**NHS EDUCATION FOR SCOTLAND FRAMEWORK DOCUMENT**

**SCOTTISH GOVERNMENT HEALTH AND SOCIAL CARE DIRECTORATES**

**[August 2021]**



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**INTRODUCTION**

# This framework document has been drawn up by the Scottish Government (SG) in consultation with NHS Education for Scotland (NES), constituted as a Special Health Board under section 2 of the National Health Service (Scotland) Act 1978 (“the Act”). It sets out the broad framework within which NES will operate and defines key roles and responsibilities which underpin the relationship between NES 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 years. Any proposals to amend the framework document either by the SG or NES 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 NES. Legislative provisions shall take precedence over any part of the document.

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

# Copies of the document shall be placed in the Scottish Parliament Information Centre. It shall also be published on the NES website.

**Purpose**

# NES is to contribute to the achievement of the SG’s purpose which is to:

* create a more successful country
* give opportunities to all people living in Scotland
* increase the wellbeing of people living in Scotland
* create sustainable and inclusive growth
* reduce inequalities and give equal importance to economic, environmental and social progress

# In pursuing this, NES will contribute to the National Outcome that *people are healthy and active*. Activity to deliver this outcome will align with the NHS Scotland 2020 vision for health and social care.

# NES was established as a Special Health Board under section 2 of the Act by the NHS Education for Scotland Order 2002 (SSI No.103/2002). It exercises functions on behalf of the Scottish Ministers and is responsible to them through the Scottish Government Health and Social Care Directorates. For policy/administrative purposes NES is a Non Departmental Public Body (NDPB), classified as a Health Body.

# The affairs of NES are managed by the NES Board which is in turn supported by the following committees:

* Audit and Risk
* Digital and Information
* Education and Quality
* Staff Governance
* Remuneration (subcommittee)

# As a Special Health Board, it is the statutory duty of NES to promote the improvement of the physical and mental health of the people of Scotland under section 2A of the Act. Further statutory functions of NES are broadly defined in the NHS Education for Scotland Order 2002 (as amended by SSI No. 79/2006). These are set out in summary as follows:

* Functions in relation to the education and training relating to the health service including making available facilities for education, research and training;
* The provision of assistance to any voluntary organisations whose activities include the provision of a service similar or related to a service provided by NES under the Act:
* The provision of funding to voluntary organisations limited to assistance to such organisations whose activities consist of or include the provision of services similar to services provided by NES for the purpose of co-ordinating, developing and advising on education and training;
* The leasing and purchase of moveable property and land for NES purposes; and
* Administrative functions in relation to the payment of remuneration and allowances to NES members.

# NES also acts as the General Medical Council’s (GMC) agent in Scotland in terms of quality assurance and oversight of medical education and training, ensuring such training is delivered in line with established regulatory standards. NES performs some similar quality assurance functions for professions including dentistry and pharmacy on behalf of the relevant regulatory bodies. Further, the NES Medical Director holds the “Responsible Officer” role under The General Medical Council (Licence to Practise and Revalidation) Regulations Order of Council 2012 and so is accountable for making recommendations to the GMC for trainee doctor revalidation.

# The [NES Strategy 2019-24](https://www.nes.scot.nhs.uk/about-us/corporate-publications/) (as approved by the Scottish Ministers) details the body’s mission of “enabling excellence in health and care through education, workforce development and support” in order to deliver the vision of “a skilled and sustainable workforce for a healthier Scotland”. The Strategy sets out five key areas of focus to support NES in delivering its mission.

# The NES annual operational plan (AOP) represents NES’s agreement with the Scottish Government on the key work to be undertaken in a given financial year and the subsequent two years. It focuses on key strategic policy areas and is accompanied by a Financial Plan which enables its delivery. Alongside the AOP, NES will produce detailed operational and financial plans covering the full range of its activity, their desired outcomes, performance targets and budgets.

**Relationship between Scottish Government and NES**

# Effective strategic engagement between the SG and NES 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 NES 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 NDPB’s’.In order to facilitate this, a rolling programme of engagement will be maintained, the purpose of which will be to:

* ensure effective co-ordination and communication of the range of policy interests in SG which are relevant to NES business;
* ensure NES is kept apprised of key policy and strategy developments, forthcoming consultations, new guidance, legislation etc.;
* support delivery of strategic planning and reporting activity within NES, ensuring necessary alignment with Ministerial priorities;
* recognise the role of NES working as part of the UK regulatory environment within which much health professional education must operate;
* discuss the overall performance of NES in relation to delivery of its Annual Operational Plan
* horizon scan and review the wider strategic engagement in the Scottish and UK contexts by both SG and NES to ensure congruence of approach;
* highlight any emerging corporate risks impacting on the effective functioning of NES and delivery of its 5-year strategy and Annual Operational Plan;
* consider the organisational (including financial and workforce) implications associated with any additional activity (i.e. beyond that contained in the Annual Operational Plan) being commissioned from NES;
* discuss the relative prioritisation of activity being taken forward by NES with reference to Ministerial commitments and priorities;
* consider any other matters relevant to the SG and NES sponsorship relationship and associated engagement arrangements.

