



CODE OF CORPORATE GOVERNANCE 2015

Approved: April 2015

Review Date: January 2016

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INTRODUCTION

INTRODUCTION

1. CODE OF CORPORATE GOVERNANCE

The Code of Corporate Governance includes the following sections:

- Section A – How business is organised
- Section B – Members' code of conduct
- Section C – Standards of business conduct for NHS staff
- Section D – Counter Fraud Policy & Action Plan
- Section E – Reservation of powers and delegation of authority
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It uses best practice in Corporate Governance as set out in the Cadbury, Nolan and other Reports, and guidance issued by the Scottish Government Health Department and others.

The Board reviews and approves the Code of Corporate Governance each year. Sections A to E are NHS Borders's Standing Orders. The Standing Orders are made in accordance with the Health Board's (Membership and Procedure) (Scotland) Regulations 2001.

Statutory provision, legal requirement, regulation or a direction by Scottish Ministers take precedence over the Code of Corporate Governance if there is any conflict.

2. BORDERS NHS BOARD

Borders NHS Board, 'The Board', means Borders Health Board.

The common name of Borders NHS Board as an organisation is "NHS Borders".

The Board is a single legal entity, accountable to the Scottish Government Health Department and to Scottish Ministers for the functions and performance of NHS Borders.

The Board will not concern itself with day-to-day operational matters, except where they have an impact on the overall performance of the system.

The Board consists of the Chair, Non-Executive and Executive Members appointed by the Scottish Ministers to constitute Borders Health Board. (National Health Services (Scotland) Act 1978 as amended).

Remuneration will be paid as determined by Scottish Ministers to the Chair and other Non-Executive Board Members.

Any member of the Board may on reasonable cause shown be suspended or removed or disqualified from membership of the Board in accordance with the Regulations identified Section 1 above.

A member of the Board may resign office at any time by giving notice in writing to Scottish Ministers to that effect.

The overall purpose of Borders NHS Board is:

- To ensure the efficient, effective and accountable governance of NHS Borders
- To provide strategic leadership and direction
- To focus on agreed outcomes

The Role of the Board is:

- To improve and protect the health of local people
- To improve health services for local people
- To focus clearly on health outcomes and people's experience of NHS Borders
- To promote joint health and community planning by working closely with local organisations
- To be accountable for the performance of NHS Borders as a whole
- To involve the public in the design and delivery of healthcare services

The Functions of the Board are:

- Set the strategic direction of NHS Borders within the overall policies and priorities of the Scottish Parliament and the Scottish Government, define its annual and longer-term objectives and agree plans to achieve them;
- Resource allocation to address local priorities;
- Ensure effective financial stewardship through value for money, financial control and financial planning and strategy;
- Oversee implementation and delivery of the Local Delivery Plan
- To manage the performance of NHS Borders, including risk management, by monitoring performance against objectives and ensuring corrective action is taken when necessary;
- Appoint, appraise and remunerate senior executives;
- Governance of NHS Borders which the Board will discharge through the Standing Committees of Audit, Clinical, Staff and Public Governance.
- Ensure that there is effective public involvement and engagement on NHS Borders plans and performance.

Responsibilities of Members of the Board include:

- Shared responsibility for the discharge of the function of the Board
- Independent, impartial judgement on issues of strategy, resource allocation, performance management, key appointments and accountability, to Scottish Ministers and to the local community
- Responsibility for the overall performance of NHS Borders

3. DEFINITIONS

Any expressions to which a meaning is given in the Health Service Acts or in the Regulations or Orders made under the Acts shall have the same meaning in this interpretation and in addition:

The Accountable Officer is the Chief Executive of NHS Borders, who is responsible to the Scottish Parliament for the economical efficient and effective use of resources. The Chief Executive of NHS Borders is accountable to the Board for clinical,

corporate and staff governance. This is a legal appointment made by the Principal Accountable Officer of the Scottish Government. (Public Finance and Accountability (Scotland) Act 2000)

The Act means the National Health Service (Scotland) Act 1978 as amended.

The 2001 Regulations means the Health Board's (Membership and Procedure) (Scotland) Regulations 2001.

The 1960 Act means the Public Bodies (Admission to Meetings) Act 1960, as amended.

Board Executive Team is the executive arm of Borders NHS Board. Members of the Board Executive Team are the Chief Executive, Medical Director, Chief Operating Officer, Director of Finance, Director of Nursing and Midwifery, Director of Workforce and Planning, Director of Public Health and Employee Director.

Board Secretary is responsible for ensuring that the Board complies with relevant legislation and governance guidance. The Board Secretary will ensure that meetings of the Board of Directors and its' Committees run efficiently and effectively, that they are properly recorded and that Directors receive appropriate support to fulfil their legal duties.

Budget means a financial resource proposed by the Board for the purpose of carrying out, for a specific period, any or all of the functions of the Board.

Chair means the person appointed by the Scottish Ministers to lead the Board and to ensure that it successfully discharges its responsibility for the Board as a whole. The expression 'the Chair of the Board' is deemed to include the Vice-Chair of the Board if the Chair is absent from the meeting or is otherwise unavailable. The Chair of a Committee is responsible for fulfilling the duties of a Chair in relation to that Committee only.

Chief Executive means the Chief Officer of NHS Borders.

Chief Officers means Chief Executive, Chief Operating Officer, Director of Finance, Director of Nursing and Midwifery, Director of Workforce and Planning, Director of Public Health, and Medical Director.

The Clinical Executive is the operational delivery unit for NHS Borders. It meets twice per month. One meeting per month is focuses on cross system operational issues (Operational Board) and the other meeting deals with Strategic issues (Strategy Board). Membership comes from Clinical and Managerial leaders from each of the Clinical Boards and from the BET.

Clinical Executive Directors means Chief Operating Officer, Director of Nursing and Midwifery and Medical Director.

Community Health & Care Partnership (CHCP) is a strategic Partnership Board comprising executive and non-executive members of Borders NHS Board, elected officials and officers of Scottish Borders Council and agreed representatives of voluntary organisations.

Committee means a Committee established by the Board, and includes 'Sub-Committee'.

Committee Members are people formally appointed by the Board to sit on or to chair specific committees. All references to members of a committee is as 'member' and when the reference is to a member of the Board it is 'Board Member'.

Contract includes any arrangement including an NHS Contract.

Co-opted Member is an individual, not being a Member of the Board, who is appointed to serve on a Committee of the Board.

Director of Finance means the Chief Finance Officer of the Board.

Meeting means a meeting of the Board or of any Committee.

Member means a person appointed as a Member of the Board by Scottish Ministers, and who is not disqualified from membership. This definition includes the Chair and other Executive and Non-Executive Members. (Health Boards Membership and Procedure (Scotland) Regulations 2001)

Motion means proposal.

Nominated Officer means an officer charged with the responsibility for discharging specific tasks within the Code of Corporate Governance.

Non-Executive Member means any Member appointed to the Board in terms of the 2001 Regulations and who is not listed under the definition of an Executive Member above.

Officer means an employee of NHS Borders.

Scottish Government means the Scottish Government and is its legal name. All references in this document are to the legal name.

SOs means Standing Orders.

SFIs mean Standing Financial Instructions.

The Code means the Code of Corporate Governance.

Vice Chair means the Non-Executive Member appointed by the Board to take on the Chair's duties if the Chair is absent for any reason.

Working day means any day between Monday and Friday inclusive but not including public holidays.

4. CORPORATE GOVERNANCE

Corporate Governance is the term used to describe our overall control system. It details how we direct and control our functions and how we relate to our communities and covers the following dimensions:

- Community focus and communication
- Service delivery arrangements
- Structures and processes
- Risk management
- Systems of internal control
- Standards of conduct

Borders NHS Board is responsible for:

- Giving leadership and strategic direction
- Putting in place controls to safeguard public resources
- Supervising the overall management of its activities
- Reporting on management and performance

5. CONDUCT, ACCOUNTABILITY AND OPENNESS

Members of the Board are required to comply with the Members' code of conduct and the Standards of business conduct for NHS staff.

Board Members and staff are expected to promote and support the principles in the Members' code of conduct and to promote by their personal conduct the values of:

- Public service
- Leadership
- Selflessness
- Integrity
- Objectivity
- Openness
- Accountability and stewardship
- Honesty
- Respect

6. UNDERSTANDING RESPONSIBILITIES ARISING FROM THE CODE OF CORPORATE GOVERNANCE

It is the duty of the Chair and the Chief Executive to ensure that Board Members and staff understand their responsibilities. Board Members and Managers shall receive copies of the Code of Corporate Governance and the Board Secretary and Chief Executive will maintain a list of managers to whom the Code of Corporate Governance has been issued. Managers are responsible for ensuring their staff understand their responsibilities.

7. ENDOWMENT FUNDS

The principles of this Code of Corporate Governance apply equally to Members of the Board who have distinct legal responsibilities as Trustees of the Endowment Funds.

8. ADVISORY AND OTHER COMMITTEES

The principles of this Code of Corporate Governance apply equally to all Board Advisory Committees and all committees and groups which report directly to a Board Committee.

9. REVIEW

The Board will keep the Code of Corporate Governance under review and undertake a comprehensive review at least every two years. The Board may, on its own or if directed by the Scottish Ministers, vary and revoke Standing Orders for the regulation of the procedure and business of the Board and of any Committee. The Audit Committee is responsible for advising the Board on these matters.

10. FEEDBACK

NHS Borders wishes to improve continuously and reviews the Code of Corporate Governance regularly. To ensure that this Code remains relevant, we would be happy to hear from you with regard to new operational procedures, changes to legislation, confusion regarding the interpretation of statements or any other matter connected with the Code.

Comments and suggestions for improvement are most welcome, and these should be sent to:-

**Chief Executive
NHS Borders
Newstead
Melrose
TD6 9DA**

**Telephone: 01896 825525
Email: iris.bishop@borders.scot.nhs.uk**

SECTION A

How business is organised

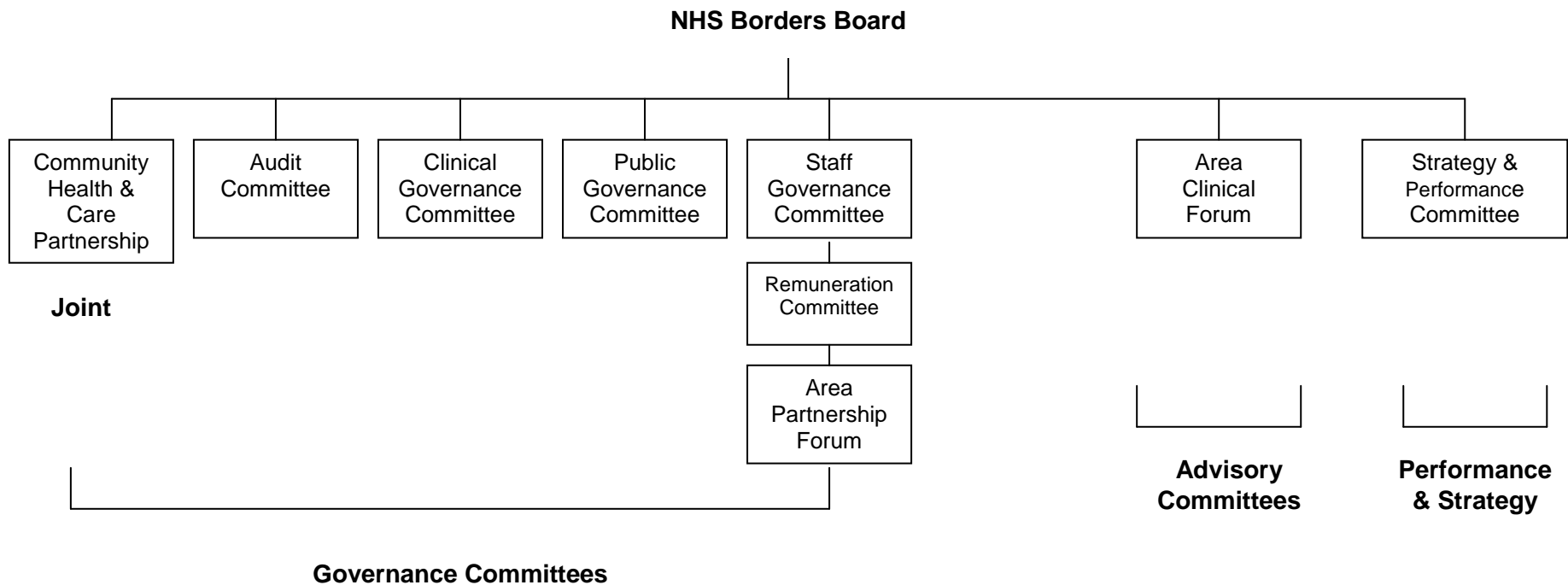
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 - i) Area Partnership Forum**
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**Section A - Appendix 1: The Health Boards (Membership and Procedure)
(Scotland) Regulations 2001**

1. The Board and its Committees



* The Pharmacy Practice Committee has delegated authority from the Board to meet when there are applications to consider in line with Statutory Instrument 1995 NO 414 (S28)
 The National Health (Pharmaceutical Services) Service (Scotland) - Regulations 1195

2. HOW BOARD AND COMMITTEE MEETINGS MUST BE ORGANISED

2. How Board and Committee meetings must be organised

This section regulates how the meetings and proceedings of the Board and its Committees will be conducted and are referred to as 'Standing Orders'. The Health Boards (Membership and Procedure) (Scotland) Regulations 2001 confirms the matters to be included in the Standing Orders. This is attached for reference at Appendix 1 of this section. The following is NHS Borders' practical application of these Regulations.

1. Calling and Notice of Meetings

- 1.1 The first meeting of the Board shall be held on a day and at a place fixed by the Chair.
- 1.2 The Chair may call a meeting of the Board at any time and the Chair of a Committee may call a meeting of that Committee at any time or when required to do so by the Board.
- 1.3 Ordinary meetings of the Board or Committees will be held in accordance with the timetable approved by the Board. Meetings of the Board will normally be held bi-monthly and not more than 3 months between meetings.
- 1.4 Meetings of the Board and its Committees may be conducted in any way in which each member is enabled to participate including video or teleconferencing. A meeting shall only be conducted by video or teleconferencing on the direction of the Chair, or Vice Chairs of the Board, or Committee.
- 1.5 A meeting of the Board may be called if one third of the Members make the request in writing. If the Chair does not call a meeting within seven days of the request, the Members who signed the request may call the meeting provided that only the requested business is transacted.
- 1.6 The notice (agenda and papers) must be delivered to each member, at least seven clear days before the date of the meeting, other than in exceptional circumstances when it must be delivered three clear days before the meeting.
- 1.7 Before each Board meeting a notice (agenda and papers) specifying the time, place and business to be transacted, shall be delivered to every Member or sent by post to the home of the Members or sent by email if requested. The notice of a Board meeting shall be signed by the Chair, or by a Member or an officer authorised to sign on their behalf. The Chair may authorise the Chief Executive and Board Secretary to sign the notice of Board meetings on their behalf.
- 1.8 Before a committee meeting a notice (agenda and papers) specifying the time, place and business to be transacted, shall be delivered to every member or sent by post to the home of the members or sent by email if requested. The notice of a Committee meeting shall be signed by the Chair.

- 1.9 Notification of the time and place of Board Meetings for the forthcoming year shall be published on the NHS Borders website: www.nhsborders.org.uk
- 1.10 Lack of service of the notice on any member shall not affect the validity of a meeting.
- 1.11 Special meetings of committees shall be held on the dates and times that the Chairs of those Committees determine.
- 1.12 It is within the discretion of the Chair of any Committee to cancel, advance or postpone an ordinary meeting if there is a good reason for doing so.
- 1.13 Two or more members of any Committee may, by notice in writing, require a special meeting to be called to consider the business specified in the notice. Such a meeting shall be held within fourteen days of receipt of the notice by the Board Secretary or Lead Executive Director.
- 1.14 In the case of the Audit Committee a special meeting maybe called by the Audit Committee Chair, Chair of Borders NHS Board, the Chief Executive, the Director of Finance, the Chief Internal Auditor or the Appointed External Auditor.

2. Appointment of Chair of Borders NHS Board

- 2.1 The Chair is appointed by the Cabinet Secretary for Health and Well Being. The regulations governing the period of terms of office and the termination or suspension of office of the Chair are contained in the 1978 Act.

3. Appointment of Vice-Chair of Borders NHS Board

- 3.1 To enable the business of the Board to be conducted in the absence of the Chair, a Non-Executive Member who is not an NHS employee or an independent Primary Care Contractor (for example Employee Director, Chair of the Area Clinical Forum or Scottish Borders Council appointed representative) shall be elected Vice-Chair by Non-Executive Members. There is one Vice-Chair who will normally hold office for two years, provided that the individual's membership of the Board continues throughout that period. Nominations for the position of Vice-Chair will be sought in writing by the Board Secretary. If more than one nomination is received a confidential ballot will be undertaken by the Board Secretary and overseen by Internal Audit. The retiring Vice-Chair will be eligible for re-election as long as the individual remains a Non-Executive Member of the Board.
- 3.2 The Vice-Chair may resign from the office at any time by giving notice in writing to the Chair. The Non-Executive Members may appoint another Non-Executive Member as Vice-Chair in accordance with 3.1 above.
- 3.3 Where the Chair of the Board has ceased to hold office or has been unable to perform their duties as Chair, owing to illness, absence or any other cause, a Vice-Chair shall take the place of the Chair in the conduct of the business of the Board and references to the Chair shall be taken to include references to the Vice-Chair.

4. Duties of Chair and Vice-Chair

- 4.1 At every meeting of the Board, the Chair, shall preside. If the Chair is absent a Vice-Chair, shall preside. If the Chair and Vice-Chair are both absent, the Members present shall elect a Non-Executive Member to act as Chair for that meeting.
- 4.2 If both the Chair and Vice-Chair (if any) of a Committee are absent from a meeting a member of the Committee chosen at the meeting by the other members to act as Chair for that meeting.
- 4.3 It shall be the duty of the Chair:
 - To ensure that Standing Orders are observed and to facilitate a culture of transparency, consensus and compromise.
 - To preserve order and ensure that any member wishing to speak is given due opportunity to do so and a fair hearing.
 - To decide all matters of order, competence and relevance.
- 4.4 The Chief Executive or Board Secretary shall draw the attention of the Chair to any apparent breach of the terms of these Standing Orders.
- 4.5 The decision of the Chair on all matters referred to in this Standing Order shall be final and shall not be open to question or discussion in any meeting of the Board.
- 4.6 Deference shall at all times be paid to the authority of the Chair. When the Chair commences speaking, they shall be heard without interruption.

5. Quorum

5.1 The quorum for Board meetings is one-third of the whole number of Members, of which at least two are Non-Executive Members, all present are entitled to vote. No business shall be transacted at a meeting of the Board unless this is met. It is at the discretion of the Chair as to whether an inquorate meeting still takes place even though it shall not be possible to make any decisions at such a meeting.

5.2 The quorum for Committees shall be as follows:-

- | | |
|---------------------------------------|---|
| 1. Strategy and Performance Committee | One-third of the whole number of Members, of which at least two are Non-Executive Members |
| 2. Audit Committee | Two members who must be Non-Executive Members |
| 3. Clinical Governance Committee | Two members who must be Non-Executive Members |
| 4. Staff Governance Committee | 50% of members |

5. Remuneration Committee	Two members who shall be Non-Executive Members
6. Public Governance Committee	Four core members or their deputies must be present (this includes two Non Executive Directors), and at least two public members to be present.
7. Community Health and Care Partnership (CHCP)	One-third of the whole number of members, provided there is representation from each organisation
8. Area Clinical Forum (ACF)	Four members of the Committee
9. Area Partnership Forum (APF)	A minimum of five members of the management side and a minimum of five members of the Staff Side are present.

5.3 If a quorum is not present ten minutes after the time specified for the start of a meeting of the Board or Committees the Chair will seek agreement to adjourn the meeting and reschedule.

5.4 If during any meeting of the Board or of its Committees a Member or Members are called away and the Chair finds that the meeting is no longer quorate, the meeting shall be suspended. If a quorum is not present at the end of ten minutes, the Chair will seek agreement to adjourn the meeting and reschedule.

6. Human Rights

6.1 If the business before the Board or its Committees involves the determination of a person's individual civil rights and obligations, no member shall participate in the taking of a decision on an item of business unless they have been present during consideration of the whole item, including where the item of business was discussed at a previous meeting. (Article 6 of the European Convention of Human Rights)

7. Order of business

7.1 For ordinary meetings of the Board or its Committees, the business shown on the agenda shall normally proceed in the following order:

- Business determined by the Chair to be a matter of urgency by reason of special circumstances
- Reception of deputations, followed by consideration of any items of business on which the deputations have been heard
- Petitions
- Minutes of the previous meeting for approval
- General Business
- Minutes of Committees
- Questions and motions of which due notice has been given

7.2 No item of business shall be transacted at a meeting, unless either:

- It has been included on the agenda for the meeting, or
- It has been determined by the Chair to be a matter of urgency by reason of special circumstances

8. Order of debate

8.1 Any member wishing to speak shall indicate this by raised hand and, when called upon, shall address the Chair and restrict their remarks to the matter being discussed by:

- moving, seconding or supporting a motion or amendment
- moving or seconding a procedural motion
- asking a question
- making a point of clarification
- raising a point of order

8.2 There shall be no discussion on any motion or amendment except by the mover until such motion or amendment is seconded.

8.3 No member shall speak more than once in a debate on any one motion and amendment unless raising a point of order, making a clarification, moving or seconding a procedural motion. However the mover of the substantive motion (or an amendment which has become the substantive motion) in any debate shall have a right of reply, but shall not introduce any new matter.

8.4 After the mover of the substantive motion has commenced their reply, no Member shall speak except when raising a point of order or moving or seconding a procedural motion.

8.5 Any Member wishing to raise a point of order may do so by stating that they are raising a point of order immediately after it has arisen. Any Member then speaking will cease and the Chair shall call upon the Member raising the point of order to state its substance. No other Member shall be entitled to speak to the point of order except with the consent of the Chair. The Chair shall give a ruling on the point of order, either immediately, or after such adjournment as they consider necessary. After this the Member who was previously speaking shall resume their speech, provided the ruling permits.

8.6 Any Member wishing to ask a question relating to the matter under consideration may do so at any time before the formal debate begins.

9. Motions and amendments

A motion is a proposal.

9.1 When called to speak, the mover of any motion or amendment shall immediately state the exact terms of the motion or amendment before proceeding to speak in support of it. The mover shall also provide the terms in writing at the request of the chair to the Board Secretary before any vote is taken, except in the case of:

- Motions or amendments to approve or disapprove without further qualification
 - Motions or amendments to remit for further consideration
 - Motions or amendments the terms of which have been fully set out in a minute of a Committee or Report by an Executive Member or other officer
- 9.2 Every amendment must be relevant to the motion to which it is moved. The Chair shall decide as to the relevance and shall have the power, with the consent of the meeting, to conjoin motions or amendments which are consistent with each other.
- 9.3 All additions to, omissions from, or variations on a motion shall be considered amendments to the motion and shall be disposed of accordingly.
- 9.4 A motion or amendment once moved and seconded shall not be withdrawn without the consent of the mover and seconder.
- 9.5 Where an amendment to a motion has been moved and seconded, no further amendment may be moved until the result of the vote arising from the first amendment has been announced.
- 9.6 If an amendment is rejected a further amendment to the original motion may be moved. If an amendment is carried it shall take the place of the original motion and any further amendment shall be moved against it.
- 9.7 A motion for the approval of a minute or a report of a committee shall be considered as an original motion and any proposal involving alterations to or rejection of such minute shall be dealt with as an amendment.
- 9.8 The Chair of a Committee shall have the right to move the approval of the minute of that committee.
- 9.9 A motion or amendment moved but not seconded, or which has been ruled by the Chair to be incompetent, shall not be put to the meeting nor shall it be recorded in the minute, unless the mover immediately gives notice to the Board Secretary requesting that it be so recorded.
- 9.10 A Member may request their dissent to be recorded in the minute in respect of a decision with which they disagree and on which no vote has taken place.

10. Notice of motions to be placed on an Agenda

- 10.1 Notice of motions must be given in writing to the Board Secretary no later than noon fourteen days before the meeting and must be signed by the proposing Member and at least one other Member.
- 10.2 A Member may propose a motion which does not directly relate to an item of business under consideration at the meeting.
- 10.3 The terms of motions of which notice have been given shall appear as items of business for consideration at the next meeting.

- 10.4 If a Member who has given notice of a motion is absent from the meeting when the motion is considered or, if present, fails to move it, any other Member shall be entitled to move it, failing which the motion shall fall.

11. Questions

- 11.1 A member may put a question to the Chair relating to the functions of that Committee, irrespective of whether the subject matter of the question relates to the business which would otherwise fall to be discussed at that meeting, provided that notice has been given three days prior to the meeting.
- 11.2 The original questioner may ask a supplementary question, limited to seeking clarity on any answer given.
- 11.3 Questions of which notice has been given in terms of 11.1 above, and the answers thereto, shall be recorded in the minutes of the meeting only if the questioner so requests, but any supplementary questions and answers shall not be recorded.

12. Time allowed for speaking during formal debate

- 12.1 The Chair is entitled to decide the time that members may be allowed to speak on any one issue.
- 12.2 As a guide, a member who is moving any motion or amendment shall not normally speak for more than five minutes. Other members shall not normally speak for more than three minutes, and the mover in exercising a right of reply shall not normally speak for more than three minutes.

13. Closure of debate

- 13.1 A motion that the debate be adjourned, or that a question be put, or that the meeting now pass to the next business may be made at any stage of the debate and such motion, if seconded, shall be the subject of a vote without further debate.
- 13.2 No motion in terms of 13.1 above may be made during the course of a speech.

14. Voting

- 14.1 Every question coming or arising before the Board or its Committees shall be determined by a majority of the members present and voting. Majority agreement may be reached by a consensus without a formal vote but at the request of a member a formal vote will be taken. (Subject to 23.1 and any statutory provisions)
- 14.2 In the case of an equality of votes, the Chair shall have a second or a casting vote, except in any vote relating to the appointment of a Member of the Board to any office, Committee, or to represent the Board on any other body, where in the case of equality of votes, the matter shall be determined by lot.

14.3 Where a formal vote is taken, this shall be done by a show of hands except:

- Where the members present agree unanimously that it be taken by a roll call
- Where the members present resolve by simple majority that it be taken by secret ballot
- In the case of any matter relating to the appointment of a member of staff or relating to any disciplinary or grievance proceedings affecting a member of staff, when the vote shall be taken by a show of hands, or by secret ballot

14.4 Immediately before any vote is taken, the question on which the vote is to be held shall be read out. Thereafter, no-one shall interrupt the proceedings until the result of the vote has been announced.

15. Voting in the case of vacancies and appointments

15.1 In filling vacancies in the membership of any Committee and making appointments of Board Members to any body, where more than one candidate has been nominated and seconded, members shall be entitled to vote for up to as many candidates as there are places to be filled. Candidates shall be appointed in the order of number of votes received until all vacant places have been filled.

15.2 In the event of two or more candidates tying with the lowest number of votes to fill the last vacant place, a further vote shall be taken between or among those candidates. Each member shall have one vote.

15.3 In the event of a further tie, the appointment shall be determined by lot.

16. Adjournment and duration of meetings

16.1 During any meeting of the Board, any Member may move that the meeting be adjourned, at any time, except in the course of a speech by another member. No motion for adjournment may be made within thirty minutes of a motion for adjournment having previously been rejected if the Board is still considering the same item of business.

16.2 A motion for adjournment has precedence over all other motions and if moved and seconded, shall be put to the meeting without discussion or amendment.

16.3 If carried, the meeting shall be adjourned until the time and place specified in the motion. Unless the time and place are specified, the adjournment shall be until the next ordinary meeting of the Board or Committee.

16.4 Where a meeting is adjourned without a time for its resumption having been fixed, it shall be resumed at a time fixed by the Chair.

16.5 When an adjourned meeting is resumed, the proceedings shall be commenced at the point at which they were interrupted by the adjournment.

- 16.6 In case of disorder, the Chair may adjourn the meeting to a time fixed then, or decided afterwards. Vacating the Chair shall indicate that the meeting is adjourned.
- 16.7 Every meeting of the Board or its Committees shall last no longer than four hours.
- 16.8 It shall, however, be competent, before the expiry of the time limit, for any Member to move that the meeting be continued for such further period as is deemed appropriate.

17. Conflict of interest

- 17.1 If a Member, or associate of theirs, has any interest, direct or indirect, in any contract or proposed contract or other matter, they shall disclose the fact, and shall not take part in the consideration and discussion of the contract, proposed contract, or other matter or vote on any question with respect to it. (Except a contract for the provision of any of the services mentioned in Part II of the Act)
- 17.2 The Scottish Ministers may, subject to such conditions as they may think fit to impose, remove any disability imposed by the 2001 Regulations in any case in which it appears to them in the interests of the health service that the disability should be removed.
- 17.3 Remuneration, compensation or allowances payable to a Chair or other Member shall not be treated as an interest for the purpose of the 2001 Regulations. (Paragraphs 4, 5 or 14 of Schedule 1 to the Act)
- 17.4 A Member or associate of theirs shall not be treated as having an interest in any contract, proposed contract or other matter if the interest is so remote or insignificant that they cannot reasonably be regarded as likely to effect any influence in the consideration or discussion of or in voting on, any question with respect to that contract or matter.
- 17.5 The 2001 Regulations apply to a Committee as they apply to the Board and apply to any Member of any such Committee (whether or not they are also a Member of the Board) as they apply to a Member of the Board.
- 17.6 For the purposes of the 2001 Regulations, the word 'associate' has the meaning given by Section 74 of the Bankruptcy (Scotland) Act 1985 (a).

18. Reception of deputations

- 18.1 Every application for the reception of a deputation must be in writing, duly signed and delivered, faxed or e-mailed to the Board Secretary at least three clear working days prior to the date of the meeting at which the deputation wish to be received. The application must state the subject and the action which it proposes the Board or Committee should take.
- 18.2 The deputation shall consist of not more than ten people.
- 18.3 No more than two members of any deputation shall be permitted to address the meeting, and they may speak in total for no more than ten minutes.

- 18.4 Any member may put any relevant question to the deputation, but shall not express any opinion on the subject matter until the deputation has withdrawn. If the subject matter relates to an item of business on the agenda, no debate or discussion shall take place until the relevant minute or other item is considered in the order of business.

19. Receipt of petitions

- 19.1 Every petition shall be delivered to the Board Secretary at least three clear working days before the meeting at which the subject matter may be considered. The Chair will be advised and will decide whether the contents of the petition should be discussed at the meeting or not.

20. Submission of reports

- 20.1 Reports shall be submitted by the Executive Member or other Senior Officer when requested, or when, in the professional opinion of such an officer, a report is required to enable compliance with any statute, regulation or Ministerial Direction, or other rule of law, or where the demands of the service under their control require.
- 20.2 Any report to be submitted shall be provided not later than fourteen days prior to the meeting of the Board or Committee to the Board Secretary and where appropriate the Director of Finance. Any observations by those officers on matters within their professional remit shall be incorporated into the report.
- 20.3 Only those reports which require a decision to be taken by the Board or Committee, or are necessary to enable the Board or Committee to discharge its business or exercise its monitoring role, will normally be included on the agenda. The Chair of the Committee shall make the final determination on whether or not an item of business should be included on an Agenda.
- 20.4 All reports requiring decisions will be submitted in writing. Verbal reports will only be accepted in exceptional circumstances, and with the prior approval of the Chair of the Board or Committee.

21. Right to attend meetings and/or place items on an agenda

- 21.1 Any Board Member shall be entitled to attend any meeting of any Committee, and shall, with the consent of the Committee, be entitled to speak but not to propose, second any motion or vote. Executive Members cannot attend the Remuneration Committee when matters pertaining to their terms and conditions of service are being discussed and the Audit Committee when deemed necessary by the Chair of that Committee.
- 21.2 A Board Member, who is not a member of a particular Committee and wishes that Committee to consider an item of business which is within its remit, shall inform in writing the Committee Administrator no later than 12 noon on the fourteenth day prior to the meeting of the issue to be discussed. The Committee Administrator shall arrange for it to be placed on the agenda of the Committee. The Member shall be entitled to attend the meeting and speak in relation to the item, but shall not be entitled to propose or second any motion or to vote.

- 21.3 A member of a Committee who wishes to raise any item of business which is within its remit shall inform in writing the Committee Administrator no later than 12 noon on the fourteenth day prior to the meeting the issue to be discussed. The Committee Administrator shall arrange for it to be placed on the agenda of the Committee.
- 21.4 The Chief Internal Auditor and External Auditor have a right of attendance at all Committees. The Chief Internal Auditor and External Auditor shall have the right of direct access to the Chairs of the Board and all Committees.
- 21.5 The Chair of the Area Clinical Forum will be appointed as a Non-Executive of the Board. As such they will be invited to attend Board and Committee meetings except the Remuneration Committee. The Chair will also be invited to attend the Area Partnership Forum.
- 21.6 The Chair of the meeting will have the discretion to decide if the representatives will not be issued with reserved business and will be required to leave due to the nature of business to be discussed in Reserved Business.
- 21.7 Persons attending in this capacity shall be entitled to speak but not to propose or second any motion or to vote.

22. Alteration or revocation of previous decision

- 22.1 Subject to 22.2 below, a decision shall not be altered or revoked within a period of six months from the date of such decision being taken.
- 22.2 Where the Chair rules that a material change of circumstances has occurred to such extent that it is appropriate for the issue to be reconsidered, a decision may be altered or revoked within six months by a subsequent decision arising from:
- A recommendation to that effect, by an Executive Member or other officer in a formal Report
 - A motion to that effect of which prior notice has been given in terms of 10.1
- 22.3 This does not apply to the progression of an issue on which a decision is required.

23. Suspension of standing orders

- 23.1 So far as it is consistent with any statutory provisions, any one or more of the Standing Orders may be suspended at any meeting, but only as regards the business at such meeting, provided that two-thirds of the members present and voting so decide.

24. Admission of public and press

- 24.1 Members of the public and representatives of the Press will be admitted to every formal meeting of the Board but will not be permitted to take part in discussion
(Public Bodies (Admission to Meetings) Act 1960)

- 24.2 The Board may exclude the public and press while considering any matter that is confidential. (Exemptions, Freedom of Information (Scotland) Act 2002 (the Act) and Environmental Information (Scotland) Regulations 2004 (the Regulations)

A summary of the exemptions specified in the Act is contained at the end of this section at Para 28, but should not be relied upon as a comprehensive application of the exemptions in restricting access to information.

For guidance on application of the Act and Regulations, please contact the Board Secretary on 01896 825525.

- 24.3 The terms of any such resolution specifying the part of the proceedings to which it relates and the categories of exempt information involved shall be specified in the minutes.
- 24.4 Members of the public and representatives of the press admitted to meetings shall not be permitted to make use of photographic or recording apparatus of any kind unless agreed by the Board. (1960 Act)
- 24.5 Members of the public and press should leave when the meeting moves into reserved business. It is at the discretion of the Chair of that meeting if NHS Borders staff can remain.

25. Members' code of conduct

- 25.1 All those who are appointed as Members of the Board must comply with
- the Members' Code of Conduct as incorporated into the Code of Governance and approved by the Scottish Government
 - approved NHS Borders Board policies and procedures

This also applies equally to all members of Committees whether they are employed by NHS Borders or not when undertaking Committee business.

- 25.2 For the purposes of monitoring compliance with the Members' Code of Conduct, the Board Secretary has been appointed as the designated monitoring officer.
- 25.3 Board Members and committee Members having any doubts about the relevance of a particular interest should discuss the matter with the Chair or Board Secretary.
- 25.4 Members should declare on appointment any material or relevant interest and such interests should be recorded in the Board and Committee minutes. Any changes should be declared and recorded when they occur.
- 25.5 Members interests will be entered into a register that will be maintained by the Board Secretary and will be available to the public, details of which will be disclosed in the Board's Annual Report. Arrangements for viewing the register shall also be publicised.

26. Suspension of members from meetings

- 26.1 If any member disregards the authority of the Chair, obstructs the meeting or, in the opinion of the Chair, acts in an offensive manner at a meeting, the Chair may move that such member be suspended for the remainder of the meeting. If seconded, such a motion shall be put to the vote immediately without discussion.
- 26.2 If such a motion is carried, the suspended member shall leave the meeting immediately. If the member fails to comply, the Chair may order the suspended member to be removed from the meeting.
- 26.3 A member who has been suspended in terms of this Standing Order shall not re-enter the meeting room except with the consent of the meeting.
- 26.4 In the event of a motion for suspension of a member being defeated, the Chair may, if they think it appropriate to do so, adjourn the meeting as if a state of disorder had arisen.

27. Minutes, agendas and papers

- 27.1 The Board Secretary is responsible for ensuring that Minutes of the proceedings of a meeting of the Board or its Committees, including any decision or resolution made at that meeting, shall be drawn up. The minutes shall be submitted to the next meeting of the Board, or relevant Committee, for approval by members as a record of the meeting subject to any amendments proposed by members and shall be signed by the person presiding at that meeting.
- 27.2 The names of members present at a meeting of the Board or of a Committee of the Board shall be recorded in the Minute, together with the apologies for absence from any member.
- 27.3 The Freedom of Information (Scotland) Act 2002 gives the public a general right of access to all recorded information held. Therefore, when minutes of meetings are created, it should be assumed that what is recorded will be made available to the public.
- 27.4 The Minute of a meeting being held where authority or approval is being given by the committee and the Minutes are intended to act as a record of the business of the meeting, then the Minute should contain:
- A summary of the Committee's discussions
 - A clear and unambiguous statement of all decisions taken
 - If no decision is taken, a clear and unambiguous statement of where the matter is being referred or why the decision has been deferred
 - Where options are presented, a summary of why options were either accepted or rejected
 - Reference to any supporting documents relied upon
 - Any other relevant points which influenced the decision or recommendation
 - Any recommendations which require approval by a higher authority

27.5 The contents of a Minute will depend upon the purpose of the meeting.

If the meeting agrees actions they will be recorded in an Action Tracker:

- A description of the task, including any phases and reporting requirements
- The person accepting responsibility to undertake the task
- The time limits associated with the task, its phases and agreed reporting

27.6 The agendas and papers for all Board, Committee and Sub-Committee meetings shall be circulated to members by post at least 8 days before any given meeting.

27.7 The draft minutes and action trackers from all Board, Committee and Sub-Committee meetings shall be issued as soon as possible following a meeting, ideally within 5 working days.

28. Freedom of Information (Scotland) Act 2002

28.1 The Freedom of Information (Scotland) Act 2002 (FOI(S)A) was introduced by the Scottish Parliament to ensure that people have the right to access information held by Scottish public authorities. The Act states that any person can receive information that they request from a public authority, subject to certain exemptions such as protection of personal data and commercial interests, or national security. It came into force on 1 January 2005 and is retrospective, so that it includes all records held by the Board prior to 2005 as well as since that date.

Under FOI(S)A NHS Borders is required to:

- Provide applicants with help and assistance in finding the information they require within a given timescale
- Maintain a publication scheme of information to be routinely published
- Put in processes for responding to enquiries and undertaking appeals against decisions to withhold information

28.2 Information as defined under FOI(S)A includes copies or extracts, including drafts, of any documents such as:

- reports and planning documents
- committee minutes and notes
- correspondence including e-mails
- statistical information

28.3 The FOI(S)A provides a range of exemptions which may be applied allowing the public authority to withhold information. Exemptions must be considered on a case by case basis and may be applied to all or only part of the information requested.

All documents will be scrutinised for information which may be withheld under an exemption to the Act prior to release.

Full details of the FOI(S)A exemptions and how to apply them can be found in the Freedom of Information (Scotland) Act 2002 which is

available on the NHS Borders intranet Information Governance site at http://intranet/new_intranet/microsites/index.asp?siteid=41&uid=2

Briefings on how to apply exemptions can be found on the Scottish Information Commissioners website at <http://www.itspublicknowledge.info/ScottishPublicAuthorities/ScottishPublicAuthorities.asp>.

For further advice on the Freedom of Information (Scotland) Act 2002, processes and application contact the Public Involvement & Communications Team.

29. Records management

Under the Freedom of Information (Scotland) Act 2002, NHS Borders must have comprehensive records management systems and process in place which must give clear guidance on time limits for the retention of records and documents.

Separate guidance has been produced for records management. The NHS Borders Records Management Policy can be found on the NHS Borders Intranet Information Governance site at http://intranet/new_intranet/microsites/index.asp?siteid=41&uid=2

3. STANDING COMMITTEES

3. STANDING COMMITTEES

1. Establishing Committees

- 1.1 The Board shall create such Committees, as are required by statute, guidance, regulation and Ministerial direction and as are necessary for the economical efficient and effective governance of its business.
- 1.2 The Board shall delegate to such Committees those matters it considers appropriate. The matters delegated shall be set out in the Purpose and Remits of those Committees detailed in Paragraph 8, Purpose and Remits
- 1.3 The Board may by resolution of a simple majority of the whole number of Members of the Board, present and voting, vary the number, constitution and functions of Committees at any meeting of which due notice has been given specifying the proposed variation.

2. Membership

- 2.1 The Board shall appoint the membership of Committees. By virtue of their appointment the Chair of the Board is an ex officio member of all Committees except the Audit Committee.

Chairs of the Governance Committees shall be appointed by the Chair of NHS Borders Board.

- 2.2 Any Committee, shall include at least one Non-Executive Member of the Board, and may include persons, who are co-opted, and may consist wholly or partly of Members of the Board.
- 2.3 In determining the membership of Committees, the Board shall have due regard to its purpose, role and remit, and accountability requirements. Certain members may not be appointed to serve on a particular Committee as a consequence of their positions. Specific exclusions are:
 - Audit Committee - Chair of the Board together with any Executive Member or Officer.
 - Remuneration Committee - any Executive Member or Officer.
- 2.4 The Board has the power to vary the membership of Committees at any time, provided that:
 - In any case this is not contrary to statute, regulation or direction by Scottish Ministers
 - Each Member of the Board is afforded proper opportunity to serve on Committees
- 2.5 The Board shall appoint Chairs and Vice-Chairs of Committees who shall hold office for two years. In the case of Members of the Board, this shall be dependent upon their continuing membership of the Board.
- 2.6 The persons appointed as Chairs of Committees shall usually be Non-Executive Members of the Board and only in exceptional circumstances shall the Board appoint a Chair of a Committee who is not a Non-

Executive Member, such circumstances are to be recorded in the Minutes of the Board meeting making the appointment.

- 2.7 Nominations will be sought from the Non-Executive Members to serve as Committee Chairs or Vice-Chairs. Once nominations have been received from Non-Executive Members a confidential ballot will be held involving only Non-Executive Members.
- 2.8 Casual vacancies occurring in any Committee shall be filled as soon as may be by the Board after the vacancy takes place.

3. Functioning

- 3.1 An Executive member or another specified Lead Officer shall be appointed to support the functioning of each Committee.
- 3.2 Committees may seek the approval of the Board to appoint Sub-Committees for such purposes as may be necessary.
- 3.3 Committees may from time to time establish working groups for such purposes as may be necessary.
- 3.4 Where the functions of the Board are being carried out by Committees, the membership, including those co-opted members who are not members of the Board, is deemed to be acting on behalf of the Board.
- 3.5 During intervals between meetings of the Board or its Committees, the Chair of the Board or a Committee or in their absence, the Vice Chair shall, in conjunction with the Chief Executive and the Lead Officer concerned, have powers to deal with matters of urgency which fall within the terms of reference of the Committee and require a decision which would normally be taken by the Committee. All decisions so taken should be reported to the next full meeting of the relevant Committee. It shall be for the Chair of the Committee, in consultation with the Chief Executive and Lead Officer concerned, to determine whether a matter is urgent in terms of this Standing Order.

