

SCOTTISH LAND COMMISSION FRAMEWORK DOCUMENT

Introduction

1. This framework document has been drawn up by the Scottish Government (SG) in consultation with the Scottish Land Commission (the NDPB). It sets out the broad framework within which the NDPB will operate and defines key roles and responsibilities which underpin the relationship between the NDPB and the SG. While this document does not confer any legal powers or responsibilities, it forms a key part of the accountability and governance framework and should be reviewed and updated as necessary, and at least every 2-3 years. Any proposals to amend the framework document either by the SG or NDPB will be taken forward in consultation and in the light of SG priorities and policy aims. Any question regarding the interpretation of the document shall be determined by the SG after consultation with the NDPB. Legislative provisions shall take precedence over any part of the document.

2. References to the NDPB include any subsidiaries and joint ventures owned or controlled by the NDPB. The NDPB shall not establish subsidiaries or enter into joint ventures without the express approval of the SG.

3. Copies of the document shall be placed in the Scottish Parliament Reference Centre. It shall also be published on the SG and the NDPB websites.

Purpose

4. The NDPB is to contribute to the achievement of the SG's primary purpose of increasing sustainable economic growth by aligning its aims and objectives with the Programme for Government, Scotland's Economic Strategy and National Performance Framework.

5. The NDPB's statutory duties are:

- (a) to provide the Land Commissioners and Tenant Farming Commissioner with the property, staff and services needed to perform their respective functions, and
- (b) to make such arrangements as are appropriate and practicable for the co-ordination of the performance of those respective functions.

6. The NDPB's functions, as provided for in the Land Reform (Scotland) 2016 Act, are the following:

Section 22 of Land Reform (Scotland) Act 2016

- (1) The functions of the Land Commissioners are, on any matter relating to land in Scotland—
- (a) to review the impact and effectiveness of any law or policy,
 - (b) to recommend changes to any law or policy,
 - (c) to gather evidence,
 - (d) to carry out research,
 - (e) to prepare reports,
 - (f) to provide information and guidance.

(2) The Land Commissioners must consider and advise on any such matter as the Scottish Ministers may refer to them.

- (3) In exercising their functions the Land Commissioners must—
- (a) have regard to—
 - (i) the land rights and responsibilities statement prepared under section 1 or revised under section 2,
 - (ii) the strategic plan prepared under section 8,
 - (iii) the programme of work prepared under section 9,
 - (b) collaborate with the Tenant Farming Commissioner.

(4) In so far as the exercise of their functions relates to agriculture and agricultural holdings, the Land Commissioners must have regard to the exercise of the Tenant Farming Commissioner's functions conferred by section 24.

- (5) In this section a “matter relating to land in Scotland” includes—
- (a) ownership and other rights in land,
 - (b) management of land,
 - (c) use of land,
 - (d) the land use strategy prepared under section 57 of the Climate Change (Scotland) Act 2009.

Section 24 of Land Reform (Scotland) Act 2016:

- (1) The functions of the Tenant Farming Commissioner are—
- (a) to prepare codes of practice on agricultural holdings in accordance with section 27,
 - (b) to promote the codes of practice in accordance with section 28,
 - (c) to inquire into alleged breaches of the codes of practice in accordance with sections 29 to 34,
 - (d) to prepare a report on the operation of agents of landlords and tenants in accordance with section 36,
 - (e) to prepare recommendations for a modern list of improvements to agricultural holdings in accordance with section 37,
 - (f) to refer for the opinion of the Land Court any question of law relating to agricultural holdings in accordance with section 38,
 - (g) to collaborate with the Land Commissioners in the exercise of their functions to the extent that those functions relate to agriculture and agricultural holdings,
 - (h) to exercise any other functions conferred on the Commissioner by any enactment.

Relationship between Scottish Government and the Scottish Land Commission

7. Effective strategic engagement between the SG and the Scottish Land Commission is essential in order that they work together as effectively as possible to maintain and improve public services and deliver improved outcomes. Both the SG and the Scottish Land Commission will take all necessary steps to ensure that their relationship is developed and supported in line with the jointly agreed principles set out in the statement on [‘Strategic Engagement between the Scottish Government and Scotland’s NDPBs’](#).

8. To facilitate effective strategic engagement, the Accountable Officer and its Scottish Government Sponsor will hold quarterly meetings to ensure the Government are fully sighted on the development of the Commission’s strategic planning in the context of the Commission’s duties and responsibilities, and discharge of same as aligned to the National Performance Framework.

