



Public Finance and Accountability (Scotland) Act 2000

**MEMORANDUM TO ACCOUNTABLE
OFFICERS FROM THE PRINCIPAL
ACCOUNTABLE OFFICER**

MEMORANDUM TO ACCOUNTABLE OFFICERS

1. Introduction

1.1 Sections 14 and 15 of the Public Finance and Accountability (Scotland) Act 2000 (PFA Act) make provision for my appointment as Principal Accountable Officer for the Scottish Administration and specify my functions as such. These include designating Accountable Officers for such parts of the Scottish Administration as I may specify and for certain other bodies and office-holders whose accounts are subject to audit by the Auditor General for Scotland.

1.2 Accountable Officers are personally answerable to the Scottish Parliament in accordance with section 15 of the PFA Act. The text of this Memorandum has been drafted to reflect this situation. In the text, reference to the Parliament and Minister(s) should be interpreted as the Scottish Parliament and the Scottish Ministers. References to office-holders are to the Keeper of the Registers of Scotland, the Keeper of the Records of Scotland and the Registrar General of Births Deaths and Marriages for Scotland. References to parts of the Scottish Administration are to the parts for which I designate separate Accountable Officers. These will include the Departments and Agencies of the Scottish Executive and the Crown Office and Procurator Fiscal Service as well as the Departments and Agencies headed by non-ministerial office-holders.

1.3 Paragraphs 2 and 3 below describe my general responsibilities and my relationship with you. The remainder of this Memorandum determines the responsibilities, which are common to all Accountable Officers whom I may designate as such, including those for Agencies, in respect of the public funds for the part of the Scottish Administration, for which you are designated in accordance with section 15 of the PFA Act

2. The General Responsibilities of the Principal Accountable Officer

2.1 The provision in section 14(1) of the PFA Act designating me in my capacity as the most senior member of the staff of the Scottish Administration to be its Principal Accountable Officer (PAO) reflects the fact that under the Ministers I have personal responsibility and I am answerable to the Parliament for the exercise of the following functions:

2.1.1 signing the accounts of the expenditure and receipts of the Scottish Administration or any part of it, so far as it is not a function of any Accountable Officer designated by me under the provisions of section 15(1) of the PFA Act;

2.1.2 signing any account prepared in pursuance of section 19(2) of the PFA Act (the account of the Scottish Consolidated Fund);

2.1.3 ensuring the propriety and regularity of the finances of the Scottish Administration;

2.1.4 ensuring that the resources of the Scottish Administration are used economically efficiently and effectively;

2.1.5 designating persons as Accountable Officers and determining their functions as such in accordance with the provisions of section 15 of the PFA Act;

2.1.6 ensuring the performance of those functions by Accountable Officers for parts of the Scottish Administration; and

2.1.7 a duty to obtain written authority from (as the case may be) the Ministers, the Lord Advocate or the non-ministerial office-holder in question before taking an action which I consider is inconsistent with the proper performance of the functions mentioned in paragraphs 2.1.1 to 2.1.6 above and send a copy of the authority to the Auditor General and the Clerk to the Audit Committee of the Scottish Parliament as soon as possible.

3. Relationship between the Principal Accountable Officer and Accountable Officers

3.1 In addition to the responsibilities for the assigned budgets and accounts, I remain in general charge of the Scottish Administration and am responsible for ensuring that there is a high standard of financial management as a whole. It is within that framework that Accountable Officers, including those who are Chief Executives of Agencies, are responsible for the budgets and accounts of the parts of the Scottish Administration for which I designate them as Accountable Officer.

3.2 You will have immediate responsibility for ensuring that the requirements of paragraph 5 below are met in respect of the resources of the part of the Scottish Administration for which you are answerable subject to the following:

3.2.1 I am responsible for undertaking all Accountable Officer duties in respect of running costs and other administrative expenditure for the core Scottish Executive, but not for the Crown Office and Procurator Fiscal Service, the Departments of officeholders, or for Agencies whose running costs are approved, and accounted for, along with their other expenditure;

3.2.2 I am responsible for ensuring the reliability and integrity of the core Scottish Administration accounting system, but not for the accounting systems operated by separate parts of the Scottish Administration, including some Agencies. You remain responsible for these, as appropriate. You also remain responsible for financial systems more generally and for inputs made to the core system made by your Department, Agency or officeholder;

3.2.3 in the case of Agencies, you will not have direct responsibility for those matters reserved to the Head of the parent Department in the Agency framework document;

3.2.4 I am responsible for ensuring that arrangements for internal audit for the core Scottish Executive accord with the objectives, standards and practices set out in the Government Internal Audit Manual. But you remain responsible for taking action on internal audit reports affecting your responsibilities and for ensuring that the Agencies reporting to you have internal audit arrangements conforming to these requirements; and

3.2.5 if outside the core, you are directly responsible for ensuring internal audit conform to these requirements.

