



The Scottish Parliament
Pàrlamaid na h-Alba

PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE

AGENDA

8th Meeting, 2021 (Session 5)

Thursday 4 March 2021

The Committee will meet at 9.00 am in a virtual meeting and broadcast on www.scottishparliament.tv.

1. **Decision on taking business in private:** The Committee will decide whether to take items 4, 5, 6, 7, 8 and 9 in private.

2. **Section 22 report - The 2018/19 audit of Bòrd na Gàidhlig: Governance and transparency:** The Committee will take evidence from—

Paul Johnston, Director-General, Education, Communities and Justice, and Graeme Logan, Director of Learning, Scottish Government.

3. **Key audit themes - Scottish Government support for public bodies:** The Committee will take evidence from—

Paul Johnston, Director-General, Education, Communities and Justice, Sharon Fairweather, Director of Internal Audit and Assurance, and Catriona MacLean, Deputy Director Public Sector Reform, Public Sector and Third Sector, Scottish Government.

4. **Key audit themes - Scottish Government support for public bodies:** The Committee will consider the evidence heard at agenda item 3 and take further evidence from—

Stephen Boyle, Auditor General for Scotland;

Michael Oliphant, Audit Director, Audit Scotland.

5. **Section 22 report - The 2018/19 audit of Bòrd na Gàidhlig: Governance and transparency:** The Committee will consider the evidence heard at agenda item 2 take further evidence from—

Stephen Boyle, Auditor General for Scotland;

Michael Oliphant, Audit Director, Audit Scotland;

Pat Kenny, Director, and Conor Healy, Manager, Audit and Assurance, Deloitte LLP.

6. **Post-legislative scrutiny - The Control of Dogs (Scotland) Act 2010:** The Committee will consider a draft letter to the Minister for Community Safety.
7. **Section 22 report - The 2019/20 audit of the Scottish Government Consolidated Accounts:** The Committee will consider correspondence from the Scottish Government.
8. **Post-legislative scrutiny - The Freedom of Information (Scotland) Act 2002:** The Committee will consider the Scottish Government's response to its report.
9. **Legacy paper:** The Committee will consider revisions to a draft Legacy paper.

Lucy Scharbert
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The papers for this meeting are as follows—

Agenda Item 2

Note by the Clerk

PAPLS/S5/21/8/1

PRIVATE PAPER

PAPLS/S5/21/8/2 (P)

Agenda Item 3

Note By The Clerk

PAPLS/S5/21/8/3

PRIVATE PAPER

PAPLS/S5/21/8/4 (P)

Agenda Item 6

PRIVATE PAPER

PAPLS/S5/21/8/5 (P)

Agenda Item 7

PRIVATE PAPER

PAPLS/S5/21/8/6 (P)

Agenda Item 8

PRIVATE PAPER

PAPLS/S5/21/8/7 (P)

Agenda Item 9

PRIVATE PAPER

PAPLS/S5/21/8/8 (P)

Public Audit and Post-legislative Scrutiny Committee**8th Meeting, 2021 (Session 5), Thursday 4 March 2021****Section 22 report – The 2018/19 audit of Bòrd na Gàidhlig: Governance and transparency****Introduction**

1. At its [meeting on 16 January 2020](#), the Public Audit and Post-legislative Scrutiny Committee took evidence from the then Auditor General for Scotland on the section 22 report entitled [The 2018/19 audit of Bòrd na Gàidhlig: Governance and transparency](#). At that meeting, the Committee agreed to invite Bòrd na Gàidhlig and the Scottish Government to give evidence on the issues raised in the report. The evidence session was subsequently postponed due to the Covid-19 pandemic.
2. The Committee subsequently took evidence from Bòrd na Gàidhlig and the Scottish Government at its [meeting on 24 September 2020](#). The Committee agreed that it wished to have a further evidence session with the Scottish Government.
3. A copy of the audit report can be found in **Annexe A**. The Scottish Government has also written to the Committee in connection with this evidence session and the correspondence can be found in **Annexe B**. This correspondence also includes information that is relevant to the second evidence session today on Government support for public bodies.

Background

4. There has been a series of correspondence between the Scottish Government, Bòrd na Gàidhlig and the Committee in relation to this audit report. All previous correspondence can be found [here](#).

**Clerks to the Committee
1 March 2021**

The 2018/19 audit of Bòrd na Gàidhlig

Governance and transparency



AUDITOR GENERAL 

Prepared for the Public Audit & Post-Legislative Scrutiny Committee by the Auditor General for Scotland
Made under section 22 of the Public Finance and Accountability (Scotland) Act 2000
December 2019



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Introduction

1. Bòrd na Gàidhlig (The Bòrd) is an executive non-departmental public body established under the Gaelic Language (Scotland) Act 2005. The Bòrd is the principal public body in Scotland responsible for promoting Gaelic development and providing advice to the Scottish Ministers on Gaelic issues. The Bòrd is based in Inverness and employs around 19 staff. It is funded by grant-in-aid from the Scottish Government and its 2018/19 net expenditure was £5.3 million.
2. This report is based on the 2018/19 audit of the Bòrd and draws to Parliament's attention issues relating to governance and transparency. The auditor has given an unqualified opinion on the 2018/19 annual report and accounts of the Bòrd.

Governance and transparency

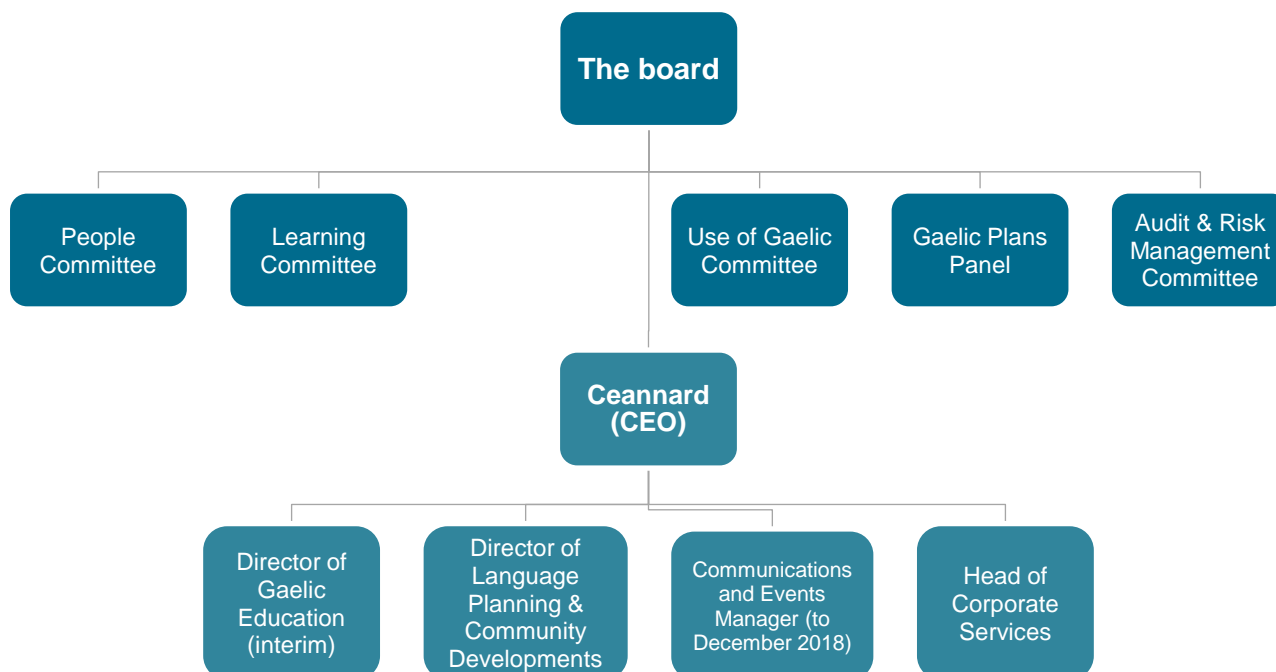
3. The Bòrd is an executive non-departmental public body sponsored by the Directorate for Learning within the Education, Communities and Justice portfolio of the Scottish Government. At the end of 2018/19, the Board consisted of a Chair (interim) and nine members who were appointed by Scottish Ministers.¹ The Bòrd's board is responsible for the overall management, strategic direction and performance of the body. During 2018/19, the board was supported by a People Committee, Learning Committee, Gaelic Usage Committee and an Audit and Risk Management Committee. The Bòrd's leadership team is led by a Chief Executive and consists of a Director of Gaelic Education (interim), Director of Language Planning and Community Developments and a Head of Corporate Services.² [Exhibit 1](#).

