



**Public Finance and Accountability (Scotland) Act 2000**

**MEMORANDUM TO NATIONAL HEALTH  
SERVICE ACCOUNTABLE OFFICERS**

Scottish Executive Health Department  
April 2002

# MEMORANDUM TO NATIONAL HEALTH SERVICE ACCOUNTABLE OFFICERS

## 1. Introduction

1.1 Sections 14 and 15 of the Public Finance and Accountability (Scotland) Act 2000 (PFA Act) [*Annex A*] 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 bodies 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 Parliament and Minister(s) should be interpreted as the Scottish Parliament and the Scottish Ministers. References to the Board are to the statutory Board of which you are a member. The corporate role of the Board is set out in Codes of Conduct and Accountability issued on 28 April 1994.

1.3 The purpose of this Memorandum is to set out the responsibilities that are common to NHS Accountable Officers that I can designate in respect of health bodies who receive a grant or other funding (including the power to raise charges) from the Scottish Executive Health Department.

## 2. General Responsibilities of Accountable Officers

2.1 The essence of your role as Accountable Officer is a personal responsibility for the propriety and regularity of the public finances for the Board for which you are answerable. You must ensure that the Board's consideration of policy proposals relating to expenditure, or income, takes account of all relevant financial considerations, including any issues of propriety, regularity or value for money.

2.2 It is incumbent on you to combine your duties as an Accountable Officer with your duty to serve the Board to whom you are responsible and from whom you derive your authority. The Board is in turn responsible to Parliament in respect of its policies, actions and conduct.

2.3 You have the personal duty of signing the Board's accounts 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 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.

2.4 You must make sure that any 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 Board's staff are as conscientious in their approach to costs not borne directly on Board's Budget (such as costs incurred by other

public bodies or financing costs, eg relating to banking and cash flow) as they would be were such costs directly borne.

### **3. Specific Responsibilities of Accountable Officers**

3.1 As Accountable Officer you must, in relation to the Board for which you are designated:

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, especially at times of major changes;

3.1.2 sign the accounts assigned to you, and in doing so accept personal responsibility for ensuring that they are prepared under the principles and in the format directed by Scottish Ministers;

3.1.3 ensure that proper financial procedures are followed and that accounting records are maintained in a form suited to the requirements of the relevant Accounting Manual 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 of cash balances in the hands of any official;

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 expenditure, or income, 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 the Board;

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 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 areas to manage them;

3.1.10 ensure that you seek best value from your resources, by making proper arrangements to pursue continuous improvement having regard to economy, efficiency and effectiveness, and in a manner which encourages the observance of equal opportunities requirements;

3.1.9 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;

3.1.10 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 Board) including a critical scrutiny of output and value for money;

3.1.11 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.

#### **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 Budget Acts (or otherwise authorised by section 65 of the Scotland Act 1998) [*Annex C*]. Parliament's attention must be drawn to losses or special payments by appropriate notation of the Board's accounts. 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, eg in connection with a service not contemplated when the Budget Bill was presented, you must ensure that Scottish Executive Health Department is informed in order that appropriate advice can be given, and, if necessary, parliamentary procedures followed.

4.2 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. Advice to the Board**

5.1 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 Board for which you are designated and send a copy of this as soon as possible to the Auditor General. A copy of the written instruction should also be sent to the Scottish Executive Health Department's Accountable Officer. You should see that appropriate advice is tendered to the Board 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 Scottish Parliament in relation to the transactions for which you are accountable.

5.2 You have particular responsibility to see that appropriate advice is tendered to the Board on all matters of financial propriety and regularity. You also have a duty to inform the Auditor General for Scotland should that advice be overruled. If you consider that the Board 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. 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, you should seek a written instruction to take the action in question and also inform the Scottish Executive Health Department's Accountable Officer of the position. If possible this should be done before the Board takes its decision or in any event before the decision is implemented, so that the Department, if it considers it appropriate, can intervene with the Board and inform Scottish Ministers. If the outcome is still that you are overruled your request for the instruction and the instruction itself should be communicated without undue delay to the Board's external auditors, and to the Auditor General for Scotland

5.3 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 Board 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 to take the action in question and inform the Scottish Executive Health Department's Accountable Officer of the position. If possible this should be done before the Board takes its decision or in any event before the decision is implemented, so that the Department, if it considers it appropriate, can intervene with the Board and inform Scottish Ministers. If the outcome is still that you are overruled, your request for the instruction and the instruction itself should be communicated without undue delay to the Board's external auditors, and to the Auditor General for Scotland, as in cases of propriety or regularity. Provided that this procedure has been followed, the Audit Committee can be expected to recognise that you bear no personal responsibility for the transaction.

