including the need to account for the use of public money and the safe keeping of public assets.

This section explains key aspects of the [Scottish Public Finance Manual](#) which aim to ensure proper stewardship of public funds. It covers the allocation of funds to public bodies by Scottish Ministers, the requirement for robust financial monitoring and reporting systems, the importance of effective risk management and internal controls, and the processes by which internal and external audit provide assurance on the proper management of public funds and resources.

## > Key Messages

- The Board satisfies itself that the public body has proper processes, systems and controls in place and receives assurances from the Chief Executive that the [Scottish Public Finance Manual](#) is being complied with. The Board also seeks assurance that systems are in place to provide accurate and timely information to the Scottish Government as part of the management of the Scottish Budget.
- The Board receives regular financial reports showing expenditure against planned budgets and progress towards financial targets and efficiency savings.
- The Board scrutinises financial and corporate plans and provides challenge on performance against these plans and any underlying assumptions.
- The Board satisfies itself that the public body has systems in place to secure Best Value in the performance of its functions.
- The Board satisfies itself that systems are in place for risk management and internal control extending from front-line services through to the Board.
- Where an organisation is responsible for expenditure, an Audit Committee must be established to advise the Board on internal control (including corporate governance) and audit matters.
- The Board is responsible for approving the annual accounts and ensuring the Minister is provided with the annual report and accounts to be laid before the Scottish Parliament. The Chief Executive as the Accountable Officer of the public body is responsible for signing the accounts and ultimately responsible to the Scottish Parliament for their actions.
- On completion of the external audit of the annual accounts, the appointed auditor sends a copy of the accounts and the audit opinion to the Auditor General, who may add a report of their own, before the body sends the accounts and reports to the Scottish Ministers for laying before the Parliament.
- The [Public Audit Committee of the Scottish Parliament](#) uses reports of the Auditor General as the basis for conducting enquiries.

## > Key References and Contacts

[Scottish Public Finance Manual](#)  
[Scottish Public Finance Manual \(Best Value\)](#)  
[Audit Scotland](#)

[Audit Scotland \(Improving Public Service Efficiency\)](#)  
[Public Finance Accountability \(Scotland\) Act 2000](#)  
[Scottish Parliament \(Public Audit Committee\)](#)



## ➤ The Scottish Public Finance Manual

The primary document that governs all matters relating to public finance and reporting in Scottish public bodies is the **Scottish Public Finance Manual** (SPFM).

The SPFM provides guidance to your public body and its sponsor Directorate on the proper handling of public funds. It is mainly designed to ensure compliance with statutory and parliamentary requirements (in particular, the **Public Finance and Accountability (Scotland) Act 2000**), to promote Value for Money and high standards of propriety, and to secure effective accountability and good systems of internal control.

Essentially the Board must ensure that the public body has processes and systems in place to ensure compliance with the SPFM. Board members should look to the Chief Executive (Accountable Officer) and staff of the public body for advice and assurance that the SPFM is being complied with.

The Accountable Officer has a personal responsibility for the propriety and regularity of the finances under their stewardship and for the economic, efficient and effective use of all related resources. Accountable Officers are personally answerable to the Parliament for the exercise of their functions and have a statutory duty to obtain written authority from, as the case may be, the Scottish Ministers or relevant governing body before taking any action that they consider may be inconsistent with the proper performance of their functions. The system is designed to promote good governance.

It is important to recognise that the Accountable Officer's role in relation to Value for Money is not a narrow one, restricted to considerations affecting that body, but, as defined by the SPFM, **Value for Money is to be judged for the public sector as a whole**. This wider consideration of Value for Money would be relevant to considerations of property and accommodation, for example, in relation to shared services.

## ➤ Budgeting in a Public Body

The resources allocated to bodies by Scottish Ministers are determined as part of the Spending Review process. Spending Reviews take place every few years.

This process dovetails with the United Kingdom Spending Review which largely sets the overall Scottish budget for each Spending Review period. After deduction has been made for the costs of the Scotland Office plus the Scottish Parliamentary Corporate Body and Audit Scotland, the Scottish Government has full discretion to decide how the Scottish budget should be divided between its various portfolios and programmes. The grant-in-aid necessary to support the agreed budgets of bodies is authorised by the Scottish Parliament in the annual Budget Act.

Bodies are expected to provide supporting material to the sponsor Directorate as part of the latter's contribution to both the Spending Review and the annual budgetary process. Wherever possible, this should be done as part of their own annual planning arrangements and they should therefore take all reasonable steps to harmonise the planning process with those of the Spending Review and annual budgetary process.



Ministers should write to public bodies at least annually setting out the policies and priorities which they wish them to pursue. Where a public body receives grant-in-aid, this is most commonly done through a Budget Allocation and Monitoring letter issued in advance of the financial year. This letter confirms the resources that Ministers have allocated to the body and sets out the priority areas of work that Ministers wish the body to pursue.

Where a public body does not receive grant-in-aid, an equivalent letter should be received from the Minister covering the priority areas to be pursued. The letter should draw on material from the corporate plan and the Spending Review and any further instructions from Ministers.

Typically the Board of a public body will be responsible for the approval of the corporate plan (and possibly operational plans) before submission to the sponsor Directorate. The Board should receive regular financial reports (at least quarterly) showing expenditure/use of resources against planned budgets and progress towards financial targets including projected efficiency savings. Board members should provide the 'challenge function', carefully scrutinising plans, performance against plans and underlying assumptions.

The Board will also approve high value, novel or contentious expenditure proposals for submission to the Scottish Government and Ministers for approval when it is necessary/appropriate to seek approval from the Scottish Government.

## ➤ Best Value, Efficient Government and Relocation

### Best Value

**Best Value** provides a common framework for continuous improvement in public services in Scotland, and is a key foundation of the Scottish Government's public service reform agenda.

The principles of Best Value complement good governance standards and offer a sound approach to running a public service organisation.

The duty of Best Value, as set out in the SPFM, is to make arrangements to secure continuous improvement in performance whilst maintaining an appropriate balance between quality and cost and in making those arrangements and securing that balance, to have regard to economy, efficiency, effectiveness, the equal opportunities requirements and to contribute to the achievement of sustainable development. Best Value ultimately is about creating an effective organisational context from which public bodies can deliver their key outcomes.



Accountable Officers appointed by the **Principal Accountable Officer for the Scottish Administration** have a specific responsibility to ensure that arrangements have been made to secure Best Value. The Scottish Ministers expect all Accountable Officers to comply with the duty of Best Value and for any associated matters relating to Value for Money, judged for the public sector as a whole placed upon them. In addition the Boards (or equivalents) of relevant public service organisations have corporate responsibility for promoting the efficient and effective use of staff and other resources by the organisations in accordance with the principles of Best Value. Under the terms of the Public Finance and Accountability (Scotland) Act 2000 the implementation of the duty of Best Value by relevant public service organisations is subject to scrutiny by the Auditor General for Scotland.

