

# Public Health Scotland Governance Framework

**PHS Paper No: 04/20**

**Agenda item 6**

**20/05/2020**

## **Purpose**

This paper presents the draft Governance Framework for approval, following discussion at the Board Induction. The Framework was developed through a Governance Project as part of the Public Health Reform programme. The NHS Governance Blueprint was a significant, but not the only source of reference. The Standing Financial Instructions have been drawn up in collaboration with our Finance Shared Services partners, NSS. Joint sponsors have also commented on the draft Governance Framework.

## **Recommendation**

The Public Health Scotland Board is asked to approve the documents in the final draft Governance Framework (Annexes to the paper):

- A. Standing Orders (p3)
- B. Standing Financial Instructions (SFIs) (p15)
- C. PHS Code of Conduct (p109)
- D. Finance, Audit and Risk Committee – Terms of Reference (p130)
- E. Public Health and Wellbeing Committee – Terms of Reference (p136)
- F. Staff Governance Committee – Terms of Reference (p139)
- G. Remuneration Committee – Terms of Reference (p143)

Following the Board ratifying the Code of Conduct, this will then be required to be signed off by Ministers within 6 months.

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## Public Health Scotland Governance Framework

### 1. Financial and resource implications

There are financial implications contained within all of the Annexes to this paper, as they set the financial governance framework for the organisation in line with the Scottish Public Finance Manual (SPFM).

Regarding workforce resource implications, the primary focus for this is the Staff Governance Committee Terms of Reference. The purpose of the Staff Governance Committee is to assure itself that Public Health Scotland establishes a culture where the workforce of the organisation is supported to deliver the organisation's strategic ambitions, that is in keeping with the dual accountability of Public Health Scotland to the Scottish Government and to COSLA and where the highest standards of staff management are maintained. It should ensure that arrangements are in place to fully implement the Staff Governance Standard underpinned by the NHS Reform (Scotland) Act 2004 and that the principles of NHS partnership working are underpinned by good governance.

## **2. Risk assessment and management**

The paper forms part of the mitigation to risks resulting from inadequate governance arrangements for Public Health Scotland, as stated in draft Corporate Risk Register risk 20-3:

20-3 As result of Public Health Scotland being launched during COVID-19 and delays in bringing key elements of the governance arrangements together from day 1, there is a risk of lack of clarity from new and untried sponsorship arrangements, resulting in lack of strategic direction or conflict in direction.

# Annex A – Standing Orders

## Standing orders for the proceedings and business of the Public Health Scotland Board

### 1 General

- 1.1 These Standing Orders for regulation of the conduct and proceedings of the Public Health Scotland Board, [the Board] and its Committees are made under the terms of The Health Boards (Membership and Procedure) (Scotland) Regulations 2001 (2001 No. 302), as amended up to and including The Health Boards (Membership and Procedure) (Scotland) Amendment Regulations 2016 (2016 No. 3). Public Health Scotland was constituted as a national Special Health Board by the Public Health Scotland Order 2019.

The Blueprint for Good Governance (issued through [DL 2019\) 02](#)) has informed these Standing Orders. The Blueprint describes the functions of the Board as:

- Setting the direction, clarifying priorities and defining expectations.
- Holding the senior leadership team to account and seeking assurance that the organisation is being effectively managed.
- Managing risks to the quality, delivery and sustainability of services.
- Engaging with stakeholders.
- Influencing the Board's and the organisation's culture.

Further information on the role of the Board, Board members, the Chair, Vice-Chair, and the Chief Executive is available at **<enter details of website of where this is published on a Once for Scotland basis once available>**

- 1.2 The Scottish Ministers will appoint the members of the Board. The appointment process is undertaken in partnership with the Convention of Scottish Local Authorities (COSLA). The Scottish Ministers, in consultation with COSLA, will also attend to any issues relating to the resignation and removal, suspension and disqualification of members in line with the above regulations.
- 1.3 Any statutory provision, regulation or direction by Scottish Ministers will have precedence if they are in conflict with these Standing Orders.
- 1.4 Any one or more of these Standing Orders may be varied or revoked at a meeting of the Board by a majority of members present and voting, provided the notice for the meeting at which the proposal is to be considered clearly states the extent of the proposed repeal, addition or amendment. The Board will annually review its Standing Orders.
- 1.5 Any member of the Board may on reasonable cause shown be suspended from the Board or disqualified from taking part in any business of the Board in specified circumstances. The Scottish Ministers, in consultation with COSLA, may by determination suspend a member from taking part in the business (including meetings) of the Board. Paragraph 5.4 sets out when the person presiding at a Board meeting may suspend a Board member for the remainder of a specific Board meeting. The Standards Commission for Scotland can apply sanctions if a Board member is found to have breached the Board Members' Code of Conduct, and those include suspension and disqualification. The regulations (see paragraph 1.1) also set out grounds for why a person may be disqualified from being a member of the Board.

## **Board Members – Ethical Conduct**

- 1.6 Members have a personal responsibility to comply with the Code of Conduct for Members of the Public Health Scotland Board. The Commissioner for Public Standards can investigate complaints about members who are alleged to have breached their Code of Conduct. The Board will have appointed a Standards Officer. This individual is responsible for carrying out the duties of that role, however he or she may delegate the carrying out of associated tasks to other members of staff. The Board's appointed Standards Officer will ensure that the Board's Register of Interests is maintained. When a member needs to update or amend his or her entry in the Register, he or she must notify the Board's appointed Standards Officer of the need to change the entry within one month after the date the matter required to be registered.
- 1.7 The Board's appointed Standards Officer will ensure the Register is available for public inspection at the principal offices of the Board at all reasonable times and will be included on the Board's website.
- 1.8 Members must always consider the relevance of any interests they may have to any business presented to the Board or one of its committees. Members must observe paragraphs 5.6 - 5.10 of these Standing Orders, and have regard to Section 5 of the Code of Conduct (Declaration of Interests).
- 1.9 In case of doubt as to whether any interest or matter should be declared, in the interests of transparency, members are advised to make a declaration.
- 1.10 Members will make a declaration of any gifts or hospitality received in their capacity as a Board member. Such declarations will be made to the Board's appointed Standards Officer who will make them available

for public inspection at all reasonable times at the principal offices of the Board and on the Board's website. The Register of Interests includes a section on gifts and hospitality. The Register may include the information on any such declarations, or cross-refer to where the information is published.

- 1.11 The Board's Standards Officer will provide a copy of these Standing Orders to all members of the Board on appointment. A copy will also be held on the Board's website.

## **2 Chair**

- 2.1 The Scottish Ministers will appoint the Chair of the Board.

## **3 Vice-Chair**

- 3.1 The Chair will nominate a candidate or candidates for vice-chair to the Cabinet Secretary. The candidate(s) must be a non-executive member of the Board. A member who is an employee of a Board is disqualified from being Vice-Chair. The Cabinet Secretary, following consultation with COSLA, will in turn determine who to appoint based on evidence of effective performance and evidence that the member has the skills, knowledge and experience needed for the position. Following the decision, the Board will appoint the member as Vice-Chair. Any person so appointed will, so long as he or she remains a member of the Board, continue in office for such a period as the Board may decide.
- 3.2 The Vice-Chair may at any time resign from that office by giving notice in writing to the Chair. The process to appoint a replacement Vice-Chair is described at paragraph 3.1.
- 3.3 Where the Chair has died, ceased to hold office, or is unable for a sustained period of time to perform his or her duties due to illness,

absence from Scotland or for any other reason, then the Board's Executive and Governance Lead should refer this to the joint Scottish Government and COSLA sponsor team. The Cabinet Secretary, following consultation with COSLA, will confirm which member may assume the role of interim chair in the period until the appointment of a new chair, or the return of the appointed chair. Where the Chair is absent for a short period due to leave (for whatever reason) the Vice-Chair will assume the role of the Chair in the conduct of the business of the Board. In either of these circumstances references to the Chair will, so long as there is no Chair able to perform the duties, be taken to include references to either the interim chair or the Vice-Chair. If the Vice-Chair has been appointed as the Interim Chair, then the process described at paragraph 3.1 will apply to replace the Vice-Chair.

#### **4 Calling and Notice of Board Meetings**

- 4.1 The Chair may call a meeting of the Board at any time and will call a meeting when required to do so by the Board. The Board will meet at least four times in the year and will annually approve a forward schedule of meeting dates.
- 4.2 The Chair will determine the final agenda for all Board meetings. The agenda may include an item for any other business, however this can only be for business which the Board is being informed of for awareness, rather than being asked to make a decision. No business will be transacted at any meeting of the Board other than that specified in the notice of the meeting except on grounds of urgency.
- 4.3 Any member may propose an item of business to be included in the agenda of a future Board meeting by submitting a request to the Chair. If the Chair elects to agree to the request, then the Chair may decide whether the item is to be considered at the Board meeting which immediately follows the receipt of the request, or a future Board

meeting. The Chair will inform the member which meeting the item will be discussed. If any member has a specific legal duty or responsibility to discharge which requires that member to present a report to the Board, then that report will be included in the agenda.

- 4.4 In the event that the Chair decides not to include the item of business on the agenda of a Board meeting, then the Chair will inform the member in writing as to the reasons why.
- 4.5 A Board meeting may be called if one third of the whole number of members signs a request for that purpose. The requisition must specify the business proposed to be transacted. The Chair is request to call a meeting within 7 days of receiving the requisition. If the Chair does not do so, or simply refuses to call a meeting, those members who presented the request may call a meeting by signing an instruction to approve the notice calling the meeting provided that no business will be transacted at the meeting other than that specified in the request.
- 4.6 Before each meeting of the Board, a notice of the meeting (in the form of an agenda), specifying the time, place and business proposed to be transacted at it and approved by the Chair, or by a member authorised by the Chair to approve on that person's behalf, will be circulated to every member so as to be available to them at least three clear days before the meeting. The notice will be distributed along with any papers for the meeting that are available at that point.
- 4.7 With regard to calculating clear days for the purpose of notice under 4.6 and 4.9, the period of notice excludes the day the notice is sent out and the day of the meeting itself. Additionally only working days (Monday to Friday) are to be used when calculating clear days; weekend days and public holidays should be excluded.

Example: If a Board is meeting on a Wednesday, the notice and papers for the meeting should be distributed to members no later than the preceding Thursday. The three clear days would be Friday, Monday and Tuesday. If the Monday was a public holiday, then the notice and papers should be distributed no later than the preceding Wednesday.

- 4.8 Lack of service of the notice on any member will not affect the validity of a meeting.
- 4.9 Board meetings will be held in public. A public notice of the time and place of the meeting will be provided at least three clear days before the meeting is held. The notice and the meeting papers will also be placed on the Board's website. The meeting papers will include the minutes of committee meetings which the relevant committee has approved. The exception is that the meeting papers will not include the minutes of the Remuneration Committee. The Board may determine its own approach for committees to inform it of business which has been discussed in committee meetings for which the final minutes are not yet available. For items of business which the Board will consider in private session (see paragraph 5.22), only the Board members will normally receive the meeting papers for those items, unless the person presiding agrees that others may receive them.

## **5 Conduct of Meetings**

### **Authority of the Person Presiding at a Board Meeting**

- 5.1 The Chair will preside at every meeting of the Board. The Vice-Chair will preside if the Chair is absent. If both the Chair and Vice-Chair are absent, the members present at the meeting will choose a Board member who is not an employee of a Board to preside.

- 5.2 The duty of the person presiding at a meeting of the Board or one of its committees is to ensure that the Standing Orders or the committee's terms of reference are observed, to preserve order, to ensure fairness between members, and to determine all questions of order and competence. The ruling of the person presiding will be final and will not be open to question or discussion.
- 5.3 The person presiding may direct that the meeting can be conducted in any way that allows members to participate, regardless of where they are physically located, e.g. video-conferencing, teleconferencing. For the avoidance of doubt, those members using such facilities will be regarded as present at the meeting.
- 5.4 In the event that any member who disregards the authority of the person presiding, obstructs the meeting, or conducts himself/herself inappropriately the person presiding may suspend the member for the remainder of the meeting. If a person so suspended refuses to leave when required by the person presiding to do so, the person presiding will adjourn the meeting in line with paragraph 5.12. For paragraphs 5.5 to 5.20, reference to 'Chair' means the person who is presiding the meeting, as determined by paragraph 5.1.

### **Quorum**

- 5.5 The Board will be deemed to meet only when there are present, and entitled to vote, a quorum of at least one third of the whole number of members, including at least two members who are not employees of a Board. The quorum for committees will be set out in their terms of reference, however it can never be less than two Board members.
- 5.6 In determining whether or not a quorum is present the Chair must consider the effect of any declared interests.

- 5.7 If a member, or an associate of the member, has any financial or other interest, direct or indirect, in any contract, proposed contract or other matter under consideration by the Board or a committee, the member should declare that interest at the start of the meeting. This applies whether or not that interest is already recorded in the Board Members' Register of Interests. Following such a declaration, the member will be excluded from the Board or committee meeting when the item is under consideration, and should not be counted as participating in that meeting for quorum or voting purposes.
- 5.8 Paragraph 5.7 will not apply where a member's, or an associate of theirs, interest in any company, body or person is so remote or insignificant that it cannot reasonably be regarded as likely to affect any influence in the consideration or discussion of any question with respect to that contract or matter. However members still have to declare other interests as required by Section 5 of the Board Members' Code of Conduct.
- 5.9 If a question arises at a Board meeting as to the right of a member to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting be referred to the Chair. The Chair's ruling in relation to any member other than the Chair is to be final and conclusive. If a question arises with regard to the participation of the Chair in the meeting (or part of the meeting) for voting or quorum purposes, the question is to be decided by the members at that meeting. For this latter purpose, the Chair is not to be counted for quorum or voting purposes.
- 5.10 Paragraphs 5.6-5.9 will equally apply to members of any Board committees, whether or not they are also members of the Board, e.g. stakeholder representatives.

- 5.11 When a quorum is not present, the only actions that can be taken are to either adjourn to another time or abandon the meeting altogether and call another one. The quorum should be monitored throughout the conduct of the meeting in the event that a member leaves during a meeting, with no intention of returning. The Chair may set a time limit to permit the quorum to be achieved before electing to adjourn, abandon or bring a meeting that has started to a close.

### **Adjournment**

- 5.12 If it is necessary or expedient to do so for any reason (including disorderly conduct or other misbehaviour at a meeting), a meeting may be adjourned to another day, time and place. A meeting of the Board, or of a committee of the Board, may be adjourned by the Chair until such day, time and place as the Chair may specify.

### **Business of the Meeting**

#### **The Agenda**

- 5.13 If a member wishes to add an item of business which is not in the notice of the meeting, he or she must make a request to the Chair ideally in advance of the day of the meeting and certainly before the start of the meeting. The Chair will determine whether the matter is urgent and accordingly whether it may be discussed at the meeting.
- 5.14 The Chair may change the running order of items for discussion on the agenda at the meeting. Please also refer to paragraph 4.2.

#### **Decision-Making**

- 5.15 The Chair may invite the lead for any item to introduce the item before inviting contributions from members. Members should indicate to the

Chair if they wish to contribute, and the Chair will invite all who do so to contribute in turn. Members are expected to question and challenge proposals constructively and carefully to reach and articulate a considered view on the suitability of proposals.

- 5.16 The Chair will consider the discussion, and whether or not a consensus has been reached. Where the Chair concludes that consensus has been reached, then the Chair will normally end the discussion of an item by inviting agreement to the outcomes from the discussion and the resulting decisions of the Board. The Board may reach consensus on an item of business without taking a formal vote.
- 5.17 Where the Chair concludes that there is not a consensus on the Board's position on the item and/ or what it wishes to do, then the Chair will put the decision to a vote. If at least two Board members ask for a decision to be put to a vote, then the Chair will do so. Before putting any decision to vote, the Chair will summarise the outcome of the discussion and the proposal(s) for the members to vote on.
- 5.18 Where a vote is taken, the decision will be determined by a majority of votes of the Non-Executive and Stakeholder members (Employee Director and Councillor members) present and voting on the question. Any Executive Members of the Board (Executive Officers appointed by virtue of their position as employees), including the Chief Executive, will not be entitled to vote. In the case of an equality of votes, the Chair will have a second or casting vote.
- 5.19 While the meeting is in public the Board may not exclude members of the public and the press (for the purpose of reporting the proceedings) from attending the meeting.

### **Board Meeting in Private Session**

5.20 The Board may agree to meet in private in order to consider certain items of business. The Board may decide to meet in private on the following grounds:

- The Board is still in the process of developing proposals or its position on certain matters, and needs time for private deliberation.
- The business relates to the commercial interests of any person and confidentiality is required, e.g. when there is an ongoing tendering process or contract negotiation.
- The business necessarily involves reference to personal information, and requires to be discussed in private in order to uphold the Data Protection Principles.
- The Board is otherwise legally obliged to respect the confidentiality of the information being discussed.

5.21 The minutes of the meeting will reflect when the Board has resolved to meet in private.

### **Minutes**

5.22 The names of members present at a meeting of the Board, or of a committee of the Board, will be recorded in the minute of the meeting. The names of other persons in attendance will also be recorded.

5.23 The Board Secretary (or his/her authorised nominee) will prepare the minutes of meetings of the Board and its committees. The Board or the committee will review the draft minutes at the following meeting. The person presiding at that meeting will sign the approved minute.

## **6 Matters Reserved for the Board**

### **Introduction**

- 6.1 The Scottish Government retains the authority to approve certain items of business, in consultation with COSLA. There are other items of the business which can only be approved at an NHS Board meeting, due to either Scottish Government directions or a Board decision in the interests of good governance practice.
- 6.2 This section summarises the matters reserved to the Board:
- a) Standing Orders
  - b) The establishment and terms of reference of all its committees, and appointment of committee members
  - c) Organisational Values
  - d) The strategies for all the functions that it has planning responsibility for, subject to any provisions for major service change which require joint Ministerial and COSLA approval.
  - e) The Annual Operational Plan for submission to the joint Scottish Government and COSLA sponsor team for its approval.
  - f) Corporate objectives or corporate plans which have been created to implement its agreed strategies.
  - g) Financial plan for the forthcoming year, and the opening revenue and capital budgets.
  - h) Annual Accounts and Report. (Note: This must be considered when the Board meets in private session. In order to respect Parliamentary Privilege, the Board cannot publish the annual accounts or any information drawn from it before the accounts are laid before the Scottish Parliament. Similarly the Board cannot publish the report of the external auditors of their annual accounts in this period.)
  - i) Any business case item that is beyond the scope of its delegated financial authority before it is presented to the Scottish Government for approval. The Board will comply with the [Scottish Capital Investment Manual](#).

