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**Scottish Courts
and Tribunals Service**



Scottish Courts and Tribunals Service

Framework Document

Agreement Between the Scottish Ministers

&

The Scottish Courts and Tribunals Service

December 2024

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Introduction

1. This framework document is agreed between the Scottish Courts and Tribunals Service (SCTS) and the Scottish Ministers. It recognises the fundamental independence of SCTS and sets out how the organisation will work with the Scottish Government (SG) and the key roles and responsibilities of:

- the SCTS Board and its chair (the Lord President);
- the Chief Executive of the SCTS – who is also the SCTS Accountable Officer;
- the Scottish Ministers; and
- the Director General, Education and Justice – who is the SG Portfolio Accountable Officer whose remit includes liaison with SCTS.

2. While this document does not confer any legal powers or responsibilities, it is a formal agreement between the Scottish Ministers and SCTS. It should be reviewed and agreed by the Scottish Ministers and SCTS at least every 3 years.

3. Any question regarding the interpretation of this document will be resolved through discussion between the SG and SCTS. Legislative provisions take precedence over any part of this document.

4. This document will be published on the SCTS website.

Purpose

5. The SCTS is established by [section 60\(1\)](#) of the Judiciary and Courts (Scotland) Act 2008 (“the 2008 Act”). It is a body corporate, which is part of the Scottish Administration but not part of the Scottish Government. SCTS supports Scotland’s independent judiciary in the operation of Scotland’s Courts, devolved tribunals, the office of the Public Guardian & Accountant of court and various related functions (detailed below). Its purpose is “Supporting Justice”.

6. The 2008 Act changed the status of SCTS from an Agency of the Scottish Government to a body corporate – in recognition of the fact that the civil servants providing direct support to Scotland’s judiciary should be led by that judiciary – confirming and strengthening the principles of judicial independence.

7. The functions of the SCTS are set out in sections 61 to 64 of the 2008 Act, which require it to provide, or ensure the provision of, the property, services, officers and other staff required for the purposes of:

- a) the Court of Session;
- b) the High Court of Justiciary;
- c) the court for hearing appeals under section 57(1)(b) of the Representation of the People Act 1983 and the election court for Scotland under that Act;
- d) the Lands Valuation Appeal Court;
- e) the Sheriff Appeal Court;
- f) the Sheriff courts;
- g) the Justice of the peace courts;
- h) the Scottish Tribunals
- i) the judiciary of those courts and tribunals;
- j) the Public Guardian and Accountant of Court
- k) the Scottish Civil Justice Council, the Criminal Courts Rules Council and the Scottish Sentencing Council.

- l) the Lord President in carrying out functions as Head of the Scottish Judiciary (defined in section 2(2) of the Act) and other non-judicial functions;
- m) the Lord President in carrying out functions as Head of the Scottish Tribunals (defined in section 2 of the Tribunals (Scotland) Act 2014);
- n) the President of the Scottish Tribunals in the carrying out of functions delegated to the President of the Scottish Tribunals by the Lord President as Head of the Scottish Tribunals and other non-judicial functions of the President of the Scottish Tribunals;
- o) any judicial office holder in the carrying out of functions delegated to the office holder by the Lord President;
- p) the sheriffs principal in carrying out their statutory functions;
- q) the President of the Sheriff Appeal Court in carrying out the responsibilities of that role (defined in section 56 of the Courts Reform (Scotland) Act 2014).

8. The SCTS provides leadership and direction to the staff it employs and holds the Chief Executive (CEO) to account for organisational performance. The CEO is responsible for the day-to-day running of the SCTS and is also a member of its Board. The staff of the SCTS are civil servants, appointed by and accountable to the SCTS.

Governance and Accountability

9. This section summarises the specific responsibilities and accountabilities of the key people involved in the governance of the SCTS and in managing its relationship with SG.

The Scottish Courts and Tribunals Service Board (and its members)

10. The SCTS has fourteen members consisting of 8 judicial and 6 non-judicial members. Membership of the SCTS consists of the Lord President (Chair), the Lord Justice Clerk, the President of the Scottish Tribunals, the CEO of the SCTS and ten other persons of different judicial and non-judicial categories, each of whom will be appointed by the Lord President following a selection process outlined in regulations made by Scottish Ministers.

11. The three members who are not members of the judiciary or of the legal profession will have relevant knowledge and experience in commerce, finance or administration or otherwise have skills and experience which would contribute effectively to the work of the SCTS, such as tribunals' experience. One of them is the Chair of the SCTS Audit & Risk Committee.

12. The SCTS operates within Standing Orders which are published on the SCTS website. The Standing Orders set out a code of conduct and provide for the circumstances in which members must declare any interest on a subject under discussion or consideration.