As a Board member, you should always bear in mind the need for your public body to continually secure Best Value in the performance of its functions. In a tight financial climate, service improvements may need to be funded from internal efficiencies.

Audit Scotland has adopted a generic framework for **Best Value** for all public bodies. This enables a consistent approach to auditing against Best Value principles across the public sector. Sustainable development and equalities are themes that run through the framework. It is a risk-based approach, recognising the increasing focus on partnership working, with the specific aim of:

- Reporting on overall governance and management arrangements
- Reporting on the delivery of outcomes
- Protecting taxpayers' interests by examining the use of resources
- Increasing the emphasis on self-assessment by public bodies with audit support and validation.

## Efficient Government

The **Public Services Reform (Scotland) Act 2010, section 32(1)(b)** provides that as soon as is reasonably practicable after the end of each financial year each listed public body must publish a statement of the steps it has taken during that financial year to improve efficiency, effectiveness and economy in the exercise of its functions. Efficiency is not about making cuts, it is about enhancing Value for Money, improving public service and raising productivity and as such efficient Government is focused on the sound management of resources and ensuring that public bodies continually review their operations to identify opportunities for efficiency improvements. Efficiency improvements are about improving the ratio of resource inputs to outputs and can be made in any area, including the administration and delivery of services and in the procurement of goods and services. By making efficiency savings, more resources are available for re-investing in the delivery of public services.

Opportunities for efficiency improvements within your body should be identified as part of the corporate and business planning processes. As a Board member you should ensure that such opportunities are being identified and that arrangements are in place for measuring, monitoring, and reporting on the delivery of efficiency savings to the Board.

This should include having efficiency performance indicators (such as a range of input/output ratios) that will allow you to routinely monitor the efficiency of your public body's operations.



**Audit Scotland's report on Improving Public Service Efficiency** identified that public bodies will need to improve productivity and efficiency in the delivery of public services to meet continued demands on public spending. Audit Scotland concluded that public bodies will need to take a more fundamental approach to identifying priorities, improving the productivity of public services, and improving collaboration and joint working. A **Good Practice Checklist** was produced to help leaders in public bodies check and challenge their approach and ultimately support better productivity and efficiency.

### Relocation

Relocation policy is related to Best Value and Efficient Government. Location reviews are triggered by the creation or reorganisation of bodies, as well as by property events (such as lease breaks). Relocation remains an option as part of streamlining the public bodies landscape, but should only be pursued following a rigorous and transparent process that shows any move provides best possible Value for Money for the public finances and optimum service delivery. Ministers will expect Board members to have regard to this policy in decisions they make on the most efficient and effective way of delivering services.

## ➤ Annual Report and Accounts

The accounting guidance issued to those bodies that are subject to reporting requirements set by the Scottish Ministers will set out the applicable accounting policies and principles and disclosure requirements.

Where the Scottish Government makes funds available to a sponsored body the Scottish Government will account to the Parliament

for the provision of those funds in the Scottish Government's annual accounts. A sponsored body which is a separate accounting entity will account for the use of those funds (and of other funds in its stewardship) in its own annual accounts.

The Board is responsible for approving the body's annual accounts and ensuring that the Minister is provided with the annual report and accounts to be laid before the Scottish Parliament. The Chief Executive as the Accountable Officer of the public body is responsible for signing the accounts and ultimately responsible to the Scottish Parliament for their actions.

The accounting requirements for a public body will normally be set out in its founding legislation and/or its Framework Document.

### Performance Measurement and Reporting

Key targets for efficiency and effectiveness of operations and quality of service provided will be agreed as part of the planning process. The Board should ensure that robust systems are in place to monitor performance against these targets. A report on the extent to which performance targets have been achieved should be incorporated in the Annual Report, where appropriate giving a summary of trends over a five-year period.

## ➤ Risk Management and Internal Controls

Risk concerns uncertainty of outcome. The delivery of an organisation's objectives is surrounded by uncertainty which both poses threats to success and offers opportunities for increasing success. Risk is defined as this uncertainty of outcome, whether positive opportunity or negative threat, of actions and events.





Each public sector organisation's internal control systems should include arrangements for identifying, assessing and managing risks. Risk management should be closely linked to the business planning process.

Public bodies are required to provide a **Governance Statement** in order to comply with best practice as recommended by the **Turnbull Committee Report**. As part of that process, Directors (in the case of public bodies, the Board) are required to review, at least annually, the effectiveness of all controls, including financial, operational and compliance controls. Organisations need to show that they have established and maintained effective and on-going procedures for identifying, evaluating and managing business risks.

The Board must ensure that there is a system in place for continuous risk management which extends from the front-line services through to the Board. This involves having a framework of prudent and effective controls in place to enable risks to be identified, assessed and managed. The Board itself should regularly review key business risks affecting the organisation.

### **Audit Committee**

Where a body is responsible for a budget, an **Audit Committee** must be established to advise the Board and Accountable Officer on internal control (including corporate governance) and audit matters.

All accounting entities to which the **SPFM** is directly applicable should establish Audit Committees. The Board (or Accountable Officer) should establish an Audit Committee of at least three members, all of whom should be either Board members or independent external members.

All Audit Committees in organisations to which the **SPFM** is directly applicable are subject to the guidance in the **Audit Committee Handbook** published by the Scottish Government. A degree of flexibility will be appropriate in applying the guidance in the Handbook, particularly with regard to smaller accounting entities.

The exact role of the Audit Committee will depend on the particular circumstances of the organisation. Examples of issues affecting the role of the Audit Committee include the strategic risk management arrangements that the Board and/or Accountable Officer have established, whether or not there is a separate Risk Committee and the whistleblowing arrangements which have been put in place as part of the anti-fraud and corruption arrangements. An Audit Committee should not have any executive responsibilities or be charged with making or endorsing any decisions, although it may draw attention to strengths and weaknesses in control and make suggestions for how weaknesses might be dealt with. The overarching purpose of the Audit Committee is to advise the Board and/or Accountable Officer; it is then the Board and/or Accountable Officer that makes the relevant decisions.

To fulfil its role, an Audit Committee should meet at least four times per year. Additional meetings should be convened as deemed necessary.

All Audit Committee members, whatever their status or background, will have training and development needs. Those who have recently joined the Audit Committee will need induction training, either to help them understand their role; or if they have audit committee experience elsewhere, to help them understand the organisation. In



particular, those joining a public sector Audit Committee for the first time will need training to help them understand public sector standards, especially those relating to governance and accountability.