# Discussions on the above issues will be taken forward through monthly sponsorship meetings involving, where reasonably possible:

* Director of Health Workforce, Leadership, and Service Reform;
* Deputy Director for Health and Social Care Workforce Planning and Development ;
* Representatives of the SG NES sponsor team (representation depending on agenda);
* NES Chair;
* NES Chief Executive;
* NES Executive Team Members (as required by the agenda).

# There may also be a requirement on occasion to extend an invitation to other Scottish Government officials and/or NES representatives.

# The outcome of the meetings will be an agreed minute and a note of rolling actions which will be reviewed at the next meeting. These should be used to keep internal interests in SG informed of issues arising from these discussions. Likewise, the agreed minutes and actions can be used to ensure the NES Board, its Committees and Executive Team are updated on a regular basis. Any confidential matters will be handled separately as necessary.

**GOVERNANCE AND ACCOUNTABILITY**

**Legal origins of powers and duties**

# NES was constituted as a Special Health Board under section 2 of the Act by the NHS Education for Scotland Order 2002, and established on 31 March 2002. NES does not carry out its functions on behalf of the Crown.

*Ministerial responsibilities*

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

* agreeing NES’s strategic aims and objectives and performance targets as part of the AOP process;
* providing information to the Scottish Parliament about the performance of NES;
* approving the Revenue and Capital Resource Limits and the associated cash funding requirement to be paid to NES, and securing the necessary Parliamentary approval;
* carrying out responsibilities specified in the Act, including appointments to the NES Board, approving the terms and conditions of members, approval of terms and conditions of staff, and laying of the annual accounts before Parliament.

**NES Board Responsibilities**

# The NES Board, including the Chair, normally consists of non-executives and executives appointed by the Scottish Ministers in line with the Code of Practice for Ministerial Public Appointments in Scotland. The role of the NES Board is to provide leadership, direction, support and guidance to ensure NES 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 Chair, for those activities listed under section 3 of the [NHS Scotland Blueprint for Good Governance](https://www.sehd.scot.nhs.uk/dl/DL%282019%2902.pdf) (January 2019), and:

* setting up an [audit committee](http://www.gov.scot/Topics/Government/Finance/spfm/auditcommittees) chaired by a non-executive member to provide independent advice and assurance on the effectiveness of the internal control and risk management systems;
* (in reaching decisions) taking into account relevant guidance issued by the Scottish Ministers;
* approving the annual accounts and ensuring Scottish Ministers are provided with the annual report and accounts to be laid before the Scottish Parliament. The Chief Executive as the Accountable Officer of the public body is responsible for signing the accounts and ultimately responsible to the Scottish Parliament for their actions;
* ensuring that the board receives and reviews regular financial information concerning the management and performance of the NDPB and is informed in a timely manner about any concerns regarding the activities of the NDPB;
* Awarding a contract of employment to the NES Chief Executive following their appointment by the Scottish Ministers. New contracts for Chief Executives should include a notice period of no more than 3 months. Where a business case can be made, the notice period may be set at a maximum of 6 months. In consultation with the SG, appropriate performance objectives should be set which give due weight to the proper management and use of resources within the stewardship of NES and the delivery of outcomes.

# Further guidance on how the NES Board should discharge its duties is provided in appointment letters and in [On Board – A Guide for Members of Statutory Boards](http://www.gov.scot/Resource/0051/00514817.pdf).

**The Chair’s Responsibilities**

# The Chair is accountable to the 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 NES Board and the Scottish Ministers should normally be through the Chair. He or she is responsible for ensuring that NES’s policies and actions support the Scottish Ministers’ wider strategic policies and that its affairs are conducted with probity.

# The Chair has the following responsibilities:

# Leadership of the NES Board, ensuring that it effectively delivers its functions in accordance with the organisation’s corporate governance arrangements;

# Appointing Board Members to Standing Committees, Integration Joint Boards and other roles within the NHS Board and partner organisations;

# keeping the organisation’s governance arrangements and the NES Board’s effectiveness under review;

# Setting the agenda, format and tone of NES Board activities to promote effective decision making and constructive debate;

# developing the capability and capacity of the NES Board by advising on the appointment of NES Board Members; appraisal and reporting on their performance; identifying appropriate training and development opportunities; and ensuring effective succession planning is in place;

# ensuring the NES Board, in accordance with recognised good practice in corporate governance, is diverse both in terms of relevant skills, experience and knowledge appropriate to directing its business, and in terms of protected characteristics under the Equality Act and the [Gender Representation on Public Boards Act](https://www.legislation.gov.uk/asp/2018/4/contents/enacted) and [Guidance](https://www.gov.scot/publications/gender-representation-public-boards-scotland-act-2018-statutory-guidance/), where these apply;

# providing performance management and development opportunities for the Chief Executive.

# Representing the organisation in links with Ministers, the Scottish Parliament and other key stakeholders. (Dual responsibility with the Chief Executive.);

* ensuring that the NES Board, in reaching decisions, takes proper account of guidance issued by the Scottish Ministers.