3.3 Your judgement as Accountable Officer should only be overruled either by the Minister or office-holder or by myself or, in the case of Agencies, by the Head of the parent Department, after consultation with the Minister. If the Minister or office-holder overrides I should be informed so that I may give advice to the Minister or office-holder. I will only overrule your judgement, after consultation with the Minister or office-holder, if a major issue of propriety, regularity or prudent and economical administration is at stake and I judge that my responsibilities as PAO require intervention.

3.4 In order that I may fulfil my overall responsibilities as Principal Accountable Officer, and be in a position to judge when to intervene I require you to ensure that:

3.4.1 I am made aware of all advice tendered to Ministers which concerns expenditure or has implications for the organisation, management and staffing of the Department;

3.4.2 staff in your Department adhere to all relevant financial guidance including, in particular, that in The Scottish Public Finance Manual, The Scottish Executive Procurement Policy Manual and The Scottish Procurement Directorate Toolkit; and

3.4.3 except where there is specific agreement to the contrary, Scottish Executive Finance are consulted on all approaches to Ministers with financial and resource implications, and that any comments made by them are faithfully recorded in these submissions.

3.5 If you are required to appear before the Audit Committee of the Scottish Parliament your position is different from that of mine, as I carry full responsibility under the Minister for the organisation and management of the Scottish Administration as a whole. You may answer questions from the Committee about the discharge of your own responsibilities. If questioning is likely to be directed to issues relating to the organisation or management of the Scottish Administration as a whole or other matters determined by myself, the Committee could be expected to accede to a suggestion that they call me to give evidence together with yourself.

4. General Responsibilities of Accountable Officers

4.1 The essence of your role as Accountable Officer is, subject to section 8 below, a **personal** responsibility for the propriety and regularity of the public finances for the part of the Scottish Administration for which you are answerable and ensuring that the resources for the part of the Scottish Administration for which you are answerable are used economically, efficiently and effectively.

4.2 It is incumbent on you to combine your duties as an Accountable Officer with your duty to serve Ministers or office-holders to whom you are responsible and from whom you derive your authority. Ministers and relevant office-holders are in turn responsible to the Parliament in respect of the policies, actions and conduct of the Department.

4.3 You have the personal duty of signing any accounts for which the Department or Agency is directly responsible and consequently you may also have the further duty of being a witness before the Audit Committee of the Scottish Parliament. You will be expected to deal with questions arising from the accounts or, more commonly from reports made to the Parliament by the Auditor General for Scotland. Associated with these duties are the further responsibilities, which are the subject of this Memorandum. More detailed guidance is contained in the Scottish Public Finance Manual.

4.4 You must make sure that arrangements for delegation promote good management and that you are supported by the necessary staff with an appropriate balance of skills. The latter requires careful selection and development of staff and the sufficient provision of special skills and services (scientific, economic, statistical, accountancy, consultancy, inspection and review etc). You should ensure that the organisation's staff are as conscientious in their approach to costs not borne directly on the Department's, Agency's or officeholder's Budget (such as costs incurred by other Departments or financing costs, e.g. relating to banking and cash flow) as they would be were such costs directly borne.

5. Specific Responsibilities of Accountable Officers

5.1 As Accountable Officer you must, in relation to the part of the Scottish Administration for which you are designated:

5.1.1 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, especially at times of major changes;

5.1.2 sign the accounts for which you are directly responsible, and in doing so accept personal responsibility for their proper presentation as prescribed in legislation or by the Scottish Executive Finance Director;

5.1.3 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;

5.1.4 ensure that the public funds for which you are responsible are properly managed and safeguarded, with independent and effective checks of cash balances in the hands of any official;

5.1.5 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;

5.1.6 ensure that, in the consideration of policy proposals relating to the resources for which you have responsibilities as Accountable Officer, all relevant financial considerations, including any issues of propriety, regularity or value for money, are taken into account, and where necessary brought to the attention of Ministers or office-holders;

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

5.1.8 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;

5.1.9 ensure that risks, whether to achievement of business objectives, regularity, propriety or value for money, are identified, that their significance is assessed and that systems appropriate to the risks are in place in all relevant areas to manage them;

5.1.10 ensure that arrangements have been made to secure Best Value;

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

5.1.12 ensure managers at all levels are assigned well defined responsibilities for making the best use of resources (both those consumed by their own commands and any made available to organisations or individuals outside the Department, Agency, or officeholder) including a critical scrutiny of output and value for money; and

5.1.13 ensure managers at all levels have the information (particularly about costs), training and access to the expert advice which they need to exercise their responsibilities effectively.