## AUDIT COMMITTEE



### The Audit Committee should:

- Have written terms of reference from the Board, which encompass all the assurance needs of the Board and Accountable Officer. Within this, the Audit Committee should have particular engagement with the work of Internal Audit, the work of the External Auditor and with financial reporting issues;
- Support the Board and Accountable Officer by reviewing the scope, reliability and integrity of the assurances provided to them;
- Highlight those aspects of risk management, governance and internal control that are functioning effectively and, just as importantly, those that need to be improved;
- Have at least three non-executive members, under the chairmanship of a non-executive member who should be someone other than the Chair of the public body or of any other sub-Committee of the Board;
- Own corporately an appropriate skills mix to allow it to carry out its overall function. At least one of the Committee members should have recent and relevant financial experience;
- Have a Chair whose role goes beyond chairing meetings – this is key to achieving Committee effectiveness. The additional workload should be taken into account in the appointment of the Chair;
- Have a Chair who is involved in the appointment of new Committee members, including providing advice on the skills and experience being sought by the Committee, and is responsible for ensuring that the work of the Audit Committee is appropriately resourced;
- Be independent and objective; in addition each member should have a good understanding of the objectives and priorities of the organisation and of their role as an Audit Committee member;
- Encourage the Accountable Officer, Head of Internal Audit and Director of Finance to attend meetings (though not as members of the Audit Committee);
- Should have regular and on-going liaison with External Auditors;
- Should ensure it has effective communication with the Board and Accountable Officer, the Head of Internal Audit, the External Auditor, and other stakeholders. In addition, the role of the Chair and provision of appropriate secretariat support are important elements in achieving Audit Committee effectiveness.





## Internal Audit

In any government related organisation there will be two significant sources of assurance that the Audit Committee can be certain will be present: Internal Audit and External Audit. The work of Internal Audit is carried out primarily for the benefit of the Board and Accountable Officer of the organisation.

Although the work of External Audit is normally primarily conducted for the benefit of the Scottish Parliament, it is still of significant benefit to the organisation as well.

Internal Audit is an internal appraisal service, established by the management of an organisation, to review the internal control system. It objectively examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources. The scope of the Internal Audit service should be unrestricted across the organisation's operations. The Internal Auditors should have sufficient authority to access assets, records and personnel as necessary for the discharge of their responsibilities.

The work of Internal Audit is likely to be the single most significant resource used by the Audit Committee in discharging its responsibilities. This is because the Head of Internal Audit, in accordance with the Government Internal Audit Standards, has a responsibility to offer an annual opinion on the overall adequacy and effectiveness of the organisation's risk management, control and governance processes. There is consequently a major synergy between the purpose of the Head of Internal Audit and the role of the Audit Committee.

The role of the Audit Committee in relation to Internal Audit should include advising the Board and Accountable Officer on:

- The Audit Strategy and periodic Audit Plans, forming a view on how well they support the Head of Internal Audit's responsibility to provide an annual opinion on the overall adequacy and effectiveness of the organisation's risk management, control and governance processes;
- The results of Internal Audit work, and management response to issues raised by that work;
- The resourcing of Internal Audit; and
- The Terms of Reference (or equivalent) for Internal Audit.



## External Audit

Whilst the work of the External Auditor is not primarily conducted for the benefit of the organisation or its Audit Committee, the Audit Committee should nevertheless engage with the activity of the External Auditor. As well as considering the results of External Audit work, they should enquire about and consider the External Auditor's planned approach and the way in which the External Auditor is co-operating with Internal Audit to maximise overall audit efficiency, capture opportunities to derive a greater level of assurance and minimise unnecessary duplication of work.

The [Auditor General for Scotland](#) is the External Auditor of a number of public bodies.

The Auditor General may appoint a member of the staff of Audit Scotland or an appropriately qualified professional firm as the auditor of your body. Where a public body is incorporated under the Companies Act, the auditor is appointed by the members of the company (i.e. the Board members).

### External Audit of the Annual Accounts

An External Audit of the annual accounts undertaken by the Auditor General is conducted in accordance with the [Public Finance and Accountability \(Scotland\) Act 2000](#) and the [Code of Audit Practice issued by Audit Scotland](#) on behalf of the Auditor General.

On completion of the External Audit, the appointed auditor sends a copy of the accounts and the audit opinion to the Auditor General. The Auditor General may then add a report (for example, on a qualification of the auditor's opinion or other matter drawn to their attention by the auditor) before the body sends the accounts and reports to the Scottish Ministers for laying before the Parliament.

## EXTERNAL AUDIT OF THE ANNUAL ACCOUNTS ▼

### The appointed auditor will:

- Issue an opinion as to whether the accounts give a true and fair view of the state of affairs of the public body at the year end and of its income and expenditure for the year and whether the accounts have been prepared in accordance with any applicable legislation and accounts direction;
- Issue an opinion (known as the "regularity" opinion) as to whether the income and expenditure has been properly received or incurred in accordance with legislation, the Budget Act for the relevant year and any other guidance issued by the Scottish Ministers;
- Review the Governance Statement prepared by the body and report if it is not in accordance with the auditor's understanding of the body;
- Consider the body's governance arrangements and arrangements for prevention and detection of fraud;
- Provide reports to the Board, Audit Committee and/or management on matters arising during the course of the audit.



## Performance Audit

Performance audits look at the performance of a public body and include a Value for Money audit which is an examination of the economy, efficiency and effectiveness with which a body has used its resources to carry out its functions.

The **Auditor General** has powers to conduct performance audits. These audits examine the economy, efficiency and effectiveness of aspects of the public sector. They can assess:

- performance across several public bodies in a particular theme – for example, managing changes in the workforce; or
- performance of an individual public body or a particular aspect of that body's performance.

Performance audits may be conducted by Audit Scotland staff, the appointed auditor, consultants or any combination of these. A draft report on the audit will be discussed with the public body (or bodies) to ensure factual accuracy. Once finalised, the report will be laid before the Scottish Parliament and published with an accompanying news release. In most cases, the **Auditor General** will present the report to the **Scottish Parliament's Public Audit Committee**.

Performance audit reports may contain material such as checklists to assist non-executive Board members in holding management to account.

For many public bodies, the founding legislation provides that the **Auditor General** will appoint the auditor. In such circumstances, the **Auditor General** has a statutory right to carry out a Value for Money examination.

Where the **Auditor General** is not the auditor of a public body and has not appointed the auditor, they should have rights under statute or by agreement to carry out an inspection of the use of resources by those bodies.

## ➤ The Public Audit Committee of the Scottish Parliament

The **Public Audit Committee of the Scottish Parliament** is one of the committees established under the Standing Orders of the Parliament. The Public Audit Committee uses the reports of the Auditor General, which are laid before the Parliament, as the basis for conducting enquiries. It is chaired by a senior member of the Opposition and conducts its business on non-party political lines.



## PUBLIC AUDIT COMMITTEE



### The key stages:

- The Auditor General's report is discussed with the body concerned and the facts are agreed;
- The report is laid before Parliament and published together with a Press Release;
- If an enquiry is to be conducted by the Public Audit Committee, witnesses are called to give evidence – usually the Accountable Officer of the public body and the Accountable Officer of the sponsor Directorate. It is possible that the Chair or a Board member of a public body will be required to appear as a witness, where appropriate;
- After the evidence session, the Committee drafts and approves a report which is published;
- A formal response to the Committee's report is provided by the Scottish Government (or by the body in consultation with the Scottish Government) within two months of the Committee's report being published.