**Individual Board Members’ Responsibilities**

# Individual NES Board members should act in accordance with the responsibilities of the NES Board as a whole, complying at all times with the Code of Conduct adopted by NESand 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 NES by the Scottish Ministers but also any other funds falling within the stewardship of the NES, including trading and investment income, gifts, bequests and donations. General guidance on NES Board members’ responsibilities is summarised in their appointment letters and is also provided in [On Board](http://www.gov.scot/Resource/0051/00514817.pdf) and the [NHS Scotland Blueprint for Good Governance](https://www.sehd.scot.nhs.uk/dl/DL%282019%2902.pdf).

**NES Chief Executive responsibilities**

# The NES Chief Executive is employed by the NES Board following their appointment by the Scottish Ministers. He/she is the NES Board’s principal adviser on the discharge of its functions and is accountable to the NES Board. His/her role is to provide operational leadership to NES, ensuring that the NES Board’s aims and objectives are met, functions delivered and targets met through effective and properly controlled executive action.

# His/her general responsibilities include the performance, management and staffing of NES. General guidance on the role and responsibilities of the Chief Executive is contained in [On Board](http://www.gov.scot/Resource/0051/00514817.pdf). Specific responsibilities include:

* advising the NES 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 the Scottish Ministers - and implementing the decisions of the NES Board;
* ensuring that financial considerations are taken fully into account by the NES Board at all stages in reaching and executing its decisions, and that appropriate financial appraisal and evaluation techniques, consistent with the [Appraisal and Evaluation](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/appraisal) section of the [Scottish Public Finance Manual](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/Intro) (SPFM), are followed;
* ensuring that NES adheres, where appropriate, to the SG’s [Programme and Project Management (PPM) Principles](http://www.scotland.gov.uk/Topics/Government/ProgrammeProjectDelivery/Principles);
* having robust performance and risk management arrangements - consistent with the [Risk Management](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/risk) section of the SPFM - in place that support the achievement of NES’s aims and objectives and that facilitate comprehensive reporting to the NES Board, the SG and the wider public. Risk management arrangements should include full consideration of organisational resilience to physical, personnel and cyber risks/threats/hazards;
* ensuring that adequate systems of internal control are maintained by NES, including effective measures against fraud and theft consistent with the [Fraud](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/fraud) section of the SPFM;
* establishing appropriate documented internal delegated authority arrangements consistent with the [Delegated Authority](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/delegauth) section of the SPFM;
* advising the NES Board on the performance of NES compared with its aim (or mission) and objectives
* establishing, in agreement with the SG, NES’s operational plans in the light of the strategic aims and objectives agreed by the Scottish Ministers;
* ensuring effective relationships with SG officials;
* ensuring that timely forecasts and monitoring information on performance 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.

**NES Accountable Officer responsibilities**

# The Principal Accountable Officer for the Scottish Administration (the Permanent Secretary of the SG) will designate the Chief Executive as the Accountable Officer for NES. 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](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/Accountability/aomemoother). These include:

# ensuring the propriety and regularity of NES’s finances and that there are sound and effective arrangements for internal control and risk management;

# ensuring that the resources of the body are used economically, efficiently and effectively, and that arrangements are in place to secure Best Valueand 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;

# signing the annual accounts and associated governance statements;

* a statutory duty to obtain written authority from the NES Board/Chair before taking any action which they considered would be inconsistent with the proper performance of the Accountable Officer functions. The Accountable Officer should also notify the relevant Portfolio Accountable Officer.

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

**Portfolio Accountable Officer responsibilities**

# The Principal Accountable Officer for the Scottish Administration will designate the Director-General for Health and Social Care as the Accountable Officer for the SG portfolio budget for NES. The responsibilities of a Portfolio Accountable Officer are set out in detail in the [Memorandum to Accountable Officers for Parts of the Scottish Administration](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/Accountability/aomemo). 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 NES conform to the requirements both of propriety and of good financial management. (“Public funds” include not only any funds provided to NES by the Scottish Ministers but also any other funds falling within the stewardship of NES, including trading and investment income, gifts, bequests and donations);

### the key roles and responsibilities which underpin the relationship between the SG and NES are set out in a framework document - and that this document is regularly reviewed;

### compliance with this framework document is effectively monitored by the sponsor unit;

### effective relationships are in place at Director and Deputy Director level between the SG and NES;

### there is effective continuous assessment and appraisal of the performance of the Chair of NES in line with the requirements of the Code of Practice for Ministerial Public Appointments in Scotland.