4. Minutes

- 4.1 The Minute of each Committee of the Board shall be submitted as soon as is practicable to an ordinary meeting of the Board for information, and for the consideration of any recommendations having been made by the Committee concerned.
- 4.2 The Minute of each Committee shall also be submitted to the next meeting for approval as a correct record and signature by the Chair.
- 4.3 Minutes of the proceedings at a meeting of a Special Committee shall be made but these proceedings may be reported to the Board or to any Committee of the Board either by the Minutes or in a report from the Special Committee as may be considered appropriate.

5. Frequency

- 5.1 The Committees of the Board shall meet no fewer than four times a year.

6. Delegation

- 6.1 Each Committee shall have delegated authority to determine any matter within its purpose and remit, with the exception of any specific restrictions contained in Section E, Section 1.
- 6.2 Committees shall conduct their business within their purpose and remit, and in exercising their authority, shall do so in accordance with the following provisions. However, in relation to any matter either not specifically referred to in the purpose and remit, or in this Standing Order, it shall be competent for the Committee, whose remit the matter most closely resembles, to consider such matter and to make any appropriate recommendations to the Board.
- 6.3 Committees must conduct all business in accordance with NHS Borders policies and the Code of Corporate Governance.
- 6.4 The Board may deal with any matter falling within the purpose and remit of any Committee without the requirement of receiving a report of Minute of that Committee referring to that matter.
- 6.5 The Board may at any time, vary, add to, restrict or recall any reference or delegation to any Committee. Specific direction by the Board in relation to the remit of a Committee shall take precedence over the terms of any provision in the purpose and remit.
- 6.6 If a matter is of common or joint interest to a number of Committees, and is a delegated matter, no action shall be taken until all Committees have considered the matter.
- 6.7 In the event of a disagreement between Committees in respect of any such proposal or recommendation, which falls within the delegated authority of one Committee, the decision of that Committee shall prevail. If the matter is referred but not delegated to any Committee, a report summarising the views of the various Committees shall be prepared by the appropriate officer and shall appear as an item of business on the agenda of the next convenient meeting of the Board.

7. Committees

- Strategy and Performance Committee
- Audit Committee
- Clinical Governance Committee
- Staff Governance Committee
- Remuneration Committee (sub-committee of Staff Governance Committee)
- Public Governance Committee
- Scottish Borders Community Health and Care Partnership (CHCP)
- Area Clinical Forum
- Area Partnership Forum
- Pharmacy Practices Committee

8. Purpose and Remits

a) Strategy & Performance Committee

1.1 Purpose

- To oversee policy and strategy development
- To act as the Performance Management Committee of the Board
- To have strategic oversight of the Service Redesign Programme of the Board and act as the Service Redesign Committee
- To influence the early development of the strategic direction of the Board

1.2 Membership

Membership of the Committee will be:

Non Executive Members

- Chair
- All Non Executive Directors
- Scottish Borders Council member
- Chair of the Area Partnership Forum
- Chair of the Area Clinical Forum

Executive Members

- Chief Executive
- Director of Public Health
- Medical Director
- Director of Nursing & Midwifery
- Director of Finance
- Chief Operating Officer
- Director of Workforce & Planning

Attendees may be invited to the Board at the discretion of the Chair.

The Lead Officer for the Strategy and Performance Committee shall be the Chief Executive.

1.3 Meetings

The Committee will meet bi-monthly and conduct its proceedings in compliance with the Standing Orders of the Board.

The Strategy and Performance Committee will be chaired by the Chair of the Board.

1.4 Remit

1.4.1 Strategy Development

The Committee will have an important role in shaping the development of the Strategic Framework of the Board.

- The Committee will ensure detailed and appropriate scrutiny of the development of all strategies, which require approval by

the Board, including the Local Delivery Plan, and make recommendations on them to the Board.

- The Committee will work closely with the Standing Committees of the Board in discharging their functions.
- The Committee will ensure that strategies are compliant with the duties of the Board in respect of meeting legislative and good practice requirements.
- The Committee will also ensure that there is an integrated approach to workforce, finance and service planning.

1.4.2 Service Redesign

In compliance with the requirements of *Rebuilding Our National Health Service*, the Strategy and Performance Committee will act as the Service Redesign Committee of the Board. The Committee will ensure that there is a robust Service Redesign Programme for the Board, with particular emphasis on ensuring collaborative working across health, social care and other organisations, and explicit links between the service redesign programme, workforce planning and the strategic priorities for NHS Scotland.

1.4.3 Financial Framework

The Strategy and Performance Committee will oversee the development of a Financial Strategy that is consistent with national and local priorities, and specifically:

- The Committee shall oversee the development of the Board Financial Strategy in support of the Local Delivery Plan.
- The Committee shall recommend to the Board, annual revenue and capital budgets, and financial plans consistent with its statutory financial responsibilities.
- The Committee shall, at every meeting, examine in detail the financial plan for NHS Borders to ensure that planning assumptions are soundly based, and reflect known pressures, potential investments and opportunities for cost reduction.
- The Committee shall review the financial impact of planned future policies and known or foreseeable future developments.
- The Committee shall review the capital plan of NHS Borders no less frequently than twice per year and consider the impact of development opportunities and any risks arising from the delivery of the current programme.
- The Committee shall review the Property Strategy (including the acquisition and disposal of property)

1.4.4 Performance Management

The Committee shall have oversight of systems and processes to secure economy, efficiency and effectiveness in the use of resources. The Committee will, from time to time, review individual services in relation to performance management, ensuring that health care is delivered to an efficient and cost-effective level. Specifically, the Committee will:

- Ensure a rigorous and systematic approach to the monitoring of delivery of national and local priorities, including monitoring of Corporate Objectives.
- Promote an integrated approach to performance management and risk, including regular review of the Strategic Risk Register of the Board.
- Oversee an effective approach to prioritisation of resources, supported by appropriate and relevant benchmarking and comparative information to inform decision-making.
- Ensure the organisation works with other partners to secure effective and integrated systems of performance management.

In tandem with the Remuneration Sub-Committee, the Committee will ensure that there is a well-defined and integrated approach to the development and monitoring of individual and corporate objectives.

1.5 Best value

The Committee is responsible for reviewing those aspects of the Best Value work plan which are delegated to it from Borders NHS Board. The Committee will put in place arrangements which will provide assurance to the Chief Executive as Accountable Officer, that NHS Borders has systems and processes in place to secure best value for these delegated areas.

1.6 Authority

In order to fulfil its remit the Strategy and Performance Committee may obtain whatever professional advice it requires, and require other individuals to attend meetings as required.

The Committee is authorised by the Board to investigate any activity within its terms of reference, and is authorised to seek any information it requires from any employee. The Committee is required to review its Terms of Reference on an annual basis.

1.7 Reporting Arrangements

- The Strategy and Performance Committee reports to the Board.
- The minutes of the Strategy and Performance Committee meetings will be submitted to the next meeting of the Strategy and Performance Committee for approval.
- The minutes will then be presented to the following Ordinary Meetings of the Board for noting.

b) Audit Committee

1.1 Purpose

The purpose of the Audit Committee is to assist the Board to deliver its responsibilities for the conduct of public business, and the stewardship of funds under its control. In particular, the Committee will seek to provide assurance to the Board that an appropriate system of internal control is in place to ensure that:

- Business is conducted in accordance with the law and proper standards
- Public money is safeguarded and properly accounted for
- Financial Statements are prepared timeously, and give a true and fair view of the financial position of the Board for the period in question
- Affairs are managed to secure economic, efficient and effective use of resources
- Reasonable steps are taken to prevent and detect fraud and other irregularities
- Effective systems of Risk Management are in place
- Effective systems of Information Governance are in place

1.2 Membership

The Membership of the Audit Committee shall consist of 3 core members and be appointed by the Board from amongst the non-executive directors of Borders NHS Board, excluding the Chair, and excluding the Employee Director, Chair of Area Clinical forum and Scottish Border Council member.

The Chair of the Committee shall be appointed by the Chair of the Board of NHS Borders.

Ordinarily the Audit Committee Chair cannot be Chair of any other Governance Committee of the Board. The Governance Committees are the Staff Governance Committee, Clinical Governance Committee, Information Governance and Public Governance Committee.

The Chief Executive (as Accountable Officer), the Director of Finance (as Chief Finance Officer), the Director of Public Health (as Lead for Risk Management) and Deputy Director of Finance (Financial Accounting), shall normally attend meetings of the Committee, together with other senior staff as required.

The External Auditor and the Chief Internal Auditor shall also receive a standing invitation to attend.

The Lead Officer for the Audit Committee shall be the Deputy Director of Finance (Financial Accounting).

1.3 Meetings

The quorum for the Committee shall be two members.

Meetings shall be held quarterly. A workplan approved on an annual basis by the Committee will identify the key items of business to be discussed at each meeting.

The Chief Internal Auditor or appointed External Auditor may request a meeting of the Committee if they consider it necessary.

The Chair may convene a meeting of the Committee at any time, or, when requested by the Board, and have the power to exclude all others except members from a meeting.

If deemed necessary by the Chair, meetings of the Committee shall be convened and attended exclusively by members of the Committee and/or the External Auditor or Internal Auditor.

The Chief Internal Auditor and the representative of the appointed external auditors shall have free and confidential access to the Chair of the Audit Committee.

1.4 Remit

The main objectives of the Audit Committee are to ensure compliance with NHS Borders's Code of Corporate Governance and that an effective system of internal control is maintained. The duties of the Audit Committee are in accordance with the Scottish Government Audit Committee Handbook and are as detailed below.

Internal Control and Corporate Governance

To evaluate the framework of internal control and corporate governance comprising the following components:

- Control environment (including financial and non-financial controls);
- Information Governance and communication;
- Risk Management;
- Control procedures;
- Decision making processes;
- Monitoring and corrective action.

To review the system of internal financial control, which includes:

- The safeguarding of assets against unauthorised use and disposition
- The maintenance of proper accounting records and the reliability of financial information used within the organisation or for publication
- To ensure that the Board's activities are within the law, regulations, Ministerial Direction and the Board's Code of Corporate Governance.
- To present an annual Statement of Assurance on the above to the Board, in support of the Governance Statement by the Chief Executive.

Internal Audit

- To review and approve the arrangements for delivery of Internal Audit;
- To review and approve the Internal Audit Strategic and Annual Plan
- To receive and review all Internal Audit reports in line with the Internal Audit Protocol;
- To receive and review management reports on action taken in response to audit recommendations in line with the agreed follow-up process
- To consider the Chief Internal Auditor's Annual Report and Assurance Statement
- To review the operational effectiveness of Internal Audit by considering the audit standards, resources, staffing, technical competency and performance measures

- To ensure that there is direct contact between the Audit Committee and Internal Audit and to meet with the Chief Internal Auditor at least once per year and as required, without the presence of Executive Directors

External Audit

- To note the appointment and remuneration of the External Auditors and to examine any reason for the resignation or dismissal of the Auditors;
- To review the annual Audit Plan including the Performance Audit programme;
- To consider all statutory audit material for the Board, in particular:-
 - Audit reports (including Performance Audit studies);
 - Annual Report;
 - Chief Executive Letters;
- To monitor management action taken in response to all External Audit recommendations, including VFM studies;
- To review matters relating to the Certification of Annual Accounts (Exchequer Funds), Annual Patients' Funds Accounts and Annual Endowment Funds Accounts;
- To hold meetings with the External Auditors at least once per year and as required, without the presence of the Executive Directors;
- To review the extent of co-operation between External and Internal Audit;
- Annually appraise the performance of the External Auditors;
- To review the terms of reference, appointment and remuneration of external auditors for the Board Endowment Funds and Patient Funds Accounts.

Code of Corporate Governance

- To review the Code of Corporate Governance which includes Standing Orders, Schemes of Reservation and Delegation, Standing Financial Instructions and recommend amendments to the Board;
- To examine the circumstances associated with each occasion when Standing Orders have been waived or suspended;
- To review and assess the operation of any Schemes of Delegation;
- To monitor compliance with the Members' Code of Conduct.

Annual Report and Accounts

- To review and recommend for approval the Annual Accounts for Exchequer Funds;
- To review the Annual Accounts for the NHS Borders Endowment Funds;
- To review and recommend for approval the Annual Accounts for Patients' Funds;
- To review the Annual Report for the Board;
- To review at least annually the accounting policies and approve any changes thereto;
- To review schedules of losses and compensation payments.

Other Matters

- Reviewing and reporting on any other matter referred to the Committee by the Board;
- The Committee has a duty to review its own performance and effectiveness, including its running costs and terms of reference on an annual basis;
- It also has a duty to keep up to date by having a mechanism to ensure topical legal and regulatory requirements are brought to Members' attention;
- The Committee shall monitor how the Board controls risk and possible litigation;
- The Committee shall agree the level of detail it wishes to receive from the Internal and External Auditors;
- The Committee shall review the arrangements that the Board has in place for the prevention and detection of fraud.

1.5 Best value

The Committee is responsible for reviewing those aspects of the Best Value work plan which are delegated to it from Borders NHS Board. The Committee will put in place arrangements which will provide assurance to the Chief Executive as Accountable Officer, that NHS Borders has systems and processes in place to secure best value for these delegated areas.

1.6 Authority

The Committee is authorised by the Board to investigate any activity within its terms of reference, and in so doing, may seek any information it requires from any employee. All Members, employees and agents of the Board are directed to co-operate with any request made by the Committee. The Committee is required to review its Terms of Reference on an annual basis.

In order to fulfil its remit, the Audit Committee may obtain whatever professional advice it needs, and require Directors or other officers of the Board to attend meetings.

1.7 Reporting Arrangements

- The Audit Committee reports to the Board;
- Following a meeting of the Audit Committee, the minutes of that meeting should be approved at the next Committee meeting and then presented at the following Board meeting;
- The Audit Committee should annually, and within three months of the start of the financial year, approve a work plan detailing the work to be taken forward by the Audit Committee;
- The Audit Committee will produce an Annual Report for presentation to the Board. The Annual Report will describe the outcomes from the Committee during the year and provide an assurance to the Board that the Committee has met its remit during the year.

- The Annual Report must be presented to the Board meeting considering the Annual Accounts.

c) Clinical Governance Committee

1.1 Purpose

To provide the Board with the assurance that clinical governance controls are in place and effective across NHS Borders

1.2 Membership

1.2.1 Membership

The Clinical Governance Committee is appointed by the Board and shall be composed of three non-executive Board members, one of whom shall be the Chair of the Area Clinical Forum. One of these three members shall be appointed as Chair. Membership will be reviewed annually.

1.2.2 Appointment of Chair

The Chair of the Committee shall be appointed by NHS Borders Board

1.2.3 Attendance

Executive Directors of the Board are not eligible for membership of the Committee. The following NHS Board officers or their representatives will normally attend meetings.

- Chief Executive
- Medical Director
- Director of Nursing and Midwifery
- Director of Public Health
- Associate Medical Director (Clinical Governance)
- Infection Control Manager
- Head of Clinical Governance & Quality

All Board Members have the right to attend meetings and have access to all papers, except where the committee resolves otherwise.

1.3 Meetings

1.3.1 Frequency

The Clinical Governance Committee will meet at least four times a year to fulfil its remit.

1.3.2 Agenda and Papers

The Chair of the Committee, in conjunction with the Director of Nursing and Midwifery and the Head of Clinical Governance will set the agenda for the meetings. Committee members who wish to raise items for consideration on future agendas can do so under AOB or through the committee chair.

The agenda and supporting papers will be sent out by the nominated PA, at least five working days in advance of the meetings to allow time for members' due consideration of issues.

1.3.3 Quorum

Two members of the Committee, including the Chair, will constitute a quorum. If necessary, other non-executive directors can be asked to deputise in order to ensure that meetings are quorate.

In the absence of the appointed Committee Chair, one of the other committee members will assume the role of chair for that meeting.

1.3.4 Minutes

Formal minutes will be kept of the proceedings by a nominated PA and submitted for approval at the next Clinical Governance Committee meeting, prior to submission to the Board.

1.3.5 Other

In order to fulfil its remit, the Clinical Governance Committee may, within current financial constraints, obtain whatever professional advice it requires and invite, if necessary, external experts and relevant members of board staff to attend meetings.

If necessary, meetings of the Committee shall be convened and attended exclusively by members of the Committee.

1.4 Remit

The main duties of the Clinical Governance Committee are to receive assurances that clinical governance controls are in place and effective across NHS Borders, on behalf of NHS Borders Board; and that the principles of clinical governance are applied to the health improvement activities of the Board.

1.4.1 General

- check and report to the Board that appropriate structures are in place to undertake activities which underpin clinical governance;
- review the systems of clinical governance, monitoring that they operate effectively and that action is being taken to address any areas of concern;
- review the mechanisms which exist to engage effectively with healthcare partners and the public;
- encourage a continuous improvement in service quality;
- ensure that an appropriate approach is in place to deal with clinical risk management, including patient safety, across the system working within the overall NHS Borders Risk Management Strategy;
- review performance in management of clinical risk, including emergency planning and service continuity planning;
- monitor complaints response performance on behalf of the Board
- promote positive complaints handling, advocacy and feedback including learning from adverse events;
- receive reports on child and vulnerable people protection activities;
- produce an Annual Clinical Governance Report;

- ensure that appropriate action plans are developed, implemented and monitored as a result of published national reports and inquiries (e.g Mid Staffordshire);
- check and report to the Board that appropriate structures are in place to ensure robust links to the Healthcare Quality Strategy.

1.4.2 Internal Monitoring

- review the Internal Clinical Audit Strategy and Plan;
- make recommendations to the NHS Borders Audit Committee on the requirements for internal audit to support clinical activities;
- receive and consider Clinical Audit Reports along with regular Progress Reports;
- review the actions taken by the Chief Executive, Medical Director and Nurse Director on any recommendations or issues arising from Audit Reports; and
- review the effectiveness of the Clinical Audit Programme.

1.4.3 External Monitoring

- review Audit Reports from external monitoring bodies (e.g. NHS QIS) in relation to clinical governance; and
- monitor and report to the Board that appropriate actions in relation to external review and monitoring of clinical governance are being taken.

1.5 Best value

The Committee is responsible for reviewing those aspects of the Best Value work plan which are delegated to it from Borders NHS Board. The Committee will put in place arrangements which will provide assurance to the Chief Executive as Accountable Officer, that NHS Borders has systems and processes in place to secure best value for these delegated areas.

1.6 Authority

The Committee is authorised by the Board to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee and all employees are directed to co-operate with any request made by the Committee. The Committee is required to review its Terms of Reference on an annual basis.

1.7 Reporting Arrangements

1.7.1 Reporting

The Clinical Governance Committee is a standing committee of the Board, is accountable to the Board and shall formally report to the Board through the annual report. Otherwise reporting shall be by exception reporting.

The Chair of the Committee shall submit an Annual Report on the work of the Committee to the Board. The timing of this will align to the Board's consideration of the Chief Executive's Statement of Internal Control for the associated financial year.

1.7.2 Risk Reporting

The Committee shall receive reports from relevant service leads within the areas of its remit. As a result of these reports, and considering areas of interest to the Committee, any areas of risk shall be highlighted and reported e.g. HEI

An action tracker arising from Committee business shall be kept to record, identify and ensure actions are carried out.

d) Staff Governance Committee

1.1 Purpose

To advise the Board on its responsibility, accountability and performance against the NHS Scotland Staff Governance Standard; addressing the issues of policy, targets and organisational effectiveness.

The NHS Reform (Scotland) Act requires Boards to put and keep in place arrangements for the purpose of improving the management of the officers employed, monitoring such management, and workforce planning.

This will be demonstrated through achievement and progress towards the Staff Governance Standard through:

- Scrutiny of performance against individual elements of the Staff Governance Standards;
- Data collected during the self-assessment audit conducted under the auspices of the Area Partnership Forum;
- The action plans submitted to, and approved by, the Staff Governance Committee;
- Staff Survey results;
- Data and information provided in statistical returns reports to the Committee.

1.2 Membership

Membership of the Staff Governance Committee will be:-

- A minimum of four Non-Executive Members, one of which must be the Employee Director;
- Staff Side Chairs of the Local Partnership Forums; (Ex officio members)

In addition there will be in attendance:-

The Chief Executive or their nominee;

- Director of Nursing & Midwifery
- The Director of Workforce and Planning
- Heads of Human Resources
- Head of Occupational Health
- Head of Risk, Health & Safety
- Head of Service Training & Professional Development

1.3 Meetings

Meetings of the Committee will be quorate when at least three Non-Executive Members are present.

1.4 Remit

- To monitor performance of the Board against the Staff Governance Standard;
- To monitor and evaluate Human Resources Strategies and Implementation plans;
- To monitor pay modernisation processes;
- To establish an Area Partnership Forum that will have the responsibility for facilitating and monitoring the effectiveness of partnership working between management and staff at all levels in NHS Borders and Contractors and to develop and approve Employment Policies through the Partnership process;
- To monitor and evaluate the progress of the Staff Governance Committee against the annual Work Plan;
- To provide timely staff governance information required for national monitoring arrangements;
- To provide staff governance information for the statement of internal control;
- To approve and monitor the Workforce Plan.

1.5 Best value

The Committee is responsible for reviewing those aspects of the Best Value work plan which are delegated to it from Borders NHS Board. The Committee will put in place arrangements which will provide assurance to the Chief Executive as Accountable Officer, that NHS Borders has systems and processes in place to secure best value for these delegated areas.

1.6 Authority

The Committee is authorised by the Board to investigate any activity within its terms of reference, and in so doing, is authorised to seek any information it requires from any employee. The Committee is required to review its Terms of Reference on an annual basis.

In order to fulfil its remit, the Staff Governance Committee may obtain whatever professional advice it requires, and require Directors or other officers of the Board to attend meetings.

1.7 Reporting Arrangements

- The Staff Governance Committee reports to Borders NHS Board;
- Following a meeting of the Staff Governance Committee, the minutes of that meeting should be presented at the next Borders NHS Board meeting;
- The Staff Governance Committee should annually and within three months of the start of the financial year provide a work plan detailing the work to be taken forward by the Staff Governance Committee;

- The Staff Governance Committee will produce an Annual Report for presentation to Borders NHS Board. The Annual Report will describe the outcomes from the Committee during the year and provide an assurance to the Board that the Committee has met its remit during the year. The Annual Report must be presented to a Board meeting prior to the Audit Committee considering the Annual Accounts.

e) **Remuneration Committee**

1.1 **Purpose**

The third edition of the Staff Governance Standard made clear that each NHSScotland Board is required to establish a Remuneration Committee, whose main function is to ensure application and implementation of fair and equitable pay systems on behalf of the Board as determined by Ministers and the Scottish Government.

1.2 **Membership**

Membership of the Remuneration Committee will be:-

- The Chair of the Board (who will be the Chair);
- The Vice Chairs of the Board
- One other Non-Executive Member

Non Executive Members cannot be members of this committee if they are members of staff or independent primary care contractors.

In addition there will be in attendance:

- Board Secretary
- Director of Workforce & Planning
- Associate Director of Human Resources (Operations)

At the request of the Committee, other Senior Officers also may be invited to attend.

All members of the Remuneration Committee will require to be appropriately trained to carry out their role on the Committee.

No employee of the Board shall be present when any issue relating to their employment is being discussed.

1.3 **Meetings**

The Committee will meet at least 4 times per annum.

Remuneration issues may arise between meetings and will be brought to the attention of the Chair of the Remuneration Committee by the Chief Executive or the Director of Workforce and Planning. The Chair may call a special meeting of the Remuneration Committee to address the issue.

Meetings of the Committee will be quorate when three Non-Executive Members are present.

1.4 Remit

The Remuneration Committee will oversee the remuneration arrangements for Executive Directors and others under the Executive Cohort and Senior Manager Pay Systems and also to discharge specific responsibilities on behalf of the Board as an employing organisation.

Ensure that arrangements are in place to comply with NHS Borders Performance Assessment Agreement and Scottish Government direction and guidance for determining the employment, remuneration, terms and conditions of employment for Executive Directors, in particular:-

- Approving the personal objectives of all Executive Directors in the context of NHS Borders's Local Delivery Plan, Corporate Objectives and other local, regional and national policies
- Receiving formal reports on the operation of remuneration arrangements and the outcomes of the annual assessment of performance and remuneration for each of the Executive Directors.

Ensure that arrangements are in place to determine the remuneration, terms and conditions and performance assessment for other staff employed under the Executive Cohort and Senior Manager pay systems. The Committee will receive formal reports annually providing evidence of the effective operation of these arrangements.

Promote the adoption of an NHS Borders approach to issues of remuneration and performance assessment to ensure consistency.

Undertake reviews of aspects of remuneration/employment policy for Executive Directors (e.g. Relocation Policy) and other Senior staff (e.g. special remuneration), when requested by NHS Borders.

Consider any redundancy, early retiral or termination arrangement in respect of all NHS Borders staff, excluding early retirals on grounds of ill health, and approve these or refer to the Board as it sees fit.

Approve payment of Discretionary Points to eligible specialist, medical and dental staff based on competent recommendations from the appropriate advisory bodies.

Confidentiality and Committee Decisions

Decisions reached by the Committee will be by agreement and with all Members agreeing to abide by such decisions (to the extent that they are in accordance with the constitution of the Committee). All Members will treat the business of the Committee as confidential. The Committee may in certain circumstances decide a voting approach is required with the Chair having a second and casting vote.

Minutes and Reports

Reports issued to Members will contain full details of the issues to be considered with clear recommendations to the Committee. The minutes

will record the decisions reached by the Committee with due regard to confidentiality in relation to individuals. Only Non-Executive Members who are not NHS Borders employees will receive the full minute. All other Board Members will receive a summarised minute.

1.5 Best value

The Committee is responsible for reviewing those aspects of the Best Value work plan which are delegated to it from Borders NHS Board. The Committee will put in place arrangements which will provide assurance to the Chief Executive as Accountable Officer, that NHS Borders has systems and processes in place to secure best value for these delegated areas.

1.6 Authority

The Remuneration Committee is authorised by the Board to investigate any activity within its terms of reference, and in doing so, is authorised to seek any information it requires about any employee. The Committee is required to review its Terms of Reference on an annual basis.

In order to fulfil its remit, the Remuneration Committee may obtain whatever professional advice it requires, and it may require Directors or other officers of NHS Borders to attend meetings.

1.7 Reporting Arrangements

The Remuneration Committee reports through the Staff Governance Committee to the Board.

Following a meeting of the Remuneration Committee the minutes of that meeting shall be presented at the next Borders NHS Board meeting. Only Non-Executive Members who are not NHS Borders employees will receive the full minute. All other Board Members will receive a summarised minute.

The Remuneration Committee should annually and within three months of the start of the financial year provide a work plan detailing the work to be taken forward by the Remuneration Committee.

The Remuneration Committee will produce an Annual Report for presentation to the Staff Governance Committee and the Board and will describe the outcomes from the Committee during the last year.

The Remuneration Committee will through the Staff Governance Committee provide an annual assurance that systems and procedures are in place to manage the pay arrangements for all Executive Directors and others under the Executive Cohort and Senior Manager pay systems so that overarching Staff Governance responsibilities can be discharged. The Staff Governance Committee will not be given the detail of confidential employment issues that are considered by the Remuneration Committee; these can only be considered by the Non-Executive Members of the Board.

The Annual Report will be prepared as close as possible to the end of the financial year but in enough time to allow it to be considered by the Staff Governance Committee. This is to ensure that the Staff Governance Committee is in a position in its annual report to provide the annual assurance that systems and procedures are in place to manage the pay arrangements for all staff employed in NHS Borders.

f) **Public Governance Committee**

1.1 **Purpose**

To provide Borders NHS Board with the assurance that public governance mechanisms are in place and effective across NHS Borders.

1.2 **Membership**

1.2.1 **Membership**

The Chair of the Public Governance Committee is appointed by the Board. The Committee membership should include two Non Executive Board members, one of whom shall be the Employee Director/Non Executive Director. Additional **core members** will include:-

- Chair of PPF
- Chair of Community Councils
- Voluntary Sector Representative (x2)
- Carers Planning Group representative
- Public Involvement Network representatives (x3)

1.2.2 **Terms of Membership**

Non Executive Directors – for duration of appointment to the Board.

Other core members – review after two years. The core members are appointed by the Chair of the Committee, in conjunction with the Committee. The Chair of the Committee will review the membership annually.

1.2.3 **In attendance**

- NHS Borders Public Involvement Lead & Officer(s) in support
- NHS Borders Patient Focus/Experience Lead
- Scottish Health Council Local Officer(s)
- SBC representative
- NHS Borders Area Clinical Forum representative
- Lead Officer for Equality & Diversity
- Other officers of statutory and third sector organisations may attend for specific items of interest as required

1.2.4 **Responsibility of Members**

Members of the Committee will have the following responsibilities in this role:-

- To identify and liaise with key stakeholders both in advance of meetings and in communicating outcomes of meetings as required.
- To ensure liaison, information sharing and consistency of approach with other Board committees of governance.
- To ensure the committee operates in function and process within best practice principles to ensure full participation and engagement.
- To act as advocates across NHS Borders for the principles and best practice of a person centred approach and involving, engaging and consulting patients and public.

1.3 Meetings

1.3.1 Frequency

The Committee will meet on a quarterly basis – dates will be agreed annually in advance.

There will be standing business items including review of previous minutes; receiving reports on progress on Public Governance and reports on Public Partnership Forum and a range of sub groups.

Other meetings of the Committee shall be held at such intervals as the Committee may determine in order to conduct its business.

1.3.2 Agenda & Papers

The Chair of the Committee, in conjunction with the Head of Public Involvement & Communications, will set the agenda for the meeting.

The agenda and papers will be issued at least 5 working days in advance of the meetings to allow time for members due consideration of issues.

The Committee will be supported by the Head of Public Involvement & Communications and team.

1.3.3 Quorum

No business shall be transacted at a meeting unless at least four core members or their deputies are present (this includes two Non Executive Directors), and at least two public members are present.

1.3.4 Minutes

Formal minutes will be kept of the proceedings and submitted for approval at the next Public Governance Committee meeting, prior to submission to the Board.

1.4 Remit

The Public Governance Committee provides governance and accountability to the Board on the following range of work areas:-

- Reporting and monitoring of public involvement activities, policy and guidance
- Reporting and monitoring of Equality and Diversity requirements
- Public and patient involvement in service change, improvement and redesign
- Ensuring cross referencing and links to committees of clinical governance and staff governance as appropriate
- Accountability and performance management of public involvement work streams and developments including links with planning partners

1.4.1 Background

The Public Governance Committee was established in November 2005 and reviewed in 2009/10 in line with an updated policy context. This is not a statutory Committee of NHS Borders Board.

The following Scottish Government policies and legislative requirements set the context for NHS Borders public involvement requirements:-

- *Better Health, Better Care: Action Plan (2007)*
- *Guidance on Informing, Engaging and Consulting the Public in Developing Health & Community Care Services CEL 4 (2010)*
- *NHS Scotland Quality Strategy (February 2010)*
- *Scottish Health Council Draft Participation Standard (2010)*
- *Scottish Health Council, Identifying Major Service Change – Criteria to Consider: 2009*
- *Patients' Rights Bill for users of the NHS in Scotland (March 2010)*
- *HDL (2005) 51 Fair for All: Working Together Towards Culturally-competent Services*
- *HDL (2005) 9 Equality & Diversity Impact Assessment Toolkit*
- *The Disability Equality Duty (DED) (Disability Discrimination (Amendment) Act 2005)*
- *Scottish Borders Council & NHS Borders Equality Impact Assessment (EIA) Policy & Toolkit (September 2009)*

1.5 Best value

The Committee is responsible for reviewing those aspects of the Best Value work plan which are delegated to it from Borders NHS Board. The Committee will put in place arrangements which will provide assurance to the Chief Executive as Accountable Officer, that NHS Borders has systems and processes in place to secure best value for these delegated areas.

1.6 Authority

The Committee is authorised by the Board to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee and all employees are directed to co-operate with any request made by the Committee. The Committee is required to review its Terms of Reference on an annual basis.

The Committee is authorised by the Board to obtain independent professional advice and to secure attendance of others with relevant experience and expertise if it considers it necessary.

1.7 Reporting Arrangements

1.7.1 Reporting

The Committee will report to the Board, the Board Executive Team and the Clinical and Staff Governance Committees by means of submission of minutes after each meeting. The Committee will also make available reports and minutes to the Chair of the Public Partnership Forum.

The Chair of the Committee shall submit an Annual Report on the work of the Committee to the Board. The timing of this will align to the Board's consideration of the Chief Executive's Statement of Internal Control for the associated financial year.

1.7.2 Risk Reporting

The Public Governance Committee shall receive quarterly reports from relevant service leads within the areas of its remit. As a result of these reports, and considering areas of interest to the Committee, any areas of risk shall be highlighted and reported.

An action tracker arising from Committee business should be kept to record, identify and ensure actions are carried out.

The Board shall receive reports from lead officers and other standing committees of the Board related to national performance monitoring of public involvement activities.

g) Scottish Borders Community Health and Care Partnership (CHCP)

1 INTRODUCTION

1.1 This document sets out the draft Terms of Reference and Standing Orders for the Scottish Borders Community and Care Partnership (CHCP). The terms of reference are drawn from the Community Health Partnerships (Scotland) Regulations 2004¹ and the CHP Scheme of Establishment. The CHCP Formal Committee which is a committee of Borders NHS Board has oversight of the governance of the CHCP on behalf of the Board.

2. PURPOSE OF THE SCOTTISH BORDERS COMMUNITY HEALTH AND CARE PARTNERSHIP (CHCP)

2.1 The purpose of the CHCP is to drive health and services improvement locally and to ensure the effective delivery of the functions devolved to the CHCP as described in the Scheme of Establishment.

¹ Community Health Partnerships (Scotland) Regulations 2004 (SI 2004 no 386)

3 DELEGATED FUNCTIONS

3.1 The Committee's main responsibilities will be:

- Planning for the development, delivery and redesign of the services and health improvement, working as part of the integrated health and local authority systems.
- To ensure that resources are directed to meet the needs of people in the CHCP area as outlined in supporting strategies.
- To ensure that services are supported and delivered in a fair and equitable manner and achieve the objectives of the service
- To ensure an integrated approach to involving staff, patients and the public in its work
- To ensure that the benefits of effective partnership working are fully explored and developed with all partner agencies
- Financial management of agreed pooled budgets and oversight of agreed aligned budgets.
- Clinical governance arrangements for joint services in accordance with the duty of care
- Staff governance arrangements for joint services in line with the Staff Governance legislation

4 APPOINTMENT AND TERM OF OFFICE

4.1 All members shall be appointed by Borders NHS Board. The Chair shall also be appointed by the Board.

4.2 For the purpose of enabling the business of the CHCP to be conducted in the absence of the Chair, a Non-Executive Member shall be Vice-Chair and shall normally hold office for two years, provided that the individual's membership of the Board continues throughout that period.

4.3 The term of office of a member shall be for such period as the Board shall specify on making the appointment and shall be for no longer than four years.

4.4 After the expiration of a term of office a members shall be eligible for re-appointment.

4.5 The acts, meetings or proceedings of the CHCP shall not be invalidated by any vacancy in its membership or by any defect in the appointment of any member.

4.6 Appendix A sets out the membership as stated according to the Regulations. In accordance with Para 3(2) of the Regulations every member shall, where practicable, be employed or operate in or have a substantial connection with the area of the CHCP.

5 EXPENSES OF MEMBERS

5.1 The Board shall pay all reasonable travelling and other expenses properly incurred by members in connection with the performance by them on functions associated with their appointment.

6 RESIGNATION AND REMOVAL OF MEMBERS

- 6.1 A person may resign their membership at any time during their term of office by giving notice in writing to the Board and that person shall thereupon cease to be a member.
- 6.2 If the Board, having consulted with the CHCP (where it is practicable to do so) considers that it is not in the interests of the community health partnership or the Board that a person should continue to hold office as a member, it shall by giving notice in writing to the person, remove that person from office.
- 6.3 If a member has not attended three consecutive meetings of the CHCP, the Board shall, by giving notice in writing to the person, remove that person from office unless the Board is satisfied that:
- 6.3.1 the absence was due to illness or other reasonable cause; and
 - 6.3.2 the member will be able to attend future meetings within such a period as the Board considers reasonable.

7 DISQUALIFICATION

- 7.1 A person to whom Para 7(2) of the Regulations applies shall be disqualified as a member of the Committee. Disqualification from membership is set out in Appendix B.

8 PROCEEDINGS

- 8.1 The arrangements for proceedings are drawn from the Schedule to the Community Health Partnerships (Scotland) Regulations 2004.

Calling meetings

- 8.2 The first meeting of the CHCP shall be held on such day and at such place as may be fixed by the Chair and that person shall be responsible for convening the meeting.
- 8.3 The Chair may call a meeting of the CHCP at any time.
- 8.4 If the Chair refuses to call a meeting of the CHCP after a requisition for that purpose specifying that business proposed to be transacted, signed by at least one third of the whole number of members, has been presented to the chairperson or if, without so refusing, the chairperson does not call a meeting within 7 days after such requisition has been present, those members who presented the requisition may forthwith call a meeting provided no business shall be transacted at the meeting other than specified in the requisition.

Notice of Meetings

- 8.5 Before each meeting of the CHCP, a notice of the meeting, specifying the time, place and business to be transacted, as it and signed by the Chair, or by a member authorised by the chairperson to sign on that person's behalf, shall be delivered to every member or sent by post to the usual

place of residence of such members so as to be available to them at least seven clear days before the meeting.

- 8.6 Lack of service of the notice on any member shall not affect the validity of a meeting.
- 8.7 In the case of a meeting the community health partnership called by members in default of the Chair, the notice shall be signed by those members who requisitioned the meeting in accordance with paragraph 8.4.
- 8.8 Ordinary meetings of the CHCP shall be held in open session at the time and place as shown in the timetable approved by the CHCP and the Board, or at such other places the Chairperson shall determine.

Quorum

- 8.9 Subject to paragraph 8.10 no business shall be transacted, at a meeting of the CHCP unless there are present, and entitled to vote, at least one third of the whole number of members of the CHCP. If during any meeting of the CHCP the Chair finds that the meeting is no longer quorate, the meeting shall be suspended.
- 8.10 No act or question relating to a matter referred to in paragraph 8.15 shall be considered at a meeting unless all members of the CHCP, who are members or officers of the local authority concerned and who are entitled to vote, are present.

Conduct of Meetings

- 8.11 At any meeting of the CHCP the Chair of the CHCP, if present, shall preside. If the Chair is absent for any meeting, the Vice-Chair, if present, shall preside.
- 8.12 If the Chair and the Vice-Chair are absent from a meeting of the CHCP, a member chosen at the meeting by the members present shall preside.
- 8.13 If it is necessary or expedient to do so a meeting may be adjourned to another day, time and place.

Voting

- 8.14 Subject to paragraph 8.15, every question at a meeting shall be determined by a majority of votes of the members present and who are entitled to vote on the question and, in the case of any equality of votes, the person presiding shall have a second or casting vote.
- 8.15 Where an act or question arising before the CHCP relates to functions which are or are proposed to be subject to any arrangements, pursuant to Part 2 of the Community Care and Health (Scotland) Act 2002, the members of the CHCP present, who are entitled to vote and who are members or officers of the local authority concerned shall collectively have half of the available votes (but excluding the second or casting vote of the person presiding).

Resolution of Disputes

- 8.16 Each of the partners shall use all reasonable endeavours to achieve the amicable and timeous resolution of any difference or dispute between the partners in the Community Health and Care Partnership.
- 8.17 In the event that a difference or dispute between the partners cannot be resolved through the mechanism outlined in paragraph 1, the difference or dispute may be referred to the Joint NHS Borders / Scottish Borders Council Social Work & Education Senior Management Group meeting for discussion and formulation of recommendations for suitable resolution.
- 8.18 Failure to formulate appropriate recommendations or to obtain resolution by the Community Health and Care Partnership will result in referral of the difference or dispute to the Wellbeing Partnership Board's Dispute Procedure.

Conflict of Interest

- 8.19 If a member or any associate of their has any pecuniary or other interest, direct or indirect, in any contract or proposed contract or other matter, and that member is present at a meeting of the CHCP, that member shall disclose that fact and the nature of the relevant interest and shall not be entitled to vote on any question with respect to it.
- 8.20 A member shall not be treated as having any interest in any contact or matter if it cannot reasonably be regarded as likely to significantly affect or influence the voting by that member or any question with respect to that contract or matter.

Records

- 8.21 The names of the members present at a meeting shall be recorded.
- 8.22 The minutes of the proceedings of a meeting including any decision or resolution made at that meeting shall be drawn up and submitted to the next ensuing meeting for agreement after which they will be signed by the person presiding at that meeting. The Freedom of Information (Scotland) Act 2002 gives the public a general right of access to all recorded information held. Therefore, when minutes of meetings are created, it should be assumed that what is recorded will be made available to the public.
- 8.23 The minute of a meeting being held, where authority or approval is being given by the committee and the minute is intended to act as a record of the business of the meeting, then the minute should contain:
- A summary of CHCP's discussions
 - A clear and unambiguous statement of the decision taken
 - If no decision is taken, a clear and unambiguous statement of where the matter is being referred or why the decision has been deferred

- Where options are presented, a summary of why options were either accepted or rejected
 - Reference to any supporting documents relied upon
 - Any other relevant points which influenced the decision or recommendation
 - Any recommendations which require approval by a higher authority
- 8.24 The contents of a minute will depend upon the purpose of the meeting. If the meeting agreed actions these actions will be recorded in an action points update:
- A description of the task, including any phases and reporting requirements
 - The person accepting responsibility to undertake the task
 - The timescales associated with the task, its phases and agreed reporting
- 8.25 There will be circumstances where some information is not appropriate for inclusion in the minute of the CHCP. The basis for exclusion will rely on the exemptions specified in the Freedom of Information (Scotland) Act 2002. In such circumstances, the information should be excluded from the minute and placed in a separate document. The separate document, Reserved Minute, should be referred to in the Minute.
- 8.26 The Reserved Minute will be clearly marked and the exemption being relied upon will be recorded against each item recorded in the Reserved Minute.

Submission of Reports to the CHCP

- 8.27 All reports requiring decisions by the CHCP will be submitted in writing. Oral reports will only be accepted in exceptional circumstances and with the prior approval of the Chair of the CHCP.

9 DUTIES OF THE CHAIR AND VICE-CHAIR

- 9.1 In addition to duties set out in paragraph 8.11, it shall be the duty of the Chair to:
- Ensure the Standing Orders are observed, and in so doing, to facilitate a culture of transparency, consensus and compromise
 - Preserve order and ensure that any member wishing to speak is given due opportunity to do so and a fair hearing
 - Call members to speak according to the order in which they caught his/her eye
 - Decide all matters of order, competency and relevancy
- 9.2 The General Manager or their appointee shall draw to the attention of the Chair any apparent breach of these Terms of Reference.

The decision of the Chair on all matters referred to in these Terms of Reference shall be final and shall not be open to question or discussion in any meeting of the Board.

10 MEMBERS CODE OF CONDUCT

- 10.1 All those who are appointed as members of the CHCP must comply with the Members' Code of Contact as incorporated into the NHS Border Code of Governance and approved by the Scottish Executive.
- 10.2 CHCP members having any doubts about the relevance of a particular interest should discuss the matter with the Chief Operating Officer
- 10.3 CHCP members should declare on appointment any material or relevant interest and such interests should be recorded in the minutes. Any change should be declared and recorded when they occur. Interests will also be entered into a register that is available to the public. Arrangements for viewing the register shall also be publicised.
- 10.4 If any member of the CHCP disregards the authority of the Chair, obstructs the meeting or in the opinion of the Chair otherwise acts in an offensive matter at a meeting, the Chair may move that such member be suspended for the remainder of the meeting. If seconded, such a motion shall be put to the vote immediately without discussion.
- 10.5 If such a motion is carried, the suspended member shall leave the meeting room immediately. A member who has been suspended in terms of this Standing Order shall not re-enter the meeting room except with the consent of the meeting.
- 10.6 In the event of a motion for suspension of a member being defeated, the Chairperson may, if he/she thinks it appropriate to do so, adjourn the meeting as if a state of disorder has arisen.

