

# NHS Health Scotland Management Statement

## Part 1: Introduction

1. This Management Statement has been drawn up by the Scottish Government's sponsor Directorate within the Health Directorates in consultation with NHS Health Scotland. The management statement sets out the broad framework within which NHS Health Scotland will operate. The Management Statement does not convey any legal powers or responsibilities. This document supersedes all previous versions.
2. The Management Statement shall be reviewed and updated as necessary, and at least every 2–3 years.
3. Any proposals to amend the Management Statement document either by the Scottish Government or NHS Health Scotland will be taken forward in consultation and in the light of Scottish Government priorities and policy aims. The guiding principle shall be that the extent of flexibility and freedom given to NHS Health Scotland shall reflect both the quality of its internal controls and its operational needs. The sponsor Directorate shall determine what changes, if any, are to be incorporated in the Management Statement. Legislative provisions shall take precedence over any part of the Management Statement.
4. NHS Health Scotland shall satisfy the conditions and requirements set out in the Management Statement, together with all relevant requirements in the Scottish Public Finance Manual (SPFM) and such other conditions as the Scottish Ministers/ sponsor Directorate may from time to time impose. Any question regarding the interpretation of the Management Statement shall be resolved by the sponsor Directorate after consultation with NHS Health Scotland.
5. Copies shall also be made available on the NHS Health Scotland website and on request.

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## **1. Functions, duties and powers**

### **1.1 Founding legislation; status**

1.1.1 NHS Health Scotland Board (the Board) is a Special Health Board responsible to Scottish Ministers through the Scottish Government Health Directorates. Scottish Statutory Instrument 1990 no. 2639 established the Health Education Board for Scotland as a special health board from 1 April 1991. Scottish Statutory Instrument Amendment Order 2003 no. 154 which came into force on 1 April 2003 details the changes made to the Health Education Board for Scotland following the Board's integration with the Public Health Institute of Scotland and the Board was renamed NHS Health Scotland.

### **1.2 The functions, duties and powers of NHS Health Scotland**

1.2.1 The Board is empowered to exercise the functions of the Scottish Ministers in relation to health improvement and reduction of health inequalities conferred upon the Scottish Ministers. The status of these statutory functions takes precedence over any summary included in this Management Statement/Financial Memorandum.

### **1.3 Classification**

1.3.1 For policy/administrative purposes NHS Health Scotland is a Non-Departmental Public Body (NDPB), classified as an NHS Body.

1.3.2 For national accounts purposes, NHS Health Scotland is classified to the central government sector.

1.3.3 References to NHS Health Scotland include, where appropriate, all its subsidiaries and joint ventures that are classified to the public sector for national accounts purposes. If such a subsidiary or joint venture is created, there shall be a document setting out the arrangements between it and NHS Health Scotland.

## **2. Aim(s), objectives and targets**

### **2.1 Overall aim(s)**

2.1.1. Within the founding legislation, the Scottish Ministers have defined the overall aims and functions of NHS Health Scotland as follows:

- The Board is empowered to exercise the functions of the Scottish Ministers in relation to health education and the provision of research and development services in the field of public health conferred upon the Scottish Ministers.

### **2.2 Core functions**

2.2.1. NHS Health Scotland contributes to the achievement of the Scottish Government's primary purpose of increasing sustainable economic growth by aligning its aims and objectives with the Scottish Government's published Economic Strategy and National Performance Framework.

## 2.2.2 The core functions of NHS Health Scotland in contributing to this goal are:

- Providing specialist advice to support the Scottish Government's public health improvement and health inequalities policy-making, to inform the planning of how this policy might be delivered in practice by a range of agencies and to influence the design and delivery of health services to help ensure that major service strategies improve health and prevent disease.
- Providing leadership to ensure that equality and diversity are integral to the health improvement and health inequalities agenda.
- Building the skills and support networks of staff, in all sectors in Scotland, whose roles incorporate the potential to improve health and tackle health inequalities.
- Working with partners to improve outcome focused performance management and reporting as it relates to health improvement and the reduction of health inequalities in Scotland.
- Disseminating and explaining relevant public health improvement and health inequalities evidence, learning from good practice, to professional and public audiences at the appropriate time and using the most effective mediums and language so that its reach, understanding and impact are maximised.
- Providing support to NHS Health Boards to help them deliver their HEAT targets and their Quality Strategy objectives through a range of initiatives, including social marketing, to facilitate the integration of local marketing approaches with the national social marketing strategy.
- Providing implementation support to NHS Health Boards to help them to deliver health improvement programmes.
- Providing support as negotiated with the NHS, local government and third sector agencies and the business community for the delivery of wider activities aimed at helping to tackle the social determinants of health.
- Evaluating agreed aspects of Scotland's public health improvement and health inequalities national programmes and supporting local evaluation of local activity, where needed.
- Reviewing published research and commissioning new research on innovations, insights and evidence on public health improvement and health inequalities, assembling timely, accurate and accessible resources from this work.

## 2.3 Objectives and key targets

2.3.1. NHS Health Scotland shall prepare for the Scottish Government Health Directorates an annual Local Delivery Plan (LDP) and a longer-term Corporate Strategy to determine the process of allocation of financial resources against the Board's priorities and targets; this should include performance indicators, have regard to the need for efficiency and effectiveness, and the achievement of value for money and quality in the delivery of service. The Local Delivery Plan and Corporate Strategy shall be agreed with the Scottish Government Health Directorates under the corporate planning process (Section 4 below) and will align aims and objectives with the Scottish Government's National Performance Framework.

2.3.2. Notwithstanding the agreed LDPs and Corporate Strategy, NHS Health Scotland and the Scottish Government shall work together in a flexible and creative way to ensure that current health improvement priorities are met. This would include reaching agreement to pool resources in a coordinated and cost effective way where this helps meet shared objectives.