¹ Between April and December 2018, the board consisted of a chair and 10 members.

² The leadership team also included a Communications and Events Manager until December 2018. This role was outsourced from February 2019.

Exhibit 1

Bòrd na Gàidhlig's leadership structure 2018/19



Source: Audit Scotland

4. During the 2018/19 audit of the Bòrd, the auditor raised several concerns relating to governance and transparency. These covered a wide-range of issues including ineffective leadership, inadequate workforce planning, a lack of clarity over roles and responsibilities and poor relationships and organisational culture. The issues identified by the auditor included:
- Concerns over the structure, capacity, skills and effectiveness of the leadership team. Poor relationships between members of the leadership team meant a lack of cohesiveness in strategic decision-making. The auditors believed that these issues led to a lack of confidence and a culture of mistrust throughout the organisation.
 - No organisational workforce plan was in place and limited consideration was given to succession planning. The Bòrd faces challenges in recruiting to fill vacant posts, particularly given the policy that requires all employees to speak Gaelic.
 - The Bòrd did not have a Head of Finance for around 15 months, between January 2018 and March 2019. In September 2018, an agreement was made with a comparable body to provide financial oversight, but this ceased the following month due to capacity issues with the provider. An external supplier was appointed between January 2019 and March 2019 to prepare the 2018/19 annual accounts.
 - Delays in tendering for a new outsourced internal audit service meant there was no internal audit function in April and May 2019. The previous internal auditor was appointed Head of Finance on a part-time basis from April 2019.
 - There was a lack of openness and transparency in decision-making within the organisation. All board and committee meetings are held in private. It can take several

months for agendas and minutes of board meetings to be made available on the Bòrd's website. At the time of the audit (May 2019), the last agenda and minutes published were from June 2018.

- There was limited evidence of the board providing effective scrutiny and challenge of decision-making or holding senior management to account for their performance. Recommendations from past audits or reviews were not always implemented. There was also a lack of consideration of whether ongoing grant funding to organisations was contributing towards the Bòrd's strategic aims and thus achieving value for money.
 - There was a lack of clarity over the respective roles and responsibilities of the senior management team, committees, the Scottish Government's sponsor team and the board, with board members becoming too involved in operational matters. A review of the effectiveness of the Audit and Risk Management Committee was carried out in February 2019 with an action plan agreed in November 2019. No similar review of effectiveness has taken place of the board or any of the other committees. The previous Chair did not carry out annual performance appraisals of board members as required by good practice guidance. In May 2018, a review of the members' Code of Conduct was recommended by the Board, but this did not take place.
5. The audit identified a number of significant issues relating to governance and transparency which require urgent action by the board, management and the sponsor team. In July 2019, the board agreed an improvement plan based on the issues and recommendations identified by the auditor. These cover governance and transparency, financial management, financial sustainability and value for money. An Improvement Plan Steering Group has been established to monitor the implementation of the plan and report progress to the board and the Audit and Risk Management Committee.

Conclusion


6. All public bodies, irrespective of their size, must demonstrate clear and effective governance and make key decisions in an open and transparent way. Openness and transparency build confidence and trust in an organisation and those leading it. The Bòrd's leadership team and board must deliver and demonstrate significant improvements in the issues raised by the auditor. This will be necessary to establish the trust and confidence of staff and stakeholders, including the Parliament and the public. I have asked the auditor to monitor the Bòrd's progress and report, as appropriate, following the 2019/20 audit.

The 2018/19 audit of Bòrd na Gàidhlig

Governance and transparency

This report is available in PDF and RTF formats,
along with a podcast summary at:

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26 February 2021

Dear Convener

BÒRD NA Gàidhlig AND PUBLIC BODY SPONSORSHIP

In advance of the evidence session on 4 March 2021 I thought it might assist the Committee to have some material relating to the matters that are scheduled for consideration.

I have included the following:

- Update on Bòrd na Gàidhlig (Annex A)
- Bòrd na Gàidhlig Framework Document (Annex B)
- A table that details the different types of public bodies in Scotland and how that affects their accountability, governance, and relationships with the Scottish Government (Annex C)
- Details of the number and types of public bodies in Scotland (Annex D)
- A list of action undertaken and details of planned activity that will continue to strengthen the governance and oversight of public bodies in Scotland. (Annex E)

I hope that the committee find this information helpful.

Yours sincerely

PAUL JOHNSTON

UPDATE ON BÒRD NA GÀIDHLIG

Since my last appearance at the Committee the sponsor division has completed a peer review which comprised sponsor team colleagues from other parts of the Scottish Government conducting a review of sponsorship of Bòrd na Gàidhlig (BnG). The review provided helpful feedback and offered some recommendations, many of which have already been implemented and are now embedded into the sponsorship role. In particular:

- the Sponsor team has strengthened engagement with BnG through quarterly sessions with the BnG SMT and regular quarterly communications meetings, ensuring BnG's KPIs are a fixed agenda item and any actions from meetings are shared and agreed by both parties.
- the sponsor team worked in collaboration with BnG to review and refresh the Framework agreement to ensure clarity of the role and responsibilities of both the sponsor team and BnG, and also the added clarity to the oversight roles of the Deputy Director and Director.
- strengthened Deputy Director/Director engagement with the Chief Executive and Chair of BnG. The Deputy Director meets quarterly with the Chair. In addition, the DD will also join similar quarterly meetings between the sponsor team and BnG SMT, which are scheduled at a mid-points between the BnG Board meetings and quarterly meetings with the Chair. The Director will also hold six monthly strategic oversight meetings with the Chief Executive and Chair, the first of which takes place on 1 March.
- it was agreed that if/when considering funding support for Gaelic organisations (beyond those that SG provides core support to), SG would engage BnG at the earliest opportunity for input and to ensure full transparency.
- it was agreed a sponsor division representative should resume attending BnG Board meetings as an observer, particularly as this is helpful to both sides.

The work to refresh the Framework document is now completed and approved by the Deputy First Minister. I have provided a copy of the Framework document in this letter for Committee members and it will also be made available to the public and published on BnG's website shortly.

BÒRD NA GÀIDHLIG FRAMEWORK DOCUMENT

Introduction

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

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

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

Purpose

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

5. Bòrd na Gàidhlig has a number of statutory duties as set out in the Gaelic Language (Scotland) Act 2005 and the Education (Scotland) Act 2016. These include:

(a) promoting, and facilitating the promotion of

(i) the use and understanding of the Gaelic language, and

(ii) Gaelic education and Gaelic culture,

(b) advising (either on request or when it thinks fit) the Scottish Ministers, public bodies and other persons exercising functions of a public nature on matters relating to the Gaelic language, Gaelic education and Gaelic culture,

(c) advising (on request) other persons on matters relating to the Gaelic language, Gaelic education and Gaelic culture,

(d) monitoring, and reporting to the Scottish Ministers on, the implementation of the European Charter for Regional or Minority Languages dated 5 November 1992 in relation to the Gaelic language.

(e) a responsibility to prepare and submit to the Scottish Ministers guidance in relation to the provision of Gaelic education and the development of such provision.

6. Bòrd na Gàidhlig's purpose, strategic aims and objectives, as agreed by the Scottish Ministers, are to:

- to increase the number of persons who are able to use and understand the Gaelic language;
- to encourage the use and understanding of the Gaelic language; and
- to facilitate access, in Scotland and elsewhere, to the Gaelic language and Gaelic culture.

Relationship between Scottish Government and Bòrd na Gàidhlig

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

8. In addition, both the SG and Bòrd na Gàidhlig will ensure that they operate within the development areas set out in the National Gaelic Language Plan and pursue the priorities set out in it. In relation to Gaelic Plans both the SG and Bòrd na Gàidhlig will operate within the framework set out in the 2005 Gaelic Act and the guidance on Gaelic Language Plans.