11 ADMISSION OF PUBLIC AND PRESS

- 11.1 In terms of the Public Bodies (Admission to Meetings) Act 1960 as amended and except where otherwise required by statute, members of public and representatives of the Press will be admitted to every meeting of the CHCP, but will not be permitted to take part in discussion. In terms of the 1960 Act, members of the public and representatives of the press admitted to meetings shall not be permitted to make use of photographic or recording apparatus of any kind unless agreed by the Board.
- 11.2 The CHCP may, however, by resolution exclude the public and press while considering any matter that is confidential where the CHCP can apply the exemptions set out in the Freedom of Information (Scotland) Act 2002.
- 11.3 The terms of any such resolution specifying the part of the proceedings to which it relates and the categories of exempt information involved shall be specified in the minutes.

h) Area Clinical Forum (ACF)

1. As required by “Rebuilding our NHS”, the Area Clinical Forum (ACF) exists to advise the NHS Board. The Chair of the ACF is a Non-Executive Director of the NHS Board.

2. Purpose

The purpose of the Area Clinical Forum is to formulate comprehensive clinical advice to the Board on matters of policy and implementation. The Committee will consult widely with its constituency and the Board. It will be proactive in:

- Reviewing the business of the Area Professional Committees to ensure a co-ordinated approach on clinical matters among the different professions and within the component parts of the local NHS systems (acute services, primary care, health improvement, etc);
- Promoting work on service design, redesign and development priorities and playing an active role in advising the NHS Board on potential for service improvement;
- Sharing best practice among the different professions and actively promoting multi-disciplinary working in both health care and health improvement;
- Engaging widely with local clinical and other professionals, with a view to encouraging broader participation in the work of the Area Professional Advisory Committees;
- Providing the NHS Board with a clinical perspective on the development of the Local Health Plan and the NHS Board’s strategic objectives.

3. Membership

The membership of the Committee will be the Chairs of the uni-disciplinary Committees namely;

- Area Allied Health Professionals Committee
- Area Medical Committee
- Area Dental Committee
- Area Optical Committee
- Area Nursing & Midwifery Committee
- Area Pharmaceutical Committee

Others in Attendance:

The Committee may invite others to attend a meeting for discussion of specific items. That person may take part in the discussion but will not have a vote.

Sub-Committee:

The Committee may appoint ad hoc Sub-Committees as appropriate to consider and provide advice on specific issues.

Tenure:

Individual members’ tenure will be determined by the constitution of their parent committee. If a member resigns or retires, the appropriate Advisory Committee will choose a replacement. The replacement will hold office for the remainder of the period for which the member he/she replaces would have held office.

Officers:

Chair: The Committee shall elect a Chair. This shall be on the basis of one vote for each of the Committee members. The Chair shall be elected for 3 years. He/she will be eligible for a maximum of 2 consecutive terms of office.

Vice-Chair: The Committee shall then elect a Vice-Chair. The tenure shall be the same as for the Chair.

Secretary: The Secretary shall be provided by the NHS Board.

Conditions:

1) Interests: Members must declare any pecuniary or other interests which could be construed as influencing the advice given to the NHS Board, and must not participate in discussion leading to that advice.

2) Removal: An Office Bearer may be removed from office at a meeting of the Committee only if the removal has been included as an agenda item. Such removal would require the agreement of 4 members of the Committee.

Executive Powers:

The Chair (or in his/her absence the Vice Chair) will have discretionary power to act on behalf of the Committee but in doing so it is answerable to the Committee.

Membership of the NHS Board:

The Chair will be appointed by the Minister of Health as a full member of the NHS Board.

4. Standing Orders:

Notice of Meetings:

The Secretary will ensure that the agenda and relevant papers are issued at least seven days before the meeting whenever possible.

Minutes:

The Secretary will ensure that the minutes of the meetings of the Committee are sent to each member with the agenda and papers of the next meeting.

Meetings:

Meetings will be held monthly although the Committee may vary these arrangements to cover holiday months or other circumstances.

Quorum:

A quorum of the Committee will be 4 members.

Voting:

Where the Committee is asked to give advice on a matter and the majority vote is reached the Chair or Secretary will record the majority view but will also make known any significant minority opinion and present the supporting arguments for both view points.

Alterations to the Constitution and Standing Orders:

Alterations to the Constitution and Standing Orders may be recommended at any meeting of the Committee provided notice of the proposed alteration is circulated with the notice of the meeting and that the proposal

is seconded and supported by two-thirds of the members present and voting at the meeting.

Any alterations must be submitted to the NHS Board for approval before any change is made.

i) Area Partnership Forum (APF)

1.1 Purpose

The Area Partnership Forum as a strategic body, is responsible for facilitating, monitoring and evaluating the effective operation of partnership working across NHS Borders, and to develop and approve Workforce Policies in accordance with agreed timetables and priorities through the partnership process, for adoption of these policies by the Staff Governance Committee on behalf of the Board as the employer.

1.2 Membership

Membership of the Area Partnership Forum shall comprise representatives of management and all recognised staff organisations (Staff Side). [Appendix 1]

A nominated deputy will be identified for each full member. Nominated deputies may only attend in the absence of the principal member. Management and Staff Side representatives may attend as observers with the agreement of the joint Chairs. Full Time Officers for recognised Staff Side organisations may attend as ex officio members.

Respective memberships will be formally updated annually.

Membership (and Deputy Membership) is conferred without limit of time subject to acceptable record of attendance and continuing within the position they are accepted on.

The Employee Director's Personal Assistant shall ensure that an accurate record of attendance is maintained and absence from three consecutive meetings of the Forum shall result in membership being withdrawn and alternative representative being sought.

Should there then be continued non-attendance of a nominated representative to the APF, the Joint Chairs shall contact the nominated representative and/or (in the case of a Staff Side representative) their relevant staff organisation and clarify if the nominated representative wishes to continue as a member of the APF, or if another nominated representative from that organisation will be replacing them on the APF.

Formal Sub Groups

- Local Partnership Forums x 4
- Terms and Conditions Group
- HR Policy Development Group

The Area Partnership Forum will also act as a resource for other groups seeking Staff Side views / opinions relating to NHS Borders development. The Occupational Health and Safety Forum, as a statutory committee for Health and Safety, will communicate directly to the Area Partnership Forum on matters agreed in partnership with managers and health and safety representatives but is not a sub committee.

1.3 Meetings

The Forum will meet on an agreed basis, but routinely every 8 weeks, unless otherwise agreed by the Joint Chairs.

Chairing of Meetings

There will be Joint Chairs appointed from the management and Staff Side who will chair meetings of the Forum on an alternating basis. It is the responsibility of the Joint Chairs to agree in advance any agenda items and agenda planning meetings will therefore take place between the Joint Chairs in advance of each meeting of the Forum.

The Employee Director's Personal Assistant will distribute an agenda and supporting papers for each Forum meeting no later than one week before the date of the meeting to all Forum members. Written reports will be required for all agenda items otherwise the matter will not be discussed unless otherwise agreed by the joint chairs in advance.

Quorum

Meetings of the Forum will be deemed to be quorate when:

- a minimum of five members of the management side are present
- a minimum of five members of the Staff Side are present

1.4 Remit

The Area Partnership Forum will:

- Take a proactive approach in embedding partnership working at all levels of the organisation to assist the process of devolved decision making;
- Approve and monitor the implementation of all Workforce Policies;
- Consider and comment on other policies;
- Support the work of the Staff Governance Committee when required;
- Ensure the best Workforce practice is shared across the area;
- Contribute to the development of Strategies and Action Plans to inform the Borders Health Plan;
- Oversee, monitor and evaluate the processing of staff surveys and Self Assessment Audit Tool (SAAT); (See staff governance standard)
- Assess the impact of strategic decisions upon Staff;
- Liaise and ensure a two way communication with the Scottish Partnership Forum;
- Respond to consultation from the Scottish Partnership Forum, its sub groups and supporting infrastructure;

- Ensure that any Workforce strategies and policies are underpinned by appropriate Staff Governance, financial planning, implementation planning and evidence;
- Contribute to local and regional planning arrangements for service and workforce development and delivery;
- Ensure adequate and necessary Facilities arrangements are in place.
- Ensure the views of all Staff Side with an interest in improving local health and healthcare services, local communities and healthcare staff are appropriately heard and considered; (this is in line with national partnership agreements)
- Ensure Area Partnership Forum have knowledge and understanding of national health policies and local health issues, and the ability to contribute to strategic leadership and to develop effective working relationships;
- Ensure all staff, are effectively trained, properly supported and performance is formally reviewed on an annual basis. This statement is in keeping with National Agreement and is a monitoring role on behalf of the Staff Governance



Area Partnership
Forum Terms of Reference
Committee

1.5 Values

To underpin the working of the Area Partnership Forum, the following values will be adopted and govern the approach taken to consideration of issues, in line with the requirements of MEL (1999) 59:

- mutual trust, honesty and respect;
- openness and transparency in communications;
- recognising and valuing the contribution of all partners;
- access and sharing of information;
- consensus, collaboration and inclusion as the “best way”;
- maximising employment security;
- full commitment to the framework and good employment practice;
- the right of stakeholders to be involved, informed and consulted;
- early involvement of all staff and their trade unions in all discussions regarding change;
- a team approach to underpin partnership working.

1.6 Authority

The Forum is authorised by NHS Borders to investigate any activity within its terms of reference.

In order to fulfil its remit, the Area Partnership Forum may obtain whatever professional advice it requires (including that from professional/trade union/national or local representative), and require Directors or other officers of the Board to attend meetings.

The external Auditor and Chief Internal Auditor shall have the right of direct access to the Joint Chairs of the Area Partnership Forum.

The Forum is authorised by the Board to approve employment policies through the partnership process before adoption of these policies by the

Staff Governance Committee on behalf of the Board as the employer. This was agreed at the APF on 12th July 2010.

1.7 Reporting Arrangements

- The Area Partnership Forum acts as a sub group of and reports to the Staff Governance Committee;
- Following a meeting of the Area Partnership Forum, the minutes of that meeting will be presented for information at the next meeting of the Staff Governance Committee and approval at the next APF;
- The Area Partnership Forum should annually and within three months of the start of each financial year provide, approve and agree a workplan detailing the work to be taken forward by the Forum;
- The Area Partnership Forum will produce an annual report for presentation to the APF and Staff Governance Committee that will describe outcomes from the Forum during the year.

1.8. Decision of the Forum

Consultation

Any party may request that a matter brought before the Forum be subject to appropriate consultation with management and Staff Side colleagues prior to any final agreement being reached.

Decisions reached by the Forum which impact on the operation of policy and practice will take effect from a date agreed by the parties and will apply to all relevant staff employed within NHS Borders.

Referral

Any matter considered by the Area Partnership Forum which is deemed to fall outwith its terms of reference, or which is subject to Board or Staff Governance Committee approval, will be referred to the Board or Staff Governance Committee on the basis of Area Partnership Forum support. Reference to the Scottish Partnership Forum may also take place as appropriate.

Failure to Agree

In the event of any failure to agree in matters under consideration by the Forum, the matter will be referred via the Joint Chairs to the Staff Governance Committee, who will endeavour to find a way forward.

1.9 Review

These Terms of Reference will be reviewed on an annual basis.

j. Pharmacy Practices Committee



Pharmacy Practices
Committee ToR.pdf

Terms of Reference

APPENDIX A: MEMBERSHIP

- (1) The Board shall ensure that so far as practicable, at least one person falling within each of the following sub-paragraphs is appointed as a member:-
 - (a) A medical practitioner whose name is included in a list of primary medical services performers prepared in accordance with section 17P of the Act (4);
 - (b) A nurse who is registered on the Nursing and Midwifery Council's professional register and who is employed by the Board or a person or body other than a Board which is party to a general medical services contract;
 - (c) A registered pharmacist whose name is included in, or who is fully or substantially employed by a person or body whose name is included in, a pharmaceutical list prepared by a Board in accordance with Regulation 5 of the National Health Service (General Pharmaceutical Services) (Scotland) Regulations 1995(5);
 - (d) A dental practitioner who is either included in Part A of the dental list prepared by a Board in accordance with regulation 4(1) of the National Health Service (General Dental Services) (Scotland) Regulations 1996(6) or is performing services by virtue of section 39 of the Act;
 - (e) An ophthalmic optician whose name is included on an ophthalmic list prepared by a Board in accordance with regulation 6(1) of the National Health Service (General Ophthalmic Services) (Scotland) Regulations 1986(7);
 - (f) A person registered as an allied health professional with the Health Professions Council (8);
 - (g) An officer of the Board who is a member of, or is nominated by, the area partnership forum.
 - (h) A member or officer of a local authority
 - (i) A member of the public partnership forum
 - (j) A member of a voluntary organisation whose activities include the provision of a service similar or related to as service provided by the Board under or by virtue of the Act;
 - (k) An officer of the Board; and
 - (l) A registered medical practitioner not providing primary medical services
- (2) Every person appointed by the Board as a member shall, so far as practicable, be employed or perform services in, or have a substantial connection with, the area of the community health partnership.

- (3) Where
- (a) A member ceases to satisfy paragraph (2); or
 - (b) A member appointed pursuant to paragraph (1) ceases to fulfil that requirements of the sub-paragraph of paragraph (1) under which that person was appointed
- the Board shall, by giving notice in writing, remove that person from office as a member.
- (4) Where, in establishing the community health partnership, the Board considers that it is or would be impracticable to appoint a person falling within one or more of the sub-paragraphs in paragraph (1), it shall set out in the scheme of establishment:
- (a) the person which it would be impracticable to appoint; and
 - (b) the reasons for that view
- (5) When determining who to appoint as a member, the Board shall have regard to the need to ensure the membership of the community health partnership reflects a reasonable balance of interest.

APPENDIX B: DISQUALIFICATION

- (1) A person to whom paragraph (2) applies is disqualified from being a member.
- (2) The persons to whom this paragraph applies are:
 - (a) a person who has, within the period of five years immediately preceding the proposed date of appointment, been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence in respect of which they have received a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;
 - (b) a person whose estate has been sequestrated in Scotland or who has otherwise been adjudged bankrupt elsewhere than in Scotland, who has granted a trust deed for the benefit of their creditors, or a curator bonis or judicial factor has been appointed over their affairs;
 - (c) a person who has been removed or dismissed, otherwise than by reason of redundancy, from any paid employment or office with a health service body;
 - (d) a person whose appointment as the chairperson, member or director of a health service body has been terminated other than by their resignation or by the expiration of their term in office;
 - (e) a person who has had their name removed, by a direction under section 29 of the Act from any list prepared under Part I or Part II of the Act and have not subsequently had their name included in such a list;
 - (f) a person whose name has been included in any list prepared under section 46 of the 1977 Act from any list prepared under Part I or Part II of the 1997 Act and have not subsequently had their name included in such a list;
 - (g) a person who has had their name removed, by a direction under section 46 of the 1997 Act from any list prepared under Part I or Part II of the 1997 Act and have not subsequently had their name included in such a list;
 - (h) a person whose name has been included in any list prepared under Part I or Part II of the 1997 Act, and whose name has been withdrawn from the list on their own application;
 - (i) a person who is subject to a disqualification order under the Company Directors Disqualification Act 1986 (9) or;
 - (j) a person who has been removed from the position of trustee of a charity, whether by the court or by the Charity Commissioner.

Section A - Appendix 1:

Scottish Statutory Instrument 2001 No 302 The Health Boards (Membership and Procedure) (Scotland) Regulations 2001

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PART I

GENERAL

1 Citation, commencement and interpretation

(1) These Regulations may be cited as the Health Boards (Membership and Procedure) (Scotland) Regulations 2001 and shall come into force on 28th September 2001.

(2) In these Regulations, unless the context otherwise requires-

- "the 1997 Act" means the National Health Service Act 1977^[2];
- "the Act" means the National Health Service (Scotland) Act 1978;
- "Board" means a Health Board constituted under section 2(1) of the Act;
- "the Charity Commissioners" means the Charity Commissioners constituted in accordance with section 1 of the Charities Act 1993^[3];
- "Chief Officer" means the person or persons holding the post of Chief Executive;
- "committee" means a committee of a Board and includes "sub-committee"
- "contract" includes any arrangement including a NHS contract;
- "health service body" means a person or body specified in section 17A(2) of the Act^[4];
- "meeting" means a meeting of the Board or of any committee;
- "member" means a member of a Board and includes the chairperson;
- "NHS trust" means a National Health Service trust established under section 12A of the Act^[5].

(3) A reference in these Regulations to a numbered regulation is to the regulation bearing that number in these Regulations and a reference in a regulation to a numbered paragraph is to the paragraph bearing that number in that regulation and a reference to the Schedule is to the Schedule to these Regulations.

PART II
MEMBERSHIP

2 Appointment and term of office

- (1) All members shall be appointed by the Scottish Ministers.
- (2) The term of office of the members shall, subject to regulation 5, be for such period as the Scottish Ministers shall specify on making the appointment.
- (3) After the expiration of a term of office a member shall, subject to regulation 6, be eligible for re-appointment.

3 University members

For the purposes of paragraph 2A of Schedule 1 to the Act^[6] the Boards in which at least one of the persons appointed to be chairperson or a member must hold a post in a university with a medical or dental school are the Boards in Grampian, Greater Glasgow, Lothian and Tayside.

4 Remuneration of members

Remuneration may be paid, in accordance with such determination as may be made by the Scottish Ministers, under paragraph 4 of Schedule 1 to the Act^[7], to the chairperson, a member appointed under paragraph 2A of Schedule 1 to the Act holding a post in a university and any of the other members, except any members holding the position of Chief Officer, Chief Finance Officer or Director of Public Health of a Board, or Chief Officer of a National Health Service trust.

5 Resignation and removal of members

- (1) A member may resign office at any time during the period of appointment by giving notice in writing to the Scottish Ministers to this effect.
- (2) If the Scottish Ministers consider that it is not in the interests of the health service that a member of a Board should continue to hold that office they may forthwith terminate that person's appointment.
- (3) If a member has not attended any meeting of the Board, or of any committee of which they are a member, for a period of six consecutive months, the Scottish Ministers shall forthwith terminate that person's appointment unless the Scottish Ministers are satisfied that:
 - (a) the absence was due to illness or other reasonable cause; and
 - (b) the member will be able to attend meetings within such period as the Scottish Ministers consider reasonable.
- (4) Where a member who was appointed for the purposes of paragraph 2A of Schedule 1 to the Act ceases to hold the post in a university with a medical or dental school, which was held at the time of appointment for those purposes, the Scottish Ministers may terminate the appointment of that person as a member.

(5) Where any member becomes disqualified in terms of regulation 6 that member shall forthwith cease to be a member.

6 Disqualification

(1) Subject to paragraphs (2) and (3), a person shall be disqualified for being a member, if-

(a) they have, within the period of five years immediately preceding the proposed date of appointment, been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence in respect of which they have received a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;

(b) their estate has been sequestrated in Scotland or they have otherwise been adjudged bankrupt elsewhere than in Scotland, they have granted a trust deed for the benefit of their creditors or entered into any arrangement with their creditors, or a curator bonis or judicial factor has been appointed over their affairs;

(c) they have resigned or been removed or been dismissed, otherwise than by reason of redundancy, from any paid employment or office with a health service body;

(d) they are a person whose appointment as the chairperson, member or director of a health service body has been terminated other than by the expiration of their term of office;

(e) they are a chairperson, member, director or employee of a health service body;

(f) they have had their name removed, by a direction under section 29 of the Act[8], from any list prepared under Part II of the Act and have not subsequently had their name included in such a list;

(g) they are a person whose name has been included in any list prepared under Part II of the Act, and whose name has been withdrawn from the list on their own application;

(h) they have had their name removed, by a direction under section 46 of the 1977 Act[9] from any list prepared under Part II of the 1977 Act and have not subsequently had their name included in such a list;

(i) they are a person whose name has been included in any list prepared under Part II of the 1977 Act, and whose name has been withdrawn from the list on their own application;

(j) they are a person who is subject to a disqualification order under the Company Directors Disqualification Act 1986[10]; or

(k) they are a person who has been removed from the position of trustee of a charity, whether by the court or by the Charity Commissioner.

(2) For the purpose of paragraph (1)-

(a) the disqualification attaching to a person whose estate has been sequestrated shall cease if and when-

- (i) the sequestration of their estate is recalled or reduced; or
- (ii) the sequestration is discharged;

(b) the disqualification attaching to a person by reason of their having been adjudged bankrupt shall cease if and when-

- (i) the bankruptcy is annulled; or
- (ii) they are discharged;

(c) the disqualification attaching to a person in relation to whose estate a judicial factor has been appointed shall cease if and when-

- (i) that appointment is recalled; or
- (ii) the judicial factor is discharged;

(d) the disqualification attaching to a person who has granted a trust deed or entered into an arrangement with their creditors shall cease if and when that person pays their creditors in full or on the expiry of five years from the date of their granting the deed or entering into the arrangement.

(3) The Scottish Ministers may direct that in relation to any individual person or Board any disqualification so directed shall not apply in relation thereto.

(4) For the purposes of paragraph (1)(a) the date of conviction shall be deemed to be the date on which the days of appeal expire without any appeal having been lodged, or if an appeal has been made, the date on which the appeal is finally disposed of or treated as having been abandoned.

7 Appointment and powers of vice-chairperson

(1) For the purpose of enabling the business of a Board to be conducted in the absence of the chairperson, each Board shall appoint a member who does not also hold the position of Chief Officer, Chief Finance Officer or Director of Public Health of a Board, or Chief Officer of a National Health Service trust to be vice-chairperson and any person so appointed shall, so long as they remain a member of the Board, hold office as vice-chairperson for such period as the Board may decide.

(2) Any member so appointed may at any time resign from the office of vice-chairperson by giving notice in writing to the chairperson and the members may appoint another member as vice-chairperson in accordance with paragraph (1).

(3) Where the chairperson of a Board has died or has ceased to hold office or where that person has been unable to perform their duties as chairperson owing to illness, absence from Scotland or any other cause, the vice-chairperson shall take the place of the chairperson in the conduct of the business of the Board and references to the chairperson shall, so long as there is no chairperson able to perform their duties, be taken to include references to the vice-chairperson.

PART III
PROCEEDINGS

8 Meetings and minutes

- (1) The meetings and proceedings of the Board shall be conducted in accordance with standing orders made pursuant to regulation 9.
- (2) At every meeting of a Board, the chairperson, if present, shall preside.
- (3) If the chairperson is absent from any meeting, the vice-chairperson, if present, shall preside, and if the chairperson and vice-chairperson are both absent, the members present at the meeting shall elect from among themselves a person, who does not also hold the position of Chief Officer, Chief Finance Officer or Director of Public Health of a Board, or Chief Officer of a National Health Service trust, to act as chairperson for that meeting.
- (4) All acts of, and all questions coming and arising before, a Board shall be done and decided by a majority of the members of the Board present and voting at a meeting of the Board and, in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.
- (5) The proceedings of a Board or of any committee shall not be invalidated by any vacancy in its membership or by any defect in the appointment of any member of such committee.

9 Standing orders

- (1) Subject to paragraph (2) and to such directions as may be given by the Scottish Ministers, each Board shall make, and may vary and revoke, standing orders for the regulation of the procedure and business of the Board and of any committee.
- (2) Standing Orders under paragraph (1) should include the matters set out in the Schedule.

10 Appointment and functions of committees

- (1) A Board may, and if so directed by the Scottish Ministers shall, appoint committees for such purposes as the Board may determine, subject to such restrictions or conditions as the Board may think fit, or as the Scottish Ministers may direct.
- (2) Any committee, but not including any sub-committee, appointed under paragraph (1) shall include at least one member of the Board and may include persons, including trustees of a NHS trust, who are co-opted, and may consist wholly or partly of members of the Board.
- (3) Any sub-committee appointed under paragraph (1) may include persons who are co-opted and may consist wholly or partly of members of the Board or wholly of persons who are not members of the Board.

11 Conflict of interest

(1) Subject to such exceptions and qualifications as may, with the approval of the Scottish Ministers, be specified in standing orders, if a member, or associate of theirs has any pecuniary or other interest, direct or indirect, in any contract or proposed contract (not being a contract for the provision of any of the services mentioned in Part II of the Act) or other matter, and that member is present at a meeting of the Board or of a committee at which the contract or other matter is the subject of consideration, they shall at the meeting, and as soon as practicable after its commencement, disclose the fact, and shall not take part in the consideration and discussion of, the contract, proposed contract or other matter or vote on any question with respect to it.

(2) The Scottish Ministers may, subject to such conditions as they may think fit to impose, remove any disability imposed by this regulation in any case in which it appears to them in the interests of the health service that the disability should be removed.

(3) Any remuneration, compensation or allowances payable to a chairperson or other member by virtue of paragraphs 4, 5 or 13 of Schedule 1 to the Act shall not be treated as a pecuniary interest for the purpose of this regulation.

(4) A member shall not be treated as having an interest in any contract, proposed contract or other matter by reason only that they, or an associate of theirs, has an interest in any company, body or person which is so remote or insignificant that they cannot reasonably be regarded as likely to effect any influence in the consideration or discussion of or in voting on, any question with respect to that contract or matter.

(5) This regulation applies to a committee as it applies to the Board and applies to any member of any such committee (whether or not they are also a member of the Board) as it applies to a member of the Board.

(6) For the purposes of this regulation, the word "associate" has the meaning given by section 74 of the Bankruptcy (Scotland) Act 1985^[11].

PART IV

MISCELLANEOUS

SCHEDULE

Regulation 9

MATTERS TO BE INCLUDED IN STANDING ORDERS REGULATING MEETINGS AND PROCEEDINGS OF THE BOARD AND COMMITTEES

1 Calling meetings

(1) The first meeting of the Board shall be held on such day and at such place as may be fixed by the chairperson and that person shall be responsible for convening the meeting.

(2) The chairperson may call a meeting of the Board at any time and the chairperson of a committee may call a meeting of that committee at any time or and shall call a meeting when required to do so by the Board.

(3) If the chairperson refuses to call a meeting of the Board after a requisition for that purpose specifying the business proposed to be transacted, signed by at least one third of the whole number of members, has been presented to the chairperson or if, without so refusing, the chairperson does not call a meeting within 7 days after such requisition has been presented, those members who presented the requisition may forthwith call a meeting provided that no business shall be transacted at the meeting other than that specified in the requisition.

2 Notice of Meetings

(1) Before each meeting of the Board, a notice of the meeting, specifying the time, place and business proposed to be transacted at it and signed by the chairperson, or by a member authorised by the chairperson to sign on that person's behalf, shall be delivered to every member or sent by post to the usual place of residence of such members so as to be available to them at least three clear days before the meeting.

(2) Lack of service of the notice on any member shall not affect the validity of a meeting.

(3) In the case of a meeting of the Board called by members in default of the chairperson, the notice shall be signed by those members who requisitioned the meeting in accordance with paragraph 1(3).

3 Conflict of interests

(1) A member shall be excluded from a meeting of the Board or committee in accordance with regulation 11 while any contract, proposed contract, or other matter in which they or an associate of theirs has an interest is under consideration.

(2) The exceptions and qualifications referred to in regulation 11(1) shall be specified.

4 Quorum

No business shall be transacted at a meeting of the Board unless there are present, and entitled to vote, at least one third of the whole number of members including at least two members who do not also hold the position of Chief Officer, Chief Finance Officer or Director of Public Health of a Board, or Chief Officer of a National Health Service trust.

5 Conduct of meetings

(1) At any meeting of a committee the chairperson of that committee, if present, shall preside.

(2) If both the chairperson and vice-chairperson (if any) are absent from a meeting of the Board a member, who does not also hold the position of Chief Officer, Chief Finance Officer or Director of Public Health of a Board, or Chief Officer of a National Health Service trust, chosen at the meeting by the members present shall preside.

(3) If both the chairperson and vice-chairperson (if any) of a committee are absent from a meeting of that committee a member of the committee chosen at the meeting by the other members present shall preside.

(4) If it is necessary or expedient to do so a meeting may be adjourned to another day, time and place.

6 Voting

Every question at a meeting shall be determined by a majority of the votes of the members present and voting on the question and, in the case of any equality of votes, the person presiding shall have a second or casting vote.

7 Records

(1) The names of the members present at a meeting shall be recorded.

(2) The minutes of the proceedings of a meeting including any decision or resolution made at that meeting shall be drawn up and submitted to the next ensuing meeting for agreement after which they will be signed by the person presiding at that meeting.

8 Suspension and disqualification

Any member of the Board may on reasonable cause shown be suspended from the Board or disqualified for taking part in any business of the Board in specified circumstances.

SECTION B

MEMBERS CODE OF CONDUCT

CODE OF CONDUCT for MEMBERS of NHS BORDERS

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SECTION 1: INTRODUCTION TO THE CODE OF CONDUCT

1.1 The Scottish public has a high expectation of those who serve on the boards of public bodies and the way in which they should conduct themselves in undertaking their duties. You must meet those expectations by ensuring that your conduct is above reproach.

1.2 The Ethical Standards in Public Life etc. (Scotland) Act 2000, “the Act”, provides for Codes of Conduct for local authority councillors and members of relevant public bodies; imposes on councils and relevant public bodies a duty to help their members to comply with the relevant code; and establishes a Standards Commission for Scotland, “The Standards Commission” to oversee the new framework and deal with alleged breaches of the codes.

1.3 The Act requires the Scottish Ministers to lay before Parliament a Code of Conduct for Councillors and a Model Code for Members of Devolved Public Bodies. The Model Code for members was first introduced in 2002 and has now been revised in December 2013 following consultation and the approval of the Scottish Parliament. These revisions will make it consistent with the relevant parts of the Code of Conduct for Councillors, which was revised in 2010 following the approval of the Scottish Parliament.

1.4 As a member of Borders NHS Board “the Board”, it is your responsibility to make sure that you are familiar with, and that your actions comply with, the provisions of this Code of Conduct which has now been made by the Board.

Appointments to the Boards of Public Bodies

1.5 Public bodies in Scotland are required to deliver effective services to meet the needs of an increasingly diverse population. In addition, the Scottish Government’s equality outcome on public appointments is to ensure that Ministerial appointments are more diverse than at present. In order to meet both of these aims, a board should ideally be drawn from varied backgrounds with a wide spectrum of characteristics, knowledge and experience. It is crucial to the success of public bodies that they attract the best people for the job and therefore it is essential that a board’s appointments process should encourage as many suitable people to apply for positions and be free from unnecessary barriers. You should therefore be aware of the varied roles and functions of the public body on which you serve and of wider diversity and equality issues. You should also take steps to familiarise yourself with the appointment process that your board will have agreed with the Scottish Government’s Public Appointment Centre of Expertise.

1.6 You should also familiarise yourself with how the public body’s policy operates in relation to succession planning, which should ensure public bodies have a strategy to make sure they have the staff in place with the skills, knowledge and experience necessary to fulfil their role economically, efficiently and effectively.

Guidance on the Code of Conduct

1.7 You must observe the rules of conduct contained in this Code. It is your personal responsibility to comply with these and review regularly, and at least annually, your personal circumstances with this in mind, particularly when your circumstances change.

You must not at any time advocate or encourage any action contrary to the Code of Conduct.

1.8 The Code has been developed in line with the key principles listed in Section 2 and provides additional information on how the principles should be interpreted and applied in practice. The Standards Commission may also issue guidance. No Code can provide for all circumstances and if you are uncertain about how the rules apply, you should seek advice from the public body. You may also choose to consult your own legal advisers and, on detailed financial and commercial matters, seek advice from other relevant professionals.

1.9 You should familiarise yourself with the Scottish Government publication “On Board – a guide for board members of public bodies in Scotland”. This publication will provide you with information to help you in your role as a member of a public body in Scotland and can be viewed on the Scottish Government website.

Enforcement

1.10 Part 2 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 sets out the provisions for dealing with alleged breaches of this Code of Conduct and where appropriate the sanctions that will be applied if the Standards Commission finds that there has been a breach of the Code. Those sanctions are outlined in **Annex A**.

SECTION 2: KEY PRINCIPLES OF THE CODE OF CONDUCT

2.1 The general principles upon which this Code is based should be used for guidance and interpretation only. These general principles are:

Duty

You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interests of the public body of which you are a member and in accordance with the core functions and duties of that body.

Selflessness

You have a duty to take decisions solely in terms of public interest. You must not act in order to gain financial or other material benefit for yourself, family or friends.

Integrity

You must not place yourself under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.

Objectivity

You must make decisions solely on merit and in a way that is consistent with the functions of the public body when carrying out public business including making appointments, awarding contracts or recommending individuals for rewards and benefits.

Accountability and Stewardship

You are accountable for your decisions and actions to the public. You have a duty to consider issues on their merits, taking account of the views of others and must ensure that the public body uses its resources prudently and in accordance with the law.

Openness

You have a duty to be as open as possible about your decisions and actions, giving reasons for your decisions and restricting information only when the wider public interest clearly demands.

Honesty

You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

You have a duty to promote and support these principles by leadership and example, and to maintain and strengthen the public's trust and confidence in the integrity of the public body and its members in conducting public business.

Respect

You must respect fellow members of your public body and employees of the body and the role they play, treating them with courtesy at all times. Similarly you must respect members of the public when performing duties as a member of your public body.

2.2 You should apply the principles of this Code to your dealings with fellow members of the public body, its employees and other stakeholders. Similarly you should also observe the principles of this Code in dealings with the public when performing duties as a member of the public body.

SECTION 3: GENERAL CONDUCT

3.1 The rules of good conduct in this section must be observed in all situations where you act as a member of the public body.

Conduct at Meetings

3.2 You must respect the chair, your colleagues and employees of the public body in meetings. You must comply with rulings from the chair in the conduct of the business of these meetings.

Relationship with Board Members and Employees of the Public Body (including those employed by contractors providing services)

3.3 You will treat your fellow board members and any staff employed by the body with courtesy and respect. It is expected that fellow board members and employees will show you the same consideration in return. It is good practice for employers to provide examples of what is unacceptable behaviour in their organisation. Public bodies should promote a safe, healthy and fair working environment for all. As a board member you should be familiar with the policies of the public body in relation to bullying and harassment in the workplace and also lead by exemplar behaviour.

Remuneration, Allowances and Expenses

3.4 You must comply with any rules of the public body regarding remuneration, allowances and expenses.

Gifts and Hospitality

3.5 You must not accept any offer by way of gift or hospitality which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour, or disadvantage, to any individual or organisation. You should also consider whether there may be any reasonable perception that any gift received by your spouse or cohabitee or by any company in which you have a controlling interest, or by a partnership of which you are a partner, can or would influence your judgement. The term “gift” includes benefits such as relief from indebtedness, loan concessions or provision of services at a cost below that generally charged to members of the public.

3.6 You must never ask for gifts or hospitality.

3.7 You are personally responsible for all decisions connected with the offer or acceptance of gifts or hospitality offered to you and for avoiding the risk of damage to public confidence in your public body. As a general guide, it is usually appropriate to refuse offers except:

- (a) isolated gifts of a trivial character, the value of which must not exceed £50;
- (b) normal hospitality associated with your duties and which would reasonably be regarded as appropriate; or
- (c) gifts received on behalf of the public body.

3.8 You must not accept any offer of a gift or hospitality from any individual or organisation which stands to gain or benefit from a decision your body may be involved in determining, or who is seeking to do business with your organisation, and which a person might reasonably consider could have a bearing on your judgement. If you are making a visit in your capacity as a member of your public body then, as a general rule, you should ensure that your body pays for the cost of the visit.

3.9 You must not accept repeated hospitality or repeated gifts from the same source.

3.10 Members of devolved public bodies should familiarise themselves with the terms of the Bribery Act 2010 which provides for offences of bribing another person and offences relating to being bribed.

Confidentiality Requirements

3.11 There may be times when you will be required to treat discussions, documents or other information relating to the work of the body in a confidential manner. You will often receive information of a private nature which is not yet public, or which perhaps would not be intended to be public. You must always respect the confidential nature of such information and comply with the requirement to keep such information private.

3.12 It is unacceptable to disclose any information to which you have privileged access, for example derived from a confidential document, either orally or in writing. In the case of other documents and information, you are requested to exercise your judgement as to what should or should not be made available to outside bodies or individuals. In any event,

such information should never be used for the purposes of personal or financial gain, or for political purposes or used in such a way as to bring the public body into disrepute.

Use of Public Body Facilities

3.13 Members of public bodies must not misuse facilities, equipment, stationery, telephony, computer, information technology equipment and services, or use them for party political or campaigning activities. Use of such equipment and services etc. must be in accordance with the public body's policy and rules on their usage. Care must also be exercised when using social media networks not to compromise your position as a member of the public body.

Appointment to Partner Organisations

3.14 You may be appointed, or nominated by your public body, as a member of another body or organisation. If so, you are bound by the rules of conduct of these organisations and should observe the rules of this Code in carrying out the duties of that body.

3.15 Members who become directors of companies as nominees of their public body will assume personal responsibilities under the Companies Acts. It is possible that conflicts of interest can arise for such members between the company and the public body. It is your responsibility to take advice on your responsibilities to the public body and to the company. This will include questions of declarations of interest.

SECTION 4: REGISTRATION OF INTERESTS

4.1 The following paragraphs set out the kinds of interests, financial and otherwise which you have to register. These are called "Registerable Interests". You must, at all times, ensure that these interests are registered, when you are appointed and whenever your circumstances change in such a way as to require change or an addition to your entry in the body's Register. It is your duty to ensure any changes in circumstances are reported within one month of them changing.

4.2 The Regulations¹ as amended describe the detail and timescale for registering interests. It is your personal responsibility to comply with these regulations and you should review regularly and at least once a year your personal circumstances. **Annex B** contains key definitions and explanatory notes to help you decide what is required when registering your interests under any particular category. The interests which require to be registered are those set out in the following paragraphs and relate to you. It is not necessary to register the interests of your spouse or cohabitee.

Category One: Remuneration

4.3 You have a Registerable Interest where you receive remuneration by virtue of being:

- employed;
- self-employed;
- the holder of an office;

¹ SSI - The Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003 Number 135, as amended.

- a director of an undertaking;
- a partner in a firm; or
- undertaking a trade, profession or vocation or any other work.

4.4 In relation to 4.3 above, the amount of remuneration does not require to be registered and remuneration received as a member does not have to be registered.

4.5 If a position is not remunerated it does not need to be registered under this category. However, unremunerated directorships may need to be registered under category two, “Related Undertakings”.

4.6 If you receive any allowances in relation to membership of any organisation, the fact that you receive such an allowance must be registered.

4.7 When registering employment, you must give the name of the employer, the nature of its business, and the nature of the post held in the organisation.

4.8 When registering self-employment, you must provide the name and give details of the nature of the business. When registering an interest in a partnership, you must give the name of the partnership and the nature of its business.

4.9 Where you undertake a trade, profession or vocation, or any other work, the detail to be given is the nature of the work and its regularity. For example, if you write for a newspaper, you must give the name of the publication, and the frequency of articles for which you are paid.

4.10 When registering a directorship, it is necessary to provide the registered name of the undertaking in which the directorship is held and the nature of its business.

4.11 Registration of a pension is not required as this falls outside the scope of the category.

Category Two: Related Undertakings

4.12 You must register any directorships held which are themselves not remunerated but where the company (or other undertaking) in question is a subsidiary of, or a parent of, a company (or other undertaking) in which you hold a remunerated directorship.

4.13 You must register the name of the subsidiary or parent company or other undertaking and the nature of its business, and its relationship to the company or other undertaking in which you are a director and from which you receive remuneration.

4.14 The situations to which the above paragraphs apply are as follows:

- you are a director of a board of an undertaking and receive remuneration declared under category one – and
- you are a director of a parent or subsidiary undertaking but do not receive remuneration in that capacity.

Category Three: Contracts

4.15 You have a registerable interest where you (or a firm in which you are a partner, or an undertaking in which you are a director or in which you have shares of a value as described in paragraph 4.19 below) have made a contract with the public body of which you are a member:

- (i) under which goods or services are to be provided, or works are to be executed; and
- (ii) which has not been fully discharged.

4.16 You must register a description of the contract, including its duration, but excluding the consideration.

Category Four: Houses, Land and Buildings

4.17 You have a registerable interest where you own or have any other right or interest in houses, land and buildings, which may be significant to, of relevance to, or bear upon, the work and operation of the body to which you are appointed.

4.18 The test to be applied when considering appropriateness of registration is to ask whether a member of the public acting reasonably might consider any interests in houses, land and buildings could potentially affect your responsibilities to the organisation to which you are appointed and to the public, or could influence your actions, speeches or decision making.

Category Five: Interest in Shares and Securities

4.19 You have a registerable interest where you have an interest in shares comprised in the share capital of a company or other body which may be significant to, of relevance to, or bear upon, the work and operation of (a) the body to which you are appointed and (b) the **nominal value** of the shares is:

- (i) greater than 1% of the issued share capital of the company or other body; or
- (ii) greater than £25,000.

Where you are required to register the interest, you should provide the registered name of the company in which you hold shares; the amount or value of the shares does not have to be registered.

Category Six: Gifts and Hospitality

4.20 You must register the details of any gifts or hospitality received within your current term of office. This record will be available for public inspection. It is not however necessary to record any gifts or hospitality as described in paragraph 3.7 (a) to (c) of this Model Code.

Category Seven: Non-Financial Interests

4.21 You may also have a registerable interest if you have non-financial interests which may be significant to, of relevance to, or bear upon, the work and operation of the body to which you are appointed. It is important that relevant interests such as membership or holding office in other public bodies, clubs, societies and organisations such as trades unions and voluntary organisations, are registered and described.

4.22 In the context of non-financial interests, the test to be applied when considering appropriateness of registration is to ask whether a member of the public might reasonably think that any non-financial interest could potentially affect your responsibilities to the organisation to which you are appointed and to the public, or could influence your actions, speeches or decision-making.

SECTION 5: DECLARATION OF INTERESTS

General

5.1 The key principles of the Code, especially those in relation to integrity, honesty and openness, are given further practical effect by the requirement for you to declare certain interests in proceedings of the public body. Together with the rules on registration of interests, this ensures transparency of your interests which might influence, or be thought to influence, your actions.

5.2 Public bodies inevitably have dealings with a wide variety of organisations and individuals and this Code indicates the circumstances in which a business or personal interest must be declared. Public confidence in the public body and its members depends on it being clearly understood that decisions are taken in the public interest and not for any other reason.

5.3 In considering whether to make a declaration in any proceedings, you must consider not only whether you will be influenced but whether anybody else would think that you might be influenced by the interest. You must, however, always comply with the **objective test** (“the objective test”) which is whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a member of a public body.

5.4 If you feel that, in the context of the matter being considered, your involvement is neither capable of being viewed as more significant than that of an ordinary member of the public, nor likely to be perceived by the public as wrong, you may continue to attend the meeting and participate in both discussion and voting. The relevant interest must however be declared. It is your responsibility to judge whether an interest is sufficiently relevant to particular proceedings to require a declaration and you are advised to err on the side of caution. If a board member is unsure as to whether a conflict of interest exists, they should seek advice from the board chair.

5.5 As a member of a public body you might serve on other bodies. In relation to service on the boards and management committees of limited liability companies, public bodies, societies and other organisations, you must decide, in the particular circumstances surrounding any matter, whether to declare an interest. Only if you believe that, in the

particular circumstances, the nature of the interest is so remote or without significance, should it not be declared. You must always remember the public interest points towards transparency and, in particular, a possible divergence of interest between your public body and another body. Keep particularly in mind the advice in paragraph 3.15 of this Model Code about your legal responsibilities to any limited company of which you are a director.

Interests which Require Declaration

5.6 Interests which require to be declared if known to you may be financial or non-financial. They may or may not cover interests which are registerable under the terms of this Code. Most of the interests to be declared will be your personal interests but, on occasion, you will have to consider whether the interests of other persons require you to make a declaration. The paragraphs which follow deal with (a) your financial interests (b) your non-financial interests and (c) the interests, financial and non-financial, of other persons.