## FURTHER INFORMATION



### Audit Committee Handbook

Audit Scotland (Auditing Best Value in Central Government Bodies)

Audit Scotland (Code of Audit Practice)

Audit Scotland (Efficient Public Services Good Practice Checklist)

Public Finance Accountability (Scotland) Act 2000

Public Services Reform (Scotland) Act 2010

Scottish Public Finance Manual (Best Value)

Scottish Public Finance Manual (Risk Management)

Scottish Public Finance Manual (Spending Reviews)

## ISSUES ON WHICH BOARD MEMBERS SHOULD SEEK ASSURANCE



Typically the range of issues on which Board members should seek assurance will include:

- compliance with the SPFM, Framework Document and legislation (e.g. founding legislation, Equality Act 2010);
- financial monitoring and reporting arrangements and arrangements for delivering and reporting on efficiency savings;
- arrangements for securing Best Value for the organisation and Value for Money for the public sector as a whole;
- systems for identifying, assessing and managing risks;
- processes for preventing and detecting fraud, and, linked to this, whistleblowing procedures;
- arrangements for business continuity and disaster recovery;
- information management systems, including in relation to protection of personal data and compliance with Freedom of Information legislation;
- propriety and regularity of public finances;
- management systems that have clear lines of delegation and accountability;
- arrangements for meeting procurement requirements;
- arrangements for meeting the body's moral and legal obligations to its employees; and
- complaints handling procedures.

Boards will require to supplement these areas of assurance having regard to the purpose of the organisation and the nature of the business conducted.

## Ethics and Standards of Behaviour

### Guidance Note 5





# Contents

## Ethics and Standards of Behaviour

Overview

Key Messages

Key References and Contacts

Introduction to Ethical Standards in Public Life

The Commissioner for Ethical Standards in Public Life in Scotland

The Standards Commission for Scotland

Key Principles of the Model Code of Conduct

Code of Conduct for Board Members

Gifts and Hospitality

Bribery

Conflicts of Interest

Handling Conflicts of Interest

Registration of Interests

Confidentiality

Dispensations

Lobbying

Use of Social Media

Whistleblowing

Complaints Policy

Further information





## > Overview

Scottish Ministers have high expectations of those who serve on the Boards of public bodies and the way in which they conduct themselves in undertaking their duties. As a Board member, it is your personal responsibility to ensure that you meet these expectations by ensuring that your conduct is above reproach.

This section outlines how the Board exercises leadership in determining the values and standards of the organisation.

It describes the ethical framework introduced by the Ethical Standards in Public Life etc. (Scotland) Act 2000, particularly the nine key principles of the Model Code of Conduct which all Board members are required to observe when discharging public duties. Through this framework, the Scottish Ministers aim to ensure confidence in Scottish public bodies, the Boards of those bodies and individual Board members.

## > Key Messages

- Board members of bodies listed in **Schedule 3 of the Ethical Standards Act** are subject to the nine key principles outlined in the **Model Code of Conduct**.
- It is important to take care when expressing views so you do not compromise your position as a member of a public body.
- All public bodies have a duty to publish a Register of Board Member Interests. There are specific interests which you must register and it is your personal responsibility to ensure that your entries are current.
- Board members must declare financial and non-financial interests which might be perceived to influence their contribution to a discussion or decision in Board proceedings. This requirement also applies to interests held by your close family, friends and business associates.
- The test on making a declaration is whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision-making.
- You must ensure that the reputation of your public body is not damaged by the receipt (or provision) of inappropriate gifts and hospitality.
- The **Commissioner for Ethical Standards in Public Life in Scotland** (the Commissioner) considers complaints about members of devolved public bodies who are alleged to have contravened the Code of Conduct. On finding a contravention of the Code, the Commissioner reports to the **Standards Commission** for adjudication. Where a hearing is held by the Standards Commission and a contravention of the Code is established, the Standards Commission determines the level of sanction to be applied.
- **Part 4 of The Ethical Standards in Public Life etc. (Scotland) Act 2000** makes provision for Codes of Conduct for bodies not listed in Schedule 3 – such bodies and Board members are not subject to investigation by the **Commissioner**, or sanction by the **Standards Commission**.

## > Key References and Contacts

[The Commissioner for Ethical Standards in Public Life in Scotland](#)

[The Standards Commission for Scotland](#)

[Model Code of Conduct for Board Members Standards Commission Guidance Note](#)



## ➤ Introduction to Ethical Standards in Public Life

**The Ethical Standards in Public Life etc. (Scotland) Act 2000** (Ethical Standards Act) introduced the power to specify the principles and rules that underpin public life in Scotland, putting ethical standards and probity at the heart of decision-making in public service. The principles set out below should be observed by all Board members of public bodies in Scotland.

## ➤ Key Principles

### Duty

You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interests of the public body of which you are a member and in accordance with the core functions and duties of that body.

### Selflessness

You have a duty to take decisions solely in terms of public interest. You must not act in order to gain financial or other material benefit for yourself, family or friends.

### Integrity

You must not place yourself under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.

### Objectivity

You must make decisions solely on merit and in a way that is consistent with the functions of the public body when carrying out public business including making appointments, awarding contracts or recommending individuals for rewards and benefits.

### Accountability and Stewardship

You are accountable for your decisions and actions to the public. You have a duty to consider issues on their merits, taking account of the views of others and must ensure that the public body uses its resources prudently and in accordance with the law.

### Openness

You have a duty to be as open as possible about your decisions and actions, giving reasons for your decisions and restricting information only when the wider public interest clearly demands.

### Honesty

You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

### Leadership

You have a duty to promote and support these principles by leadership and example, and to maintain and strengthen the public's trust and confidence in the integrity of the public body and its members in conducting public business.





## Respect

You must respect fellow members of your public body and employees of the body and the role they play, treating them with courtesy at all times. Similarly you must respect members of the public when performing duties as a member of your public body.

Board members should apply these principles in their dealings with fellow members of their public body, its employees and other stakeholders. Similarly Board members should also observe these principles in their dealings with the public when performing duties as a member of a public body.

## ➤ The Ethical Standards Framework

The key elements of the ethical framework introduced by the **Ethical Standards in Public Life etc. (Scotland) Act 2000** are:

- ➔ A **Standards Commission for Scotland** (Standards Commission) and a Chief Investigating Officer (now the **Commissioner for Ethical Standards in Public Life in Scotland**) to oversee the ethical framework;
- ➔ A **Model Code of Conduct for Members of Devolved Public Bodies** on a statutory basis for those bodies listed in Schedule 3 of the Act;
- ➔ Codes for smaller bodies; and
- ➔ Publicly available Registers of Members' Interests.