**Scottish Government Director and Deputy Director**

# The Director for Health Workforce, Leadership and Service Reform and Deputy Director for Health Workforce Planning and Development have responsibility for overseeing and ensuring effective relationships between the SG and NES which support alignment of NES’s business to the SG’s Purpose and National Outcomes while also ensuring high performance by NES overall. They will work closely with the NES Chief Executive and be answerable to the Portfolio Accountable Officer for maintaining and developing positive relationships with NES characterised by openness, trust, respect and mutual support. They will be supported by a sponsor unit in discharging these functions. The Director shall be responsible for assessing the performance of the NES Chair at least annually.

**Sponsor unit responsibilities**

# The SG sponsor unit for NES forms part of the Health and Social Care Workforce Planning and Development Division within the Health Workforce, Leadership and Service Reform Directorate. The unit is the normal point of contact for NES in dealing with the SG and, under the direction of the Director and Deputy Director, is the primary source of advice to the Scottish Ministers on the discharge of their responsibilities in respect of NES. The unit undertakes the responsibilities of the Portfolio Accountable Officer on his/her behalf, working in conjunction with other parts of the Scottish Government, as appropriate.

# 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’](http://www.gov.scot/Topics/Government/public-bodies/pubs/StrategicEngagement) and ensuring that sponsorship is suitably flexible, proportionate and responsive to the needs of the Scottish Ministers and NES;
* ensuring that appointments to the NES Board are made timeously and, where appropriate, in accordance with the [Code of Practice for Ministerial Appointments to Public Bodies](http://www.ethicalstandards.org.uk/site/uploads/publications/406ebe2cdaa457e47217d07aaa11f566.pdf) in Scotland;
* proportionate monitoring of NES’s activities through an adequate and timely flow of appropriate information (agreed with NES) on performance, budgeting, control and risk management;
* addressing in a timely manner any significant problems arising in NES, alerting the Portfolio Accountable Officer and the responsible Minister(s) where considered appropriate;
* ensuring that the objectives of NES and the risks to them are properly and appropriately taken into account in the SG’s risk assessment and management systems;
* informing NES of relevant SG policy in a timely manner.

**Internal audit**

# NES shall:

* establish and maintain arrangements for internal audit in accordance with the [Public Sector Internal Audit Standards](https://www.gov.uk/government/publications/public-sector-internal-audit-standards) and the [Internal Audit](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/internaud) section of the SPFM;
* set up an audit committee of its Board, in accordance with the [Audit Committees](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/auditcommittees) section of the SPFM, to advise both the NES Board and the Chief Executive in his/her capacity as the NES Accountable Officer;
* forward timeously to the SG the audit charter, strategy, periodic audit plans and annual audit assurance report, including the NES Head of Internal Audit opinion on risk management, control and governance and other relevant reports as requested;
* keep records of, and prepare and forward timeously to the SG an annual report on fraud and theft suffered by NES and notify the SG at the earliest opportunity of any unusual or major incidents.

# The SG’s Internal Audit Directorate has a right of access to all documents held by the NES internal auditor, including where the service is contracted out. The SG has a right of access to all NES records and personnel for any purpose.

**External audit**

# The Auditor General for Scotland (AGS) audits, or appoints auditors to audit, NES’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. NES shall instruct its auditors to send copies of all management reports (and correspondence relating to those reports) and responses to the SG.

# The AGS, or examiners appointed by the AGS, may carry out examinations into the economy, efficiency and effectiveness with which NES has used its resources in discharging its functions. The AGS may also carry out examinations into the arrangements made by NES 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, NES 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**

# NES 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 NES. It should comply with the Government [Financial Reporting Manual](http://www.hm-treasury.gov.uk/frem_index.htm) (FReM) and outline NES’s main activities and performance against agreed objectives and targets for the previous financial year.

# 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 NES shall be consolidated in its accounts in accordance with International Financial Reporting Standards as adapted and interpreted for the public sector context.

# The draft report should be submitted to the SG for comment by 1 June of each year, and the draft accounts for information, by 31 May of each year. The final version should be available for laying before the Scottish Parliament by the Scottish Ministers by 30 June following receipt of the draft report. 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. NES shall be responsible for the publication of the annual report and accounts e.g. on the NES website.