9. The ‘Memorandum of Understanding between the Scottish Government and the Scottish Land Commission’ provides further information and guidance on the relationship between the Scottish Government and the Commission, and in particular how the relationship between the Government and the commission is going to encompass the principles set out in the statement on ‘Strategic Engagement between the Scottish Government and Scotland’s NDPBs’.

Governance and accountability

Legal origins of powers and duties

10. The NDPB is established by the Land Reform (Scotland) Act 2016 as a body corporate and is a non-departmental public body. Being an independent body corporate gives the Commission a distinct legal identity and reports and reviews by the Commissioners are made to the Scottish Ministers. The NDPB does not carry out its functions on behalf of the Crown. The Commissioners and staff of the Commission are not to be regarded as Civil Servants.

Ministerial responsibilities

11. The Scottish Ministers are ultimately accountable to the Scottish Parliament for the activities of the NDPB and its use of resources. They are not however responsible for day to day operational matters and founding legislation prevents them from directing the NDPB in relation to specific statutory functions. Their responsibilities include:

- agreeing the NDPB’s strategic aims and objectives and key targets as part of the corporate planning process

- agreeing the budget and the associated grant in aid requirement to be paid to the NDPB, and securing the necessary Parliamentary approval
- carrying out responsibilities specified in the Land Reform (Scotland) Act 2016, such as the appointment of the Land Commissioners and the Tenant Farming Commissioner and the selection of the chair, approving the terms and conditions of these appointments, appointment of the first Chief Executive and approval of subsequent Chief Executives; and approving the terms and conditions of the Commission's staff members.
- other matters such as approving the NDPB's chief executive and staff pay remit in line with SG [Pay Policy](#) and laying the accounts (together with the annual report) before the Parliament

NDPB Board Responsibilities

12. The NDPB board, including the chair, normally consists six Commissioners, including one Tenant Farming Commissioner (the Commissioners) appointed by the Scottish Ministers in line with the Code of Practice for Ministerial Public Appointments in Scotland. All future appointments will be in line with the Commissioner for Ethical Standards in Public Life in Scotland Code of Practice. The role of the board is to provide leadership, direction, support and guidance to ensure the Body delivers and is committed to delivering its functions effectively and efficiently and in accordance with the aims, policies and priorities of the Scottish Ministers. 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 NDPB or on the attainability of its operational targets
- promoting the efficient, economic and effective use of staff and other resources by the NDPB 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. (The board must set up and maintain an audit and risk committee chaired by a Commissioner to provide advice and assurance on the effectiveness of the internal control and risk management systems.)
- (in reaching decisions) taking into account relevant guidance issued by the Scottish Ministers
- approving the annual accounts and ensuring Scottish Ministers are 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
- ensuring that the board receives and reviews regular financial information concerning the management and performance of the NDPB and is informed in a timely manner about any concerns regarding the activities of the NDPB
- appointing with the approval of the Scottish Ministers the NDPB chief executive, following appropriate approval of the chief executive's remuneration package in line with SG [Pay Policy for Senior Appointments](#) and, in consultation with the SG, setting appropriate performance objectives which give due weight to the proper management and use of resources within the stewardship of the NDPB and the delivery of outcomes
- demonstrating high standards of corporate governance at all times, including openness and transparency in its decision making.

Further guidance on how the board should discharge its duties is provided in appointment letters and in [On Board – A Guide for Members of Statutory Boards](#).

The Chair's Responsibilities

13. 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 NDPB board and the Scottish Ministers should normally be through the chair. The chair is responsible for ensuring that the NDPB's policies and actions support the Scottish Ministers' wider strategic policies and that its affairs are conducted with probity.

14. In leading the board the chair must ensure that:

- the work of the board is subject to regular self-assessment and that the board is working effectively
- the board, in accordance with recognised good practice in corporate governance, is diverse both in terms of relevant skills, experience and knowledge appropriate to directing the NDPB business, and in terms of protected characteristics under the Equality Act
- the board members are fully briefed on terms of appointment, duties, rights and responsibilities
- he or she, 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
- succession planning takes place to ensure that the board is diverse and effective, and the Scottish Ministers are advised of the NDPB needs when board vacancies arise
- there is a code of conduct for board members in place, approved by the Scottish Ministers.

15. The chair assesses the performance of individual board members on a continuous basis and undertakes a formal appraisal at least annually. The chair, in consultation with the board as a whole, is also responsible for undertaking an annual appraisal of the performance of the Chief Executive.

Individual Board Members' Responsibilities

16. 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 NDPB 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 NDPB by the Scottish Ministers but also any other funds falling within the stewardship of the NDPB, including trading and investment income, gifts, bequests and donations.) General guidance on board members' responsibilities is summarised in their appointment letters and is also provided in [On Board](#).