6. Accountability in Other Public Bodies

6.1 In all cases where the Scottish Administration gives a grant or other funding (including the power to raise charges) to an other public body there must be a clear understanding of the respective responsibilities of you as the sponsoring unit's Accountable Officer and the senior full-time official (the Chief Executive or equivalent) of the body concerned. In particular you must be satisfied that:

6.1.1 the financial and other management controls applied by the Scottish Administration are appropriate and sufficient to safeguard public funds and, more generally that those being applied by the other public body conform with the requirements both of propriety and of good financial management;

6.1.2 there is an adequate statement of the financial relationship between the Department, Agency or officeholder and the other public body (in a management statement/financial memorandum or similar document) - and that this document is regularly reviewed; and

6.1.3 the conditions attached to grants or other funding conform to the terms of the Budget Act and that you monitor compliance with those conditions.

6.2 The senior full-time official of the body carries similar responsibilities for the stewardship of public funds to those of you. This should be made clear in writing.

6.3 He or she will normally be expected to sign its accounts and may be required to appear before the Audit Committee of the Scottish Parliament either alone or alongside you, as appropriate. You should therefore inform them of that liability. This may be done by inviting me to appoint them, formally, as Accountable Officers or in a more informal way.

6.4 In the case of a large grant or grant in aid I shall, subject to your advice, designate formally the senior full-time official as Accountable Officer. In the case of a small grant or grant in aid this formal designation may be inappropriate. In any cases of doubt, however, it will be prudent to deal with the matter formally.

6.5 The formal appointment by me as Accountable Officer will automatically carry with it a statutory duty on the person concerned for taking formal action, analogous to the procedures set out in paragraph 8, if the body is contemplating a course which would infringe the requirements of financial propriety and regularity, and of prudent and economical administration, efficiency and effectiveness. You should ensure that you are informed without undue delay of cases where the Accountable Officer of another public body seeks formal instructions from the body to pursue a course of action which the Accountable Officer of the other public body has advised against on the above grounds. You will need to consider whether to intervene in such cases.

6.6 I may only appoint Accountable Officers for bodies whose accounts are subject to audit under the control of the Auditor General for Scotland. In some other cases the need for public accountability may make it appropriate to apply similar provisions to other bodies. You should do so in appropriate cases by a less formal procedure.

7. Regularity and Propriety of Expenditure

7.1 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 the Parliament in Budget Acts (or otherwise authorised by section 65 of the Scotland Act 1998). The Parliament's attention must be drawn to losses or special payments, by appropriate notation of the relevant account. In the case of expenditure approved under the Budget Act any payments made must be within the scope and amount specified in that Act. In cases not covered by the Budget Act, e.g. in connection with a service not contemplated when the Budget Bill was presented, you must ensure that Scottish Executive Finance is informed in order that appropriate advice can be given, and, if necessary, the parliamentary procedures followed.

7.2 You are responsible for ensuring that specific sanction for expenditure has been obtained from the Scottish Executive Finance Director in all cases where it is required. It is required for any expenditure not covered by any standing authorities delegated to the Department. It is required before expenditure is incurred on any section of the Approved Budget in excess of the amount specified for that section in the Budget Documents, even though savings may be available elsewhere and the expenditure itself falls within the delegated authority of the Department. You are also responsible for ensuring that adequate machinery exists for the collection and bringing to account in due form of all receipts of any kind connected with the budget and accounts for which you are responsible.

7.3 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.