Governance and accountability

Legal origins of powers and duties

9. Bòrd na Gàidhlig is established under the Gaelic Language (Scotland) Act 2005. The constitution of Bòrd na Gàidhlig is set out in Section 1 of the Act. Bòrd na Gàidhlig does not carry out its functions on behalf of the Crown.

Ministerial responsibilities

10. The Scottish Ministers are ultimately accountable to the Scottish Parliament for the activities of Bòrd na Gàidhlig and its use of resources. They are not however responsible for day to day operational matters. Their responsibilities include:

- agreeing Bòrd na Gàidhlig's strategic aims and objectives and key targets as part of the corporate planning process including approving the National Gaelic Language Plan;

- agreeing the budget and the associated Grant In Aid requirement to be paid to Bòrd na Gàidhlig, and securing the necessary Parliamentary approval;
- carrying out responsibilities specified in the founding legislation such as appointments to the Bòrd na Gàidhlig Board, approving the terms and conditions of the Cathraiche (Chair) and Board Members and the appointment of the Ceannard (Chief Executive); and
- other matters such as approving the Ceannard (Chief Executive) and staff pay remit (in line with [SG Pay Policy](#)) and laying the accounts (together with the annual report) before the Parliament.

Bòrd na Gàidhlig Board Responsibilities

11. The Bòrd na Gàidhlig board, including the Cathraiche (Chair), normally consists of non-executives appointed by the Scottish Ministers in line with the Code of Practice for Ministerial Public Appointments in Scotland. The role of the Board is to provide leadership, direction, support and guidance to ensure Bòrd na Gàidhlig delivers, and is committed to delivering, its functions effectively and efficiently and in accordance with the aims, policies and priorities of the Scottish Ministers. It has corporate responsibility, under the leadership of the Cathraiche (Chair), for the following:

- developing and taking forward taking forward Bòrd na Gàidhlig's strategic aims and objectives as agreed by Scottish Ministers;
- determining the steps needed to deal with changes which are likely to impact on the strategic aims and objectives of Bòrd na Gàidhlig or on the attainability of its operational targets;
- promoting the efficient, economic and effective use of staff and other resources by Bòrd na Gàidhlig consistent with the principles of [Best Value](#), including, where appropriate, participation in [shared services](#) arrangements;
- ensuring that effective arrangements are in place to provide assurance on risk management, governance and internal control. (The Board must set up an Audit Committee to provide independent advice, review and provide assurance on the effectiveness of the internal control and risk management systems);
- (in reaching decisions) taking into account relevant guidance issued by Scottish Ministers;
- ensuring that the Board receives and reviews regular financial information concerning the management and performance of Bòrd na Gàidhlig and is informed in a timely manner about any concerns regarding the activities of Bòrd na Gàidhlig;
- appointing, with the approval of the Scottish Ministers, the Bòrd na Gàidhlig Ceannard (Chief Executive) and, in consultation with the SG, setting appropriate performance objectives and remuneration terms linked to these objectives,

which give due weight to the proper management and use of resources within the stewardship of Bòrd na Gàidhlig and the delivery of outcomes;

- demonstrating high standards of corporate governance at all times, including openness and transparency in its decision making;
- approving the National Gaelic Language Plan (NGLP) and ensuring this is approved Scottish Ministers;
- carrying out duties in relation to Gaelic Language Plans as set out in the Gaelic Language (Scotland) Act 2005, including approving plans, as required and as necessary; and,
- preparing and submitting guidance, in relation to the provision and development of Gaelic education, to Scottish Ministers.

Further guidance on how the Board should discharge its duties is provided in appointment letters and in [‘On Board- A guide for Board Members of Public Bodies in Scotland’](#).

The Responsibilities of the Cathraiche (Chair)

12. The Cathraiche (Chair) is accountable to Scottish Ministers and, in common with any individual with responsibility for devolved functions, may also be held to account by the Scottish Parliament. Communications between the Bòrd na Gàidhlig Board and Scottish Ministers should normally be through the Cathraiche (Chair). He or she is responsible for ensuring that Bòrd na Gàidhlig’s policies and actions support Scottish Ministers’ wider strategic policies and that its affairs are conducted with transparency.

13. In leading the Board the Cathraiche (Chair) must ensure that:

- the work of the Board is subject to regular self-assessment and that the Board functions effectively;
- the Board contains the necessary balance of skills appropriate for conducting Bòrd na Gàidhlig business, in accordance with recognised good practice in corporate governance;
- the Board promotes and practices openness and transparency by holding Board and Committee meetings in public, ensuring agenda’s and minutes posted in a timely manner, in line with recognised good practice of Public Bodies;
- Board Members are fully briefed on their terms of appointment, duties, rights and responsibilities;
- he or she, together with the other Board Members, receives appropriate induction training, including training relating to financial management and reporting requirements and, as appropriate, on any differences that may exist between private and public sector practice;

- Scottish Ministers are kept advised of Bòrd na Gàidhlig’s ongoing succession planning and needs when Board vacancies arise, working with the SG Sponsor team and Public Appointments unit to ensure they are aware of the Boards needs and skills/experience gaps, ensuring the Board has the right skills within it to support Bòrd na Gàidhlig’s strategic direction;
- there is a code of conduct for Board Members in place, approved by the Scottish Ministers, and that each Board Member adheres to this code.

14. The Cathraiche (Chair) is responsible for assessing the performance of individual Board Members on a continuous basis and undertakes a formal appraisal at least annually. The Cathraiche (Chair), in consultation with the Board as a whole, is also responsible for undertaking the Ceannard’s (Chief Executive’s) annual performance appraisal.

Individual Board Members’ Responsibilities

15. Individual Board members should act in accordance with the responsibilities of the Board as a whole and comply with Bòrd na Gàidhlig’s code of conduct, and with the rules relating to the use of public funds and to conflicts of interest. (In this context “public funds” means not only any funds provided to Bòrd na Gàidhlig by the Scottish Ministers but also any other funds falling within the stewardship of Bòrd na Gàidhlig, including trading and investment income, gifts, bequests and donations.) General guidance on Board Members’ responsibilities is summarised in their appointment letters and is also provided in [On Board: A Guide for Board Members of Public Bodies in Scotland](#).

Bòrd na Gàidhlig Ceannard (Chief Executive) responsibilities

16. The Ceannard (Chief Executive) of Bòrd na Gàidhlig is employed and appointed by the Board with the approval of the Scottish Ministers. He/she is the Board’s principal adviser on the discharge of its functions and is accountable to the Board. His/her role is to provide operational leadership to Bòrd na Gàidhlig and ensure that the Board’s aims and objectives are met and Bòrd na Gàidhlig’s functions are delivered, and targets met through effective and properly controlled, executive action. His/her general responsibilities include the performance, management and staffing of Bòrd na Gàidhlig. General guidance on the role and responsibilities of the Ceannard (Chief Executive) is contained in ‘On Board.’ Specific responsibilities to the Board include:

- advising the Board on the discharge of its responsibilities - as set out in this document, in the founding legislation and in any other relevant instructions and guidance issued by, or on behalf of, Scottish Ministers - and implementing the decisions of the Board;
- ensuring that financial considerations are taken fully into account by the Board at all stages in reaching and executing its decisions, and that appropriate financial appraisal and evaluation techniques, consistent with the [Appraisal and Evaluation](#) section of the [Scottish Public Finance Manual](#) (SPFM), are followed;

- ensuring that Bòrd na Gàidhlig adheres, where appropriate, to the SG's [Programme and Project Management Principles](#);
- having robust performance and risk management arrangements - consistent with the [Risk Management](#) section of the SPFM - in place that support the achievement of Bòrd na Gàidhlig's aims and objectives and that facilitate comprehensive reporting to the Board, the SG and the wider public;
- ensuring that adequate systems of internal control are maintained by Bòrd na Gàidhlig, including effective measures against fraud and theft consistent with the [Fraud](#) section of the SPFM;
- establishing appropriate documented internal delegated authority arrangements consistent with the [Delegated Authority](#) section of the SPFM;
- advising the Board on the performance of Bòrd na Gàidhlig in line with its aims and objectives;
- preparing Bòrd na Gàidhlig's corporate and business plans, in light of the strategic aims and objectives agreed by Scottish Ministers;
- ensuring effective relationships and maintaining regular communications with SG officials at all levels; and
- ensuring that timely forecasts and monitoring information on performance, improvement and finance are provided to the SG; that the SG is notified promptly if over or under spends are likely and that corrective action is taken; and that any significant problems whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the SG in a timely fashion.