NDPB Chief Executive responsibilities

17. The Chief Executive of the Scottish Land Commission is employed and appointed by the board with the approval of the Scottish Ministers. The Chief Executive is the board's principal adviser on the discharge of its functions and is accountable to the board. The Chief Executive's role is to provide operational leadership to the NDPB and ensure that the board's aims and objectives are met and the NDPB's functions are delivered and targets met through effective and properly controlled executive action. General responsibilities include the performance, management and staffing of the Scottish Land Commission. General guidance on the role and responsibilities of the Chief Executive is contained in [On Board](#), and also in the Land Reform (Scotland) Act 2016 and the Commissioner's individual appointment letters. Specific responsibilities to the board include:

- advising the board on the discharge of its responsibilities - as set out in this document, in the founding legislation and in any other relevant instructions and guidance issued by or on behalf of the Scottish Ministers - and implementing the decisions of the board
- ensuring 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 [Appraisal and Evaluation](#) section of the [Scottish Public Finance Manual](#) (SPFM), are followed
- ensuring that the NDPB adheres, where appropriate, to the SG's [Programme and Project Management \(PPM\) Principles](#)

- having robust performance and risk management arrangements - consistent with the [Risk Management](#) section of the SPFM - in place that support the achievement of the NDPB's aims and objectives and that facilitate comprehensive reporting to the board, the SG and the wider public
- ensuring that adequate systems of internal control are maintained by the NDPB, including effective measures against fraud and theft consistent with the [Fraud](#) section of the SPFM
- establishing appropriate documented internal delegated authority arrangements consistent with the [Delegated Authority](#) section of the SPFM
- advising the board on the performance of the NDPB compared with its aims and objectives
- preparing the NDPB's corporate and business plans, in the light of the strategic aims and objectives agreed by the Scottish Ministers
- ensuring effective relationships with SG officials
- ensuring that timely forecasts and monitoring information on performance and finance are provided to the SG; that the SG is notified promptly if over or under spends 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 notified to the SG in a timely fashion
- ensuring staff pay proposals are in line with SG [Pay Policy](#) and submitted in time and the necessary approvals obtained prior to implementing any annual award.

NDPB Accountable Officer responsibilities

18. The Principal Accountable Officer for the Scottish Administration (the Permanent Secretary of the SG) will designate the Chief Executive as the Accountable Officer for the NDPB. 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](#). These include:

- ensuring the propriety and regularity of the NDPB's finances and that there are sound and effective arrangements for internal control and risk management
- ensuring that the resources of the public body are used economically, efficiently and effectively, and that arrangements are in place to secure Best Value and deliver Value for Money for the public sector as a whole
- ensuring compliance with relevant guidance issued by the Scottish Ministers, in particular the SPFM and SG [Pay Policy](#)
- signing the annual accounts and associated governance statements
- a statutory duty to obtain written authority from the board/chair before taking any action which they considered would be inconsistent with the proper performance of the Accountable Officer functions. The Accountable Officer should also notify the relevant Portfolio Accountable Officer.

19. It is incumbent on the Chief Executive to combine the Accountable Officer responsibilities to the Scottish Parliament with the 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, including the statutory duty described above.

20. The Chief Executive may delegate the day-to-day administration of the Accountable Officer responsibilities to other employees in the Commission, however shall not assign absolutely to any other person any of the responsibilities set out in this document and delegation of any responsibility will not amount to a delegation of accountability.

21. The Chief Executive is responsible for informing the Government's Director-General for Economy about any complaints about the Commission accepted by the Scottish Public Services

Ombudsman for investigation, and about the Commission's proposed response to any subsequent recommendations from the Ombudsman.

Portfolio Accountable Officer responsibilities

22. The Principal Accountable Officer for the Scottish Administration will designate the Director-General for Economy as the Accountable Officer for the SG portfolio budget for the NDPB. The responsibilities of a Portfolio Accountable Officer are set out in detail in the [Memorandum to Accountable Officers for Parts of the Scottish Administration](#). The Portfolio Accountable Officer is personally answerable to the Scottish Parliament for ensuring that:

- the financial and other management controls applied by the SG are appropriate and sufficient to safeguard public funds and, more generally that those being applied by the NDPB conform to the requirements both of propriety and of good financial management
- the key roles and responsibilities which underpin the relationship between the SG and the NDPB are set out in a framework document - and that this document is regularly reviewed
- effective relationships are in place at Director and Deputy Director level between the SG and the NDPB in accordance with the strategic engagement principles
- there is effective continuous assessment and appraisal of the performance of the chair of the NDPB, in line with the requirements of the Code of Practice for Ministerial Public Appointments in Scotland.