- j) The Board will approve the content, format, and frequency of performance reporting to the Board.
- k) The appointment of the Board's chief internal auditor. (Note: This applies either when the proposed chief internal auditor will be an employee of the Board, or when the chief internal auditor is engaged through a contract with an external provider. The audit committee should advise the Board on the appointment, and the Board may delegate to the audit committee oversight of the process which leads to a recommendation for appointment.)

6.3 The Board may be required by law or Scottish Government direction to approve certain items of business, e.g. the integration schemes for a local authority area.

6.4 The Board itself may resolve that other items of business be presented to it for approval.

## **7 Delegation of Authority by the Board**

7.1 Except for the Matters Reserved for the Board, the Board may delegate authority to act on its behalf to committees. In practice this is achieved primarily through the Board's approval of the Standing Financial Instructions **<enter link to Board's SFIs>** and the Scheme of Delegation **<enter link to Board's Scheme of Delegation>**.

7.2 The Board may delegate responsibility for certain matters to the Chair for action. In such circumstances, the Chair should inform the Board of any decision or action subsequently taken on these matters.

7.3 The Board and its officers must comply with the [NHS Scotland Property Transactions Handbook](#), and this is cross-referenced in the Scheme of Delegation.

7.4 The Board may, from time to time, request reports on any matter or may decide to reserve any particular decision for itself. The Board may withdraw any previous act of delegation to allow this.

## **8 Execution of Documents**

- 8.1 Where a document requires to be authenticated under legislation or rule of law relating to the authentication of documents under the Law of Scotland, or where a document is otherwise required to be authenticated on behalf of the Board, it will be signed by an executive member of the Board or any person duly authorised to sign under the Scheme of Delegation in accordance with the Requirements of Writing (Scotland) Act 1995. Before authenticating any document the person authenticating the document will satisfy themselves that all necessary approvals in terms of the Board's procedures have been satisfied. A document executed by the Board in accordance with this paragraph will be self-proving for the purposes of the Requirements of Writing (Scotland) Act 1995.
- 8.2 Scottish Ministers will direct which officers of the Board can sign on their behalf in relation to the acquisition, management and disposal of land.
- 8.3 Any authorisation to sign documents granted to an officer of the Board will terminate upon that person ceasing (for whatever reason) from being an employee of the Board, without further intimation or action by the Board.

## **9 Committees**

- 9.1 Subject to any direction issued by Scottish Ministers, the Board will appoint such committees (and sub-committees) as it thinks fit.
- 9.2 The Board will appoint standing Committees in relation to Finance, Audit and Risk; Public Health Governance; Staff Governance and Remuneration.

- 9.3 The Board will appoint the chairs of all committees. The Board will approve the terms of reference and membership of the committees. The Board will review these as and when required, and will review the terms within 2 years of their approval if there has not been a review.
- 9.4 From amongst its members the Board may appoint Committees, consisting of four or more persons, for the purpose of carrying out its business. Such Committees will be responsible to the Board for all of their actions. Those Committees will have delegated authority to make decisions within their terms of reference, and such decisions will subsequently be reported to the Board. For this purpose accurate minutes of each Committee meeting must be kept for submission to the Board. Each Committee will have a Chair who will be a non-executive Board member and will be appointed by the Board or by the Committee concerned from amongst its members, as determined by the Board. In the absence of the Chair, the Committee will appoint from among its members, but excluding officers of the Board, an Acting Chair for the meeting in question.
- 9.5 The Board will appoint committee members to fill any vacancy in the membership as and when required. If a committee is required by regulation to be constituted with a particular membership, then the regulation must be followed.
- 9.6 Provided there is no Scottish Government instruction to the contrary, any non-executive Board member may replace a Committee member who is also a non-executive Board member, if such a replacement is necessary to achieve the quorum of the committee.
- 9.7 The Board's Standing Orders relating to the calling and notice of Board meetings, conduct of meetings, and conduct of Board members will also be applied to committee meetings where the committee's membership consist of or include all the Board members. Where the

committee's members includes some of the Board's members, the committee's meetings will not be held in public and the associated committee papers will not be placed on the Board's website, unless the Board specifically elects otherwise. Generally Board members who are not members of a committee may attend a committee meeting and have access to the meeting papers. However if the committee elects to consider certain items as restricted business, then the meeting papers for those items will normally only be provided to members of that committee. The person presiding the committee meeting may agree to share the meeting papers for restricted business papers with others.

- 9.8 The Board will approve a calendar of meeting dates for its committees. The committee chair may call a meeting any time, and will call a meeting when requested to do so by the Board.
- 9.9 The Board may authorise committees to co-opt members for a period up to one year, subject to the approval of both the Board and the Accountable Officer. A committee may decide this is necessary to enhance the knowledge, skills and experience within its membership to address a particular element of the committee's business. A co-opted member is one who is not a member of Public Health Scotland Board and is not to be counted when determining the committee's quorum.

# **Annex B – Standing Financial Instructions (SFIs)**

## **Public Health Scotland**

### **Standing Financial Instructions**

**April 2020**

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# Public Health Scotland

## Standing Financial Instructions (SFIs)

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## Section 1 - Introduction

### General

- 1.01 These Standing Financial Instructions ('SFIs') are issued for compliance by all officers of Public Health Scotland (referred to as PHS throughout these SFIs) from 1 April 2020.
- 1.02 These SFIs and supporting policies and procedures detail the financial responsibilities adopted by Public Health Scotland. They are designed to ensure that Public Health Scotland's financial and related activities are carried out in accordance with the law and Scottish Government policy in order to achieve probity, accuracy, economy, efficiency and effectiveness. They should

be used in conjunction with the Standing Orders and in particular the Schedule of Decisions Reserved to the Board and the Scheme of Delegation therein.

- 1.03 These SFIs identify the financial responsibilities that apply to everyone working for Public Health Scotland. They do not provide detailed procedural advice and should be read in conjunction with the detailed departmental and financial procedure notes. The Head of Strategy, Governance & Performance must approve all financial procedures and any consequent amendments.
- 1.04 Should any difficulties arise regarding the interpretation or application of any of the SFIs then the advice of the Head of Strategy, Governance & Performance must be sought before acting. The users of these SFIs should also be familiar with, and comply with, the provisions of PHS's Standing Orders.
- 1.05 Mandatory training and support is provided to managers and staff to ensure compliance. Failure to comply with SFIs and Standing orders may result in disciplinary action being taken.
- 1.06 Any breach or non-compliance with these SFIs must, on discovery, be reported immediately to the Head of Strategy, Governance & Performance who will discuss the matter with the Chief Executive and/or the Directors in order to determine the proper action to be taken. The views of internal audit, Counter Fraud Services or other specialists may also be taken depending on circumstances. All breaches will be reported to the Finance, Audit and Risk Committee on at least a quarterly basis.

## **Terminology**

- 1.07 The following terminology applies throughout these SFIs:

‘Accountable Officer’ means the responsible and accountable officer for funds entrusted to PHS. The Accountable Officer will be responsible for ensuring the proper stewardship of public funds and assets. For Public Health Scotland it will be the Chief Executive;

‘Board’ means the Board of Public Health Scotland;

‘Budget’ means a resource, expressed in financial terms, proposed by the Board for the purpose of carrying out, for a specific period, any or all of the functions of PHS;

‘Budget Holder’ means the director or employee with delegated authority to manage finances (Income and Expenditure) for a specific area of the organisation;

‘Chief Executive’ means the chief officer of PHS;

‘Contract’ means any arrangement giving rise to right and obligations between PHS and any one or more third parties whether legally enforceable or otherwise;

‘Head of Strategy, Governance & Performance’ means the corporate customer of Financial Services on behalf of PHS;

‘Senior Leadership Team (SLT)’ means the committee of executive officers of PHS appointed by the Board and given authority by the Board to act in accordance with its remit;

‘Financial Services’ means services provided to PHS by National Services Scotland (NSS);

‘NSS Director of Finance’ means the head of profession for Financial Shared Services;

‘Framework Agreement’ means a framework agreement in terms of the Public Contracts (Scotland) Regulations 2015;

'Director' means the chief officer of a Directorate of PHS; 'Legal Advisor' means the properly qualified person appointed by PHS to provide legal advice;

'Officer' means employee of PHS or any other person holding a paid appointment or office with PHS;

'PHS' means Public Health Scotland

'SGHSC' means the Scottish Government Health and Social Care Directorates.

- 1.08 Wherever the title Chief Executive, Head of Strategy, Governance & Performance, and Directors is used in these instructions, it will be deemed to include such other directors or employees who have been duly authorised to represent PHS.
- 1.09 Wherever the term 'employee' is used and where the context permits it will be deemed to include employees of third parties contracted to PHS when acting on behalf of PHS.
- 1.10 All references in these Instructions to the singular form will be read as equally applicable to the plural. Similarly, all references in these Instructions to the masculine gender will be read as equally applicable to any gender.

## **Responsibilities and Delegation**

- 1.11 The Board exercises financial supervision and control by:
- formulating the financial strategy;
  - requiring the submission and approval of budgets within approved allocations/overall income;

defining and approving essential features in respect of important procedures and financial systems (including the need to obtain value for money); and

defining specific responsibilities placed on members of the Board and Senior Leadership Team and employees as indicated in the Scheme of Delegation document.

- 1.12 The Board has resolved that certain powers and decisions may only be exercised by the Board in formal session. These are set out in the Reservation of Powers to the Board within the Standing Orders.
- 1.13 The Scheme of Delegation and remit of the Board Standing Committees adopted by PHS within the Standing Orders set out those responsibilities delegated by the Board.
- 1.14 Within the SFIs, it is acknowledged that the Chief Executive is ultimately accountable to the Board, and as designated Accountable Officer, to the Scottish Parliament in accordance with Section 17 of the Public Finance and Accountability (Scotland) Act 2000, for ensuring that the Board meets its obligation to perform its functions within the available financial resources. The Chief Executive has overall executive responsibility for PHS's activities; is responsible to the Chair and the Board for ensuring that its financial obligations and targets are met and has overall responsibility for PHS's system of internal control.
- 1.15 The Chief Executive will, as far as possible, delegate their detailed responsibilities, but remains accountable for financial control.

1.16 It is a duty of the Chief Executive to ensure that existing members of the Board and Senior Leadership Team, employees and all new appointees are notified of, and understand, their responsibilities within these SFIs.

setting the financial strategy for PHS in conjunction with the Chief Executive and the Board

reporting to the relevant standing Committees and Board on all aspects of financial governance, compliance and assurance;

Oversight of Internal and External Audit Services;

Managing performance of the SLA for corporate services provided by NSS, including financial services;

Oversight of the discharge of budgets and the budget setting process.

The NSS Director of Finance is responsible for:

implementing PHS's financial policies and for co-ordinating any corrective action necessary to further these policies;

maintaining an effective system of internal financial control including ensuring that detailed financial procedures and systems incorporating the principles of separation of duties and internal checks are prepared, documented and maintained to supplement these instructions;

ensuring that sufficient records are maintained to show and explain PHS's transactions, in order to disclose, with reasonable accuracy, the financial position of PHS at any time;

and, without prejudice to any other functions of PHS, and employees of PHS, the duties of the NSS Director of Finance include:

the provision of financial advice for presentation to the Board, Senior Leadership Team and employees;

the design, implementation and supervision of systems of internal financial control; and

the preparation and maintenance of such financial accounts, certificates, estimates, records and reports as PHS may require for the purpose of carrying out its statutory duties.

1.18

All members of the Board and Senior Leadership Team and all PHS employees, severally and collectively, are responsible for:

the security of the property of PHS;

avoiding loss;

exercising economy and efficiency in the use of resources;

conforming with the requirements of Standing Orders and SFIs; and

reporting, on discovery, any breach or non-compliance with SFIs.

1.19 All staff must be made aware of PHS's Fraud Action Plan and Whistleblowing Policy. The Counter Fraud Champion is responsible for ensuring that the requirements of the Fraud Action Plan are met and processes followed in all relevant situations.

1.20 The Directors should ensure that these SFIs and associated documents are made known to the appropriate persons within each Directorate and ensure that they are adhered to.

1.21 Any contractor, or employee of a contractor, who is empowered by PHS to commit PHS to expenditure or who is authorised to obtain income will be covered by these instructions. It is the responsibility of the Head of Strategy,

Governance & Performance to ensure that such persons are made aware of this.

- 1.22 For any and all members of the Board and Senior Leadership Team and employees who carry out a financial function, the form in which financial records are kept and the manner in which members of the Board and Senior Leadership Team and employees discharge their duties must follow the standards specified by the NSS Director of Finance.

### **Variation and revocation**

- 1.23 These SFIs may only be varied or revoked in accordance with the PHS Standing Orders.

## **Section 2 - Code of Conduct**

### **General Principles**

- 2.01 There is a general presumption against the giving or receipt of gifts and hospitality by employees of PHS, as governed by the PHS Standards of Business Conduct Policy. All employees should:

Not put themselves in a position where their official and private interests may conflict;

Have cognisance of the presumption of influence on a potential purchasing decision or strategic decision relating to the business objectives of PHS; and

Not make use of their official positions to further their private interests.

These guidelines should be read in conjunction with section 2.17 on bribery.

### **Activities involving the use of official information or experience**

- 2.02 Any employee of PHS (other than medical or dental staff engaged in clinical practice) should obtain permission from the relevant Director, before undertaking any form of third party work which involves the use of official NHS information, or their NHS experience.
- 2.03 All media broadcasts, television appearances or paid consultancy advice in a personal capacity by employees of PHS on matters relating to the work of PHS should be regarded as official duty, and no question of payment to individuals will normally arise. However, if the work of preparation for the media

broadcast/television appearance involves private, as well as official time, the Chief Executive may, at their discretion, allow an employee to retain the whole or part of any fee as appropriate.

## **Outside Occupation**

- 2.04 Employees of PHS are not allowed to accept any outside employment which would detriment their attendance and fulfillment of their normal working duties with PHS. Employees should notify PHS if they propose to take up outside employment which would, when both or more employments are combined, result in their average working week exceeding the maximum working week laid down in the Working Time Regulations 1998, currently 48 hours per week.
- 2.05 Employees are advised not to engage in outside employment which may conflict with their NHS work, or be detrimental to it.

## **Confidentiality**

- 2.06 No employee of PHS shall use for their own benefit or gain, or divulge to any persons, firms, companies or other organisation, any confidential information belonging to PHS, or relating to its affairs or dealings, which may come to the employee's knowledge during the course of their duties.
- 2.07 Notwithstanding this, any employee who has genuine concerns about operational issues and service delivery, particularly if the concerns relate to health and safety, malpractice or fraud has a right and responsibility to raise these. PHS aims to operate an open and fair culture whereby concerns can be raised and processes to deal with these concerns are transparent and supportive. In the event that concerns cannot be adequately addressed through internal processes, the PHS Whistleblowing policy would come into play.

## **Contracts and use of services of PHS contractors**

- 2.08 On starting employment, all PHS staff must declare any financial interests or relationships (e.g Honorary positions held) with any manufacturer, supplier or contractor, with whom PHS has, or is likely to enter into a contractual relationship, or any financial or other interests which may affect PHS's decisions. In addition, any employee engaged in ongoing activity or a project involving third parties must declare any relevant financial or other interests at the earliest opportunity to their Director and comply with any consequent requests or instructions made by PHS. Any PHS staff leading activity or projects with third parties must, at initiation and at all meetings thereafter, seek positive confirmation as to any such interests which those PHS staff present may have and take action accordingly. Any interests declared must be properly recorded in the minutes and records of the meetings.
- 2.09 In addition, members of the Senior Leadership Team of PHS will be asked quarterly to confirm their declarable interests.
- 2.10 No employee of PHS may purchase goods from, or use the services of, a contractor on preferential terms for private purposes, if these terms are given directly or indirectly because of the contractual or other official business relationship (whether potential or actual), between the contractor and PHS.

## **Acceptance of Gifts**

- 2.11 For the purpose of this section, a gift shall be taken to mean any personal, material and/or financial advantage or reward, including benefits such as relief from indebtedness, loan concessions or provision of services at a cost below that generally charged to members of the public.

As a general rule, all offers of gifts and hospitality from a supplier of potential supplier of PHS that could be seen to influence a purchasing decision by an

employee should be declined. All employees are responsible for their decisions connected with the offer or acceptance of gifts and hospitality, and for avoiding the risk of damage to public confidence in the organisation. It is usually appropriate to refuse offers except:

Isolated gifts of a trivial character or inexpensive seasonal gifts such as a calendar, diary, bookmark, or ornament, the value of which must not exceed £50;

Normal hospitality associated with your duties and which would reasonably be regarded as appropriate; or

Gifts received on behalf of Public Health Scotland.

It is recognised that, on occasion, a gift may be received from a patient or a donor as a 'thank you' for services received. These gifts would be difficult to refuse without causing offence. If they are of low intrinsic value, the principles outlined above should be applied. Should they be expensive, the respective Director should be consulted for a view on acceptance. In all cases in relation to gifts, it is recognised that it is PHS who is the owner of the received gift and not the individual employee.

## **Acceptance of Hospitality**

2.12 For the purpose of this section, hospitality shall be taken to mean an offer of food, drink, invitations to events, travel and/or accommodation.

As a guiding principle, hospitality should be refused. Modest hospitality, provided it is normal and reasonable in the circumstances, e.g. lunches in the course of working visits, may be acceptable when the scale of hospitality is similar to that which the NHS would be likely to offer in the circumstances. Where hospitality is provided at free events or conferences - where the object is to maintain knowledge or develop networks – this may be accepted, provided the hospitality is proportionate, for example, a sandwich lunch is likely

to be proportionate. Where not proportionate, staff should either refuse the hospitality or declare it on their return to the office. Should the hospitality be offered at a post-contract conclusion event, unless permission has been obtained in advance from the Director, this should be refused or be paid for by the employee. Where this has not been possible, the employee should declare it on their return to the office. Staff should always seek advice in relation to events of this nature as advised in paragraph 2.12 above.

Free standing gifts such as tickets to national sporting events or similar should be refused. Where PHS is a sponsor or partner in such events, the PHS guidelines on events sponsorship must be followed.

### **Procedure for completing and recording forms**

- 2.13 All details of any gifts and hospitality accepted must be reported and recorded in a Register of Gifts and Hospitality which will be maintained by HR, and the Executive and Governance Team will maintain a separate Register for the Board. This list will be made available for public inspection.

Annual reporting of the completed Register per financial year is approved by the Finance, Audit and Risk Committee and submitted to Senior Leadership Team for noting.