Bòrd na Gàidhlig Accountable Officer responsibilities

17. The Principal Accountable Officer for the Scottish Administration (the Permanent Secretary of the SG) will designate the Ceannard (Chief Executive) as the Accountable Officer for Bòrd na Gàidhlig. Accountable Officers are personally answerable to the Scottish Parliament for the exercise of their functions, as set out in the [Memorandum to Accountable Officers for Other Public Bodies](#). These include:

- ensuring the propriety and regularity of Bòrd na Gàidhlig's finances and that there are sound and effective arrangements for internal control and risk management;
- ensuring that the resources of Bòrd na Gàidhlig are used economically, efficiently and effectively and that appropriate arrangements are in place to secure Best Value and deliver Value for Money for the public sector as a whole;
- ensuring compliance with relevant guidance issued by the Scottish Ministers, in particular the SPFM and SG Pay Policy;
- signing the annual accounts and associated governance statements; and

- a statutory duty to obtain written authority from the Board / Cathraiche (Chair) before taking any action which he/she considered would be inconsistent with the proper performance of the Accountable Officer functions.

18. It is incumbent on the Ceannard (Chief Executive) to combine his/her Accountable Officer responsibilities to the Scottish Parliament with his/her wider responsibilities to the Board. The Board/Cathraiche (Chair) should be fully aware of, and have regard to, the Accountable Officer responsibilities placed upon the Ceannard (Chief Executive), including the statutory duties described above.

Portfolio Accountable Officer responsibilities

19. The Principal Accountable Officer for the Scottish Administration will designate the Director-General Education, Communities and Justice as the Accountable Officer for the SG portfolio budget for Bòrd na Gàidhlig. Withdrawal of the Accountable Officer designation would also be a matter for the Principal Accountable Officer. The responsibilities of a Portfolio Accountable Officer are set out in detail in the [Memorandum to Accountable Officers for Parts of the Scottish Administration](#). He/she is personally answerable to the Scottish Parliament for ensuring that:

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

Scottish Government Director and Deputy Director

20. The Director for Learning and Deputy Director for Learning have responsibility for overseeing and ensuring effective relationships between the SG and Bòrd na Gàidhlig which support alignment of Bòrd na Gàidhlig's business to the SG's Purpose and National Outcomes and high performance by Bòrd na Gàidhlig.

21. They will work closely with the Bòrd na Gàidhlig Ceannard (Chief Executive) and be answerable to the Portfolio Accountable Officer for maintaining and developing positive relationships with Bòrd na Gàidhlig characterised by openness, trust, respect and mutual support.

22. They will be supported by a sponsor unit in discharging these functions.
- The Director will be responsible for strategic oversight and forward business planning and will meet with the Ceannard (Chief Executive) and Cathraiche (Chair) every 6 months.
 - The Deputy Director, shall be responsible for assessing the performance of the NDPB Cathraiche (Chair), at least annually through the appraisal process and through quarterly 1:1 sessions with the Cathraiche (Chair).

Sponsor unit responsibilities

23. The SG sponsor unit for Bòrd na Gàidhlig is Gaelic and Scots Team. It is the normal point of contact for Bòrd na Gàidhlig in dealing with the SG. The unit, under the direction of the Deputy Director, is the primary source of advice to the Scottish Ministers on the discharge of their responsibilities in respect of Bòrd na Gàidhlig and undertakes the responsibilities of the Portfolio Accountable Officer on his/her behalf. Specific responsibilities include:

- discharging sponsorship responsibilities in line with the principles and framework set out in the document 'Strategic Engagement between the Scottish Government and Scotland's NDPBs' and ensuring that sponsorship is suitably flexible, proportionate and responsive to the needs of the Scottish Ministers and Bòrd na Gàidhlig;
- ensuring regular engagement with BnG through, quarterly meetings with BnG SMT, fortnightly communications meetings, observing Board meetings and through other ad hoc meetings as necessary. Along with other items, both parties will ensure that BnG's KPIs are a fixed agenda item in the quarterly meetings. Notes from all meetings are shared and agreed with both the Sponsor team and BnG.
- ensuring that appointments to the Board of Bòrd na Gàidhlig are made timeously and, where appropriate, in accordance with the Code of Practice for Ministerial Appointments to Public Bodies in Scotland;
- proportionate monitoring of Bòrd na Gàidhlig's activities through an adequate and timely flow of appropriate information, agreed with Bòrd na Gàidhlig, on performance, budgeting, control and risk management;
- addressing in a timely manner any significant problems arising in Bòrd na Gàidhlig, alerting the Portfolio Accountable Officer and the responsible Minister(s) where considered appropriate;
- ensuring that the objectives of Bòrd na Gàidhlig and the risks to them are properly and appropriately taken into account in the SG's risk assessment and management systems; and
- informing Bòrd na Gàidhlig of relevant SG policy in a timely manner.

- ensuring if/when considering funding support for Gaelic organisations (beyond those that SG provides core support to) and Gaelic specific grant allocations, the sponsor team will, usually and where appropriate, engage with BnG for input to ensure full transparency.

Internal audit

24. Bòrd na Gàidhlig shall:

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

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

External audit

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

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

access for the AGS to any other documents required by the AGS which are held by other bodies.

Annual report and accounts

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

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

30. The draft report should be submitted to the SG for comment, and the draft accounts for information by the end of June. The final version should be available for laying before the Scottish Parliament by the Scottish Ministers. Whilst the statutory date for laying and publishing accounts audited by the AGS is by 31 December, following the close of the previous financial year, there is an expectation on the part of the Scottish Ministers that accounts will be laid and published as early as possible. The accounts must not be laid before they have been formally sent by the AGS to the Scottish Ministers and must not be published before they have been laid. Bòrd na Gàidhlig shall be responsible for the publication of the report and accounts e.g. on Bòrd na Gàidhlig's website.

Management responsibilities

Corporate and business plans

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

- the purpose and principal aims of Bòrd na Gàidhlig;
- an analysis of the environment in which Bòrd na Gàidhlig operates;
- key objectives and associated key performance targets for the period of the plan, the strategy for achieving those objectives and how these will contribute

towards the achievement of the SG's primary purpose and alignment with the NPF;

- indicators against which performance can be judged;
- details of planned efficiencies, describing how Bòrd na Gàidhlig proposes to achieve better value for money, including through collaboration and shared services; and
- other matters as agreed between the SG and Bòrd na Gàidhlig.

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

Budget management

33. Each year, in the light of decisions by the Scottish Ministers on the allocation of budgets for the forthcoming financial year, the SG will send to Bòrd na Gàidhlig by 31 March a formal statement of its budgetary provision, a note of any related matters and details of the budget monitoring information required by the SG. Transfers of budgetary provision between the different summary classifications as advised would require the prior approval of the SG Finance Directorate. Any proposals for such transfers should therefore be submitted to the sponsor unit. Transfers of provision within the summary classifications may be undertaken without reference to the SG, subject to any constraints on specific areas of expenditure e.g. the approved pay remit.

34. If the trading and other resource income - or the net book value of disposals of non-current assets - realised is less than included in the most up to date agreed budget Bòrd na Gàidhlig shall, unless otherwise agreed with the SG, ensure a corresponding reduction in its gross expenditure. If income realised is **more** than included in the most up to date agreed budgets Bòrd na Gàidhlig must obtain the prior approval of the SG before using any excess to fund additional expenditure. (Failure to obtain prior approval for the use of excess income - excluding income resulting from gifts, bequests and donations - to fund additional expenditure may result in corresponding reductions in budgets for the following financial year.)