13. The members of the SCTS are corporately responsible for the leadership and broad direction of the organisation and for ensuring that it carries out its functions effectively and efficiently. Each member of the SCTS is accountable to the Chair of the SCTS for their conduct as a member. The members are responsible for ensuring that the SCTS meets the aims and objectives agreed with the Scottish Ministers and recorded in the Corporate Plan. In particular, the members shall:

- a) establish the overall strategic direction of the SCTS;
- b) communicate widely the aims and objectives of the SCTS;
- c) ensure strong working relationships are established between the staff employed by the SCTS and the judiciary at all levels;
- d) delegate execution of the functions of the SCTS to committees and the CEO as appropriate;

- e) provide leadership and commitment to develop and promote the efficient, economic and effective use of resources consistent with the principles of equality and best value;
- f) ensure that all legal responsibilities are complied with;
- g) protect and enhance public confidence in the SCTS;
- h) scrutinise current and projected performance against the aims, objectives and targets set out in the annual business plan and take decisions on remedial action where required;
- i) scrutinise financial performance and compliance with the Scottish Public Finance Manual, including through collaboration and use of shared services;
- j) before each planning period, submit to the Scottish Ministers for approval a Corporate Plan describing how it proposes to carry out its functions during the period. The plan will be in a form and contain such information as Scottish Ministers direct. Once approved by Scottish Ministers, the Corporate Plan will be laid before the Scottish Parliament;
- k) approve the annual report and accounts and ensure these are laid before the Scottish Parliament;
- l) ensure that effective governance is established and maintained, including ensuring that decision-taking is open and transparent and, with support from the Chief Executive and the Audit and Risk Committee, ensure that key risks are identified and managed;
- m) have collective responsibility for the actions and decisions of the SCTS and be accountable to the Scottish Parliament;
- n) promote the wellbeing, learning and development of staff, provide support and challenge to the Chief Executive on staffing matters and ensure that the SCTS meets the staff management responsibilities described in this document; and
- o) maintain the independence of the SCTS from the Scottish Government.

14. If legal proceedings are brought against any member of the SCTS (acting in that capacity) by a third party, the SCTS will meet any civil liability which is incurred by that member in the execution of their functions, provided they have acted honestly and in good faith.

The Chair of the SCTS

15. The primary duty of the Lord President as Chair of the SCTS is to lead the SCTS in the successful performance of its functions. In doing so, the Lord President will exercise particular leadership responsibilities on the following matters:

:

- a) leading the Board, ensuring that all Board members have suitable induction to understand the role and their responsibilities, that the skills and experience of all Board Members are used effectively and that the Board undertakes regular self-assessment of its performance;
- b) ensuring that there are suitable arrangements in place for the ongoing review of members' contribution to the performance of the Board and that the Board and/or individual Board members undertake development activity when required to ensure their effectiveness;
- c) ensuring that the Board reviews its effectiveness annually;
- d) ensuring that a Code of Conduct (aligned to the Model Code of Conduct for Members of Devolved Public Bodies in Scotland) is in place, that actions are taken to implement it as required and that Members understand their responsibilities under the code;
- e) encouraging high standards of propriety and regularity across members and staff of the SCTS; and

- f) building relationships with, and representing the views of the SCTS, to Scottish and United Kingdom Ministers, Scottish and United Kingdom Parliaments and others having functions or relevant interests in the administration of justice.

16. Specific guidance on how the Chair and Board Members should discharge their duties will be provided in their appointment letters and in [On Board – A Guide for Members of Statutory Boards](#). Guidance on governance good practice is available in the Scottish Public Finance Manual. A list of key aspects of governance to consider is included in the section on Governance and Risk below.

The Chief Executive/Accountable Officer

17. The Chief Executive is a senior civil servant employed and appointed by the Board and is the principal adviser to the Board on the discharge of its functions. The appointment of the CEO is conducted in line with the Civil Service Commissioners' Recruitment Principles as they apply to Senior Civil Servants in Scotland.

18. The specific duties of the Chief Executive will be set out in a job description, and annual objectives will be agreed with the Chair and used in appraisal of the Chief Executive's performance. In addition to any other specific duties, the Chief Executive will:

- a) Advise the Board on the discharge of its responsibilities ensuring members of the SCTS are provided with high-quality, impartial, transparent and honest advice– as set out in this Framework Document in the founding legislation and in any other relevant instructions and guidance;
- b) implement or oversee implementation of the decisions of the Board;
- c) work with the Board on preparation of the Corporate Plan and work with the Board to ensure that business plans are put in place to meet the Corporate Plan aims, objectives and performance measures;
- d) provide effective leadership and manage the staff of the SCTS, ensuring their wellbeing, learning and development are prioritised, and ensuring that the staff management responsibilities set out in the section below are addressed;
- e) manage the budget for the SCTS in line with Scottish Government Finance guidance, policies and procedures, including the Scottish Public Finance Manual, and advise the Board on financial implications of all Board decisions, ensuring that appropriate financial appraisal and evaluation techniques are followed (as detailed in the Appraisal and Evaluation section of the SPFM);
- f) manage the day-to-day relationship with SG officials, including the Portfolio Accountable Officer and other key stakeholders, including staff of other public bodies;
- g) promote the efficient, economic and effective use of resources consistent with the principles of Best Value;
- h) ensure the broad direction and particular perspective of the SCTS is conveyed to official level boards and committees of the Scottish Government.