**MANAGEMENT RESPONSIBILITIES**

**Annual Operational Plan (AOP)**

# NES must ensure an AOP, agreed with the Scottish Ministers, is in place and published on the NES website. The plan represents NES’s agreement with the Scottish Government on the key work to be undertaken in the coming financial year and the subsequent two years, and will be accompanied by a financial plan to support its delivery. The content of the plan and the timetable for its preparation and review will be agreed with the SG. The plan must reflect the statutory duties of NES and detail key activity planned by the Board to support the delivery of safe and accessible treatment and care in line with ministerial priorities. The Plan will demonstrate how NES contributes to the achievement of the SG’s purpose and supports the realisation of those outcomes contained in Scotland’s [National Performance Framework](https://nationalperformance.gov.scot/) (NPF). The AOP should include:

* the purpose and principal aims (or mission) of NES;
* an analysis of the environment in which NES 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 purpose and realisation of the outcomes contained in Scotland’s [National Performance Framework](https://nationalperformance.gov.scot/) (NPF);
* details of any planned efficiencies, describing how NES proposes to achieve better value for money, including through collaboration and shared services;
* other matters as agreed with the SG Health and Social Care Directorates.

# Alongside the NES AOP which describes **key** planned activity, NES will produce detailed operational and financial plans covering the full range of its activity, their desired outcomes, performance targets and budgets. Again, NES shall agree with the SG the issues to be addressed in the plans and the timetable for its preparation and review. NES’s annual planning will take account both of its approved budgetary provision and of any forecast income, and will include a budget of estimated payments and receipts together with a profile of expected expenditure/consumption of resources and of draw-down and other income over the year.

# The NES AOP, detailed operational plan and financial plans will be underpinned by a 5 year [Strategy](https://www.nes.scot.nhs.uk/media/kacboen5/nes_strategic_framework_2019_2024.pdf) setting out the strategic ambitions and key areas of focus for the organisation. The content of the Strategy will be agreed with SG to ensure it properly reflects Scotland’s National Performance Framework and wider ministerial priorities. A copy of the agreed Strategy should be published on the NES website.

**Budget management**

# Each year, in light of decisions by the Scottish Ministers on the allocation of budgets for the forthcoming financial year, the SG will send to NES a formal statement of its budgetary provision, and a note of any related matters and details of the budget monitoring information required by the SG. The terms of that letter, referred to as the Budget Allocation and Monitoring letter, should be viewed as complementing the content of this document. Monthly monitoring is the primary means of in-year budgetary control across the SG. As such, bodies must comply with the format and timing of the monitoring together with any requests for further information. The statement of budgetary provision will set out the budget within the classifications of resource Departmental Expenditure Limits (RDEL), capital DEL (CDEL) and Ring-fenced (non-cash) (RfDEL). NES will inform the sponsor unit at the earliest opportunity if a requirement for Annually Managed Expenditure (AME) budget is identified. The SG should also be advised in the event that estimated net expenditure is forecast to be lower than budget provision.Transfers of budgetary provision between the different classifications 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 classifications may be undertaken without reference to the SG, subject to any constraints on specific areas of expenditure e.g. the approved pay remit.

# If the trading and other resource income realised (including profit or loss on disposal of non-current assets) – scored as negative RDEL, or the net book value of disposals of non-current assets – scored as negative CDEL, is less than included in the agreed budget, NES shall (unless otherwise agreed with the SG) ensure a corresponding reduction in its gross expenditure. The extent to which NES exceeds agreed budgets shall normally be met by a corresponding reduction in the budgets for the following financial year. If income realised is **more** than included in the agreed budgets NES must consult and obtain the prior approval of the SG before using any excess to fund additional expenditure or to meet existing pressures. Failure to obtain prior approval for the use of excess income to fund additional expenditure may result in corresponding reductions in budgets for the following financial year. The only exception is where the income is from gifts, bequests and donations but this must be spent within the same financial year as the receipt, otherwise additional budget allocation will be required. In any event, income from all sources and all planned expenditure should be reflected in the monthly budget monitoring statement.

**Cash management**

# Any [grant in aid](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/grants) (i.e. the cash provided to NES 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 made available to NES in monthly instalments on the basis of updated profiles and information contained with the Monthly Monitoring Return ('MMR'). 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 NES 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 NES.

# The banking arrangements adopted by NES must comply with the [Banking](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/banking) section of the SPFM.

**Risk management**

# NES 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 shall develop an approach to risk management consistent with the [Risk Management](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/risk) 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 NES 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**

# As part of risk management arrangements, NES shall ensure that it has a clear understanding at NES 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](http://www.gov.scot/Publications/2013/12/8006/downloads))
* [The Scottish Public Sector Action Plan on Cyber Resilience](https://beta.gov.scot/publications/cyber-resilience-strategy-scotland-public-sector-action-plan-2017-18/) and associated guidance

**Counter fraud arrangements**

# NES should adopt and implement policies and practices to safeguard itself against fraud and theft, in accordance with the [Fraud](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/fraud) section of the SPFM. Application of these processes must be monitored actively, supported by a fraud actionplan and robust reporting arrangements. This includes the establishment of avenues to report any suspicions of fraud. In addition NES should take risk-based and proportionate steps to appraise the financial standing of any supplier or other body with which it intends to enter into a contract or to provide funding.