Cash management

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

by the end of the financial year shall lapse. Grant in aid shall not be paid into any restricted reserve held by Bòrd na Gàidhlig.

36. The banking arrangements adopted by Bòrd na Gàidhlig must comply with the [Banking](#) section of the SPFM.

Risk management

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

Organisational security and resilience

38. As part of risk management arrangements, the NDPB shall ensure that it has a clear understanding at board level of the key risks, threats and hazards it may face in the personnel, physical and cyber domains, and take action to ensure appropriate organisational resilience to those risks/threats/hazards. It should have particular regard to the following key sources of information to help guide its approach:

- Having and Promoting Business Resilience (part of the Preparing Scotland suite of guidance) The Scottish Public Sector Action Plan on Cyber Resilience and associated guidance.

Counter fraud arrangements

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

Performance management

40. Bòrd na Gàidhlig shall operate management information and accounting systems that enable it to review, in a timely and effective manner, its financial and non-financial performance against the strategic aims, objectives, targets and milestones set out in the corporate and business plans. The results of such reviews should be reported on a regular basis to Board of Bòrd na Gàidhlig and copied to the SG. The SG shall assess Bòrd na Gàidhlig's performance on a continuous basis and undertake a formal internal review at least twice a year. The responsible Scottish Minister shall meet the Cathraiche (Chair) of Bòrd na Gàidhlig at least once a year.

Bòrd na Gàidhlig staff management

Broad responsibilities for Bòrd na Gàidhlig staff

41. Bòrd na Gàidhlig will have responsibility for the recruitment, retention and morale of its staff. The broad responsibilities toward its staff are to ensure that:

- personnel policies, practices and systems comply with employment and equalities legislation, and standards expected of public sector employers;
- the level and structure of its staffing, including grading and staff numbers, are appropriate to its functions and the requirements of economy, efficiency and effectiveness (subject to the SG Pay Policy for Staff Pay Remits);
- the performance of its staff at all levels is satisfactorily appraised and Bòrd na Gàidhlig's performance measurement systems are reviewed from time to time;
- its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve Bòrd na Gàidhlig's objectives;
- proper and timely consultation with staff takes place on key issues affecting them;
- effective grievance and disciplinary procedures are in place;
- whistle-blowing procedures consistent with the Public Interest Disclosure Act 1998 are in place; and
- a code of conduct for staff is in place based on the Model Code for Staff of Executive NDPBs – see chapter 5 of [Public Bodies: A Guide for Departments](#).

Pay and conditions of service

42. Bòrd na Gàidhlig shall submit to the SG for approval (normally annually unless a multi-year deal has been agreed) a pay remit in line with the SG Pay Policy for Staff Pay Remits and negotiate a pay settlement within the terms of the approved remit. Proposals on non-salary rewards must comply with the guidance in the [Non-Salary Rewards](#) section of the SPFM. Bòrd na Gàidhlig shall comply with employment and equalities legislation. The terms and conditions of the Ceannard (Chief Executive) are subject to a separate approval exercise in line with the SG Pay Policy for Senior Appointments.

Pensions, redundancy and compensation

43. Superannuation arrangements for Bòrd na Gàidhlig staff are subject to the approval of the SG. Bòrd na Gàidhlig staff shall normally be eligible for a pension provided by LGPS. Staff may opt out of the occupational pension scheme provided by Bòrd na Gàidhlig.

44. Any proposal by Bòrd na Gàidhlig to move from existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the prior approval of the SG. Proposals on compensation payments must comply with the- [Settlement Agreements, Severance, Early Retirement and Redundancy Terms](#). This includes referral to the SG of any proposed:

- compensation payment being considered for an individual outwith any existing approved scheme and before the individual is approached and any offer made either orally or in writing; or,
- business case for a settlement agreement being considered for an individual and before the individual is approached and any offer made either orally or in writing.

Asset and property management

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

Delegated authorities

46. Bòrd na Gàidhlig's specific delegated financial authorities - as agreed in consultation between Bòrd na Gàidhlig and the SG - are set out in the attached **Appendix**. Bòrd na Gàidhlig shall obtain the SG's prior written approval before entering into any undertaking to incur any expenditure that falls outside these delegations. Bòrd na Gàidhlig shall also comply with any requirements for prior SG approval included in the SPFM and/or this document. Prior SG approval must always be obtained before incurring expenditure for any purpose that is or might be considered novel, contentious or repercussive or which has or could have significant future cost implications.

Income generation

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

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

Financial investments

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

Borrowing

50. Borrowing cannot be used to increase Bòrd na Gàidhlig's spending power. Under Schedule 1, Section 12(3) of the Gaelic Language (Scotland) Act 2005 Bòrd na Gàidhlig does not have the power to borrow money.

Lease arrangements

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

Tax arrangements

52. Non-standard tax management arrangements should always be regarded as novel and/or contentious and must therefore be approved in advance by the SG. Relevant guidance is provided in the [Tax Planning and Tax Avoidance](#) section of the SPFM. Bòrd na Gàidhlig must comply with all relevant rules on taxation, including VAT. All individuals who would qualify as employees for tax purposes should be paid through the payroll system with tax deducted at source. It is the responsibility of Bòrd na Gàidhlig to observe VAT legislation and recover input tax where it is entitled to do so. Bòrd na Gàidhlig is not VAT registered and therefore cannot charge or recover VAT. The implications of VAT in relation to procurement and shared services should be considered at an early stage to ensure that financial efficiency is achieved. Bòrd na Gàidhlig must also ensure that it accounts properly for any output tax on sales or disposals.

Lending and guarantees

53. Under Schedule 1, Section 12(3) of the Gaelic Language (Scotland) Act 2005, Bòrd na Gàidhlig does not have the power to give guarantees therefore Bòrd na Gàidhlig should neither lend or borrow money.

Third party grants

54. Under Schedule 1, Section 11(f) of the Gaelic Language (Scotland) Act 2005, Bòrd na Gàidhlig has the power to make grants and loans. Such funding would be subject to the guidance in the [State Aid](#) section of the SPFM. Guidance on a framework for the control of third party grants is provided as an [annex](#) to the Grant & Grant in Aid section of the SPFM.

Impairments, provisions and write-offs

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

Insurance

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

Procurement and payment

57. Bòrd na Gàidhlig's procurement policies shall reflect relevant guidance in the [Procurement](#) section of the SPFM and relevant guidance issued by the SG's Procurement and Commercial Directorate. Procurement should be undertaken by appropriately trained and authorised staff and treated as a key component of achieving Bòrd na Gàidhlig's objectives consistent with the principles of [Best Value](#), the highest professional standards and any legal requirements. Unless covered by a specific delegated authority any proposal to award a contract without competition (non-competitive action) must be approved in advance by the SG. Any external consultancy contracts with a value of more than £25,000 must be approved in advance by the Deputy First Minister and Cabinet Secretary for Education and Skills and the Cabinet Secretary for Finance.

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

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

Gifts made, special payments and losses

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

Clawback

61. Where Bòrd na Gàidhlig has financed expenditure on assets by a third party, Bòrd na Gàidhlig shall make appropriate arrangements to ensure that any such assets above an agreed value are not disposed of by the third party without Bòrd na Gàidhlig's prior consent. Bòrd na Gàidhlig shall put in place arrangements sufficient to secure the repayment of its due share of the proceeds - or an appropriate proportion of them if Bòrd na Gàidhlig contributed less than the whole cost of acquisition or improvement. Bòrd na Gàidhlig shall also ensure that if assets financed by Bòrd na Gàidhlig cease to be used by the third party for the intended purpose an appropriate proportion of the value of the asset shall be repaid to Bòrd na Gàidhlig.

Board expenses

62. Remuneration, allowances and expenses paid to board members and any pension arrangements must comply with the SG Pay Policy for Senior Appointments and any specific guidance on such matters issued by the Scottish Ministers.