8. Advice to the Minister

8.1 In accordance with section 15(8) of the PFA Act you have particular responsibility to ensure that, where you consider that any action that you are required to take is inconsistent with the proper performance of your duties as Accountable Officer, you obtain written instructions from the Minister or office-holder in charge of the part of the Scottish Administration for which you are designated and to send a copy of this as soon as possible to the Auditor General. All such written instructions must be cleared by the First Minister and the Deputy First Minister. A copy of such written instructions should also be sent to the Clerk to the Audit Committee of the Scottish Parliament. You should see that appropriate advice is tendered to Ministers on all matters of financial propriety and regularity and more broadly as to all considerations of prudent and economical administration, efficiency and effectiveness. You will need to determine how and in what terms such advice should be tendered, and whether in a particular case to make specific reference to your own duty as Accountable Officer to the Audit Committee of the Scottish Parliament in relation to the transactions for which you are accountable.

8.2 You have particular responsibility to see that appropriate advice is tendered to Ministers or office-holder on all matters of financial propriety and regularity. If you consider that a Minister or office-holder is contemplating a course of action which you consider would infringe the requirements of regularity or propriety you should set out in writing the objection to the proposal and the reasons for this objection. You also have a duty to inform the Auditor General for Scotland should the advice be overruled. If the Minister or officeholder decides to proceed, you should seek a written instruction to take the action in question. Having received such an instruction, you must comply with it, but should then inform the Scottish Executive Finance Director of what has occurred, and should also communicate the papers to the Auditor General without undue delay and pass copies to the Clerk to the Audit Committee of the Scottish Parliament.

8.3 If a course of action is in contemplation which raises an issue not of formal propriety or regularity but relating to your wider responsibilities for economy, efficiency and effectiveness, it is your duty to draw the relevant factors to the attention of the Minister or officeholder and to advise in whatever way you deem appropriate. If your advice is overruled and the proposal is one that you would not feel able to defend to the Audit Committee of the Scottish Parliament as representing value for money, you should seek a written instruction before proceeding. You will no doubt wish to refer to the probability of an Audit Committee investigation. You must then comply with the instruction, but should inform the Scottish Executive Finance Director and communicate the request for the instruction and the instruction itself to the Auditor General and the Clerk to the Audit Committee of the Scottish Parliament without undue delay as in cases of propriety or regularity.

8.4 If, because of the extreme urgency of the situation, there is no time to submit advice in writing to the Minister or office-holder in either of the eventualities referred to in paragraphs 8.2 and 8.3 above before the Minister or office-holder takes a decision, you must

ensure that, if the Minister or officeholder overrules the advice, both your advice and the Minister's or officeholder's instructions are recorded in writing immediately afterwards.

9. Appearance before the Audit Committee of the Scottish Parliament

9.1 Under section 23 of the PFA Act the Auditor General may initiate examinations into the economy, efficiency and effectiveness with which any part of the Scottish Administration, or certain other authorities or bodies, have used their resources in discharging their functions. You may expect to be called upon to appear before the 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 resources 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, join in giving evidence or the Committee may agree to hear evidence from other officials in your absence.

9.2 You will be expected to furnish the Committee with explanations of any indications of weakness in the matters covered by paragraphs 5 above, to which their attention has been drawn by the Auditor General or about which they may wish to question you.

9.3 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.

9.4 You must make sure that any written evidence or evidence given when called as a witness before the 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.

9.5 In general, the rules and conventions governing appearances of officials before Parliamentary Committees apply, including the general convention that civil servants do not disclose the advice given to Ministers. Nevertheless, in a case where the procedure described in paragraph 8.2 was used concerning a matter of propriety or regularity, your advice, and its overruling by the Minister, would be disclosed to the Committee. In a case covered by paragraph 8.3 where your advice has been overruled in a matter not of propriety or regularity but of prudent and economical administration, efficiency or effectiveness, the Auditor General will have made clear in the report to the Committee that you were overruled. You should, however, avoid disclosure of the terms of the advice given to the Minister or dissociation from the ministerial decision. Subject where appropriate to the Minister's agreement you should be ready to explain the reasons for such a decision and may be called on to satisfy the Committee that all relevant financial considerations were brought to the Minister's attention before the decision was taken. It will then be for the Committee to pursue the matter further with the Minister if they so wish.

10. Absence of Accountable Officer

10.1 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 in the Department who can act on your behalf if required.

10.2 If it becomes clear to the Department that you are so incapacitated that you will not be able to discharge these responsibilities over a period of four weeks or more, it should notify me so that I can appoint an Accountable Officer, pending your return. The same applies if, exceptionally, you plan an absence of more than four weeks during which you cannot be contacted.

10.3 Where you are unable by reason of incapacity or absence to sign the accounts for which you are directly responsible in time to submit them to the Auditor General the Department may submit unsigned copies pending your return.

Principal Accountable Officer