### **Use of Official Accommodation, Equipment or Vehicles**

- 2.14 No employee of the PHS may make use of, or make available for use, official accommodation, equipment, supplies, services or vehicles, for private purposes, without the prior permission of the Chief Executive.

- 2.15 Employees should not make inappropriate or unauthorised use of IT systems e.g. email and Internet access. The PHS guidelines governing the use of IT

systems, including those offered through a shared services route, should be referred to for further guidance.

## **Bribery**

2.16 The Bribery Act 2010 came into force on 1 July 2011 and makes it a criminal offence to take part in 'active' or 'passive' bribery or to fail to prevent bribery in an organisation:

(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.

(c) Bribery of a foreign public official (section 6 of the Act) makes it an offence to offer, promise or give a financial or other advantage to a foreign public official with the intention of influencing the official in the performance of his or her official function. Previously such payments may have been known as Facilitation Payments.

(d) Corporate offence (section 7 of the Act) states that an organisation may be liable if it fails to have adequate procedures in place to prevent bribery.

2.17 Employees must be committed to the prevention of bribery and all forms of corruption. PHS operates a zero tolerance approach to bribery committed by any person working at PHS and any person who provides services for or on behalf of PHS. Any allegation of bribery by a Board member, or employee will

be investigated in accordance with relevant processes and procedures and may be reported to the authorities, as appropriate.

2.18 The PHS approach to addressing fraud, which includes bribery, is set out in Section 3 of these SFIs.

## **Section 3 - Suspected Theft, Fraud & Other Irregularities**

### **Introduction**

3.01 PHS staff should be aware of the following publications in relation to fraud which are available on the Scottish Government website:

Scottish Executive HDL(2002)23 – Financial Control: Procedure where criminal offences are suspected;

Scottish Executive HDL(2005)5 – Tackling Fraud in NHS Scotland – Joint Action Programme, which updates HDL(2002)23;

Scottish Government CEL 3 (2008) - Strategy to Combat NHS Fraud in Scotland; Scottish Government CEL 33 (2010) – Tackling NHS Fraud Training DVD; and

The Bribery Act 2010.

The following procedures should be followed, as a minimum, in cases of suspected theft, fraud, embezzlement, corruption, bribery or other financial irregularities to comply with the above guidance.

In addition guidance and recommendations issued from time to time by PHS Counter Fraud Services to combat fraud should also be considered and implemented where necessary.

## **Theft, Fraud, Embezzlement, Corruption, Bribery and Other Irregularities**

- 3.02 PHS has a Fraud Action Plan in accordance with Scottish Executive HDL(2005)5. All PHS staff should be aware of the content of this plan and their responsibilities in relation to the prevention and detection of fraud including bribery and corruption and their duty to report any suspicious activity.
- 3.03 The Fraud Action Plan is reviewed as part of the overall annual review of corporate responsibilities, with amendments made as appropriate and submitted to the Finance, Audit and Risk Committee for endorsement as part of that overall review of corporate responsibilities.
- 3.04 The Fraud Action Plan will specify the form and content of PHS's Fraud and Other Illegal Acts Register, which is to be reviewed annually by the Finance, Audit and Risk Committee.
- 3.05 The Chief Executive has the responsibility to designate an officer, Counter Fraud Champion (CFC), within the Board with specific responsibility for co-ordinating action where there are reasonable grounds for believing that an instance of fraud, theft, embezzlement, corruption, bribery or other financial irregularity has occurred. The CFC will also be supported by a Fraud Liaison Officer (FLO) for PHS.
- 3.06 It is the CFC's responsibility, supported by the FLO, to inform as they deem appropriate, the police, Counter Fraud Services (CFS), the appropriate director(s), the Appointed External and Internal Auditors, the Chief Executive and the Chair of the Finance, Audit and Risk Committee, where such an occurrence is suspected. It should be noted that CFS does not routinely investigate the crime of theft, unless systematic losses have occurred and the use of covert surveillance is being considered.

3.07 Where any officer has grounds to suspect any of the above activities has occurred, they should report this to the FLO without delay. The FLO will ensure that there is consultation with CFS as set out in the Fraud Action Plan. It is essential that preliminary enquiries are carried out in strict confidence and with as much speed as possible. If the suspicion involves an executive director the matter should be reported to the Chair of the Finance, Audit and Risk Committee, the Chair of the Board, or to the Head of Internal Audit.

3.08 If, in exceptional circumstances, the CFC, the FLO and the Head of Internal Audit are unavailable the officer should report the circumstances to the Chief Executive who will be responsible for informing CFS. As soon as possible thereafter the FLO should be advised of the situation.

3.09 Where preliminary investigations suggest that *prima facie* grounds exist for believing that a criminal offence has been committed, CFS will undertake the investigation on behalf of, and in co-operation with PHS. At all stages the CEO, CFC, the FLO and the Head of Internal Audit will be kept informed of developments on such cases. All referrals to CFS must also be copied to the Appointed Auditor.

### **Remedial action**

3.10 As with all categories of loss, once the circumstances of a case are known the CFC will be required to take immediate steps to ensure that so far as possible these do not recur. However, no such action will be taken if it would prove prejudicial to the effective prosecution of the case. It will be necessary to identify any defects in the control systems which may have enabled the initial loss to occur, and to decide on any measures to prevent recurrence.

## **Reporting to SGHSC**

- 3.11 While normally there is no requirement to report individual cases to SGHSC there may be occasions where the nature and/or scale of the alleged offence or the position of the person or persons involved, could give rise to national or local controversy and publicity. Moreover, there may be cases where the alleged fraud appears to have been of a particularly ingenious nature or where it concerns an organisation with which other public health sector bodies may also have dealings. In all such cases, SGHSC must be notified of the main circumstances of the case at the same time as an approach is made to CFS.

## **Responses to Press Enquiries**

- 3.12 Where the publicity surrounding a particular case of alleged financial irregularity attracts enquiries from the press or other media, the Chief Executive will ensure that the relevant officials are fully aware of the importance of avoiding issuing any statements, which may be regarded as prejudicial to the outcome of criminal proceedings or potential actions of CFS. Advice on such issues will be provided by CFS.

## **National Fraud Initiative**

- 3.13 PHS participates in the National Fraud Initiative coordinated by the Cabinet Office and Audit Scotland for the prevention and detection of fraud and other financial irregularity. As part of this initiative PHS is required to share financial data including payroll data with NFI who will compare this data with other public sector bodies to highlight potential fraud. The FLO, in conjunction with the Head of Strategy, Governance and Performance, will investigate all queries arising through the initiative and take action in accordance with its findings.

## **Section 4 - Budgets, Projections and Budgetary Control**

### **Introduction**

- 4.01 PHS has a responsibility to prepare and submit financial plans in accordance with the requirements of SGHSC to the Board, SGHSC and COSLA, ensuring that the budgets reconcile to such plans.
- 4.02 PHS will perform its functions within the total of funds allocated by Scottish Ministers and through income from other Health Boards and from other sources. All plans, financial approvals and control systems will be designed to meet this obligation.
- 4.03 PHS's income consists of three elements:
- the PHS baseline allocation which is to be treated as an aggregate sum;
  - specific additional allocations of funding for projects and services sponsored by SGHSC and managed by PHS on behalf of NHSScotland;
  - Income earned from trading with other Health Boards and other third parties.

PHS's budget cycle in respect of its general allocation will be co-ordinated with its business planning arrangements and timetables as approved by the Board. The financial plans will be reviewed in detail by the Senior Leadership Team and the Finance, Audit and Risk Committee before being put to the Board for approval. This will include all funding managed by PHS on behalf of NHSScotland and any other funding streams.

All requests for additional baseline funding whether capital or revenue should be made using the PHS Business Case process.

The budget for specific ring-fenced projects will be agreed in advance of the projects commencement with SGHSC and will be supported by an approved business case. The Head of Strategy, Governance & Performance should be notified of any such projects at the earliest opportunity and will be responsible for ensuring funding is secured via additional allocations.

The budget cycle in respect all PHS functions, including projects and services managed by PHS on behalf of NHSScotland will be co-ordinated with SGHSC's and other partners' planning cycles.

## **Preparation of budgets**

4.04 The Head of Strategy Governance and performance will:

- (a) co-ordinate and provide oversight of the discharge of the budget;
- (b) own the budget setting;
- (c) agree the approach and assumptions for financial planning

The Finance Business Partner, NSS Financial Services will:

- (d) prepare a five year Financial Plan for PHS in line with SGHSC indications and joint sponsor agreements regarding likely levels of future allocation, for presentation to the Finance, Audit and Risk Committee prior to being put to the Board for approval;
- (e) advise the Directors of the funds available for budgetary purposes;
- (f) ensure that Directorate's business plans and budgets are in line with PHS's Financial Plan.

- 4.05 Each Director is the designated budget holder and is accountable to the Chief Executive and to the Board for the financial performance of their Directorate.
- 4.06 Each Director is responsible for ensuring the preparation, on an annual basis, of a Business Plan in the approved format that will be central to the proper management and control of the Directorate and for obtaining the agreement of the Chief Executive to the plan.
- 4.07 Prior to the start of the financial year the Director will prepare and submit budgets to the Chief Executive (and SGHSC in the case of projects and programmes managed by PHS on behalf of NHSScotland). Such budgets will:
- (a) be prepared within the limits of available funds as advised by the Finance Business Partner or SGHSC in the case of earmarked funds and additional allocations;
  - (b) meet any requirements of the Board or SGHSC;
  - (c) be in accordance with the aims and objectives set out in the Strategic Plan and Annual Operating Plan agreed with SGHSC and COSLA.
  - (d) accord with workload and workforce plans; and
  - (e) identify potential risks and opportunities.

### **Systems of budgetary control**

- 4.08 The Finance Business Controller, NSS Financial Services will monitor financial performance against budget and will ensure that a performance management process is in place to periodically review the finance plan.
- 4.09 The NSS Director of Finance will have a right of access to budget holders on budget-related matters, and be entitled to promptly and fully receive relevant information accordingly.

- 4.10 The NSS Director of Finance will devise, introduce and maintain systems of budgetary control, in consultation with Head of Strategy, Governance and Performance. All staff of PHS will ensure compliance with these systems.
- 4.11 Such systems will incorporate:
- (a) monthly financial reports to the Board in a form approved by the Board containing:
    - (i) income and expenditure to date showing trends and forecast year-end position;
    - (ii) capital project spend and projected outturn against plan on a monthly basis;
    - (iii) specific programme level reporting in respect of projects, programmes and services managed by PHS on behalf of partners, in line with the specific requirements defined by the Finance Audit and Risk Committee from time to time;
    - (iv) explanations of any material variance from Directorate's Finance Plans (material being defined as the higher of 10% and £100,000). For the purpose of reporting, materiality should be considered in relation to the total income, and the total pay and non-pay expenditure; and
    - (v) details of corrective action where necessary and the Head of Strategy, Governance & Performance's view of whether such actions are sufficient to correct the situation.
  - (b) investigation and reporting of variances from financial, workload and workforce budgets, including a requirement for finance staff to escalate any significant changes to income and expenditure to both the Head of Strategy, Governance & Performance and the Director;
  - (c) monitoring of management action to correct variances; and
  - (d) arrangements for the authorisation of budget transfers in the case of PHS's general allocation

(e) arrangements for the return of specific additional allocations or proposed virement in line with agreed conditions of funding award for funds managed by PHS on behalf of NHSScotland.

4.12 The Director is responsible for ensuring that:

(a) any likely overspending or reduction of income, which is not offset by corresponding reduction in expenditure, which cannot be met by virement is not incurred without the prior consent of the Head of Strategy, Governance & Performance in respect of the general allocation, in addition to SGHSC in respect of ring-fenced funds;

(b) the amount provided in the approved budget is not used in whole or in part for any other purpose other than that specifically authorised subject to the rules of virement;

4.13 The monthly financial returns from Directorates will report actual results against a revised budget reflecting in year allocations.

### **Budget limits**

4.14 The budgets adopted by PHS will be set so as to ensure that it meets the financial targets to contain its Revenue and Capital expenditure in each year within the limits approved by SGHSC and to meet the targets set by SGHSC regarding Cash Releasing Efficiency Savings (CRES) and cash requirement.

4.15 The Board will approve budget limits and set business performance targets for all Directorates except in respect of earmarked funds allocated for specific purposes by SGHSC. Overall responsibility for budgetary control will rest with the Chief Executive, who is the Accountable Officer of PHS.

4.16 The Chief Executive will, in turn, delegate this responsibility to senior officers in PHS within the context of an agreed performance assessment framework.

- 4.17 The Chief Executive and delegated budget holders must not exceed the budgetary total or virement limits set by the Board or SGHSC for other funds managed by PHS on behalf of NHSScotland.
- 4.18 Any budgeted funds within PHS's general allocation not required for their designated purpose(s) revert to the immediate control of the Chief Executive, subject to authorised use of virement (see below). In relation to earmarked funds and other funds managed by PHS on behalf of NHSScotland, budgeted funds not required for their designated purpose revert to the immediate control of either SGHSC's or Health Board Chief Executives as appropriate, subject to the authorised use of virement (see below).
- 4.19 As part of monthly financial reporting arrangements, the Director delegated authority to manage earmarked funds and other funds managed by PHS on behalf of NHSScotland, must report formally to the Chief Executive where budgeted funds are not required.

The Head of Strategy, Governance and Performance will be responsible for making arrangements to return un-required funds to SGHSCD in line with agreed protocols. NSS Financial Services will action any approved returns.

Non-recurring budgets will not be used to finance recurring expenditure without the prior approval of the Chief Executive and SGHSCD where appropriate.

4.20

- 4.21 Within PHS's general allocation, the Chief Executive or the Board, as appropriate, must approve expenditure not covered by an approved budget in advance. Further details are contained at Appendix I.

- 4.22 Irrespective of the approved budget levels, commitment of expenditure by budget holders must comply with procurement rules (see section 6 to 9 of these SFIs). In particular, approval of any contract award should be in accordance with section 7 of the SFIs and the approval levels set out in 7.03 and 7.05.

## **Virement**

- 4.23 Virement is the re-allocation of budget authority. It involves reducing the level of budget at one or more Budget Centres and correspondingly increasing the level of budget at one or more other Budget Centres.
- 4.24 There is an over-riding requirement on the Board to contain expenditure within PHS's Revenue Resource Limit (RRL). Therefore, it may be necessary in certain circumstances for the Chief Executive to impose virement and vary the budget of an individual Budget Holder.
- 4.25 Subject to the foregoing rules, planned or fortuitous savings may be redeployed within PHS's general allocation provided that the Head of Strategy, Governance & Performance has verified that:
- (a) they do not arise from major alterations in service provision;
  - (b) they are not part of an efficiency savings initiative;
  - (c) the level of service defined in the Business Plan has been or will be achieved;
  - (d) details of the savings figures have been provided to the Head of Strategy, Governance & Performance;
  - (e) non-recurring savings are not committed recurrently;
  - (f) the Budget Centre in total is expected to remain within budget by the end of the year;
  - (g) the alternative use does not conflict with PHS policy.

Virement within earmarked capital / non recurring funds and in respect of funding managed by PHS on behalf of NHSScotland is only permitted with prior approval of SGHSC.

### **Financial consequences of change**

- 4.26 The NSS Director of Finance will keep the Chief Executive and Head of Strategy, Governance and Performance informed of the financial consequences of changes in policy, pay awards and other events and trends affecting budgets and will advise on the financial and economic aspects of future plans and projects.

## **Section 5 - Staff Appointments, Remuneration and related matters**

### **Remuneration Committee**

- 5.01 In accordance with Standing Orders, the Board will establish a Remuneration Committee, with clearly defined terms of reference, specifying which posts fall within its area of responsibility, its composition, and the arrangements for reporting.

### **Staff appointments**

- 5.02 The Board will delegate responsibility to a manager for:
- (a) ensuring that all employees are issued with a Contract of Employment in a form approved by the Board; and
  - (b) dealing with variations to, or termination of, contracts of employment.

both in a form which complies with employment legislation

- 5.03 No officer of the Senior Leadership Team or employee may engage, re-engage, or regrade employees, either on a permanent or temporary nature, or hire agency staff, or agree to changes in any aspect of remuneration:
- (a) unless within the limit of his approved budget and funded establishment; or
  - (b) in exceptional circumstances if authorised to do so by the Chief Executive.

- 5.04 The Board will approve or delegate to a Board Committee the approval of procedures presented by the Chief Executive for the determination of commencing pay rates, condition of service, etc, for employees.

- 5.05 All employee contracts will conform to relevant standard NHS terms and conditions. Any variation from standard terms and conditions will require prior approval of the Chief Executive and NSS Director of Human Resources and Workforce Development.
- 5.06 The Chair of the Remuneration Committee will approve all new or additional jobs created on a range with a salary maximum of £75,000 or over. In addition they will agree all appointments where the lower half of the salary range will not secure the preferred candidate.

### **Processing of payroll**

- 5.07 The NSS Director of Finance is responsible for ensuring that appropriate arrangements exist for:
- (a) specifying timetables for submission of properly authorised time records, expense claims and other notifications;
  - (b) the final determination of pay and allowances;
  - (c) making payment on agreed dates; and
  - (d) agreeing method of payment.
- 5.08 NSS as service provider, will issue instructions regarding:
- (a) verification and documentation of data;
  - (b) the timetable for receipt and preparation of payroll data and the payment of employees and allowances;
  - (c) maintenance of subsidiary records for superannuation, income tax, national insurance contributions and other authorised deductions from pay;

- (d) security and confidentiality of payroll information;
- (e) checks to be applied to completed payroll before and after payment;
- (f) authority to release payroll data under the provisions of the Data Protection Act and National Fraud Initiative;
- (g) methods of payment available to various categories of employees and officers;
- (h) procedures for payment by cheque, bank credit, or cash to employees and officers;
- (i) procedures for the recall of cheques and bank credits;
- (j) pay advances and their recovery;
- (k) maintenance of regular and independent reconciliation of pay control accounts;
- (l) regular reconciliation of key standing data between the payroll system and the Human Resources Business Systems;
- (m) separation of duties of preparing records and handling cash;
- (n) a system to ensure the recovery from leavers of sums of money and property due by them to PHS; and
- (o) procedures for reclaiming expenses incurred wholly, necessarily and exclusively for business purposes.