BÒRD NA GÀIDHLIG FRAMEWORK DOCUMENT: APPENDIX
SPECIFIC DELEGATED FINANCIAL AUTHORITIES

	Delegated Limit
External business and management consultancies	£25,000
Non-competitive action	£10,000
Operating leases – other than property/ accommodation related leases	Nil
Gifts	£250
Special payments	Nil
Claims waived or abandoned	Nil
Write-off of bad debt and/or losses	Nil

PUBLIC BODY CLASSIFICATION CHARACTERISTICS

PUBLIC BODIES IN SCOTLAND – CHARACTERISTICS		
Public Body	Characteristics	Accountability
Executive Agencies	<p>Integral part of the Scottish Government;</p> <p>Defined business unit, with a clear focus on delivery, headed by a Chief Executive;</p> <p>Large enough to be independently accountable within the parent Portfolio;</p> <p>Part of the Director General ‘family’;</p> <p>Chief Executive is supported by a management Board (normally with some external non-exec members);</p> <p>Staffed by civil servants, including the Chief Executive.</p>	<p>Ministers set the policy and resources framework and are ultimately accountable to Parliament for the functions and performance of the Agency;</p> <p>The Chief Executive is accountable for operational delivery;</p> <p>Ministers hold the Chief Executive to account for the performance of the Agency and is supported in this (where appropriate) by the relevant Director General/Director;</p> <p>The Chief Executive is normally designated as the Accountable Officer;</p> <p>Accountable Officer responsible for the use of resources but Ministers remain accountable to the Parliament for the allocation of public funds;</p> <p>Framework document defines the relationship between Ministers, Portfolio Accountable Officer (and Director where appropriate) and the Chief Executive;</p> <p>Prepares its own annual reports and accounts which are presented to Ministers and laid in front of Parliament.</p>
Public Body	Characteristics	Accountability
Non Ministerial Offices	<p>Part of the Scottish Administration and staffed by Civil Servants;</p> <p>Are established by Statute and headed by a non-ministerial office holder which is either an individual or a body corporate with specific statutory functions;</p> <p>Government Departments in their own right – not an integral part of a DG command or a specific ministerial portfolio;</p> <p>Established to deliver a specific service/function which tends to be a core function of the state which exceptionally doesn’t require the same accountability through Ministers to Parliament;</p> <p>Funded direct from the Scottish Consolidated Fund rather than via Ministers;</p> <p>Accounts not included in the Scottish Government’s consolidated accounts.</p>	<p>Responsibility/accountability for the delivery and performance of statutory functions rests with the Office Holder, who is directly accountable to the Scottish Parliament;</p> <p>Scottish Ministers remain responsible for the configuration of the policy environment within which the NMO operates;</p> <p>Ministers ultimately accountable to Parliament for the functions of the body and have the power to wind it up (subject to Parliamentary approval where required);</p> <p>The relationship between the NMO, Government and Ministers is set out in a Framework document;</p> <p>Generally the Accountable officer is not the Office Holder;</p> <p>The Accountable Officer is responsible for the use of resources but Ministers remain accountable to the Parliament for the allocation of public funds;</p> <p>Prepares its own annual reports and accounts which are presented to Ministers and laid in front of Parliament.</p>

Public Body	Characteristics	Accountability
Public Corporations	<p>Are established by statute or under the Companies Act;</p> <p>Are industrial or commercial enterprises, largely trading bodies, under direct control of Scottish Ministers;</p> <p>Headed by a Board whose members are appointed by Ministers;</p> <p>A body corporate, staff are employed by the body and are not civil servants;</p> <p>Allocated and manage their own budgets.</p>	<p>Directly accountable to Ministers, and through Ministers to Parliament.</p> <p>Chief Executive is designated as the Accountable Officer;</p> <p>Accountable Officer responsible for the use of resources but Ministers remain accountable to the Parliament for the allocation of public funds;</p> <p>Board holds the Chief Executive to account;</p> <p>Ministers ultimately accountable to Parliament for the functions and performance of the body and have the power to wind it up (subject to Parliamentary approval (as required));</p> <p>Provided loans from Government;</p> <p>Prepares its own annual reports and accounts which are presented to Ministers and laid in front of Parliament.</p>

Public Body	Characteristics	Accountability
Executive NDPBs	<p>Have their own legal identity i.e. are established by statute or set up as companies ltd by guarantee; Carry out administrative, commercial, executive or regulatory functions on behalf of the Scottish Government; Provide specialist advice to Ministers and others; Headed by a Board which is appointed by Ministers; A body corporate, staff are employed by the body and are not civil servants; Allocated and manage their own budgets.</p>	<p>Directly accountable to Ministers, and through Ministers to Parliament; Chief Executive is designated as the Accountable Officer; Accountable Officer responsible for the use of resources but Ministers remain accountable to the Parliament for the allocation of public funds; Board holds the Chief Executive to account; Ministers ultimately accountable to Parliament for the functions and performance of the body and have the power to wind it up (subject to Parliamentary approval (as required)); The relationship between Ministers, SG and the NDPB is set out in the relevant legislation and the Management Statement/Financial Memorandum; Most NDPBs funded by Grant-in-aid (some are funded through sectoral levies) and receive an annual guidance letter; Prepares its own annual reports and accounts which are presented to Ministers and laid in front of Parliament.</p>

Public Body	Characteristics	Accountability
Advisory NDPBs	<p>Are established by Statute or administratively by Ministers;</p> <p>Carry out advisory functions, providing independent specialist/expert advice to Ministers and others;</p> <p>Headed by a Board which is appointed by Ministers;</p> <p>Do not normally employ staff (administrative support is normally provided by Scottish Government staff);</p> <p>Are not normally responsible for budgets other than remuneration (where paid) and expenses for Board members.</p>	<p>Directly accountable to Ministers, and through Ministers to Parliament. Ministers ultimately accountable to Parliament for the functions and performance of the body and have the power to wind it up (subject to Parliamentary approval (as required));</p> <p>The relationship between Ministers, SG and the NDPB is set out in an appropriate framework document;</p> <p>Do not normally produce annual accounts.</p>
Tribunal NDPBs	<p>Are established by statute;</p> <p>Are responsible for tasks and advice relating to specialist areas of the law;</p> <p>Independently of Government decide the rights and obligations of private citizens toward each other or Government/public authorities;</p> <p>Carry out judicial or semi judicial functions but are separate from the court system;</p> <p>Have specialist and lay members who are appointed by Ministers;</p> <p>Tend not to employ staff (staff support normally provided by the Scottish Government);</p> <p>Are not normally responsible for budgets or expenditure other than remuneration (where paid) and expenses for Board members.</p>	<p>Directly accountable to Ministers, and through Ministers to Parliament. Ministers ultimately accountable to Parliament for the functions and performance of the body and have the power to wind it up (subject to Parliamentary approval (as required));</p> <p>The relationship between Ministers, the SG and the NDPB is set out in an appropriate framework document;</p> <p>Do not normally produce annual accounts.</p>

Public Body	Characteristics	Accountability
Health Bodies	<p>Established by statute; Deliver healthcare services or provide management, technical or advisory services within the NHS. They exercise functions of the Scottish Ministers in relation to the NHS; and also certain functions conferred directly on them, in both devolved and reserved areas. They have rights and liabilities which are separate from those of Scottish Ministers; Have a Board whose members are appointed by Ministers. A body corporate, they normally employ their own staff, who are not civil servants; Normally allocated and manage their own budgets.</p>	<p>Directly accountable to Ministers, and through Ministers to Parliament. Subject to the legal direction of Ministers, who also have the power to make regulations re: the exercise of their functions; Chief Executive is designated as the Accountable Officer; Accountable Officer responsible for the use of resources but Ministers remain accountable to the Parliament for the allocation of public funds; Board holds the Chief Executive to account; Ministers ultimately accountable to Parliament for the functions and performance of the body and have the power to wind it up (subject to Parliamentary approval (as required)); The legal relationship between Ministers, SG and the body is set out in the relevant legislation and the Management Statement/Financial Memorandum; Funded by Grant-in-aid as set out in sections 85AA to 88 of the National Health Service (Scotland) Act 1978; Prepares its own annual reports and accounts which are presented to Ministers and laid in front of Parliament.</p>

