

SCOTTISH COMMISSION FOR HUMAN RIGHTS ACT 2006

MEMORANDUM TO THE ACCOUNTABLE OFFICER OF THE SCOTTISH
COMMISSION FOR HUMAN RIGHTS FROM THE SCOTTISH PARLIAMENT
CORPORATE BODY

November 2016

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1. Introduction

1.1 Paragraph 13(1) of Schedule 1 to the Scottish Commission for Human Rights Act 2006 provides that the Scottish Parliament Corporate Body (SPCB) must designate a member of the Commission or of the Commission's staff as the accountable officer and specifies the functions to be undertaken by that officer.

1.2 Paragraph 13(2) also provides that the accountable officer is personally answerable to the Scottish Parliament. The text of this Memorandum has been drafted to reflect this.

2. General Responsibilities of Accountable Officer

2.1 As the accountable officer (AO) you are **personally** responsible for the propriety and regularity of the public finances for which you are answerable. You must ensure that in the consideration of policy proposals relating to expenditure and income, all relevant financial considerations, including propriety, regularity or value for money, are taken into account.

2.2 You have a personal duty to sign the accounts and consequently have a further duty, if so required, to appear before the Public Audit Committee to deal with questions arising from the accounts or from reports made to the Parliament by the Auditor General for Scotland. You may also be required to accompany representatives of the SPCB to the Finance Committee to answer any questions on your budget proposals.

2.3 You must make sure that arrangements for delegation, promote good management practice and that you are supported by the necessary staff who have an appropriate balance of skills. The latter requires careful selection and development of staff to ensure they have the necessary skills.

2.4 Arrangements should be made for internal audit. These should accord with the standards and practices as set out in the guidance "*Public Sector Internal Audit Standards*".

2.5 Arrangements should also be made for you, as the AO, to have access to an Advisory Audit Board for independent advice on the Commission's corporate governance and risk management arrangements, internal control systems and its financial and management performance.

3. Specific Responsibilities

3.1 As AO you must adhere to the Officeholders' Finance Manual and any relevant guidance. In particular you should:

3.1.1 ensure that from the outset, proper financial systems are in place and applied and that procedures and controls are reviewed from time to time to ensure their continuing relevance and reliability;

3.1.2 sign the accounts of the Commission and in doing so, accept personal responsibility for their proper presentation, which must be in accordance with Scottish Ministers directions;

3.1.3 ensure that proper financial procedures are followed and that accounting records are maintained in a form suited to the requirements of management as well as in the form prescribed for published accounts;

3.1.4 ensure that the public funds for which you are responsible are properly managed and safeguarded, with independent and effective checks;

3.1.5 ensure that assets for which you are responsible, such as land, buildings or other property, including stores and equipment, are controlled and safeguarded with similar care and with checks as appropriate;

3.1.6 ensure that in the consideration of policy proposals relating to the expenditure and income for which you have responsibilities as AO, all relevant financial considerations, including any issues of propriety, regularity or value for money, are taken into account;

3.1.7 ensure that any delegation of responsibility is accompanied by clear lines of control and accountability together with reporting arrangements;

3.1.8 ensure that effective management systems appropriate for the achievement of the organisation's objectives, including financial monitoring and control systems, have been put in place;

3.1.9 meet with your AAB at least annually and prior to the signing of the Commission's annual accounts and the publication of the Commission's annual report;

3.1.10 ensure that managers at all levels have a clear view of their objectives, and the means to access and measure outputs of performance in relation to those objectives;

3.1.11 ensure that managers at all levels are assigned well defined responsibilities for making the best use of resources including a critical scrutiny of output and value for money;

3.1.12 ensure that managers at all levels have the information, training and access to expert advice to enable them to exercise their responsibilities effectively.

4. Regularity and Propriety of Expenditure

4.1 You have a particular responsibility for ensuring compliance with parliamentary requirements in the control of expenditure. A fundamental requirement is that funds should be applied only to the extent and for the purposes authorised by Parliament in the Budget Act. Parliament's attention must be drawn to losses or special payments by appropriate notation of the relevant account. In the case of Approved Budget, any payments made must be within the scope and amount of the Budget, and parliamentary approval must be sought and given. In cases not covered by the Approved Budget, e.g in connection with a service not contemplated when the Budget Proposal was presented, you must ensure that Parliamentary approval is sought and given at the earliest opportunity by way of a Budget

Revision, or if necessary Budget Overspend, which will be considered as part of the annual budget process.

4.2 You are responsible for ensuring that specific sanction for expenditure has been obtained from the SPCB in all cases where it is required. It is required for any expenditure not covered by any standing authorities delegated to the Commission. It is also required before expenditure is incurred in excess of the amount allocated to the Commission in the SPCB's Budget Proposals, even though savings may be available elsewhere (e.g. budget allocated to capital being used for revenue spend) and the value of the expenditure itself falls within the delegated authority of the Commission.

4.3 In your stewardship of public funds all actions must be able to stand the test of parliamentary scrutiny, public judgements on propriety and professional codes of conduct. You must not misuse your official position to further your private interests and care should be taken to avoid actual, potential, or perceived conflicts of interest when employing consultants and their staff.

5. Appearances before the Public Audit Committee of the Scottish Parliament

5.1 Under Section 23 of the Public Finance and Accountability (Scotland) Act 2000, the Auditor General for Scotland may initiate examinations into the economy, efficiency and effectiveness with which any part of the Scottish Administration, or certain other authorities or bodies including your own, have used their resources in discharging their functions. You may expect to be called upon to appear before the Public Audit Committee of the Scottish Parliament from time to time to give evidence on the reports arising from these examinations. You will also be expected to answer the questions of the Committee concerning expenditure and receipts on the budgets and other accounts for which you are Accountable Officer and on related activities. You may be supported by other officials who may, if necessary, participate and give evidence.

5.2 In practice you will have delegated authority widely, but cannot on that account disclaim responsibility. Nor, by convention, should you decline to answer questions where the events took place before taking up appointment.

5.3 You must make sure that any written evidence or evidence given when called as a witness before the Public Audit Committee is accurate. You should also ensure that you are adequately and accurately briefed on matters that are likely to arise at the hearing. You may ask the Committee for leave to supply information not within your immediate knowledge by means of a later note. Should it be discovered subsequently that the evidence provided to the Committee has contained errors; you should let this be made known to the Committee at the earliest possible moment.

5.4 In general, the rules and conventions governing appearances of officials before Parliamentary Committees apply.

6. Absence of Accountable Officer

6.1 You should ensure that you are generally available for consultation and that in any temporary period of unavailability due to illness or other cause, or during the normal period of annual leave, there will be a senior officer who can act on your behalf if required.

6.2 If it becomes clear to the SPCB that you are so incapacitated that you will not be able to discharge your responsibilities over a period of four weeks or more, the SPCB will formally appoint another AO, pending your return. The same applies if exceptionally, you plan an absence of more than four weeks during which you cannot be contacted.

6.3 The Public Audit Committee may be expected to postpone a hearing if you are temporarily indisposed. Where you are unable by reason of incapacity or absence to sign the accounts in time to submit them to the appointed auditor, a responsible member of your staff may submit unsigned copies pending your return or the appointment of another AO.