5.7 You will also have other private and personal interests and may serve, or be associated with, bodies, societies and organisations as a result of your private and personal interests and not because of your role as a member of a public body. In the context of any particular matter you will need to decide whether to declare an interest. You should declare an interest unless you believe that, in the particular circumstances, the interest is too remote or without significance. In reaching a view on whether the objective test applies to the interest, you should consider whether your interest (whether taking the form of association or the holding of office) would be seen by a member of the public acting reasonably in a different light because it is the interest of a person who is a member of a public body as opposed to the interest of an ordinary member of the public.

Your Financial Interests

5.8 You must declare, if it is known to you, any financial interest (including any financial interest which is registerable under any of the categories prescribed in Section 4 of this Code). If, under category one (or category seven in respect of non-financial interests) of section 4 of this Code, you have registered an interest

- (a) as an employee of the Board; or
- (b) as a Councillor or a Member of another Devolved Public Body where the Council or other Devolved Public Body, as the case may be, has nominated or appointed you as a Member of the Board;

you do not, for that reason alone, have to declare that interest.

There is no need to declare an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

You must withdraw from the meeting room until discussion of the relevant item where you have a declarable interest is concluded. There is no need to withdraw in the case of an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

Your Non-Financial Interests

5.9 You must declare, if it is known to you, any non-financial interest if:

- (i) that interest has been registered under category seven (Non-Financial Interests) of Section 4 of the Code; or
- (ii) that interest would fall within the terms of the objective test.

There is no need to declare an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

You must withdraw from the meeting room until discussion of the relevant item where you have a declarable interest is concluded. There is no need to withdraw in the case of an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

The Financial Interests of Other Persons

5.10 The Code requires only your financial interests to be registered. You also, however, have to consider whether you should declare any financial interest of certain other persons.

You must declare if it is known to you any financial interest of:-

- (i) a spouse, a civil partner or a co-habitee;
- (ii) a close relative, close friend or close associate;
- (iii) an employer or a partner in a firm;
- (iv) a body (or subsidiary or parent of a body) of which you are a remunerated member or director;
- (v) a person from whom you have received a registerable gift or registerable hospitality;
- (vi) a person from whom you have received registerable expenses.

There is no need to declare an interest if it is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

You must withdraw from the meeting room until discussion of and voting on the relevant item where you have a declarable interest is concluded. There is no need to withdraw in the case of an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

5.11 This Code does not attempt the task of defining “relative” or “friend” or “associate”. Not only is such a task fraught with difficulty but is also unlikely that such definitions would reflect the intention of this part of the Code. The key principle is the need for transparency in regard to any interest which might (regardless of the precise description of relationship) be objectively regarded by a member of the public, acting reasonably, as potentially affecting your responsibilities as a member of the public body and, as such, would be covered by the objective test.

The Non-Financial Interests of Other Persons

5.12 You must declare if it is known to you any non-financial interest of:-

- (i) a spouse, a civil partner or a co-habitee;

- (ii) a close relative, close friend or close associate;
- (iii) an employer or a partner in a firm;
- (iv) a body (or subsidiary or parent of a body) of which you are a remunerated member or director;
- (v) a person from whom you have received a registerable gift or registerable hospitality;
- (vi) a person from whom you have received registerable election expenses.

There is no need to declare the interest if it is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

There is only a need to withdraw from the meeting if the interest is clear and substantial.

Making a Declaration

5.13 You must consider at the earliest stage possible whether you have an interest to declare in relation to any matter which is to be considered. You should consider whether agendas for meetings raise any issue of declaration of interest. Your declaration of interest must be made as soon as practicable at a meeting where that interest arises. If you do identify the need for a declaration of interest only when a particular matter is being discussed you must declare the interest as soon as you realise it is necessary.

5.14 The oral statement of declaration of interest should identify the item or items of business to which it relates. The statement should begin with the words "I declare an interest". The statement must be sufficiently informative to enable those at the meeting to understand the nature of your interest but need not give a detailed description of the interest.

Frequent Declarations of Interest

5.15 Public confidence in a public body is damaged by perception that decisions taken by that body are substantially influenced by factors other than the public interest. If you would have to declare interests frequently at meetings in respect of your role as a board member you should not accept a role or appointment with that attendant consequence. If members are frequently declaring interests at meetings then they should consider whether they can carry out their role effectively and discuss with their chair. Similarly, if any appointment or nomination to another body would give rise to objective concern because of your existing personal involvement or affiliations, you should not accept the appointment or nomination.

Dispensations

5.16 In some very limited circumstances dispensations can be granted by the Standards Commission in relation to the existence of financial and non-financial interests which would otherwise prohibit you from taking part and voting on matters coming before your public body and its committees.

5.17 Applications for dispensations will be considered by the Standards Commission and should be made as soon as possible in order to allow proper consideration of the

application in advance of meetings where dispensation is sought. You should not take part in the consideration of the matter in question until the application has been granted.

SECTION 6: LOBBYING AND ACCESS TO MEMBERS OF PUBLIC BODIES

Introduction

6.1 In order for the public body to fulfil its commitment to being open and accessible, it needs to encourage participation by organisations and individuals in the decision-making process. Clearly however, the desire to involve the public and other interest groups in the decision-making process must take account of the need to ensure transparency and probity in the way in which the public body conducts its business.

6.2 You will need to be able to consider evidence and arguments advanced by a wide range of organisations and individuals in order to perform your duties effectively. Some of these organisations and individuals will make their views known directly to individual members. The rules in this Code set out how you should conduct yourself in your contacts with those who would seek to influence you. They are designed to encourage proper interaction between members of public bodies, those they represent and interest groups.

Rules and Guidance

6.3 You must not, in relation to contact with any person or organisation that lobbies do anything which contravenes this Code or any other relevant rule of the public body or any statutory provision.

6.4 You must not, in relation to contact with any person or organisation who lobbies, act in any way which could bring discredit upon the public body.

6.5 The public must be assured that no person or organisation will gain better access to or treatment by, you as a result of employing a company or individual to lobby on a fee basis on their behalf. You must not, therefore, offer or accord any preferential access or treatment to those lobbying on a fee basis on behalf of clients compared with that which you accord any other person or organisation who lobbies or approaches you. Nor should those lobbying on a fee basis on behalf of clients be given to understand that preferential access or treatment, compared to that accorded to any other person or organisation, might be forthcoming from another member of the public body.

6.6 Before taking any action as a result of being lobbied, you should seek to satisfy yourself about the identity of the person or organisation that is lobbying and the motive for lobbying. You may choose to act in response to a person or organisation lobbying on a fee basis on behalf of clients but it is important that you know the basis on which you are being lobbied in order to ensure that any action taken in connection with the lobbyist complies with the standards set out in this Code.

6.7 You should not accept any paid work:-

- (a) which would involve you lobbying on behalf of any person or organisation or any clients of a person or organisation.
- (b) to provide services as a strategist, adviser or consultant, for example, advising on how to influence the public body and its members. This does not prohibit you from

being remunerated for activity which may arise because of, or relate to, membership of the public body, such as journalism or broadcasting, or involvement in representative or presentational work, such as participation in delegations, conferences or other events.

6.8 If you have concerns about the approach or methods used by any person or organisation in their contacts with you, you must seek the guidance of the public body.

ANNEX A

SANCTIONS AVAILABLE TO THE STANDARDS COMMISSION FOR BREACH OF THE CODE

- (a) Censure – the Commission may reprimand the member but otherwise take no action against them;
- (b) Suspension – of the member for a maximum period of one year from attending one or more, but not all, of the following:
 - i) all meetings of the public body;
 - ii) all meetings of one or more committees or sub-committees of the public body;
 - (iii) all meetings of any other public body on which that member is a representative or nominee of the public body of which they are a member.
- (c) Suspension – for a period not exceeding one year, of the member's entitlement to attend all of the meetings referred to in (b) above;
- (d) Disqualification – removing the member from membership of that public body for a period of no more than five years.

Where a member has been suspended, the Standards Commission may direct that any remuneration or allowance received from membership of that public body be reduced, or not paid.

Where the Standards Commission disqualifies a member of a public body, it may go on to impose the following further sanctions:

- (a) Where the member of a public body is also a councillor, the Standards Commission may disqualify that member (for a period of no more than five years) from being nominated for election as, or from being elected, a councillor. Disqualification of a councillor has the effect of disqualifying that member from their public body and terminating membership of any committee, sub-committee, joint committee, joint board or any other body on which that member sits as a representative of their local authority.
- (b) Direct that the member be removed from membership, and disqualified in respect of membership, of any other devolved public body (provided the members' code applicable to that body is then in force) and may disqualify that person from office as the Water Industry Commissioner.

In some cases the Standards Commission do not have the legislative powers to deal with sanctions, for example if the respondent is an executive member of the board or appointed by the Queen. Sections 23 and 24 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 refer.

Full details of the sanctions are set out in Section 19 of the Act.

ANNEX B

DEFINITIONS

“**Chair**” includes Board Convener or any person discharging similar functions under alternative decision making structures.

“**Code**” code of conduct for members of devolved public bodies

“**Cohabitee**” includes a person, whether of the opposite sex or not, who is living with you in a relationship similar to that of husband and wife.

“**Group of companies**” has the same meaning as “group” in section 262(1) of the Companies Act 1985. A “group”, within s262 (1) of the Companies Act 1985, means a parent undertaking and its subsidiary undertakings.

“**Parent Undertaking**” is an undertaking in relation to another undertaking, a subsidiary undertaking, if a) it holds a majority of the rights in the undertaking; or b) it is a member of the undertaking and has the right to appoint or remove a majority of its board of directors; or c) it has the right to exercise a dominant influence over the undertaking (i) by virtue of provisions contained in the undertaking’s memorandum or articles or (ii) by virtue of a control contract; or d) it is a councillor of the undertaking and controls alone, pursuant to an agreement with other shareholders or councillors, a majority of the rights in the undertaking.

“**A person**” means a single individual or legal person and includes a group of companies.

“**Any person**” includes individuals, incorporated and unincorporated bodies, trade unions, charities and voluntary organisations.

“**Public body**” means a devolved public body listed in Schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, as amended.

“**Related Undertaking**” is a parent or subsidiary company of a principal undertaking of which you are also a director. You will receive remuneration for the principal undertaking though you will not receive remuneration as director of the related undertaking.

“**Remuneration**” includes any salary, wage, share of profits, fee, expenses, other monetary benefit or benefit in kind. This would include, for example, the provision of a company car or travelling expenses by an employer.

“**Spouse**” does not include a former spouse or a spouse who is living separately and apart from you.

“**Undertaking**” means:

- a) a body corporate or partnership; or
- b) an unincorporated association carrying on a trade or business, with or without a view to a profit.

SECTION C

STANDARDS OF BUSINESS CONDUCT FOR NHS STAFF

STANDARDS OF BUSINESS CONDUCT FOR NHS STAFF

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- 2. Principles of conduct within NHS Borders**
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Section C - Appendix 1: Distribution and Endorsement of Products from Commercial Companies

Section C - Appendix 2: Guidance on the further requirements of NHS staff when meeting with representatives of the pharmaceutical industry

Section C – Appendix 3: Criteria for NHS Borders Corporate Endorsements

STANDARDS OF BUSINESS CONDUCT FOR NHS STAFF

1. Introduction

All NHS staff and holders of honorary contracts who commit NHS resources directly or indirectly must be impartial and honest in their conduct of business and all employees must remain beyond suspicion. It is an offence under the Bribery Act 2010 which makes it a criminal offence for any employee to accept any inducement for giving any person or body of persons an advantage to perform a relevant function or activity. Individuals found guilty of bribery can be liable to a term of imprisonment and/or a fine. NHS MEL (1994) 48 details the principles for codes of conduct and accountability in situations where there is potential conflict between the private interests of NHS staff and their NHS duties and requires the establishment of a local code of conduct.

The purpose of these standards is to ensure that all NHS Borders employees are aware of their duties under The Bribery Act 2010 and NHS MEL (1994) 48 and to protect them from situations where they may be placed in a conflict of interest.

2. Principles of conduct within NHS Borders

NHS Borders employees are expected to:-

- Ensure that the interest of patients remain first at all times;
- Ensure that all identifiable personal information relating to patients or staff is kept secure and confidential at all times and in accordance with the Data Protection Act 1998. NHS Borders has implemented a privacy breach detection system (FairWarning) to assist in monitoring inappropriate access to confidential data
- Be impartial and honest in the conduct of their official business;
- Use the public funds entrusted to them to the best advantage of the service, always ensuring value for money.

It is also the responsibility of all staff to ensure that they do not:

- Abuse their official position for the personal gain or to the benefit of their family or friends;
- Undertake outside employment that could compromise their NHS duties;
- Seek to advantage or further their private business or interest in the course of their official duties;
- Staff must protect themselves and NHS Borders from any allegations of impropriety by seeking advice from their line manager, or from the appropriate contact point, whenever there is any doubt as to the interpretation of this policy.

3. Action for managers

Managers must adhere to this guidance and ensure that their staff are aware of and comply with these Standards. To achieve this, each manager should record their receipt and understanding of the Standards of Business Conduct for NHS staff, together with evidence that all their staff have been informed of its contents. All staff should be asked to confirm their understanding of the Standards of Business Conduct for NHS staff and formally record any interests, outside employment, etc, during their annual appraisal.

Where an interest, hospitality or relevant outside employment is declared to a manager, they must record that declaration in the employee's personal file together with any instructions issued to the member of staff in relation to the declaration. All declarations of interests, hospitality, or relevant outside employment should be notified to the Board Secretary. Any gifts or hospitality, which are unusual, or likely to arouse controversy, should also be notified to the Board Secretary as well as the Director of Finance.

Managers should consider whether outside employment declared by employees is likely to conflict with their NHS work or be detrimental to it. Generally, directorship of or work with an identified NHS supplier, or business competing with the NHS, would be unacceptable.

If a manager is informed of a potential conflict of interest, hospitality or outside employment which has not been declared by a member of their staff, they must inform the Director of Finance.

4. Guidance for staff

Staff should:

- Make sure that they understand the details of Standards of Business Conduct for NHS Staff and seek advice from their line manager if they are unsure;
- Make sure that they are not in a position where private interest and NHS duties conflict;
- Declare any relevant interest to their line manager;
- Seek the permission of the line manager prior to taking on outside work if there is conflict of interests;
- Obtain permission from their line manager before accepting sponsorship;
- Be aware that all breaches of Corporate Governance will be reported to NHS Borders Audit Committee.

Staff should not:

- Accept any gifts, inducements or inappropriate hospitality which will place them in a position of conflict between their private interest and that required of their NHS duties;
- Abuse past or present official position to obtain preferential rates for private deals;
- Unfairly advantage one competitor over another or show favouritism in awarding contracts;
- Misuse official information.

5. Gifts

Gifts, which could place an individual in a position of conflict, between their private interests and that required in their NHS duties should be declined. MEL (1994) 48 provides that staff may accept gifts of low intrinsic value or small tokens of gratitude (such as diaries or calendars). NHS Borders has set an acceptable level of £20. If in doubt, staff must contact their line manager before acceptance.

All gifts accepted within the limit by staff must be declared to their line manager. Managers should on a regular basis provide this information to the Board Secretary for recording in the Register of Gifts and Hospitality.

6. Hospitality

Staff may accept modest hospitality, provided that it is normal and reasonable in the circumstances, e.g. lunches in the course of working visits, may be acceptable, though it should be similar to the scale of hospitality which the NHS as an employer would be likely to offer. NHS Borders has set an acceptable limit of £25 per employee per lunch. Staff should decline all other offers of hospitality. If in doubt, staff should seek advice from their line manager.

All hospitality accepted within the limit by staff must be declared to their line manager. Managers should on a regular basis provide this information to the Board Secretary for recording in the Register of Gifts and Hospitality.

7. Outside interests and secondary employment

Outside interests include directorships, ownership, part-ownership or material shareholdings in companies, business or consultancies likely to seek to do business with the NHS. These should be declared to the individual's line manager, as should the interests of a spouse/partner or close relative.

A particular area of potential conflict of interest is when NHS staff hold a self-beneficial interest in private care homes or hostels. Staff have an obligation to declare such interests to their line manager. Advice on professional conduct issued by the General Medical Council recommends that when a doctor refers a patient to a private care home or hostel in which he or she has an interest, the patient must be informed of that interest before referral is made.

A conflict of interest may arise as a result of an employee accepting secondary employment or an outside post, e.g. with a company that does business, or is in competition with the NHS. Where there is any doubt, the employee must seek advice and approval from their manager before accepting secondary employment or any outside post.

8. Private practice and secondary employment

Prior to taking up private practice or secondary employment staff should seek prior approval from their line manager subject to national terms and conditions or employment contracts

Private practice for medical staff is subject to the conditions outlined in the handbook on the management of private practice in health service hospitals NHS Circular 1987 (GEN) 25 and consultants are subject to the terms detailed therein. Other staff may undertake private practice or work for outside agencies provided they do not do so within the time they are contracted to the NHS and they observe the conditions detailed in this guidance.

Doctors in the training grades should not undertake locum work outside their contract where such work would be in breach of their contracted hours as set out in the terms and conditions of service and hours of control for the training grades.

9. Tendering and contract award

Favouritism should not be shown in awarding contracts and staff should ensure when they are preparing a tender that a warning against corruption in all invitations to

tender is made. See Section F, Standing Financial Instructions, Section 13 and Appendix 1.

10. Registers of interests and gifts and hospitality for staff

A central register of interests will be held by the Chief Executive's Office for Board members. Annually, the Board Secretary will inform Board members of the requirement to register outside interests and employment. Board members will be provided with the relevant form to record any interests.

Annually Board members will be reminded of the requirement to declare any gifts and hospitality received. Managers will also be reminded to provide regular reports to the Board Secretary of any gifts and hospitality received by their staff for recording in the register of gifts and hospitality.

At least annually, the registers will be reviewed by an officer appointed by the Director of Finance and confirmed to be available along with supporting information.

11. Intellectual Property Rights

If an employee invents a new technology, for instance, a device or diagnostic, or otherwise creates intellectual property (IP) as part of the normal duties of their employment, the patent rights in the invention belong to the employer (Patents Act 1977). Although legally the employee is not automatically entitled to any royalty or reward derived from such an invention, they would expect to be acknowledged as the inventor in any patent application.

12. Sponsorship

It is accepted that NHS Borders should benefit from sponsorship opportunities. However, there are certain companies from which sponsorship should not be accepted. Those companies are:

- those whose products have inherent health risks;
- those who manufacture or supply tobacco and alcohol products;
- or those who have a history of failing to meet legislative standards in respect of industrial relations and work conditions, human rights, animal rights or environmental issues.

Sponsorship should not be used to fund what are NHS Borders's primary responsibilities therefore it is not appropriate to use sponsorship to:

- meet the costs of providing health care services
- or when it necessary for staff advising on the purchasing of equipment to expect to see such equipment in operation in other parts of the country (or exceptionally overseas). In these circumstances NHS Borders will meet the cost to maintain the integrity of subsequent purchasing decisions.

However sponsorship can be used to fund what are seen to be secondary activities such as:-

- Materials for education, training and health promotional events;
- Clinical audit projects;
- Production and distribution of educational materials;

- Printing and distribution of guidelines;
- Fund educational and health promotion events;
- Educational grants;
- Facilitate access to research and development work elsewhere;
- Meet the running costs of Board organised events;
- Funding expenses for attendance at local or national conferences;
- Sponsorship of individuals for training courses or research projects.

Sponsorship agreements

A sponsorship agreement must be put in place for all sponsorship activities.

Before taking forward any sponsorship agreements it must be confirmed that no major procurement decision involving the sponsor has been taken by NHS Borders within the preceding six months and none are anticipated in the following six months.

No employee should agree to linked deals where sponsorship is linked to the purchase of a particular product or to supplies from particular sources

Companies offering sponsorship should be sent a copy of NHS Borders's Standards of Business Conduct for NHS Staff and must confirm in writing that they have understood this and will abide by its content.

A sponsorship agreement must then be produced between NHS Borders and the company offering the sponsorship.

The principles upon which any sponsorship agreement must be based are as follows:

- Must protect the interests of individual patients and guard against the use of any single product to the exclusion of other reputable brands on the market;
- Should not undermine or conflict with the ethical requirement of any health care professional including the duty of doctors to provide whatever treatment they consider clinically appropriate;
- Must comply with the requirements for the protection and use of patient information;
- Must not be used to generate a profit for NHS Borders;
- Must be legal and in keeping with the objectives outlined above;
- Will be made public in line with NHS Borders's accountability requirements.

A sponsorship agreement should contain as a minimum the following information:

- Details of the parties to the agreement
- Give a clear description of the sponsorship deal
- Detail the timeframe associate with the sponsorship agreement
- Confirm the credit to be given to the sponsors and this must also detail how this credit will be given to the sponsors. The credit can acknowledge the fact that they have provided the funding for the materials, hospitality or running costs to allow the project or event to be run.

However, the following issues must be made clear:

- That credit for the work or organisation is due to NHS Borders and not the sponsors;

- That the acceptance of sponsorship is not an endorsement of a specific product or drug;
- Any mention of the sponsor will be to the Company and not specifically to any of its products;
- The sponsors may attend any sponsored event and display samples of its products, but it must be clear that NHS Borders is not endorsing or promoting the company or its products.

Once the Sponsorship Agreement is finalised it should be sent by the relevant manager to the Director of Finance for approval and to ensure a co-ordinated and consistent approach to sponsorship deals.

Any final decision on the appropriateness of an offer of sponsorship will rest with the Chief Executive.

Staff must not allow any sponsorship agreements negotiated on behalf of NHS Borders to affect the integrity of their decision making or to influence discussions with patients about treatments or products.

Other relevant forms of sponsorship

Training - Acceptance of sponsorship for attendance at relevant conferences and courses is acceptable but only where the training is consistent with the individual employee's personal development plan (PDP) and or job description. The employee should seek permission in advance from their manager and the manager on behalf of NHS Borders must confirm that there is a need for training but cannot fulfil the training or PDP need. Normally the relevant Clinical Chair should give permission. However, the Clinical Chair should discuss this fully with the Medical Director, in the case of consultant staff.

Posts - Acceptance of sponsorship to sponsor wholly or partially a post may be acceptable if appropriate financial arrangements are agreed in advance with the Director of Finance. In addition, where the sponsorship is accepted, the Director of Workforce and will be fully involved and will be responsible for the establishment of monitoring arrangements to ensure that purchasing decisions are not being influenced by the sponsorship agreement. Any pump-priming or fixed term funded posts must have either a permanent financial arrangement, or an agreed exit strategy in place prior to the commencement of the agreement.

Information - Managers are reminded to take care in using internal information if it would prejudice the principle of a purchasing system based on fair competition. This principle applies whether private competitors or other NHS providers are concerned.

13. Endorsements

NHS Borders must not endorse any specific product or service unless it can be clearly demonstrated that such endorsement clearly links to NHS Borders Corporate Objectives. The Criteria for NHS Borders Corporate Endorsements is attached as Appendix 3.

14. Distribution of products

It is NHS Borders's duty to provide health services for its population and it would not be appropriate to be used as a distribution point for commercial manufacturers and their products.

The commercial promotion and distribution of company products is a retail responsibility and is not the role of NHS Borders health care professionals.

Distribution of products from commercial companies can be viewed as endorsement of the product being distributed. Guidance to staff is that staff should not unfairly advantage one competitor over another or show favouritism in awarding contract. This particularly applies to the distribution of products or samples to pregnant women or new mothers. For further guidance regarding this please see Appendix 1.

15. Working with the pharmaceutical industry

Guidance on the further requirements of NHS staff when meeting with representatives of the Pharmaceutical Industry can be found at Appendix 2 to this section.

16. Remedies

Managers or staff who fail to comply with the guidance detailed in these Standards could be subject, following full investigation, to disciplinary action up to and including dismissal and loss of superannuation rights. If through their actions or omissions, managers or staff are found to be in contravention of either this guidance or indeed their legal responsibilities then NHS Borders reserves the right to take legal action, if necessary. Where staff suspect, or are aware of non-compliance with these Standards, they should report any such instances to their line manager or the Director of Finance.

17. Communication

The Standards of Business Conduct for NHS Staff is applicable to every NHS Borders employee and therefore it is imperative that all staff are informed of its contents. Each manager within NHS Borders will receive a copy of the Standards of Business Conduct and will confirm their receipt and understanding of this in writing as well as confirming that they have a permanent record of formally informing their staff.

18. Contact for further guidance

The Board Secretary will provide advice and guidance on the Standards of Business Conduct for NHS Staff and its interpretation.

19. Induction of new staff

All new staff will be made aware of the Standards of Business Conduct for NHS Staff and its implications for them at induction.

20. Review process

The Standards of Business Conduct for NHS Staff is kept under continual review by managers and trade union/professional organisation representatives through the Corporate Governance Review Group. The document will be reviewed annually or as requested by the Area Partnership Forum.

Section C - Appendix 1:

Distribution and endorsement of products from commercial companies

Commercial companies aggressively target new parents at the point of market entry during pregnancy and birth. They are viewed as a 'niche market, but a lucrative niche Global Baby Marketing (GBM) 2007. Specialist direct marketing companies exist to reach pregnant women and new mothers. Maternity services are subsequently targeted by commercial companies or agencies to distribute their promotional literature, commercial packs and products directed at pregnant women and newborn infants.

The Nursing & Midwifery Council (NMC) Code of Conduct states that "you must ensure that registration status is not used in the promotion of commercial products or services, declare any financial or other interests in relevant organisations providing such goods or services and ensure that your professional judgement is not influenced by any commercial considerations".

The purpose of this guidance is to ensure that there is no distribution of promotional literature, commercial packs and products within NHS Borders.

Analysis of current practice of distribution

	Companies	NHS Borders	Service Users
Advantages	<ul style="list-style-type: none"> • High Profile Advertisement • Free promotion • Direct Marketing • Professional Endorsement • Increased Sales • Increased Profits 	<ul style="list-style-type: none"> • Occasional small monetary incentive • Usually none 	<ul style="list-style-type: none"> • Free products • Free magazines
Disadvantages	Loss of above	<ul style="list-style-type: none"> • Storage Capacity difficult • Resource time used for moving and handling products, delivery through system, storage and distribution • Conflict of interest 	<ul style="list-style-type: none"> • Products expensive • Sense of failure if unaffordable • Duplication of information • Exposure to inappropriate health messages • Information overload

The distribution of promotional literature, commercial packs and products has clear disadvantages to NHS Borders. More importantly service users may be disadvantaged within this system. NHS Borders maternity services therefore have a responsibility to:

- Protect the interests of individual pregnant women and new mothers e.g. guard against the endorsement of any single product to the exclusion of other reputable brands on the market.

- Protect health professionals from distribution and endorsement of products presenting a conflict of interest in their professional role and duty of care.
- To ensure that there is no distribution of promotional literature, commercial packs and products.

Companies or suppliers requesting the distribution of company products directed at pregnant women, new mothers or other vulnerable groups should be sent a copy of this policy.

Codes of Professional Conduct

All staff are required to work in line with their professional bodies' code of conduct.

References

Global Baby Marketing (2007) Accessed September 2007 http://www.baby-marketing.co.uk/sampling/pages/global_pregnancy.htm

Nursing and Midwifery Council (2004) The NMC code of professional conduct: standards for conduct, performance and ethics.
<http://www.nmc-uk.org/aFrameDisplay.aspx?DocumentID=201>

Section C - Appendix 2:

Guidance on the further requirements of NHS Staff when meeting with representatives of the Pharmaceutical Industry

1. Partnership working at corporate level

1. The SEHD guidance “A Common Understanding – Guidance on Joint Working with the Pharmaceutical Industry” (2003) acknowledges that:

“A governing ethos of NHS Scotland is the acceptance and recognition that a modern and dependable NHS will be built on effective joint working with others. All joint working, if properly managed, should be of mutual benefit to the organisations concerned and to patients. The relationship with the Pharmaceutical Industry should not be any different and should be built on mutual respect and trust.”

In developing joint working agreements consideration should be given to the following:

- The costs and benefits of any arrangement
 - Likely impact on purchasing decisions across the NHS structure, with such decisions being based on best clinical practice and value for money
 - The need for an open and transparent tendering process where joint working is linked to the purchase of particular products or services. In particular, no sponsorship, funding or resources should be accepted from a supplier who is actively engaged or shortly (within 6 months) to be engaged in a tender or commercial review of the services they provide
 - A requirement that all participants observe Data Protection legislation to respect and preserve patient confidentiality
 - The employment or seconding of any person as a result of the agreement is covered by relevant NHS regulations e.g. MEL(1994)48
 - Participants are made fully aware of the duration of the project with a clear definition of (1) the ‘exit strategy’ and (2) the implications for both patients and the service once the project comes to an end
2. “A Common Understanding” presents an outline framework to guide parties through the formation of a partnership agreement. Any possible partnerships should always be discussed with the relevant line manager, head of profession / clinical director or equivalent, and local pharmacy and procurement teams before proceeding beyond the initial stages.
 3. Procurement teams (and in the case of medicines, pharmacy teams) will work with suppliers to establish the best arrangements for the supply of medicines, in line with established partnership principles, business standards, purchasing law and NHS Borders’s Code of Corporate Governance.
 4. No commercial relationships can be entered other than by staff with formal delegated powers as set out in NHS Borders’s Code of Corporate Governance. Any discussion on commercial matters should be referred to the relevant Procurement or Pharmacy teams.

2. Research/clinical trials

1. All research projects need to meet the rigorous requirements of clinical relevance and governance as set out in current guidelines and legislation. All projects must be formally approved by the relevant Research Ethics Committee and should be discussed in the first instance with the Medical Director.
2. The NHS Borders Drug and Therapeutics Committee does not recommend the prescribing of new medicines until they have been evaluated and approved by the Scottish Medicines Consortium (SMC).

3. Requirements of NHS staff when meeting with representatives of the Pharmaceutical Industry

Meetings between NHS staff and representatives of the Pharmaceutical Industry can provide an opportunity for awareness raising and information sharing, such as advance notification of new medicines, education / training and support for clinical research. The benefits of this exchange are recognised for both parties. However, interactions must follow the guidance in NHS Borders's Code of Corporate Governance and where appropriate, the Association of the British Pharmaceutical Industry (ABPI) Code, therefore:

1. Meetings should only involve those whose roles justify their participation
2. Individuals should obtain prior approval from their line manager/ clinical lead or equivalent before participation. It is acceptable to arrange prior approval up to an agreed level of interaction, as part of the annual job planning, performance review or appraisal process, as appropriate for different professions.
3. Only senior staff (consultants, service managers, lead nurses) should participate in one to one meetings with representatives.
4. Staff taking part in such meetings should ensure there's a clear understanding of the purpose of the meeting, including the aims and the potential outcomes which benefit the NHS and patients.
5. Employees should keep a personal log of attendance at all such meetings, such that this can be made available, if required, to their line manager/ clinical director or equivalent at annual job planning or performance review.
6. Any information provided at such meetings should be critically evaluated. In the case of pharmaceuticals, the ABPI Code* governs the approval of promotional materials, directs that statements should be evidence based and restricts distribution to 'persons who can reasonably be assumed to have a need or interest in the information'. If staff are in any doubt or need any assistance, the following additional resources are available:
 - a. The Director of Pharmacy has access to independent sources of information and can be a useful conduit between the Pharmaceutical Industry and NHS personnel.
 - b. Advice on prescribing policies within Primary Care and Secondary Care can also be obtained from the above.

4. Requirements of representatives when meeting NHS staff

Industry representatives are advised of the following requirements, which relate to interactions with NHS staff.

- Representatives must not visit wards, departments or theatres without a specific invitation from, or an appointment with, the relevant senior member of staff.
- Representatives should only see medical staff below Consultant grade with the full knowledge and agreement of the Consultant and by appointment only.
- Representatives should see Consultants by appointment only.
- Representatives should be seen at pharmacy by appointment only.
- Nursing staff should be visited or receive training only with the approval of the relevant operational nurse manager or professional head
- For any product discussed within NHS Borders, representatives should describe the status of the product (in relation to the Scottish Medicines Consortium, NHS Borders Formulary Prescribing Guide or local/ national guidance) both when arranging the meeting and at the outset of the discussion. Cognisance should also be taken when products are restricted to use or initiation by specialist clinical staff.
- Representatives should be aware that medicinal products are prescribed in NHS Borders within the context of the relevant local and national guidance, therefore promotion outwith such guidance is not supported. Distribution of promotional materials should be in accordance with the ABPI Code
- No medicine samples should be left in clinical areas, supplies department or the pharmacy department with the exception of the conditions. It is the NHS Borders policy not to accept such product samples.

5. Printing of Guidelines

1. On occasion, the industry may offer to sponsor the printing of clinical guidelines, leaflets etc. This is acceptable assuming the follow criteria are met:
 - The funding should be restricted to printing costs only
 - More than one supplier should have the opportunity to give support through an unrestricted educational grant
 - Clinical and editorial matters must be under NHS control and developed by a local NHS group, involving relevant clinicians
 - Recommendations must be in line with local NHS Borders Formulary Prescribing Guide or prescribing policies.
 - Generic names for medicines should be used throughout, unless otherwise specified in the NHS Borders Formulary Prescribing Guide (or equivalent)
 - Only NHS logos should appear on printed documents
 - Acceptance of the sponsorship should be acknowledged on the printed document e.g. "Supported by an unrestricted educational grant from" The declaration of sponsorship should be sufficiently clear that readers are aware of it at the outset. Approval of such documents should proceed through the agreed NHS process e.g. clinical guidelines approval by the NHS Borders Drug and Therapeutics Committee
2. Financial donations to a departmental fund are acceptable provided they are in line with the endowment policy.

6. Samples

1. Samples of pharmaceuticals should not be accepted within NHS Borders, since the employer will be liable for the quality of items utilised in patient care. Exceptions are highlighted below.
2. Any requirements for pre-packed medication, for example to be used as starter packs in compliance with the NHS Borders Formulary Prescribing Guide, can normally be satisfied through NHS Manufacturing Units. Advice should be sought from local pharmacy departments.
3. This policy is equally applicable to dressings, sundries and products for wound care and stoma care.
4. A mechanism exists for Consultants wishing to use newly launched, licensed products prior to SMC evaluation through the NHS Borders Drug and Therapeutics Committee 'Prescribing for exceptional use policy'.
5. There are specific exemptions from the above restrictions:
 - Medicines provided as part of a clinical trial.
 - Co-ordinated 'assessment' of certain products (e.g. equipment or devices) or supply of a single sample for demonstration purposes
 - Supply of clinical monitoring equipment (e.g. glucometers, glucose testing strips, insulin pen devices or insulin pumps for use by newly diagnosed diabetic patients) as part of an individual evaluation of patient acceptability

While it is recognised there may be value in gaining pragmatic experience in this way, supplying samples for these purposes should be:

- in response to a written request, dated and signed
- discussed and agreed with the local pharmacy
- approved by the Wound Management Group

Glossary of Terms used in this appendix

Advance notification of new medicines

This is intended to help the NHS to plan for any significant clinical and financial consequences of the introduction of a new medicine. Information is circulated subject to the following guidance:

- it must relate to a new active substance or a significant change to existing authorised indications
- it must be directed to senior staff * or those responsible for policy decisions on budgets
- it should be factual only and not promotional in style

Association of the British Pharmaceutical Industry (ABPI)

The ABPI is the trade association representing the manufacturers of prescription medicines. Membership is voluntary. The ABPI Code of Practice sets standards for the promotion of medicines to health professionals and includes guidance on interactions with NHS personnel. It is drawn up in consultation with the BMA, the Royal Pharmaceutical Society of Great Britain, the MHRA and the Royal College of Nursing. The code has been revised in 2006; a full copy can be found at:

<http://www.abpi.org.uk/links/assoc/PMCPA/code06use.pdf>

and an abbreviated guide is available at:

<http://www.abpi.org.uk/links/assoc/PMCPA/PMPCA.pdf>

Medicines:

These are defined as any material, item, or equipment designed to prevent disease, diagnose or treat patients of NHS Borders. This includes:

- Medicinal products (pharmaceuticals)
- Medical devices (e.g. wound dressings, stoma appliances)
- Equipment not classed as a Medical Device but used to diagnose or treat patients

Conferences and courses

Educational events designed to support continuing professional development for NHS employees and/or provide a platform for exposure to the latest research findings/practice developments. These will vary in scale, content and location, and will include 'one off' local meetings, university courses of study and national (or exceptionally) international conferences organised by specialist interest societies or professional colleges.

Declaration of interests

Any NHS department, group, employee or contractor who engages in joint working with the Pharmaceutical Industry beyond the specified threshold must formally register this activity at departmental, directorate or Board level. (Appendix 2 presents a template for such declarations, with definitions and procedures will be described further in the Implementation Plan for this policy).

Group meetings

Industry* sponsored meetings, typically involving 5 - 50 participants, accredited (e.g. CME approved) and held within the boundaries of NHS Borders (although not necessarily on NHS premises) at which information / knowledge is shared / acquired.

Independent contractor

This term includes general medical practitioners, community pharmacists, general practice dentists, optometrists, chiropractors and their staff.

Industry

This term covers the full range of medicines, unless otherwise specified, including the Pharmaceutical Industry which covers ABPI and non-ABPI members.

Joint Working

Any partnership, across the range of section headings of this policy, between the NHS (or one or more of its employees) and suppliers of medicines which:

- is for the benefit of patients
- should be in the mutual interest of both parties
- is conducted within the ethos of 'A Common Understanding' (SEHD Guidance 2003) which advocates a framework to ensure responsibility, transparency and probity in the process
- is compliant with the Data Protection Act
- should not conflict with advice issued by the Scottish Medicines Consortium or Quality Improvement Scotland, unless endorsed for local implementation by the NHS Borders Drug and Therapeutics Committee.
- should promote equitable access and evidence based healthcare
- should not be seen as an endorsement of any product or technology
- should not undermine or conflict with the professional or ethical requirements of any healthcare professional

This should yield improvements in patient care, service provision, support or development of NHS employees / independent contractors etc. Any report from such activity should not be published without the explicit permission of all partners.

Research partnerships between the NHS and the Pharmaceutical Industry also fall within the scope of this policy, although the financial and commercial implications will be considered separately.

Pharmaceutical Industry

The term Pharmaceutical Industry includes manufacturers and suppliers of pharmaceutical products; high-tech home health care provider's equipment and appliances. This includes ABPI members and non-ABPI members.

Post marketing surveillance

Such activity is subject to 'Guidelines for Company Sponsored Safety Assessment of Marketed Medicines' (SAMM) which have been produced jointly by the ABPI, the British Medical Association, the Committee on Safety of Medicines, the Medicines and Healthcare products Regulatory Agency and the Royal College of General Practitioners

Procurement

The process of obtaining best value for money services, supplies and equipment in conformance with applicable laws and regulations that meet the requirements of the end purpose. This is distinct from advice, information or influence on formulary management decisions.

Promotion (of medicines)

Active detailing of product(s) to NHS staff (e.g. displays, AV presentations, issue of promotional materials) with the aim of changing current prescribing practice in NHS Borders. Promotion is restricted to those products included in the Borders Area Prescribing Guide, or local guidance (medicines) or other medicine catalogues (e.g. dressings and sundries). This therefore excludes any medicine prior to its review by Scottish Medicines Consortium and approval by the NHS Borders Area Drug and Therapeutics Committee.

This should not impose any restriction on meetings between senior NHS personnel and representatives of the Pharmaceutical Industry for awareness raising and exchange of factual information, irrespective of a product's NHS Borders status. Advance notification of new products or technologies is one example of NHS/Supplier interactions which are not deemed as promotion (see Section G).

Representative of the Pharmaceutical Industry

This is a generic term to describe all Pharmaceutical Industry personnel, with both product specific or general NHS liaison responsibilities.

Research partnership

A partnership where one or more NHS employees and / or contractors have a formal partnership agreement in place with the Pharmaceutical Industry to undertake ethically approved research studies.

Senior staff:

- For hospital doctors, this includes Consultant, Associate Specialist and Specialist Registrar.
- For NHS pharmacy services: Principal Pharmacists and Principal Pharmacy Technicians, for those in the managed service.
- For hospital nurses, this includes Senior Managers, Nurse Consultants and Clinical Nurse Specialists.

Significant financial interest

NHS Borders Staff should refer to the Standards of Business Conduct for NHS Staff [MEL(1994)48] Circular which includes general policy guidance on (i) the standards of conduct expected of all NHS staff where their private interests may conflict with their public duties and (ii) the steps which NHS staff should take to safeguard themselves and the NHS against conflict of interest, should they be likely to realise a material gain in excess of £500 per annum from an external source.

Section C - Appendix 3:

Criteria for NHS Borders Corporate Endorsements

Criteria for NHS Borders Corporate Endorsements	Yes	Unsure	No	Rationale
1. Is there any financial or reputational risk associated with this endorsement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2. Will the endorsement have any impact on discrimination, equality of opportunity or relations between groups?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3. Is the endorsement controversial or does it have the potential of being controversial in any way (political, media, academic, specific interest)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4. Will any of the workforce, public or patients disagree with this corporate endorsement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5. Is there any doubt about answers to any of these questions (e.g. there is not enough information to draw a conclusion)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Please provide a detailed explanation of how this endorsement will further the Corporate Objectives of NHS Borders.				
If the answer to any of the above questions is yes or unsure or there is no clear link between the endorsement and the organisations' Corporate Objectives the Executive Director should table a paper at the Board Executive Team for discussion and approval.				
<i>IN ALL CASES THIS FORM MUST BE SIGNED BY AN EXECUTIVE DIRECTOR AND SENT TO THE EXECUTIVE ASSISTANT & BOARD SECRETARY.</i>				
Endorsement details:	Date of endorsement:	Approved by:	Review date:	

SECTION D

COUNTER FRAUD POLICY & ACTION PLAN

CONTENTS

- 1. Introduction**
- 2. Public Service Values**
- 3. The Board's Policy**
- 4. Roles and Responsibilities**
- 5. The Action Plan**
- 6. The Law and Its Remedies**
- 7. Guidance to Staff on Fraud**

1 Introduction

This Appendix to the Board/Counter Fraud Services Partnership Agreement is intended to provide the practical information required by the Board and its staff to counter fraud and other irregularities. It includes a section of guidance to staff that will form part of the induction training for all new staff and the fraud awareness presentations/information to current Board staff.

One of the basic principles of public sector organisations is the proper use of public funds. It is therefore important that all those who work in the public sector are aware of the risk of and means of enforcing the rules against theft, dishonesty, fraud and similar illegal acts, e.g. damage to Board property.

NHS Scotland's policy on countering fraud and other irregularities has been laid out in the Health Board Partnership Agreement. The NHS Scotland Counter Fraud Services (CFS) has been created specifically to assist all Boards in their efforts to reduce losses through fraud and corruption and this document sets out the Board's policy and action plan to achieve such a reduction. The Board recognises that every £ of fraud prevented or recovered means increased funding for patient care.

The Board has procedures in place that reduce the likelihood of fraud occurring. These include Standing Orders, Standing Financial Instructions (SFI), operational procedures and a system of internal control and risk assessment. In addition, the Board will work with CFS to promote a fraud awareness culture.

The Board has signed a Partnership Agreement with CFS, which outlines what must happen in the event of a fraud or other irregularity being discovered, and what the Board and CFS will do to actively counter the threat of fraud and corruption.

This document is intended to provide detailed direction and help to those officers and directors who find themselves dealing with cases of suspected theft, fraud and corruption. It sets out a response framework, which centres on immediate discussions and agreement with CFS in respect of how each case will be taken forward. On behalf of the Board, CFS will take forward any relevant case (see Appendix VI - List of Specified Offences) which has the potential for criminal prosecution and Board staff need to be aware of this, and of their responsibilities in the event that a criminal prosecution is not the chosen route.

This action plan is intended to be an integral part of the Board's overall counter fraud and corruption strategy.