Scottish Government Director and Deputy Director

23. The Director for Environment and Forestry and Deputy Director for Natural Resources have responsibility for overseeing and ensuring effective relationships between the SG and the Scottish Land Commission which support alignment of the NDPB's business to the SG's Purpose and National Outcomes and high performance by the NDPB. They will work closely with the NDPB chief executive and be answerable to the Portfolio Accountable Officer for maintaining and developing positive relationships with the Scottish Land Commission characterised by openness, trust, respect and mutual support. They will be supported by a sponsor unit in discharging these functions. The Director shall be responsible for assessing the performance of the NDPB chair at least annually.

Sponsor unit responsibilities

24. The SG sponsor unit for the NDPB is the Environment and Forestry Directorate Sponsorship Hub. It is the normal point of contact for the NDPB in dealing with the SG. The unit, under the direction of the Director/Deputy Director, is the primary source of advice to the Scottish Ministers on the discharge of their responsibilities in respect of the NDPB and undertakes the responsibilities of the Portfolio Accountable Officer on their behalf.

25. Specific responsibilities include:

- discharging sponsorship responsibilities in line with the principles and framework set out in the document '[Strategic Engagement between the Scottish Government and Scotland's NDPBs](#)' and ensuring that sponsorship is suitably flexible, proportionate and responsive to the needs of the Scottish Ministers and the NDPB
- ensuring that appointments to the NDPB board are made timeously and, where appropriate, in accordance with the [Code of Practice for Ministerial Appointments to Public Bodies](#) in Scotland
- proportionate monitoring of the NDPB's activities through an adequate and timely flow of appropriate information, agreed with the NDPB, on performance, budgeting, control and risk management
- addressing in a timely manner any significant problems arising in the NDPB, alerting the Portfolio Accountable Officer and the responsible Minister(s) where considered appropriate
- ensuring that the objectives of the NDPB and the risks to them are properly and appropriately taken into account in the SG's risk assessment and management systems

- informing the NDPB of relevant SG policy in a timely manner.

Internal audit

26. The NDPB shall:

- establish and maintain arrangements for internal audit in accordance with the [Public Sector Internal Audit Standards](#) and the [Internal Audit](#) section of the SPFM
- set up an audit committee of its board, in accordance with the [Audit Committees](#) section of the SPFM, to advise both the board and the chief executive in his/her capacity as the NDPB Accountable Officer
- forward timeously to the SG the audit charter, strategy, periodic audit plans and annual audit assurance report, including the NDPB Head of Internal Audit opinion on risk management, control and governance and other relevant reports as requested
- keep records of, and prepare and forward timeously to the SG an annual report on fraud and theft suffered by the NDPB and notify the SG at the earliest opportunity of any unusual or major incidents.

27. The SG's Internal Audit Directorate has a right of access to all documents held by the NDPB internal auditor, including where the service is contracted out. The SG has a right of access to all NDPB records and personnel for any purpose.

External audit

28. The Auditor General for Scotland (AGS) audits, or appoints auditors to audit, the NDPB's annual accounts and passes them to the Scottish Ministers who shall lay them before the Scottish Parliament, together with the auditor's report and any report prepared by the AGS. For the purpose of audit the auditors have a statutory right of access to documents and information held by relevant persons. The NDPB shall instruct its auditors to send copies of all management reports (and correspondence relating to those reports) and responses to the SG.

29. The AGS, or examiners appointed by the AGS, may carry out examinations into the economy, efficiency and effectiveness with which the NDPB has used its resources in discharging its functions. The AGS may also carry out examinations into the arrangements made by the NDPB to secure Best Value. For the purpose of these examinations the examiners have a statutory right of access to documents and information held by relevant persons. In addition, the NDPB shall provide, in contracts and any conditions to grants, for the AGS to exercise such access to documents held by contractors and sub-contractors and grant recipients as may be required for these examinations; and shall use its best endeavours to secure access for the AGS to any other documents required by the AGS which are held by other bodies.

Annual report and accounts

30. The NDPB must publish an annual report of its activities together with its audited accounts after the end of each financial year. The annual report must cover the activities of any corporate, subsidiary or joint ventures under the control of the NDPB. It should comply with the [Government Financial Reporting Manual](#) (FReM) and outline the NDPB's main activities and performance against agreed objectives and targets for the previous financial year.