19. In advising the Board, the Chief Executive will ensure that the key governance issues highlighted in the section on Governance and Risk below are addressed.

20. The Chief Executive is designated as the Accountable Officer by the Principal Accountable Officer for the Scottish Administration (in accordance with sections 14 and 15 of the Public Finance and Accountability (Scotland) Act 2000). The Accountable Officer is personally responsible for the propriety and regularity of the public finances of the SCTS and ensuring that its resources are used economically, efficiently and effectively, as required by section 15 of the Public Finance and Accountability (Scotland) Act 2000. They may be called to give evidence to the Public Audit Committee of the Scottish Parliament. The responsibilities of the Accountable Officer are set out in full in the [Memorandum to](#)

[Accountable Officers for Parts of the Scottish Administration](#) in the Scottish Public Finance Manual.

21. The CEO may delegate the day-to-day administration of the Accountable Officer responsibilities to other employees of the SCTS, but remains responsible for propriety and regularity.

22. The Accountable Officer may consult the Portfolio Accountable Officer on any aspect of accountable officer duties.

The Scottish Ministers

23. The Scottish Ministers do not oversee the performance of the SCTS, which will be scrutinised by the Scottish Parliament. The Scottish Ministers will work with the Board in line with the Shared Principles set out below.

24. The Scottish Ministers will:

- a) liaise with the SCTS to identify its budgetary requirements that will be reflected in the Budget Bill which Ministers present to the Scottish Parliament. Where agreement for the budget for the SCTS cannot be reached between the parties, there will be a right of representation. In the first instance, this will be between the CEO, as Accountable Officer, and the Director-General, Education and Justice. Failing agreement being reached at official level, there will be a right of representation between the Lord President and the Cabinet Secretary for Finance. Every effort will be made by both parties to ensure agreement. It will ultimately be for Scottish Ministers to determine the budget allocations within the Budget Bill.
- b) approve pay remits or proposals and superannuation arrangements for the staff, Chief Executive, and Board members not in receipt of public sector remuneration.

The Director General, Education and Justice

25. The Principal Accountable Officer for the Scottish Administration has designated the Director General, Education and Justice as the SG Portfolio Accountable Officer and designated Senior Lead Officer in managing the relationship between SG and the SCTS.

26. The duties of the Director General, Education and Justice are to establish a framework for the relationship between SG and a public body, oversee the operation of that framework, and ensure that appropriate assurance is provided on the performance and governance of the body. The responsibilities of a Portfolio Accountable Officer are set out in detail in the [Memorandum to Accountable Officers for Parts of the Scottish Administration](#).

27. The Director General Education and Justice will:

- a) make sure the framework document is agreed between the Scottish Ministers and the Board of the SCTS, reviewed regularly and oversee the operation of the roles and responsibilities set out;
- b) support regular and effective engagement between the SCTS and the relevant Scottish Minister(s);
- c) ensure the SCTS is made aware of strategic developments that may impact the organisation and that the organisation's position is taken into account in SG policy decisions and has due regard for advice provided by the SCTS;
- d) appropriate Scottish Government corporate services are available to support and facilitate the work of the SCTS;

- e) will meet the Chief Executive of the SCTS at least twice annually to discuss Scottish Government policy and strategy as they relate to the work of the SCTS and, as appropriate, to discuss matters of governance, with the Chair of the SCTS Board being briefed as appropriate;
- f) will take account of the draft Corporate Plan, draft Annual Report and other information provided by or requested from the SCTS, for the purpose of advising Scottish Ministers about the operation and performance of the SCTS.

28. The Director General Education and Justice remains personally answerable to the Scottish Parliament for the implementation of this framework.