2 Public Service Values

High standards of corporate and personal conduct, based on the recognition that patients come first, have been a requirement throughout the NHS since its inception. The Code of Conduct published by the Scottish Government Health Department (SEHD) in April 1994 set out the following public service values:

Accountability: Everything done by those who work in the organisation must be able to stand the tests of parliamentary scrutiny, public judgments on propriety, and professional codes of conduct.

Probity: Absolute honesty and integrity should be exercised in dealing with NHS patients, staff, assets, suppliers and customers.

Openness: The organisation's activities should be sufficiently public and transparent to promote confidence between the organisation and its patients, staff and the public.

All those who work in the organisation should be aware of, and act in accordance with, these values.

3 The Board's Policy

The Board is committed to the NHS Scotland policy "Strategy to combat NHS Fraud in Scotland" and to the public service values outlined above.

The Board will maintain an honest and open culture and wishes to encourage anyone having suspicions of theft, dishonesty, corruption or fraud to report them without delay. It is also the Board's policy, which will be rigorously enforced, that all members of staff can be confident that they will not suffer in any way as a result of reporting suspicions held in good faith i.e., suspicions other than those that are raised maliciously.

NHS Borders will participate in the National Fraud Initiative (NFI) exercise, co-ordinated by Audit Scotland, on a bi-annual basis. The Board will advise all employees and contractors of, in line with the Code of data matching practice issued by Audit Scotland, data and information being made available to the exercise. The Board will investigate, as appropriate, any information provided by the exercise to detect and deter fraud from taking place within the organisation.

4 Roles and Responsibilities

As Accountable Officer, the Chief Executive has the responsibility for countering fraud in its broadest terms. To fulfil this responsibility, as well as the Board's own staff and directors, they have the resources of the CFS to call upon. The Chief Executive may delegate the day-to-day responsibility for the management of individual cases to the Board's Director of Finance and Director of Workforce and Planning.

The Partnership Agreement places a duty on the Fraud Liaison Officer to notify the CFS of all relevant cases. The Chief Executive, the Chair of the Audit Committee and the Chair of the Board will be informed in all cases.

The Fraud Liaison Officer will discuss each relevant case (see list of specified offences) with CFS and decide if there is a potential for criminal prosecution, or disciplinary and/or civil action. If the former, then CFS will undertake the investigation, on behalf of, and in co-operation with, the Board. This will not preclude the Board taking disciplinary and/or civil action, however that could only occur with agreement from CFS and the relevant procurator fiscal.

In cases where the Fraud Liaison Officer and CFS cannot agree on a course of action, the Accountable Officer shall make a decision based on the facts presented.

Where CFS is undertaking a case on behalf of the Board no further action shall be taken by the Director of Finance, the Fraud Liaison Officer, the Director of Workforce, or any other Board officer without consultation with CFS. This is necessary to maintain the integrity of the investigation.

Where it is agreed that the Board shall commence an internal enquiry with a view to disciplinary proceedings and/or civil recovery, if at any stage it becomes apparent that

an actionable criminal act may have taken place, the investigation must be halted and CFS consulted.

Regardless of whether the investigation is carried out with a view to criminal prosecution, or disciplinary/civil recovery, all staff are under a duty to refrain from taking any direct action with regard to the enquiry without first consulting the Director of Finance, Director of Workforce and Planning or the CFS Officer in Charge.

The Director of Workforce shall ensure that those involved in the investigation are advised in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures, as required.

The Chief Executive has a duty to ensure that all Board staff and primary care contractors are aware of the implications of fraud for the NHS and of how they can work with the Board and the CFS to deter, detect and prevent it.

The CFS, in conjunction with Boards, must deliver such publicity campaigns, staff induction information and fraud awareness presentations, as to allow Boards to fulfil their obligations in countering fraud.

Finally, all staff have a duty to protect the assets of the Board. Assets include information, intellectual property and goodwill as well as cash and physical property.

PUBLIC INTEREST DISCLOSURE ACT 1998

As noted in the policy statement, the Board will maintain an honest and open culture and wishes to encourage anyone having suspicions of theft, dishonesty, corruption or fraud to report them without delay. All NHS Boards are required to have a policy in place which provides for a secure environment for staff, practitioners and patients to report suspected frauds.

Guidance has been issued by Audit Scotland to organisations recommending what actions to take when staff suspect that fraudulent activity is being perpetrated. This guidance takes the form of booklets for managers and staff entitled 'Don't turn a blind eye'. Further information is also available on the Public Concern at Work website – www.whistleblowing.org.uk

The Fraud Liaison Officer is authorised to receive enquiries from staff confidentially and anonymously. They are also authorised to decide whether the matter raised should be reported to the Director of Finance and/or the Chair of the Audit Committee.

The Board's Director of Workforce and Planning is also so authorised.

REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000

The use of covert surveillance or covert human intelligence sources by public authorities is strictly limited by the provisions of the Regulation of Investigatory Powers (Scotland) Act 2000 (RIP(S)A). National Services Scotland is a named authority under RIP(S)A and, as such, only the Head of CFS, the Operational Managers and a nominated senior investigator may authorise directed surveillance and the use of covert human intelligence sources (CHIS) in NHS Scotland.

As a result of the Scottish Government decision to amend RIP(S)A to remove the powers of NHS Trusts, Boards and Special Health Boards to grant authorisation

under RIP(S)A, all cases of potential criminal NHS fraud or other irregularity (as listed in Appendix VI – Specified Offences) must be referred to the CFS. Where appropriate the CFS will authorise and conduct directed surveillance and the use of CHIS on behalf of NHS bodies. Where NHS bodies are considering surveillance or the use of a CHIS in cases which do not involve fraud or other financial irregularities, such as public or staff safety or the prevention of disorder, they should contact the appropriate public body as outlined in HDL (2003) 30. This will normally be the relevant police force.

SGHD GUIDANCE

The SGHD guidance on financial control procedures when criminal offences are suspected is provided within the Partnership Agreement, specifically: -

- in cases of theft, where there are reasonable grounds for thinking that an item of property, including cash, has been stolen, the Director of Finance should report the details to the police
- in cases of suspected fraud, embezzlement, corruption and other financial irregularities, preliminary enquiries should be carried out with as much speed as possible. Restitution of funds or property is not a reason for withholding information or failing to report the facts. At the very early stages of a case of suspected fraud, including fraud involving endowment or patient funds, the CFS must be contacted to discuss whether the case will be taken forward criminally and/or through discipline and/or civil recovery,
- where preliminary investigations suggest that prima facie grounds exist for believing that a criminal offence has been committed, the Board and the CFS must decide if criminal prosecution would be an appropriate route. The norm is that all such cases should be considered for reporting to the procurator fiscal, however where both the Board and the CFS agree it is not in the public interest, generally on the grounds of low value, the case may be taken forward through discipline and/or civil recovery routes.
- The Board and the CFS must be prepared to justify all such decisions to the Chief Executive and/or Chair of the Audit Committee. Breach of trust must be taken into account in these considerations, meaning that being of low value does not automatically preclude a case from being notified to the procurator fiscal. Where there is doubt as to whether a prima facie case for prosecution exists, the CFS will contact the appropriate procurator fiscal or Crown Office to obtain advice.
- In any event, the CFS should be contacted before any overt action is taken which may alert suspects and precipitate the destruction or removal of evidence or the dissipation of assets. This includes taking action to stop a loss or tighten controls.
- Where Boards and the CFS are undertaking pro-active exercises in areas of known fraud risk, officers and directors must provide assistance and such data as is required to ensure the success of these operations.

5 The Action Plan

5.1 Introduction

The flowcharts in section 5.2 describe the required actions with respect to a reported suspicion of fraud. The flowcharts provide procedures that allow for

evidence gathering and collation in a manner that will facilitate informed initial decisions, while ensuring that evidence gathered will be admissible in any possible future criminal or civil actions. Each situation is different, therefore the guidance in the flowcharts will need to be considered carefully in relation to the actual circumstances of each case before action is taken.

Under no circumstances should a member of staff speak or write to representatives of the press, TV or radio, about a suspected fraud without the express authority of the Chief Executive. Guidance to members of the Board's staff who may have suspicions or concerns about possible irregularities including fraud is set out in Section 7 of this document. Care needs to be taken to ensure that nothing is done that could give rise to an action for defamation.

In some cases, e.g. if a major diversion of funds is suspected, speed of response will be crucial to avoid financial loss.

Further commentary on the processes in the flowcharts is provided in Section 5.3.

5.2 Flow charts

CHART 1 – REPORTING FRAUD

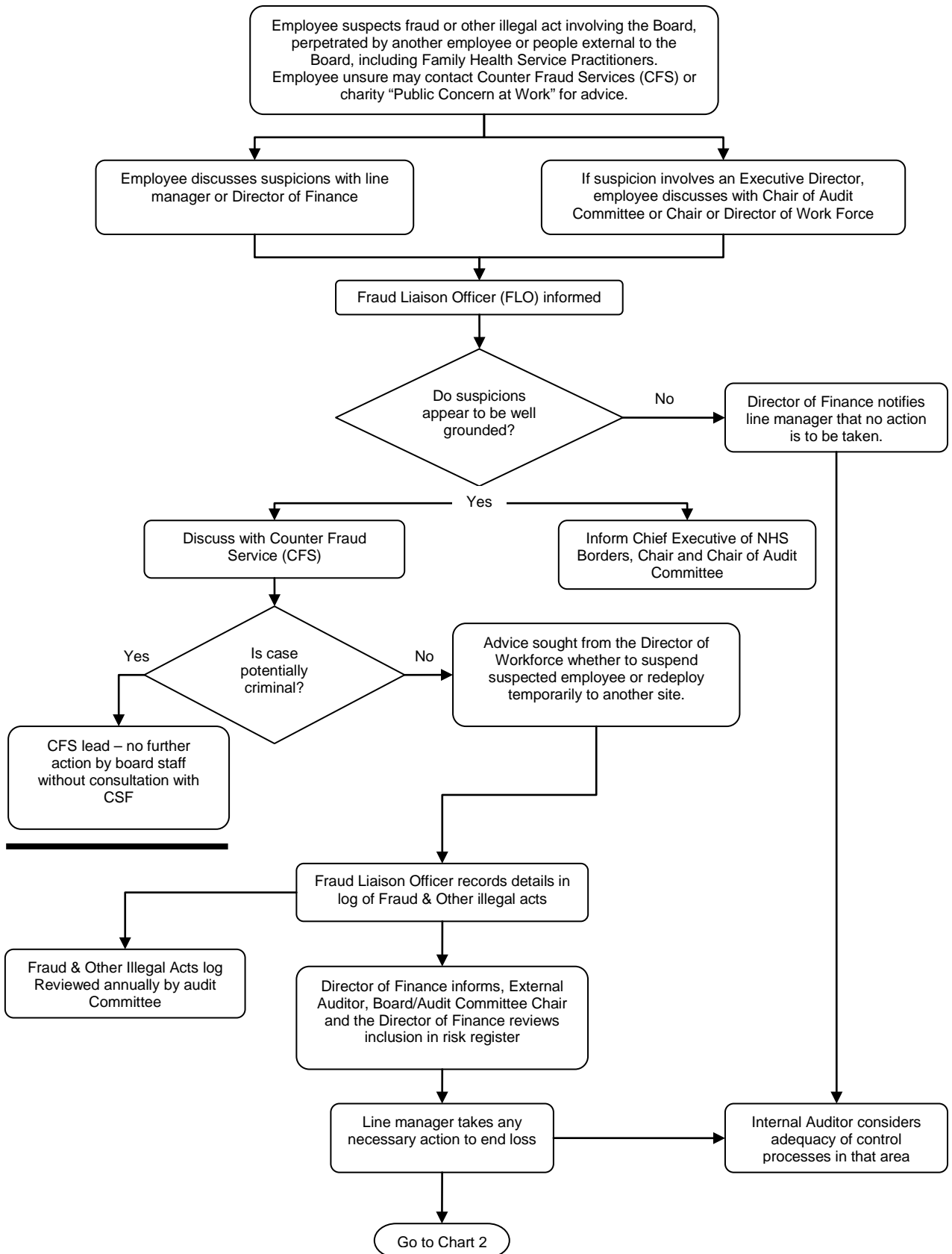


CHART 2 – MANAGING AN INTERNAL INVESTIGATION

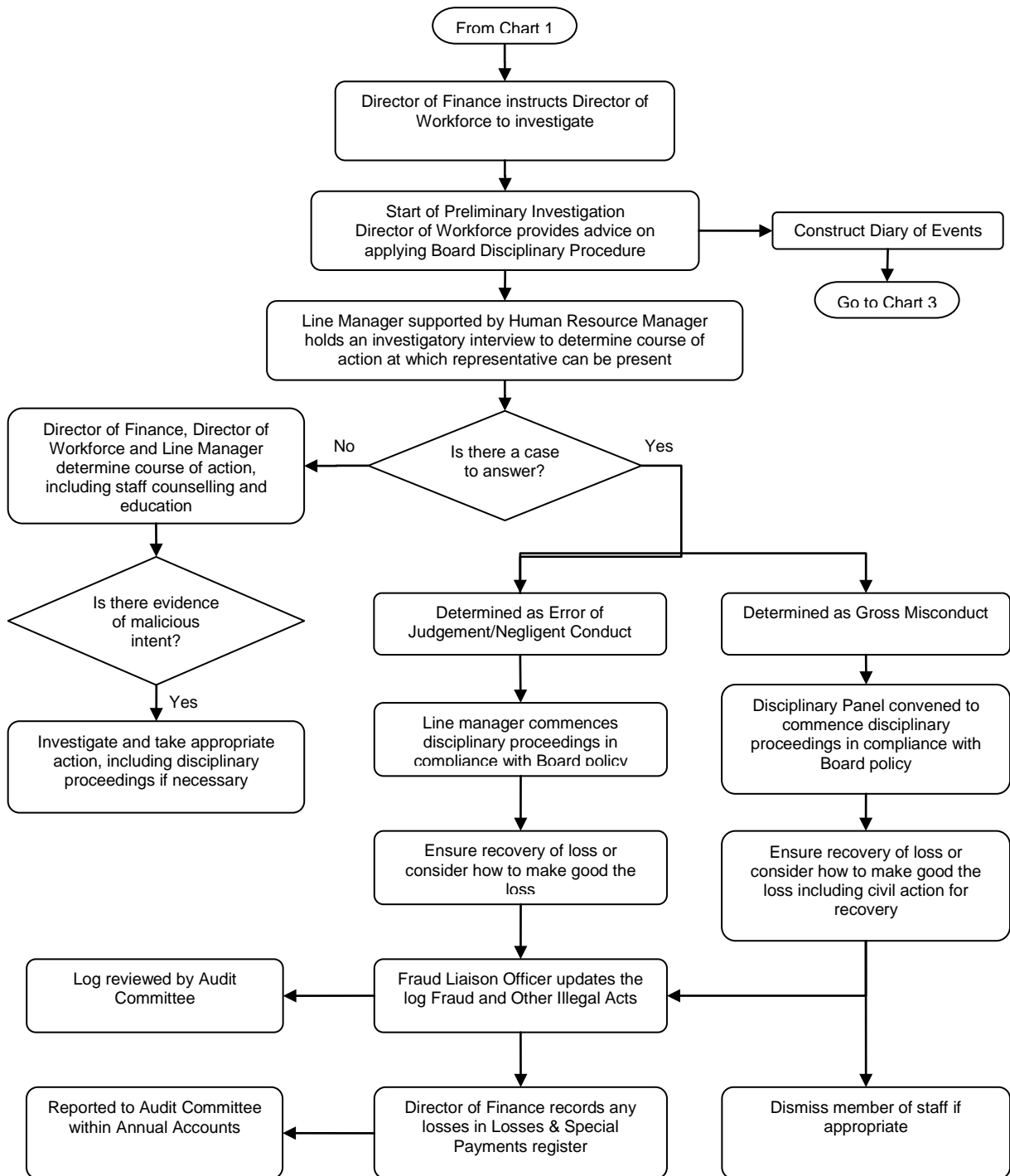


CHART 3 – INTERNAL INVESTIGATION GATHERING EVIDENCE FROM WITNESSES

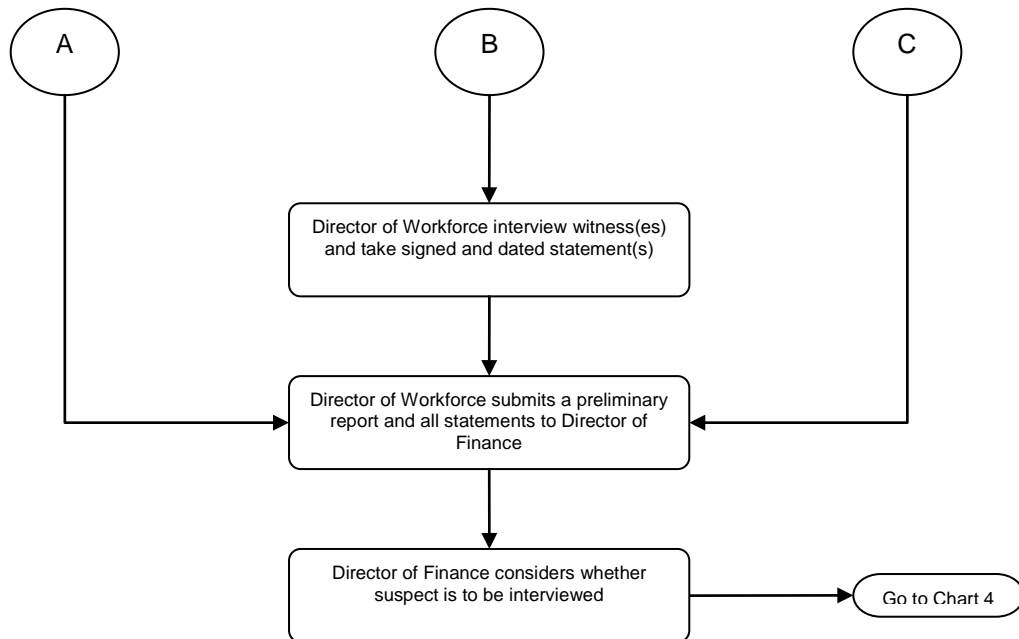
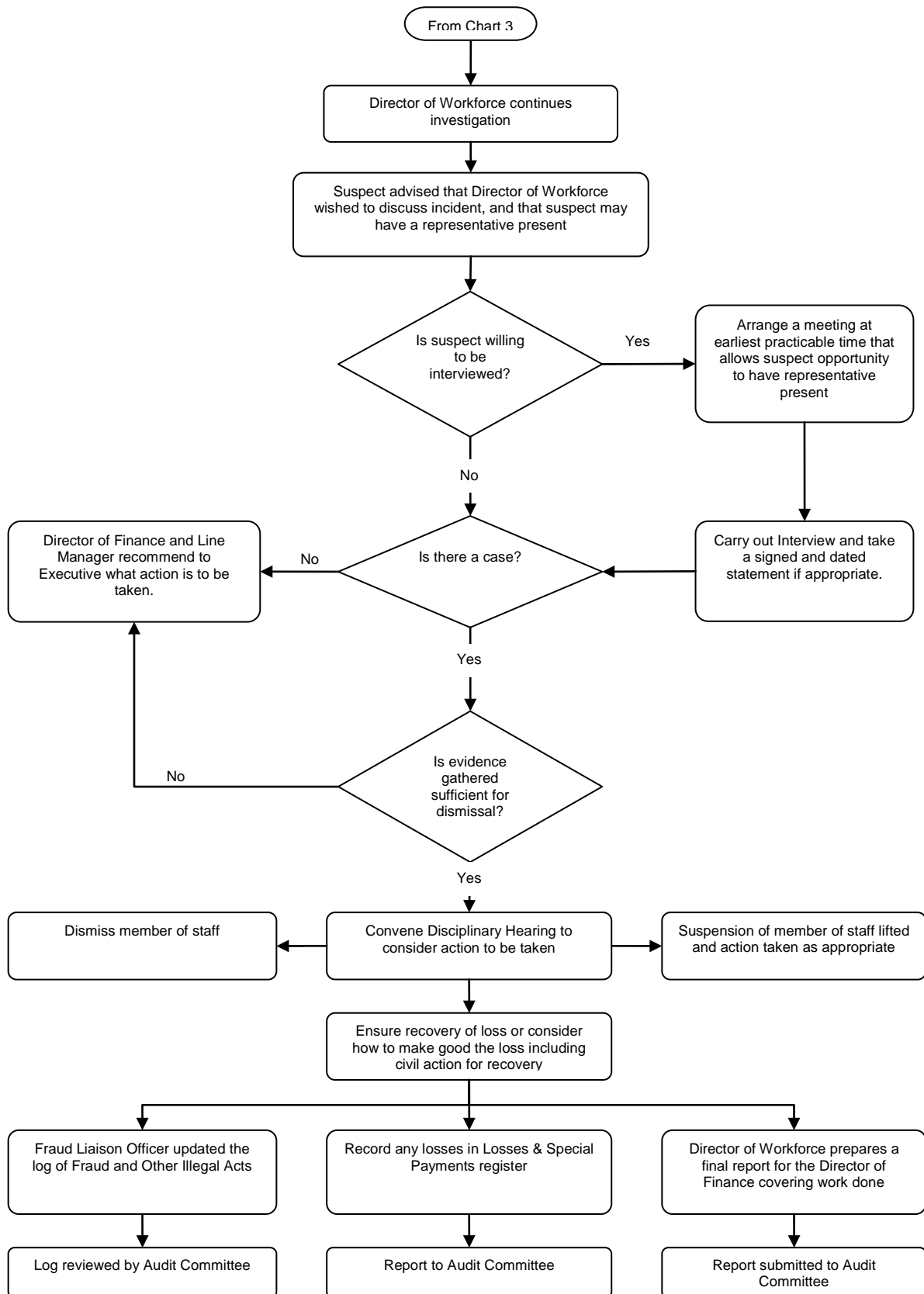


CHART 4 – INTERNAL INVESTIGATION INTERVIEW PROCEDURE



5.3 Chart 1 – Reporting Fraud

5.3.1 Sources of fraud and other irregularities reports

The Board may receive reports of alleged fraud or other irregularities from the following sources: -

- employees
- patients or the public
- primary care contractors
- suppliers
- police
- Counter Fraud Services

5.3.2 Employees

An employee should normally discuss any suspicions with his/her line manager. The employee may also, or instead, discuss the matter confidentially with the Director of Finance. The line manager and the Director of Finance will then agree on the next course of action. If, after consideration, the suspicion seems well founded the Director of Finance will inform the Chief Executive and the reporting employee. The Director of Finance/Fraud Liaison Officer will then consult with CFS to ascertain whether the investigation will proceed on a criminal and/or civil/disciplinary basis.

If an employee suspects his/her line manager, the employee should report the suspicions to someone more senior, or directly to the Director of Finance or may discuss the matter with the Chief Executive, the Director of Workforce and Planning and the Chair of the Audit Committee.

An employee may use the CFS Fraud Reporting Line 08000 15 16 28 or report their suspicions (anonymously if desired) through the CFS Website on SHOW (www.show.scot.nhs.uk/fiu). Alternatively the employee may choose instead to contact the charity “Public Concern at Work” on 0207404 6609 or via their website – www.pcaw.co.uk, who would offer the employee advice on how to proceed.

If the suspicion involves an executive director the matter should be reported to the Chair of the Audit Committee or the Chair of the Board, or to Internal/External Audit.

These reporting routes should be clearly defined in staff induction documentation and well publicised to existing staff.

5.3.3 Patients/Public/Primary Care Contractors/Suppliers/Police/CFS

The Board’s policy, in its Standing Financial Instructions, is that all allegations of fraud or other irregularities, from anyone other than a Board employee, should be made in the first instance to the Director of Finance or Director of Workforce and Planning. If the suspicion involves an executive director the matter should be reported to the Chair of the Audit Committee or the Chair of the Board.

The CFS, through its Fraud Reporting Hotline and website, is another conduit for allegations of fraud and other irregularities. The Partnership Agreement

makes it clear that any such allegations will be reported to the appropriate Board officer or director within 48 hours of notification to the CFS.

The Director of Finance, Fraud Liaison Officer, or the Chair of the Audit Committee/Chair of the Board will then consult with CFS to ascertain whether the investigation will proceed on a criminal and/or civil/disciplinary basis.

These reporting routes should be clearly defined in patient information leaflets, contract documentation, and CFS publicity material.

In all such internal and external documentation it should be noted that time may be of the utmost importance to prevent further loss to the Board.

5.3.4 Subject of Allegation

The allegation of fraud or other irregularity may be in respect of: -

- an employee
- a director of the Board
- an independent primary care contractor
- a patient
- a supplier

5.3.5 Criminal Prosecution

As noted above, in all cases the allegation of fraud or other irregularity will be discussed with CFS. If the case includes in it the potential to be prosecuted criminally, then CFS will lead the investigation.

If the allegation concerns an employee, the CFS will take account of the Board's personnel policies and will consult with the Director of Workforce and Planning in respect of relevant issues including suspension. Consultation in such circumstances is essential; no unilateral action will be taken by the Board, its employees and directors, or the CFS.

If the allegation concerns a director, the CFS will undertake all consultation with the Chair of the Audit Committee and/or the Chair of the Board and will involve the Director of Workforce and Planning, where appropriate.

Where the allegation is in respect of an independent primary care contractor, a patient or a supplier, CFS will undertake all consultation with Director of Finance.

It is expected that the CFS will undertake all investigations, in respect of primary care contractors, patients and suppliers. The procedures that will be followed by the CFS in all investigations are detailed in the Partnership Agreement.

5.3.6 Discipline or Civil Recovery

Where, following consultation between the Board and the CFS, an investigation limited to disciplinary/civil recovery action appears appropriate; the following sections outline the actions to be followed.

Where the allegation is in respect of an employee, the Director of Finance/Fraud Liaison Officer will seek advice from the Director of Workforce and Planning on whether to suspend a suspected employee or redeploy them temporarily at another site.

Where the allegation is in respect of a director, the Chair of the Audit Committee/Chair of the Board will involve the Director of Workforce and Planning where appropriate, in making any decision regarding suspension. When taking action to suspend an employee or director it is important to communicate the reason for taking the action.

The person should be advised that they will receive full pay whilst on suspension, and should not return to the workplace nor contact their colleagues about the allegations until such time as allowed to do so by their employer.

Where, however, due to the nature of the allegation, suspension is deemed inappropriate, e.g. it would alert the suspect and as such may lead to the destruction and removal of evidence, no action to inform the suspect that an investigation was taking place should be taken.

5.3.7 Involvement of the CFS in Disciplinary/Civil Recovery cases

The Board/CFS Partnership Agreement outlines where it may be possible to utilise some of the work carried out by the CFS in a criminal case for disciplinary or civil recovery proceedings. This will always be subject to approval from the relevant procurator fiscal and may require advice from the Central Legal Office.

Subject to those caveats, the work done by CFS, particularly with respect to witness and suspect interviews, could reduce the work required by the Board's investigation team.

5.3.8 Log of Fraud or other Illegal Acts

The Director of Finance/Fraud Liaison Officer will enter details of all reported suspicions, including those dismissed as minor or otherwise not investigated. It will also contain details of actions taken and conclusions reached. Reports and/or verbal updates will be given at each Audit Committee meeting in relation to Fraud activity completed for the period. An Annual Fraud Report will be compiled for review by Audit Committee members at the May meeting. Final reports issued at conclusive of a Fraud or Internal Disciplinary will be reported to the Audit Committee as appropriate with subsequent follow-up with the Chief Internal Auditor. The Audit Committee will review the log at least once each year and will report any significant matters to the Board of Directors. A recommended pro-forma log will be agreed nationally.

5.3.9 Internal Communications

The Director of Finance/Fraud Liaison Officer shall inform and consult the Chief Executive at the first opportunity in all cases of suspected fraud or where the incident may lead to adverse publicity. The Director of Finance/Fraud Liaison Officer shall notify the Audit Committee of all frauds discovered and also of all losses arising from any criminal or suspected offences.

5.4 Chart 2 – Discipline/Civil Recovery Case - Managing the investigation

5.4.1 Director of Finance to appoint an Investigation Manager

Normally the investigation manager would be the Director of Workforce and Planning. The circumstances of each case will dictate who will be involved and when. The following general guidance is intended to assist management in deciding the best course of action.

5.4.2 Diary of Events

The manager overseeing the investigation (referred to hereafter as the Investigation Manager) should initiate a Diary of Events to record the progress of the investigation. A recommended pro-forma Diary will be agreed nationally.

5.4.3 Has a criminal act taken place?

Although in preliminary discussions with the CFS, this question may appear to have been answered, in some cases this question may be asked more than once during an investigation. In practice it may not be obvious that a criminal act has taken place. However, if at any time during the investigation, a criminal act is believed to have occurred, the agreed procedure involving the CFS must be invoked.

5.4.4 Internal Investigation

The internal investigation must determine the facts; whether disciplinary action is needed; what can be done to recover any loss; and what may need to be done to improve internal control to prevent the event happening again. In any investigation involving employees there should be close liaison with the Director of Workforce. (see Appendix V)

5.4.5 Recovering a loss

Where recovering a loss is likely to require a civil action it will be necessary to seek legal advice. Such action should only be progressed under the authority of the Director of Finance.

5.4.6 Disciplinary/Dismissal Procedures

The Board's disciplinary procedures must be followed in any disciplinary action taken by the Board towards an employee (including dismissal). This may involve the Investigation Manager in reporting formally the results of the investigation and recommending a disciplinary hearing to consider the facts.

5.5 Chart 3 – Gathering Evidence

5.5.1 The chart cannot cover all the complexities of gathering evidence; each case must be treated according to the circumstances, taking professional advice from the Central Legal Office if necessary.

5.5.2 Physical evidence

Upon taking control of any physical evidence, it is very important that a record is made of the time and place it is taken. If evidence consists of several items, for example many documents, each one should be tagged with a reference number corresponding to the written record. Care with evidence gathering is important as that which may initially be treated as a discipline case, could become a criminal prosecution.

5.5.3 Witnesses

If a witness to the event is prepared to give a written statement, it is best practice for an experienced member of staff to take a chronological record using

the witness's own words. The witness must be happy to sign the document as a true record, but the involvement of an independent person usually helps to keep the statement to relevant facts.

5.5.4 Director of Finance to consider if suspect should be interviewed

The Director of Finance/Fraud Liaison Officer will consider the preliminary report of the Investigation Manager and consider if the suspect should be interviewed.

5.6 Chart 4 – Interview Procedure

5.6.1 Interviewing the Suspect(s)

The Director of Workforce and Planning as the Investigating Manager will provide advice on the procedures to be followed. The Investigating Manager must be accompanied at interview to ensure that one of the investigating team can ask necessary questions with the other team member taking complete and contemporaneous notes.

The suspect should be advised that he/she is entitled to be accompanied at the interview by a friend or other representative from a Trade Union/Staff Association or work colleague, who may observe proceedings and offer advice where necessary to the interviewee.

Questions should be prepared beforehand, but it will always be important to probe the responses to particular questions by pursuing supplementary points. Leading questions (such as "you do open the post on your own, don't you") should not be asked. Closed questions, which have simple alternative answers, are useful for obtaining specific information. The procedure to be followed during the interview should be explained, including that notes will be taken. It should be made clear the interviewee does not have to answer any question but that if he/she does not, that fact will be recorded in the interview note.

If it is necessary for notes to be written up in a neater and more legible form, this must be done immediately following the interview and signed and dated by the Investigating Manager and other interviewer. The original notes must be retained.

Within 48 hours of the interview, the interviewee should be asked to review the notes, and make any corrections that he/she considers are necessary. The Investigating Manager should then:

- Consecutively number all pages
 - Cross through all blank spaces to demonstrate to the interviewee that nothing can be added subsequently
 - Sign each page of notes, together with the HR professional providing support
 - Enter the time the interview was conducted on the last page of notes
- The interviewee should then be invited to sign and date the account of the interview, if he/she thinks it is a fair reflection of proceedings.

Copies of the notes should not normally be made available to the interviewee until the investigation has been completed, and the way forward decided.

It should be remembered that a manager has the right to ask an employee to account for his/her actions in respect of that employment.

If the employee refuses to answer questions on the grounds that he/she might incriminate him/herself, it is his/her right to do so. This should be confirmed. However the employee should also be informed that he/she may still be considered for disciplinary action including dismissal.

If it becomes clear in the course of an interview that the interviewee is likely to have been the perpetrator of a crime, or if he or she admits a criminal act, the interview should be halted at once, and the matter referred to the CFS for action.

Care must be taken to avoid defamation. Where the interviewee makes a statement which conflicts with other evidence, this should be pointed out – to say “you’re lying” could be held to be oppressive.

All interviews must be conducted fairly. In particular comments such as “if you do not tell me the truth you will get the sack” must be avoided.

No form of physical restraint or force should ever be attempted. If, for example it is considered that the suspect may have Board property on his or her person or in his or her vehicle, then the interviewer should request the person to allow a search. If the suspect refuses and attempts to leave, no attempt should be made to stop him or her. The suspect should be advised that his or her non-cooperation will be noted and may result in disciplinary action being taken.

If a criminal offence may have been committed and the person wishes to make a statement, then the CFS must be contacted immediately so that the statement can be made to them.

Offers to resign, or to make restitution for losses should be recorded but should not be accepted during the interview.

Any relevant records that might assist the investigation should be collected. To prevent their destruction, the employee should be accompanied to his or her place of work to collect such documents or personal belongings. Any official property at home should be collected and, depending on the outcome of the interview, it may be necessary to restrict the employee’s access to Board’s buildings and records.

Please note that control over draft and final reports is crucial if the Board is to avoid the risk of potential libel actions. No report of an investigation or interview is to be made available in the first instance to any person other than the Director of Finance.

The interview should end when:

- No explanation is given (and the person has been given ample opportunity to give one)
- An unsatisfactory explanation is given
- An admission is given
- A satisfactory explanation is given

5.6.2 Termination of the Investigation

The Board investigation should terminate when:

- There is sufficient evidence for dismissal or other appropriate disciplinary action
- The Investigating Manager considers that reasonable steps have been taken to obtain information in support of the allegation, but sufficient evidence has not been produced.

5.6.3 Dismissal of Staff

Under UK employment legislation dismissal must be for a “fair” reason. The manner of dismissal must also be reasonable and the procedure fair. It is therefore important that no employee should be dismissed without close consultation with the Director of Workforce and Planning and in compliance with the Board’s disciplinary procedures. In these circumstances the Director of Workforce will take into consideration guidance provided by the Central Legal Office.

The Director of Workforce and Planning should be consulted about the subsequent provision of references for employees who have been dismissed or who have resigned following suspicions of a fraud.

5.6.4 Losses and Compensations Register

Guidance on losses and special payments is provided in Circulars 1985(GEN)17 and HDL(2002)23.

The delegated limits for approving the writing off of losses and special payments are detailed in the Board’s Standing Financial Instructions.

5.7 Post investigation review

It will be important for the Chief Operating Officer, in conjunction with the Director of Workforce and Planning to consider the lessons to be learned, e.g. how internal controls can be strengthened. Any lessons learned should be disseminated to the Service through the internal audit network or by using the CFS’ bulletins.

5.8 Involving the Counter Fraud Services

Some managers may mistakenly be reluctant to involve the CFS in the belief that:

- they are only interested if the alleged criminal offence is greater than a specific £ value; the CFS are not interested because the potentially complex issues involved render little chance of a successful prosecution; or

- the Board prefers to deal with the incident themselves, in an attempt to minimise attention while implementing dismissal and pursuing recovery through civil action; or
- the CFS want hard evidence before they will pursue investigations, but when it is provided they advise that the rules of evidence have not been complied with; or
- the disciplinary process has to await a CFS investigation and/or prosecution.

Where there is any suggestion that a fraud or other irregularity has been perpetrated the CFS must be involved in any decision regarding the action to be taken.

The CFS, through the Communications Manager, may be able to advise on how to draft a statement to the staff or the press.

6. The Law and its Remedies

Criminal law may impose sanctions on the accused for causing loss, while civil law may assist the Board to recover its loss.

In Civil law the method of concealment (in the case of fraud) is unlikely to be a key factor in the value of compensation or the drafting of the statement of claim.

Criminal law now allows for the restraint (i.e. freezing) and confiscation of the proceeds of crime, following conviction. CFS, in conjunction with the police and fiscal service, will always press to have the full effect of the Proceeds of Crime Act 2002 applied whenever it is appropriate.

Subject to CFS obtaining approval from the procurator fiscal concerned, there is no reason why the criminal prosecution and civil process cannot be taken at the same time if the evidence supports such action.

6.1 Civil Law Remedies

The following is a brief description of some of the commoner civil law remedies. It is not comprehensive and legal advice should be sought from the Central Legal Office before action is taken.

6.1.1 Monies had and received

The claim will refer to funds of the pursuer, which have been 'had and received' by the defender at the pursuer's expense - and will seek their recovery.

6.1.2 Interest

The pursuer may be entitled to interest on the amount lost, and there are claims for interest under court rules and statute.

6.1.3 Interdict, Arrestment or Inhibition

In some cases a court order can be used to freeze the assets of a person suspected of fraud or a person who has been convicted of a criminal offence in respect of their fraudulent activity. These procedures can be used to prevent the disposal of assets of the accused or defender.

6.1.4 Damages for deceit

A defender may become liable to the pursuer for damages arising out of the act, and if the pursuer can establish this liability he is entitled to be put back into the position that he would have been in if the act had not been committed. If successful, this claim may result in the award of damages beyond mere recovery of assets stolen.

7. Guidance to Staff on Fraud

The Board of Directors approves this document. It sets out the Board's policy on fraud and gives advice to employees in dealing with fraud or suspected fraud or other illegal acts involving dishonesty or damage to Board property.

All staff have a responsibility to protect the assets of the Board.

7.1 Public Service Values

The three fundamental public service values underpinning NHS and all public sector work, specified by the NHS Code of Conduct, are:

Accountability: Everything done by those who work in the organisation must be able to withstand public and parliamentary scrutiny.

Probity: Absolute honesty and integrity should be exercised in dealing with NHS patients, assets, staff, suppliers and customers.

Openness: The organisation's activities should be sufficiently public and transparent to promote confidence between the organisation and its patients, staff and the public.

7.2 The Board's Policy

The Board is absolutely committed to maintaining an honest, open and well-intentioned atmosphere within the organisation, so as best to fulfil the objectives of the Board and of the NHS. It is therefore committed to the elimination of any fraud within the Board, to the rigorous investigation of any such cases, and where fraud or other criminal act is proven to ensure that those perpetrating fraud are appropriately dealt with. The Board will also take appropriate steps to recover any assets lost as a result of fraud.

The Board wishes to encourage anyone having suspicions of fraud to report them. The Board's policy, which will be rigorously enforced, is that no employee should suffer as a result of reporting suspicions held in good faith.

The Board has therefore set in place procedures (in the form of Standing Orders, Standing Financial Instructions and procedure notes) designed to minimise the likelihood of the Board being a victim of fraud, a response plan to be followed in the event suspected fraud being reported, and these guidance notes issued to all staff.

7.3 Instructions To Staff

You should be assured that there will be no recriminations against staff who report suspicions held in good faith. Victimising or deterring staff from reporting concerns is a serious disciplinary matter. Any contravention of this policy should be reported to the Chief Executive or Chair of the Audit Committee. Equally however, abuse of the process by raising malicious allegations would, if proven, be regarded as a disciplinary matter.

If you believe you have good reason to suspect a colleague, patient or other person of a fraud or an offence involving the Board or a serious infringement of Board or NHS rules you should discuss it in the first place with your manager.

Examples could include:

- theft of Board property
- abuse of Board property
- deception or falsification of records (e.g.: fraudulent time or expense claims)

If you have suspicions about the actions of your manager, such that you suspect that manager of involvement in the fraud, then you have a choice of:

- going to the next more senior person in your department or directorate
- discussing the matter confidentially and anonymously with the Director of Workforce and Planning
- reporting the matter directly to the Director of Finance

Further choices for staff are:

- you may use the CFS Fraud Reporting Line 08000 15 16 28 or report their suspicions (anonymously if desired) through the CFS Website on SHOW. (www.show.scot.nhs.uk/fiu)
- if you are concerned about speaking to another member of staff you could ask for advice first from the charity "Public Concern at Work" telephone 0207 404 6609. They can provide independent and confidential advice to you.

If you and your manager and the Director of Workforce and Planning decide between you that your suspicion may be justified, your manager or the Director of Workforce and Planning will report the matter to the Director of Finance. The Board will then follow the Fraud Action Plan to investigate and take appropriate action.

Under no circumstances should staff speak to representatives of the press, radio, TV or other third party unless expressly authorised by the Chief Executive.

Please be aware that time may be of the utmost importance to ensure that the Board does not continue to suffer a loss.

- 7.4** Your cooperation in this matter is appreciated. Relevant contact points are as follows:

Director of Finance, NHS Borders, Newstead, Melrose, TD6 9DA

(01896 825555)
www.nhsborders.org.uk

Chair of Audit Committee, NHS Borders, c/o Chair's Office, Newstead, Melrose, TD6 9DA

(01896 825525)
www.nhsborders.org.uk

Fraud Liaison Officer, NHS Borders, Newstead, Melrose, TD6 9DA

(01896 825555)
www.nhsborders.org.uk

Director of Workforce and Planning, NHS Borders, Newstead, Melrose, TD6 9DA

(01896 828270)
www.nhsborders.org.uk

Appointed Auditor

Currently: PricewaterhouseCoopers

Exchange Place 3, Semples Street, Edinburgh, EH3 8BL (0131 473 3500)
25 Bothwell Street, Glasgow, G2 6NL (0141 567 4500)

Counter Fraud Services, Earlston House, Almondvale Business Park, Almondvale Way, Livingston EH54 6GA

(01506 705200)
www.cfs.scot.nhs.uk

SECTION E

RESERVATION OF POWERS AND DELEGATION OF AUTHORITY

RESERVATION OF POWERS AND DELEGATION OF AUTHORITY

- 1. Schedule of Matters Reserved for Board Agreement**
- 2. Schedule of Matters Delegated to Board Executive Directors**
- 3. Scheme of Delegation Framework & Key Roles**
- 4. Delegated Limits and Authorised Signatories**
- 5. Delegation of Powers for Appointment of Staff**

1. SCHEDULE OF MATTERS RESERVED FOR BOARD AGREEMENT

1.1 Background

Under the proposals contained in the NHS Circular HDL (2003) 11 'Working Towards Single System Working', the Board will retain its focus as a board of governance, delivering a corporate approach to collective decision making based on the principles of partnership working and devolution of powers. Local leadership will be supported by delegating financial and management responsibility as far as is possible consistent with the Board's own responsibility for governance.

The Board has a corporate responsibility for ensuring that arrangements are in place for the conduct of its affairs and that of the Board and Executive Team and Clinical Executive. This includes compliance with applicable guidance and legislation, and ensuring that public money is safeguarded, properly accounted for, and used economically, efficiently and effectively. The Board has a responsibility to ensure that it monitors the adequacy and effectiveness of these arrangements in practice.

The Board is required to ensure that it conducts a review of its systems of internal control, including in particular its arrangements for risk management, at least annually, and to report publicly on its compliance with the principles of corporate governance codes.

Everyone needs to be clear about their role, responsibilities and their accountability. The main purposes functions of NHS Borders are set out below.

The purpose and function of the Board will be:-

- Efficient, effective and accountable governance.
- Strategic leadership and direction for the Borders NHS system.
- Strategy development including the Local Delivery Plan.
- Allocation of resources.
- Performance management of the NHS Borders system.

The purpose and function of the Strategy Group will be to:-

- Form a key part of the NHS Borders single organisation.
- Implement the NHS Borders strategic plans.
- Organise and provide healthcare services in line with national and local priorities.
- Manage operational decisions taken by the Clinical Executive to ensure these are in line with the strategic plans in place for the delivery of healthcare services within the governance framework set by the Board.
- Monitor national and local targets on improved waiting times, ensuring clean hospitals and meeting financial targets.
- To maintain the effective partnership working of the Clinical Executive within and across Clinical Boards.
- Empower frontline staff by devolving management authority and accountability to local level within the Scheme of Delegation.
- Integrate primary and secondary care services.
- Engage with community planning partners.