### **3. Responsibilities and accountability**

#### **3.1 The Scottish Ministers**

3.1.1 The Scottish Ministers are ultimately accountable to the Scottish Parliament for the activities and performance of NHS Health Scotland. Their responsibilities include:

- approving NHS Health Scotland's strategic aims and approving its planned outcomes, key targets and the policy and performance framework within which NHS Health Scotland will operate (as set out in this management statement);
- providing information to the Parliament about the performance of NHS Health Scotland;
- approving the Revenue and Capital Resource Limits and the associated cash funding requirement to be paid to NHS Health Scotland, and securing the necessary Parliamentary approval;
- carrying out responsibilities specified in the National Health Service (Scotland) Act 1978 and subsequent legislation including appointments to the NHS Health Scotland Board, approving the terms and conditions of Board Members, approval of terms and conditions of staff, and laying of the annual accounts before the Parliament.

#### **3.2 The Portfolio Accountable Officer**

3.2.1 The Director-General for Health and Social Care and Chief Executive of NHSScotland is designated by the Principal Accountable Officer for the Scottish Administration as the Portfolio Accountable Officer for the parts of the Scottish Government supporting the Cabinet Secretary for Health and Wellbeing. This includes the sponsor Directorate for NHS Health Scotland. The responsibilities of a Portfolio Accountable Officer are set out in detail in the Memorandum to Accountable Officers from the Principal Accountable Officer – see Annex 1 of the section on Accountability in the Scottish Public Finance Manual (SPFM).

3.2.2 In particular the Portfolio Accountable Officer shall ensure that:

- the strategic aims and planned outcomes of NHS Health Scotland support the Scottish Ministers' wider strategic aims and National Performance Framework;
- the financial and other management controls applied by the Health Directorates to NHS Health Scotland are appropriate and sufficient to safeguard public funds and for ensuring that NHS Health Scotland's compliance with those controls is effectively monitored (public funds include not only any funds provided to NHS Health Scotland by the Scottish Ministers but also any other funds falling within the stewardship of NHS Health

Scotland, including gifts, bequests, donations and funds generated by approved activities);

- the internal controls applied by NHS Health Scotland conform to the requirements of regularity, propriety and good financial management;
- any funding provided to NHS Health Scotland is within the scope and the amount authorised by the Budget Act.

### **3.3 The sponsoring team in the sponsor Directorate**

3.3.1 The Sponsorship Team for NHS Health Scotland will be placed within the Health Directorates. The Team, in consultation as necessary with the Portfolio Accountable Officer, is the primary source of advice to the Scottish Ministers on the discharge of their responsibilities in respect of NHS Health Scotland, and the primary point of contact for NHS Health Scotland. The sponsoring team shall carry out its duties under a senior officer who shall have primary responsibility for overseeing the activities of NHS Health Scotland. NHS Health Scotland staff are encouraged to work directly with their counterpart colleagues in policy teams throughout the Scottish Government. The sponsoring team will maintain an up to date record of the relevant linkages between teams in the two organisations. The sponsoring team will also arrange coordinated discussions involving Scottish Government policy colleagues and NHS Health Scotland, as jointly agreed, to address issues about priorities, flexible use of resources when necessary, and any other matters about joint working that require attention.

3.3.2 The sponsoring team shall advise the Scottish Ministers on:

- an appropriate framework of outcomes and targets for NHS Health Scotland in the light of the Scottish Ministers' wider strategic aims and National Performance Framework;
- an appropriate budget for NHS Health Scotland in the light of the Scottish Ministers' overall public expenditure priorities;
- how well NHS Health Scotland is delivering its outcomes and whether it is delivering value for money.

3.3.3 In support of the Portfolio Accountable Officer the sponsoring team and the Scottish Government Health Finance Division shall:

on performance and risk management –

- monitor NHS Health Scotland's activities on a continuing basis through an adequate and timely flow of information from NHS Health Scotland on performance, budgeting, control and risk management, including early sight of NHS Health Scotland's Governance Statement;
- address in a timely manner any significant problems arising in NHS Health Scotland, whether financial or otherwise, making such interventions in the affairs of NHS Health Scotland as is judged necessary;
- ensure that the activities of NHS Health Scotland and the risks associated with them are properly and appropriately taken into account in the Scottish Government's risk assessment and management systems;

- ensure that appointments to the Board are made timeously and in accordance with the Commissioner for Public Appointments Code of Conduct.

on communication with NHS Health Scotland –

- enable early and two-way dialogue with NHS Health Scotland in the development of relevant Scottish Government policy in order that NHS Health Scotland can fulfil its role in offering expert advice on policy; and support implementation across NHSScotland effectively by advising on the interpretation of that policy and being in a position to prepare timely and specific guidance and support to partners.
- maintain good working relationships with the management of NHS Health Scotland, ensuring a balance between NHS Health Scotland determining its own detailed activities, but also carrying out activities in line with the Scottish Government's current priorities for both policy development and implementation;
- bring significant concerns about the activities of NHS Health Scotland to the attention of the full Board, and require explanations and assurances from the Board that appropriate action has been taken;
- have regular and frequent engagement with the Chief Executive and Directors in NHS Health Scotland to discuss mutual progress, any substantial risks or barriers to progress and provide regular feedback on NHS Health Scotland's performance.

### **3.4 The Chair of NHS Health Scotland**

3.4.1 The Health Directorates Public Appointments Unit (PAU) is responsible for managing the process for selecting and appointing Chairs for NHS Boards and Special Health Boards in Scotland. These are Ministerial appointments, and must be made in accordance with the Office of the Commissioner for Public Appointments in Scotland (OCPAS), which sets out the regulatory framework for the appointment process. This Code of Practice is based upon seven principles, as recommended by the Committee on Standards in Public Life, which are Ministerial responsibility, merit, independent scrutiny, equal opportunities, probity, openness and transparency and proportionality. Appointments to NHS Boards and Special Health Boards are normally restricted to two terms. However, a Chair who has served an initial term and has been reappointed may choose to apply in open competition for a third or subsequent term with the same NHS Board. The length of appointment terms are determined by any statutory constraints or are a matter for decision by Ministers.