5.09 Appropriately nominated managers and Senior Leadership Team members have delegated responsibility for:

- (a) completing and authorising time records, and other notifications in accordance with instructions and in the form prescribed by NSS Director of Finance;
- (b) submitting time records, and other notifications in accordance with agreed timetables; and

(c) submitting termination forms in the prescribed form immediately upon knowing the effective date of an employee's or officer's resignation, termination or retirement. Where an employee fails to report for duty or to fulfil Senior Leadership Team obligations in circumstances that suggest they have left without notice, the Chief Executive must be informed immediately.

5.10 Regardless of the arrangements for providing the payroll service, the Head of Strategy, Governance and Performance will ensure that the chosen method is supported by appropriate (contracted) terms and conditions, adequate internal controls and audit review procedures and that suitable arrangements are made for the collection of payroll deductions and timely payment of these to appropriate bodies.

### **Termination Settlements**

5.11 In the case of a termination settlement, a cost/benefit statement must be prepared followed financial and HR processes for submission to the Chief Executive to demonstrate the financial effect of the decision. This statement will be in a form approved by the Remuneration Committee. In all cases, the appropriate Director and the Chief Executive must sign the statement in support.

5.12 Where the full cost of the settlement exceeds £75,000, the case must be submitted to the Remuneration Committee for approval. The Chief Executive will be responsible for authorising settlements where the total cost is less than £75,000. An annual report of all such instances will be presented to the Remuneration Committee by the Chief Executive.

- 5.13 Approval from or notification to SGHSC of any settlement agreements will be done in conjunction with relevant guidance issued by SGHSC.
- 5.14 Prior to payment of any termination settlement the Head of Payroll Services at NSS will ascertain from the Chief Executive that the settlement has been duly authorised.

### **Ex Gratia Payments**

- 5.15 All ex gratia payments made to staff will be approved in line with section 17 on losses and special payments. An annual report of all such payments will be presented to the Remuneration Committee by the Chief Executive.

## **Section 6 – Non Pay Expenditure - Procurement**

**This section deals with obtaining goods, works or services solely for PHS own use.**

- 6.01 All procurement must be undertaken in line with the following;
- Procurement Reform Act (Scotland) 2014
  - The Procurement (Scotland) Regulations 2016
  - Public Contracts (Scotland) Regulations 2015
  - Utilities Contracts (Scotland) Regulations (2016)
  - Concessions Contracts (Scotland)
- 6.02 All procurement must also incorporate the principles set out in the Scottish Government – Scottish Procurement Policy Handbook 2008; the SG published Procurement Journey or any subsequent revisions to that Handbook or Journey guidance.

- 6.03 Capital works must be undertaken in line with the requirements set out in the Scottish Government Scottish Capital Investment Manual and the Construction Procurement Manual (December 2005) or any subsequent amendment or revision of those documents issued by Scottish Government.
- 6.04 All procurements of IT related goods or services are required to be approved by the NSS Digital and Security team in line with best practice procurement and expenditure limits.
- 6.05 In addition, the Key Procurement Principles set out in Scottish Government, Directorate for Health Finance and Information, CEL 05 (2012) dated 1 March 2012 should be adhered to.

It is the responsibility of everyone involved in the process of commitment of Non-Pay Expenditure – Procurement to familiarise themselves with the requirements commensurate with their intended procurement. Guidance can be sought from and will be provided by the relevant NSS Procurement staff.

### **Existing Central Contracts and Frameworks**

- 6.06 Each Director is required to ascertain, prior to ordering any goods, works or services, whether a central contract or framework exists for these goods, works or services. Where such a central contract or framework exists it must be used unless the Head of Strategy, Governance & Performance or nominee authorises the exception. A central contract or framework may be one established by National Procurement on behalf of NHSS or by Scottish Government or some other government agency from which PHS can derive benefit. Consideration must be given to the explicit arrangements of central contracts or frameworks to ensure that they are appropriately applied within PHS.
- 6.07

Advice should be sought from NSS Procurement teams prior to the use of central contracts or frameworks not negotiated by National Procurement to ensure that the correct interpretation on their use is made and best value is obtained. This may include referral for guidance to PHS legal advisers where appropriate. Procurement guidance can be located on PHS Procurement portal within Service Now.

If no contract or framework currently exists, the procedures set out in Sections 7 and 8 must be followed.

### **Delegation of authority**

- 6.08 Each Director will designate an officer(s) who will be empowered, **within defined limits**, to authorise the creation of PHS's official purchase orders on behalf of their respective Directorate. The authorisation of a Purchase Order commits expenditure on behalf of PHS and, following completion of the relevant procedures, the disbursement of PHS funds to the supplier.
- 6.09 Where manual authorisation is required, the Chief Executive will notify the NSS Finance in a prescribed format, on a quarterly basis, of all such officers with their defined authorisation limits. Each Director will be responsible for ensuring that system based approvals for non pay expenditure are up to date and accurate at all times.
- 6.10 Each Director will be responsible for ensuring that all goods, works and services are procured via an agreed best practice purchasing method, such as the raising of a Purchase Order via an approved PHS purchasing system or procured via an authorised Credit Card.

## **Choice, requisitioning, ordering, receipt and payment for goods and services**

### **General**

6.12 The NSS Director of Finance will:

- (a) ensure that appropriate arrangements are in place for the prompt payment of all properly authorised accounts and claims, in accordance with the Better Payment Practice Code;
- (b) be responsible for designing and maintaining a system of verification, recording and payment of all amounts payable. The system will provide for:
  - (i) an electronic list of Senior Leadership Team members/employees (including specimens of their signatures) authorised to certify non Purchase Order invoices;
  - (ii) all invoices received from suppliers will be registered on PHS's Accounts Payable System. Invoices that are not a bona fide charge on PHS must be passed to the Head of Strategy, Governance & Performance together with any available explanation within 24 hours of receipt;
  - (iii) certification that:
    - goods have been duly received, examined and are in accordance with specification and the prices, extensions, calculations, trade discount, other allowances, credits and tax are correct;
    - work done or services rendered have been satisfactorily carried out in accordance with the order, and, where applicable, the materials used are of the requisite standard and the charges are correct;
    - in the case of contracts based on the measurement of time, materials or expenses, the time charged is in accordance with the time sheets, the rates of labour are in accordance with the

appropriate rates, the materials have been checked as regards quantity, quality, and price and the charges for the use of vehicles, plant and machinery have been examined;

- where appropriate, the expenditure is in accordance with regulations and all necessary authorisations have been obtained;
- the account is arithmetically correct;
- appropriate entries have been made in purchasing and payment systems, registers, inventories, stores or similar records as required;
- the appropriate expenditure code numbers are charged with the cost;
- VAT has been appropriately applied; and
- the account is in order for payment.

(c) Ensure that procedures are in place for the handling and payment of accounts within NSS Financial Services.

(d) Ensure that payment for goods, works and services is only made once the goods, works and services are received, (except as below).

6.13 Directors must ensure that they comply fully with the guidance and limits specified by the Chief Executive / the delegated authority from SGHSC in respect of earmarked funds and that:

(a) the purchase of goods by PHS will be in accordance with extant guidance issued by SGHSC and the Scottish Government Scottish Procurement and Commercial Directorate. In addition, circumstances involving specialist requirements should be written or adopted by the ordering officer on advice from NSS's Procurement Departments or Central Legal Office;

(b) all leases and tenancy agreements which may result in a liability are notified to the Head of Strategy, Governance & Performance in advance of any commitment being made;

- (c) no requisition/order or contract acceptance is placed for any item or items for which there is no budget provision unless authorised by the Chief Executive;
- (d) all goods, services, or works (except purchases from petty cash) are ordered on an official order form (or, in exceptional circumstances verbally – see 7.10(h) below) prior to receipt of goods/services/works and invoice;
- (e) verbal orders may only be issued under exceptional circumstances - by an employee designated by the Director within their delegated limit, and authorised by the Director, and only in cases of emergency or urgent necessity for critical goods or services. These must be confirmed by an official order as soon as possible, and clearly marked 'Confirmation of verbal Order';
- (f) orders are not split or otherwise placed in a manner devised so as to avoid the financial thresholds contained within these SFIs and/or legal requirements;
- (g) goods or services are not purchased, taken on trial or loan in circumstances that could commit PHS to a future non-budgeted expenditure or uncompetitive purchase;
- (h) changes to the list of Senior Leadership Team members/employees and officers authorised to certify non Purchase Order invoices are notified to the NSS Director of Finance;
- (i) purchases from cash imprests, are restricted in value and by type of purchase in accordance with instructions issued by the Head of Strategy, Governance & Performance; and
- (j) official orders will only be placed where an arms-length relationship exists with the supplier.

### **Choice, requisitioning and ordering of goods and services**

- 6.14 The requisitioner or officer placing the order, in choosing the goods to be supplied (or the service to be performed) and the procurement process to be followed must always seek to obtain the best value for money for PHS and NHS Scotland.
- 6.15 The Chief Executive will set out procedures on the seeking of professional advice regarding the supply of goods and services in line with SGHSC guidance and recognised best practice.
- 6.16 All orders of any kind will only be made on official order forms. The NSS Director of Finance will inform all existing and proposed suppliers of this restriction. All orders, will be raised using the approved e-Procurement system where the supplier adoption process has been carried out. Orders will be electronically authorised.
- 6.17 Official Orders must:
- (a) be consecutively numbered;
  - (b) be in a form approved by the Head of Strategy, Governance & Performance;
  - (c) contain information on goods/service being purchased, volume, costs and prices as necessary; and
  - (d) incorporate an obligation on the supplier to comply with the applicable PHS or other contract or framework agreement terms and conditions related to the purchase, delivery, carriage, documentation, variations, etc.

### **Receipt of goods**

- 6.18 Directors are responsible for ensuring that goods are receipted accurately and timeously.

- 6.19 Failure to receipt goods, works or services in a timely manner creates downstream processing problems and reduces the ability of PHS to pay suppliers promptly. The Head of Strategy, Governance & Performance will ensure that mechanisms are in place to monitor the receipting of goods, works or services. Where individual officers continually fail to receipt goods, works or services in a timely manner this will be made known to the relevant Director and may result in further action.

### **Payment for goods and services**

- 6.20 The NSS Director of Finance will ensure that appropriate arrangements are in place for the prompt payment of accounts and claims. Payment of contract invoices will be in accordance with contract terms, or otherwise, in accordance with national guidance.
- 6.21 No officer may authorise a supplier's invoice for clearance through PHS's Accounts Payable system that has been derived from a purchase order physically or electronically signed by him.
- 6.22 All payments will be made within PHS's normal terms of trade although special regard should be given to available prompt payment discounts. Under normal circumstances, non-contractual payments will not be made for goods or services in advance of their receipt or performance. Notwithstanding, the Head of Strategy, Governance & Performance may authorise such advance payments where it can be demonstrated to be in the interests of PHS or NHSScotland. All such circumstances will be recorded and presented to the Finance, Audit and Risk Committee, annually as appropriate, for review and to confirm appropriateness.

- 6.23 NSS Director of Finance is responsible detecting any overpayments and recovery initiated.
- 6.24 In line with CEL 05 (2012) – Key procurement principles, PHS must implement a policy where no payment shall be made to any supplier where there is no pre-let purchase order. Only if a separately agreed payment mechanism has been pre-arranged and approved by the Head of Strategy, Governance & Performance should direct payments be made. Each supplier should be formally notified of this and the limit of the PHS liability if they proceed with supply without such order cover.

## **Section 7 - Contracting Requirements**

- 7.01 Specific rules for the placing of contracts by Directorates of PHS are shown at Sections 6 and 8.
- 7.02 If a new order, contract or contract extension is required, there are five elements to consider ensuring compliance with these SFI's.
- 1) Early engagement of the NSS Procurement Department
  - 2) The procurement process required – this varies by value and is set out in Section 8.03
  - 3) PHS spend – level of spend dictates authority required as set out below in 8.03.
  - 4) Total spend – if other bodies (e.g. Health Boards) are part of the contract PHS is negotiating, then the total value dictates the PHS authority required as set out in Section 8.05.

## 5) General requirements – as set out below from 7.06 onwards

For the avoidance of doubt, the rules set out in this section relate to the approval of procurement through contractual and framework agreements and not to the approval of budget. Prior to any contractual/framework agreement being approved appropriate funding should have been identified and approved in line with section 4 above.

### 7.03 **PHS Contract Agreement**

A tender report, signed by NSS Director of Finance and the Head of Procurement to provide assurance that process has been followed, will be provided prior to award on behalf of PHS itself of any contract or Framework Agreement or call off by PHS of any Framework Agreement (or extension of any contract or Framework Agreement or call off same), where the annual amount (or amount relating to the extension period if shorter) which PHS is committing to pay is:

- less than £100,000 approval is required from the Director.;
- more than £100,000 but less than £500,000 approval is required from Head of Strategy, Governance and Performance /Chief Executive;
- more than £500,000 approval is required from the PHS Board through the Finance, Audit and Risk Committee, following approval from the Chief Executive as above.

Wherever practicable, approval for contract extensions should be sought on a timely basis so that should extension approval not be granted that there is sufficient time to run the appropriate procurement process set out in these SFIs. For all contract extensions which require authorisation by the Chief Executive or the PHS Board, either approval should be sought in sufficient time to run an appropriate procurement process or an exemption must be agreed by the Chief Executive / PHS Board

Guidance on completing the Approvals Protocol should be sought from NSS Procurement team.

Planning of PHS Contracts / Frameworks should ensure that sufficient time is allowed for the necessary approval route.

## **General Requirements**

### **7.04 Advertising**

In accordance with the Procurement Reform Act (Scotland) 2014, any contract between £50,000 and OJEU value over its lifetime is considered a regulated contract. Guidance in tendering these contracts must be sought from NSS Procurement.

### **Signing of contracts**

7.05 The official signing of any contract or framework agreement that requires Board approval (as per sections 7.03 and 7.05 above)

### **Records of contracts**

7.06 To effect compliance with the Procurement Reform (Scotland) Act 2014, PHS' utilises the Public Contracts Scotland (PCS) web portal contract register functionality to maintain a public register of all contracts in excess of £50,000 in value. However it is the PHS aim to continuously improve processes in order to move toward a solution where all contracts of over £10,000 in value are placed on this public register. The Head of Strategy, Governance & Performance will receive a copy of the register on an annual

basis. This will also enable completion of the EU Statistical returns on behalf of the PHS.

### **Variations to contracts**

- 7.07 All agreements with suppliers/contractors to vary contracts for supplies/works of a revenue or capital nature will be under specified procedures agreed by the Head of Strategy, Governance & Performance
  
- 7.08 Claims from suppliers/contractors which are not clearly within the terms of the contract concerned will be referred to the Chief Executive and/or Head of Strategy, Governance & Performance if necessary, before agreement is reached and any payments are made.
  
- 7.09 Where completion of a contract is delayed the matter will be referred to the Head of Strategy, Governance & Performance for further action.
  
- 7.10 With regard to contracts for works (capital expenditure), the contract will specify the circumstances that will occur before a variation is appropriate. The officer authorised to supervise and control the work must ensure these conditions are observed before authorising any contract variation

## Section 8 – Tenders and Quotations

### Introduction

- 8.01 These SFIs define the arrangements for tendering or receipt of quotations. They apply for procuring or ordering goods or services for which no applicable public sector contract or framework agreement currently exists that PHS can use.
- 8.02 The NSS Head of Procurement is responsible for ensuring the maintenance of systems for the invitation, receipt, safe-keeping and selection of tenders and quotations, which will include a register of tenders.

The thresholds for the purchasing/ordering of all goods, services and works within PHS's earmarked allocation are as follows:

8.03

Thresholds	Purchasing Process
Contract value < £10,000	Achievement of value for money should be demonstrated. Where possible, this will be through receipt of three competitive quotations from reputable suppliers. (In the absence of such quotes, the purchaser must be prepared to justify the procurement route chosen to the Head of Strategy, Governance & Performance if asked to do so).
Contract value > £10,000 and < £50,000 (except public works)	A minimum of three competitive written quotations to be received from reputable suppliers, subject to section 8.12 below. Suppliers may be identified by searching the

Public Works <£2m	register of suppliers on the Public Contracts Scotland (PCS) web portal or with assistance from NSS Procurement. Quotes must be obtained using The Public Contracts Scotland website 'Quick Quote' system. Guidance on the use of PCS can be obtained from NSS Procurement.
Contract value £50,000 or more over its lifetime (4 years maximum) (except public works)  Public Works £2m or greater	Tendering process applies and advice and assistance must be sought from NSS Procurement before proceeding. The contract must be advertised on Public Contracts Scotland or other available and approved government procurement system.
Contract with an estimated value equal to or greater than the published OJEU threshold (see 8.07 below)	A full EU tendering process must be undertaken in line with the requirements of the Public Contracts (Scotland) Regulations 2015. This must be done with full advice and guidance of NSS procurement and other technical and legal advisors as required. The contract must be advertised on Public Contracts Scotland.

8.04 In order to ensure that value for money is achieved it is essential that a sufficient number of competent, financially sound suppliers with adequate capacity to undertake the work or provide the goods/service are identified. As part of value for money, due regard to other relevant organisational

policies is important, for example, policies in relation to corporate social responsibility/sustainability and risk management.

If a purchase is likely to be above the relevant EU threshold (see 8.07 below), publication of the appropriate advertising and other associated documentation within the Official Journal of the European Union (OJEU) is mandatory and EU procurement processes apply. This should be by advertising via the Public Contracts Scotland portal as outlined at 7.04 and 8.03 above.

In the case of Goods and Services, the estimated value of the contract must include all possible options under the contract. For example, if the contract allows PHS to aggregate requirements, purchase additional supplies or services or extend the contract period beyond its original duration, the financial implications of these must be included in the estimate of the potential contract value; even if the likelihood of taking up these options is small. This will assist in ensuring the appropriate best practice procurement route is chosen

In the case of Works, purchasers are required to estimate the value of the whole works project, irrespective of whether or not it comprises a number of separate contracts for different activities, stages or phases of an individual project.

All procurement should be undertaken in line with the SG Scottish Procurement Policy Handbook, the Scottish Public Procurement Toolkit, the Scottish Government Procurement Journey and the Scottish Capital Investment Manual where appropriate, and PHS published procurement guidance material approved by the Procurement Steering Group.

- 8.05 Any purchase that falls within the requirements of the tendering process should be routed through the NSS Procurement. Procurement managers will

ensure that standardised PHS procurement processes are followed and that PHS complies fully with EU Procurement Legislation and SG policy.

8.06 All contracts with an estimated total value of £50,000 or more (see 7.04) must be advertised on the Public Contracts Scotland Advertising Portal. Subsequent award information must also be placed on the Portal in line with Procurement Reform Act (Scotland) 2014. PHS Procurement will provide guidance to Directorates for these processes.