Through this ethical framework, the Scottish Ministers aim to ensure that Scottish public bodies and all who serve on them conduct their business in a way which merits and sustains public confidence.

## ➤ The Commissioner for Ethical Standards in Public Life in Scotland

The **Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013** came into force on 1 July 2013. The Order transferred the functions of the Public Standards Commissioner for Scotland and the Public Appointments Commissioner for Scotland to a single **Commissioner for Ethical Standards in Public Life in Scotland** (the Commissioner).

The Commissioner is an independent office holder who works in two areas:

- ➔ Public appointments, regulating how people are appointed to the Boards of public bodies in Scotland; and
- ➔ Public standards, where the Commissioner can investigate a complaint about a councillor or a member of a devolved public body who is alleged to have contravened the councillors' or the appropriate public body's Code of Conduct.



Where the Commissioner identifies that a breach or breaches of a Code or Codes may have occurred, the Commissioner will report on the outcome of these investigations to the Standards Commission for adjudicatory action and application of sanctions, where appropriate.

## ➤ The Standards Commission for Scotland

The **Standards Commission** is an independent statutory body which has responsibility for enforcing compliance with the Codes of Conduct and providing general guidance on their interpretation. It adjudicates on cases of alleged contravention of the Codes of Conduct referred to it after investigation by the Commissioner and, where a hearing is held, has the power to impose sanctions. The Standards Commission has responsibility for various aspects of the ethical framework including:

- ➔ adjudicating on cases of alleged contravention of the Codes of Conduct for Members of Devolved Public Bodies reported to it by the Commissioner following investigation of a complaint;
- ➔ promoting and enforcing Codes of Conduct and providing guidance on the operation of Registers of Interests;
- ➔ providing **guidance** to public bodies on:
  - ➔ the promotion and observance of high standards of conduct by members of devolved public bodies and assisting them in that task;
  - ➔ the Commission's relationship with public bodies in carrying out its functions; and
  - ➔ the Registers of Interests for Members of Devolved Public Bodies.

On finding a contravention of a Code of Conduct for bodies listed in Schedule 3 of the **Ethical Standards in Public Life etc. (Scotland) Act 2000**, the **Standards Commission** can impose sanctions ranging from censure, or suspension from meetings of the public body for up to one year, to disqualification for up to five years. Details of the full range of sanctions available to the Commission are listed in **Annex A of the Members' Model Code of Conduct**.

The **Standards Commission** can also consider particular circumstances where it would be contrary to the spirit of the Code for it to be applied. In exceptional circumstances, it can issue dispensations to allow Members of public bodies, including councillors, to participate in discussion and vote on certain matters where, due to financial or non-financial interests, they would otherwise be prohibited from such participation.

## ➤ Code of Conduct for Board Members

**Upon appointment to the Board, you should have been provided with a copy of your public body's Code of Conduct for Board Members, which forms part of your terms and conditions.**

You must not at any time advocate or encourage any action contrary to the Code of Conduct. It is your personal responsibility to make sure that your actions comply with the provisions of the Code at all times as the Code contains the standards against which your conduct will be measured. You should review regularly, and at least annually, your personal circumstances against the requirements of the Code.

If you are uncertain about any aspect of the Code, you should seek advice from the Standards Officer in your public body. You



may also choose to consult your own legal and financial advisers. The **Standards Commission** also provides advice and guidance on the Code.

The nine key principles of public life are mentioned earlier in this section. The **Standards Commission guidance** to devolved public bodies will provide you with more detailed information on these principles. The following paragraphs provide a brief snapshot of information about parts of the Model Code of Conduct which Board members will require to give care and consideration to when undertaking their duties.

## > Gifts and Hospitality

As a Board member, you should ensure that the reputation of your public body is not damaged through the receipt (or provision) of inappropriate gifts and hospitality. →

## > Bribery

Board members must be familiar with the provisions of the **Bribery Act 2010** which came into force on 1 July 2011. The Act makes it a criminal offence for a person to take part in active bribery (making a bribe) or passive bribery (receiving a bribe). All public bodies operate a zero tolerance approach to bribery, with any allegations investigated in accordance with the relevant procedures and reported to the appropriate authorities.

## > Conflicts of Interest

Public bodies should have in place clear rules and procedures for managing conflicts of interests. Together with the rules on registration of interests, this ensures transparency of your interests which might influence, or be thought to influence, your actions. You should note that the appearance of a conflict of interest in terms of public perception can be every bit as damaging as an actual conflict – both should be avoided.

## GIFTS AND HOSPITALITY

- Do not canvass or actively seek gifts or hospitality;
- Your conduct should not foster the suspicion of any conflict between your official duties and your private interests;
- Your actions, when acting in an official capacity, should not give the impression of having been influenced by a gift or consideration to show favour or disfavour to any person or organisation;
- Do not accept any offer of a gift or hospitality from any individual or organisation that stands to gain from a decision that your public body may be involved in determining or that is seeking to do business with your public body;
- You should usually refuse offers of gifts and/or hospitality except in the following cases: gifts of an isolated and trivial character under £50; normal hospitality associated with your duties and reasonably regarded as appropriate; or gifts received on behalf of the public body;
- Do not accept repeated hospitality or repeated gifts from the same source;
- If you are in doubt about the propriety of accepting a gift or an item of hospitality you should contact the Standards Officer and/or the Chair for advice.



## Handling Conflicts of Interest

Public confidence in your public body and its Board members depends on it being clearly understood that decisions are taken in the public interest and not for any other reason. In deciding whether to declare an interest, the key test is whether a member of the public, acting reasonably, might think that a particular interest could influence you.

## ➤ Registration of Interests

All devolved public bodies have a duty to set up, maintain and make available for public inspection a register of Board member interests. [The Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(Register of Interests\) Regulations 2003](#), as amended, describe the detail and timescale for registering. The [Model Code](#) is very specific about the interests that you, as a Board member, must register and these include:

### REGISTRATION OF INTERESTS



- ➔ Remuneration from employment, self-employment or directorships;
- ➔ Related undertakings i.e. certain unremunerated directorships;
- ➔ Contracts with the public body;
- ➔ Gifts and hospitality;
- ➔ Houses, land and buildings that you own or have an interest in which are of significance or relevance to, or bear upon the work and operation of, the public body;
- ➔ Shares and securities – holdings in a company or organisation which are of significance or relevance to, or bear upon the work and operation of, the public body; and
- ➔ Non-financial interests including membership or holding office in other public bodies, clubs, societies and organisations such as Trade Unions and voluntary organisations.

Your Code of Conduct will contain definitions of what is required under each of these categories and if you are in any doubt as to what you should or should not be registering, you should discuss this with the Standards Officer, the Chair and/or the Standards Commission.

The Register should also be available for inspection by the public (electronic and paper version). Public bodies should prepare a page for this purpose on their website and ensure that it is operational. The electronic version of the Register does not need to include any personal information that would compromise personal security although the full details would be made available for public inspection in hard copy.