**Performance management**

# NES 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 outcomes, objectives, targets and milestones set out in its operational and financial plans. The results of such reviews should be reported on a regular basis to the NES Board and copied to the SG. The SG shall assess NES’s performance in helping to deliver Ministers' policies, including the achievement of agreed key objectives, supported by the submission of reports in accordance with a timetable to be agreed with the sponsor unit.

# NES’s performance in assisting delivery of Ministers' policies shall be formally reviewed each year at the “Annual Review” of NES. Ministerial attendance at the NES Board’s Annual Reviews will occur periodically and in these instances the Review shall be Chaired by the appropriate Cabinet Secretary/Minister. In addition, the performance of NES will be reviewed at official level (led by either the Director for Health Workforce, Leadership and Service Reform or Deputy Director for Health and Social Care Workforce Planning and Development) in the form of an annual “Mid-Year Review”.

# **NES staff management**

*Broad responsibilities for NES staff*

# NES will have responsibility for the recruitment, retention and motivation of its staff. The NES Board will ensure that:

* it complies with its duty in relation to the governance of staff as set out in the NHS Reform (Scotland) Act 2004 and complies with the Staff Governance Standard <http://www.staffgovernance.scot.nhs.uk/what-is-staff-governance/staff-governance-standard/> and all other relevant legislation;
* in complying with the Staff Governance Standard the NES Board establishes a Staff Governance Committee and a Remuneration Committee as standing committees of the NES Board;
* it complies with requirements set out in national workforce policies including the extant Partnership Information Network (PIN) policies <http://www.staffgovernance.scot.nhs.uk/partnership/partnership-information-network/>, and the and the Once for Scotland Workforce Policies ['Once for Scotland' Workforce Policies — NHS Scotland Staff Governance](https://www.staffgovernance.scot.nhs.uk/partnership/once-for-scotland-workforce-policies/);
* the performance of its staff at all levels is satisfactorily appraised and NES’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 NES’s objectives;
* proper consultation with staff takes place on key issues affecting them;
* grievance and disciplinary procedures set out in the national Once for Scotland Grievance Policy and Conduct Policy are in place;
* it complies with the requirements of the national Whistleblowing Standards ([National Whistleblowing Standards | SPSO](https://www.spso.org.uk/news-and-media/national-whistleblowing-standards)) that are referred to in the Once for Scotland Whistleblowing policy and these are clearly communicated and available to staff to encourage and support them to speak up;
* a Code of Conduct for staff is in place.

*Pay and conditions of service*

# As part of NHS Scotland, NES shall employ its staff on the NHS terms and conditions packages which apply to each staff group in line with UK or Scottish agreements. Pay for its staff will be determined under Ministerial direction through the relevant NHS circulars. In addition, NES will comply fully with any process set up to determine appropriate pay for senior managers. The performance of staff at all levels will be appraised in line with the appraisal arrangements set out in that staff group’s terms and conditions.

*Pensions, redundancy and compensation*

# As part of NHS Scotland, NES staff are eligible to join the NHS Scotland Superannuation Scheme. Staff may, however, opt out of the NHS Scotland Superannuation Scheme at any time.

# Proposals on compensation payments must comply with the [Settlement Agreements, Severance, Early Retirement and Redundancy Terms](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/severanceetcterms) section of the SPFM. This includes referral to the SG of any proposed severance scheme (for example, a scheme for voluntary exit), business case for a settlement agreement being considered for an individual, or proposal to make any other compensation payment. In all instances, a body should engage with the SG prior to proceeding with proposed severance options, and prior to making any offer either orally or in writing.

**Asset and property management**

# NES shall comply with CEL (35) 2010 "A Policy for Property and Asset Management in NHS Scotland" and its' successors. NES will maintain an accurate and up-to-date record of its current and non-current assets consistent with the [Management of Assets](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/assetmanage) [Property: Acquisition, Disposal & Management](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/PropertyManagement) section of the SPFM. Non-current assets should be disposed of in accordance with the [Disposal of Property, Plant & Equipment](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/disposalassets) section of the SPFM. The SG’s Property Advice Division should be consulted about relevant proposed disposals of property that NES holds for operational purposes (rather than investment) at the earliest opportunity so it may be advertised internally. An [Internal Advertisement](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/PropertyManagement/InternalAdvertisement) 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 [Acquisition of Property](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/property) section of the SPFM. NES is also subject to the [SG Asset Management Policy](http://www.scotland.gov.uk/Publications/2009/02/26142659/1), 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 the 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 NES on the Cabinet Office [electronic Property Information Mapping System](http://www.ogc.gov.uk/electronic_property_information_mapping_service.asp) (e-PIMS).