31. The accounts must be prepared in accordance with relevant statutes and the specific accounts direction (including compliance with the FReM) and other relevant guidance issued by the Scottish Ministers. Any financial objectives or targets set by the Scottish Ministers should be reported on in the accounts and will therefore be within the scope of the audit. Any subsidiary or joint venture owned or controlled by the NDPB shall be consolidated in its accounts in accordance with International Financial Reporting Standards as adapted and interpreted for the public sector context.

32. The draft report should be submitted to the SG for comment, and the draft accounts for information, by 31 July. The final version should be available for laying before the Scottish Parliament by the Scottish Ministers by 30 September. While the statutory date for laying and publishing accounts audited by the AGS is by 31 December, following the close of the previous financial year, there is an

expectation on the part of the Scottish Ministers that accounts will be laid and published as early as possible. The accounts must not be laid before they have been formally sent by the AGS to the Scottish Ministers and must not be published before they have been laid. The NDPB shall be responsible for the publication of the annual report and accounts.

Management responsibilities

Corporate and business plans

33. The NDPB must ensure that a corporate plan, agreed with the Scottish Ministers, is in place and published on the NDPB's website. The NDPB shall agree with the SG the issues to be addressed in the plan and the timetable for its preparation and review. The finalised plan shall reflect the NDPB's strategic aims and objectives as agreed by the Scottish Ministers, indicative budgets and any priorities set by the Scottish Ministers. It shall demonstrate how the NDPB contributes to the achievement of the SG's primary purpose of increasing sustainable economic growth and alignment with the SG's [National Performance Framework](#) (NPF). The corporate plan for the NDPB should include:

- the purpose and principal aims of the NDPB
- an analysis of the environment in which the NDPB operates
- key objectives and associated key performance targets for the period of the plan, the strategy for achieving those objectives and how these will contribute towards the achievement of the SG's primary purpose and alignment with the NPF
- indicators against which performance can be judged
- details of planned efficiencies, describing how the NDPB proposes to achieve better value for money, including through collaboration and shared services
- other matters as agreed between the SG and the NDPB.

34. The corporate plan should inform the development of a separate business plan for each financial year. The business plan for the NDPB should include key targets and milestones for the year immediately ahead, aligned to the NPF, and be linked to budgeting information so that, where possible, resources allocated to achieve specific objectives can be identified. A copy of the NDPB's business plan should be provided to the sponsor unit prior to the start of the relevant financial year.

Budget management

35. Each year, in the light of decisions by the Scottish Ministers on the allocation of budgets for the forthcoming financial year, the SG will send to the NDPB a formal statement of its budgetary provision, and a note of any related matters and details of the budget monitoring information required by the SG. The terms of that letter, referred to as the Budget Allocation and Monitoring letter, should be viewed as complementing the content of this document. The monthly monitoring is the primary means of in-year budgetary control across the SG. As such, bodies must comply with the format and timing of the monitoring together with any requests for further information. The statement of budgetary provision will set out the budget within the classifications of resource Departmental Expenditure Limits (RDEL), capital DEL (CDEL) and Ring-fenced (non-cash) (RfDEL). The NDPB will inform the sponsor unit at the earliest opportunity if a requirement for Annually Managed Expenditure (AME) budget is identified. The SG should also be advised in the event that estimated net expenditure is forecast to be lower than budget provision. Transfers of budgetary provision between the different classifications require the prior approval of the SG Finance Directorate. Any proposals for such transfers should therefore be submitted to the sponsor unit. Transfers of provision within the classifications may be undertaken without reference to the SG, subject to any constraints on specific areas of expenditure e.g. the approved pay remit.

36. If the trading and other resource income realised (including profit or loss on disposal of non-current assets) – scored as negative RDEL, or the net book value of disposals of non-current assets – scored as negative CDEL is less than included in the agreed budget the NDPB shall, unless otherwise agreed with the SG, ensure a corresponding reduction in its gross expenditure. (The extent to which the NDPB exceeds agreed budgets shall normally be met by a corresponding reduction in the budgets for the following financial year.) If income realised is more than included in the agreed budgets the NDPB must consult and obtain the prior approval of the SG before using any excess to fund additional expenditure or to meet existing pressures. Failure to obtain prior approval for the use of excess income to fund additional expenditure may result in corresponding reductions in budgets for the following financial year. The only exception is where the income is from gifts, bequests and donations but this must be spent within the same financial year as the receipt, otherwise additional budget

allocation will be required. In any event, income from all sources and all planned expenditure should be reflected in the monthly budget monitoring statement.