Shared Principles

29. The SCTS and the Scottish Ministers confirm that they will adhere to the following shared principles.

- a) The SCTS and the Scottish Ministers are committed to good and effective communications with each other especially where the work of one has bearings upon the responsibilities of the other. In particular the Scottish Ministers will keep the SCTS informed of any policy changes or issues that may be relevant to its operation.
- b) The SCTS will not act in such a way as might compromise, or be seen to compromise, its own independence;
- c) Scottish Ministers will not act in such a way as might compromise, or be seen to compromise, the independence of the SCTS;
- d) The SCTS and Scottish Ministers will both work in ways that will safeguard the independence of the judiciary and promote effective access to justice.
- e) The SCTS will remain politically neutral;
- f) The SCTS will carry out its functions with integrity, will promote transparency and will ensure that appropriate summaries of its activity and financial performance are available for scrutiny by the Scottish Parliament;
- g) The SCTS is bound by the confidentiality requirements set out in the Code of Conduct for its Members;
- h) The SCTS and the Scottish Ministers will both work in ways which support the best principles of corporate governance and financial accountability as set out in the Scottish Public Finance Manual.
- i) The SCTS will ensure that the Scottish Government Justice Directorate is informed in advance of any significant announcements or publications which may have implications for the Government.
- j) The Scottish Government Justice Directorate will, in turn, inform the SCTS in advance of any significant announcements or publications which may have implications for the SCTS – including announcements or publications relating to the judiciary or the legal sector.
- k) In line with the terms of section 65 of the 2008 Act, where the SCTS gives information or advice, or makes proposals to the Scottish Ministers on any matters relating to the functions of the SCTS, or the general administration of justice in Scotland, the Scottish Ministers must have regard to such information, advice or proposals.

SCTS staff management responsibilities

General Responsibilities

30. Staff of the SCTS are civil servants, appointed by open competition, in line with the Civil Service Commissioners' Recruitment Principles. All staff employed by the SCTS have a duty to the CEO and through the CEO to the SCTS to support the efficient and effective

operation of the courts and tribunals and for the achievement of the organisation's aims and objectives. The SCTS is responsible for determining its management structure and the number and levels of staff below the level of the Senior Civil Service.

31. Whilst members of the judiciary do not exercise day to day management responsibilities for staff, SCTS staff are subject to the direction of the judiciary when they are supporting them in the conduct of the business of the courts and tribunals – in matters such as case allocation and case management, in accordance with existing processes. Such direction will, however, always be subject to administrative directions issued by either the relevant sheriff principal, the Lord President or any other judicial office holder to whom the Lord President has lawfully delegated part of these functions.

32. The Chief Executive has responsibility for the recruitment, retention and motivation of SCTS staff. The general responsibilities toward staff are to ensure that:

- a) the SCTS develops and ensures compliance with appropriate HR policies, practices and systems – which comply with employment, health and safety and equalities legislation, and standards expected of public sector employers;
- b) the level and structure of staffing, including grading and staff numbers, are appropriate to its functions and the requirements of economy, efficiency and effectiveness (subject to the SG [Pay Policy for Staff Pay Remits](#));
- c) the performance of staff at all levels is regularly appraised and performance management systems are reviewed from time to time;
- d) staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the organisation's objectives;
- e) proper consultation with staff takes place on key issues affecting them, as appropriate, including working in partnership with PCS – the recognised union - consistent with the requirements of the Employee Information and Consultation Regulations 2004;
- f) effective grievance and disciplinary procedures are in place; and
- g) an effective whistle-blowing policy and procedures consistent with the Public Interest Disclosure Act 1998 are in place.

Pay and conditions of service

33. The SCTS will comply with SG Pay Policy in relation to staff and the Chief Executive. The Chief Executive will ensure that a pay remit, in line with the SG [Pay Policy for Staff Pay Remits](#), is submitted to the SG for approval in line with the timetable notified and negotiate a pay settlement within the terms of the approved remit. This will be done annually, unless a multi-year deal has been agreed. Payment of salaries by the SCTS will comply with the [Tax Planning and Tax Avoidance](#) section of the SPFM. Proposals on non-salary rewards will comply with the guidance in the [Non-Salary Rewards](#) section of the SPFM.

Pensions, redundancy and compensation

34. SCTS staff will normally be eligible for a pension provided by Principal Civil Service Pension Scheme (PCSPS). Staff may opt out of the PCSPS, but the employers' contribution to any personal pension arrangement, including stakeholder pension, will normally be limited to the national insurance rebate level.

35. Any proposal by the SCTS to pay any redundancy or compensation for loss of office, requires the prior approval of the Scottish Ministers. Proposals on compensation payments will comply with the [Settlement Agreements, Severance, Early Retirement and Redundancy Terms](#) section of the SPFM. This includes referral to the Scottish Ministers 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. The SCTS should engage with the Portfolio Accountable Officer prior to proceeding with proposed severance options, and prior to making any offer either orally or in writing.

Corporate and business plans

36. As set out in section 66 of the Judiciary and Courts (Scotland) Act 2008, the SCTS will prepare a draft corporate plan every 3 years for approval by Scottish Ministers. This will set out how the SCTS proposes to carry out its functions during the period. When a new plan is to be prepared, the Chief Executive or their delegate will liaise with the Portfolio Accountable Officer or their delegate on the timetable for preparation and any SG suggestions of points that should be taken into account. The final, approved version of the corporate plan will be published on the SCTS website.