3.4.2 The Chair is responsible to the Scottish Ministers. The Chair shall aim to ensure that NHS Health Scotland's policies and actions support the wider strategic policies of the Scottish Ministers; and that NHS Health Scotland's affairs are conducted with probity. The Chair shares with other Board Members the corporate responsibilities set out in paragraph 3.5.2, and in particular for ensuring that NHS Health Scotland fulfils the aims and objectives set by the Scottish Ministers.

3.4.3 The Chair has a particular leadership responsibility on the following matters:

- formulating the Board's strategy;

- ensuring that the Board, in reaching decisions, takes proper account of guidance issued by the Scottish Ministers;
- promoting the efficient and effective use of staff and other resources;
- encouraging high standards of propriety and regularity;
- representing the views of the Board to the general public.

#### 3.4.4 The Chair shall also:

- ensure that all members of the Board, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities, and receive appropriate induction training, including on the financial management and reporting requirements of public sector bodies and on any differences which may exist between private and public sector practice;
- advise the Scottish Ministers of the needs of the NHS Health Scotland Board when Board vacancies arise, with a view to ensuring a proper balance of expertise;
- assess the performance of individual Board Members on an annual basis.

3.4.5 The Chair shall also ensure that, for those bodies which fall within the provisions of the Ethical Standards In Public Life etc (Scotland) Act 2000, Board Members are fully aware of the body's Code of Conduct approved by the Scottish Ministers. For those bodies not covered by the provisions of the ethical standards framework the Chair shall ensure that members uphold the requirements of the Companies Act or the principles set out in the Nolan Report as regards ethical standards.

3.4.6 Communications between the Board and the Scottish Ministers shall normally be through the Chair. The Chair shall ensure that the other Board Members are kept informed of such communications.

### **3.5 The Board**

3.5.1 The Board Members are also ministerial appointments and are made in accordance with the arrangements set out in paragraph 3.4.1.

3.5.2 The Board has corporate responsibility for ensuring that NHS Health Scotland aligns its aims and outcomes with the Scottish Government's Economic Strategy and National Performance Framework set by the Scottish Ministers and for promoting the efficient and effective use of staff and other resources by NHS Health Scotland in accordance with the principles of best value – see relevant section of the SPFM. To this end, and in pursuit of its wider corporate responsibilities, the Board shall:

- establish the overall strategic direction of NHS Health Scotland within the policy, planning and resources framework determined by the Scottish Ministers;
- ensure that the Scottish Ministers are kept informed of any changes which are likely to impact on the strategic direction of NHS Health Scotland or on the attainability of its targets, and determine the steps needed to deal with such changes;

- ensure that any statutory or administrative requirements for the use of public funds (i.e. all funds falling within the stewardship of NHS Health Scotland) are complied with; that the Board operates within the limits of its statutory authority and any delegated authority agreed with the Health Directorates, and in accordance with any other conditions relating to the use of public funds; and that, in reaching decisions, the Board takes into account relevant guidance issued by the Scottish Ministers;
- ensure that the Board receives and reviews regular and sufficient financial information concerning the management of NHS Health Scotland; is informed in a timely manner about any concerns about the activities of NHS Health Scotland; and provides positive assurance to the Health Directorates that appropriate action has been taken on such concerns;
- demonstrate high standards of corporate governance at all times, including by setting up and using an independent audit committee – in accordance with the guidance on Audit Committees in the NHSScotland Audit Committee Handbook – to help the Board to address the key financial and other risks facing NHS Health Scotland. The Board is expected to assure itself on the effectiveness of the internal control and risk management systems.
- provide commitment and leadership in the development and promotion of Best Value principles throughout the organisation;
- appoint a Chief Executive to NHS Health Scotland and, in consultation with the Health Directorates, set performance objectives and remuneration terms linked to these objectives for the Chief Executive which give due weight both to the proper management and use of public monies and to the delivery of outcomes in line with Scottish Ministers' priorities.

3.5.3 Individual Board Members shall act in accordance with their wider responsibility as Members of the Board – namely to:

- comply at all times with the Code of Conduct (paragraph 3.4.5 above) that is adopted by NHS Health Scotland and with the rules relating to the use of public funds, conflicts of interest and confidentiality;
- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
- comply with the Code of Conduct or for those bodies not covered by the provisions of the Ethical Standards framework, the Board's rules on the acceptance of gifts and hospitality, and of business appointments;
- act in good faith and in the best interests of NHS Health Scotland.

### **3.6 The Chief Executive**

3.6.1 The Chief Executive of NHS Health Scotland is designated as NHS Health Scotland's Accountable Officer in accordance with sections 14 and 15 of the Public Finance and Accountability (Scotland) Act 2000.

3.6.2 The Accountable Officer of NHS Health Scotland is personally responsible for safeguarding the public funds (ie all funds falling within the stewardship of NHS Health Scotland) for which he/she has charge; for ensuring propriety and regularity in

the handling of those public funds; and for the day-to-day operations and management of NHS Health Scotland. He/she should act in accordance with the terms of the Management Statement and within the terms of relevant guidance in the SPFM and other instructions and guidance issued from time to time by the Scottish Government and Scottish Ministers – in particular the Memorandum to Accountable Officers of Other Public Bodies (Annex 2 of the section on Accountability in the SPFM).

3.6.3 The Accountable Officer has a duty to secure best value, which includes the concepts of good corporate governance, performance management and continuous improvement. Guidance to Accountable Officers on what their organisations should be able to demonstrate in fulfilment of the duties which make up a best value regime is included in the Best Value section of the SPFM.