8.07 The EU Directives must be applied when the estimated contract value exceeds the procurement thresholds set by the EU and which are revised from time to time. In cases of doubt, advice should be sought from the relevant PHS Procurement Manager.

Guidance on the current EU procurement thresholds should be sought from the PHS Procurement Department.

8.08 In certain circumstances it may not be possible to competitively tender a requirement. To remain compliant with SFIs and Procurement Regulations PHS employ a sole source justification procedure which can be accessed via Service Now.

8.09 No tender may be invited for goods, services or works unless the estimated expenditure is included in the Directorate's Budget or Business Plan or has been previously approved by the Chief Executive.

8.10 Tender submissions should be sought by use of the SG supported e-Tendering system or the Public Contracts Scotland web portal or another approved Public Sector web portal.

8.11 All Tenders must be appraised against the [European Single Procurement Document \(ESPD\)](#). This is a statutory requirement that ensures all

mandatory & discretionary exclusion criteria are appropriately assessed for each bidder. Where existing Framework Agreements are to be used, the procedures set out in that Agreement must be followed. Guidance on the use of the ESPD should be sought at all times from the NSS Procurement Department.

### **Tendering Requirements**

8.12 Each Director is responsible for ensuring that tender documents and invitations to tender (ITT) are prepared which comply with legislation, the SG Procurement Journey and must:

- have a covering letter

- provide clear instructions to the tenderer including stating the last date and time when tenders will be received;

- have a clear specification of requirements

- have the appropriate PHS standard or specific terms and conditions

- have clear Schedules to the tender for completion by tenderers e.g. the Form of Tender, Pricing Schedules, Non collusion certificate

- Specify the award criteria and their relative weightings

- Specify the award process and timescales

- Specify the appeals process

In compiling the ITT care should be taken to ensure that it sets out all obligations of the parties in a clear, complete, concise and unambiguous way.

Under conditions approved by the Director and where the public sector electronic tendering system is used, electronic tender submissions will be accepted as set out at 8.10 above.

8.14 Tenderers must be advised that PHS reserves the right to accept a tender based on best Price / Quality ratio offering best value for money and other than the lowest price or to accept no tender at all.

8.15 Where electronic tendering systems are used, suppliers may be able to submit a late offer in line with PHS Procurement procedures.

8.16 The tender evaluation panel should comprise of the customer(s), procurement and any other relevant officers with sufficient technical ability to evaluate detailed tenders. The evaluation must be against the pre-determined and published award criteria from the ITT and full records on the decision making process and outcomes must be maintained. The panel will:

evaluate the tenders in line with the published ITT criteria and methodology;

maintain records of the evaluation and decision making process

make the recommendation for award in a published, signed report; and ensure PHS procurement procedures are adhered to.

debrief unsuccessful tenderers

ensure that applicable legislative timescales are maintained

8.17 Before accepting a tender the Director must be satisfied that all required processes and procedures in compliance with EU procurement legislation have been adhered to.

- 8.18 The Director must ensure that all accepted tenders have the appropriate details entered onto the PHS contract register which will be maintained by the PHS Procurement Department.
- 8.19 The Director must ensure that all tender documentation, reports and records must be retained and stored in line with PHS document management and retention policy.
- 8.20 An officer or executive having a pecuniary interest, whether direct or indirect, in any tender with PHS must declare this interest to the Head of Strategy, Governance & Performance who must ensure such details are entered in the Register of Pecuniary Interest. Such officers must also disqualify themselves from any involvement in the tender procedures.
- 8.21 Each Director must ensure that every contract contains a clause entitling PHS to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if the contractor or his representative, with or without his knowledge, has colluded in tendering for the contract or any other contract with PHS or has employed any corrupt or illegal practice in obtaining or executing that or any other contract with PHS.
- 8.22 Except where otherwise agreed all contracts will be in writing and subject to the Law in Scotland.

## Section 9 - Appointment of Advisers and non-permanent staff

### Introduction

9.01 These SFIs define the procedures to be followed in the selection and appointment of Advisers and staff not on open-ended contracts and should be read in conjunction with Sections 6 and 7.

<b>Provider</b>	<b>Process</b>
Legal Advisers	CLO must act as appointed legal advisers on all legal matters unless approval has been granted by Chief Executive.
Management Consultants/ Contractors (individuals and companies)	This section 9. The authority limits in section 7.03 also apply.
Agency staff	In line with all establishment posts, agency and contractor staff will be recorded on the relevant PHS Business Systems to ensure compliance with the National Directory and NHS Mail access for all members of staff and to allow for effective monitoring of all staff across PHS. Agency staff must be appointed in line with the PHS Agency Workers Process including a requirement to utilise any national procurement framework or contract in place for such staff within NHSS. Completion of an

		online 'check of employment status for tax' must also be carried out prior to the start of any engagement. The authority limits in section 7.03 also apply
Secondees		Before appointing any Secondees to work in PHS, the relevant Director must be consulted and their approval to proceed should be given prior to proceeding with any appointment
Temporary/Fixed Employees	Term	Normal HR recruitment

### Definition

9.02 Contractors are used by PHS -

- a) to provide specific expertise which may not be readily available within PHS;
- b) to perform a task within a defined time span; or
- c) to provide an outside objective view on a particular matter.

### Specification of Need

9.03 In considering the need for Management Consultants/Contractors it is essential that the following processes are adhered to:

- a) **Define assignment to be undertaken:** The nature of the task requires to be identified and a specification with the timescale prepared. This will enable the quantity and quality of professional skill required to be assessed.

- b) **Consider alternative means of undertaking assignment:** Having prepared the specification it should be possible to consider whether the Directorate's own staff can undertake the assignment, within normal working hours, in overtime hours or on a secondment basis. If this is not possible the option of involving other Directorates' staff on a secondment should be explored **before** any consideration of an outside source is made. Should outside support be necessary the suitability of temporary staff should be considered before finally deciding to progress to the process leading to the appointment of Management Consultants/Contractors.
- c) **Define the basis of the consultancy:** It is necessary to decide the appropriate method of appointment, for example if the end date of the assignment and timescale can be clearly identified a block fee would be appropriate. However it is recognised that it is not always possible to do this and in such circumstances a day rate basis would be appropriate.

### **Procedures for appointment**

- 9.04 The applicable procurement procedures and limits set out in sections 6, 7 and 8 must always be followed.
- 9.05 Before appointing Management Consultants/Contractors the relevant Director must be consulted and his approval to proceed should be given prior to proceeding with any appointment.
- 9.06 For each appointment, a file will be set up and a checklist included in the file listing all items that must be included. This will include a copy of the HMRC online assessment which will determine the employment status for tax purposes of the engagement.

9.07 The use of any available SG or other Government agency procurement frameworks agreements for Business Management Consultancy services or any other Consultancy Services provision must be considered and used where appropriate. Any exception to this must be approved by the Director. Details of available consultancy frameworks can be obtained from NSS Procurement team.

When considering the assignment it is appreciated that it may not always be possible to estimate the value or the timescale. In such cases however it should be possible to ascertain the range and nature of skills required and the likely number of days work required. This will enable competitive quotations or tenders to be obtained, as above, on a day rate basis. If this approach is appropriate it is essential that the schedule of day rates is maintained and updated no less frequently than annually and documentary evidence retained.

9.08 In considering the suitability of a Management Consultant/Contractor, the selection process must ensure that appropriate consideration is given to the particular experience and reputation of the individual(s)/organisation.

9.09 In making the appointment the officers must satisfy themselves that the Management Consultant/Contractor is competent to undertake the assignment and must maintain and retain documentary evidence of their consideration of this matter.

9.10 It is imperative that the professional competence of the Management Consultant/Contractor is vetted by the Director who must prepare and retain documentary evidence of this consideration.

9.11 Where a Management Consultant/Contractor has been appointed due to a lack of specific expertise being available within PHS, arrangements should be made wherever practical for knowledge or skills transfer into PHS to occur.

The anticipated knowledge or skills transfer should be documented and tracked thereafter.

### **Tendering Arrangements**

- 9.12 In all circumstances, the arrangements for tendering set out in Section 8 will be followed.
- 9.13 Particular attention is drawn to the need to ensure that adequate provision has been made in the annual budget for the sums involved.

### **Functional Continuity**

- 9.15 Where for whatever reason it is decided to extend the appointment of a Management Consultant/Contractor and this will increase the value of the initial or current assignment sufficient to move it into a higher value band (see Section 7) the materiality of any such extension should be measured and appropriate legal advice sought from CLO prior to the approval of the Chief Executive and/or the Head of Strategy, Governance & Performance must be obtained before proceeding to extend the appointment.
- 9.16 Similarly CLO advice should be sought and the Chief Executive's and/or the Head of Strategy, Governance & Performance's approval must be obtained in all cases where the value or timescale of the extension cannot be estimated.

### **Authorisation and Payment of Invoices**

- 9.17 The officer responsible for ensuring that the work to be undertaken in the assignment has been carried out satisfactorily will certify invoices for work done and will ensure that the fee charged is correct.

9.18 Thereafter payment will be in accord with normal practice.

### **Review of Assignments**

9.19 The Director is responsible for conducting a review of the effectiveness and value for money of the assignment prior to the departure of, or as soon as practicably possible thereafter, the appointed Management Consultant/Contractor. Internal Audit or any other body as may be required should record details of such review for the purposes of any subsequent independent scrutiny.

### **Value for Money**

9.20 Throughout the whole procurement process of developing need, specification, tendering, appointment and payment the officers involved in the exercise are responsible for ensuring that best value for money is obtained.

### **Finance, Audit and Risk Committee Reporting Requirements**

9.21 PHS's Finance, Audit and Risk Committee can, at any time, call for the justification of expenditure on Management Consultants.

9.22 The Head of Strategy, Governance & Performance will present, on an annual basis, a report to the Finance, Audit and Risk Committee detailing the nature of and expenditure incurred by each Directorate on the employment of Management Consultants in the preceding year.

## **Section 10 - Income Generation and Intellectual Property**

### **Introduction**

- 10.01 This Standing Financial Instruction refers to all income generation (excluding SGHSC allocations) entered into by PHS, whether or not contractually binding, for the supply of goods and/or services by it to another party and for which money will be receivable by PHS. It applies to 'contracts' with NHSScotland bodies, other public sector bodies and to all arrangements with private sector bodies.
- 10.02 Contracts with SGHSC are not subject to this section of the SFIs.

### **Authority levels**

- 10.03 Directorates may enter into income generating activities with outside parties on the authority of the Chief Executive and provided that:
- (a) the limits set out in Appendix III are adhered to;
  - (b) PHS's standard terms and conditions of business/service level agreement apply;
  - (c) if denominated in a foreign currency, approval has been obtained from Head of Strategy, Governance & Performance as described below; and

(d) section 11.19 on legal entity participation or investment is not relevant.

10.04 Income agreements are frequently negotiated over a period of time which may be prolonged and often require to be ratified as soon as terms and conditions are agreed in order to avoid financial loss through further delay. Where authority from a higher level is required, officers should plan for and provide prior warning to all officers whose authority may be required.

#### **Determination of charges**

10.05 The Chief Executive will review on at least an annual basis the charges for services provided by PHS. Unless such charges are fixed externally or are governed by specific SGHSC regulations and/or legislation.

10.06 In setting the level of fees and charges, Directors should ensure the full recovery of all costs including capital costs represented by capital charges. For recurring income streams there should be a yearly review as part of the budget process to ensure that full recovery of costs is being achieved.

10.07 Where day rates form the basis of any fees and charges the approved PHS day rates must be used. Any variation from the approved day rates should be agreed with the Chief Executive.

10.08 Planned cross subsidisation is not permitted and marginal costing may only be used when unplanned spare capacity arises during the year.

10.09 Charges to the private sector may be set at any level that the market will bear, provided the price covers all direct and indirect costs.

10.10 In order to preserve the real value of income, increases recommended should have regard to at least the current rate of inflation.

### **Foreign currency**

10.11 Business should normally be conducted in sterling. Any Sales which are to be denominated wholly or in part in a foreign currency must be pre-notified to the Head of Strategy, Governance & Performance at the earliest opportunity.

10.12 Foreign currency transactions will normally only be acceptable in 'hard' currencies such as US dollars, the Euro or Swiss Francs. Other major world currencies will be acceptable where business is conducted with the appropriate country.

10.13 Foreign currency transactions in excess of £2million require to receive advance authorisation through the Government Banking Service. Such transactions will be referred to the NSS Director of Finance for arrangement. Government accounting regulations require PHS to minimise the cost of its overseas (banking) transactions while protecting public funds against loss and uncertainty due to foreign exchange movements. PHS will therefore take steps to minimise its exposure to foreign exchange risks, for example by entering into forward exchange contracts, but must not speculate on foreign exchange movements.

### **Third Party Contracts and Agreements**

10.14 Under certain circumstances PHS may enter into non-financial contracts and agreements with third parties. All such agreements should be approved by

the relevant Director. The Directors should ensure that an appropriate approval process is followed prior to 'sign off'.

### **Intellectual Property and Other Guidance**

- 10.15 Directorates must comply with MEL(2000)13: 'Fund Raising, Income Generation and sponsorship within the NHS' at all times.
- 10.16 The registration, other forms of protection, management and exploitation of Intellectual Property Rights (e.g. a brand, patent, domain name, etc.) is subject to compliance with current PHS Intellectual Property Policy and Scheme of Delegation.
- 10.17 PHS participation or investment in any legal entity (e.g. joint venture) is subject to prevailing legislation and SGHSC guidance and is subject to approval by the Minister. Before proceeding, legal and procedural advice is required, and any activity in this area must be advised to and approved by the Chief Executive.

### **Notification of income to the Head of Strategy, Governance & Performance**

- 10.18 All accounts for income due to PHS will be raised under arrangements approved by the Head of Strategy, Governance & Performance. Full particulars of all charges made for work done or services rendered will be included in such accounts in a form approved by the Head of Strategy, Governance & Performance.

### **Recovery of outstanding debts**

- 10.19 The NSS Director of Finance will ensure that appropriate systems are maintained for the recovery of outstanding debts in line with the Debt Management Policy.
- 10.20 The NSS Director of Finance is responsible for the recovery of outstanding debts and will ensure agreed credit control procedures are exercised to minimise any loss to PHS.
- 10.21 Outstanding debts that are not recoverable and are to be written off will be dealt with in accordance with the approved procedures for losses (see Section 17 below).

## **Section 11 - Capital Investment, Private Financing, Fixed Asset Registers and Security of Assets including Cash**

### **Capital investment**

- 11.01 The Head of Strategy, Governance & Performance will ensure that:
- (a) there is an adequate appraisal and approval process in place for determining capital expenditure priorities and the effect of each proposal upon business plans.
- The NSS Director of Finance will ensure that:
- (b) adequate arrangements are in place for the effective management of all stages of capital schemes and for ensuring that schemes are delivered on time and to cost; and
  - (c) capital investment is not undertaken without confirmation of the availability of resources to finance all revenue consequences, including capital charges.
- 11.02 For all capital expenditure a proposal should be produced in line with the PHS Business Case Process.
- 11.03 The NSS Director of Finance will issue procedures for the regular reporting of expenditure and commitment against authorised expenditure
- 11.04 The Chief Executive or the Board, as appropriate, must approve capital expenditure not covered by an approved budget in advance. Further details are contained at Appendix I.

- 11.05 The approval of a capital programme will not, of itself, constitute approval for expenditure on any scheme. The Chief Executive will issue to the manager responsible for any scheme:
- (a) specific authority to commit expenditure;
  - (b) authority to proceed to tender; and
  - (c) approval to accept a successful tender.
- 11.06 The NSS Director of Finance will ensure procedures governing the financial management, including variations to contract, of capital investment projects and valuation for accounting purposes are issued. These procedures will fully take into account the delegated limits for capital schemes included in guidance from SGHSC
- 11.07 **Asset registers**
- The NSS Director of Finance is responsible for the maintenance of registers of assets, including the form of any register and the method of updating, and arranging for a physical check of assets against the asset register to be conducted at least once a year.
- 11.08 The minimum data set to be held within these registers will be as specified in the Scottish Capital Accounting Manual as issued by SGHSC.
- 11.09 Additions to the fixed asset register must be clearly identified to an appropriate budget holder and be validated by reference to:
- (a) Properly authorised and approved agreements, architect's certificates, supplier's invoices and other documentary evidence in respect of purchases from third parties;
  - (b) Stores, requisitions and wages records for own materials and labour including appropriate overheads; and

- (c) Lease agreements in respect of assets held under a finance lease and capitalised.
- 11.10 Where capital assets are sold, scrapped, lost or otherwise disposed of, their value must be removed from the accounting records and each disposal must be validated by reference to authorisation documents and invoices (where appropriate).
- 11.11 The NSS Director of Finance will approve procedures for reconciling balances on fixed assets accounts in ledgers against balances on fixed asset registers.
- 11.12 The value of each asset will be indexed to current values in accordance with methods specified in the Scottish Capital Accounting Manual issued by SGHSC.
- 11.13 The value of each asset will be depreciated using methods and rates as specified in the Scottish Capital Accounting Manual issued by SGHSC.
- 11.14 The NSS Director of Finance will ensure that capital charges are calculated and accounted for as specified in the Scottish Capital Accounting Manual issued by SGHSC.
- 11.15 A small equipment register as specified by the Head of Strategy, Governance & Performance will be maintained within PHS. This register will incorporate high value and portable items of equipment, e.g. IT equipment, that do not fall within the scope of Capital Expenditure. The register will be in a format approved by the Head of Strategy, Governance & Performance and a full count of identified items will occur at a time period specified by the Head of Strategy, Governance & Performance. Any discrepancies will be noted in writing to the Head of Strategy, Governance & Performance who will investigate as appropriate.

## **Security of assets**

- 11.16 The overall control of fixed assets is the responsibility of the Chief Executive.
- 11.17 The Head of Strategy, Governance & Performance must approve asset control procedures (including fixed assets, cash, cheques and negotiable instruments, and also including donated assets). This procedure will make provision for:
- (a) Recording managerial responsibility for each asset;
  - (b) Identification of additions and disposals;
  - (c) Identification of all repairs and maintenance expenses;
  - (d) Physical security of assets;
  - (e) Periodic verification of the existence of, condition of, and title to, assets recorded;
  - (f) Identification and reporting of all costs associated with the retention of an asset; and
  - (g) Reporting, recording and safekeeping of cash, cheques, and negotiable instruments.
- 11.18 All discrepancies revealed by verification of physical assets to fixed asset register will be notified to the Head of Strategy, Governance and Performance.
- 11.19 Whilst each employee and officer has a responsibility for the security of the property of PHS, it is the responsibility of the Board and Senior Leadership Team members and senior employees in all disciplines to apply such appropriate routine security practices in relation to PHS property as may be determined by the Board. Any breach of agreed security practices must be reported in accordance with instructions.