Board members are required to keep their entries in the Register of Interests up-to-date and this involves notifying the Standards Officer of any new interest or change to an existing interest within one month of the change.

## Declaration of Interests

In deciding whether to declare an interest, the key test is whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a member of a public body.

If you have a financial, or non-financial, interest you must declare your interest at Board meetings and withdraw from decision-making on the basis of such an interest when it is appropriate to do so.



## Non-Declaration of Interest

Where a material conflict of interest exists and a Board member does not declare their interest and withdraw, the Chair should take appropriate action to ensure that the Board (and the Board member concerned) is not compromised. In the event that a Board member refuses to leave the room when asked by the Chair to do so, the Chair should suspend the meeting and reconvene without the Board member concerned being present. Board members should bear in mind that any such action on their part may lead to an investigation by the Commissioner and the matter thereafter referred to the Standards Commission, which may apply a sanction in the event that it determines a breach of the Code of Conduct has occurred.

## Frequent Declarations of Interest

If as a Board member you are frequently declaring interests at meetings, you should consider whether it is appropriate for you to continue in your role. In such circumstances, you may wish to discuss your continued appointment as a Board member with the Chair.

## Dispensations

The **Standards Commission** does have the power to issue dispensation (where it is deemed to be in the public interest) to allow Board members to participate in a discussion and vote, despite the fact they have financial or non-financial interests which would normally prevent them from participating in discussion and voting.

In addition to general dispensations, individual applications for dispensations in exceptional circumstances can be made to the **Standards Commission** and may be granted where it is in the public interest to do so. However, Board members must not take part in any discussion or vote on a matter (in which they are conflicted) unless and until they have actually received a dispensation.

## ➤ Confidentiality

On occasions, Board members will be required to treat discussions, documents and other information relating to the work of the body in a confidential manner. It is imperative that Board members respect this duty of confidentiality at all times. In particular, as a Board member you should never use information to which you have privileged access for personal or financial gain or in a way that brings the public body into disrepute.

## ➤ Lobbying

The Code of Conduct sets out clear guidance in respect of dealing with lobbyists and lobbying. If you have any concerns over the approach or methods used by anyone in their contacts with you, you should discuss the matter with your body's Standards Officer and/or the Chair.

## ➤ Use of Social Media

When using social media the distinction between work and private life can become blurred, and speedily made comments can be misconstrued. It is important to take special care when expressing views on social media not to compromise your position as a member of a public body. Social media offers many benefits in communicating with stakeholders and interested parties. However, you should always remember that hastily expressed views through social media can reach large (sometimes unintended) audiences instantaneously and can be difficult to retract if required to do so. Your public body should have a policy in place about the use of social media. You should familiarise yourself with the content of that policy to protect the public body's reputation, its legal obligations, its information and its systems. You will be expected to approach any use of social media platforms responsibly and with care.





## > Whistleblowing

Although not directly covered by the Ethical Standards Framework, Board members have a responsibility to ensure that staff have confidence in the fairness and impartiality of procedures for registering and dealing with their concerns and interests. **The Public Interest Disclosure Act 1998** gives legal protection to employees who raise certain matters or concerns, known as ‘qualifying disclosures’, without fear of reprisal. As a Board member, you should ensure that your public body has a whistleblowing policy and appropriate procedures in place. This will allow staff to raise concerns on a range of issues such as fraud, health and safety etc. without having to go through the normal management structure. **Audit Scotland has published guidance on employers’ and employees’ responsibilities in relation to whistleblowing.**

## **Public Bodies not covered by the Ethical Standards in Public Life etc. (Scotland) Act 2000**

The **Ethical Standards in Public Life etc. (Scotland) Act 2000** makes provision for Scottish Ministers to introduce a Code or Codes of Conduct under the Public Authorities Regime for bodies not listed in Schedule 3 to the Act. While such public bodies and their Board members will be expected to act in accordance with this Code of Conduct, they will not be subject to investigation by the Commissioner or to sanctions by the Standards Commission.

Irrespective of the extent to which a public body is covered by the Ethical Standards Act, Board members are required to adhere to the principles that underpin the ethical standards framework and have regard to the provisions set out in the **Model Code of Conduct** in carrying out their public duties.

## > Complaints Handling

The **Scottish Public Services Ombudsman (SPSO)** is the independent body that handles complaints from members of the public about devolved public services in Scotland.

Under the **Public Services Reform (Scotland) Act 2010**, the SPSO was given a lead role in improving the handling of complaints by public sector bodies in Scotland. In 2013 the SPSO published a model **Complaints Handling Procedure (CHP)** for the Scottish Government, Scottish Parliament and Associated Public Authorities, which public bodies have a statutory requirement to adopt.

The CHP includes a commitment for public bodies to publish information against performance indicators, which will provide consistent complaints data across the various sectors of the public service in Scotland.



Board members should have an awareness of the importance of having an effective complaints policy in place. Promoting a 'valuing complaints' culture – with a proactive approach to effective resolution, monitoring and learning from complaints – is an essential part of effective governance of public services.

The Board has a collective responsibility and Board members, the Chair and the Chief Executive are also individually responsible for ensuring the public body has an effective, efficient, customer-focused approach to complaints resolution in place.

## COMPLAINTS HANDLING

- Ensure the public body and executive team are learning from service failures and customer insight provided by complaints, with systems in place to record, analyse and report on complaints outcomes, trends and actions taken;
- Ensure that processes are in place for the public body and executive team to identify and respond immediately to critical or systemic service failures identified from complaints handling;
- Take an active role in monitoring and reviewing learning from complaints and reviewing individual complaints to obtain an understanding of how any failures occurred and have been addressed;
- Provide the necessary challenge and hold the senior officer(s) to account for the public body's performance in complaints handling, with Board / Board members themselves regularly monitoring and reviewing the complaints handling performance of the public body;
- Ensure that service improvements are agreed, actioned and reviewed, possibly on a quarterly basis.

## FURTHER INFORMATION



Audit Scotland – Employer's Guide to Whistle Blowing

Bribery Act 2010

Ethical Standards in Public Life Etc. (Scotland) Act 2000

Ethical Standards Registration of Interests (Regulations) 2003

Scottish Parliamentary Commissions and Commissioners etc. Act 2010

The Scottish Public Service Ombudsman

The model Complaints Handling Procedure (CHP) for the Scottish Government, Scottish Parliament and Associated Public Authorities in Scotland.