Cash management

37. Any [grant in aid](#) (i.e. the cash provided to the NDPB by the SG to support the allocated budget) for the year in question must be authorised by the Scottish Parliament in the annual Budget Act. Grant in aid will normally be paid in monthly instalments on the basis of updated profiles and information on unrestricted cash reserves. Payment will not be made in advance of need, as determined by the level of unrestricted cash reserves and planned expenditure. Unrestricted cash reserves held during the course of the year should be kept to the minimum level consistent with the efficient operation of the NDPB - and the level of funds required to meet any relevant liabilities at the year-end. Grant in aid not drawn down by the end of the financial year shall lapse. Grant in aid shall not be paid into any restricted reserve held by the NDPB.

38. The banking arrangements adopted by the NDPB must comply with the [Banking](#) section of the SPFM.

Risk management

39. The NDPB shall ensure that the risks it faces are dealt with in an appropriate manner, in accordance with relevant aspects of generally recognised best practice in corporate governance, and develop an approach to risk management consistent with the [Risk Management](#) section of the SPFM. Reporting arrangements should ensure that the sponsor unit is made aware of relevant risks and how they are being managed. The NDPB audit committee is also required, at the earliest opportunity, to notify the relevant SG Audit and Risk Committee if it considers that it has identified a significant problem which may have wider implications.

Counter-fraud arrangements

40. The NDPB should adopt and implement policies and practices to safeguard itself against fraud and theft, in accordance with the [Fraud](#) section of the SPFM. Application of these processes must be monitored actively, supported by a fraud action plan and robust reporting arrangements. This includes the establishment of avenues to report any suspicions of fraud.

Performance management

41. The NDPB shall operate management information and accounting systems that enable it to review, in a timely and effective manner, its financial and non-financial performance against the strategic aims, objectives, targets and milestones set out in the corporate and business plans. The results of such reviews should be reported on a regular basis to the NDPB board and copied to the SG. The SG shall assess the NDPB's performance, proportionately, on a continuous basis and hold a formal review meeting at least twice a year. The responsible Cabinet Secretary / Scottish Minister shall meet the NDPB chair at least once a year.

NDPB staff management

Broad responsibilities for NDPB staff

42. The NDPB will have responsibility for the recruitment, retention and motivation of its staff. The broad responsibilities toward its staff are to ensure that:

- HR policies, practices and systems comply with employment and equalities legislation, and standards expected of public sector employers
- the level and structure of its staffing, including grading and staff numbers, are appropriate to its functions and the requirements of economy, efficiency and effectiveness (subject to the SG [Pay Policy for Staff Pay Remits](#))
- the performance of its staff at all levels is satisfactorily appraised and the NDPB's performance measurement systems are reviewed from time to time
- its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the NDPB's objectives

- proper consultation with staff takes place on key issues affecting them
- adequate grievance and disciplinary procedures are in place
- effective whistle-blowing policy and procedures consistent with the Public Interest Disclosure Act 1998 are in place
- a code of conduct for staff is in place based on the Model Code for Staff of Executive NDPBs

Pay and conditions of service

43. The NDPB will comply with SG Pay Policy in relation to staff and the chief executive. The NDPB shall submit to the SG for approval (normally annually unless a multi-year deal has been agreed) a pay remit in line with the SG [Pay Policy for Staff Pay Remits](#) and negotiate a pay settlement within the terms of the approved remit. Payment of salaries should also comply with the [Tax Planning and Tax Avoidance](#) section of the SPFM. Proposals on non-salary rewards must comply with the guidance in the [Non-Salary Rewards](#) section of the SPFM. Where applicable, the NDPB will also seek appropriate approval under the SG [Pay Policy for Senior Appointments](#) for the chief executive's remuneration package prior to appointment, annually or when a new appointment or change to the remuneration package is being proposed.

Pensions, redundancy and compensation

44. Superannuation arrangements for the NDPB staff are subject to the approval of the SG. NDPB staff shall normally be eligible for a pension provided by the Principle Civil Service Pension Scheme (PCSPS). Staff may opt out of the occupational pension scheme provided by the NDPB, but the employers' contribution to any personal pension arrangement, including stakeholder pension, shall normally be limited to the national insurance rebate level.

45. Any proposal by the NDPB to move from existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the prior approval of the SG. Proposals on compensation payments must comply with the [Settlement Agreements, Severance, Early Retirement and Redundancy Terms](#) section of the SPFM. This includes referral to the SG of any proposed severance scheme (for example, a scheme for voluntary exit), business case for a settlement agreement being considered for an individual, or proposal to make any other compensation payment. In all instances, a body should engage with the SG prior to proceeding with proposed severance options, and prior to making any offer either orally or in writing.