Note: **Parliamentary Commissioners and Ombudsmen** and the '**Other Significant National Bodies**', which are part of our public bodies landscape, are not described in the table above. Parliamentary Bodies are funded from and accountable to the Parliament and there is not a direct relationship between them and Government. The '**Other Significant National Bodies**' are a range of national bodies which do not fit into the recognised public body categories and each operates within a different framework of accountability to Ministers

LIST OF PUBLIC BODIES IN SCOTLAND

List of Public Bodies in Scotland (124, 2021)				
Executive Agencies (10) Accountant in Bankruptcy Disclosure Scotland Education Scotland Forestry and Land Scotland Scottish Forestry Scottish Prison Service Scottish Public Pensions Agency Social Security Scotland Student Awards Agency for Scotland Transport Scotland	Non Ministerial Departments (NMDs) (8) Food Standards Scotland National Records of Scotland Office of the Scottish Charity Regulator Registers of Scotland Revenue Scotland Scottish Courts and Tribunals Service Scottish Fiscal Commission Scottish Housing Regulator	Public Corporations (4) Caledonian Maritime Assets Ltd Glasgow Prestwick Airport Scottish Water Crown Estate Scotland	Health Bodies (23) Healthcare Improvement Scotland Mental Welfare Commission for Scotland NHS 24 NHS Boards (<i>14 bodies</i>) NHS Education for Scotland NHS Health Scotland Board NHS National Services Scotland National Waiting Times Centre Board Public Health Scotland Scottish Ambulance Service Board State Hospital Board for Scotland	Parliamentary Commissioners and Ombudsmen (6) Children & Young Peoples Commissioner Scotland Commissioner for Ethical Standards in Public Life in Scotland Scottish Human Rights Commission Scottish Information Commissioner Scottish Public Services Ombudsman Standards Commission for Scotland
Executive NDPBs (43) Accounts Commission for Scotland Architecture and Design Scotland Bòrd na Gàidhlig Cairngorms National Park Authority Care Inspectorate Children's Hearings Scotland Community Justice Scotland Creative Scotland Crofting Commission David MacBrayne Ltd Ferguson Marine (Port Glasgow) Ltd Highlands and Islands Airports Ltd Highlands and Islands Enterprise Historic Environment Scotland Independent Living Fund Scotland Loch Lomond and The Trossachs National Park Authority National Galleries of Scotland National Library of Scotland National Museums of Scotland Police Investigations and Review Commissioner Quality Meat Scotland Risk Management Authority Royal Botanic Garden, Edinburgh Scottish Agricultural Wages Board	Scottish Canals Scottish Children's Reporter Administration Scottish Criminal Cases Review Commission Scottish Enterprise Scottish Environment Protection Agency Scottish Funding Council Scottish Futures Trust Scottish Land Commission Scottish Legal Aid Board Scottish Legal Complaints Commission Scottish Natural Heritage Scottish Qualifications Authority Scottish Social Services Council Skills Development Scotland South of Scotland Enterprise sportscotland VisitScotland Water Industry Commission for Scotland	Advisory NDPBs (8) Judicial Appointments Board for Scotland Local Government Boundary Commission for Scotland Mobility and Access Committee for Scotland Poverty and Inequality Commission Scottish Advisory Committee on Distinction Awards Scottish Commission on Social Security Scottish Law Commission Scottish Local Authorities Remuneration Committee	Tribunals (3) First-tier Tribunal for Scotland Parole Board for Scotland Upper Tribunal for Scotland	Other Significant Bodies (19) Audit Scotland Convener of School Closure Review Panels Court of Lord Lyon Drinking Water Quality Regulator HM Inspector of Constabulary in Scotland HM Chief Inspector of Prisons in Scotland HM Chief Inspector of Prosecution in Scotland HM Fire Service Inspectorate in Scotland Independent Living Fund Scotland Justices of the Peace Advisory Committee (<i>6 bodies</i>) Office of the Queens Printer for Scotland Scottish Fire and Rescue Service Scottish National Investment Bank Scottish Police Authority Scottish Road Works Commissioner

PUBLIC BODIES WORKPLAN 2021

TABLE 1 - PUBLIC BODIES WORKPLAN 2021	
DATE	ACTIVITY
March 2021	Undertake a short life review of our current relationship with public bodies to ensure that this is fit for the future. This will review and make recommendations by end September 2021 regarding: <ul style="list-style-type: none"> • The internal organisation and management of the relationship with public bodies. • The organisation and co-ordination of support for sponsor teams and public bodies. • The management of oversight and assurance public bodies. • The processes of escalation and support required to mitigate risk.
March 2021	Deliver sponsorship training via MS Teams to sponsor teams across SG.
April 2021	Develop training proposal for Board members on diversity and inclusion issues.
April 2021	Launch of an online sponsorship training module which has been developed with Audit Scotland. This will cover a range of topics from induction to finance and public appointments. It will be mandatory and will include a mandatory annual accreditation feature for sponsor practitioners as part of continuous professional development.
June 2021	Hold new Board member induction event on 2 June 2021
September 2021	Workshop for new and existing Accountable Officers
September 2021	Launch of the online training module for Accountable Officers.
Throughout 2021 we will work with internal audit and Audit Scotland to develop better data capture on improvement work. Data will be collected from participants in the sponsorship module and from the annual accreditation process to inform and drive ongoing improvements in approaches to sponsorship.	

Public Audit and Post-legislative Scrutiny Committee

8th meeting, 2021 (Session 5), Thursday 4 March 2021

Key audit themes: Scottish Government support for public bodies

Introduction

1. At its meeting today, the Public Audit and Post-legislative Scrutiny Committee will take evidence from the Scottish Government on its support for public bodies. This session is part of the Committee's wider work to examine key audit themes, further background to which can be found below.

Background to session – Key audit themes

2. In September 2019, the Committee published a report, [Key audit themes](#), which drew on the audit reports and evidence it had received since the beginning of the parliamentary session and highlighted the key themes that kept arising in its scrutiny. The Committee's report recognised that many of the issues that had prompted the Auditor General to report had, at their root cause, broader systemic challenges that were present in, and being experienced by, bodies across the public sector.
3. The Committee has used the report as a basis for subsequent scrutiny, holding a series of evidence sessions to explore the causes underpinning issues raised in audit reports and to identify action needed to bring about change and improvement. Further information about these sessions can be found [here](#).
4. One of the themes identified in the Committee's report was Government support for public bodies, in particular, sponsored bodies. Background information on some of the audit reports where the support and oversight role of the Scottish Government has been raised is attached in the **Annexe**. The purpose of this evidence session today is to explore this key theme in more detail and the improvements that could be made.
5. The Scottish Government's correspondence attached at Agenda item 2 includes information about public body sponsorship and is therefore relevant to this session. In particular, it includes:
 - A table that details the different types of public bodies in Scotland and how that affects their accountability, governance, and relationships with the Scottish Government (Annexe C);
 - Details of the number and type of public bodies in Scotland (Annexe D);

- A list of action undertaken and details of planned activity that will continue to strengthen the governance and oversight of public bodies in Scotland (Annex E).

Clerks to the Committee
1 March 2021

Annexe

Key audit theme: Government support for public bodies

Relevant audit reports

1. A number of reports considered by the Committee have highlighted the important role of the Scottish Government in supporting boards and public bodies in exercising their challenge function and ensuring that public bodies are aware of their responsibilities and the requirements of good governance.