## Annex A Classification of Public Bodies

SF60  
DHG







There are occasions where bodies carrying out public functions should operate more at 'arm's-length' from Government. This may be appropriate for a variety of reasons. This can be to provide independent advice and expertise on technical, scientific or other complex issues and take this outside the political arena, e.g. on ethical issues, or funding decisions. Tribunals and other quasi-judicial bodies are set up to meet specific requirements for separation of decision-making and appeals. Public bodies carry out a wide range of functions such as independent regulation, advice, investigation, adjudication, ombudsman services, appeal, funding, partnership, commercial and health services. Such 'arm's-length bodies' focus in depth on clear and specific functions and purposes. These bodies have been established to meet particular needs and situations. This flexibility and responsiveness means that the landscape of public bodies is necessarily both complex and diverse.

The following provides a snapshot of the features of public bodies operating in Scotland.

**Executive Agencies** – although an integral part of the Scottish Government, Executive Agencies generally have a strong focus on the management and direct delivery of public services which do not require day-to-day ministerial oversight; in some cases they may also have responsibility for a discrete area of government policy. They are staffed by civil servants, including the Chief Executive who is directly accountable to Ministers. They are not statutory bodies but operate in accordance with a Framework Document approved by Ministers, which may be reviewed, amended or revoked at any time. This has the advantage that they can normally be set up by administrative action without the need for legislation.

**Executive Non Departmental Public Bodies (NDPBs)** – are not part of the Scottish Government or the Scottish Administration. They perform administrative, commercial, executive or regulatory functions on behalf of Government and operate within a framework of governance and accountability set by Ministers. They are funded by the Scottish Government through grant or grant-in-aid, but many generate additional income through provision of services. They are normally established by statute, employ staff (who are not civil servants) on their own terms and conditions subject to Scottish Public Sector Pay Policy, and manage their own budgets. They are accountable to a Board whose members are normally appointed by Ministers and publish their own annual report and accounts.



**Advisory NDPBs** – provide independent expert advice to Ministers and others or input into the policy-making process in relation to a particular subject. They are normally established by Ministers on a non-statutory basis, do not normally employ staff (administrative support is usually provided by the Scottish Government) and are not normally responsible for budgets or expenditure other than remuneration for Board members. They are accountable to a Board whose members are normally appointed by Ministers. Ministers are answerable to Parliament for the activities of the body and can dissolve the body at any time.

**Tribunals** – are established by statute and have specific responsibilities for prescribed judicial functions. They are not part of the court system and are independent of the Scottish Government. They have both specialist and lay members, do not employ staff and are not responsible for budgets or expenditure other than the remuneration of Tribunal members.

**Non Ministerial Departments (NMDs)** – are not part of the Scottish Government but are part of the Scottish Administration in their own right and staffed by civil servants. They are generally funded by Parliament and are required to publish their own annual report and accounts. They are directly accountable to the Scottish Parliament, not Ministers, for the discharge of their statutory functions.

**Public Corporations** – are industrial or commercial enterprises under Government control which recover more than 50% of their costs through fees charged for services provided to customers. They employ their own staff, who are not civil servants, manage their own budgets and report to a Board whose members are appointed by Ministers.

**Health Bodies** – currently comprise 14 territorial health boards, 8 special health boards and the Mental Welfare Commission for Scotland (MWCS). With the exception of MWCS, health bodies are part of NHSScotland and provide healthcare services or management, technical or advisory services.

**Parliamentary Commissions, Commissioners and Ombudsman** – are typically responsible for safeguarding the rights of individuals, monitoring and reporting on the handling of complaints about public bodies, providing an adjudicatory role in disputes and reporting on the activities and conduct of public Boards and their members. Commission Members, Commissioners and Ombudsmen are appointed by the Parliamentary Corporation. They are accountable, and report directly, to the Scottish Parliament.

**Other Significant Bodies** – do not fall within the recognised categories of public bodies set out above but they have a direct relationship with either the Scottish Government or the Parliament and operate within a framework set by Ministers.



**Annex B Induction and  
Training for Board Members**



Induction programmes, events and material should be a standard feature with a public body providing information on a range of topics, e.g. policies, procedures, roles, responsibilities, rules and key personnel.

The following list of induction guidance and training is not prescriptive but is designed to give you an idea of the type of support that may be provided by your public body.

### Meetings

A one-to-one meeting should take place with the Chair immediately following appointment to discuss in broad terms what is expected of a Board member in the first year and any individual role he or she is expected to play. (The Chair and Board member should meet on a regular basis as part of the appraisal process.)

An induction session within one month of appointment should explain:

- Organisational structure
- The collective role of the Board
- Arrangements, formats etc. of Board meetings
- Details of any subsidiary Boards and committees (e.g. Regional Boards, Audit Committee) and their responsibilities
- The long-term strategy of the organisation
- The corporate planning system
- The role of the Chief Executive as the Accountable Officer
- Current priority areas of work
- Budget and financial information, including the monitoring role of the Board
- The public body's policies on openness – where appropriate, including the role of Board members in promoting the public body to the public and in the media

- Links between the public body/Board and the Scottish Government and the Scottish Parliament. This should include details of where the sponsor Directorate fits within the Scottish Government structure, details of sponsor Minister(s) etc
- Links to other key partner organisations
- Arrangements for Board members' remuneration and expenses
- The organisation's Code of Conduct for Board members and Code of Conduct issues, including policies on the registration and declaration of interests, gifts and hospitality, use of social media by Board members etc. This should include guidance on completing the Register of Interests
- Whistleblowing procedures – how to raise concerns and how to respond to concerns being raised
- Details of arrangements for monitoring and reporting on the performance of Board members
- The Corporate Risk Register

Ideally, this session should be attended by all new Board members and by some existing Board members to allow the latter to pass on experience. Some other members of the senior management team may also attend, including the Board secretary.

It may also be appropriate for a Board member to meet with other key staff in the organisation – for example the Chief Executive who will be able to advise of their role in their capacity as the Accountable Officer and, where the Board member is to sit on the Audit Committee, they may wish to meet audit and finance staff.



## Publications

- The latest Annual Report and Accounts
- The latest Corporate Plan and Operational/Business Plan
- The Corporate Strategy or similar strategic document
- Any significant recent policy or consultation documents which the public body has published
- The latest in-house magazine or newsletter
- The latest staff newsletter
- A list of relevant publications

## Written Material

- Guide to the legislation under which the public body was established
- Copy of the Budget Allocation and Monitoring letter from the sponsor Minister for the coming year
- **National Performance Framework**
- Strategic guidance from the Scottish Government
- Copy of the public body's current Framework Document
- Standing Orders for the conduct of Board meetings
- Organisational structure, staff directory, office addresses etc
- Biographical and contact details of other Board members (and, where appropriate, those in subsidiary Boards and committees)
- Summary of key roles and responsibilities within the organisation – Board, subsidiary Boards and committees, Chief Executive/ Accountable Officer, management team, other senior staff
- Forward programme of Board meeting dates and any other key events (press launches, conferences etc)

- The organisation's Code of Conduct for Board members
- The **Standards Commission Guidance on the Model Code for Members of Devolved Public Bodies**
- Copy of the organisation's Data Protection, Freedom of Information and other relevant policies and procedures relating to corporate governance and accountability – and if they exist:
  - Policy for Board members in dealing with the media
  - List of acronyms relating to the public body's area of work, partner organisations etc.
- The Corporate Risk Register
- Schedule of Matters Reserved for the Decision of the Board and Scheme of Delegation
- Action plan arising from most recent review of Board effectiveness
- The **Scottish Public Services Ombudsman model Complaints Handling procedure**

## Terms and Conditions

- Guidance on claiming travel and subsistence expenses
- Guidance on claiming other allowances where appropriate (e.g. child care)
- Guidance on tax issues (e.g. for home to office travel)
- Guidance on Register of Interests, and Gifts and Hospitality

## Training

The public body should consider providing any further training deemed necessary to assist Board members individually or collectively, to carry out their duties, particularly covering areas such as their roles and responsibilities, the financial management and reporting requirements of public bodies, appraisal systems both for individual members and collective functionality, ethical standards and any other differences which may exist between private and public sector practice.