The Scheme of Delegation provides a mechanism to empower frontline staff to make decisions close to the point of care delivery, within a framework of delegated and

reserved powers for NHS Borders. It is acknowledged that there will be a number of further developments within NHS Borders which will require the refinement of this Scheme over coming months.

1.2 Matters Reserved for Board Agreement

The following shall be reserved for agreement by the Board:-

- 1.2.1 The Local Delivery Plan;
- 1.2.2 Strategic Plans and Policies with resource implications greater than £250,000;
- 1.2.3 Business Plans with resource implications greater than £250,000;
- 1.2.4 The acceptance of contracts in respect of the Capital Programme Budget where the value exceeds £250,000. Where the contract value is greater than £1,000,000 this must be submitted to the Scottish Government Health Department for approval;
- 1.2.5 The acceptance of commercial contracts in respect of the Board's Revenue where the value exceeds £250,000;
- 1.2.6 NHS Service Agreements with an annual value over £1,000,000 excepting the Lothian Service Level Agreement where authorisation is delegated to the Director of Finance;
- 1.2.7 Contracts for goods/services above EC Tendering Limits;
- 1.2.8 Appointment of Management Consultants over £25,000;
- 1.2.9 Approval of the Revenue and Capital Budgets;
- 1.2.10 Approval of transfer of funds between budget heads including transfers from reserves and balances where the value in any one instance exceeds £ 250,000;
- 1.2.11 Approval of the disposal of all property assets including land;
- 1.2.12 Approval of the disposal of fixed assets with an estimated value over £100,000;
- 1.2.13 The making, alteration and revocation of the Code of Corporate Governance and its component parts, including Standing Orders, Standing Financial Instructions; Scheme of Delegation; Counter Fraud Policy and Action Plan;
- 1.2.14 The establishment of terms of reference and reporting arrangements for all Committees acting on behalf of the Board and the determination of differences between such committees;
- 1.2.15 Financial and performance reporting arrangements;
- 1.2.16 To review the Terms of Reference and appointment of the Internal Auditors;
- 1.2.17 Approval of arrangements for discharge of Board Members' responsibilities in relation to Endowment funds;
- 1.2.18 Approval of the Annual Report and accounts;
- 1.2.19 The incurring of expenditure for which no provision or insufficient provision has been made in the Budget of the Board;
- 1.2.20 Any proposal, which in the opinion of the Chief Executive will result in significant, permanent service change and will require public consultation in accordance with Scottish Government guidance;
- 1.2.21 Approval of the annual best value work plan;
- 1.2.22 Approval of the Boards banking arrangements;
- 1.2.23 The dismissal of executive members of the Board and other senior members of staff where the filling of posts concerned require the involvement of non-executive members of the Board;
- 1.2.24 Approval of all appointments of Non Executive Members to committees, steering groups, project boards or if allocated a role by the Chair or Chief Executive;
- 1.2.25 Approval of the South East and Tayside (SEAT) Regional Planning Group Work Plans as detailed in HDL (2004) 46.

2. SCHEDULE OF MATTERS DELEGATED TO OFFICERS OF THE BOARD

2.1 Interpretation

- Any reference to a statutory or other provision shall be interpreted as a reference amended from time to time by any subsequent legislation.
- The Chief Executive as Accountable Officer can exercise delegated authority across all NHS Borders services and functions.
- Powers delegated to the Chief Executive in terms of this scheme may be exercised by such an officer or officers as the Chief Executive may authorise.

2.2 Chief Executive

2.2.1 General Provisions

In the context of the Board's principal role to protect and improve the health of Borders residents, the Chief Executive as Accountable Officer shall have delegated authority and responsibility to secure the economical, efficient and effective operation and management of NHS Borders and to safeguard its assets in accordance with

- The statutory requirements and responsibilities laid upon the Chief Executive as Accountable Officer for NHS Borders;
- Direction from the Scottish Government Health Department;
- Current policies and decisions made by the Board;
- Within the limits of the resources available, subject to the approval of the Board;
- The Code of Corporate Governance.

The Chief Executive is authorised to take such measures as may be required in emergency situations, subject to consulting, where possible, the Chair and the Vice-Chair of the Board, and the relevant Committee Chair. Such measures, that might normally be outwith the scope of the authority delegated by the Board or its Committees shall be reported to the Board or appropriate Committee as soon as possible thereafter.

The Chief Executive is authorised to give a direction in special circumstances that any official shall not exercise a delegated function subject to reporting on the terms of the direction to the next meeting of the appropriate Committee.

2.2.2 Finance

Resources shall be used only for the purpose for which they are allocated, unless otherwise approved by the Chief Executive, after taking account of the advice of the Director of Finance. The Chief Executive acting together with the Director of Finance has delegated authority to approve the transfer of funds between budget heads, including transfers from reserves and balances, up to a maximum of £250,000 in any one instance. The Chief Executive shall report to the Strategic and Performance Committee for formal inclusion in the minutes

those instances where this authority is exercised and/or the change in use of the funds relates to matters of public interest.

The Chief Executive may, acting together with the Director of Finance, and having taken all reasonable action to pursue recovery, approve the writing-off of losses, subject to the limits laid down from time to time by the Scottish Government Health Department.

2.2.3 Legal Matters

The Chief Executive is authorised to institute, defend or appear in any legal proceedings or any inquiry, including proceedings before any statutory tribunal, board or authority, and following consideration of the advice of the Central Legal Office to appoint or consult with Counsel where it is considered expedient to do so, for the promotion or protection of the Board's interests.

In circumstances where a claim against the Board is settled by a decision of a Court, and the decision is not subject to appeal, the Chief Executive shall implement the decision of the relevant Court on behalf of the Board.

In circumstances where the advice of the Central Legal Office is to reach an out-of-court settlement, the Chief Executive may, acting together with the Director of Finance, settle claims against the Board; subject to a report thereafter being submitted to the Strategy and Performance Committee.

The Chief Executive, acting together with the Director of Finance, may make ex-gratia payments, subject to the limits laid down from time to time by the Scottish Government Health Department.

The arrangements for signing of documents in respect of matters covered by the Property Transactions Manual shall be in accordance with the direction of Scottish Ministers. The Chief Executive is currently authorised to sign such documentation on behalf of the Board and Scottish Ministers.

The Chief Executive shall have responsibility for the safekeeping of the Board's Seal, and together with the Chair or other nominated non-executive member of the Board, shall have responsibility for the application of the Seal on behalf of the Board.

2.2.4 Procurement

The Chief Executive shall have responsibility for nominating officers or agents to act on behalf of the Board, for specifying, and issuing documentation associated with invitations to tender, and for receiving and opening of tenders.

Where post tender negotiations are required, the Chief Executive shall nominate in writing, officers and/or agents to act on behalf of the Board.

The Chief Executive, acting together with the Director of Finance, has authority to approve on behalf of the Board, the acceptance of tenders, submitted in accordance with the Board's Code of Corporate Governance, up to a value of £250,000 (including VAT suffered) within the limits of previously approved Revenue and Capital Budgets.

The exercise of this authority for tenders in excess of £10,000 up to £250,000 must be included in the tender register.

In accepting a tender, which is not the lowest tender received, it is mandatory that a detailed explanation for accepting the tender must be clearly recorded in the tender register. This must include an explicit detail of why this is the most advantageous tender for NHS Borders.

The Chief Executive shall provide the Director of Finance with a listing, including specimen signatures, of those officers or authorised agents to whom he has given delegated authority to sign official orders on behalf of the Board.

2.2.5 Human Resources

The Chief Executive may appoint staff in accordance with the Board's Scheme of Delegation for the Appointment of Staff as detailed in the Code of Corporate Governance at Section E.

The Chief Executive may, after consultation and agreement with the Director of Workforce and Planning, and the relevant officer, amend staffing establishments in respect of the number and grading of posts. In so doing, the Director of Finance must confirm that the cost of the amended establishment can be contained within the relevant limit approved by the Board for the current and subsequent financial years. Any amendment must also be in accordance with the policies and arrangements relating to human resource planning, approved by the Board or Staff Governance Committee.

The Chief Executive may attend and may authorise any member of staff to attend, within the United Kingdom, conferences, courses or meetings of relevant professional bodies and associations, provided that:

- Attendance is relevant to the duties or professional development of such member of staff; and
- Appropriate allowance has been made within approved budgets; or
- External reimbursement of costs is to be made to the Board.

The Chief Executive may, in accordance with the Board's agreed Disciplinary Procedures, take disciplinary action in respect of members of staff, including dismissal where appropriate.

The Chief Executive shall have responsibility for ensuring that the Board complies with Health and Safety legislation, and for ensuring the effective implementation of the Board Policies.

The Chief Executive may grant paid compassionate leave or unpaid special leave of absence to any employee for up to five working days. The Chief Executive may approve other paid or unpaid leave within the limits defined in the board's Leave Policy.

The Chief Executive may, following consultation and agreement with the Director of Workforce and Planning and the Director of Finance, approve payment of honoraria to any employee.

2.2.6 Patients Property

The Chief Executive has overall responsibility for ensuring that the Board complies with legislation in respect of patient's property. The term 'property' means all assets other than land and building (e.g. furniture, pictures, jewellery, bank accounts, shares, cash).

2.3 DIRECTOR OF FINANCE

Authority is delegated to the Director of Finance to take the necessary measures as undernoted, in order to assist the Board and the Chief Executive in fulfilling their corporate responsibilities.

2.3.1 Accountable Officer

The Director of Finance has a general duty to assist the Chief Executive in fulfilling his responsibilities as the Accountable Officer of the Board.

2.3.2 Financial Statements

The Director of Finance is empowered to take all steps necessary to assist the Board to:-

- Act within the law and ensure the regularity of transactions by putting in place systems of internal control to ensure that financial transactions are in accordance with the appropriate authority;
- Maintain proper accounting records;
- Prepare and submit for audit, timeous financial statements, which give a true and fair view of the financial position of the Board and its income and expenditure for the period in question.

2.3.3 Corporate Governance and Management

The Director of Finance is authorised to put in place proper arrangements to ensure that the financial position of the Board is soundly based by ensuring that the Board, its Committees and supporting management groupings receive appropriate, accurate and timely information and advice with regard to:-

- The development of financial plans, budgets and projections;
- Compliance with statutory financial requirements and achievement of financial targets;
- The impact of planned future policies and known or foreseeable developments on the Board's financial position.

The Director of Finance is empowered to take steps to ensure that proper arrangements are in place for:-

- Developing, promoting and monitoring compliance with the Code of Corporate Governance.
- Developing and implementing systems of internal control, including systems of financial, operational and compliance controls and risk management;
- Developing and implementing strategies for the prevention and detection of fraud and irregularity;

- Internal Audit.

2.3.4 Performance Management

The Director of Finance is authorised to assist the Chief Executive to ensure that suitable arrangements are in place to secure economy, efficiency and effectiveness in the use of resources and that they are working effectively. These arrangements include procedures:

- For planning, appraisal, authorisation and control, accountability and evaluation of the use of resources;
- To ensure that performance targets and required outcomes are met.

2.3.5 Banking

The Director of Finance is authorised to oversee the Board's arrangements in respect of accounts held in the name of the Board as part of the national contract with Government Banking Services and the commercial bankers appointed by the Board.

The Director of Finance will maintain a panel of authorised signatories which will be approved by the Board.

The Director of Finance will be responsible for ensuring that the Paymaster General's Office and the commercial bankers are advised in writing of amendments to the panel of authorised signatories.

2.3.6 Patients' Property

The Director of Finance has delegated authority to ensure that detailed operating procedures in relation to the management of the property of patients (including the opening of bank accounts where appropriate) are compiled for use by staff involved in the management of patients' property and financial affairs.

2.3.7 Human Resources

The Director of Finance may appoint staff in accordance with the Board's Scheme of Delegation for the Appointment of Staff as detailed in the Code of Corporate Governance at Section E.

The Director of Finance may, after consultation and agreement with the Director of Workforce and Planning, and the relevant officer, amend staffing establishments in respect of the number and grading of posts. In so doing, the Director of Finance must confirm that the cost of the amended establishment can be contained within the relevant limit approved by the Board for the current and subsequent financial years. Any amendment must also be in accordance with the policies and arrangements relating to human resource planning, approved by the Board or Staff Governance Committee.

The Director of Finance may attend and may authorise any member of staff to attend, within the United Kingdom, conferences, courses or meetings of relevant professional bodies and associations, provided that:

- Attendance is relevant to the duties or professional development of such member of staff; and
- Appropriate allowance has been made within approved budgets; or
- External reimbursement of costs is to be made to the Board.

The Director of Finance may, in accordance with the Board's agreed Disciplinary Procedures, take disciplinary action in respect of members of staff, including dismissal where appropriate.

The Director of Finance shall have responsibility for ensuring that the Board complies with Health and Safety legislation, and for ensuring the effective implementation of the Board Policies.

The Director of Finance may grant paid compassionate leave or unpaid special leave of absence to any employee for up to five working days. The Director of Finance may approve other paid or unpaid leave within the limits defined in the board's Leave Policy.

2.4 CHIEF OPERATING OFFICER

2.4.1 General Provisions

The Chief Operating Officer has delegated authority and responsibility to secure the economical, efficient and effective operation and management of the Clinical Executive and to safeguard its assets:

- In accordance with the current policies and decisions made by the Board;
- Within the limits of the resources made available to the Clinical Executive by the Board;
- In accordance with the Code of Corporate Governance.

The Chief Operating Officer has a general duty to assist the Chief Executive in fulfilling his responsibilities as the Accountable Officer of the Board.

The Chief Operating Officer is authorised to take such measures as may be required in emergency situations, subject to consulting, where possible, the Chair of the Clinical Executive, the Chair or the Vice-Chair of the Board, the Chief Executive and where appropriate, the relevant Committee Chair. Such measures, that might normally be outwith the scope of the authority delegated by the Board or its Committees and shall be reported to the Board or appropriate Committee as soon as possible thereafter.

The Chief Operating Officer is authorised to give a direction in special circumstances that any officer within the Clinical Executive shall not exercise a delegated function subject to reporting on the terms of the direction to the next meeting of the Clinical Executive.

2.4.2 Finance

Resources shall be used only for the purpose for which they are allocated, unless otherwise approved by the Chief Operating Officer, after taking account of the advice of the Deputy Director of Finance (Financial Management). The Chief Operating Officer acting together with the Deputy Director of Finance

(Financial Management), has delegated authority to approve the transfer of funds between budget heads, including transfers from reserves and balances, up to a maximum of £250,000 in any one instance. The Chief Operating Officer shall report to the Clinical Executive for formal inclusion in the minutes those instances where this authority is exercised and/or the change in use of the funds relates to matters of public interest.

The Chief Operating Officer may, acting together with the Deputy Director of Finance (Financial Management), and having taken all reasonable action to pursue recovery, approve the writing-off of losses in the Clinical Executive, subject to the limits laid down from time to time by the Scottish Government Health Department.

2.4.3 Procurement of Supplies and Services

The Chief Operating Officer shall have responsibility for nominating officers or agents to act on behalf of the Board, for specifying, and issuing documentation associated with invitations to tender, and for receiving and opening of tenders on behalf of the Board.

Where post tender negotiations are required, the Chief Operating Officer shall nominate in writing, officers and/or agents to act on behalf of the Board.

The Chief Operating Officer, acting together with the Deputy Director of Finance (Financial Management), has authority to approve on behalf of the Board the acceptance of tenders, in respect of the Clinical Executive submitted in accordance with the Board's Code of Corporate Governance, up to a value of £250,000 (including VAT suffered) within the limits of previously approved Revenue and Capital Budgets.

The exercise of this authority for tenders in excess of £50,000 up to £250,000 must be reported to the Clinical Executive.

The exercise of this authority for tenders in excess of £10,000 up to £250,000 must be included in the tender register.

In accepting a tender, which is not the lowest tender received, it is mandatory that a detailed explanation for accepting the tender must be clearly recorded in the tender register. This must include an explicit detail of why this is the most advantageous tender for NHS Borders.

2.4.4 Human Resources

The Chief Operating Officer may appoint staff in accordance with the Board's Scheme of Delegation for the Appointment of Staff as detailed in the Code of Corporate Governance at Section E.

The Chief Operating Officer may, after consultation and agreement with the Director of Workforce and Planning, and the relevant officer, amend staffing establishments in respect of the number and grading of posts. In so doing, the Deputy Director of Finance (Financial Management) must confirm that the cost of the amended establishment can be contained within the relevant limit approved by the Clinical Executive for the current and subsequent financial years. Any amendment must also be in accordance with the policies and

arrangements relating to human resource planning, approved by the Board or the Staff Governance Committee.

The Chief Operating Officer may attend and may authorise any member of staff to attend within the United Kingdom conferences, courses or meetings of relevant professional bodies and associations, provided that:

- Attendance is relevant to the duties or professional development of such member of staff; and
- Appropriate allowance has been made within approved budgets; or
- External reimbursement of costs is to be made to the Board.

The Chief Operating Officer may, in accordance with the Board's agreed Disciplinary Procedures, take disciplinary action, in respect of members of staff, including dismissal where appropriate.

The Chief Operating Officer has overall responsibility for ensuring that the Clinical Executive complies with Health and Safety legislation, and for ensuring the effective implementation of the Board's policies in this regard.

The Chief Operating Officer may grant paid compassionate leave or unpaid special leave of absence to any employee within the Clinical Executive for up to five working days. The Chief Operating Officer may approve other paid or unpaid leave within the limits defined in the Board's Leave Policy.

2.4.5 Patients' Property

The Chief Operating Officer has overall responsibility for ensuring that the Clinical Executive complies with legislation in respect of patients' property and that effective management arrangements are in place.

2.5 Deputy Director of Finance (Financial Management)

Authority is delegated to the Deputy Director of Finance (Financial Management) to take the necessary measures as undernoted, in order to assist the Clinical Executive and the Chief Operating Officer in fulfilling their corporate responsibilities.

The Deputy Director of Finance (Financial Management) has a general duty to assist the Chief Executive in fulfilling their responsibilities as the Accountable Officer of the Board. In exercising these delegated powers the Deputy Director of Finance (Financial Management) is also acting as the Director of Finance's representative.

2.5.1 Financial Statements

The Deputy Director of Finance (Financial Management) is empowered to take all steps necessary to assist and contribute to the Board in order that it:

- Acts within the Law;
- Ensures the regularity of transactions by maintaining approved systems of internal control to ensure that financial transactions are in accordance with the appropriate authority;
- Maintains proper accounting records;

- Assists and participates as appropriate in the completion of the Board's Annual Accounts.

2.5.2 Corporate Governance and Management

The Deputy Director of Finance (Financial Management) is authorised to put in place proper arrangements to ensure that the financial position of the Clinical Executive is sound by ensuring that the Clinical Executive and supporting management groupings receive appropriate, accurate and timely information and advice with regard to:

- The development of financial plans, budgets and projections;
- Compliance with statutory financial requirements and achievement of financial targets;
- The impact of planned future policies and known or foreseeable developments on the Clinical Executive's financial position.

The Deputy Director of Finance (Financial Management) is empowered to take steps to ensure that proper arrangements are in place for:

- Monitoring compliance with the Code of Corporate Governance and appropriate guidance on standards of business conduct. Contribute to the development and promotion of the Code of Corporate Governance.
- Developing and implementing systems of internal control, including systems of financial, operational and compliance controls and risk management.
- Developing and implementing strategies for the prevention and detection of fraud and irregularity.

2.5.3 Performance Management

The Deputy Director of Finance (Financial Management) is authorised to assist the Chief Operating Officer to ensure that suitable arrangements are in place to secure economy, efficiency, and effectiveness in the use of resources and that they are working effectively. These arrangements include procedures:

- For planning, appraisal authorisation and control, accountability and evaluation of the use of resources;
- To ensure that performance targets and required outcomes are met and achieved.

2.5.4 Patients' Property

The Deputy Director of Finance (Financial Management) shall have delegated authority to provide detailed operating procedures in relation to the management of the property of patients (including the opening of bank accounts where appropriate) for use by staff involved in the management of patients' property and financial affairs.

2.6 Provisions Applicable to Other Executive Directors of the Board

- Director of Nursing and Midwifery
- Director of Public Health,
- Director of Workforce and Planning
- Medical Director

2.6.1 General Provisions

Executive Directors have delegated authority and responsibility with the Chief Executive, for securing the economical, efficient and effective operation and management of their own Directorates or Departments and for safeguarding the assets of the Board.

Executive Directors are authorised to take such measures as may be required in emergency situations, subject to consulting, where possible, the Chief Executive, the Chair and the Vice-Chair of the Board or relevant Committee Chair as appropriate. Such measures, that might normally be outwith the scope of the authority delegated by the Board or its Committees to the relevant Executive Director/Chief Officer, shall be reported to the Board or appropriate Committee as soon as possible thereafter.

2.6.2 Human Resources

Executive Directors may appoint staff in accordance with the Board's Scheme of Delegation for the Appointment of Staff as detailed in Standing Orders Section E.

Executive Directors may, after consultation and agreement with the Director of Workforce and Planning, amend staffing establishments in respect of the number and grading of posts. In so doing, the Director of Finance must confirm that the cost of the amended establishment can be contained within the relevant limit approved by the Board for the current and subsequent financial years. Any amendment must also be in accordance with the policies and arrangements relating to human resource planning, approved by the Board or Staff Governance Committee.

Executive Directors may attend and may authorise any member of staff to attend within the United Kingdom, conferences courses or meetings of relevant professional bodies and associations, provided that:

- Attendance is relevant to the duties or professional development of such member of staff; and
- Appropriate allowance is contained within approved budgets; or
- External reimbursement of costs is to be made to the Board.

Executive Directors have overall responsibility within their Directorates/Departments for ensuring compliance with Health and Safety legislation, and for ensuring the effective implementation of the Board's policies in this regard.

2.7 Recruitment of Consultants

The responsibility for the recruitment of consultants is delegated to the recruiting Board as per CEL 25 (2009) "The National Health Service (Appointment of Consultants) (Scotland) Regulations 2009."

The Board Lead Officer

- The Board should identify a Lead Officer to manage an individual recruitment process with support from the HR department. Within the recruitment process it is anticipated that this Lead Officer will often be a medical manager or dental manager, who may, depending on the size of the Board, or the specialty involved, choose to either directly lead the recruitment process or identify who will. Other possibilities for this role include a lead clinician from within the service or the clinical service manager.

Chair

- The Chair of the panel has delegated authority from the recruiting Board to make an offer of employment. This authority is contained within the regulations. Boards may choose to appoint the Lead Officer as Chair, or may alternatively choose a senior manager or non-executive director to chair the assessment panel.

External Adviser

- The regulations require a single External Adviser is included on the assessment panel for consultant appointments within NHS in Scotland. The role of the External Adviser will be to advise the recruiting Board on each stage in the process, including commenting and advising on the job description, person specification, the selection methodology and participating in the selection process. This External Adviser is identified from the list of External Advisers maintained by the Academy, and must be external, i.e. not employed by the recruiting Board, and must be in the same specialty as the post being appointed to. In rare instances of small specialties it may be necessary to seek an External Adviser from outwith Scotland.

The Assessment Panel

- The assessment panel is convened by the Board to conduct the candidate assessment. Within this recruitment process, as the Boards determine the selection methodology for appointing to consultant posts, the Assessment Panel is also to be determined by the recruiting Board to best support and facilitate the methodology chosen to assess the suitability of candidates. This assessment may include profiling, aptitude tests or multi-station interviews. The panel must include at least one consultant from the specialty. Where possible that consultant should be from the employing Board.

Depending on the nature of the post and the extent of any undergraduate teaching or training duties the Board may include University representation on the assessment panel and requests for University representatives should be submitted to the Dean.

While there is no set limit on the size of the panel, under the regulations it remains that the panel must include a Chair, with delegated authority from the Board, an External Adviser as outlined above and one other consultant from the specialty.

Section 2

3. SCHEME OF DELEGATION FRAMEWORK & KEY ROLES

AREA OF RESPONSIBILITY	ROLE OF BOARD EXEC TEAM	ROLE OF STRATEGY GROUP/CLINICAL EXECUTIVE	ROLE OF CLINICAL/CARE BOARDS	ROLE OF FRONTLINE STAFF	HEALTH PARTNERS
STRATEGY DEVELOPMENT (INCLUDING THE LOCAL DELIVERY PLAN)	<ul style="list-style-type: none"> • Overarching co-ordination and development of strategy. • Public consultation on strategy and Local Delivery Plan. • Support regional planning to ensure alignment to Local Delivery Plan. 	<ul style="list-style-type: none"> • To have clear influence on the distribution of existing resources both within the Community Health Partnership and across the wider NHS Borders system. • Undertake responsibility for modernisation of all services provided locally. • Directly influence Board/BET level strategic planning. • Operate at a strategic level in relation to the Community Health Partnerships influencing role within NHS Borders and with partners. • Plan primary, secondary and community based services with delegated authority from Board/BET. 	<ul style="list-style-type: none"> • Be involved in the development and influence content. • Empower staff to contribute. • Provide clear direction for strategic development of own Clinical Board's service. 	<ul style="list-style-type: none"> • To be involved and contribute to the development of the strategy. 	<ul style="list-style-type: none"> • Contribute to development of Local Delivery Plan and service strategy.

AREA OF RESPONSIBILITY	ROLE OF BOARD EXEC TEAM	ROLE OF STRATEGY GROUP/CLINICAL EXECUTIVE	ROLE OF CLINICAL/CARE BOARDS	ROLE OF FRONTLINE STAFF	HEALTH PARTNERS
PROVISION OF HEALTHCARE SERVICES	<ul style="list-style-type: none"> • Resource allocation. • Strategic decision making. • Securing and influencing funding with SEHD. • Establish rules for intervention when exception reporting indicates need. 	<ul style="list-style-type: none"> • Ensure service provision according to overarching strategy. • Accountable for the operational delivery of services based on patient need and resource availability. • The development of business cases to support service changes. • Meet National and Local priorities. • Ensure provision of those services locally which it is the duty of NHS Borders to provide, or secure provision of. • Responsibility to exercise strong management control of local services in order to maximise integration of primary and secondary care. • To seek opportunities to maximise integration of primary and secondary care. 	<ul style="list-style-type: none"> • Ensure service provision according to overarching strategy. • Accountable for the operational delivery of services based on patient need and resource availability. • The preparation of business cases to support service changes. • Meet National and Local priorities. • To work with other Clinical Boards to ensure integrated services. 	<ul style="list-style-type: none"> • Direct delivery of patient care. • Meet Professional standards. • Advise on 'gaps'/improvements to services to contribute to business cases. • To lead/contribute to the redesign of services – patient centred. • To actively participate in integration of primary and secondary care service provision. 	<ul style="list-style-type: none"> • Provide feedback for service providers on patient / public experience. • Support education of service users.

AREA OF RESPONSIBILITY	ROLE OF BOARD EXEC TEAM	ROLE OF STRATEGY GROUP/CLINICAL EXECUTIVE	ROLE OF CLINICAL/CARE BOARDS	ROLE OF FRONTLINE STAFF	HEALTH PARTNERS
SERVICE RE-DESIGN	<ul style="list-style-type: none"> • To develop Local Delivery Plan. • To set the framework for service redesign, including priorities. 	<ul style="list-style-type: none"> • Responsibility to plan and develop those services which it is the duty of NHS Borders to provide or secure the provision of, with a view to improving those services. • To ensure services are redesigned in accordance with regional planning priorities. • To co-ordinate development of all services including those not directly managed by the Community Health Partnership. • To identify an annual programme of redesign across the Community Health Partnership in line with agreed strategy. 	<ul style="list-style-type: none"> • To implement a program of re-design within the strategy. 	<ul style="list-style-type: none"> • Drive and lead re-design of services within clinical practice. 	<ul style="list-style-type: none"> • Support service redesign through active participation • Support education of service users.

AREA OF RESPONSIBILITY	ROLE OF BOARD EXEC TEAM	ROLE OF STRATEGY GROUP/CLINICAL EXECUTIVE	ROLE OF CLINICAL/CARE BOARDS	ROLE OF FRONTLINE STAFF	HEALTH PARTNERS
LEADERSHIP	<ul style="list-style-type: none"> To provide strategic leadership for NHS Borders. Links to the SEHD. To develop an organisational change strategy for NHS Borders. (Setting culture, values and behaviour for all staff). To provide an example of effective behaviours. 	<ul style="list-style-type: none"> To develop management arrangements that enable NHS Borders to delegate power and resources. To provide operational leadership for the delivery of services. Responsibility to empower frontline staff by devolving management authority and accountability. To provide visible leadership and support to frontline staff encouraging team working. 	<ul style="list-style-type: none"> To provide operational leadership for the delivery of services. To empower frontline staff by devolving management authority and accountability. To provide visible leadership and support to frontline staff encouraging team working. 	<ul style="list-style-type: none"> Accessibility of Professional leadership. Local leaders. To participate in the leadership and decision making of the organisation. 	<ul style="list-style-type: none"> Support the development of leaders to ensure they are fully informed on the needs and contribution of partner organisations.
CLINICAL LEADERSHIP DEVELOPMENT	<ul style="list-style-type: none"> To establish a strategy for clinical leadership and succession planning. 	<ul style="list-style-type: none"> Facilitating change in culture. Responsible for creating opportunities for re-design. To develop staff and independent contractors through shared training, induction and communication and provide a renewed focus on staff partnership. To develop detailed management structures that supports the development of clinical leads. 	<ul style="list-style-type: none"> Personal development plans. To provide and implement Clinical Leadership programme – commitment to support and develop workforce. Training and development programme. Creating opportunities for re-design. 	<ul style="list-style-type: none"> Participate in clinical leadership development Facilitating change in culture. 	<ul style="list-style-type: none"> Support the development of Clinical Leaders to ensure they are fully informed on the needs and contribution of partner organisations.

AREA OF RESPONSIBILITY	ROLE OF BOARD EXEC TEAM	ROLE OF STRATEGY GROUP/CLINICAL EXECUTIVE	ROLE OF CLINICAL/CARE BOARDS	ROLE OF FRONTLINE STAFF	HEALTH PARTNERS
MANAGED CLINICAL NETWORKS	<ul style="list-style-type: none"> • Set strategic content for the development of MCN's. • Promote links with regional planning. • Building on the Clinical Strategy for NHS Borders and Regional planning priorities. • Clinical Networking. 	<ul style="list-style-type: none"> • Provide Resource. • Identify key areas in which to develop MCN's. • Facilitate the development of managed clinical networks. • To employ shared network manager and redesign facilities to support service improvements. • Identify key areas in which to develop managers. 	<ul style="list-style-type: none"> • To participate in managed clinical networks. • Facilitate the development of managed clinical networks. • Provide training and development to support MCN. 	<ul style="list-style-type: none"> • Identify individual staff's role identity within the function of the MCN. • Ownership and definition of the composition of the team and their roles – particularly around leadership. 	<ul style="list-style-type: none"> • Support and influence the development of MCNs to ensure 'fit'.
CLINICAL GOVERNANCE	<ul style="list-style-type: none"> • To develop Clinical Governance and Risk Management strategy. • To ensure equity of patient care across Borders. 	<ul style="list-style-type: none"> • To implement clinical governance and risk management strategy. • To audit and monitor standards, including the provision of appropriate resources. • Ensure national standards communicated /implemented. • Ratify local standards. • Ensure opportunities to make improvement through integration are maximised. 	<ul style="list-style-type: none"> • To implement clinical governance and risk management strategy. • To audit and monitor standards, including the provision of appropriate resources. • Ensure national standards communicated /implemented. • Ratify local standards. 	<ul style="list-style-type: none"> • Delivery to National standards. • Develop, set and monitor local standards. 	<ul style="list-style-type: none"> • Recognise and support requirements of clinical governance accountabilities on NHS Borders.

AREA OF RESPONSIBILITY	ROLE OF BOARD EXEC TEAM	ROLE OF STRATEGY GROUP/CLINICAL EXECUTIVE	ROLE OF CLINICAL/CARE BOARDS	ROLE OF FRONTLINE STAFF	HEALTH PARTNERS
STAFF GOVERNANCE	<ul style="list-style-type: none"> • Set culture and ensure effective partnership approach across NHS Borders. • Make expectations clear in regard to PDPs, Lifelong learning, Study leave, Appraisal. • To ensure adherence to the Staff Governance standards. 	<ul style="list-style-type: none"> • To implement staff governance agreeing local priorities. • Responsibility for development of staff governance arrangements in line with Joint Future agenda in partnership with Joint Management Team and sub groups • Responsibility to develop workforce capacity to deliver the full range of primary and community based services. 	<ul style="list-style-type: none"> • Working with Staff Partnership Forum, implement agreed local priorities for staff governance. 	<ul style="list-style-type: none"> • To support the implementation and assist the identification of priorities. 	<ul style="list-style-type: none"> • Recognise and support requirements of staff governance accountabilities on NHS Borders. • Create conditions to support effective joint working arrangements for staff

<p>PUBLIC GOVERNANCE</p>	<ul style="list-style-type: none"> • Set culture and provide strategic leadership to ensure patients and the public are involved in the delivery and design of health services. • To ensure adherence to the Community Engagement Standards. • To ensure that NHS Borders is fully compliant with the Equality & Diversity Agenda including The Gender Scheme, the Race Relations Action Plan and the Disability Scheme. • To work towards achieving 'Investors in Volunteering' by 2011 in line with National Directives 	<ul style="list-style-type: none"> • To implement Public Governance ensuring consistent standards across the Clinical Boards. • To support the Clinical Boards in the implementation of the Public Governance work programme. • To monitor performance management in respect of PFPI / HEAT targets. • To monitor performance to assure compliance with the Equality & Diversity Agenda including the Gender Scheme, the Race Relations Action Plan and the Disability Scheme. 	<ul style="list-style-type: none"> • To implement and monitor the progress of the Public Governance Action Plan. • To ensure patient and public involvement in individual service redesign. • To involve a member of the public on the Clinical Board. • To oversee the implementation of the Carers Strategy and the Carers Information Strategy. 	<ul style="list-style-type: none"> • To ensure that the Community Engagements Standards are fully integrated within service delivery / service redesign. • To ensure compliance with the Equality & Diversity Standards including the Gender Scheme, the Race Relations Action Plan and The Disability Scheme. 	<ul style="list-style-type: none"> • To maintain a consistent standard of approach and involvement with service users and members of the public across organisations and within the Voluntary Sector.
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AREA OF RESPONSIBILITY	ROLE OF BOARD EXEC TEAM	ROLE OF STRATEGY GROUP/CLINICAL EXECUTIVE	ROLE OF CLINICAL/CARE BOARDS	ROLE OF FRONTLINE STAFF	HEALTH PARTNERS
FINANCIAL GOVERNANCE	<ul style="list-style-type: none"> • Resource Allocation Strategy. • To set the financial framework including investment plan and overall savings programme. • To monitor overall budgets of Clinical Executive and other Departments and NHS Borders budgets. • Propose and implement any agreed corrective action. • Resource Allocation. • To ensure appropriate audit and monitoring arrangements are established and maintained. • Accountable Officer for the use of resources within NHS Borders. 	<ul style="list-style-type: none"> • To maintain spending within financial limits. • To devolve budgets to frontline management teams providing appropriate information and support. • Facilitate flexibility in the use of budgets across Clinical / Care Boards. • To monitor overall budgets of Clinical / Care Boards. • Propose and implement any agreed corrective action. • To influence use of all NHS Borders development monies including waiting times, delayed discharge, change and innovation and related functions. • Responsibility for the development of joint health and social care budgets and financial frameworks. • To develop business cases. • To influence the equitable distribution of existing resources, both within the Clinical Executive and across the wider NHS system. 	<ul style="list-style-type: none"> • To maintain spending within financial limits. • To ensure financial probity. • To devolve budgets to frontline management teams providing appropriate information and support. • To monitor budgets. • Propose and implement any agreed corrective action. • To ensure that financial audit standards are met. • To prepare and submit business cases. • To influence use of NHS Borders investment in relevant areas. • To co-operate in the joint financial structures. 	<ul style="list-style-type: none"> • Able to influence the allocation of resources based on need and performance. • Recognise budget constraints and responsibilities. • Manage devolved budget to optimise clinical decision-making. 	<ul style="list-style-type: none"> • Recognise and support requirements of financial governance accountabilities on NHS Borders.

AREA OF RESPONSIBILITY	ROLE OF BOARD EXEC TEAM	ROLE OF STRATEGY GROUP/CLINICAL EXECUTIVE	ROLE OF CLINICAL/CARE BOARDS	ROLE OF FRONTLINE STAFF	HEALTH PARTNERS
COMMUNICATION	<ul style="list-style-type: none"> To develop internal and external communication strategy which promote the values and positive messages about health and health improvement. 	<ul style="list-style-type: none"> To implement internal and external communication strategies. To establish, develop and support public participation within Clinical Boards. 	<ul style="list-style-type: none"> To implement internal and external communication strategy. 	<ul style="list-style-type: none"> Support to implementation internal and external communication strategies, specifically in terms of staff, patients and the public. 	<ul style="list-style-type: none"> Support effective communication with users and the public

AREA OF RESPONSIBILITY	ROLE OF BOARD EXEC TEAM	ROLE OF STRATEGY GROUP/CLINICAL EXECUTIVE	ROLE OF CLINICAL/CARE BOARDS	ROLE OF FRONTLINE STAFF	HEALTH PARTNERS
<p>PERFORMANCE MANAGEMENT</p>	<ul style="list-style-type: none"> • To agree and establish overall strategic performance management framework to support SGHD requirements and local issues. • To monitor performance of Clinical Executive elements and other Support Service Depts, recognising good performance and intervening where there is a breach of statutory obligation; ultra vires action; significant threat to financial viability / performance; major issue of service concern. • To oversee value for money, efficiency and benchmarking programmes as part of the wider performance management framework. 	<ul style="list-style-type: none"> • Support the NHS Board in the overall performance management of NHS Borders Operating Division's performance. • To monitor performance of Clinical Boards, recognising good performance and intervening where there is a breach of statutory obligation; ultra vires action; significant threat to financial viability / performance; major issue of service concern. 	<ul style="list-style-type: none"> • Contribute to the development of the Performance Framework. • Ensure effective performance management of Clinical Board and component services. • Give recognition to good performance. • Escalate issues of poor performance which require NHS Borders intervention. 	<ul style="list-style-type: none"> • Agree and communicate performance targets to staff. • Deliver performance targets. • To contribute to monitoring of performance of services. 	<ul style="list-style-type: none"> • Support performance as required.

AREA OF RESPONSIBILITY	ROLE OF BOARD EXEC TEAM & JOINT MANAGEMENT TEAM	ROLE OF STRATEGY GROUP/CLINICAL EXECUTIVE	ROLE OF CLINICAL/CARE BOARDS	ROLE OF FRONTLINE STAFF	HEALTH PARTNERS
JOINT WORKING	<ul style="list-style-type: none"> • Establish governance arrangements and framework for effective joint working with Scottish Borders Council. • Monitor effectiveness of joint working. • Engage with Scottish Borders Council on policy development to enable the Community Health Partnership elements to develop their full potential in providing an integrated service. • Work as a key NHS partner with Scottish Borders Council and others in relation to community planning and in developing and delivering joint approaches to local health and social care services. 	<ul style="list-style-type: none"> • Provide the operational focus for partnership with Scottish Borders Council under Joint Future agenda. • Provide main focus for service integration for the local community. 	<ul style="list-style-type: none"> • Support joint working on key issues. • To seek opportunities for joint working to improve experiences of people who provide and use services. • Work within JCT strategies to develop joint working/local services. 	<ul style="list-style-type: none"> • Deliver joint working arrangements. • To participate in activities which through joint working improve the experiences of people who use services. 	<ul style="list-style-type: none"> • Engage with NHS colleagues to ensure effective joint working at Board and local delivery levels.

AREA OF RESPONSIBILITY	ROLE OF BOARD EXEC TEAM	ROLE OF CLINICAL EXECUTIVE & SUPPORT DIRECTORATES	ROLE OF CLINICAL/CARE BOARDS	ROLE OF FRONTLINE STAFF	HEALTH PARTNERS
SUPPORT SERVICES	<ul style="list-style-type: none"> • To develop a strategy for support services ensuring effective interface with core clinical services. • Ensure equity of access. Agree accountability arrangements and standards of practice. 	<ul style="list-style-type: none"> • Ensure alignment between support service and service needs. • To highlight opportunities for increased integration of support services. 	<ul style="list-style-type: none"> • Ensure alignment between support service and service needs. 	<ul style="list-style-type: none"> • Involvement in developing of services specification from support services. 	<ul style="list-style-type: none"> ▪ Participate in development of common systems and harmonisation arrangements as appropriate.

AREA OF RESPONSIBILITY	ROLE OF BOARD EXEC TEAM	ROLE OF CLINICAL EXECUTIVE & SUPPORT DIRECTORATES	ROLE OF CLINICAL/CARE BOARDS	ROLE OF FRONTLINE STAFF	HEALTH PARTNERS
HEALTH IMPROVEMENT	<ul style="list-style-type: none"> • Establish system-wide priorities in context of national priorities. • Implement system-wide initiatives for health improvement. • Work in conjunction with community planning partners to ensure delivery of integrated health improvement agenda. • Undertake a wide public health perspective locally. • Ensure national and NHS Borders health improvement priorities are delivered, taking responsibility for needs assessment for local communities. • Provide local focus for health education and promotion. 	<ul style="list-style-type: none"> • Contribute to health improvement approaches across Clinical / Care Boards. • Implement system wide initiatives for improving health. • Work in conjunction with other partners to ensure delivery of integrated health improving services. • Provide local focus for health improvement through Local Health & Care Partnership development. 	<ul style="list-style-type: none"> • Contribute to health improvement approaches for patients and staff. • Deliver Clinical Board wide initiatives for improving health. • Work in conjunction with partners to ensure delivery of integrated health improving services. 	<ul style="list-style-type: none"> • Contribute to and lead health improvement activities for patients and staff. 	<ul style="list-style-type: none"> • Influence priority setting. • Contribute to health promotion activities.

AREA OF RESPONSIBILITY	ROLE OF BOARD EXEC TEAM	ROLE OF STRATEGY GROUP/CLINICAL EXECUTIVE	ROLE OF CLINICAL/CARE BOARDS	ROLE OF FRONTLINE STAFF	HEALTH PARTNERS
INDEPENDENT CONTRACTOR SERVICES RESPONSIBILITIES	<ul style="list-style-type: none"> • Devolve management and governance of independent contractor services to Clinical Executive. • Develop clear strategic framework for the development of independent contractor services. • Identify and agree clear management arrangement for the lack of independent contractor services to NHS Borders. 	<ul style="list-style-type: none"> • Through devolvement to the Primary & Community Services Board: manage independent contractor service contracts for pharmacists, dentists, opticians, GPs and PMS, to ensure services are provided in an interactive and complementary manner for the benefit of the local community. • To integrate independent contractors and their staff within the Community Health Partnership 'corporate identity' through shared training, education and communication and staff partnership arrangements. 	<ul style="list-style-type: none"> • Support the development of Primary Care services in relation to PCO responsibilities • On behalf of BET and Clinical Executive manage and govern primary and community services, including manage independent contractor service contracts. for pharmacists, dentists, opticians, GPs and PMS, to ensure services are provided in an interactive and complementary manner for the benefit of the local community. 	<ul style="list-style-type: none"> • Support the development of Primary Care services in relation to PCO responsibilities 	<ul style="list-style-type: none"> • Independent contractors to actively contribute to corporate activity of NHS Borders

Key Issues	NHS Borders Board	Board Executive Team	Clinical Executive	Clinical / Care Board	Front Line Staff
<ul style="list-style-type: none"> ▪ Human Resources Strategy 	<ul style="list-style-type: none"> • To ratify and approve the Human Resources Strategy 	<ul style="list-style-type: none"> ▪ To develop in partnership with the Area Partnership Forum a Human Resources Strategy which supports the Local Delivery Plan, CHP Development Plan and Partnership for Care. ▪ To promote a culture of partnership working. 	<ul style="list-style-type: none"> ▪ To implement with the Local Partnership Forums NHS Borders Human Resources Strategy 	<ul style="list-style-type: none"> ▪ To promote and drive at local level a culture of partnership working. ▪ To identify opportunities across the service to implement the HR Strategy. ▪ To identify system wide issues for Workforce Development. 	<ul style="list-style-type: none"> ▪ Through local partnership forums to be able to influence Human Resource Strategy development.
<ul style="list-style-type: none"> ▪ Workforce Development Strategy 	<ul style="list-style-type: none"> • To ratify and approve the Workforce Development Strategy 	<ul style="list-style-type: none"> ▪ To develop in partnership through the NHS Borders Workforce Planning Group a Workforce Development strategy in order to provide a capable and competent workforce, taking into account national, regional and local service planning priorities. 	<ul style="list-style-type: none"> ▪ To participate and influence workforce development and planning. ▪ To have clear and proportionate influence on the distribution of resources. 	<ul style="list-style-type: none"> ▪ To implement agreed change in accordance with NHS Borders organisational change policy. 	<ul style="list-style-type: none"> ▪ To be kept informed of strategic plans and priorities. ▪ To be supported during periods of organisational change. ▪ To be involved and contribute to the development of strategy.