3.6.4 As Accountable Officer the Chief Executive shall exercise the following specific responsibilities:

on planning, performance management and monitoring –

- establish NHS Health Scotland's corporate and business plans in the light of the Scottish Ministers' wider strategic aims;
- establish a robust performance management framework which supports the achievement of NHS Health Scotland's aims and objectives as set out in the corporate and business plans; and which enables full performance reporting to the Board, the Health Directorates, the Scottish Government sponsor team and the wider public;
- inform the sponsor team within the Health Directorates of NHS Health Scotland's progress in helping to achieve the Scottish Ministers' policy objectives and in demonstrating how resources are being used to achieve those objectives;
- ensure that timely forecasts and monitoring information on performance and finance are provided to the sponsor team within the Health Directorates; that the Health Directorates are notified promptly if overspends/underspends are likely or if performance targets are at serious risk and that corrective action is taken; and that any significant problems, whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the Health Directorates in a timely fashion;

on advising the Board –

- advise the Board on the discharge of its responsibilities as set out in this document, in the founding legislation and in any other relevant instructions and guidance issued by the Scottish Ministers/Health Directorates;
- advise the Board on NHS Health Scotland's performance compared with its aims and objectives;
- ensure that financial considerations are taken fully into account by the Board at all stages in reaching and executing its decisions, and that standard financial appraisal techniques as set out in the Green Book are followed as far as this is appropriate and practical;

- take action as set out in section 5 of the Memorandum to Health Service Accountable Officers if the Board, or its Chair, is contemplating a course of action involving a transaction which the Chief Executive considers would infringe the requirements of propriety or regularity or does not represent prudent or economical administration or efficiency or effectiveness;

on managing risk and resources –

- ensure that a system of risk management is embedded in the organisation to inform decisions on financial and operational planning and to assist in achieving objectives and targets;
- ensure that an effective system of programme and project management and contract management is maintained;
- ensure that the funds made available to NHS Health Scotland, including any approved income or other receipts, are used for the purpose intended by the Parliament, and that such monies, together with NHS Health Scotland's assets, equipment and staff, are used economically, efficiently and effectively;
- ensure that adequate internal management and financial controls are maintained by NHS Health Scotland, including effective measures against fraud and theft;
- maintain a comprehensive system of internal delegated authorities which are notified to all staff, together with a system for regularly reviewing compliance with these delegations;
- ensure that effective workforce management policies are maintained and that strategic workforce planning is related to NHS Health Scotland's objectives, ensuring that staff have the necessary training and skills to do their jobs;

on accounting for NHS Health Scotland's activities –

- sign the accounts and be responsible for ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any directions issued by the Scottish Ministers;
- sign a Statement of Accountable Officer's responsibilities, for inclusion in the annual report and accounts;
- sign a Governance Statement regarding NHS Health Scotland's system of internal control, for inclusion in the annual report and accounts;
- ensure that an effective complaints procedure is in place including, where applicable, reference to the Scottish Public Services Ombudsman, and made widely known;
- give evidence when summoned before Committees of the Scottish Parliament on the use and stewardship of public funds by NHS Health Scotland.

3.6.5 The Chief Executive may delegate the day-to-day administration of his/her Accountable Officer responsibilities to other employees in NHS Health Scotland. However, he/she shall not assign absolutely to any other person any of the responsibilities set out in this document.

3.6.6 The Chief Executive is responsible for informing the Portfolio Accountable Officer about any complaints about NHS Health Scotland accepted by the Scottish

Public Services Ombudsman for investigation, and about NHS Health Scotland's proposed response to any subsequent recommendations from the Ombudsman.

## **4. Planning, budgeting and control**

### **4.1 The Local Delivery Plan/Business Plan**

4.1.1 NHS Health Scotland shall produce annually a Local Delivery Plan and longer-term Corporate Strategy in accordance with guidance issued by the Health Directorates. NHS Health Scotland shall have agreed with the Health Directorates the issues to be addressed in the plan and the timetable for its preparation.

4.1.2 The plan shall reflect the statutory duties of NHS Health Scotland and, within those duties, the priorities set from time to time by the Scottish Ministers.

4.1.3 The main elements of the plan – including the key performance targets – shall be agreed between the Health Directorates and NHS Health Scotland in the light of the Health Directorate's decisions on policy and resources taken in the context of the Scottish Ministers' wider public expenditure plans and decisions. NHS Health Scotland staff should work directly with their counterpart colleagues in policy teams throughout the Scottish Government to establish key elements prior to sign off of the plan by the sponsoring team.

4.1.4 The Business Plan for the year immediately ahead shall be aligned to the Scottish Government's National Performance Framework and will be consistent with the agreed Local Delivery Plan and Corporate Strategy. The Business Plan shall be updated annually by NHS Health Scotland to include key targets and milestones for the forthcoming year and shall be linked to budgeting information so that resources allocated to achieve specific objectives can readily be identified by the Health Directorates. A copy of the Business Plan shall be submitted to the Health Directorates for information (and comment where considered appropriate) prior to the beginning of the financial year in question.

### **4.2 National priorities**

4.2.1 Within the Local Delivery Plan, NHS Health Scotland shall set out for the three years ahead priorities, key targets and milestones, which shall be linked to budgeting information so that resources allocated to achieve specific objectives can readily be identified by the Health Directorates.

### **4.3 Publication of plans**

4.3.1 Subject to any commercial considerations, the NHS Health Scotland Local Delivery Plan and Business Plan shall be made available on the internet site.

### **4.4 Reporting performance to the Health Directorates**

4.4.1 NHS Health Scotland shall operate management information and accounting systems which enable it to review in a timely and effective manner its financial and

non-financial performance against the budgets and targets set out in its Local Delivery Plan and its longer term Corporate Strategy.

4.4.2 NHS Health Scotland shall take the initiative in informing the Health Directorates of changes in external conditions which make the achievement of objectives more or less difficult, or which may require a change to the budget or objectives set out in the Local Delivery Plan and longer-term Corporate Strategy.

4.4.3 NHS Health Scotland's performance in helping to deliver Ministers' policies, including the achievement of agreed key objectives, shall be reported to the Sponsor Team in the Health Directorates on a quarterly basis. Although it is intended that Ministers will only attend Board Annual Reviews every two years, performance will be formally reviewed each year at the Annual Review of NHS Health Scotland, which shall be chaired by either the appropriate Cabinet Secretary/Minister or Chair of the Board and will be held in public. The appropriate Director and other relevant officials shall meet representatives of the NHS Health Scotland Board regularly to discuss NHS Health Scotland's performance, its current and future activities and any policy developments relevant to those activities.

4.4.4 NHS Health Scotland's performance against key targets shall be reported in their annual report and accounts (see Section 5.1 below). Other forms of reporting performance to the public should also be considered, as underpinned by the principles of the Freedom of Information Act. Each year NHS Health Scotland should publish on its website, no more than two months after their Annual Review, a public annual report in line with relevant guidance from the Health Directorates.