5.4 If, because of the extreme urgency of the situation, there is no time to submit advice in writing to the Board in either of the eventualities referred to in paragraphs 5.2 and 5.3 above before the Board takes a decision, you must ensure that, if the Board overrules your advice, both your advice and the Board's instructions are recorded in writing immediately afterwards.

5.5 As a member of the Board, you should ensure that your responsibilities as Accountable Officer do not conflict with those as Board member. For example, if the Board proposes action which as Accountable Officer you could not endorse, and would therefore advise against, you should, as a Board member, vote against such action, or, if no formal vote is taken, ensure that your opposition as Board member as well as Accountable Officer is clearly recorded. In serious cases it will not be sufficient to protect your position as Board member merely by abstaining from a decision which cannot be supported.

## **6. Appearance before the Audit Committee of the Scottish Parliament**

6.1 Under section 23 of the PFA Act [*Annex B*] 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 including your own, 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 expenditure and receipts on the budgets and other accounts for which you are Accountable Officer and on any 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.

6.2 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.

6.3 In practice, you may 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 you took up your appointment.

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

6.5 In general, the rules and conventions governing appearances of officials before the Audit Committee of the Scottish Parliament apply, including the general convention that officials do not disclose the advice given to the Board. Nevertheless, in a case where the procedure described in paragraph 5.2 was used concerning a matter of propriety or regularity, your advice, and its overruling by the Board, would be disclosed to the Committee. In a case covered by paragraph 5.3 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 you were overruled. You should, however, avoid disclosure of the terms of the advice given to the Board or disassociation from the decision. Subject where appropriate to the Board'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 Board's attention before the decision was taken.

## **7. Absence of Accountable Officer**

7.1 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 Board who can act on your behalf if required.

7.2 If it becomes clear to the Board 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.

7.3 Where you are unable by reason of incapacity or absence to sign the accounts in time for them to be submitted to the Auditor General, the Board may submit unsigned copies pending your return.

**Principal Accountable Officer**  
Scottish Executive



## **Extract from the Public Finance and Accountability (Scotland) Act 2000**

### **14 Principal accountable officer for the Scottish Administration**

(1) The most senior member of the staff of the Scottish Administration is, by virtue of this subsection, principal accountable officer for the Scottish Administration.

(2) The principal accountable officer has the functions set out in subsection (3) and is answerable to the Parliament for the exercise of those functions.

(3) Those functions are-

(a) 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 under section 15(1) to do so,

(b) signing any account prepared in pursuance of section 19(2),

(c) ensuring the propriety and regularity of the finances of the Scottish Administration,

(d) ensuring that the resources of the Scottish Administration are used economically, efficiently and effectively,

(e) designating persons as accountable officers, and determining their functions as such, in accordance with section 15,

(f) ensuring the performance of those functions by accountable officers for parts of the Scottish Administration, and

(g) the duty set out in subsection (4).

(4) That duty is a duty, where the principal accountable officer considers that any action which the officer is required to take is inconsistent with the proper performance of the functions mentioned in subsection (3)(a) to (f), to-

(a) obtain written authority from, as the case may be, the Scottish Ministers, the Lord Advocate or the non-ministerial office-holder in question before taking the action, and

(b) send a copy of the authority to the Auditor General as soon as possible.

(5) In subsection (4)(a), "non-ministerial office-holder" means the holder of an office in the Scottish Administration which is not a ministerial office (within the meaning of section 126(8) of the 1998 Act).

### **15 Accountable officers**

(1) The principal accountable officer for the Scottish Administration is to designate members

of the staff of the Scottish Administration as accountable officers for such parts of the Administration as the principal accountable officer may specify.

(2) There may, by virtue of subsection (1), be more than one accountable officer having functions in relation to any particular part of the Scottish Administration.

(3) The principal accountable officer for the Scottish Administration may designate a member of the staff of any body or office-holder to whom subsection (4) applies as its accountable officer.

(4) This subsection applies to any body or office-holder (other than an office-holder in the Scottish Administration) any account of whom is an account in relation to which sections 21 and 22 apply.

(5) Subsection (3) does not apply in relation to the Parliamentary corporation, Audit Scotland or any other body or office-holder in relation to whom provision for the appointment of an accountable officer is made by virtue of any enactment.