37. The corporate plan will include the SCTS:

- a) purpose and principal aims;
- b) contribution to the national outcomes set out in the National Performance Framework, including any collaboration with other public bodies;
- c) analysis of the environment in which it operates;
- d) key objectives and associated key performance targets for the period of the plan, and the strategy for achieving those objectives;
- e) indicators against which its performance can be judged; and
- f) details of planned efficiencies, describing how better value for money will be achieved, including through collaboration and use of shared services.

38. The corporate plan will inform the development of a separate business plan for each financial year, which will include key targets and milestones for the year immediately ahead, aligned to the NPF, and be linked to budgeting information so that, where possible, resources allocated to achieve specific objectives can be identified. The SCTS will send a copy of the annual business plan to the SG Justice Directorate each year for information.

Annual report and accounts

39. The SCTS will publish an annual report of its activities together with its audited accounts after the end of each financial year. The annual report will cover the activities of any corporate, subsidiary or joint ventures under the control of the SCTS and will outline the main activities and performance against agreed objectives and targets for the previous financial year.

40. As part of the Scottish Administration, the SCTS is subject to the accountability and audit provisions of Part 2 of the Public Finance and Accountability (Scotland) Act 2000, including the duty to prepare annual accounts. For each financial year the SCTS will produce accounts of expenditure incurred in the fulfilment of its statutory functions. The annual accounts must be prepared in accordance with the relevant legislation and the specific Accounts Direction (including compliance with the Financial Reporting Manual (FRoM)) 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 of those accounts.

41. The SCTS will copy the report and accounts to the Scottish Ministers and lay them in the Scottish Parliament as soon as practicable and within nine months of the end of the financial year to which the report and accounts pertain. A copy will be provided to the Scottish Government Justice Directorate in advance of publication.

42. To fulfil statutory obligations with regards to the Scottish Tribunals, the President of the Scottish Tribunals will prepare an annual report about the operation and business of the tribunals, giving this to the Lord President at the end of each financial year who will publish the annual report after providing a copy to the Scottish Ministers.

External audit

43. The Auditor General for Scotland (AGS) audits, or appoints auditors to audit, the SCTS annual accounts and the accounts - which are laid before the Scottish Parliament together with the auditor's report and any other relevant reports prepared by the AGS. The AGS, or examiners appointed by the AGS, may also carry out examinations into the economy, efficiency and effectiveness with which the SCTS has used its resources in discharging its functions and/or carry out examinations into the arrangements made by the SCTS to secure Best Value.

44. The AGS, or the AGS's appointed auditors or examiners, have a statutory right of access to documents and information held by relevant persons, including any contractors to or recipients of grants from the SCTS. The SCTS will ensure that this right of access to documents and information is made clear in the terms of any contracts issued or conditions of any grants awarded and will also use its best endeavours to secure access to any other information or documents required which are held by other bodies.

Internal audit

45. The SCTS will establish and maintain arrangements for internal audit in accordance with the [Public Sector Internal Audit Standards](#) and the [Internal Audit](#) section of the SPFM. It will also maintain an Audit and risk Committee of its Board, in accordance with the [Audit Committees](#) section of the SPFM, to advise both the board generally and the Chief Executive in their capacity as Accountable Officer.

Budget management and delegated authority

General

46. The SCTS, as a non-Ministerial office, will have a distinct budget line which will appear separately in the Budget Bill. It is for the Scottish Ministers to determine the budget proposals to be submitted to Parliament within the Budget Bill, including the proposed budget for the SCTS. The SCTS is responsible for preparing a detailed budget for each financial year, which will enable it to meet its statutory obligations. The Scottish Government will liaise with the SCTS to identify its budgetary requirements. These will be considered alongside the resource needs of the rest of the justice system in order to ensure the SCTS has sufficient resources to meet its statutory obligations.

47. Where agreement on the SCTS annual budget cannot be reached between the finance and portfolio teams there will be a right of representation. In the first instance, this will be between the CEO of SCTS, as Accountable Officer, and the Director-General, Education and Justice, as Portfolio Accountable Officer. Failing agreement being reached at official level, there will be a right of representation between the Lord President and the Cabinet Secretary for Finance. Every effort will be made by both parties to ensure agreement. It will ultimately be for Scottish Ministers to determine the budget allocations within the Budget Bill.

48. The Portfolio Accountable Officer will confirm the budget allocation for the SCTS, and will provide details of the budget monitoring information required. The SCTS will comply with

the format and timing of the monitoring information requested and with any requests for further information.

49. Subject to the limits imposed by the budget allocated to the SCTS and other applicable guidance issued by the Scottish Ministers to the SCTS, the SCTS has full authority to incur expenditure on individual items.

50. 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) – and, where applicable, Annually Managed Expenditure (AME). These categories are explained in [Annual Budgeting Process](#) in the SPFM. The SCTS will not transfer budgetary provision between the categories without the prior approval of the SG Finance Directorate. Transfers within the categories are at the discretion of the Board or, subject to delegated authority, the Chief Executive or relevant senior manager, if these do not breach any other constraints, for instance the approved pay remit.