## **4.5 Budgeting procedures**

4.5.1 NHS Health Scotland's budgeting procedures are set out in the Financial Memorandum.

## **4.6 Internal audit**

4.6.1 NHS Health Scotland shall establish and maintain arrangements for internal audit in accordance with the Government Internal Audit Standards and the Internal Audit section of the SPFM.

4.6.2 NHS Health Scotland shall set up an independent audit and risk committee of its board in accordance with the guidance on Audit Committees in the SPFM.

4.6.3 NHS Health Scotland shall arrange for periodic quality reviews of its internal audit in accordance with the standards. The Health Directorates shall consider whether it can rely on these reviews to provide assurance on the quality of internal audit. However, the Health Directorates reserve a right of access to carry out/commission independent reviews of internal audit in NHS Health Scotland.

4.6.4 The Scottish Government's internal audit service shall also have a right of access to all documents related to NHS Health Scotland which are prepared by NHS Health Scotland's internal auditor, including where the service is contracted out. The audit strategy, periodic audit plans and annual audit report, including NHS Health

Scotland's Head of Internal Audit's (or equivalent) opinion on risk management, control and governance shall be copied to the sponsoring team who shall consult the Scottish Government's Head of Internal Audit as appropriate.

4.6.5 In addition, NHS Health Scotland shall forward to the Health Directorates an annual report on fraud and theft suffered by NHS Health Scotland per CEL 2008 (44), currently submitted as part of the annual accounts process; notify any unusual or major incidents as soon as possible; and notify any changes to its internal audit's terms of reference, its audit committee's terms of reference or its Fraud Policy and Fraud Response Plan.

## **5. External accountability**

### **5.1 The annual accounts**

5.1.1 After the end of each financial year NHS Health Scotland shall publish its audited annual accounts. The accounts shall also cover the activities of any subsidiary or joint venture under the control of NHS Health Scotland.

5.1.2 The accounts shall comply, so far as appropriate, with the Government Financial Reporting Manual. The accounts shall be prepared in accordance with the Accounts Direction and other relevant guidance issued by the Scottish Ministers.

5.1.3 The accounts shall outline the main activities and performance of NHS Health Scotland during the previous financial year and set out in summary form its forward plans. Information on performance against key financial targets shall be included in the notes to the accounts, and shall therefore be within the scope of the audit.

5.1.4 The accounts shall be submitted in draft to the Health Directorates for comment and the final version shall be laid before the Parliament by the Scottish Ministers in line with agreed timetables determined by the Scottish Government Health Directorates. The final accounts must not be laid before they have been formally sent by the Auditor General to the Scottish Ministers and must not be published before they have been laid. NHS Health Scotland shall be responsible for the publication of the accounts, including on their website.

### **5.2 External audit**

5.2.1 The Auditor General for Scotland (AGS) audits, or appoints auditors to audit, NHS Health Scotland's annual accounts and passes them to the Scottish Ministers who shall lay them before the Parliament. For the purpose of audit the AGS has a statutory right of access to documents and information held by relevant persons specified by an Order under section 24 of the Public Finance and Accountability (Scotland) Act 2000.

5.2.2 NHS Health Scotland shall instruct its auditors to send copies of all management letters (and correspondence relating to those letters) and responses to the Health Directorates.

### **5.3 VFM/3E examinations**

5.3.1 The Public Finance and Accountability (Scotland) Act 2000 provides that the AGS may carry out examinations into the economy, efficiency and effectiveness with which NHS Health Scotland has used its resources in discharging its functions. For the purpose of these examinations the AGS has statutory access to documents and information held by relevant persons.

5.3.2 In addition, NHS Health Scotland shall provide, in conditions to grants and contracts, for the AGS to exercise such access to documents held by grant recipients and contractors and sub-contractors as may be required for these examinations; and shall use its best endeavours to secure access for the AGS to any other documents required by the AGS which are held by other bodies.

## **6. Staff management**

6.1 Within the arrangements approved by the Scottish Ministers or set out in the body's legislation, NHS Health Scotland shall have responsibility for the recruitment, retention and motivation of its staff. To this end NHS Health Scotland shall ensure that it adheres to the Staff Governance Standard and PIN policies in relation to recruitment, retention and motivation of staff as well as being mindful of the Public Interest Disclosure Act and code of conduct for staff, which is based on the document *Model Code for Staff of Executive Non-Departmental Public Bodies*.

6.2 As required by section 121 of the NHS (Scotland) Act 1978 (as amended by Section 3 of the NHS Reform (Scotland) Act 2004), NHS Health Scotland will put in place arrangements for the purposes of:

- (a) improving the management of the officers employed by it;
- (b) monitoring such management; and
- (c) workforce planning.

6.3 In order to comply with this statutory requirement, NHS Health Scotland should put in place arrangements to improve continuously in relation to the fair and effective management of staff. This can be achieved by complying with the Staff Governance Standard which specifies that staff are entitled to be:

- well informed;
- appropriately trained;
- involved in decisions which affect them;
- treated fairly and consistently; and
- provided with an improved and safe working environment.

6.4 NHS Health Scotland shall have a Partnership Forum which will ensure that internal audit of staff governance is undertaken in accordance with the guidance set out in the Staff Governance Standard and that national Partnership Working regulations are followed.

6.5 NHS Health Scotland shall have a staff governance committee as a standing committee of the Board in accordance with the guidance contained in the Staff Governance Standard.

## **7. Reviewing the role of NHS Health Scotland**

7.1 The role of NHS Health Scotland shall be subject to review in accordance with the business needs of the Scottish Government Health Directorates, relevant guidance issued by the Scottish Government, and the business needs of NHS Health Scotland.

## **Part 3: Financial memorandum**

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Recovery of grant-financed assets

#### **8. Banking**

## **Appendix 1: Specific limits on delegated authority**

## **1. Budgeting procedures**

### **The Departmental Expenditure Limit (DEL)**

1.1 NHS Health Scotland's resource and capital expenditure form part of the Scottish Government's Resource DEL and Capital DEL respectively.