- 11.20 Any damage to PHS's premises, vehicles and equipment, or any loss of equipment, stores or supplies must be reported by Board and Senior Leadership Team members and employees in accordance with the procedure for reporting losses. (See Section 17)
- 11.21 Where practical, assets will be marked as PHS property.
- 11.22 Upon the closure of premises or transfer of functions a physical check of all items will be conducted. All items held will be detailed on a list certified by the responsible officer, together with their disposition.

#### **Treatment of cash and other receipts**

- 11.23 The NSS Director of Finance is responsible for ensuring appropriate arrangements are in place for:
- (a) approving the form of all receipt books, agreement forms, or other means of officially acknowledging or recording monies received or receivable;
  - (b) ordering and securely controlling any such stationery;
  - (c) the provision of adequate facilities and systems for employees whose duties include collecting and holding cash, including the provision of safes or lockable cash boxes, the procedures for keys, and for coin operated machines; and
  - (d) procedures for handling cash and negotiable securities on behalf of PHS.
- 11.24 All cash and other receipts received on behalf of PHS will be recorded and deposited in accordance with the arrangements authorised by the Head of Strategy Governance and Performance. No deduction may be made from such money to meet expenditure of any kind. Cash settlement discounts will not be offered to any debtor.

### **Personal cheques**

- 11.25 Personal cheques will not be cashed out of monies held on behalf of PHS.

### **Security over cash**

- 11.26 The designated secure facilities should only be used for such items that relate to the activities of PHS. In exceptional circumstances officers responsible for the operation of such facilities may hold unofficial items if in sealed or locked closures. PHS will accept no responsibility for such items.

### **Loss of cash, cheques etc.**

- 11.27 All losses of such items will be reported immediately in accordance with agreed procedures. (See Sections 3 and 17).
- 11.28 The Chief Executive may delegate to nominated officers, authority to make ex-gratia payments below approved thresholds in line with procedures pertaining to such payments, e.g. compensation payments. All such payments must be notified to the Chief Executive and reported to the Finance, Audit and Risk Committee on at least an annual basis and reported in the Annual Accounts in accordance with the approved procedure for losses (see Section 17).

## **Section 12 - Banking Arrangements**

### **General**

- 12.01 The NSS Director of Finance is responsible for the management of PHS's banking arrangements and for advising PHS on the provision of banking services and operation of accounts.
- 12.02 PHS will operate the bank accounts in accordance with all relevant guidance issued by SGHSC.
- 12.03 The Government Banking Service (GBS) will hold PHS's main bank account. Where necessary, subsidiary bank accounts will be held with a commercial bank. All such bank accounts should be authorised by the Chief Executive.

### **Banking Procedures**

- 12.04 The Chief Executive must agree in writing with PHS's bankers the conditions under which each account will be operated.
- 12.05 The NSS Director of Finance will ensure that detailed instructions on the operation of bank and GBS accounts are prepared which must include:
- (a) the conditions under which each bank account is to be operated;
  - (b) those authorised to sign cheques or other orders drawn on PHS's accounts;  
and
  - (c) the arrangements to be made for payments that may be required in other currency denominations (see also section 10.13).

### **Bank balances**

- 12.06 All PHS accounts must be kept in positive balance. Any instance of an account being overdrawn, no matter how temporary, should be reported to the Finance, Audit and Risk Committee.

### **Provision of imprests**

- 12.07 The Head of Strategy, Governance & Performance may request the NSS Director of Finance / NSS Financial Services to provide imprest accounts for the purposes of defraying minor expenses. The request will be in the form of a statement of case and will be by exception where existing processes cannot meet the requirement.
- 12.08 All imprest accounts will be reviewed annually for appropriateness.

## **Section 13 - Annual Accounts**

### **Introduction**

- 13.01 Annual Statutory Accounts will be completed each year for submission to the Board, prior to onward submission to SGHSC. These will be prepared in accordance with the provisions of the National Health Service (Scotland) Act 1978 and other related regulations in force.

### **Financial records**

- 13.02 The NSS Director of Finance will ensure the maintenance of such detailed financial records as are required under relevant statute and regulations that will form the basis for the preparation of the Annual Accounts of PHS. (see also Section 15 – Information Governance)

### **Annual Accounts and reports**

- 13.03 Following approval by the Board, PHS will submit to SGHSC the Approved Annual Accounts and such reports prepared in accordance with the requirements of SGHSC and any relevant guidance contained in the Scottish Accounting Manual. These will include the Report of Directors and the Statement on Internal Control.
- 13.04 NSS will issue an Annual Accounts completion timetable to Directorates detailing requirements and associated responsibilities for the provision of information in support of the Annual Accounts.

## **Section 14 - Audit and Financial Performance Arrangements**

### **Finance, Audit and Risk Committee**

- 14.01 In accordance with Standing Orders the Board will establish an Finance, Audit and Risk Committee, with clearly defined terms of reference, which will provide an independent and objective view of internal control.

### **Finance, Audit and Risk Committee**

- 14.02 In accordance with Standing Orders the Board will establish a Finance, Audit and Risk Committee, with clearly defined terms of reference, which will provide an independent and objective view on any financial matters referred to it by the Board.

### **Head of Strategy, Governance & Performance**

- 14.03 The Head of Strategy, Governance & Performance is responsible for
- (a) ensuring there are arrangements to review, evaluate and report on the effectiveness of internal financial control including the establishment of an effective internal audit function;
  - (b) ensuring that the internal audit is adequate and meets the NHS best practice;
  - (c) ensuring that an Internal Audit Plan is prepared for the consideration of the Finance, Audit and Risk Committee. The plan must cover:
    - (i) strategic audit plan covering the coming three years; and
    - (ii) a detailed plan for the coming year.

- (d) ensuring that an annual Internal Audit Report is prepared for the consideration of the Finance, Audit and Risk Committee. The report must cover:
- (i) a clear opinion on the effectiveness of internal control in accordance with current controls assurance guidance issued by SGHSC including for example compliance with control criteria and standards;
  - (ii) major internal financial control weaknesses discovered;
  - (iii) progress on the implementation of internal audit recommendations; and
  - (iv) progress against plan over the previous year;

14.04 The Head of Strategy, Governance & Performance, the Head of Internal Audit or their authorised representatives and CFS in relation to a fraud investigation will have authority, without necessarily giving notice, and on production of identification, to require and receive:

- (i) access at all reasonable times to any land, premises or employee of PHS;
- (ii) access to all records, documents and correspondence relating to any financial or other relevant transactions, including documents of a confidential nature (in which case, he will have a duty to safeguard that confidential nature);
- (iii) the production or identification by any employee of any PHS cash, or other property under the employee's control; and
- (iv) explanations concerning any matters under investigation.

## **Irregularities**

- 14.05 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash or other property of PHS or any suspected irregularity it will be notified immediately to the Fraud Liaison Officer (FLO) who will inform Counter Fraud Services and the Head of Strategy, Governance & Performance. Where appropriate, the Head of Strategy, Governance & Performance will inform the Chief Executive and the Head of Counter Fraud Services.

Any decision to involve the police in cases of misappropriation and other irregularities not involving fraud or corruption will be taken by the Chief Executive and the Head of Strategy, Governance & Performance. Such decisions will be taken after obtaining appropriate advice from NSS Counter Fraud Services.

- 14.06 Further details pertaining to suspected theft, fraud, embezzlement, corruption, bribery and other irregularities are contained at Section 3.

## **Audit reporting**

- 14.07 Annual and longer term audit plans will be prepared and laid before PHS's Finance, Audit and Risk Committee for approval by 31 March preceding the audit year commencing 1 April, or at such other time as the Committee may approve.

## **Internal Audit**

- 14.08 Detailed Internal Audit Reports will be submitted to and agreed with management following all audit visits. Management must respond formally to audit reports within five working days of receipt of the final draft. The

finalised report will be provided to the Head of Strategy, Governance & Performance and PHS's statutory auditor.

14.09 Each year PHS's Internal Audit Service provider will prepare and present to the Finance, Audit and Risk Committee an annual Internal Audit Report which summarises internal audit findings in the preceding year. This will be submitted before 30 June following the audit year in question.

14.10 Periodic review of the responses to agreed actions will be carried out by the Internal Auditors and the findings presented to the Finance, Audit and Risk Committee.

### **External Audit**

14.11 The Public Finance and Accountability (Scotland) Act 2000 places responsibility on the Auditor General for Scotland to decide who is to undertake the external audit of each health body in Scotland.

14.12 The appointed External Auditor will conduct their audit in accordance with the Public Finance and Accountability (Scotland) Act 2000 and International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board as required by the Code of Audit Practice approved by the Auditor General for Scotland.

### **Risk Management**

14.13 The Finance, Audit and Risk Committee is responsible for overseeing the risk management framework for PHS.

14.14 The Chief Executive is responsible for reviewing the effectiveness of the system of internal control, which includes the maintenance of a PHS risk

register. The PHS risk register should be reviewed by the Board, Board Committees and Senior Leadership Team and management teams as set out in the Public Health Scotland Risk Framework, which complies with the Integrated Risk Management Approach (IRMA).

- 15.19 The Directors are responsible for ensuring that risk registers are appropriately maintained and reviewed, and that appropriate risk management strategies and practices are adopted within their Directorates as outlined in the IRMA.

## **Section 15 - Information Governance**

### **Financial Information Systems**

- 15.01 The NSS Director of Finance, who is responsible for the accuracy and security of the financial data (both electronic and paper formats) of PHS, will:
- (a) devise and implement any necessary procedures to ensure adequate protection of PHS's financial data, and related computer hardware and software, for which s/he is responsible from accidental or intentional disclosure to unauthorised persons, deletion or modification, theft or damage, having due regard for Data Protection principles;
  - (b) ensure that adequate controls exist over financial data access, entry, processing, storage, transmission, deletion, disposal and output to ensure security, privacy, accuracy, completeness, and timeliness of the data, as well as the efficient and effective operation of the system;
  - (c) ensure that adequate controls exist such that the computer operation used in relation to financial procedures is separated from development, maintenance and amendment;

- (d) ensure that a secure, adequate, management (audit) trail exists through the computerised system used in relation to financial procedures and that such computer audit reviews as s/he may consider necessary are being carried out. All audit data will be held securely and only accessed by those authorised to access it in line with their business duties;
- (e) all policies and procedures will be in line with PHS corporate information governance related policies, procedures and guidelines.

15.02 The NSS Director of Finance will satisfy them self that new financial systems and amendments to current financial systems are developed in a controlled manner and thoroughly tested prior to implementation. Development, test and live financial systems shall be appropriately segregated to reduce the risk of unauthorised access to and corruption of live data. Where this is undertaken by another organisation, assurances of adequacy must be obtained from them prior to implementation. Any new financial systems or amendments to existing financial systems must be implemented in line with NHS Scotland Information Security Policy and Standards including HDL (2006) 41 and DL(0215)17. Where the new system or amendment involves the processing of personal data then the development will follow appropriate assessment of any data protection risks.

15.03 In the case of all computer systems which are to be utilised by the majority of the Directorates, the NSS Director of Digital and Security will be responsible for maintaining:

- (a) details of the outline design of the system;
- (b) in the case of packages acquired either from a commercial organisation, from the NHS Scotland, or from another public sector organisation, the operational requirement.

15.04 The NSS Director of Finance will ensure that contracts for computer services for financial applications with another health organisation or any other agency will clearly define the responsibility of all parties for the

security, data protection, privacy, accuracy, completeness, and timeliness of data during processing, transmission and storage. The contract should also ensure rights of access for audit purposes and that all applications and/or systems are purchased, developed, implemented, operated and decommissioned in line with the NHS Scotland Information Policy and Standards. Where the contract includes the processing of personal information it will be set in compliance with Data Protection principles and NHS CEL 25 (2011).

- 15.05 Where another health organisation or any other agency provides a computer service for financial applications, the NSS Director of Finance will periodically seek assurances that adequate controls are in operation and they conform to the NHS Scotland Information Security Policy and Standards. If this other organisation is processing personal data as part of the financial application, the assurances sought should, as a minimum, include those set out in NHS CEL 25 (2011).
- 15.06 Where computer systems have an impact on corporate financial systems the Head of Strategy, Governance & Performance will satisfy him/herself that:
- (a) systems acquisition, development and maintenance are in line with corporate policies such as NHS Scotland Information Security Policy and Standards;
  - (b) data produced for use with financial systems is secure, adequate, accurate, complete and timely, and that a management (audit) trail exists;
  - (c) staff authorised by/on behalf of the Head of Strategy, Governance & Performance staff have authorised appropriate access to such data in line with their job duties; and
  - (d) such computer audit reviews as are considered necessary are being carried out.

## **Data Protection Act**

- 15.07 PHS must comply with provisions and principles of data protection law, including, but not restricted to, the EU General Data Protection Regulation, the Data Protection Act 1998 and the Data Protection Act 2018 including any amendments, subsequent orders under the said Acts or revisions thereto.
- 15.08 PHS's nominated Data Protection Officer (i.e. the Head of Data Protection) is responsible in overall terms for promoting and advising on compliance with the Acts. All staff members must act in compliance with the Acts by observing the PHS Data Protection Policy and approved Information Governance policy and guidelines.

## **Freedom of Information**

- 15.09 PHS must comply with provisions and principles of the Freedom of Information (Scotland) Act 2002.
- 15.10 PHS's nominated Freedom of Information Officer is Amanda Stewart, Communications Officer. Recognising the principal accountability of the Chief Executive is responsible in overall terms for compliance with the Act. All inquiries made under the Freedom of Information (Scotland) Act 2002 should be dealt with in accordance with PHS's Freedom of Information Policy and Information Request Protocol.

## **Management, Retention and Disposal of Administrative Records**

- 15.11 PHS must comply with the Public Records (Scotland) Act 2011 and the records management guidance set out in the Code of Practice on Records Management issued under Section 61 of the Freedom of Information (Scotland) Act 2002. CEL 31 (2010) Records Management: NHS Code of

Practice (Scotland) provides guidance on the retention and disposal of administrative records.

15.12 Policies in relation to the above will be approved by the PHS Board in accordance with Standing Orders.

## **Section 16 - Losses and Special Payments**

- 16.01 SGHSC has delegated authority to PHS to write-off losses and make special payments up to certain limits. Details are given in Appendix II. For payments to be made above the levels specified SGHSC prior approval must be obtained.
- 16.02 The Board in turn will delegate its responsibility to the Chief Executive and Head of Strategy, Governance & Performance to approve write-off and authorise special payments.
- 16.03 On a regular basis and at least annually, the Head of Strategy, Governance & Performance on behalf of the Chief Executive will submit a report to the Finance, Audit and Risk Committee detailing all losses written off and special payments made.
- 16.04 The NSS Director of Finance is responsible for ensuring the maintenance of a Losses and Special Payments Register for recording:-
- the circumstances
  - the amount/value involved
  - the action taken
  - the date of write-off authority

This Register will form the basis of PHS's Annual Scottish Financial Return (SFR 18) which is included in PHS's Annual Accounts.

16.05 The NSS Director of Finance will be authorised to take any necessary steps to safeguard PHS's interests in bankruptcies and company liquidations.

## Protocol for the commitment of resources

### Level of Authority

### Delegated Limit

#### 1.1 Capital Expenditure within PHS's Baseline Allocation

- |                     |  |
|---------------------|--|
| (a) Chief Executive | The commitment of funds in respect of projects having a total gross cost of up to £0.25million in value which accord with the agreed Directorate strategy approved by the Board. |
| (b) The Board       | The commitment of funds in respect of projects having a gross total cost exceeding £0.25million.   |

These arrangements are also subject to delegated capital limits as specified by SGHSC in the Scottish Capital Investment Manual, where the delegated limit for all capital projects is £5m. For capital projects greater than £5m approval is also required from the Capital Investment Group of SGHSC.

#### 1.2 Capital Expenditure for specific projects funded through separate SGHSC allocation

Project Director	Subject to the rules above, the commitment of funds up to the total gross cost of the agreed capital budget as specified in the approved Business Case.
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## **2.1 Revenue Expenditure within PHS's Baseline Allocation**

- |  |  |
|--|--|
| (a) Director   | All expenditure contained in the Annual Financial Plan, including developments and the specified use of non-recurring funds, subject to the executive approval procedures contained in SFIs and in accordance with agreed policies on, for example, recruitment.   |
| (b) Head of Strategy,<br>Governance &<br>Performance | <p>a) The commitment of pre-planned individual developments where funds become available up to £0.05 million in value which accord with the agreed Directorate Strategy but are not included in the Annual Financial Plan for that year.</p> <p>b) The utilisation of non-recurring funds not in the Financial Plan or covered by the delegated arrangements detailed above up to a total of £0.05million per development.</p> |
| (c) Chief Executive                                  | <p>c) The commitment of pre-planned individual developments where funds become available up to £0.5million in value which accord with the agreed Directorate Strategy but are not included in the Annual Financial Plan for that year.</p> <p>d) The utilisation of non-recurring funds not in the Financial Plan or covered by the delegated arrangements detailed above up to a total of £0.5million per development.</p>    |

(d) PHS Board

The bringing forward of pre-planned individual Revenue developments over £0.5million in value and

**Appendix I**  
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the commitment of non-recurring resources not in the plan in excess of the limits specified above.

## **2.2 Revenue Expenditure for specific projects funded through separate SGHSC allocation**

Project Director

The commitment of funds up to the total gross cost of the agreed revenue budget as specified in the approved Business Case.

## **2.3 Revenue Expenditure for Services provided by PHS on behalf of other Health Boards**

Director

The commitment of funds up to the total gross cost of the revenue budget set in agreement with the relevant Health Boards.