Fees for SCTS Services

51. Fees for services offered by the SCTS are prescribed by Scottish Ministers under statutory powers conferred by the Courts Reform (Scotland) Act 2014 for courts and the Office of the Public Guardian. Tribunal fees may be prescribed by Scottish Ministers under statutory powers and in particular by making regulations under the Tribunals (Scotland) Act 2014. The SCTS will provide to the Scottish Ministers such information as they require on to set fee levels. The Scottish Ministers will take account of that information in proposing any change to the level fees.

52. Optimising income from all sources should be a priority and SG Finance should be kept informed about any significant projected changes in income. Novel or contentious proposals for new sources of income or methods of fundraising must be approved by SG Finance. Fees or charges for any services supplied must be determined in accordance with the [Fees & Charges](#) section of the SPFM.

Judicial Costs not met from the Consolidated Fund

53. There are a number of costs that require to be met to support Scotland's salaried judiciary which are not treated as charges on the Scottish Consolidated Fund. These include payments for judicial pensions. It has been agreed that their administration and payment would be most effectively discharged by the Judicial Office for Scotland – the staff of whom are staff of the SCTS.

54. Funds required by the SCTS to defray these costs will be agreed as part of the overall annual budget setting process. It is recognised that these costs do not fall within the statutory responsibilities of the SCTS. In setting the annual budget required by the SCTS, the Scottish Government must have regard to the agreed net annual cost of running the SCTS. This will include the amount required to meet the aforementioned judicial costs.

Budget and finance

55. Non-standard tax management arrangements should always be regarded as novel and/or contentious. Relevant guidance is provided in the [Tax Planning and Tax Avoidance](#) section of the SPFM. The SCTS must comply with all relevant rules on taxation, including VAT, and recover input tax where it is entitled to do so.

56. Gifts, bequests or donations received score as income and should be provided for in the agreed resource DEL and capital DEL budgets, but should not fund activities or assets

normally covered by budget allocation or fee income, and conflicts of interest must be considered – see the principles in the [Gifts](#) section of the SPFM.

57. Borrowing cannot be used to increase spending power of the SCTS. All borrowing must be from the Scottish Ministers in accordance with guidance in the [Borrowing, Lending & Investment](#) section of the SPFM.

58. Any lending must be in line with the guidance in the [Borrowing, Lending & Investment](#) section of the SPFM on undertaking due diligence and seeking to establish a security. Unless covered by a specific delegated limit the SCTS must not 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](#) section of the SPFM), whether or not in a legally binding form, without the prior approval of SG Finance or if necessary the relevant committee of the Scottish Parliament. Guarantees, indemnities and letters of comfort of a standard type given in the normal course of business are excluded from this requirement.

59. An accurate and up-to-date record of current and non-current assets should be maintained, consistent with the [Property: Acquisition, Disposal & Management](#) section of the SPFM. 'Non-current' assets should be disposed of in accordance with the SPFM. The SG's Property Division should be consulted about relevant proposed disposals of property at the earliest opportunity so it may be advertised internally.

60. Assets should be recorded on the balance sheet at the appropriate valuation basis in accordance with the FReM. When an asset (including any investment) suffers impairment, when there is significant movement in existing provisions and/or where a new provision needs to be created, this should be communicated to SG Finance as soon as possible to determine the implications for the SCTS budget.

61. Any funding for expenditure on assets by a third party should be subject to appropriate arrangements to ensure that they are not disposed of without prior consent and that a due share of the proceeds can be secured on disposal or when they cease to be used by the third party for the intended purpose, in line with the [Clawback](#) guidance in the SPFM.

62. As stipulated in Annex 1 of the SPFM, the SCTS must ensure that specific sanction for expenditure has been obtained from Financial Management Directorate in all cases where it is required. It is required for any expenditure not covered by standing delegated authorities e.g. losses and special payments in excess of specific delegated authorities; novel, contentious or repercussive expenditure. In cases not covered by the Budget Act, e.g. in connection with a service not contemplated when the Budget Bill was presented, the SCTS must ensure that Financial Management Directorate is informed in order that appropriate advice can be given, and, if necessary, parliamentary procedures followed. The SCTS is responsible for the collection and bringing to account in due form of all receipts of any kind connected with the budget and accounts for which the SCTS is responsible.

63. Unless covered by a specific delegated authority, prior approval from SG Finance is required before making gifts or special payments or writing off losses. Special payments and losses are subject to the guidance in the [Losses and Special Payments](#) section of the SPFM. Gifts by management to staff are subject to the guidance in the [Non-Salary Rewards](#) section of the SPFM.