**SPECIFIC FINANCIAL PROVISIONS**

**Delegated authorities**

# NES’s specific delegated financial authorities are set out in its [Standing Financial Instructions](https://www.nes.scot.nhs.uk/media/rvbdmig0/standing-financial-instructions-1.pdf) (SFI) and the attached **Appendix**. NES shall obtain the SG’s prior written approval before entering into any undertaking to incur any expenditure that falls outside these delegations or which is not provided for in NES’s annual budget as allocated by Scottish Ministers. NES 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**

# NES shall seek to optimise income - grant in aid does not qualify as income - from all sources, 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 NES shall be determined in accordance with the [Fees & Charges](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/feescharges) section of the SPFM.

# Gifts, bequests or donations received by NES 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, NES 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 NES shall consider if there are any associated costs in doing so or any conflicts of interests arising. NES shall keep a written record of any such gifts etc and what happened to them.

# **Financial investments**

# Unless covered by a specific delegated authority NES 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 NES. NES shall not invest in any venture of a speculative nature.

# **Borrowing**

# Borrowing cannot be used to increase NES’s spending power. All borrowing by NES - excluding agreed overdrafts - shall be from the Scottish Ministers in accordance with guidance in the [Borrowing, Lending & Investment](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/borrowingetc) section of the SPFM.

# **Lease arrangements**

# Unless covered by a specific delegated authority NES 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 NES 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. NES must have capital DEL provision for finance leases and other transactions which are in substance borrowing.

**Tax arrangements**

# 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](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/taxavoidance) section of the SPFM. NES 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 NES to observe VAT legislation and recover input tax where it is entitled to do so. 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. NES must also ensure that it accounts properly for any output tax on sales or disposals.

# **Lending and guarantees**

# Any lending by NES must adhere to the guidance in the [Borrowing, Lending & Investment](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/borrowingetc) section of the SPFM on undertaking due diligence and seeking to establish a security. Unless covered by a specific delegated limit NES shall not, without the SG’s prior approval, lend money, charge any asset, give any guarantee or indemnity or letter of comfort, or incur any other contingent liability (as defined in the [Contingent Liabilities](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/contingentliabs) section of the SPFM)***,***whether or not in a legally binding form. Guarantees, indemnities and letters of comfort of a standard type given in the normal course of business are excluded from this requirement.

**Third party grants**

# Unless covered by a specific delegated authority NES shall not, without the SG’s prior agreement, provide grant funding to a third party. Such funding would be subject to the guidance in the [Subsidy Control](https://www.gov.scot/publications/scottish-public-finance-manual/subsidy-control/subsidy-control/) 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](https://www.gov.scot/publications/scottish-public-finance-manual/grant-and-grant-in-aid/grant-and-grant-in-aid/) section of the SPFM.

# **Impairments, provisions and write-offs**

# 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 NES’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 NES’s resource DEL budget classification and is subject to a specific delegated limit.

# **Insurance**

# The Clinical Negligence and Other Risks Scheme (CNORIS) has been in operation since 2000. Participation in the scheme is mandatory for all NHS Boards in Scotland. The schemes allows for risk pooling of legal claims in relation to clinical negligence and other risks and works in a similar manner to an insurance scheme. CNORIS provides indemnity to Member organisations in relation to Employer’s Liability, Public / Product Liability and Professional Indemnity type risks (inter alia). The level of cover provided is at least £5m Public Liability, £10m Employers Liability, and £1m Professional Indemnity. The Scheme will provide “Indemnity to Principal” where required. CNORIS also provides cover in relation to Clinical Negligence.

# 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](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/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 NES. The SG will provide NES with a Certificate of Exemption for Employer's Liability Insurance.

**Procurement and payment**

# NES’s procurement policies shall reflect relevant guidance in the [Procurement](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/procure) 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 the NES’s objectives consistent with the principles of [Best Value](https://www.gov.scot/publications/scottish-public-finance-manual/best-value/best-value/) , the highest professional standards and any legal requirements. All external consultancy contracts over the value of £100,000 or any proposal to award a contract without competition (non-competitive action) over the value of £100,000 must be endorsed in advance by the Chief Executive.

# Any major investment programmes or projects undertaken by NES shall be subject to the guidance in the [Major Investment Projects](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/majinvest) 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 Office of the Chief Information Officer.

# NES shall pay all matured and properly authorised invoices relating to transactions with suppliers in accordance with the [Expenditure and Payments](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/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**

# Unless covered by a specific delegated authority NES 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](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/lossesetc) section of the SPFM. Gifts by management to staff are subject to the guidance in the [Non-Salary Rewards](http://www.scotland.gov.uk/Topics/Government/Finance/spfm/nonsalrewards) section of the SPFM.

**Clawback**

# Where NES has financed expenditure on assets by a third party, NES shall make appropriate arrangements to ensure that any such assets above an agreed value are not disposed of by the third party without the NES’ prior consent. NES shall put in place arrangements sufficient to secure the repayment of its due share of the proceeds - or an appropriate proportion of them if NES contributed less than the whole cost of acquisition or improvement. NES shall also ensure that if assets financed by NES 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 the NES.