**Losses: Delegated limits**

The delegated limits are as per SGHSC circular CEL (2010) 10 are as follows:

		<b>Delegated Authority (per case) £</b>
	<b>Theft / Arson / Willful Damage</b>	
1	Cash	10,000
2	Stores/procurement	20,000
3	Equipment	10,000
4	Contracts	10,000
5	Payroll	10,000
6	Buildings & Fixtures	20,000
7	Other	10,000
	<b>Fraud, Embezzlement &amp; other irregularities (inc. attempted fraud)</b>	
8	Cash	10,000
9	Stores/procurement	20,000
10	Equipment	10,000
11	Contracts	10,000
12	Payroll	10,000
13	Other	10,000
14	<b>Nugatory &amp; Fruitless Payments</b>	10,000
15	<b>Claims Abandoned</b>	
	(a) Private Accommodation	10,000
	(b) Road Traffic Acts	20,000

		<b>Delegated Authority (per case) £</b>
	(c) Other	10,000
<b>Stores Losses</b>		
Incidents of the Service –		
16	- Fire	20,000
	- Flood	20,000
	- Accident	20,000
17	Deterioration in Store	20,000
18	Stocktaking Discrepancies	20,000
19	Other Causes	20,000
<b>Losses of Furniture &amp; Equipment And Bedding &amp; Linen in circulation:</b>		
20	Incidents of the Service – Fire	10,000
	- Flood	10,000
	- Accident	10,000
21	Disclosed at physical check	10,000
		<b>Delegated Authority (per case) £</b>
22	Other Causes	10,000
<b>Compensation Payments - legal obligation</b>		
23	Clinical	250,000

		<b>Delegated Authority (per case) £</b>
24	Non-clinical	100,000
	<b>Ex-gratia payments:</b>	
25	Extra-contractual Payments	10,000
26	Compensation Payments - Ex-gratia - Clinical	250,000
27	Compensation Payments - Ex-gratia - Non Clinical	100,000
28	Compensation Payments - Ex-gratia - Financial Loss	25,000
29	Other Payments	2,500
	<b>Damage to Buildings and Fixtures:</b>	
30	Incidents of the Service	
	– Fire	20,000
	- Flood	20,000
	- Accident	20,000
	- Other Causes	20,000
31	<b>Extra-Statutory &amp; Extra-regulatory Payments</b>	Nil
32	<b>Gifts in cash or kind</b>	10,000
33	<b>Other Losses</b>	10,000

## Sales Contracts and Income Generation

### Authority Limits

1. All income generation requires the prior approval of the Head of Strategy, Governance & Performance and Chief Executive if the total lifetime value of a sales contract or Service Level Agreement (SLA) is or could be in excess of the undernoted limits.

Directorate	Third Party contracts and new sources of income generation	
	(£)	Grant Income (£)
Data Driven Innovation	50,000	100,000
Clinical and Protecting Health	50,000	100,000
Place and Wellbeing	50,000	100,000
Strategy Governance & Performance	25,000	50,000

2. Third Party contracts, SLAs and new sources of income generation whose value is or could exceed £50,000 and grant income whose value is or could exceed £100,000 requires the approval of the Finance, Audit and Risk Committee prior to entering into any commitment with the customer. Conditional approval may be intimated in writing by the Head of Strategy, Governance & Performance.

**Chief Executive Checklist**

<b>Reference</b>	<b>Requirement</b>	<b>Frequency</b>	<b>Committee</b>
1.06	Breaches of SFIs.	Earliest opportunity	Finance, Audit and Risk Committee
5.14	Ex Gratia payments to staff.	Annual	Remuneration Committee
6.12	Exceptions to procurement guidelines.	Quarterly	Finance, Audit and Risk Committee
6.28	Advance payment (non-contractual) for goods/services.	Annual	Finance, Audit and Risk Committee
8.12/9.14	Sole Source Justification report.	Annual	Finance, Audit and Risk Committee
9.23	Spend on Management Consultancy.	Annual	Finance, Audit and Risk Committee
13.06	Any instance of being overdrawn with bank.	Earliest opportunity	Finance, Audit and Risk Committee

<b>Reference</b>	<b>Requirement</b>	<b>Frequency</b>	<b>Committee</b>
18.03	Report of losses and special payments made.	Annual	Finance, Audit and Risk Committee

# **Annex C – Public Health Scotland Code of Conduct**

## **Code of Conduct for Members of Public Health Scotland**

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## 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. It imposes on councils and relevant public bodies a duty to help their members comply with the relevant code. The Act also establishes a Standards Commission for Scotland, 'The Standards Commission' to oversee the framework and deal with alleged breaches of 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. The Model Code for members was first introduced in 2002 and was revised in December 2013 following consultation and the approval of the Scottish Parliament. The 2013 revisions made the Model Code of Conduct 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 Board member of Public Health Scotland, it is your responsibility to make sure that you understand and comply with the provisions of this Public Health Scotland Board Code of Conduct. Your appointment is also subject to the provisions of the Health Boards (Membership and Procedure) (Scotland) Regulations 2001, as amended and the terms and conditions set out in your appointment letter.

## **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 increasingly diverse. For the PHS Board appointment process, this commitment to equality outcomes and diverse appointments is also shared by the Convention of Scottish Local Authorities (COSLA) who will participate in the process as part of the joint sponsorship arrangements.

In establishing the Public Health Scotland Board, the aim has been to draw from varied backgrounds with a wide spectrum of characteristics, knowledge and experience. Core to the success of public bodies is attracting the best people for the job. You should be aware of the varied roles and functions of Public Health Scotland and of wider diversity and equality issues.

- 1.6 You should also familiarise yourself with how Public Health Scotland operates in relation to succession planning. Public bodies are expected to have a strategy to make sure they have staff 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 the Code and review it regularly, and at least annually, 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. It provides additional information on how the principles should be interpreted and applied. The Standards Commission may also issue guidance. No Code can provide for all circumstances; if you are uncertain about how the rules apply, you should seek advice from the Board Secretary. You may also choose to consult your own legal advisers and seek advice from other relevant professionals as appropriate (for example, on detailed financial and commercial matters).
- 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. It is provided to all Public Health Scotland Board members on appointment, and is available 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 the sanctions that may be applied if the Standards Commission finds that there has been a breach. 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. They 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 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 Public Health Scotland when carrying out public business. This includes 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. You must ensure that Public Health Scotland 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. If any conflicts arise, you must take steps to resolve them 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 Public Health Scotland and its members in conducting public business.

## **Respect**

You must respect fellow members of the Public Health Scotland Board, PHS employees, other stakeholders, and the role they play, treating them with courtesy at all times. You must also respect members of the public when performing duties as a Public Health Scotland Board member.

## **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 Public Health Scotland Board.

### **Conduct at meetings**

3.2 You must respect the Chair, your colleagues, and employees of PHS in all meetings. You must comply with rulings from the Chair in the

conduct of the business of the Public Health Scotland Board, Committee and related meetings.

### **Relationship with board members and employees of Public Health Scotland (including those employed by contractors providing services)**

- 3.3 You will treat your fellow board members and any staff employed by Public Health Scotland 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 Public Health Scotland in relation to bullying and harassment in the workplace and lead by good example.

### **Remuneration, allowances and expenses**

- 3.4 You must comply with any rules of Public Health Scotland regarding remuneration, allowances and expenses.

### **Gifts and hospitality**

- 3.5 You must not accept any offer of gift or hospitality that could result in 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 and for avoiding the risk of damage to public confidence in Public Health Scotland. 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 Public Health Scotland.
- 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 PHS may be involved in determining, or who is seeking to do business with Public Health Scotland, 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 Public Health Scotland, as a general rule, you should ensure that Public Health Scotland pays for the cost of the visit.
- 3.9 You must not accept repeated hospitality or repeated gifts from the same source (see also 3.7).
- 3.10 You should familiarise yourself with the terms of the Bribery Act 2010, which applies to board members of all devolved public bodies. It 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 Public Health Scotland, the Scottish Government or COSLA in a confidential manner. You will often receive information of a private nature which is not yet public, or which might not be intended to be public. You must always respect the confidential nature of such information and comply with the requirement to keep it 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 regarding what should or should not be made available to outside bodies or individuals. In all cases, such information should never be used for the purposes of personal or financial gain, for political purposes, or used in a way that brings Public Health Scotland into disrepute.

## **Use of Public Body facilities**

- 3.13 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 Public Health Scotland's policies and rules. When using social media networks, you must take care not to compromise your position as a Public Health Scotland Board member.

## **Appointment to partner organisations**

- 3.14 You may be appointed, or nominated by Public Health Scotland, 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 their public body will assume personal responsibilities under the Companies Acts. It is possible that conflicts of interest can arise for such members between the company and the public body. It is your responsibility to take advice on your responsibilities to the public body 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 that you must register. These are called 'Registerable Interests'. You must always ensure that these interests are registered; when you are appointed and whenever your circumstances change in a way that requires a change to your details in the Public Health Scotland Register of Board Member Interests. It is your duty to ensure any changes in your circumstances are reported within one month of the change.
- 4.2 The Regulations (SSI - The Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003 Number 135) as amended describe the detail and timescale for registering interests. It is your personal responsibility to comply with these regulations and you should review your personal circumstances regularly (at least once a year). **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 that must be registered are set out in the following paragraphs. 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 need to be registered and remuneration received as a PHS Board 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.

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 Public Health Scotland:

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 to or interest in houses, land and buildings, which may be significant to, of relevance to, or bear upon, the work and operation of Public Health Scotland.

4.18 The test to apply when considering appropriateness of registration is to ask whether a member of the public acting reasonably might consider that any interests you may have in houses, land and buildings could potentially affect your responsibilities to Public Health Scotland 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) the body to which you are appointed 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 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 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 Public Health Scotland. 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 apply 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 Public Health Scotland 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 of Conduct, especially those in relation to integrity, honesty and openness, mean that you need to declare certain interests in proceedings of Public Health Scotland. Together with the rules on registration of interests, this ensures transparency of any interests that might influence or be thought to influence your actions.
- 5.2 Public bodies deal with a wide variety of organisations and individuals. This Code indicates the circumstances in which a business or personal interest must be declared. Public confidence in Public Health Scotland and its members depends on a clear understanding 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 whether you might be influenced and whether anybody else would think that you might be influenced by the interest. You must 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 PHS Board member.
- 5.4 If you feel that, in the context of the matter being considered, your involvement would not be viewed as more significant than that of an ordinary member of the public, or likely to be perceived by the public as

wrong, you may continue to attend the meeting and participate in both discussion and voting. 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 you are unsure whether a conflict of interest exists, seek advice from the Board Chair.

- 5.5 As a member of a public body 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. If you believe that, in the particular circumstances, the nature of the interest is remote or without significance, it need not be declared. You must always remember the public interest points towards transparency and, in particular, a possible divergence of interest between your public body 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 that you are required to declare 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 a public body. 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.

If you declare an interest in Board proceedings, you must withdraw from the meeting room until discussion of the relevant item 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 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.

If you declare an interest in Board proceedings, you must withdraw from the meeting room until discussion of the relevant item 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. However, you must also 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.

If you declare an interest in Board proceedings, you must withdraw from the meeting room until discussion of the relevant item 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 it 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 Public Health Scotland Board.

### **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.

You need only 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 it is only when a particular matter is being discussed that you identify the need for a declaration of interest, you must declare the interest as soon as you are aware of it.

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 can be 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 your capacity as a board member you should not accept a role or appointment with that consequence. If members are frequently declaring interests at meetings then they should consider whether they can carry out their role effectively, and discuss this with their Chair. Similarly, if any appointment or nomination to another body could cause 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 your public body and its committees.
- 5.17 Applications for dispensations will be considered by the Standards Commission and should be made as soon as possible to allow proper consideration of the application before 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 For Public Health Scotland to fulfil its commitment to being open and accessible, it needs to encourage participation by organisations and individuals in the decision-making process. 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 integrity in the way in which Public Health Scotland conducts its business.
- 6.2 You will need to be able to consider evidence and arguments from a wide range of organisations and individuals to perform your duties effectively. Some of these organisations and individuals may make their views known directly to individual Board members. The rules in this Code set out how you should conduct yourself 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 that contravenes this Code or any other relevant rule of Public Health Scotland 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 Public Health Scotland.
- 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 offer or accord any preferential access or treatment to those lobbying on a fee basis on behalf of clients compared with any other person or organisation who lobbies or approaches you. Any person lobbying on a fee basis on behalf of clients must not be given any inference of preferential access or treatment from a Public Health Scotland Board member, compared to any other person or organisation.
- 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 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) that 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 Public Health Scotland and its members. This does not prohibit you from being remunerated for activity which may arise because of, or relate to, membership of Public Health Scotland, 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 Public Health Scotland.

## **Annex A**

### **Sanctions available to the Standards Commission for breach of the Code of Conduct**

(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 public body;
- (ii) all meetings of one or more committees or sub-committees of the public body;
- (iii) all meetings of any other public body on which that member is a representative or nominee of the public body of which they are a member.

(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 that public body 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 that public body 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.

**"Co-habitee"** 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 out a trade or business, with or without a view to a profit.

# **Annex D – Finance, Audit and Risk Committee Terms of Reference**

**Public Health Scotland**

**Finance, Audit and Risk Committee**

**Terms of Reference**

## **Constitution**

1. The Public Health Scotland Board has established a Committee known as the Finance, Audit and Risk Committee, in accordance with the [Scottish Public Finance Manual](#), the [Scottish Government Audit and Assurance Committee Handbook \(3 April 2018\)](#) and in line with the Duty of Candour Procedure (Scotland) Regulations (2018). The Public Health Scotland (PHS) Board Standing Orders have informed these terms of reference.

## **Purpose**

2. The purpose of the Finance, Audit and Risk Committee is to support the Chief Executive, as Accounting Officer, and the Board in their responsibilities for issues of risk, control and governance and associated assurance. The Committee is an advisory and commissioning committee promoting a climate of financial discipline and internal control and overseeing arrangements to attain value for money, regularity and propriety and reduce the risks of financial or other mismanagement.

## **Remit**

3. The Finance, Audit and Risk Committee will advise the Chief Executive and Board on:

- the accounting policies, the annual report and accounts, including the process for review of the accounts prior to submission for audit, levels of error identified and management's letter of representation to the external auditors
- the financial position of the Board
- the planned activity and results of both internal and external audit and the adequacy of management's response to issues identified by audit activity, including external audit's audit completion report
- assurances relating to the management of risk and corporate governance requirements for the organisation
- proposals for tendering for internal audit services or for purchase of non-audit services from contractors who provide audit services
- annual compliance with relevant duties under legislation and performance against national standards related to corporate governance

### **Membership and Attendees**

4. The Committee is appointed by the Board from amongst the non-executive members and can have no less than 4 members.
5. Three members will be quorum. Arrangements for ensuring a quorum can be found in the Board's Standing Orders. Members attending by tele or video conference will be determined as present for the purposes of quoracy.
6. The Chair of the Finance, Audit and Risk Committee will be a non-executive Board Member, appointed by the Board. Arrangements to deal with the absence of the Chair can be found in the Board's Standing Orders.
7. The Chair of the Board and other non-executive Board members have the right to attend meetings, but are not members of the Committee.

8. The Committee will be attended by the Head of Strategy, Governance and Performance, or nominated deputy, who may invite other officers to attend in support of particular items of business. The Chief Executive may also attend any meeting.
9. The Chief Internal Auditor and a representative of the external auditor will normally attend meetings.
10. The Chair has the right to call a private meeting with no non-members present or with just the internal and external auditors present.

### **Frequency of Meetings**

11. In the first year of operation of Public Health Scotland, the Committee will hold three meetings. The Chair may call additional meetings by exception.

### **Authority**

12. The Committee can investigate any activity within its terms of reference. Through the Head of Strategy, Governance and Performance or Chief Executive, it can ask for any information and officers are expected to support any request made by the Committee which strikes an acceptable balance between the value of the information requested and the time and other costs it takes to acquire and process it.
13. The Committee can co-opt additional members for a period not exceeding one year to provide specialist skills, knowledge and experience, subject to the approval of the Board and the Accountable Officer as per the Board Standing Orders.
14. The Committee should ensure good communication and relationships with other standing Committees of the Board.

15. Any member of the Committee can propose an item for the agenda through the Chair.

## **Duties**

### **Internal Control and Corporate Governance**

16. Evaluate the effectiveness of the internal control environment (including risk management and corporate decision-making processes) and ensure that reasonable steps are being taken to safeguard assets and prevent and detect fraud and other irregularities.
17. Ensure that the organisation has the relevant controls and risk management arrangements in place to allow the Chief Executive to sign the Governance Statement. This should include ensuring that, in conjunction with the Head of Strategy, Governance and Performance, a review has been undertaken and that appropriate compliance evidence is available for the external auditor. It is not intended that the review would be included in the annual accounts.
18. Ensure effective co-ordination and liaison between Internal, External and Service Audit.
19. Monitor the effectiveness and value for money of the services bought into the organisation via shared service arrangements.

### **Internal Audit**

20. Make recommendations to the Board on the appointment of the Chief Internal Auditor.

21. Make recommendations for the programmes of work to be carried out by the Internal Auditors, and approve the annual and longer term plans for Internal Audit.
22. Review the Internal Audit progress reports from the Internal Auditor.
23. Hold meetings with the Internal Auditor to discuss their annual report and the scope of the audit examinations, and report to the Board on the conclusions arising from the annual report of the Internal Auditors.
24. Ensure that action is taken by the Chief Executive and the Senior Leadership Team on audit recommendations, and monitor their implementation.
25. Review the actions planned by the Senior Leadership Team to remedy weaknesses identified, or other financial management issues raised by the Internal Auditor, and report to the Board on action planned or taken, if the Committee considers it appropriate.
26. Monitor and review the effectiveness of the internal audit function.

### **External Audit**

27. Note the appointment of the external Auditor by Audit Scotland and agree the fee annually.
28. Review reports from the Appointed External Auditor.
29. Ensure that action is taken by the Chief Executive and the Senior Leadership Team on audit recommendations and monitor progress in their implementation.

30. Review the action planned by the Senior Leadership Team to remedy weaknesses identified, or other financial management issues raised by the Appointed External Auditor, and report to the Board on action planned or taken, if the Committee considers it appropriate.
31. Discuss the annual report and the scope of the audit examinations with the appointed External Auditor.

### **Annual Accounts**

32. Review the Public Health Scotland Annual Accounts for the Board and conduct a regular review on behalf of the Board of all statutory audit material including the Annual Report or Management Letter relating to certification of the Annual Accounts of Public Health Scotland.

### **Standing Orders**

33. Review annually the Board Standing Orders and Standing Financial Instructions, which include the Scheme of Delegation.

### **Organisational/Information Governance**

34. Review annually the effectiveness of the information governance of the organisation, including but not limited to Data Protection, Freedom of Information Act, Caldicott Guardianship, Duty of Candour, Records Management, Cyber Security, complaints, significant or catastrophic events and agreed environmental sustainability initiatives.