**Photo credits:**

Cover and content pages

Architecture and Design Scotland

Creative Scotland – photographer Michael Wolchover

Loch Lomond & The Trossachs National Park Authority

Scottish Qualifications Authority

Scottish Canals

Sportscotland

All other images courtesy of iStockphoto and Scottish Viewpoint



© Crown copyright 2015

**OGL**

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](http://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [www.gov.scot](http://www.gov.scot)

Any enquiries regarding this publication should be sent to us at  
The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

First published by The Scottish Government, APRIL 2015  
ISBN: 978-1-78544-125-7 (web only)

E-book in EPUB format first published by The Scottish Government, APRIL 2015  
ISBN: 978-1-78544-126-4 (EPUB)

E-book in MOBI format first published by The Scottish Government, APRIL 2015  
ISBN: 978-1-78544-127-1 (MOBI)



## NHS Education for Scotland

### Scheme of Delegation

<b>Delegated Issue and Scope of Delegation</b>	<b>Responsible Officer</b>	<b>Deputy</b>
Chair all Board meetings and associated responsibilities	Chair	Vice Chair
Risk Management	Chief Executive	Director of Finance
Demonstrate best value for money for all services	Chief Executive	Director of Finance
Disciplinary and Grievance arrangements	Chief Executive	Director of Workforce
Standards of business conduct for staff	Chief Executive	Director of Workforce
Register of Interests - Members	Chief Executive	Director of Finance
- Staff	Chief Executive	Director of Workforce
Approve and sign all documents which will be necessary in legal proceedings	Chief Executive	Director of Workforce
Complaints	Chief Executive	Director of Planning and Corporate Resources
Freedom of Information	Chief Executive	Director of Finance
Educational Quality Assurance Systems	Chief Executive	Director of Medicine
Operation of all detailed financial matters including bank accounts and banking procedures.	Director of Finance	Head of Finance
Implementing the Board's financial policies and co-ordinating corrective action and ensuring detailed financial procedures and systems are prepared and documented	Director of Finance and Corporate Resources	Deputy Director of Finance
Delegation of budgets and approval to spend funds within delegated limits	Director of Finance	Principal Lead, Finance Business Partnering (FBP)
Recording and monitoring of payments under the losses and compensation regulations	Director of Finance	Head of Finance
Procedures for the procurement, ordering and receipt of goods	Director of Finance	Principal Lead, Procurement
Payment of staff	Director of Finance	Head of Finance



Procedures for the payment of travel, subsistence, study course and other expenses	Director of Finance	Head of Finance
Procedures for the payment of accounts	Director of Finance	Head of Finance
Management of Non-Exchequer funds	Director of Finance	Head of Finance
Liaison with Internal Audit service	Director of Finance	Head of Finance
Issuing Tenders	Director of Finance	Principal Lead, Procurement
Receiving and Opening of Tenders	Director of Finance	Authorised personnel
Devise and maintain systems of budgetary control	Director of Finance	Principal Lead, Finance Business Partnering (FBP)
Annual Accounts and reports	Director of Finance	Head of Finance
Banking Arrangements	Director of Finance	Head of Finance

Risk Management Processes	Director of Finance	Head of Planning and Corporate Resources
Management and control of computer systems and facilities including data protection	Director of Digital	Principal Lead for Corporate Digital
Investigate any suspected cases of fraud and other irregularity	Director of Finance	Counter Fraud Services
Review, appraise and report in accordance with NHS Internal Audit Manual and best practice	Chief Internal Auditor	
Information Governance	Director of Digital	Principal Lead for Corporate Digital
Caldicott Guardianship	Director of Medicine	Deputy Director of Medicine
HR Management	Director of Workforce	Depute Director of HR
Procedures for employment of staff	Director of Workforce	Depute Director of HR
Leave: annual, compassionate, special leave and leave without pay.	Director of Workforce	Depute Director of HR
Grievance and disciplinary procedures for staff	Director of Workforce	Deputy Director of HR and OD
Health and Safety arrangements	Director of Workforce	Depute Director of HR

Responsible for security of the Board's property, avoiding loss, exercising economy and efficiency in using resources and conforming Standing Orders, Financial Instructions and Procedures.	All members and employees of NES.	
--	-----------------------------------	--



# NHS Education for Scotland

## STANDING FINANCIAL INSTRUCTIONS (SFIs): OCTOBER 2016

### CONTENTS

1.	INTRODUCTION.....
2.	RESPONSIBILITIES OF THE CHIEF EXECUTIVE AS ACCOUNTABLE OFFICER.....
3.	RESPONSIBILITIES OF THE BOARD.....
4.	RESPONSIBILITIES OF SENIOR MANAGERS AND OFFICERS.....
5.	REVENUE RESOURCE LIMIT.....
6.	PLANNING AND BUDGETING.....
7.	ANNUAL ACCOUNTS AND REPORTS.....
8.	BANKING ARRANGEMENTS AND OPERATION.....
9.	FINANCIAL ARRANGEMENTS.....
10.	TRAVEL, SUBSISTENCE AND OTHER ALLOWANCES.....
11.	CONTRACTING AND PURCHASING.....
12.	LOSSES AND SPECIAL PAYMENTS.....
13.	STANDING COMMITTEES.....
14.	INFORMATION TECHNOLOGY.....
15.	FIXED ASSETS.....
16.	FINANCIAL IRREGULARITIES.....
17.	AUTHORISATION LIMITS.....
18.	ENDOWMENT FUNDS AND GENERAL NURSING COUNCIL (GNC) FUND.....

#### APPENDIX 1 - SCHEME OF DELEGATION

#### APPENDIX 2 - RECORDS RETENTION SCHEDULE

#### APPENDIX 2B - GENERAL RECORDS RETENTION SCHEDULE

**N.B.** The Scheme of Delegation (Appendix 1 of the SFIs) is included in the Governance Handbook. The full SFIs are on the NES intranet and copies can be made available to Board members, on request.