Key Issues	NHS Borders Board	Board Executive Team	Clinical Executive	Clinical / Care Board	Front Line Staff
<ul style="list-style-type: none"> ▪ HR Performance Management 	<ul style="list-style-type: none"> • To be aware of the performance of Human Resources 	<ul style="list-style-type: none"> ▪ To set key performance indicators for human resource in order to monitor performance. 	<ul style="list-style-type: none"> ▪ To achieve system with key performance indicator targets. 	<ul style="list-style-type: none"> ▪ To achieve key performance indicator targets. 	<ul style="list-style-type: none"> ▪ To be briefed on expected targets and how to achieve these.
<ul style="list-style-type: none"> ▪ Pay 	<ul style="list-style-type: none"> • To ensure proper and effective arrangements are in place with respect to pay 	<ul style="list-style-type: none"> ▪ To support a Workforce Board for NHS Borders; ▪ To ensure NHS Borders implements national pay; ▪ To determine pay, terms and conditions of service for NHS Borders staff. ▪ To ensure pay reforms support service modernisation and redesign, through a Workforce Board. 	<ul style="list-style-type: none"> ▪ To implement the new pay arrangements, agenda for change, GMS and new consultant contracts. ▪ To identify/ implement opportunities across the system from the Pay Modernisation agenda. 	<ul style="list-style-type: none"> ▪ To implement the new pay arrangements, agenda for change, GMS and new consultant contracts. ▪ To identify/ implement opportunities across the system from the Pay Modernisation agenda. 	<ul style="list-style-type: none"> ▪ To be paid fairly and consistently. ▪ To have pay policies which support delivery of services.

Key Issues	NHS Borders Board	Board Executive Team	Clinical Executive	Clinical / Care Board	Front Line Staff
<ul style="list-style-type: none"> ▪ Partnership Working 	<ul style="list-style-type: none"> • To ensure proper and effective arrangements are in place with respect to Partnership Working 	<ul style="list-style-type: none"> ▪ To develop a Partnership Working strategy 	<ul style="list-style-type: none"> ▪ To ensure systems and processes are in place to develop and encourage partnership working. ▪ To support NHS Borders Partnership Forum ensuring membership of key representatives. 	<ul style="list-style-type: none"> ▪ On each Clinical/Care Board a staff representative should be included in the membership of that team and attend meetings. 	<ul style="list-style-type: none"> ▪ To be able to access partnership forums and be able to influence the agenda.
<ul style="list-style-type: none"> ▪ Communications 	<ul style="list-style-type: none"> • To ensure proper and effective arrangements are in place with respect to Communications 	<ul style="list-style-type: none"> ▪ To develop an internal and external communications strategy. ▪ To monitor the implementation of the strategy and to report progress bi-annually to the NHS Board/staff Governance Committee. 	<ul style="list-style-type: none"> ▪ To appraise Board/BET of situations which may be political sensitive and potentially could attract media coverage. ▪ To notify the Board of major incidents. 	<ul style="list-style-type: none"> ▪ To implement the internal and external communications strategy. 	<ul style="list-style-type: none"> ▪ To have in place a robust two-way communication process. ▪ To receive regular communications to support decision-making. ▪ To notify Clinical Executive and Clinical/Care Boards of communication needs and difficulties.

Key Issues	NHS Borders Board	Board Executive Team	Clinical Executive	Clinical / Care Board	Front Line Staff
<ul style="list-style-type: none"> ▪ Development of Clinical Leadership 	<ul style="list-style-type: none"> • To ensure proper and effective arrangements are in place with respect to Clinical Leadership 	<ul style="list-style-type: none"> ▪ To establish a strategy for clinical leadership and succession planning. 	<ul style="list-style-type: none"> ▪ To provide and implement the clinical leadership programme. ▪ To demonstrate commitment to both Clinical Executive and in Clinical/Care Boards developing the workforce. 	<ul style="list-style-type: none"> ▪ To provide and implement the clinical leadership programme. 	<ul style="list-style-type: none"> ▪ To participate and influence in clinical development. ▪ For all staff to have a personal development plan.
<ul style="list-style-type: none"> ▪ Staff Governance 	<ul style="list-style-type: none"> ▪ To have in place a Staff Governance Committee with an agreed remit. ▪ To develop an annual action plan. ▪ To ensure achievement of the staff governance standard. ▪ To provide quarterly progress reports to the staff Governance Committee. 	<ul style="list-style-type: none"> ▪ To implement the staff governance standard 	<ul style="list-style-type: none"> ▪ To implement the staff governance standard 	<ul style="list-style-type: none"> ▪ To implement the staff governance standard. ▪ To monitor and audit action plans from Clinical Boards. 	<ul style="list-style-type: none"> ▪ To be treated fairly and consistently. ▪ To work in a safe working environment. ▪ To be appropriately trained. ▪ To be involved in decisions which affect you.

Key Issues	NHS Borders Board	Board Executive Team	Clinical Executive	Clinical / Care Board	Front Line Staff
<ul style="list-style-type: none"> ▪ Learning Together 	<ul style="list-style-type: none"> ▪ To ensure proper and effective arrangements are in place with respect to learning 	<ul style="list-style-type: none"> ▪ To develop a Learning Plan for NHS Borders setting out priorities in terms of education training and development strategies. 	<ul style="list-style-type: none"> ▪ Based on the principles within the NHS Borders Learning Plan, develop a local implementation plan based on a local training needs analysis. 	<ul style="list-style-type: none"> ▪ To support Life Long learning and afford Long-long learning representatives facility time. 	<ul style="list-style-type: none"> ▪ Access to training and development to assist the delivery of patient care.
<ul style="list-style-type: none"> ▪ Remuneration Committee 	<ul style="list-style-type: none"> ▪ To maintain a Remuneration Committee for NHS Borders with a clear remit and role. ▪ To determine the policy in respect of pay and conditions for Executive Directors and Senior Managers. 	<ul style="list-style-type: none"> ▪ To receive fair and consistent pay, terms and conditions. 	<ul style="list-style-type: none"> ▪ To receive fair and consistent pay, terms and conditions. 	<ul style="list-style-type: none"> ▪ To receive fair and consistent pay, terms and conditions. 	<ul style="list-style-type: none"> ▪ To receive fair and consistent pay, terms and conditions.

Key Issues	NHS Borders Board	Board Executive Team	Clinical Executive	Clinical / Care Board	Front Line Staff
<ul style="list-style-type: none"> ▪ Contracts of Employment 	<ul style="list-style-type: none"> ▪ To ensure proper and effective arrangements are in place with respect to Contracts of Employment 	<ul style="list-style-type: none"> ▪ To delegate responsibility to the Director of Workforce to negotiate with staff representatives model Contracts of Employment. ▪ To ensure all employees are issued with a Contract of Employment in accordance with Board policy, which complies with employment legislation. ▪ To approve any redundancy, premature retirement and severance payments. 	<ul style="list-style-type: none"> ▪ To support and recommend justification paper for any redundancy, premature retirement and severance payments to the BET/Board for approval. 	<ul style="list-style-type: none"> ▪ To provide a justification paper for any redundancy, premature retirement and severance payments to the BET/Board for approval. 	<ul style="list-style-type: none"> ▪ To receive fair and consistent contracts of employment.

Key Issues	NHS Borders Board	Board Executive Team	Clinical Executive	Clinical / Care Board	Front Line Staff
<ul style="list-style-type: none"> ▪ HR Policies and Procedures 	<ul style="list-style-type: none"> ▪ To ratify and approve HR Policies and Procedures 	<ul style="list-style-type: none"> ▪ To ensure HR Policies are developed by the Area Partnership forum. Policies should support the achievement of the Staff Governance Standard, PIN guidelines and comply with current Employment Legislation. 	<ul style="list-style-type: none"> ▪ To implement HR policies and procedures, developing appropriate action plans and supportive training. 	<ul style="list-style-type: none"> ▪ To implement HR policies and procedures, developing appropriate action plans and supportive training. 	<ul style="list-style-type: none"> ▪ To have supportive HR policies and procedures in place which assist service delivery.
<ul style="list-style-type: none"> ▪ Appeals against termination of employment/ discipline 	<ul style="list-style-type: none"> ▪ To hear appeals for termination of employment or a disciplinary action taken against Chief Executive. 	<ul style="list-style-type: none"> ▪ To ensure through negotiation with staff representatives there is an agreed policy for appeals against termination of employment. 	<ul style="list-style-type: none"> ▪ To ensure the appeals procedure is implemented at Clinical Board level 	<ul style="list-style-type: none"> ▪ To implement the appeals procedure at Clinical Board level. 	<ul style="list-style-type: none"> ▪ To have in place a clear, fair and consistent policy and procedure.
<ul style="list-style-type: none"> ▪ Disputes Procedure 	<ul style="list-style-type: none"> ▪ To ensure proper and effective arrangements are in place with respect to disputes 	<ul style="list-style-type: none"> ▪ To ensure through negotiation there is an agreed policy to deal with disputes. 	<ul style="list-style-type: none"> ▪ To ensure the disputes procedure is implemented at Clinical Board level 	<ul style="list-style-type: none"> ▪ To implement the disputes procedure. 	<ul style="list-style-type: none"> ▪ To have a clear process for dealing with disputes timeously.

Key Issues	NHS Borders Board	Board Executive Team	Clinical Executive	Clinical / Care Board	Front Line Staff
<ul style="list-style-type: none"> ▪ Strategy and Policy Pathways 	<ul style="list-style-type: none"> ▪ All strategies and policies must be ratified and approved by the NHS Borders Board. 	<ul style="list-style-type: none"> ▪ Any Human Resources Strategy, and supporting policy requires to be developed in partnership. 	<ul style="list-style-type: none"> ▪ To participate and influence strategy and policy development. 	<ul style="list-style-type: none"> ▪ To implement policies, developing appropriate action plans and supportive training 	<ul style="list-style-type: none"> ▪ To be involved through partnership forums and working groups in the development of strategy and supporting policies.
<ul style="list-style-type: none"> ▪ Health & Safety 	<ul style="list-style-type: none"> ▪ To ratify and approve the Health & Safety Policy. 	<ul style="list-style-type: none"> ▪ To maintain an NHS Borders Health and Safety policy. 	<ul style="list-style-type: none"> ▪ To implement NHS Health and Safety policy. ▪ To establish Health and Safety Committees. 	<ul style="list-style-type: none"> ▪ To implement NHS Health and Safety policy. ▪ To establish Health and Safety Committees. 	<ul style="list-style-type: none"> ▪ To have clear guidelines and training on Health & Safety. ▪ To comply with those guidelines and practices.
<ul style="list-style-type: none"> ▪ Financial Strategy and Planning 	<ul style="list-style-type: none"> ▪ To approve the Local Delivery Plan 	<ul style="list-style-type: none"> ▪ To develop financial strategy which supports the delivery of Local Delivery Plan. 	<ul style="list-style-type: none"> ▪ To support the development and the delivery of the financial strategy in the Local Delivery Plan. ▪ To advise of any corrective action required to deliver financial plans. 	<ul style="list-style-type: none"> ▪ Implement the financial strategy in the Local Delivery Plan. 	<ul style="list-style-type: none"> ▪ Through local partnership forums influence Local Delivery Plan and supporting financial strategy.

Key Issues	NHS Borders Board	Board Executive Team	Clinical Executive	Clinical / Care Board	Front Line Staff
<ul style="list-style-type: none"> • Resource Allocation 	<ul style="list-style-type: none"> ▪ To allocate resources consistent with the Financial Strategy and Local Delivery Plan 	<ul style="list-style-type: none"> ▪ To ensure systems are in place to allocate resources consistent with the Financial Strategy. 	<ul style="list-style-type: none"> ▪ To set budgets which support the delivery of agreed objectives within the resource limit. 	<ul style="list-style-type: none"> ▪ To set budgets which support the delivery of agreed objectives within the resource limit. 	<ul style="list-style-type: none"> ▪ To be involved and have the opportunity to influence the distribution of resources.
<ul style="list-style-type: none"> ▪ Financial Monitoring 	<ul style="list-style-type: none"> ▪ To be aware of the financial position including any corrective action required to achieve balance. 	<ul style="list-style-type: none"> ▪ To have in place robust financial monitoring framework. 	<ul style="list-style-type: none"> ▪ Monitor financial performance against budget and advise of any significant variance from financial plan. ▪ To propose and implement agreed corrective action. 	<ul style="list-style-type: none"> ▪ Monitor financial performance against budget and advise of any significant variance from financial plan. ▪ To propose and implement agreed corrective action. ▪ Ensure adequate training is delivered to budget holders. ▪ Devise and maintain detailed systems of budgetary control. 	<ul style="list-style-type: none"> ▪ To be kept informed of financial performance. ▪ To access training when required.
<ul style="list-style-type: none"> ▪ Audit Committee 	<ul style="list-style-type: none"> ▪ To maintain an Audit Committee for NHS Borders with a clear remit. ▪ To agree and monitor an annual Audit plan with input from Community Health and Care Partnership and Clinical Executive. 	<ul style="list-style-type: none"> ▪ To support the discharge of the Audit Plan 	<ul style="list-style-type: none"> ▪ To support the discharge of the Audit plan and agree monitoring arrangements where appropriate 	<ul style="list-style-type: none"> ▪ To agree and implement audit recommendations. 	<ul style="list-style-type: none"> ▪ To be kept informed of relevant audit issues. ▪ To contribute to audit activities as required.

Key Issues	NHS Borders Board	Board Executive Team	Clinical Executive	Clinical / Care Board	Front Line Staff
<ul style="list-style-type: none"> ▪ Annual Accounts and Reports 	<ul style="list-style-type: none"> ▪ Approval of the Annual Accounts. 	<ul style="list-style-type: none"> ▪ To provide financial information as required for Annual Accounts. ▪ To be kept informed of relevant annual accounts issues. 	<ul style="list-style-type: none"> ▪ To provide financial information as required for Annual Accounts. 	<ul style="list-style-type: none"> ▪ To provide financial information as required for Annual Accounts. 	<ul style="list-style-type: none"> ▪ To be kept informed of relevant annual accounts issues.
<ul style="list-style-type: none"> ▪ Capital Approvals 	<ul style="list-style-type: none"> ▪ To allocate capital resources which support the delivery of the Local Delivery Plan. ▪ Consider Business Cases for Capital Investment. 	<ul style="list-style-type: none"> ▪ To manage capital spend within the available resources. 	<ul style="list-style-type: none"> ▪ To ensure there is an adequate appraisal and approval process in place for determining capital expenditure. 	<ul style="list-style-type: none"> ▪ To prepare and submit business cases for capital requirements. 	<ul style="list-style-type: none"> ▪ To be able to influence the allocation of resource.
<ul style="list-style-type: none"> ▪ Asset Management 	<ul style="list-style-type: none"> ▪ The Board shall delegate responsibility to the Clinical Executive for the overall control of fixed assets. 	<ul style="list-style-type: none"> ▪ To develop a Property Strategy which is consistent with the Local Delivery Plan. 	<ul style="list-style-type: none"> ▪ Implementation of property strategy including development of robust business cases in support of strategy. 	<ul style="list-style-type: none"> ▪ Devolved responsibility for asset management. 	<ul style="list-style-type: none"> ▪ Responsibility for ensuring safe keeping and effective use of assets.
<ul style="list-style-type: none"> ▪ Financial Policies and Procedures 	<ul style="list-style-type: none"> ▪ To have mechanisms to ensure consistent financial policies and procedures are in place. 	<ul style="list-style-type: none"> ▪ To ensure financial policies and procedures are applied on a consistent basis 	<ul style="list-style-type: none"> ▪ Maintaining an effective system of internal financial control. ▪ Ensure all staff are aware of, and understand their responsibilities within the SFI's. 	<ul style="list-style-type: none"> ▪ Maintaining an effective system of internal financial control. ▪ Ensure all staff are aware of, and understand their responsibilities within the Standing Financial Instructions. 	<ul style="list-style-type: none"> ▪ To have financial policies and procedures in place which support effective decision-making. ▪ To comply with those policies.

Key Issues	NHS Borders Board	Board Executive Team	Clinical Executive	Clinical / Care Board	Front Line Staff
<ul style="list-style-type: none"> ▪ Payment of Staff 	<ul style="list-style-type: none"> ▪ To ensure proper and effective arrangements are in place with respect to the payment of staff 	<ul style="list-style-type: none"> ▪ Establish policy in relation to any variations in agreed rates of pay and conditions of service. 	<ul style="list-style-type: none"> ▪ To secure funding prior to approval for any increase in establishment. ▪ Ensuring all payments are properly authorised in line with national agreed pay scales. 	<ul style="list-style-type: none"> ▪ Reporting financial impact of all changes in staffing including impact of early retirement/redundancies. 	<ul style="list-style-type: none"> ▪ Through partnership forums be able to influence all policies in relation to payment of staff.
<ul style="list-style-type: none"> ▪ Payment of Accounts 	<ul style="list-style-type: none"> ▪ To ensure proper and effective arrangements are in place with respect to the payment of accounts 	<ul style="list-style-type: none"> ▪ To agree Borders wide policies and standards for the payment of accounts. ▪ Responsible for prompt payment of all accounts and claims. ▪ Ensuring all payments are made in accordance with Scheme of Delegation. ▪ Responsibility for designing and maintaining systems for verification, recording and payment of all accounts. 	<ul style="list-style-type: none"> ▪ To support payment of accounts in line with agreed policy. 	<ul style="list-style-type: none"> ▪ To support payment of accounts in line with agreed policy. 	<ul style="list-style-type: none"> ▪ N/A
<ul style="list-style-type: none"> ▪ Bank Accounts and Government Banking Services 	<ul style="list-style-type: none"> ▪ To ensure proper and effective banking arrangements are in place 	<ul style="list-style-type: none"> ▪ To ensure effective management of all bank accounts 	<ul style="list-style-type: none"> ▪ To support effective management of bank accounts and Government Banking Services. 	<ul style="list-style-type: none"> ▪ To support effective management of bank accounts and Government Banking Services. 	<ul style="list-style-type: none"> ▪ N/A

Key Issues	NHS Borders Board	Board Executive Team	Clinical Executive	Clinical / Care Board	Front Line Staff
<ul style="list-style-type: none"> ▪ Security of Cash, Cheques and other Negotiable Instruments 	<ul style="list-style-type: none"> ▪ To ensure proper and effective security arrangements are in place 	<ul style="list-style-type: none"> ▪ Responsibility for security of cash, cheques and other negotiable instruments as appropriate. 	<ul style="list-style-type: none"> ▪ Responsibility for security of cash, cheques and other negotiable instruments 	<ul style="list-style-type: none"> ▪ Responsibility for security of cash, cheques and other negotiable instruments. 	<ul style="list-style-type: none"> ▪ N/A
<ul style="list-style-type: none"> ▪ Procurement and Tendering 	<ul style="list-style-type: none"> ▪ To agree NHS Borders wide policies and standards for procurement and tendering and incorporate in Standing Orders. ▪ Setting of thresholds for tenders and for obtaining goods services and works. 	<ul style="list-style-type: none"> ▪ To ensure all procurement and tendering processes comply with NHS Borders Standing Orders and provide value for money ▪ To ensure that where national, regional or local contracts exist (including framework arrangements) the use of these contracts is mandatory 	<ul style="list-style-type: none"> ▪ Ensuring best value for money. ▪ Compliance with Standing Orders. 	<ul style="list-style-type: none"> ▪ Ensuring best value for money. ▪ Compliance with Standing Orders. 	<ul style="list-style-type: none"> ▪ Ensuring best value for money. ▪ Compliance with Standing Orders.
<ul style="list-style-type: none"> ▪ Endowment Funds 	<ul style="list-style-type: none"> ▪ To establish an Endowment Fund Board of Trustees for NHS Borders. 	<ul style="list-style-type: none"> ▪ To determine the policy in respect of Endowment Funds. 	<ul style="list-style-type: none"> ▪ To advise on the financial implications of any proposal for either fundraising or investment of endowments funds. 	<ul style="list-style-type: none"> ▪ To implement the Endowment Policy. 	<ul style="list-style-type: none"> ▪ Through partnership forum to be able to influence all policies in relation to Endowment funds.

Key Issues	NHS Borders Board	Board Executive Team	Clinical Executive	Clinical / Care Board	Front Line Staff
<ul style="list-style-type: none"> ▪ Risk Management 	<ul style="list-style-type: none"> ▪ To maintain a Risk Management Board for NHS Borders with a clear remit. 	<ul style="list-style-type: none"> ▪ To development the Risk Management Strategy. ▪ To ensure that insurance arrangements exist in accordance with the Risk Management Strategy. 	<ul style="list-style-type: none"> ▪ To implementation and monitor the Risk Management Strategy. 	<ul style="list-style-type: none"> ▪ To implementation and monitor the Risk Management Strategy. 	<ul style="list-style-type: none"> ▪ To have supportive Risk Management policies and procedures in place which assist service delivery. ▪ To comply with those policies and procedures.

4. DELEGATED LIMITS AND AUTHORISED SIGNATORIES

4.1 Introduction

The Chief Executive has delegated authority to secure the efficient operation and management of services in accordance with the current policies of the Board, and within the limits of the resources available, subject to the approval of the Board, through Standing Financial Instructions.

Any changes to Delegated Limits and Authorised Signatories must be notified to the Director of Finance in writing. Departmental structure changes will be reflected in the Delegated Limits within the Code of Corporate Governance on an ongoing basis.

4.2 Schedule of Delegated Limits and Authorised Signatories

Delegated matters in respect of decisions which may have a far-reaching effect must be reported to the Chief Executive. All items concerning finance must be carried out in accordance with Standing Financial Instruction and Standing Orders.

DELEGATED MATTER	DELEGATED LIMITS	AUTHORISED SIGNATORY	REFERENCE DOCUMENTS
<p>Quotations, Tendering and Contract Procedures</p> <p>a) NHS Service Agreements annual values</p>	<p>Over £ 1,000,000</p> <p>Over £250,000 to £1,000,000</p> <p>Over £50,000 to £ 250,000</p> <p>Up to £50,000</p>	<p>Borders NHS Board Excepting the Lothian Service Level Agreement where authorisation is delegated to the Director of Finance</p> <p>Chief Executive</p> <p>Director of Finance Community Health Partnership General Manager Medical Director Director of Nursing Director of Planning & Performance</p> <p>Clinical Board Chairs General Managers Commissioning Manager Delegated Budget Holders</p>	

<p>b) i. EC Tendering Procedure (OJEU Advertisement)</p>	<p>Contracts for goods/services above EC Tendering Limits <i>Current EC limits are contained within NHS HDL (2002) 27 Revision of Thresholds for the World Trade Agreement on Government Procurement (valid until 31 December 2003)</i></p>	<p>Adjudication of tender by Project Director, Project Manager, representative of Director of Finance and, if value over £500,000 a non-executive Board member</p>	
<p>ii. Award of tender</p>		<p>Borders NHS Board</p>	

DELEGATED MATTER	DELEGATED LIMITS	AUTHORISED SIGNATORY	REFERENCE DOCUMENTS
<p>Quotations, Tendering & Contract Procedures (continued)</p> <p>c) Capital/Estates Works (unless covered by EC tendering limits – see b above)</p> <ul style="list-style-type: none"> • Minimum number of invited tenders • Authority to open tenders/review quotations • Authority to adjudicate tender • Award of Tenders 	<p>Over £250,000</p> <p>Over £50,000 to £250,000</p> <p>Over £10,000 to £50,000</p> <p>Under £10,000</p> <p>Over £500,000</p> <p>Over £10,000 to £500,000</p> <p>Under £10,000 (Quotations)</p> <p>Over £500,000</p> <p>Over £10,000 to £500,000</p> <p>Under £10,000</p> <p>Over £500,000</p> <p>Over £100,000 to £500,000</p> <p>Over £25,000 to £100,000</p> <p>Under £25,000 (Quotations)</p>	<p>4 tenders</p> <p>3 tenders</p> <p>3 quotations</p> <p>At discretion of Director of Finance</p> <p>As £10,000 to £500,000 plus a non-executive Board member</p> <p>Representative of Director of Finance and Head of Estates & Facilities</p> <p>Two Estates Officers</p> <p>As £10,000 to £500,000 plus non-executive Board member</p> <p>Head of Estates & Facilities, representative of Director of Finance plus Estates Officer</p> <p>Estates Officer</p> <p>Borders NHS Board</p> <p>Chief Executive</p> <p>Director of Finance</p> <p>Estates Officer</p>	

DELEGATED MATTER	DELEGATED LIMITS	AUTHORISED SIGNATORY	REFERENCE DOCUMENTS
<p>Quotations, Tendering & Contract Procedures (continued)</p> <p>d) General Purchase Orders (unless covered by EC tendering limits – see b above)</p> <ul style="list-style-type: none"> • Minimum number of invited tenders • Authority to open tenders/review quotations 	<p>Over £250,000</p> <p>Over £50,000 to £250,000</p> <p>Over £15,000 to £50,000</p> <p>Under £15,000</p> <p>Over £500,000</p> <p>Over £50,000 to £500,000</p> <p>Under £50,000 (Quotations)</p>	<p>4 tenders</p> <p>3 tenders</p> <p>3 quotations</p> <p>At discretion of Head of Procurement</p> <p>As below plus a non-executive Board member</p> <p>Representative of Director of Finance and Head of Procurement</p> <p>Head of Procurement and Delegated Budget Holder</p>	
<ul style="list-style-type: none"> • Authority to adjudicate tender • Award of Tenders/Authorised Purchase Orders 	<p>Over £500,000</p> <p>Over £50,000 to £500,000</p> <p>Under £50,000</p> <p>Over £ 250,000</p> <p>Over £ 125,000 to £ 250,000</p> <p>Over £50,000 to £125,000</p>	<p>As £25,000 to £500,000 plus non-executive Board member</p> <p>Head of Procurement, representative of Director of Finance plus Technical Advisor</p> <p>Head of Procurement</p> <p>Borders NHS Board</p> <p>Chief Executive</p> <p>Director of Finance Chief Operating Officer Director of Public Health Director of Workforce Medical Director Director of Nursing and Midwifery</p>	

<ul style="list-style-type: none"> Award of Tenders/Authorised Purchase Orders (Cont) 	<p>Over £30,000 to £50,000</p> <p>Over £10,000 to £30,000 (Pharmaceutical Supplies)</p> <p>Up to £ 10,000 (Quotations)</p>	<p>Head of IM&T Director of Pharmacy Clinical Board Chairs Clinical Board General Managers Head of Procurement</p> <p>Deputy Director of Pharmacy Chief Pharmacy Technician Senior Pharmacist Estates Managers Commissioning Manager Senior Clinical Managers</p> <p>Senior Pharmacy Technician</p> <p>Head of Procurement Delegated Budget Holders Human Resource Managers</p>	
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DELEGATED MATTER	DELEGATED LIMITS	AUTHORISED SIGNATORY	REFERENCE DOCUMENTS
<p>Quotations, Tendering & Contract Procedures (continued)</p> <p>e) Management Consultants</p> <ul style="list-style-type: none"> • Minimum number of tenders • Authority to open tenders • Authority to adjudicate tender • Award of Tenders <p>f) UK Travel Conference/Course/Training Expenses Payment</p> <p>g) OVERSEAS Travel Conference/Course/Training Expenses Payment</p> <p>h) Leased Cars Ordering</p>	<p>Over £25,000</p> <p>Under £25,000</p> <p>Over £25,000</p> <p>Under £25,000</p> <p>Over £25,000</p> <p>Under £25,000</p> <p>Over £25,000</p> <p>Over £5,000 to £25,000</p> <p>Up to £5,000</p> <p>All</p> <p>All</p>	<p>3 tenders</p> <p>At discretion of Chief Executive & Director of Finance</p> <p>Chief Executive & Director of Finance</p> <p>Chief Executive & Director of Finance</p> <p>Borders NHS Board</p> <p>Chief Executive & Director of Finance</p> <p>Chief Executive</p> <p>Director of Workforce and Clinical Board General Manager</p> <p>Budget holder</p> <p>Chair of NHS Borders Board for Non Executive Members Chief Executive (or appointed deputy) for all NHS Borders employees</p> <p>Director of Finance</p>	

DELEGATED MATTER	DELEGATED LIMITS	AUTHORISED SIGNATORY	REFERENCE DOCUMENTS
i) Engagement of Agency/Locum Staff (single instance or arrangement for period of time)	Over £100,000 Over £40,000 up to £100,000 Up to £40,000	Chief Executive Chief Operating Officer Medical Director Director of Nursing and Midwifery Clinical Chairs, General Managers &/or delegated Budget Holders	

DELEGATED MATTER	DELEGATED LIMITS	AUTHORISED SIGNATORY	REFERENCE DOCUMENTS
Endowment Projects, Payments (incl. Capital Expenditure) Endowment Investments Cheque Signatories	Over £100,000	Endowment Fund Board of Trustees	Authorised Bank Signatory Levels
	Between £25,000 and £100,000	As £1k to £10k plus Chairman & Chief Executive and for noting by the Endowment Fund Board of Trustees	
	Between £10,000 and £25,000	As £1k to £10k plus Chief Executive and Director of Finance	
	Between £1,000 and £10,000	Fund Manager and Chair of Clinical Board (or nominated deputy)	
	Up to £1,000	Fund Manager	
		Delegated Fund Advisor	
Cheque Signatories	Over £5,000	Two authorised bank signatories one of whom shall be at least a Senior Finance Manager.	Authorised Bank Signatory Levels
	Up to £5,000	One authorised signatory	

DELEGATED MATTER	DELEGATED LIMITS	AUTHORISED SIGNATORY	REFERENCE DOCUMENTS
Property Disposals	All	Borders NHS Board	
Fixed Asset Disposals	Over £ 100,000	Borders NHS Board	
	£ 1 to £ 100,000	Director of Finance	
	Zero Net Book Value	Clinical Chairs, Other Directors, General Managers/ Heads of Department	
Establishment of Cash Float	Over £250 up to £1,000	Director of Finance	
	Over £50 up to £250	Deputy Director of Finance (Financial Accounting) Senior Finance Manager	
	Up to £50	Budget holder	

DELEGATED MATTER	DELEGATED LIMITS	AUTHORISED SIGNATORY	REFERENCE DOCUMENTS
Virement Between Revenue Budgets (within Clinical Boards/Departments only)	Over £ 250,000 Over £125,000 up to £250,000 Over £10,000 up to £250,000 Below £10,000	Borders NHS Board Clinical Executive & Director of Finance Director of Finance Head of Estates and Facilities Medical Director Director of Nursing and Midwifery Head of IM&T Chief Operating Officer Clinical Board Chairs Clinical Board General Managers Delegated Budget Holders Head of Procurement & Delegated Budget Holders	

Scheme of Delegation

Delegated matters in respect of decisions which may have a far-reaching effect must be reported to the Chief Executive. ***The delegation below is the lowest level to which authority is delegated.*** Delegation to lower levels is only permitted with written approval of the Chief Executive who will, before authorising such delegation, consult with other Senior Officers as appropriate. All items concerning finance must be carried out in accordance with Standing Financial Instruction and Standing Orders.

DELEGATED MATTER	DELEGATED AMOUNT (£)	AUTHORITY DELEGATED TO	REFERENCE DOCUMENTS
<p>1. Management of Budgets</p> <p>1.1 Budgetary Control</p> <p>a) Prepare and submit a financial plan to the Board reconciling anticipated income and expenditure plans.</p> <p>b) Submit reports to the Board highlighting significant variances and details of action taken, trends to date and forecasts of year end position.</p> <p>c) Design, implement and supervise the financial controls and the accounting system.</p> <p>d) Prepare and issue operational procedures governing the accounting system to all staff empowered to incur expenditure and generate or collect income.</p> <p>e) Provide relevant budgetary (financial and management) information to aid decision making and financial control.</p> <p>f) Report and investigate financial activity and manpower variances from budget to a specified timetable.</p> <p>g) Budget holders to receive adequate financial training.</p> <p>h) Providing appropriate support from the Management Accounting Team.</p> <p>i) Approval of Budgets.</p> <p>j) Set and agree detailed budgets.</p> <p>k) Provide Budget Managers with monthly budget statements.</p>		<p>Director of Finance</p> <p>Director of Finance</p> <p>Deputy Director of Finance (Financial Accounting)</p> <p>Deputy Director of Finance (Financial Accounting)</p> <p>Deputy Director of Finance (Financial Management)</p> <p>Budget Managers and Designated Clinical Board Accountant</p> <p>Deputy Director of Finance (Financial Management)</p> <p>Deputy Director of Finance (Financial Management)</p> <p>Board for overall strategy; Chief Executive for detailed framework</p> <p>Director of Finance; Chief Executive</p> <p>Clinical Executive; Clinical Boards and Budget Managers</p> <p>Deputy Director of Finance (Financial Management)</p>	

DELEGATED MATTER	DELEGATED AMOUNT (£)	AUTHORITY DELEGATED TO	REFERENCE DOCUMENTS
<p>Management of Budgets (continued)</p> <p>1.2 Budgetary Control Responsibility for keeping expenditure within budgets: At individual budget level (pay and non-pay) At service/department level a) At Clinical Board For reserves and contingencies Virement of budget Agreement to any transfer of allocation required by the Board from or to capital</p> <p>1.3 Authorisation of Expenditure Non Discretionary Expenditure only Commit expenditure on behalf of the Board against approved budget allocations. (Non discretionary expenditure covers supplies and services excluding equipment, training and stationery)</p>	<p>Over £ 250,000</p> <p>Over £ 125,000 to £ 250,000</p> <p>Over £ 50,000 to £ 125,000</p>	<p>Budget Holder</p> <p>General Manager Clinical Chair Director of Finance See earlier section Director of Finance</p> <p>Borders NHS Board</p> <p>Chief Executive</p> <p>Director of Finance Chief Operating Officer Director of Public Health Director of Workforce Head of Estates Medical Director Director of Nursing & Midwifery Director of Planning & Performance Head of Information Management & Technology Clinical Board General Managers Clinical Board Chairs Director of Pharmacy Head of Procurement</p>	

DELEGATED MATTER	DELEGATED AMOUNT (£)	AUTHORITY DELEGATED TO	REFERENCE DOCUMENTS
1. Management of Budgets (continued)			
1.3 Authorisation of Expenditure (continued)	Over £30,000 to £50,000	Deputy Director of Pharmacy Chief Pharmacy Technician Senior Pharmacist Estates Managers Commissioning Manager	
	Over £ 10,000 to £ 30,000	Senior Pharmacy Technician Senior Clinical Managers	
	Up to £10,000	Delegated Budget Holders Head of Procurement Human Resources Managers	
1.3 Authorisation of Expenditure (continued)			
Discretionary Expenditure only			
Commit expenditure on behalf of the Board against approved budget allocations.	Over £ 250,000	Borders NHS Board	
(Discretionary expenditure covers equipment, training and stationery)	Over £ 125,000 to £ 250,000	Chief Executive	
	Up to £ 125,000	Director of Finance Director of Public Health Medical Director Director of Nursing & Midwifery Clinical Board General Managers Director of Pharmacy	
1.4 Budget Adjustments			
a) Authorise all Clinical Board / Department Budget Adjustments.		Deputy Director of Finance (Financial Management)	

DELEGATED MATTER	DELEGATED AMOUNT (£)	AUTHORITY DELEGATED TO	REFERENCE DOCUMENTS
<p>2. Capital</p> <p>2.1 Management of Fixed Assets</p> <p>a) Delegation of responsibility for the physical security and control of assets located within a specific location.</p> <p>b) Complete and update procedure notes for maintaining fixed asset register.</p> <p>c) Physical verification of fixed asset.</p> <p>d) Notify Deputy Director of Finance (Financial Accounting) on additions, Transfers and Disposal of fixed assets.</p> <p>e) Maintain register of all assets given out on loan.</p>		<p>General Managers</p> <p>Deputy Director of Finance (Financial Management)</p> <p>General Manager</p> <p>General Manager</p> <p>Nominated Ward/Dept Manager</p>	

DELEGATED MATTER	DELEGATED AMOUNT (£)	AUTHORITY DELEGATED TO	REFERENCE DOCUMENTS
<p>2. Capital (continued)</p> <p>2.2 Project Management Arrangements</p> <p>a) Each project must have a project director</p> <p>b) Formal appointment of a project manager</p> <p>c) Set up Project Board meetings</p> <p>d) Authority to proceed</p> <p>e) Accountable officer approval</p> <p>f) Cost and budgetary control</p> <ul style="list-style-type: none"> - report cost control to Capital Management Team - report cost control to Project Management Team <p>g) Delegated authority to approve project spend</p> <p>h) Project Monitoring and Review</p> <p>i) Post project/post occupancy evaluation (PPE/POE)</p> <ul style="list-style-type: none"> - to be carried out 6 month after commissioning/operational 	<p></p> <p>See above section</p> <p>See above section</p>	<p>Director of Finance</p> <p>Capital Management Team Project Director, Project Sponsor and Project Manager</p> <p>Project Manager & Deputy Director of Finance (Financial Accounting)</p> <p>Deputy Director of Finance (Financial Accounting)</p> <p>Project Board</p> <p>Project Management Team, Financial Accounting Team General Manager / Estates Manager</p> <p>End User</p>	<p>NHS HDL (2002) 47 Construction Procurement Policy</p> <p>NHS HDL (2002) 13 Revised Green Book Guidance</p>

Delegated Authority for Losses & Special Payments – Limits Delegated by SGHD to NHS Borders

DELEGATED MATTER	DELEGATED AMOUNT (£)	DELEGATED AUTHORITY	REFERENCE DOCUMENTS
1. Losses of Cash due to:			
Theft, fraud, etc. (ALL cases of fraud over £1,000 must be reported to the SEHD before write-off)	5,000	Director of Finance	
Overpayment of salaries, wages, fees and allowances	5,000	Director of Finance	
Other causes, including unvouched or incompletely vouched payments, overpayments, loss by fire (excluding arson), physical cash, stamp or cash equivalent losses	5,000	Director of Finance	
2. Negatory and Fruitless Payments	5,000	Director of Finance	
3. Bad Debts and Claims Abandoned:			
a) Private inpatients (Section 57 NHS (Scotland) Act 1978)	5,000	Director of Finance	
Private non-resident patients (Section 58 NHS (Scotland) Act 1978)	5,000	Director of Finance	
b) Overseas visitors (Section 59 NHS (Scotland) Act 1978)	5,000	Director of Finance	
c) Road Traffic Claims	5,000	Director of Finance	
d) Cases other than a) to c)	5,000	Director of Finance	

Delegated Authority for Losses & Special Payments – Limits Delegated by SGHD to Borders NHS Board

DELEGATED MATTER	DELEGATED AMOUNT (£)	DELEGATED AUTHORITY	REFERENCE DOCUMENTS
<p>4) Damage to buildings, their fittings, furniture and equipment and loss of equipment and property in stores and in use Losses:</p> <p>a) Culpable causes e.g. theft, fraud arson, etc, whether proved or suspected, neglect of duty or gross carelessness:</p> <p style="padding-left: 40px;">Other equipment and property</p> <p style="padding-left: 40px;">Bedding and Linen</p> <p>b) Discrepancies and unexplained issues:</p> <p style="padding-left: 40px;">Other equipment and property</p> <p style="padding-left: 40px;">Bedding and Linen</p> <p>c) Incidents of Service (as a result of fire, flood etc., motor vehicle accidents, damage to vehicles</p> <p>d) Other causes</p>	<p></p> <p style="text-align: right;">20,000</p> <p style="text-align: right;">10,000</p> <p style="text-align: right;">20,000</p> <p style="text-align: right;">10,000</p> <p style="text-align: right;">20,000</p> <p style="text-align: right;">20,000</p>	<p>Director of Finance / Director of Workforce & Planning</p> <p>Director of Finance / Director of Workforce & Planning</p> <p>Director of Finance / Director of Workforce & Planning</p> <p>Director of Finance / Director of Workforce & Planning</p> <p>Director of Finance / Director of Workforce & Planning</p> <p>Director of Finance / Director of Workforce & Planning</p>	<p></p>

Delegated Authority for Losses & Special Payments – Limits Delegated by SGHD to NHS Borders

DELEGATED MATTER	DELEGATED AMOUNT (£)	DELEGATED AUTHORITY	REFERENCE DOCUMENTS
Special payments (except in respect of family practitioner services) 5. Compensation Payments (made under legal obligation): Clinical Non Clinical Financial Loss	£250,000 or above £100,000 or above £25,000 or above	SGHD prior approval SGHD prior approval SGHD prior approval	NHS HDL (2002) 65 NHS HDL (2002) 65 NHS HDL (2002) 65
6. Extra contractual payments to Contractors	5,000	Director of Finance	
7. Ex-Gratia Payments: a) Compensation payments (including payments for loss of personal effects)	5,000	Director of Workforce & Planning Director of Finance	
b) For medical and clinical negligence (negotiated settlements following legal advice and issued guidance) Clinical Non – clinical Other clinical negligence cases	Up to 250,000 Up to 100,000 Up to 25,000	Chief Executive Director of Workforce Chief Operating Officer	
c) Personal injury claims	NIL		
d) Other, except cases of maladministration where there was <u>no</u> financial loss by claimant	5,000	Director of Workforce & Planning	
e) Maladministration where there was <u>no</u> financial loss by claimant	NIL		

Delegated Authority for Losses & Special Payments – Limits Delegated by SGHD to NHS Borders

DELEGATED MATTER	DELEGATED AMOUNT (£)	DELEGATED AUTHORITY	REFERENCE DOCUMENTS
<p>8. Extra Statutory & Extra Regulatory Payments:</p> <p>Losses and special payments in respect of provision of family practitioner services.</p>	NIL		
<p>9. Losses:</p> <p>a) Losses due to overpayments to practitioners of fees allowances or salary</p> <p> i. involving fraud</p> <p> ii. other</p> <p>b) Unvouched or incompletely vouched payments</p>	<p>1,000</p> <p>1,000</p> <p>1,000</p>	<p>Director of Finance</p> <p>Director of Finance</p> <p>Director of Finance</p>	
<p>10. Claims Abandoned</p>	1,000	Director of Finance	
<p>Special Payments</p>			
<p>11. Ex Gratia Payment</p>	1,000	Director of Finance	
<p>12. Extra Statutory and Extra Regulatory payments</p> <p>a) To chemist contractors for drugs supplied in good faith in respect of forged, etc. prescription forms</p> <p>b) Other</p>	<p>1,000</p> <p>NIL</p>	<p>Director of Finance</p>	

Losses & Special Payments - NOTES

1. Cases not covered by the limits set out above should be referred to the SGHD as soon as the salient facts are clear and not delayed because of difficulties of unravelling complicated or inadequately documented transactions, or of assessing the amount of the final loss.
2. The limits set out above apply to individual incidents except as qualified in these notes.
3. The limits for Cash Losses refer to the gross loss, irrespective of any subsequent recovery. The limits for all other losses refer to the net loss.
4. The limit for overpayments of salaries, etc refers to the total involved at any one time through the same error or misinterpretation.
5. The limit for claims abandoned refers to the total of all cases arising from a single cause, but the loss in respect of each individual debtor should be recorded as one case.
6. The total net stores loss at any one hospital within the year should be aggregated and treated as one case. Similarly, the total net inventory losses at any one hospital within the year should be treated as one case.
7. In the case of central stores, the total beddage covered by the central store should determine the delegation limit for write-off purposes. For establishments, such as administrative offices and clinics, where the bed criterion cannot be used, the lowest limit of delegation for stores and inventory losses will apply.
8. Where an accident, such as fire or flood, involves losses under several heads, the limit for incidents of the service (i.e. £20,000) applies to the total of the damage incurred.
9. Where an extra contractual payment arises from a change in subsidy or other Government action, the first application for such payments should be referred to SGHD, irrespective of the limit of delegation.
10. **SGHD must be notified immediately of all possible cases of compensation payments (made under legal obligation)**, irrespective of the limit of delegation.