Colleges reports

2. During the Committee's scrutiny of three college section 22 reports in 2017, the Auditor General told the Committee that—

“One of the important things is the relationship between the board and its sponsoring department in Government. Some of those relationships are direct and some of them are indirect through funding bodies such as the funding council, but the ability to spot problems early and tackle them seems to be very variable.”¹

The 2018/19 audit of the Community Justice Scotland

3. The [2017/18 audit of Community Justice Scotland](#) raised a number of questions about the support that had been provided to the board by the Scottish Government. The report indicated that the Scottish Ministers had not appointed the minimum number of board members as required in the relevant legislation and that, during the period of one year when the chair had been absent, the remaining board members had agreed that three of them would take turns to chair board meetings. In addition, one of the board's committees had not met at all in 2017/18.² In her evidence to the Committee, the then Auditor General stated that there were “lessons to be learned”.³ The issues arose despite evidence from Audit Scotland that—

¹ <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10956&mode=pdf>

² https://www.audit-scotland.gov.uk/uploads/docs/report/2018/s22_181127_community_justice.pdf

³ <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11832&mode=pdf>

“...the sponsoring team in the Scottish Government was fairly actively involved in seeing how work was going by attending board meetings and so forth. There was understanding and oversight of what was going on. In recent months, with the expansion in the number of board members, there has certainly been a large amount of engagement between CJS and the sponsoring part of the Scottish Government. There is engagement and it is seen as a priority for Scottish Government policy.”⁴

The 2017/18 audit of the Scottish Social Services Council

4. The oversight role of the Scottish Government was also raised in connection with the [2017/18 audit of the Scottish Social Services Council: Governance and transparency](#). The report concluded that the Scottish Social Services Council (SSSC) had not followed good governance or project management in undertaking its digital transformation programme. The auditor had identified many other concerns, including, that:

- SSSC did not set out a clear business case at the start of the project
- SSSC did not produce a separate detailed budget for the project
- SSSC not clearly articulate the quantitative or qualitative benefits of the project
- The governance arrangements for the project were not clearly defined
- reporting was sporadic and often for information only.⁵

5. In his evidence to the Committee, the Director General, Education, Communities and Justice said—

“There are lessons that the Scottish Government can learn from the report. Those lessons will inform how sponsor teams monitor public investment in digital projects of this nature in the future. I am convening a session for sponsor leads across my areas with input from Audit Scotland, to ensure that there is clarity on the role that sponsor teams adopt in their support and scrutiny of sponsored bodies.”⁶

2018/19 audit of Bord na Gaidhlig

6. The section 22 report on the 2018/19 audit of Bòrd na Gàidhlig raised serious concerns relating to governance and transparency, including “ineffective leadership, inadequate workforce planning, a lack of clarity over roles and responsibilities and poor relationships and organisational culture.”⁷ In his evidence

⁴ <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11832&mode=pdf>

⁵ https://www.audit-scotland.gov.uk/uploads/docs/report/2018/s22_181220_social_services_council.pdf

⁶ <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12002&mode=pdf>

⁷ https://www.audit-scotland.gov.uk/uploads/docs/report/2019/s22_191213_bord_gaidhlig.pdf

to the Committee, the auditor said that he could “not think of another report that has raised such serious issues during my time in this role.”⁸

7. The section 22 report indicated that there was a lack of openness and transparency in decision-making within the organisation, noting that all board and committee meetings were held in private and that it could take several months for agendas and minutes of board meetings to be made available on the Bòrd’s website.⁹ The annual audit report commented that “there is general consensus that the existing Committee structure and governance arrangements are not fit for purpose”.¹⁰

Scottish Public Pensions Agency: Update on management of PS pensions project

8. The Auditor General’s report raised a series of concerns regarding the management of the Scottish Public Pensions Agency (SPPA) PS pensions project. In particular, the report stated that SPPA did not prepare a clear business case for PS Pensions and “set an unrealistic 18-month timescale while SPPA was going through significant change”. SPPA did not “adequately scrutinise the winning tender for the project which it identified as being abnormally low cost.”¹⁰
9. The Auditor General observed that as abnormally low, the SPPA was required to investigate whether it was a valid bid. The SPPA queried elements of the bid with Capita and discussed Capita’s responses with the Scottish Government Legal Department, who advised that more in-depth questions should be asked to fully assess the bid. However, SPPA subsequently informed the Scottish Government Legal Department that it did not have the skills to further probe the tender. The report indicates that SPPA took no further action and accepted the bid and reassurances from Capita over its ability to deliver.¹¹

2018/19 audit of Disclosure Scotland

10. The section 22 report on the 2018/19 audit of Disclosure Scotland raised concerns relating to the governance, financial reporting and management of the development of a new IT system (PASS). The original outline business case for PASS estimated a cost of £77 million. The revised business case presented to the Scottish Government and approved by it, projected a cost of £34 million. Disclosure Scotland then developed a full business case which estimated the cost of the new system to be £44.1 million. The report noted that the full business case adopted the lowest level of optimism bias allowed for this type of programme and for many areas the optimism bias was included only for one year.¹² The Committee queried

⁸ <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12466&mode=pdf>

⁹ https://www.audit-scotland.gov.uk/uploads/docs/report/2019/s22_191213_bord_gaidhlig.pdf

¹⁰ https://www.audit-scotland.gov.uk/uploads/docs/report/2019/nr_190625_sppa.pdf

¹¹ https://www.audit-scotland.gov.uk/uploads/docs/report/2019/nr_190625_sppa.pdf

¹² https://www.audit-scotland.gov.uk/uploads/docs/report/2019/s22_191219_disclosure_scotland.pdf

the support and oversight provided by the Scottish Government in respect of public sector ICT projects both in oral evidence and in writing.¹³

11. In his subsequent evidence to the Committee on 12 March 2020, the Director-General for Education, Communities and Justice indicated that:

“I quite accept that there is more to do here, and that we need to make sure that the learning is spread across a range of other projects. We have built the infrastructure through the digital assurance office, and the training and upskilling that we are doing, to ensure that those lessons are learned and that practice is increasingly building in that learning from the outset.”¹⁴

2017/18 audit of NHS Tayside

12. Finally, concerns about Scottish Government support has been raised by the Committee in connection with several section 22 reports on NHS boards. The section 22 report on the 2017/18 audit of NHS Tayside raised concerns about the settlement payment that had been made to the former chief executive. The report concluded that, while the approach taken by the board to negotiate a settlement with the former chief executive was reasonable, “there were several weaknesses in the settlement process and a lack of good governance.”¹⁵ In particular, the notice period of the former chief executive was increased to six months on the mistaken belief that this would bring parity with other health boards. The report notes that the Scottish Government was aware of the change of notice period before the settlement was approved.

13. In its subsequent report on the audit, the Committee concluded that “The process by which a settlement was reached with the former chief executive raised a series of concerns, including; awareness of NHS guidance on notice periods; the support provided by the Central Legal Office (CLO); the way in which the Scottish Government, NHS boards and the CLO assess the likelihood of claims and likely success of claims; and the support provided by the Scottish Government.”¹⁶

Scottish Government Consolidated Accounts

14. Section 22 reports on the Scottish Government Consolidated Accounts have commented on the actions that the Scottish Government has undertaken to address some of the issues that have been raised around sponsorship arrangements.

¹³ <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12582&mode=pdf>

¹⁴ <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12582&mode=pdf>

¹⁵ https://www.audit-scotland.gov.uk/uploads/docs/report/2018/s22_181206_nhs_tayside.pdf

¹⁶ <https://sp-bpr-en-prod-cdnep.azureedge.net/published/PAPLS/2019/5/29/Report-on-the-2016-17-and-2017-18-audits-of-NHS-Tayside-1/PAPLSS052019R2.pdf>

15. The section 22 report on the 2018/19 audit, indicated that the Scottish Government had “taken initial steps to improve the effectiveness of its role in sponsoring public bodies.” It reported that, in June and July 2019, the Scottish Government held workshops, supported by Audit Scotland, to discuss common themes and issues among sponsors and that these covered governance and accountability, risk management and relationships. The report goes on to state that “They highlighted the need for greater engagement on shared issues and risks between the Scottish Government and its public bodies. This is an area that requires ongoing attention and I welcome these initial developments.”¹⁷

16. The section 22 report on the 2019/20 audit indicated that, during 2020, the Scottish Government planned several activities to improve sponsorship arrangements, including the establishment of a governance hub module on sponsorship training, accreditation for sponsors and workshops and networking events for Accountable Officers and sponsors. The report noted, however, that progress in implementing many of these plans has largely paused due to Covid-19. The report concluded that “It will be important for the Scottish Government to agree a new timetable for when it expects to implement these plans and how it expects to monitor improvements.”¹⁸

¹⁷ https://www.audit-scotland.gov.uk/uploads/docs/report/2019/s22_190926_scottish_gov.pdf

¹⁸ https://www.audit-scotland.gov.uk/uploads/docs/report/2020/s22_201217_scottish_gov.pdf