### **Setting the annual budget**

1.2 Each year, in the light of decisions by the Scottish Ministers on NHS Health Scotland's Local Delivery Plan (paragraph 4.1 of the management statement), the Health Directorates will send to NHS Health Scotland:

- a formal statement of the annual budgetary provision setting the Revenue Resource Limit (RRL) and Capital Resource Limit (CRL) allocated by the Scottish Ministers in the light of competing priorities across the Scottish Government and of the associated funding and any approved forecast income; and
- a statement of any planned change in policies affecting NHS Health Scotland.

1.3 NHS Health Scotland's annual planning will take account both of its approved budgetary provision and of any forecast income, and will include a budget of estimated payments and receipts together with a profile of expected expenditure/consumption of resources and of draw-down of grant in aid and other income over the year. These elements will form part of the Local Delivery Plan for the year in question (paragraph 4.2.1 of the management statement).

1.4 Funding provided by the Scottish Ministers for the year in question will be included in the annual Budget Act and will be subject to approval by the Parliament.

### **Transfers of budgetary provision**

1.5 All transfers of budgetary provision between resource and capital budgets and between cash and non-cash headings require the prior approval of the Health Directorates. Other transfers between main budget headings may be undertaken without the prior approval of the sponsor Directorate.

### **End-year flexibility**

1.6 NHS Health Scotland must operate within agreed revenue and capital resource limits (or budgetary provision) and as set out in agreed three- or five-year financial plans. Any proposals to carry forward from one financial year to the next, surplus revenue or capital budgetary provision must be agreed by the Health Directorates as part of the financial planning process. NHS Health Scotland must at the earliest opportunity submit to the Health Directorates details of any proposed changes to their agreed financial plans. The budgetary consequences of any proposed changes will be considered by the Health Directorates in light of the overall financial priorities and a decision provided thereafter.

## **Authority to spend**

1.7 Once NHS Health Scotland's budget has been approved by the Health Directorates (and subject to any restrictions imposed by statute/the Scottish Ministers/the Management Statement/Financial Memorandum), NHS Health Scotland shall have authority to incur expenditure/consume resources without further reference to the Health Directorates, on the following conditions:

- NHS Health Scotland shall comply with the specific delegations set out in the attached Appendix. These delegations shall not be altered without the prior agreement of the Health Directorates;
- NHS Health Scotland shall comply with the conditions set out in this financial memorandum regarding novel, contentious or repercussive proposals and with any relevant guidance in the Scottish Public Finance Manual (SPFM);
- inclusion of any planned and approved expenditure in NHS Health Scotland's budget shall not remove the need to seek formal Health Directorate approval where any proposed expenditure is outside the delegated limits or is for new schemes not previously agreed; and
- NHS Health Scotland shall provide the Health Directorates with such information about its operations, performance, individual projects or other expenditure as the Health Directorates may reasonably require.

## **Impairment of assets**

1.8 Assets will normally only impact on the resource budget through depreciation or where there is a profit or loss on disposal, which would all score in the resource DEL budget of NHS Health Scotland. Assets should be recorded on the balance sheet at equivalent use value or in the case of specialised assets depreciated replacement cost, with any fluctuations in value being dealt with through the revaluation reserve. However, where an asset suffers an impairment (i.e. a permanent write-off of value which cannot be met from the revaluation reserve) this amount should be charged as operating expenditure in year. Funding may be available from Treasury for some impairments and the Board should refer to the NHS Scotland Capital Accounting Manual to determine the appropriate budgetary treatment and classification. The details of impairments for each year should be agreed in advance by the Health Finance Directorate.

## **Provisions**

1.9 A provision is a liability of uncertain timing or amount. It should be recognised in the resource DEL budget for NHS Health Scotland when it has a present obligation (legal or constructive) as a result of a past event, when it is probable that a transfer of economic benefits will be required to settle this obligation, and when a reliable estimate can be made of the amount of the obligation. The timing of significant changes in provisions should be agreed in advance by the Health Finance Directorate.

## **Bad debt**

1.10 Bad debt that is written off by NHS Health Scotland scores in its resource DEL budget. Write-off of bad debt is subject to the delegated limit set out in the attached Annex. Write-off above that limit is subject to the prior approval of the Health Finance Directorate. Appropriate provision for known bad debt should be made in the Annual Accounts at the year end.

## **2. NHS Health Scotland's income**

### **Funding**

2.1 Funding will be paid to NHS Health Scotland in monthly instalments, on the basis of an application from NHS Health Scotland showing evidence of need. The application shall provide the Health Directorates with, as a minimum, information which will enable the satisfactory monitoring by the Health Directorates of:

- NHS Health Scotland's cash management;
- actual and forecast outturn of expenditure.

2.2 Funding should not be paid out in advance of need. Cash balances accumulated during the course of the year from funding shall therefore be kept at the minimum level consistent with the efficient operation of NHS Health Scotland. No funding shall be paid into any reserve held by NHS Health Scotland.

### **Borrowing**

2.3 Borrowing cannot be used to increase NHS Health Scotland's spending power. No borrowing should be undertaken by the Board, excluding agreed overdrafts.

### **Maximising income from other sources**

2.4 NHS Health Scotland shall seek to maximise income from other sources provided that this is consistent with NHS Health Scotland's main functions and its Local Delivery Plan as agreed by the Scottish Ministers and Health Directorates. Proposals for new sources of income or methods of fundraising should be cleared with the Health Directorate.

### **Receipts from the EC**

2.5 NHS Health Scotland should ensure that the Health Directorates are informed of all potential EU funding so that there can be a full assessment of the implications of such funding for the Scottish Government. See the guidance in the EU Funding section of the SPFM.

### **Fees and charges**

2.6 Fees or charges for any services supplied by NHS Health Scotland shall be determined in accordance with the Fees and Charges section of the SPFM.

## **Receipts from sale of goods or services**

2.7 Receipts from the sale of goods and services, rent of land, and dividends may be used to provide additional spending power subject to them being included in the approved budget.