64. Before entering into or continuing any finance, property or accommodation-related lease arrangement, the SCTS 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. There must be capital DEL provision in the budget allocation for finance leases and other transactions which are in substance borrowing.

65. The SCTS will adopt its own procurement policy which will reflect relevant guidance in the [Procurement](#) section of the SPFM and any other relevant guidance issued by the SG's Procurement and Property Directorate and other best practice. The directory of [SG Framework Agreements](#), is available to support relevant procurement.

66. All matured and properly authorised invoices relating to transactions with suppliers should be paid in accordance with the [Expenditure and Payments](#) section of the SPFM wherever possible and appropriate within the target of payment within 10 working days of their receipt.

67. The SCTS is subject to the policy of self-insurance. Commercial insurance must however be taken out where there is a legal requirement to do so and may also be taken out in the circumstances described in the [Insurance](#) section of the SPFM – where required with the prior approval of SG Finance. 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. SG Finance will provide a Certificate of Exemption for Employer's Liability Insurance.

68. 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). They are also covered by the UK's international obligations, including various Free Trade Agreements and those arising as a consequence of World Trade Organisation membership. Currently, any activity that the SCTS 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 required prior to disbursing any funding, subject to the guidance in the subsidy regime section of the SPFM. The UK Subsidy Control Act received Royal Assent in April 2022 and the current position will be subject to change when the new regime comes into force.

Remuneration

69. Remuneration, allowances and any expenses paid to the Chair and Board Members must comply with the latest SG Pay Policy for Senior Appointments and any specific guidance on such matters issued by the Scottish Ministers.

70. Staff pay, pensions and any severance payments must be in line with the requirements of Public Sector Pay Policy and the responsibilities described in the section on NMO Staff Management Responsibilities.

71. All individuals who would qualify as employees for tax purposes should be paid through the payroll system with tax deducted at source.

Banking and cash management

72. Banking arrangements must comply with the [Banking](#) section of the SPFM.

73. Cash management arrangements need to be addressed as well as overall budget management. Any cash provided to the SCTS to support the allocated budget for the year in question will be authorised by the Scottish Parliament in the annual Budget Act. The SCTS will normally receive monthly instalments based on updated profiles and will not seek any payment in advance of need. Budget provision not drawn down by the end of the financial year will lapse.

Governance, Risk and Relations

74. Guidance on governance requirements is available in several documents referred to earlier in this document:

- [the Scottish Public Finance Manual](#) (SPFM)
- [the Audit and Assurance Committee Handbook](#)
- [On Board – A Guide for Members of Statutory Boards](#)

75. If in any doubt about a governance issue, the Chair or Chief Executive may consult the Portfolio Accountable Officer who may in turn put them in touch with the SG Public Bodies Unit, the SG Governance and Risk Team and/or other teams with relevant expertise.

76. The Board and Chief Executive are advised to pay particular attention to guidance on the following issues.

Risk management

77. The SCTS must develop an approach to risk management consistent with the [Risk Management](#) section of the Scottish Public Finance Manual and generally recognised best practice. Where a risk or issue has wider implications for SG or other public bodies, or where SG may have a role in the management of a risk or issue, the Chief Executive or Chair should ensure that this is brought to the attention of the Portfolio Accountable Officer as early as possible.

78. The Board should have a clear understanding of the key risks, threats and hazards it may face in the personnel, accommodation and cyber domains, and take action to ensure appropriate organisational resilience, in line with the guidance in: [Having and Promoting Business Resilience](#) (part of the Preparing Scotland suite of guidance) and the [Public Sector Cyber Resilience Framework](#).

Internal Control

79. The Board should establish clear internal delegated authorities with the Chief Executive, who may in turn delegate responsibilities to other members of staff and establish an assurance framework consistent with the internal control framework in the SPFM.

80. Counter-fraud policies and practices should be adopted to safeguard against fraud, theft, bribery and corruption - see the [Fraud](#) section of the SPFM.

81. Any major investment programmes or projects undertaken should be subject to the guidance in the [Major Investment Projects](#) section of the SPFM and in line with delegated authorities. ICT investment plans must be reported to the SG's Office of the Chief Information Officer.

SCTS Internal Policy

82. Under the general directions of its Board the SCTS may develop and implement internal policy in relation to any aspect of its functions and provide guidance to operational staff. In developing operational policy the SCTS will, where appropriate, consult and work with the judiciary and others involved in the justice system.

SG/Justice System Policy

83. The Scottish Ministers will consult the SCTS on all policy and legislative proposals which the Scottish Government is developing that may have an operational impact on those areas for which the SCTS is responsible. Scottish Ministers will consult the SCTS in reasonable time to allow the SCTS to make representations and for those representations to be fully considered before final decisions are taken and publicised.