**Subsidy Control**

# The EU State aid regime was effectively revoked from UK law from 1 January 2021 and subsidy control provisions are now covered by the UK-EU Trade and Cooperation Agreement (TCA) and the UK’s international obligations including various Free Trade Agreements and those arising as a consequence of World Trade Organisation membership. This position may be subject if the UK Government establishing its own domestic subsidies control regime: a UK wide consultation on this is set to take place in the first half of 2021. Currently any activity that NES undertakes itself, or funds other bodies to undertake, that can be offered on a commercial market for goods and services is subject to the TCA subsidy rules. A full assessment is therefore required prior to disbursing any funding and would be subject to the guidance in the [subsidy regime section](https://www.gov.scot/publications/scottish-public-finance-manual/subsidy-control/subsidy-control/) of the SPFM.

**Board expenses**

# Remuneration (daily fees), allowances and expenses paid to board members and any pension arrangements must comply with the SG [Pay Policy for Senior Appointments](http://www.gov.scot/Topics/Government/public-sector-pay/senior-appointment-pay) and any specific guidance on such matters issued by the Scottish Ministers.

**SCOTTISH GOVERNMENT HEALTH AND SOCIAL CARE DIRECTORATES**

**NHS EDUCATION FOR SCOTLAND FRAMEWORK DOCUMENT**

**SPECIFIC DELEGATED FINANCIAL AUTHORITIES**

Further information on NES’ specific delegated financial authorities are as follows:

|  |  |  |
| --- | --- | --- |
| **Item No.** | **Category** | **Delegated Authority per case (£)** |
|   | **Theft / Arson / Wilful Damage** |
| 1 | Cash | 10,000 |
| 2 | Stores / procurement | 20,000 |
| 3 | Equipment | 10,000 |
| 4 | Contracts | 10,000 |
| 5 | Payroll | 10,000 |
| 6 | Buildings & Fixtures | 20,000 |
| 7 | Other | 10,000 |
|   |
|   | **Fraud, Embezzlement & other irregularities (including attempted fraud)** |
| 8 | Cash | 10,000 |
| 9 | Stores / procurement | 20,000 |
| 10 | Equipment | 10,000 |
| 11 | Contracts | 10,000 |
| 12 | Payroll | 10,000 |
| 13 | Other | 10,000 |
|   |
| 14 | **Nugatory & Fruitless Payments**  | 10,000 |
|   |
|   | **Claims Abandoned** |
| 15(a) | Private Accommodation | 10,000 |
| 15(b) | Road Traffic Acts | 20,000 |
| 15(c) | Other | 10,000 |
|   |
|   | **Stores Losses** |
| 16 | Incidents of the Service –  |
| - Fire | 20,000 |
| - Flood | 20,000 |
| - Accident | 20,000 |
| 17 | Deterioration in Store | 20,000 |
| 18 | Stocktaking Discrepancies | 20,000 |
| 19 | Other Causes | 20,000 |
|   |
|   | **Losses of Furniture & Equipment and Bedding & Linen in circulation** |
| 20 | Incidents of the Service - |
| - Fire | 10,000 |
| - Flood | 10,000 |
| - Accident | 10,000 |
| 21 | Disclosed at physical check | 10,000 |
| 22 | Other Causes | 10,000 |
|   |
|   | **Compensation Payments - legal obligation** |
| 23 | Clinical \* | 250,000 |
| 24 | Non-clinical \* | 100,000 |
|   |
|   | **Ex-gratia payments** |   |
| 25 | Extra-contractual Payments | 10,000 |
| 26 | Compensation Payments - Ex-gratia - Clinical \* | 250,000 |
| 27 | Compensation Payments - Ex-gratia - Non Clinical \* | 100,000 |
| 28 | Compensation Payments - Ex-gratia - Financial Loss \* | 25,000 |
| 29 | Other Payments | 2,500 |
|   |
|   | **Damage to Buildings and Fixtures** |
| 30 | Incidents of the Service |
| - Fire | 20,000 |
| - Flood | 20,000 |
| - Accident | 20,000 |
| - Other Causes | 20,000 |
|   |
| 31 | **Extra-Statutory & Extra-regulationary Payments** | Nil |
|   |
| 32 | **Gifts in cash or in kind** | 10,000 |
|   |
| 33 | **Other Losses** | 10,000 |

The NES Standing Financial Instructions can be found at:

<https://www.nes.scot.nhs.uk/media/rvbdmig0/standing-financial-instructions-1.pdf>

\* This delegated limit was revised as at 1st August 2001 HDL (2001)65.

+ those losses which do not broadly fall within the definitions of theft, arson, wilful damage, fraud, embezzlement and attempted fraud and would have fallen within the previous item 2 “Cash Losses – overpayments of salaries, wages and allowances” and the previous item 3 “Cash Losses – Other” should be included within this heading