(6) The functions of accountable officers designated under subsection (1) or (3) are-

(a) those determined by the principal accountable officer for the Scottish Administration, and

(b) the duty set out in subsection (8);

and the accountable officers are answerable to the Parliament for the exercise of those functions.

(7) The functions which may be determined under subsection (6)(a) include, in particular-

(a) signing the accounts of the expenditure and receipts of the part of the Scottish Administration, or body or office-holder, in question,

(b) ensuring the propriety and regularity of the finances of that part, body or office-holder,

(c) ensuring that the resources of that part, body or office-holder are used economically, efficiently and effectively.

(8) The duty referred to in subsection (6)(b) is a duty, where the accountable officer in question considers that any action which the officer is required to take is inconsistent with the proper performance of the functions determined under subsection (6)(a), to-

(a) obtain written authority from, as the case may be, the Scottish Ministers, the Lord Advocate or the body or office-holder in question before taking the action, and

(b) send a copy of the authority to the Auditor General as soon as possible.

**Extract from the Public Finance and Accountability (Scotland) Act 2000**

**23 Economy, efficiency and effectiveness examinations**

(1) The Auditor General may initiate examinations into the economy, efficiency and effectiveness with which bodies and office-holders mentioned in subsection (2) have used their resources in discharging their functions.

(2) Those bodies and office-holders are-

(a) any body or office-holder so far as an account of that body or office-holder is an account in relation to which sections 21 and 22 apply,

(b) any other body or office-holder, or a body or office-holder of any class, specified by the Scottish Ministers by order,

(c) any body or office-holder not falling within paragraph (a) or (b) which agrees to such an examination being carried out.

(3) An order made under subsection (2)(b) may specify a body or office-holder, or a class of body or office-holder, only if the Scottish Ministers reasonably believe that-

(a) in the case of a body or office-holder, in any of the financial years of the body or office-holder-

(i) more than a quarter of the income of the body or office-holder was received from public funds, or

(ii) the amount of the income of the body or office-holder received from public funds exceeded £500,000,

(b) in the case of a class of body or office-holder, paragraph (a) is satisfied in relation to at least half of those in the class.

(4) An examination under this section in respect of a body or office-holder, or a body or office-holder of a class, specified in such an order may be carried out only-

(a) in relation to any period as respects which the Auditor General reasonably believes that-

(i) more than a quarter of the income of the body or office-holder was derived from public funds, or

(ii) the amount of the income of the body or office-holder received from public funds exceeded £500,000,

(b) so far as is reasonably practicable, in relation to the use by the body or office-holder of the income derived from public funds and to resources used in discharging the

functions for which such income was used.

(5) For the purposes of subsections (3) and (4)-

(a) income is received from public funds if it is paid by-

(i) any body or office-holder mentioned in subsection (2)(a), or

(ii) any body or office-holder, or body or office-holder of a class, specified in an order made under subsection (2)(b), in a financial year of that body or office-holder in which more than half of the income of the body or office-holder was received from public funds,

(b) in calculating income, capital receipts are to be disregarded,

(c) money paid as consideration for the acquisition of property or the supply of goods or services or as remuneration, expenses, pensions, allowances or similar benefits for or in respect of a person as the holder of an office is to be disregarded.

(6) In determining whether an examination under this section is to be carried out, the Auditor General must take into account any proposals made by the Parliament.

(7) Before initiating an examination under this section in respect of a new water and sewerage authority (within the meaning of the Local Government etc. (Scotland) Act 1994 (c.39)) the Auditor General must consult the Water Industry Commissioner for Scotland.

(8) It is for the Auditor General personally to initiate an examination under this section and to decide who is to carry out the examination.

(9) In carrying out the examination that person ("the examiner")-

(a) is not entitled to question the merits of the policy objectives of the body or office-holder in question, but

(b) may consider the appropriateness of any criteria used by the body or office-holder to assess use of resources.

(10) The examiner (if not the Auditor General) must report the results to the Auditor General, who may report the results to the Parliament.

**Extract from the Scotland Act 1998**

**65.** - (1) A sum may only be paid out of the Scottish Consolidated Fund if-

- (a) it has been charged on the Fund by any enactment,
- (b) it is payable out of the Fund without further approval by virtue of this Act, or
- (c) it is paid out for or in connection with any of the purposes mentioned in subsection (2) in accordance with rules made by or under an Act of the Scottish Parliament.

(2) Those purposes are-

- (a) meeting expenditure of the Scottish Administration,
- (b) meeting expenditure payable out of the Fund under any enactment.

(3) A sum paid out of the Fund shall not be applied for any purpose other than that for which it was charged or (as the case may be) paid out.