84. The Scottish Ministers will also consult the SCTS when it is engaged with the United Kingdom Government in relation to policy or legislation they may be developing domestically or internationally with other legislative bodies that may have an operational impact on those areas for which the SCTS is responsible. In doing so, Scottish Ministers will have regard to SCTS advice (see section 65 of the Act) and will ensure that policy lines are reflective of the independent nature of the SCTS.

85. The SCTS will ensure that it will consult the Scottish Ministers and other relevant parties on any strategic or operational proposals that might have an impact for the wider administration of justice. SCTS will consult the Scottish Ministers and other parties in reasonable time to allow them to make representations and for those representations to be fully considered before final decisions are taken.

86. The above provisions do not affect the practice and procedure whereby government policy makers may consult the judiciary on legislative or other proposals.

SCTS and the Scottish Parliament

87. The SCTS will be corporately accountable to the Scottish Parliament for the efficient use of public resources. The principal route of accountability to the Scottish Parliament is through the CEO as Accountable Officer. The SCTS has the right to make representations and proposals to the Scottish Parliament on matters relating to the functions of the SCTS or the administration of justice in Scotland, either at the invitation of Parliament or through the Scottish Ministers. Neither the exercise nor the non-exercise of this right precludes expression of SCTS views on these matters in correspondence with individual or representative parliamentarians.

88. The Scottish Parliament has the power to require the attendance of any non-judicial member or officer of the SCTS. Section 23 of the Scotland Act 1998 provides that neither the Lord President nor other members of the judiciary can be required to appear before the Scottish Parliament and this restriction applies in relation to their respective roles as members of the SCTS as well as to their judicial function.

89. Notwithstanding the above, the Lord President will consider invitations received from the Scottish Parliament relating to judicial members of the SCTS, and, in consultation with other judicial members of the SCTS and the relevant Committee of the Parliament will decide whether it is appropriate for a judicial member to attend, consistent with their responsibilities within the SCTS.

90. No member of the SCTS would expect to be asked any questions about matters which did not relate directly to their role within the SCTS. In particular, judicial members would not answer questions about the exercise of their judicial functions, for which they are constitutionally not accountable to the Scottish Parliament.

Parliamentary Questions

91. Scottish Ministers will not be accountable through Parliamentary Questions (PQs) for the operations of the SCTS.

92. PQs to Ministers may, however, seek information from Ministers about matters for which the Scottish Government has a general responsibility, which Ministers cannot provide without assistance from the SCTS. In particular, PQs may seek statistical information from the Scottish Ministers about the performance of the justice system, and Ministers may seek information from the SCTS to enable them to respond to such questions. Section 68 of the Act requires the SCTS to provide the Scottish Ministers with such information. As far as is practicable, the SCTS will seek to provide such information timeously.

93. The Scottish Parliament can also ask Ministers about their own relations with the SCTS, e.g. about what Ministers have specified should be included in the SCTS Corporate Plan, what guidance Ministers have issued to the SCTS, and whether Ministers are considering using their default power to take back the functions of the SCTS.

Correspondence from Members of the Scottish Parliament

94. When Members of the Scottish Parliament (MSPs) seek information from the SCTS on matters for which it is responsible, such correspondence will be responded to by the CEO or a senior officer acting on his or her behalf, normally within 20 working days of receipt.

95. Responses to Parliamentary questions will be made publicly available on the SCTS website except where inappropriate e.g. in relation to confidential matters such as correspondence which includes private information about constituents and their dealings with the courts or tribunals or where otherwise publication would be precluded under data protection legislation. The SCTS will decide whether a response should be made publicly available taking account of the views of the correspondent and the requirements of the current Freedom of Information and Data Protection laws and regulations.

96. Similar arrangements will apply to the handling of questions from members of the UK Parliament.

Information Management and Sharing

97. The SCTS must comply with the requirements of the Freedom of Information (Scotland) Act 2002 and ensure that information is provided to members of the public in a spirit of openness and transparency. The SCTS must also register with the [Information Commissioners Office](#) and ensure that it complies with the Data Protection Act 2018 and the General Data Protection Regulations, commonly known as GDPR.

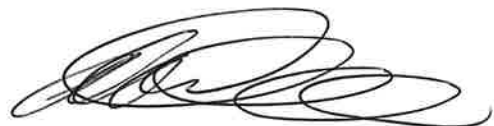
98. As far as is reasonably practical, the SCTS will provide the Scottish Government with relevant analytical data that they hold that will assist the development, monitoring and evaluation of Government policies. Where appropriate, the exchange of analytical data will be subject to data sharing agreements between the SCTS and Scottish Government.

99. The SCTS and Scottish Government will share with each other, in advance, any significant public communications that relate to, or may have implications for, the judiciary, courts, tribunals or the wider justice system.



Signed on behalf of the
Scottish Courts and Tribunals Service

Date: 4 December 2024



Signed on behalf of
Scottish Ministers

Date: 4 December 2024