## **Interest earned**

2.8 Interest may not be earned by NHS Health Scotland on cash balances.

## **Proceeds from disposal of assets**

2.9 Disposals of land and buildings are dealt with in Section 7 below.

## **Gifts, bequests and donations**

2.10 NHS Health Scotland is free to retain any gifts, bequests or similar donations. These shall be treated as receipts that, where appropriate, can be used to increase spending power. (NOTE: Donated assets do not attract a cost of capital charge, and a release from the donated assets reserve should offset depreciation in the operating cost statement.)

2.11 Before proceeding in this way NHS Health Scotland shall consider if there are any associated costs in doing so or any conflicts of interests arising. NHS Health Scotland shall keep a written record of any such gifts, bequests and donations and of their estimated value and whether they are disposed of or retained.

## **3. NHS Health Scotland's expenditure:**

### **General principles**

#### **Delegated authority**

3.1 NHS Health Scotland shall not, without prior approval of the Health Directorate, enter into any undertaking to incur any expenditure which falls outside the specific limits on NHS Health Scotland's delegated authority as set out in the attached Appendix.

#### **Appraisal and evaluation**

3.2 All expenditure proposals shall, so far as appropriate, be subject to the guidance in the Appraisal and Evaluation section of the SPFM.

#### **Procurement**

3.3 NHS Health Scotland's procurement policies shall reflect relevant guidance in the Procurement section of the SPFM. Procurement should be treated as a key component of achieving NHS Health Scotland's objectives consistent with the principles of Best Value, as well as a means of finding the most cost-effective method for securing the quality of assets and/or services. NHS Health Scotland shall

also ensure that it complies with any relevant EU or other international procurement rules.

### **Competition**

3.4 Contracts shall be placed on a competitive basis and tenders accepted from suppliers who provide best value for money overall. This process should be undertaken by appropriately trained and authorised staff and should reflect relevant guidance in the Procurement section of the SPFM and relevant guidance issued by the Scottish Government's Procurement and Commercial Directorate. Proposals to let single-tender or restricted contracts above the relevant delegated limit (to be agreed by the Board) must be submitted to the Health Directorate for approval.

### **Value for money**

3.5 Procurement by NHS Health Scotland of works, equipment, goods and services shall be based on value for money, ie quality (in terms of fitness for purpose) and delivery against price. Where appropriate, a full option appraisal shall be carried out before procurement decisions are taken.

### **Timeliness in paying bills**

3.6 NHS Health Scotland shall pay all matured and properly authorised invoices in accordance with the terms of contracts or within terms set by Scottish Ministers, as provided for the Payments section of the SPFM.

### **Novel, contentious or repercussive proposals**

3.7 NHS Health Scotland shall obtain the approval of the Health Directorates before:

- incurring any expenditure for any purpose which is or might be considered novel or contentious, or which has or could have significant future cost implications, including on staff benefits;
- making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the Health Directorate;
- making any change of policy or practice which has wider financial implications (eg because it might prove repercussive among other public sector bodies) or which might significantly affect the future level of resources required.

### **Risk management**

3.8 NHS Health Scotland shall ensure that the risks it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and shall develop a risk management strategy, in accordance with the Risk management section of the SPFM.

3.9 NHS Health Scotland shall adopt and implement policies and practices to safeguard itself against fraud and theft, in line with the Fraud partnership agreement notified by Health Departmental Letter in 2005 and subsequent guidance.

3.10 NHS Health Scotland shall take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract or to give funding.

#### **4. Expenditure on Board Members**

4.1 Remuneration, allowances and expenses paid to Board Members, and any pension arrangements, must comply with specific guidance on such matters issued by the Scottish Ministers.

#### **5. Expenditure on staff**

##### **Staff costs**

5.1 NHS Health Scotland is responsible for determining the number of staff required and the most appropriate organisational structure to deliver its remit economically, efficiently and effectively within the resources available to it. However, any proposals for significant changes in staff numbers or organisational structure should be alerted to the Health Directorates and discussion invited as appropriate.

##### **Pay and conditions of service**

5.2 NHS Health Scotland shall implement the Health Directorates Pay Circulars guidance and pay settlements within the terms of the remit. NHS Health Scotland shall comply with the EU directive on contract workers Fixed Term Employees Regulations (Prevention of Less Favourable Treatment). The terms and conditions of the Chief Executive and Executive Directors are subject to a separate approval exercise.

##### **Pensions, redundancy/compensation**

5.3 Superannuation arrangements for staff are subject to the approval of the Health Directorates. NHS Health Scotland's staff shall normally be eligible for a pension provided by membership of the NHS Superannuation Scheme.

5.4 From October 2012 or whenever NHS Health Scotland is 'staged in' to workplace pension reform, and in line with national terms and conditions, eligible staff must be automatically enrolled by NHS Health Scotland into the NHS superannuation scheme. The employer's contribution to any personal pension arrangement, including stakeholder pension, shall [normally] be limited to the national insurance rebate level.

5.5 Any proposal by NHS Health Scotland to move from existing pension arrangements, or to pay any redundancy or compensation for loss of office outwith current guidance and regulation requires the approval of the Health Directorates. Proposals on severance payments must comply with the guidance in the Severance etc. section of the SPFM.

## **6. Non-staff expenditure**

### **Capital expenditure**

6.1 Subject to being above the Scottish Government's capitalisation threshold, all expenditure on the acquisition or creation of fixed assets shall be capitalised on an accruals basis. Expenditure to be capitalised shall include the (a) acquisition, reclamation or laying out of land; (b) acquisition, construction, preparation or replacement of buildings and other structures or their associated fixtures and fittings; and (c) acquisition, installation or replacement of movable or fixed plant, machinery, vehicles and vessels.

6.2 Proposals for large-scale individual capital projects or acquisitions will normally be considered within NHS Health Scotland's planning process and within the context of its long-term estate strategy. Any such project shall be subject to the guidance in the Major Investment section of the SPFM and, where appropriate, the Construction Procurement Manual published by the Scottish Government's Construction Advice and Policy Division. Individual capital projects or acquisitions are subject to specific delegated limit(s) as indicated in the attached Appendix.