Asset and property management

46. The NDPB shall maintain an accurate and up-to-date record of its current and non-current assets consistent with the [Property: Acquisition, Disposal & Management](#) section of the SPFM. 'Non-current' assets should be disposed of in accordance with the SPFM. The SG's Property Division should be consulted about relevant proposed disposals of property that the NDPB holds for operational purposes (rather than investment) at the earliest opportunity so it may be advertised internally. An [Internal Advertisement](#) form must be completed and submitted at least one month prior to property being advertised on the open market. Any proposal to acquire land, buildings or other rights in property for accommodation / operational purposes should comply with the SPFM. The NDPB is also subject to the [SG Asset Management Policy](#), including the requirement for acquisition of a new lease, continuation of an existing lease, decision not to exercise a break option in a lease or purchase of property for accommodation / operational purposes, to be approved in advance by Scottish Ministers. The Property Controls Team should be consulted as early as possible in this process. All assets (property, plant and equipment) are to be properly recorded and updated as necessary by the NDPB on the Cabinet Office [electronic Property Information Mapping System](#) (e-PIMS).

Specific financial provisions

Delegated authorities

47. The NDPB's specific delegated financial authorities - as agreed in consultation between the NDPB and the SG - are set out in the attached **Appendix**. The NDPB shall obtain the SG's prior written approval before entering into any undertaking to incur any expenditure that falls outside these

delegations. The NDPB shall also comply with any requirements for prior SG approval included in the SPFM and/or this document. Prior SG approval must always be obtained before incurring expenditure for any purpose that is or might be considered novel, contentious or repercussive or which has or could have significant future cost implications.

Income generation

48. The NDPB shall seek to optimise income - grant in aid does not qualify as income - from all sources, including from the [European Union](#), and ensure that the SG is kept informed. Novel or contentious proposals for new sources of income or methods of fundraising must be approved by the SG. Fees or charges for any services supplied by the NDPB shall be determined in accordance with the [Fees & Charges](#) section of the SPFM.

49. Gifts, bequests or donations received by the NDPB score as income and should be provided for in the agreed resource DEL and capital DEL budgets, updated as necessary in consultation with the SG. However, the NDPB should be able to demonstrate that expenditure funded by gifts etc is additional to expenditure normally supported by grant in aid (i.e. SG core funding) or by trading and other income. Before accepting such gifts etc the NDPB shall consider if there are any associated costs in doing so or any conflicts of interests arising. The NDPB shall keep a written record of any such gifts etc and what happened to them.

Financial investments

50. Unless covered by a specific delegated authority the NDPB shall not make any financial investments without the prior approval of the SG. That would include equity shares in ventures which further the objectives of the NDPB. The NDPB shall not invest in any venture of a speculative nature.

Borrowing

51. Borrowing cannot be used to increase the NDPB's spending power. All borrowing by the NDPB - excluding agreed overdrafts - shall be from the Scottish Ministers in accordance with guidance in the [Borrowing, Lending & Investment](#) section of the SPFM.

Lease arrangements

52. Unless covered by a specific delegated authority the NDPB shall not enter into any finance, property or accommodation related lease arrangement – including the extension of an existing lease or the non-exercise of a tenant's lease break - without the SG's prior approval. Before entering/ continuing such arrangements the NDPB must be able to demonstrate that the lease offers better value for money than purchase and that all options of sharing existing public sector space have been explored. Non-property/ accommodation related operating leases are subject to a specific delegated authority. The NDPB must have capital DEL provision for finance leases and other transactions which are in substance borrowing.

Tax arrangements

53. Non-standard tax management arrangements should always be regarded as novel and/or contentious and must therefore be approved in advance by the SG. Relevant guidance is provided in the [Tax Planning and Tax Avoidance](#) section of the SPFM. The NDPB must comply with all relevant rules on taxation, including VAT. All individuals who would qualify as employees for tax purposes should be paid through the payroll system with tax deducted at source. It is the responsibility of the NDPB to observe VAT legislation and recover input tax where it is entitled to do so. The implications of VAT in relation to procurement and shared services should be considered at an early stage to ensure that financial efficiency is achieved. The NDPB must also ensure that it accounts properly for any output tax on sales or disposals.

Lending and guarantees

54. Any lending by the NDPB must adhere to the guidance in the [Borrowing, Lending & Investment](#) section of the SPFM on undertaking due diligence and seeking to establish a security. Unless covered by a specific delegated limit the NDPB shall not, without the SG's prior approval, lend money, charge any asset, give any guarantee or indemnity or letter of comfort, or incur any other contingent liability (as defined in the [Contingent Liabilities](#) section of the SPFM), whether or not in a

legally binding form. Guarantees, indemnities and letters of comfort of a standard type given in the normal course of business are excluded from this requirement.