### **Financial Governance**

35. Review and recommend to the Board the annual 3-year or 5-year Financial Plans, prepared consistent with statutory financial responsibilities, focusing on:

- the balance between financial stretch and achievability
  - the implications of current-year events on the plan
  - the integration of financial, workforce and performance planning
  - capital programme and funding review and challenge
36. Approve under delegated authority any procurement contracts or procurements which the Public Health Scotland Standing Financial Instructions require.
37. At the request of the Board or the Chair, review the financial aspects of an Outline Business Case and / or Full Business Case and make recommendations for any Business Cases which need to be submitted to the Scottish Government for approval.
38. Review an annual summary of the Board's waiving of the tender process or any occurrences where the Standing Financial Instructions have not been followed.
39. Update the PHS Accounting Policies as required.
40. Review and provide assurance to the Board on the achievement and maintenance of relevant efficiency programmes and the Best Value standards as set out against the Scottish Government's 'Best Value in Public Services – Guidance for Accountable Officers' framework.

### **Other Responsibilities**

41. Review annually the Board risk policy and the risk management arrangements.
42. Review quarterly the management of any risks on the Corporate Risk Register delegated to the Committee by the Board.

43. Review annually arrangements established by management for compliance with any regulatory or administrative requirements; reviewing policies and practices involving counter fraud, whistleblowing, special investigations, schedules of losses, special payments and compensations, gifts and hospitality, legal compliance, and other such matters, and ensuring that these are adequate.

### **Minutes & Reporting Procedures**

44. The Committee will be supported by the central Governance Team.
45. Minutes will be submitted for approval to the next meeting of the Committee and thereafter submitted by its Chair to the first ordinary meeting of the Board for homologation. In the interim, a verbal report on relevant matters can be given by the Chair to the Board.
46. The Committee will report to the Board annually on its work and give the relevant assurance to the Board relating to the Governance Statement. In its annual report the Committee should give a view on the Board's effectiveness.

### **Review**

47. The terms of reference, remit and effective working of the Committee will be reviewed annually by the Board

# **Annex E – Public Health and Wellbeing Committee**

## **Terms of Reference**

### **Public Health Scotland**

### **Public Health & Wellbeing Committee**

### **Terms of Reference**

#### **Constitution**

1. The Public Health Scotland Board has established a Committee known as the Public Health & Wellbeing Committee, in accordance with the guidance given in MEL (1998) 75, reinforced by MEL (2000) 29.

#### **Purpose**

2. The purpose of the Public Health & Wellbeing Committee is to ensure that Public Health Scotland is generating, accessing and mobilising all of the data and evidence required to ensure that the organisation is focused on and delivering the most effective solutions to tackling Scotland's persistent poor outcomes in health, wellbeing and inequalities.

#### **Remit**

3. Monitor upcoming or potential developments across the whole public health system, including research and development, innovation, statistical trend analysis, and assure itself that Public Health Scotland (PHS) is appropriately positioned to support these.

4. Receive assurance that the data and evidence generated by the organisation and through its strategic partnerships and networks is focused on the strategic delivery goals of the organisation.
5. Assess the effectiveness of the application of this data and evidence to the delivery and evaluation of impact of the organisation's strategy.

### **Membership and Attendees**

6. The Committee is appointed by the Board from amongst the non-executive members and can have no less than 4 members.
7. Three members will be quorum. Arrangements for ensuring a quorum can be found in the Board's Standing Orders. Members attending by tele or video conference will be determined as present for the purposes of quoracy.
8. The Chair of the Public Health and Wellbeing Committee will be a non-executive Board Member, appointed by the Board. Arrangements to deal with the absence of the Chair can be found in the Board's Standing Orders.
9. The Chair of the Board and other non-executive Board members have the right to attend meetings, but are not members of the Committee.
10. The Committee will be attended by the Head of Strategy, Governance and Performance, or nominated deputy, who may invite other officers to attend in support of particular items of business. The Chief Executive may also attend any meeting.
11. The Chair has the right to call a private meeting with no non-members present, in extraordinary circumstances.

## **Frequency of Meetings**

12. In the first year of operation of Public Health Scotland, the Committee may hold up to three meetings. The Chair may call additional meetings by exception.

## **Authority**

13. The Committee can investigate any activity within its terms of reference. Through the Head of Strategy, Governance and Performance or Chief Executive, it can ask for any information and officers are expected to support any request made by the Committee which strikes an acceptable balance between the value of the information requested and the time and other costs it takes to acquire and process it.
14. The Committee can co-opt additional members for a period not exceeding one year to provide specialist skills, knowledge and experience, subject to the approval of the Board and the Accountable Officer as per the Board Standing Orders.
15. The Committee should ensure good communication and relationships with other standing Committees of the Board.
16. Any member of the Committee can propose an item for the agenda through the Chair.

## **Duties**

17. Review illustrations of work that have made positive contributions to public health, and evidence of work that has met challenge, generated learning and led to improvement measures.

18. Review information on any upcoming or potential developments within the health service and public health, including statistical trend analysis, to assure itself that PHS is appropriately positioned to support these.

### **Minutes & Reporting**

19. The Committee will be supported by the central Governance Team.
20. Minutes will be submitted for approval to the next meeting of the Committee and thereafter submitted by its Chair to the first ordinary meeting of the Board for homologation by the Committee. In the interim, a verbal report on relevant matters can be given by the Chair to the Board.
21. The Chair will report to the Board, and will submit an Annual Report on its activities and outcomes. This will also give relevant assurance to the Board and Accountable Officer relating to the Governance Statement.
22. Additional reports will be provided to the Board as required to ensure it is informed of current issues.

### **Review**

23. The terms of reference, remit and effective working of the Public Health & Wellbeing Committee will be reviewed annually by the Board.

# **Annex F – Staff Governance Committee Terms of Reference**

## **Public Health Scotland**

## **Staff Governance Committee**

## **Terms of Reference**

### **Constitution**

1. The Public Health Scotland Board has established a Committee to be known as the Staff Governance Committee. The Staff Governance Committee will operate within the terms of the Board's Standing Orders, Standing Financial Instructions and the Board Code of Conduct.

### **Purpose**

2. The purpose of the Staff Governance Committee is to assure itself that Public Health Scotland establishes a culture where the workforce of the organisation is supported to deliver the organisation's strategic ambitions, that is in keeping with the dual accountability of Public Health Scotland to the Scottish Government and to COSLA and where the highest standards of staff management are maintained. It should ensure that arrangements are in place to fully implement the Staff Governance Standard underpinned by the NHS Reform (Scotland) Act 2004 and that the principles of NHS partnership working are underpinned by good governance.

## **Remit**

3. Monitor all appropriate data and evidence of staff welfare, engagement, people performance and workforce productivity.
4. Receive assurance that the organisation has in place effective workforce and people development strategies to deliver on the organisation's aims.
5. Monitor the quality and effectiveness of the organisation's management practice and leadership.

## **Membership and Attendees**

6. The Committee is appointed by the Board from amongst the non-executive members and can have no less than 4 members, of whom the Employee Director must be one.
7. Three members will be quorum. Arrangements for ensuring a quorum can be found in the Board's Standing Orders. Members attending by tele or video conference will be determined as present for the purposes of quoracy.
8. The Chair of the Staff Governance Committee will be a non-executive Board Member, appointed by the Board. Arrangements to deal with the absence of the Chair can be found in the Board's Standing Orders.
9. The Chair of the Board and other Public Health Scotland non-executive Board Members can ask to attend and participate in meetings.
10. The Committee will be attended by the Head of Strategy, Governance and Performance, or nominated deputy, who may invite other officers

to attend in support of particular items of business. The Chief Executive may also attend any meeting.

11. The Chair has the right to call a private meeting in private with no non-members present in extraordinary circumstances.

### **Frequency of Meetings**

12. In the first year of operation of Public Health Scotland, the Committee will hold three meetings. One of these meetings will be held jointly with the Public Health Scotland staff Partnership Forum. The Chair may call additional meetings by exception.

### **Authority**

13. The Committee can investigate any activity within its terms of reference. Through the Head of Strategy, Governance and Performance or Chief Executive, it can ask for any information and officers are expected to support any request made by the Committee which strikes an acceptable balance between the value of the information requested and the time and other costs it takes to acquire and process it.
14. The Committee can co-opt additional members for a period not exceeding one year to provide specialist skills, knowledge and experience, subject to the approval of the Board and the Accountable Officer as per the Board Standing Orders.
15. The Committee should ensure good communication and relationships with other standing Committees of the Board.
16. Any member of the Committee can propose an item for the agenda through the Chair.

## **Duties**

17. Oversee the commissioning of structures and processes that ensure delivery of the national Staff Governance Standard ('the Standard'), which entitles staff to be:
  - well informed
  - appropriately trained and developed
  - involved in decisions
  - treated fairly and consistently, with dignity and respect, in an environment where diversity is valued
  - provided with a continuously improving and safe working environment, promoting the health and wellbeing of staff, patients and the wider community
  
18. Review evidence of attainment and maintenance of the Standard and other relevant legal obligations, ensuring that there is a Staff Governance Action Plan in place and monitored for its effectiveness in improving the organisation's performance against the Standard.
  
19. Monitor and evaluate strategies and implementation plans relating to people management.
  
20. Oversee the development and monitoring of all organisational policy relating to workforce issues, ensuring compliance with national Partnership Information Network (PIN) policies.
  
21. Monitor and evaluate the implementation of all aspects of Healthy Working Lives, including the annual review and application of the organisation's Health and Safety Policy and related processes and procedures.

22. Oversee the effective operation of Public Health Scotland's working arrangements and undertake joint work on relevant issues with Public Health Scotland's Partnership Forum.

23. Ensure that the Remuneration Committee discharges its duties.

### **Minutes & Reporting Procedures**

24. The Committee will be supported by the central Governance Team.

25. Minutes will be submitted for approval to the next meeting of the Committee and thereafter submitted by its Chair to the first ordinary meeting of the Board for homologation. In the interim, a verbal report on relevant matters can be given by the Chair to the Board.

26. The Chair will report to the Board, and will submit an Annual Report on its activities, outcomes and effectiveness to the Board. This will also give relevant assurance to the Board and Accountable Officer relating to the Governance Statement.

27. Additional reports will be provided to the Board as required to ensure it is informed of current issues.

### **Review**

28. The terms of reference, remit and effective working of the Committee will be reviewed annually by the Board.

# **Annex G – Remuneration Committee Terms of Reference**

## **Public Health Scotland**

### **Remuneration Committee Terms of Reference**

#### **Constitution**

1. The Public Health Scotland Board has established a Committee known as the Remuneration Committee. The Public Health Scotland (PHS) Board Standing Orders have informed these terms of reference.

#### **Purpose**

2. The purpose of the Remuneration Committee is to ensure that there is efficient and effective use of public money in relation to managerial and executive pay and that decisions on pay are fully supportable to the general public who will want assurances that the maximum level of resources goes into improving outcomes for the people of Scotland. The Committee also ensures that appropriate systems for professional registration and other related processes are in place and utilised.

#### **Remit**

3. Ensure the application and implementation of fair and equitable pay systems, as determined by Ministers and Scottish Government and described in the Management Executive Letter (MEL) (1993) 114. This includes subsequent amendments to arrangements for the pay of executive members of the Board and managers who are employed on Senior Manager Terms and Conditions.

4. Ensure that Public Health Scotland acts in accordance with:
  - the MEL (1996) 49 'NHS Scotland Termination Settlements for NHS and General and Senior Managers'. The section on 'settlement agreements, severance, early retirement and redundancy terms' from the Scottish Public Finance Manual (SPFM) (2014)
  - Public Health Scotland Standing financial instructions (SFIs)
  - the updated 2015 guidance on 'Settlement and severance arrangements' (2019) issued by the Director of EU Brexit and Transition, NHS Scotland Chief People Officer and Director of Health Workforce, Leadership and Reform in Scottish Government and the 'Severance Policy for Scotland' (2019).
  
5. Oversee the establishment and maintenance of all necessary systems for medical appraisal, professional registration, honorary contracts and related processes.

### **Membership and Attendees**

6. The Committee consists of:
  - The Chair of the Board
  - The Chair of the Staff Governance Committee
  - The Chair of the Finance, Audit and Risk Committee
  - The Chair of the Public Health and Wellbeing Committee
  - The Employee Director
  
7. The Chair of the Remuneration Committee will be a non-executive Board Member, appointed by the Board. The Chair of the Board cannot be the Chair of the Remuneration Committee. Arrangements to deal with the absence of the Chair can be found in the Board's Standing Orders.

8. Three members of the Committee will be quorum. Arrangements for ensuring a quorum can be found in the Board's Standing Orders. Members attending by tele or video conference will be determined as present for the purposes of quoracy.
9. The Committee will be attended by the Head of Strategy, Governance and Performance, or nominated deputy, who may invite other officers to attend in support of particular items of business. The Chief Executive may also attend any meeting.
10. Officers of the Board will leave the meeting when their own remuneration and terms and conditions are to be discussed, and at other times, at the discretion of the Chair.
11. The Chair has the right to call a private meeting with no non-members present in extraordinary circumstances.

### **Meeting Arrangements**

12. The schedule of meetings for the each period will be agreed annually. In 2020/21 it is proposed to schedule one meeting, with additional meetings to be arranged at the discretion of the Chair.
13. By approval of the Chair, Committee business may also be conducted electronically or through teleconference.
14. Any member of the Committee can propose an item for the agenda through the Chair.
15. Papers that contain confidential personal information will only be circulated through nhs.net secure email accounts to secure hardware, or by the Board secure extranet portal.

## **Authority**

16. The Committee operates as a sub-committee of the Staff Governance Committee and is required to provide assurance that systems and procedures are in place to manage the issues set out in MEL (1993) 114 so that overarching staff governance responsibilities can be discharged.
17. The Committee can investigate any activity within its terms of reference. Through the Head of Strategy, Governance and Performance or Chief Executive, it can ask for any information and officers are expected to support any request made by the Committee which strikes an acceptable balance between the value of the information requested and the time and other costs it takes to acquire and process it.
18. The Committee can co-opt additional members for a period not exceeding one year to provide specialist skills, knowledge and experience, subject to the approval of the Board and the Accountable Officer as per the Board Standing Orders.
19. The Committee should ensure good communication and relationships with other standing Committees of the Board.
20. Any member of the Committee can propose an item for the agenda through the Chair.
21. The Audit Scotland Remuneration Committee Self-Assessment Framework will be used as the basis on which the business of the Committee is reviewed.

## **Duties**

22. Approve any process to appoint a Chief Executive or Director of the organisation, noting job descriptions, job evaluations, contracts and terms and conditions of employment, including associated benefits.
23. Approve the basic pay and benefits (including termination benefits) of the Executive Team, where the Senior Management Terms and Conditions apply and with particular regard to the implications of any changing governance arrangements in connection with the establishment of Public Health Scotland.
24. Agree the use of discretionary flexibility within national pay arrangements, including the allocation of discretionary points under the medical and dental terms and conditions of service for the Executive Team.
25. Review and approve the annual performance objectives of the Senior Leadership Team. The Committee also has the right to request a mid-year performance review.
26. Approve the performance ratings for the Senior Leadership Team following end of year appraisal and the implementation of any associated performance related pay increase, where the senior management pay cohort regulations apply.
27. Ensure that effective arrangements are in place for setting annual objectives, annual approval of performance ratings for members of staff remunerated, and any other processes related to pay and terms and conditions of service to any other staff who are employed on Senior Management Terms and Conditions but not part of the Senior Leadership Team.

28. Maintain an overview of all Early Departures from Public Health Scotland in order to assure, on behalf of the Board, the effective governance and corporate risk management of all such arrangements. Specifically:
29. Agree and review Public Health Scotland's policy of voluntary redundancy as it applies both to schemes that are open for periods of time to all staff or a specified group of staff, and also as it applies to staff individually exercising their right to apply for voluntary redundancy.
30. Recommend to the Board the approval of any voluntary redundancy scheme that is to be open for a period of time to all staff or a specified group of staff, including agreeing the objectives, time frame and any limits of such an initiative. Oversee the appropriate implementation of any such scheme within agreed processes and assure itself of appropriate outcomes.
31. Review, discuss and make decisions in relation to any Settlement Agreements in excess of £75,000; or that relate to the senior management team or have a novel or a public interest which may be contentious. The preparation and approval of business cases must comply with the approval or notification processes required by Scottish Government.
32. Approve any Employment Tribunal settlements in excess of £75,000 and take an overview of the current position with Employment Tribunals to ensure fairness and consistency is maintained.
33. Maintain an overview of arrangements where authority for decisions on voluntary redundancy or other forms of early departure have been delegated to the Chief Executive. The Chief Executive is responsible for approving termination / early retirement settlements up to £75,000. Business cases which relate to members of staff within the senior manager cohort that amount to over £75,000, or are otherwise judged by the Chief Executive (CEO) to present high risk to the organisation,

or have a novel or a public interest, must be submitted to the Remuneration Committee for approval.

34. From the business case brought forward, consider any recommendation made by the CEO with regard to voluntary redundancy or other forms of early departure where authority is not delegated to the CEO under the terms of the voluntary redundancy policy, satisfying itself that appropriate processes have been followed and that the decision to terminate the individual's contract of employment on these terms represents good value for money and is a defensible decision by the Board.
35. Receive and approve reports on the management and governance of early departures at Public Health Scotland at least 6-monthly or more often as necessary, and report at least annually to the Finance Audit and Risk Committee, Staff Governance Committee and Board on agreed aspects of the management of early departures.
36. Satisfy itself and others that all decisions reached by the Committee are determined through a fair and justifiable process, as laid out in the Audit Scotland Remuneration Committee 'Framework of Key Questions' (2007).
37. Comply with national circulars or directions from Scottish Government or Ministers that relate to guidance on remuneration or terms and conditions of employment.
38. Review annually the arrangements in place for medical appraisals, honorary contracts, discretionary points and associated systems and processes.
39. Ensure Remuneration Committee members are provided with appropriate information and training to support them in carrying out their roles.

## **Minutes & Reporting**

40. The Committee will be supported by the central Governance Team.
41. Minutes will be submitted for approval to the next meeting of the Committee and thereafter submitted by its Chair to the Staff Governance Committee and then on to the Board for homologation. In the interim, a verbal report on relevant matters can be given by the Chair to the Board.
42. Before submission to the Staff Governance Committee, the minute will be abridged when necessary to protect matters relating to individual staff members that require to remain confidential. This will be at the Chair's discretion.
43. The Chair will report to the Board, and will submit an Annual Report on its activities and outcomes. This will also give relevant assurance to the Board and Accountable Officer relating to the Governance Statement.

## **Review**

44. The terms of reference, remit and effective working of the Remuneration Committee will be reviewed annually by the Board.