### **Lending, guarantees, indemnities, contingent liabilities, letters of comfort**

6.3 NHS Health Scotland shall not lend money, charge any asset or security, give any guarantee – excluding a guarantee of a standard type given in the normal course of business – or indemnity or letter of comfort, or incur any other contingent liability (as defined in the Contingent Liabilities section of the SPFM), whether or not in a legally binding form.

### **Grant or loan schemes**

6.4 Although NHS Health Scotland is not a grant giving body, unless covered by a delegated authority, any future proposals to make a grant or loan to a third party, whether one-off or under a scheme, shall be subject to prior approval by the Health Directorates, together with the terms and conditions under which such grant or loan is made. Guidance on a framework for the control of third party grants is included in the Grant and Grant in Aid section of the SPFM. See also below under the heading Recovery of grant-financed assets.

### **Gifts, losses and special payments**

6.5 Proposals for making gifts or other special payments (including write-offs) outside the delegated limits set out in the attached Appendix must have the prior approval of the sponsor Directorate. Any such proposals should address the considerations listed in the Losses and Special Payments section of the SPFM. Gifts by management to staff are subject to the guidance in the Non-Salary Rewards section of the SPFM.

## **Leasing**

6.6 NHS Health Scotland must have CRL provision for finance leases and other transactions, which are in substance borrowing. Before entering into any lease (including an operating lease) NHS Health Scotland must demonstrate that the lease offers better value for money than purchase.

## **Public/Private Partnerships**

6.7 NHS Health Scotland shall seek opportunities to enter into Public/Private Partnerships where this would be more affordable and offer better value for money than conventional procurement. Where cash flow projections may result in delegated authority being breached NHS Health Scotland shall consult the Health Finance Directorate. Any partnership controlled by NHS Health Scotland shall be treated as part of NHS Health Scotland in accordance with UK GAAP/IFRS and consolidated with it (subject to any particular treatment required by UK GAAP). See also the guidance in the Public/Private Partnerships section of the SPFM.

## **Subsidiary companies and joint ventures**

6.8 NHS Health Scotland shall not establish subsidiary companies or joint ventures without the express approval of the Health Directorates. In judging such proposals the Health Directorates will have regard to the Scottish Ministers' wider strategic aim(s) and objectives.

6.9 Any subsidiary company or joint venture controlled or owned by NHS Health Scotland shall be consolidated with it in accordance with UK GAAP/IFRS for public expenditure accounts purposes, subject to any particular treatment required by UK GAAP/IFRS. Unless specifically agreed with the Health Directorates such subsidiary companies or joint ventures shall be subject to the controls and requirements set out in the Management Statement/Financial Memorandum.

## **Financial investments**

6.10 NHS Health Scotland shall not make any financial investments without the prior approval of the Health Directorates, nor shall it aim to build up cash balances or net assets in excess of what is required for operational purposes. Equity shares in ventures, which further the objectives of NHS Health Scotland shall equally be subject to Health Directorates' approval unless covered by a specific delegation. NHS Health Scotland shall not invest in any venture of a speculative nature.

## **Unconventional financing**

6.11 Unless otherwise agreed with the Health Directorate, NHS Health Scotland shall not enter into any unconventional financing arrangement.

## **Commercial insurance**

6.12 NHS Health Scotland may only take out commercial insurance, without the prior approval of the Health Directorates, in accordance with the guidance in the

Insurance section of the SPFM e.g. third-party insurance required by the Road Traffic Acts. In the event of losses arising under the Scottish Government's policy of self-insurance the Health Directorates shall consider, on a case by case basis, whether or not it should make any additional resources available to NHS Health Scotland and/or agree adjustments to the targets in the corporate plan.

## **7. Management and disposal of fixed assets**

### **Register of assets**

7.1 NHS Health Scotland shall maintain an accurate and up-to-date register of its fixed assets.

### **Disposal of assets**

7.2 NHS Health Scotland shall dispose of assets which are surplus to its requirements and in accordance with its long-term estate strategy. Assets shall be sold for the best price, taking into account any costs of sale and in accordance with the guidance in the Disposal of Tangible Fixed Assets section of the SPFM. Income from the disposal of assets may be retained by NHS Health Scotland subject to the agreement of the Health Directorates. In the absence of Health Directorates' approval any income from disposal shall be deducted from the CRL. Income from the sale of Assets can be added to the CRL for the sole purpose of purchasing further Capital Assets.

### **Recovery of grant-financed assets**

7.3 Where NHS Health Scotland has financed expenditure on capital assets by a third party, NHS Health Scotland shall make appropriate arrangements to ensure that any such assets above an agreed value are not disposed of by the third party without NHS Health Scotland's prior consent. NHS Health Scotland shall therefore ensure that such conditions are sufficient to secure the repayment of its due share of the proceeds - or an appropriate proportion of them if the grant was for less than the whole cost of acquisition or improvement.

7.4 NHS Health Scotland shall also ensure that if the assets created by grants made by NHS Health Scotland cease to be used by the recipient of the grant for the intended purpose, an appropriate proportion of the value of the asset shall be repaid to NHS Health Scotland.

## **8. Banking**

8.1 NHS Health Scotland's Accountable Officer is responsible for ensuring that NHS Health Scotland's banking arrangements are consistent with the guidance in the Banking section of the SPFM. In particular he/she shall ensure that the arrangements safeguard public funds and are carried out efficiently, economically and effectively.

## Financial memorandum: Appendix 1

### Specific limits on delegated authority

|                                  |  |
|----------------------------------|--|
| Single-tender contracts          | Limit to be agreed by the NHS Board                                      |
| Contracts for goods and services | Limit to be agreed by the NHS Board                                      |
| Capital investment projects      | Property under £5 million  |
| Acquisition of assets            | IT projects under £2 million   |
| Claims waived or abandoned       | £5,000 per case  |
| Write-off of bad debt            | £5,000 per case  |
| Special payments                 | £20,000 per case<br>£100,000 Compensation cases (under legal obligation) |