Third party grants

55. Unless covered by a specific delegated authority the NDPB shall not, without the SG's prior agreement, provide grant funding to a third party. Such funding would be subject to the guidance in the [State Aid](#) section of the SPFM. Guidance on a framework for the control of third party grants is provided as an [annex](#) to the Grant & Grant in Aid section of the SPFM.

Impairments, provisions and write-offs

56. Assets should be recorded on the balance sheet at the appropriate valuation basis in accordance with the FReM. Where an asset - and that includes investments - suffers impairment it is important that the prospective impairment and background is communicated to the SG at the earliest possible point in the financial year to determine the implications for the NDPB's budget. Similarly any significant movement in existing provisions or the creation of new provisions should be discussed in advance with the SG. Write-off of bad debt and/or losses scores against the NDPB's resource DEL budget classification and is subject to a specific delegated limit.

Insurance

57. The NDPB is subject to the SG policy of self-insurance. Commercial insurance must however be taken out where there is a legal requirement to do so and may also be taken out in the circumstances described in the [Insurance](#) section of the SPFM - where required with the prior approval of the SG. In the event of uninsured losses being incurred the SG shall consider, on a case by case basis, whether or not it should make any additional resources available to the NDPB. The SG will provide the NDPB with a Certificate of Exemption for Employer's Liability Insurance.

Procurement and payment

58. The NDPB's procurement policies shall reflect relevant guidance in the [Procurement](#) section of the SPFM and relevant guidance issued by the SG's Procurement and Commercial Directorate. Procurement should be undertaken by appropriately trained and authorised staff and treated as a key component of achieving the NDPB's objectives consistent with the principles of [Value for Money](#), the highest professional standards and any legal requirements. All external consultancy contracts over the value of £100,000 or any proposal to award a contract without competition (non-competitive action) over the value of £100,000 must be endorsed in advance by the Chief Executive.

59. Any major investment programmes or projects undertaken by the NDPB shall be subject to the guidance in the [Major Investment Projects](#) section of the SPFM and is also subject to a specific delegated authority]. The sponsor unit must be kept informed of progress on such programmes and projects and Ministers must be alerted to any developments that could undermine their viability. ICT investment plans must be reported to the SG's Office of the Chief Information Officer.

60. The NDPB shall pay all matured and properly authorised invoices relating to transactions with suppliers in accordance with the [Expenditure and Payments](#) section of the SPFM and in doing so shall seek wherever possible and appropriate to meet the SG's target for the payment of invoices within 10 working days of their receipt.

Gifts made, special payments and losses

61. Unless covered by a specific delegated authority the NDPB shall not, without the SG's prior approval, make gifts or special payments or write-off of losses. Special payments and losses are subject the guidance in the [Losses and Special Payments](#) section of the SPFM. Gifts by management to staff are subject to the guidance in the [Non-Salary Rewards](#) section of the SPFM.

Clawback

62. Where the NDPB has financed expenditure on assets by a third party, the NDPB shall make appropriate arrangements to ensure that any such assets above an agreed value are not disposed of by the third party without the NDPB's prior consent. The NDPB shall put in place arrangements sufficient to secure the repayment of its due share of the proceeds - or an appropriate proportion of them if the NDPB contributed less than the whole cost of acquisition or improvement. The NDPB shall

also ensure that if assets financed by the NDPB cease to be used by the third party for the intended purpose an appropriate proportion of the value of the asset shall be repaid to the NDPB.

State aid

63. State aid is a European Commission term which refers to forms of public assistance, given to undertakings on a discretionary basis, which has the potential to distort competition and affect trade between Member States of the European Union. Any activity that the NDPB undertakes itself, or funds other bodies to undertake, that can be offered on a commercial market for goods and services is subject to state aid rules. A state aid assessment is therefore required prior to disbursing any funding and would be subject to the guidance in the state aid section of the SPFM.

Board expenses

64. Remuneration (daily fees), allowances and expenses paid to board members and any pension arrangements must comply with the SG [Pay Policy for Senior Appointments](#) and any specific guidance on such matters issued by the Scottish Ministers.

EXECUTIVE NDPB MODEL FRAMEWORK DOCUMENT: APPENDIX

SPECIFIC DELEGATED FINANCIAL AUTHORITIES

	Delegated Limit
External business and management consultancies	£100,000
Non-competitive action	£10,000
Operating leases – other than property/ accommodation related leases	£50,000
Gifts	£50
Special payments	£500
Claims waived or abandoned	£1,000
Write-off of bad debt and/or losses	£1,000