5. DELEGATION OF POWERS FOR APPOINTMENT OF STAFF

5.1 Use of Powers

- 5.1.1 The powers delegated are to be exercised in accordance with procedures or guidance issued by the Scottish Government Health Department, or approved by the Board.
- 5.1.2 Procedures governing the appointment of Consultants and other medical and dental grades are contained in Statutory Instruments issued by Scottish Ministers.
- 5.1.3 Appointments will be made within the delegated authority and budgetary responsibility in accordance with Standing Financial Instructions. Schemes of Delegation for appointment of staff will specify appointing officers, and, where necessary, the composition of appointment panels.

5.2 Appointment of Staff

- 5.2.1 Canvassing of Appointing Officers or Members of the Appointment Panel directly or indirectly for any appointment shall disqualify the candidate for such appointment.
- 5.2.2 A Member of the Board shall not solicit for any person any appointment under the Board, or recommend any person for any such appointment. This, however, shall not preclude any Member from giving a written testimonial of a candidate's suitability, experience or character for submission to the Board.
- 5.2.3 Every Member of the Board shall disclose to the Board any known relationship to a candidate for an appointment with the Board, It shall be the duty of the Chief Executive to report to the Board any such disclosure made.
- 5.2.4 It shall be the duty of the Appointing Officer to disclose to his or her Line Manager any known relationship to a candidate for an appointment for which he or she is responsible.
- 5.2.5 Where a relationship of a candidate for appointment to a Member of the Board is disclosed, that Member must play no part in the appointment process.

Two persons shall be deemed to be related if they are husband and wife, or partners or if either of the two, or the spouse or partner of either of them is the son or grandson, daughter or granddaughter, or brother or sister, or nephew or niece, of the other, or of the spouse or partner of the other.

5.3 Authority to Appoint

Chief Executive and posts at Director level. (Other than Director of Public Health/Medical Director)	The appropriate Board Appointments Committee
Director of Public Health/Medical Director	The Board on the recommendation of an Advisory Appointments Committee

Other Staff

Appointment Panel or Officer specified
in the Scheme of Delegation

5.4 Composition of Appointment Committees

Chief Executive

The Board Appointments Committee shall consist of:

- Up to four Non-Executive Members, including the Chair of the Board
- Up to two External Assessors, one of whom shall be a representative of the Scottish Government Health Department or his/her nominee. The other External Assessor shall hold the position of Chief Executive in another NHS body.

Posts at Director Level (Other than Medical)

The Board Appointments Committee shall consist of:

- Chair of the Board or their nominee;
- Chief Executive;
- Up to two Non-Executive Members of the Board;
- Up to two External Assessors, one of whom shall be a representative of the Scottish Government Health Department or his/her nominee, the other a representative of another NHS or local authority partner organisation.

Director of Public Health, Medical Director

- The appointment is made by a Board Committee on the recommendation of an Advisory Appointments Committee, constituted in accordance with The National Health Service (Appointment of Consultants) (Scotland) Regulations 1993.

Other Staff in Accordance with Detailed Schemes of Delegation

5.5 Disciplinary Procedures

5.5.1 The Disciplinary Procedures regarding the Board staff are contained in the Disciplinary Procedures Policy. In the case of Executive Members and other Directors, such procedures shall be a matter for the full Board.

5.5.2 It is delegated to Chief Executive to apply the terms of the Board's Disciplinary Procedures.

SECTION F

STANDING FINANCIAL INSTRUCTIONS

STANDING FINANCIAL INSTRUCTIONS

- 1. Introduction**
- 2. Responsibilities of Chief Executive as Accountable Officer, Director of Finance and Employees**
- 3. Financial Strategy, Planning and Control**
- 4. Budgetary Control and Monitoring**
- 5. Commissioning/Providing Health Care Services**
- 6. Annual Report and Accounts**
- 7. Banking Arrangements**
- 8. Security**
- 9. Income**
- 10. Payment of Accounts**
- 11. Construction Industry Scheme**
- 12. Payment of Salaries and Wages**
- 13. Travel, Subsistence and Other Allowances**
- 14. Contracting and Purchasing**
- 15. Stores**
- 16. Losses and Special Payments**
- 17. Endowment Funds**
- 18. Primary Care Contractors**
- 19. Aligned and Pooled Budgets**
- 20. Patients' Funds and Property**
- 21. Audit**
- 22. Information Management and Technology**
- 23. Capital and Fixed Assets**
- 24. Risk Management and Insurance**
- 25. Financial Irregularities**

Section F - Appendix 1: Tendering Procedure

Section F - Appendix 2: Common Seal

SECTION 1

INTRODUCTION

MADE IN TERMS OF REGULATION 4 OF THE NATIONAL HEALTH SERVICE (FINANCIAL PROVISIONS) SCOTLAND) REGULATIONS, 1974

BACKGROUND

- 1.1 These Standing Financial Instructions (SFI's) are issued for the regulation of the conduct of Borders Health Board (The Board), its directors, officers and agents in relation to all financial matters. The SFI's are issued in accordance with the financial directions issued by the Scottish Government Health Department under the provisions contained in Regulation 4 of the NHS (Financial Provisions) (Scotland) Regulations, 1974 together with the guidance and requirements contained in NHS Circular No 1974 (GEN) 88 and Annex, and NHS Circular MEL (1994) 80. Their purpose is to provide sound control of NHS Borders's financial affairs and shall have the effect as if incorporated in the Standing Orders of the Board.
- 1.2 The purpose of such a scheme of control is:
- To ensure that NHS Borders acts within the law and that financial transactions are in accordance with the appropriate authority;
 - To ensure that proper accounting records, which are accurate and complete, are maintained;
 - To ensure that financial statements, which give a true and fair view of the financial position of NHS Borders and its expenditure and income, are prepared timeously;
 - To protect NHS Borders against the risk of fraud and irregularity;
 - To safeguard NHS Borders's assets;
 - To ensure that proper standards of financial conduct are maintained;
 - To enable the provision of appropriate management information;
 - To ensure that NHS Borders seeks best value from its resources, by making proper arrangements to pursue continuous improvement, having regard to economy, efficiency and effectiveness in NHS Borders's operations;
 - To ensure that any delegation of responsibility is accompanied by clear lines of control and accountability, together with reporting arrangements.
- 1.3 NHS Borders shall exercise financial supervision and control by The Board exercises financial supervision and control by:
- formulating the financial strategy
 - requiring the submission and approval of financial plans and budgets within approved allocations/overall income;
 - defining and approving essential features of financial arrangements in respect of important procedures and financial systems (including the need to obtain value for money);
 - defining specific responsibilities placed on directors and officers as indicated in the Scheme of Delegation document.

all within the financial resources made available to it, both directly and also through the framework introduced by Section 4 of the NHS and Community Care Act 1990.

- 1.4 The SFI's identify the financial responsibilities which apply to everyone working for the Board and its constituent organisations. They do not provide detailed procedural advice. These statements should therefore be read in conjunction with the detailed departmental and financial procedure notes. All financial procedures must be approved by the Director of Finance.
- 1.5 Should any difficulties arise regarding the interpretation or application of any of the SFI's then the advice of the Director of Finance must be sought before you act.

COMPLIANCE

- 1.6 The Director of Finance is responsible for assisting the Chief Executive as accountable officer and therefore has ultimate responsibility for ensuring that SFI's are in place, up to date and observed in NHS Borders. The responsibilities of the Director of Finance specified in the SFI's may be carried out by such other senior finance officers as he or she might specify.
- 1.7 Members, officers and agents of NHS Borders, including Local Authority employees who are employed in Joint Health and Social Care Projects, shall observe these SFI's. Executive Directors shall be responsible for ensuring that the SFI's are made known within the services for which they are responsible and shall ensure that they are adhered to.
- 1.8 Failure to comply with these SFI's shall be a disciplinary matter.
- 1.9 Where these SFI's place a duty upon any person, this may be delegated to another person, subject to the Scheme of Delegation contained within the Standing Orders.

SECTION 2

RESPONSIBILITIES OF CHIEF EXECUTIVE, DIRECTOR OF FINANCE AND EMPLOYEES

RESPONSIBILITIES OF CHIEF EXECUTIVE AS ACCOUNTABLE OFFICER

- 2.1 Under the terms of Sections 14 and 15 of the Public Finance and Accountability (Scotland) Act 2000, the Principal Accountable Officer for the Scottish Government has designated the Chief Executive of Borders NHS Board as Accountable Officer.
- 2.2 Accountable Officers must comply with the terms of the **Memorandum to National Health Service Accountable Officers**, and any updates issued to them by the Principal Accountable Officer for the Scottish Government. The Memorandum was updated in April 2006.
- 2.3 **General Responsibilities**
 - 2.3.1 The Accountable Officer is personally answerable to the Scottish Parliament for the propriety and regularity of the public finance for NHS Borders. The Accountable Officer must ensure that the Board takes account of all relevant financial considerations, including any issues of propriety, regularity or value for money, in considering policy proposals relating to expenditure, or income.

- 2.3.2 It is incumbent upon the Accountable Officer to combine his or her duties as Accountable Officer with their duty to the Board, to whom he or she is responsible, and from whom he or she derives his/her authority. The Board is in turn responsible to the Scottish Parliament in respect of its policies, actions and conduct.
- 2.3.3 The Accountable Officer has a personal duty of signing the Annual Accounts of NHS Board. Consequently, he or she may also have the further duty of being a witness before the Audit Committee of the Scottish Parliament, and be expected to deal with questions arising from the Accounts, or, more commonly, from reports made to Parliament by the Auditor General for Scotland.
- 2.3.4 The Accountable Officer must ensure that any arrangements for delegation promote good management, and that he or she is supported by the necessary staff with an appropriate balance of skills. This requires careful selection and development of staff and the sufficient provision of special skills and services. He or she must ensure that staff are as conscientious in their approach to costs not borne directly by their component organisation (such as costs incurred by other public bodies), or financing costs, e.g. relating to banking and cash flow) as they would be, were such costs directly borne.

2.4 Specific Responsibilities

- 2.4.1 Ensure that from the outset proper financial systems are in place and applied, and that procedures and controls are reviewed from time to time to ensure their continuing relevance and reliability, especially at times of major changes;
- 2.4.2 Ensure that the Board's financial obligations and targets are met. The Chief Executive shall be responsible for the implementation of the Boards financial policies and for co-ordinating any corrective action necessary to further these policies. In fulfilling this responsibility the Chief Executive shall take account of advice given by the Director of Finance on all such matters. The Director of Finance shall be accountable to the Board for this advice.
- 2.4.3 Sign the Accounts assigned to him or her, and in doing so, accept personal responsibility for ensuring that they are prepared under the principles and in the format directed by Scottish Ministers.
- 2.4.4 Ensure that proper financial procedures are followed incorporating the principles of separation of duties and internal check, and that accounting records are maintained in a form suited to the requirements of the relevant Accounting Manual, as well as in the form prescribed for published Accounts.
- 2.4.5 Ensure that the public funds for which he or she is responsible are properly managed and safeguarded, with independent and effective checks of cash balances in the hands of any official.
- 2.4.6 Ensure that the assets for which he or she is responsible, such as land, buildings or other property, including stores and equipment, are controlled and safeguarded with similar care, and with checks as appropriate.
- 2.4.7 Ensure that, in the consideration of policy proposals relating to expenditure, or income, for which he or she has responsibilities as Accountable Officer, all

relevant financial considerations, including any issues of propriety, regularity or value for money, are taken into account, and where necessary brought to the attention of the Board.

- 2.4.8 Ensure that any delegation of authority is accompanied by clear lines of control and accountability, together with reporting arrangements.
- 2.4.9 Ensure that effective management systems appropriate for the achievement of the organisation's objectives, including financial monitoring and control systems have been put in place.
- 2.4.10 Ensure that risks, whether to achievement of business objectives, regularity, propriety, or value for money, are identified, that their significance is assessed and that systems appropriate to the risks are in place in all areas to manage them.
- 2.4.11 Ensure that best value from resources is sought, by making proper arrangements to pursue continuous improvement having regard to economy, efficiency and effectiveness, and in a manner which encourages the observance of equal opportunities requirements.
- 2.4.12 Ensure that managers at all levels have a clear view of their objectives, and the means to assess and measure outputs or performance in relation to those objectives.
- 2.4.13 Ensure managers at all levels are assigned well defined responsibilities for making the best use of resources (both those assumed by their own commands and any made available to organisations or individuals outside NHS Borders) including a critical scrutiny of output and value for money.
- 2.4.14 Ensure that managers at all levels have the information (particularly about costs), training and access to the expert advice which they need to exercise their responsibilities effectively.

2.5 Regularity and Propriety of Expenditure

- 2.5.1 The Accountable Officer has a particular responsibility for ensuring compliance with Parliamentary requirements in the control of expenditure. A fundamental requirement is that funds should be applied only to the extent and for the purposes authorised by Parliament in Budget Acts (or otherwise authorised by Section 65 of the Scotland Act 1998). Parliament's attention must be drawn to losses or special payments by appropriate notation of the organisation's Accounts. In the case of expenditure approved under the Budget Act, any payments made must be within the scope and amount specified in that Act.
- 2.5.2 All actions must be able to stand the test of Parliamentary scrutiny, public judgements on propriety and professional Codes of Conduct. Care must be taken to avoid actual, potential, or perceived conflicts of interest when employing consultants and their staff.

2.6 Advice to the Board

- 2.6.1 The Accountable Officer has a duty to ensure that appropriate advice is tendered to the Board on all matters of financial propriety and regularity, and more broadly, as to all considerations of prudent and economical administration, efficiency and effectiveness.
- 2.6.2 If the Accountable Officer considers that, despite their advice to the contrary, the Board is contemplating a course of action which they consider would infringe the requirements of regularity or propriety, and that they would be required to take action that is inconsistent with the proper performance of his or her duties as Accountable Officer, they should inform the Scottish Government Health Department's Accountable Officer, so that the Department, if it considers it appropriate, can intervene and inform Scottish Ministers. If this is not possible, the Accountable Officer should set out in writing his or her objection and the reasons, to the proposal. If their advice is overruled, and the Accountable Officer does not feel that he or she would be able to defend the proposal to the Audit Committee of the Scottish Parliament, as representing value for money, he or she should obtain written instructions from the Board for which he or she is designated, and send a copy of his or her request for instruction and the instruction itself as soon as possible to the External Auditor and the Auditor General for Scotland.
- 2.6.3 The Accountable Officer must ensure that their responsibilities as an Accountable Officer do not conflict with those as a Board member. They should vote against any action that they cannot endorse as an Accountable Officer, and in the absence of a vote, ensure that his or her opposition as a Board Member, as well as Accountable Officer is clearly recorded.
- 2.6.4 It is the duty of the Chief Executive to ensure that Executive Directors and employees and all new appointees are notified of and understand their responsibilities within the SFI's.

2.7 Absence of Accountable Officer

- 2.7.1 The Accountable Officer should ensure that they are generally available for consultation, and that in any temporary period of unavailability a senior officer is identified to act on their behalf.
- 2.7.2 In the event that the Accountable Officer would be unable to discharge their responsibilities for a period of four weeks or more, NHS Borders will notify the Principal Accountable Officer of the Scottish Government, in order that an Accountable Officer can be appointed pending their return.
- 2.7.3 Where the Accountable Officer is unable by reason of incapacity or absence to sign the Accounts in time for them to be submitted to the Auditor General, the Board may submit unsigned copies, pending the return of the Accountable Officer.

RESPONSIBILITIES OF DIRECTOR OF FINANCE

2.8 The Director of Finance is responsible for:

- 2.8.1 provision of financial advice to the Board and its employees;

- 2.8.2 implementing the Board's financial policies and for co-ordinating any corrective action necessary to further those policies;
- 2.8.3 ensuring that sufficient records are maintained to show and explain the Board's transactions, in order to disclose, with reasonable accuracy, the financial position of the Board at any time;
- 2.8.4 the design, implementation and supervision of systems of internal financial control incorporating the principles of separation of duties and internal checks;
- 2.8.5 the preparation and maintenance of such accounts, certificates, estimates, records and reports as the Board may require for the purpose of carrying out its statutory duties and responsibilities;
- 2.8.6 setting accounting policies consistent with Scottish Government and guidance and generally accepted accounting practice.

ALL DIRECTORS AND EMPLOYEES

- 2.9 All directors and employees of the Board, severally and collectively, are responsible for:
 - 2.9.1 security of the Board's property;
 - 2.9.2 avoiding loss;
 - 2.9.3 exercising economy and efficiency in the use of Borders Health Board resources;
 - 2.9.4 complying with the requirements of Standing Orders, Standing Financial Instructions, Financial Procedures and Scheme of Delegation.

SECTION 3

FINANCIAL STRATEGY, PLANNING AND CONTROL

Financial Strategy and Planning

- 3.1 The Board is required to perform its functions within the total of funds allocated by the Scottish Government and all plans, financial approvals and control systems shall be designed to meet this obligation.
- 3.2 The Chief Executive has overall executive responsibility for the Board's activities and is responsible to the Board for ensuring that the Board stays within its funding limits.
- 3.3 In accordance with guidance issued by the Scottish Government Health Department, the NHS Borders Chief Executive shall be responsible for leading an inclusive process, involving staff and partner organisations, to secure the compilation and approval by the Board, of the Local Delivery Plan for Borders.
- 3.4 By concisely setting out how these objectives will be tackled and by whom, and by setting clear priorities, key milestones and other quantified improvement targets over

time, the Local Delivery Plan will help to secure understanding of important health issues, a shared approach to taking action, and a common commitment to achieving results.

- 3.5 In order to ensure that the planned actions within the Local Delivery Plan are affordable, the Chief Executive, with the assistance of the Director of Finance, shall be responsible for the annual development and updating of the NHS Borders Strategic Financial Plan.
- 3.6 The Strategic Financial Plan shall include a statement of the significant assumptions and risks on which the Plan is based and comprise both Revenue and Capital components, and shall be compiled within available resources, as determined by reference to the Revenue Resource Limit and Capital Resource Limit as notified or indicated by the Scottish Government Health Department, and as forecast for subsequent periods.
- 3.7 The Strategic Financial Plan shall be submitted to the Strategic and Performance Committee for detailed scrutiny and risk assessment, following which the Committee shall be responsible for recommending approval of the Strategic Financial Plan by the Board.
- 3.8 The Strategic Financial Plan shall be an appendix to the Local Delivery Plan and shall be reconcilable to an annual update of the financial planning returns which the Director of Finance will prepare and submit to the Scottish Government Health Department, in accordance with guidance or direction issued from time to time.
- 3.9 The Board Executive Team is responsible for the development and approval of operational financial plans which shall be;-
 - consistent with the Local Delivery Plan as submitted to Scottish Government
 - be in accordance with the aims and objectives set out in the annual Local Health Plan;
 - be prepared within the limits of available funds;
 - identify potential risks; and
 - analyse both funds available and proposed expenditure between that which is recurring and that which is non-recurring.

Control

- 3.10 The Director of Finance shall ensure that adequate financial and statistical systems are in place to monitor and control income and expenditure and to facilitate the compilation of financial plans, estimates and any investigations which may be required from time to time.
- 3.11 The Director of Finance shall devise and maintain systems of budgetary control and all officers whom the Board may empower to engage staff or otherwise incur expenditure or to collect or generate income, shall comply with the requirements of those systems. The systems of budgetary control shall incorporate the reporting of (and investigation into) financial, activity or workforce variances from budget. The Director of Finance shall be responsible for providing budgetary information and advice to enable the Chief Executive and other officers to carry out their budgetary responsibilities.

- 3.12 The Chief Executive may, within limits approved by the Board, delegate authority for a budget or a part of a budget to the individual officer or group of officers who will be responsible for the activities provided for within that budget. The terms of delegation shall include a clear definition of individual and group responsibilities for control of expenditure, exercise of virement, achievement of planned levels of service and the provision of regular reports upon the discharge of those delegated functions to the Chief Executive. Responsibility for overall budgetary control, however, shall remain with the Chief Executive.
- 3.13 Except where otherwise approved by the Chief Executive, taking account of advice of the Director of Finance, budgets shall be used only for the purpose for which they were provided and any budgeted funds not required for their designated purpose shall revert to the immediate control of the Chief Executive, unless covered by powers of virement delegated by him or her/her.
- 3.14 Expenditure for which no provision has been made in an approved budget shall only be incurred after authorisation by the Chief Executive, subject to his/her authorised virement limit.

Delegated authority is granted as set out in the Scheme of Delegation, this includes authority to approve the transfer of funds up to this level between budget heads, including transfers from reserves and balances.

- 3.15 The Director of Finance shall keep the Chief Executive and the Board informed of the financial consequences of changes in policy, pay awards, and other events and trends affecting budgets, and shall advise on the financial and economic aspects of future plans and projects.
- 3.16 There is a duty requiring the Chief Executive, other officers and agents of NHS Borders, not to exceed approved budgetary limits.
- 3.17 The Chief Executive is responsible for the negotiation of funding for the provision of services in accordance with the Local Delivery Plan and for establishing the arrangements for the cross-boundary treatment of patients in accordance with the guidance of the Scottish Government Health Department. In carrying out these functions the Chief Executive shall take into account the advice of the Director of Finance regarding:
- Costing and pricing of services;
 - Payment terms and conditions;
 - Arrangements for funding in respect of patients from outwith the Borders area, and for the funding of the treatment of Borders residents other than by NHS Borders.
- 3.18 The Chief Executive shall also be responsible for negotiating agreements for the provision of support services to/from other NHS Bodies
- 3.19 Non-recurring funds should not be used to finance recurring expenditure without the approval of the Chief Executive.

Reporting

- 3.20 Any substantial funds arising from inability to action, or delay in the implementation of projects approved by the Board, shall be reported in the first instance by the Chief

Executive, together with advice on the use of such funds, to the Strategic and Performance Committee. The Committee shall report as appropriate to the Board.

- 3.21 The Director of Finance shall produce a regular Financial Report for submission to the Board. This report shall highlight any significant in-year variance from the Corporate Strategic Financial Plan together with a forecast of the outturn position for the financial year concerned, and shall recommend any proposed corrective action.
- 3.22 The Director of Finance shall produce a quarterly Strategic Financial Plan update for submission to the Strategy and Performance Committee. This report shall highlight any significant in-year variance from the approved Corporate Strategic Financial Plan in respect of key planning assumptions and risks and shall recommend any proposed corrective action.
- 3.23 In order to fulfil these responsibilities, the Director of Finance shall have right of access to all budget holders on budgetary related matters.

SECTION 4

BUDGETARY CONTROL AND MONITORING

Delegation of Budgets

- 4.1 The Chief Executive may delegate the management of a budget to the Clinical Executive or individual employees, to permit the performance of a defined range of activities. Responsibility for overall budgetary control, however, shall remain with the Chief Executive.
- 4.2 The delegation must be in writing and be accompanied by a clear definition of the:
 - amount of the budget;
 - purpose(s) of each budget heading;
 - individual and group responsibilities;
 - authority to exercise virement;
 - achievement of planned levels of service; and
 - provision of regular reports.
- 4.3 In carrying out their duties:
 - The Chief Executive and all budget holders with delegated authority shall not exceed the budgetary or virement limits set by the Board;
 - Budget holders shall strictly observe the budgetary limits and control procedures set for them by the Chief Executive;
 - The Chief Executive may vary the budgetary limit of a budget holder within the Chief Executive's own budgetary limit;
 - Officers shall not use non-recurring budgets on recurring expenditure.
- 4.4 All budget holders must provide information as required by the Director of Finance to enable budgets to be compiled.
- 4.5 The Director of Finance has a responsibility to ensure that adequate training is delivered on an on-going basis to budget holders to help them manage successfully.

- 4.6 The Chief Executive and delegated budget holders must not exceed the budgetary total or virement limits set by the Board.
- 4.7 Any budgeted funds not required for their designated purpose(s) revert to the immediate control of the Chief Executive, subject to any authorised use of virement.

Budgetary Control and Reporting

- 4.8 The Director of Finance will devise and maintain systems of budgetary control. These will include:
- monthly financial reports to the Board in a form approved by the Board containing:
 - income and expenditure to date showing trends and forecast yearend position;
 - capital project spend and projected outturn against plan;
 - explanations of any material variances from plan;
 - details of any corrective action where necessary and the Chief Executive's and/or Director of Finance's view of whether such actions are sufficient to correct the situation;
 - the issue of timely, accurate and comprehensible advice and financial reports to each holder of a budget, covering the areas for which they are responsible;
 - investigation and reporting of variances from financial, workload and manpower budgets;
 - monitoring of management action to correct variances; and
 - arrangements for the authorisation of budget transfers.
- 4.9 Each holder of a budget is responsible for ensuring that:
- any likely overspending or reduction of income which cannot be met by virement is not incurred without the prior consent of the Board;
 - the amount provided in the approved budget is not used in whole or in part for any purpose other than that specifically authorised subject to the rules of virement; and
 - no permanent employees are appointed without the approval of the Chief Executive other than those provided for in the budgeted establishment as approved by the Board.
- 4.10 Expenditure for which no provision has been made in an approved budget and not subject to funding under the delegated powers of virement shall only be incurred after authorisation by the Chief Executive or the Board as appropriate.
- 4.11 No budget holder may charge expenditure to a budget for which they are not the budget holder without the express authority of the authorised budget holder.
- 4.12 The Chief Executive is responsible for identifying and implementing cost improvements and income generation initiatives in accordance with the requirements of the Local Health Plan and a balanced budget.
- 4.13 Except where otherwise approved by the Chief Executive, taking account of advice of the Director of Finance, budgets shall be used only for the purpose for which they were provided and any budgeted funds not required for their designated purpose shall revert to the immediate control of the Chief Executive, unless covered by delegated powers of virement. Any substantial funds arising from inability to action, or delay in the implementation of projects approved by the Board, should be reported to the Board by the Chief Executive, together with advice on the use of such funds.
- 4.14 Budget holders are required to take such action as may be required following the receipt of their budget reports from the Director of Finance to ensure that their budgetary objectives are met.

Establishment Control

- 4.15 The Director of Finance shall be responsible for designing a system of establishment control. The funded establishment of any department may only be varied in accordance with the approved establishment control system.

Virement

- 4.16 The Board is responsible for agreeing the rules applying to virement between budgets. These are contained in the Board's Scheme of Delegation.

Capital Expenditure

- 4.17 The Chief Executive will submit capital plans for the Board's approval and following on from this submit for Board approval all business cases required to be submitted to SGHD.
- 4.18 The general rules applying to delegation and reporting shall also apply to capital expenditure.

Monitoring Returns

- 4.19 The Chief Executive is responsible for ensuring that the appropriate monitoring forms are submitted to SGHD.

SECTION 5

COMMISSIONING/PROVIDING HEALTH CARE SERVICES

- 5.1 The Chief Executive, in conjunction with the Director of Finance, shall be responsible for ensuring that all services required or provided are covered by a series of service agreements or, if not, that adequate funds are retained or requested to pay for services obtained outside service agreements, all within the context of the approved Local Delivery Plan and Corporate Strategic Financial Plan. They shall be responsible for ensuring that the total service framework is affordable within the overall Revenue and Capital Resource Limits set by the Scottish Government Health Department.
- 5.2 The Chief Executive is responsible for ensuring that service agreements are placed with due regard to the need to achieve best value and will personally authorise all agreed service agreements for health care purchases.
- 5.3 The Director of Finance is responsible for agreeing to the financial details contained in those service agreements agreed by the Board.
- 5.4 The Chief Executive is responsible for establishing robust financial arrangements, in accordance with guidance from the Scottish Government Health Department, for the treatment of Borders residents by other NHS systems, or by the private sector, and for the treatment of residents of other health systems within NHS Borders.

- 5.5 The Director of Finance is responsible for maintaining a system for the rendering and payment of service agreements invoices in accordance with the terms of service agreements, or otherwise in accordance with national guidance.
- 5.6 The Director of Public Health in his capacity as Caldicott Guardian, is responsible for ensuring that all systems operate in a way to maintain the confidentiality of patient information as set out in the Data Protection Act 1998 under Caldicott guidance.

SECTION 6

ANNUAL REPORT AND ACCOUNTS

- 6.1 The Board is required under the terms of Section 86(3) of the National Health Service (Scotland) Act 1978 to prepare and transmit Annual Accounts to Scottish Ministers.
- 6.2 Scottish Ministers have issued Accounts Directions in exercise of the powers conferred by Section 86(1) of the National Health Service (Scotland) Act 1978 which contain the following provisions:

Basis of Preparation

Annual Accounts shall comply with:

- Generally accepted accounting practice in the United Kingdom;
- The accounting and disclosure requirements of the Companies Act;
- All relevant accounting standards issued or adopted by the Accounting Standards Board, as they apply to the NHS and remain in force for the financial year for which the accounts are to be prepared;
- The historical cost convention modified by the inclusion of fixed assets at their value to the business by reference to current costs; and stocks at the lower of net current replacement cost (or historical cost if this is not materially different) and net realisable value.

Form of Accounts

The Annual Accounts shall comprise:

- A foreword (taken to be the Director's Report in the Accounts);
- An operating cost statement;
- A statement of total recognised gains and losses;
- A balance sheet;
- A cash flow statement;
- Such notes as may be necessary for the purposes referred to below.

The Annual Accounts shall give a true and fair view of the income and expenditure, total recognised gains and losses, balance sheet and cash flow statement. Subject to the foregoing requirement, the annual accounts shall also contain any disclosure and accounting requirements which Scottish Ministers may issue from time to time.

- 6.3 The Director of Finance shall maintain proper accounting records which allow the timely preparation of the Annual Accounts, in accordance with the timetable laid down by the Scottish Government Health Department, and which give a true and fair view of NHS Borders and its expenditure and income for the period in question.

- 6.4 Annual Accounts should be prepared by NHS Borders in accordance with all appropriate regulatory requirements and be supported by appropriate accounting records and working papers prepared to an acceptable professional standard.
- 6.5 Under the terms of the Public Finance and Accountability (Scotland) Act 2000, the Auditor General for Scotland will appoint an external auditor to undertake the audit of NHS Borders annual accounts and report.
- 6.6 The Director of Finance shall agree with the External Auditor a timetable for the production, audit, adoption by the Board of accounts to the Auditor General for Scotland and the Scottish Government Health Department. This timetable shall be consistent with the requirements of the Scottish Government Health Department.
- 6.7 The Annual Accounts shall be prepared in accordance with the relevant Accounts Direction and Accounts Manual issued by the Scottish Government Health Department.
- 6.8 The Chief Executive is responsible for preparing a Statement of Internal Control, and shall seek appropriate assurances, including that of the Chief Internal Auditor, with regard to the adequacy of internal control throughout the organisation.
- 6.9 The Annual Accounts shall be reviewed by the Audit Committee, which has the responsibility of recommending adoption of the Accounts by the Board.
- 6.10 Under the terms of the Public Finance and Accountability (Scotland) Act 2000, Annual Accounts may not be placed in the public domain, prior to them being formally laid before Parliament.
- 6.11 Following the formal approval of the motion to adopt the Accounts by the Board, the Annual Accounts and relevant certificates shall be duly signed on behalf of the Board, and submitted to the External Auditor for completion of the relevant audit certificates.
- 6.12 Signed sets of Annual Accounts shall be submitted to the Scottish Government Health Department, and by the External Auditor to the Auditor General for Scotland.
- 6.13 The Chief Executive shall arrange for the production and circulation of an Annual Report for NHS Borders in such form as may be determined by the Scottish Government Health Department.
- 6.14 The Annual Report, together with an audited financial statement, shall be presented at a public meeting which must take place no later than six months after the relevant accounting date.

SECTION 7

BANKING ARRANGEMENTS

- 7.1 The Director of Finance is responsible for managing the Board's banking arrangements and for advising the Board on the provision of banking services and the

operation of bank accounts. This advice will take into account such guidance and directions as may be issued from time to time by the Scottish Government.

- 7.2 All arrangements with NHS Borders's bankers and the Government Banking Services will be made by or under arrangements approved by the Director of Finance who shall be authorised by the Board to operate such bank accounts as may be considered necessary.
- 7.3 No officer other than the Director of Finance shall open any bank account in the name of Borders NHS Board.
- 7.4 All funds shall be held in accounts in the name of Borders NHS Board, Borders NHS Board Endowment Fund or Borders NHS Board Patients' Fund. The Director of Finance shall report to the Board on the details of all accounts so opened, including the conditions on which they are operating.
- 7.5 The Director of Finance shall nominate, for each appropriate bank account, the officers, including him/herself, authorised to release monies from each account, on a single signature basis up to a maximum of £5,000. An authorisation schedule will be held by the appropriate Banks and over that limit of £5,000 two signatures will be required. As a minimum, a Senior Finance Manager will fulfil the 2nd signatory for transactions over £5,000.
- 7.6 The Director of Finance shall notify the bankers promptly of the cancellation of any authorisation to draw on the Board accounts.
- 7.7 Cheques processed will be signed by the Director of Finance or other officers authorised by the Strategy and Performance Committee. Where such cheques are for sums in excess of £5,000, two authorised officers will sign.
- 7.8 All cheques (which shall be crossed with 'Not Negotiable - Account Payee Only') to be treated as controlled stationery in the charge of a duly designated officer controlling their issue.
- 7.9 All cheques, postal orders, cash, etc, shall be banked intact promptly, in accordance with the Director of Finance's rules of procedures to the credit of the main account (or, if appropriate, endowment fund/patients' fund interest bearing account. Disbursements shall not be made from cash except under arrangements approved by the Director of Finance.
- 7.10 All arrangements for the receipt and payment of monies using BACS (the Bankers Automated Clearing Service) and CHAPS (The Clearing Houses Automated Payment System) will be made by or under arrangements approved by the Director of Finance.
- 7.11 All arrangements for payments to be made by Standing Order or Direct Debit from any NHS Borders bank account will be made by or under arrangements approved by the Director of Finance.
- 7.12 The Director of Finance will review the banking arrangements of the Board at regular intervals to ensure they reflect best practice and represent best value for money by periodically seeking competitive tenders for the Board's banking business.
- 7.13 Competitive tenders should be sought at least every 5 years. The results of the tendering exercise should be reported to the Board.

- 7.14 The use of credit cards will be made by or under arrangements approved by the Director of Finance.

SECTION 8

SECURITY

SECURITY OF CASH AND OTHER ITEMS

- 8.1 The Director of Finance is responsible for designing, maintaining and ensuring compliance with systems for the proper recording, invoicing, collection and coding of all monies due, including income due under service agreements for the provision of patient care services.
- 8.2 All receipt books, tickets, agreement forms, or other means of officially acknowledging or recording amounts received or receivable shall be in a form approved by the Director of Finance. Such stationery shall be ordered and controlled by him or her and subject to the same precautions as are applied to cash, in accordance with the Director of Finance's requirements.
- 8.3 All officers, whose duty it is to collect or hold cash, shall be provided with a safe or with a lockable cash box which will normally be deposited in a safe. The officer concerned shall hold one key and all duplicates shall be lodged with a banker or such other officer authorised by the Director of Finance and suitable receipts obtained. The loss of any key shall be reported immediately to the Deputy Director of Finance Financial Accounting. The Director of Finance shall, on receipt of a satisfactory explanation, authorise the release of the duplicate key. The Director of Finance shall arrange for all new keys to be despatched directly to him or her from the manufacturers and shall be responsible for maintaining register of authorised holders of safe keys.
- 8.4 The safe key-holder shall not accept unofficial funds for depositing in the safe unless deposits are in sealed envelopes or locked containers. It shall be made clear to the depositor that the Board is not to be held liable for any loss and written indemnity must be obtained from the organisation or individual absolving NHS Borders from responsibility for any loss.
- 8.5 During the absence of the holder of a safe or cash box key, the officer who acts in his place shall be subject to the same controls as the normal holder of the key. There shall be written discharge for the safe and/or cash box contents on the transfer of responsibilities and the discharge document must be retained for audit inspection.
- 8.6 All cash, cheques, postal orders and other forms of payment shall normally be received by more than one officer, neither of whom should be a Cashier and shall be entered immediately in an approved form of register which should be signed by both. All cheques and postal orders shall be crossed immediately 'Not negotiable - account payee [Borders NHS Board]'. The remittances shall be passed to the Cashier, from whom a signature shall be obtained in the register.
- 8.7 The opening of coin-operated machines (including telephones) and the counting and recording of the takings in the register shall normally be undertaken by two officers together and the coin box keys shall be held by a nominated officer. The collection

shall be passed to the cashier from whom a signature shall be obtained in the register.

- 8.8 The Director of Finance shall prescribe the system for the transporting of cash and uncrossed pre-signed cheques. Wherever practicable, the services of a specialist security firm shall be employed.
- 8.9 All unused cheques, receipts and all other orders shall be subject to the same security precautions as are applied to cash. Bulk stocks of cheques shall normally be retained by the Director of Finance or his nominated officers and released by them only against authorised requisitions.
- 8.10 All Prepayment Certificates and Prescription Pads in Primary Care should be subject to the same security precautions and controls as is applied to cash items.
- 8.11 In all cases where NHS Borders officers receive cash, cheques, credit or debit card payments, empty telephone or other machine coin boxes, etc, personal identity cards must be displayed prominently. Staff shall be informed in writing on appointment by the departmental or senior officers of their responsibilities and duties for the collection, handling or disbursement of cash, cheques, etc.
- 8.12 Any loss or shortfall of cash, cheques etc, shall be reported immediately in accordance with the agreed procedure for reporting losses.
- 8.13 Under no circumstances shall funds managed by the Board be used for the encashment of private cheques or the making of loans of a personal nature.
- 8.14 Where wages are made up by staff or bulk pay advices are sorted by staff prior to distribution, a secure room, to which no unauthorised person shall be admitted, shall be used.

SECURITY OF PHYSICAL ASSETS

- 8.15 The overall control of fixed assets is the responsibility of the Chief Executive.
- 8.16 Each employee has a responsibility to exercise a duty of care over the property of NHS Borders and it shall be the responsibility of senior staff in all disciplines to apply appropriate routine security practices in relation to NHS property. Persistent breach of agreed security practices shall be reported to the Chief Executive.
- 8.17 Wherever practicable, items of equipment shall be marked as NHS property. Items to be controlled shall be recorded and updated in an appropriate register including all capital assets.
- 8.18 Nominated officers designated by the Chief Executive shall maintain up to date asset registers of items which are capital by definition as well as items classed as 'special' and they shall ensure the responsible designated officers also maintain up to date and accurate copies.
- 8.19 There shall be an approved form of asset register and method of updating.
- 8.20 The items on the register shall be checked at least annually by the nominated officers and all discrepancies shall be notified in writing to the Director of Finance, who may also undertake such other independent checks as he considers necessary.

- 8.21 Any damage to premises, vehicles and equipment, or any loss of equipment or supplies shall be reported by staff in accordance with the agreed procedure for reporting losses.
- 8.22 Registers shall also be maintained by responsible officers and receipts retained for:
- Equipment on loan;
 - Leased Equipment;
 - All contents of furnished lettings.
- 8.23 On the closure of any facility, a check shall be carried out and a responsible officer will certify a list of items held showing eventual disposal. The disposal of fixed assets (including donated assets) shall be in accordance with Section 23.

SECTION 9

INCOME

- 9.1 The Director of Finance shall be responsible for designing and maintaining systems for the proper recording, invoicing and collection of all money due.
- 9.2 The Director of Finance is responsible for approving and regularly reviewing the level of fees and charges other than those determined by SGHD.
- 9.3 All officers shall inform the Director of Finance of monies due arising from transactions they initiate, including all contracts, leases, tenancy agreement and any other transactions. The Director of Finance shall approve contracts with financial implications in excess of £5,000. Responsibility for arranging the level of rentals for newly acquired property and for the regular review of rental and other charges shall rest with the Director of Finance who may take into account independent professional advice on matters of valuation.
- 9.4 The Director of Finance shall take appropriate recovery action in all outstanding debts including the establishment of procedures for the write-off of debts after all reasonable steps have been taken to secure payment.
- 9.5 In relation to Income Generation Schemes, the Director of Finance shall ensure that there are systems in place to identify all costs and services attributed to each scheme before introduction and such schemes should only proceed on the basis of providing income in excess of the cost of the scheme.

SECTION 10

PAYMENTS OF ACCOUNTS

- 10.1 The Director of Finance must approve the manual or electronic list of officers authorised to certify invoices, non-invoice payments, and payroll schedules, including where required by the Director of Finance, financial limits to their authority. The Director of Finance will maintain details, together with his or her specimen signatures for manual authorisation. Electronic authorisation must be allocated by effective access control permissions to those approved by the Director of Finance.

- 10.2 The Director of Finance is responsible for the payment of all accounts, invoices and contract claims in accordance with contractual terms and/or the CBI Prompt Payment Code. Payment systems shall be designed to avoid payments of interest arising from non-compliance with the Late Payment of Commercial Debts (Interest) Act 1998.
- 10.3 All officers shall inform the Director of Finance promptly of all monies payable by their organisation arising from transactions which they initiate, including contracts, leases, tenancy agreements and other transactions. To assist financial control, a register of regular payments should be created.
- 10.4 FHS Contractor payments and administration has been delegated to National Services Scotland under a Service Level Agreement, National Services Scotland will act as agents of the Board in accordance with the Service Level Agreement.
- 10.5 Where a manual payment system is in place, all requests for payment should, wherever possible, have relevant original invoices or contract payment vouchers attached and shall be authorised for payment by an approved officer from a list of authorised signatories agreed by the appropriate organisation. Where an electronic payment system has been approved by the Director of Finance, the system must ensure that payment is made only for goods received for which there is an authorised Purchase Order.
- 10.6 The Director of Finance is responsible for designing and maintaining systems for the verification, recording and payment of all amounts payable, including monies relating to clinical services. Certification is required either manually or electronically (within a tolerance level approved by the Director of Finance) for the following:
- Goods have been duly received, examined, are in accordance with specification and order, are satisfactory and that the prices are correct;
 - Work done or services rendered have been satisfactorily carried out in accordance with the order; that where applicable, the materials used were of the requisite standard and that the charges are correct;
 - In the case on contracts based on the measurement of time, materials or expenses, the time charged is in accordance with the time sheets, that the rates of labour are in accordance with the appropriate rates, that the materials have been checked as regards quantity, quality and price and that the charges for the use of vehicles, plant and machinery have been examined;
 - Where appropriate, the expenditure is in accordance with regulations and that all necessary Board or appropriate officer authorisations have been obtained;
 - The account or claim is arithmetically correct;
 - The account or claim is in order for payment;
 - VAT has been recovered as appropriate;
 - Clinical services have been carried out satisfactorily in accordance with Service Agreements and Unplanned Activity arrangements (UNPACs);
 - A timetable and system for submission to the Director of Finance, of accounts for payment with provision shall be made for early submission of accounts, subject to cash discounts or otherwise requiring early payment, and
 - Instruction of staff regarding the handling, checking and payment of accounts and claims within Financial Services Department.
- 10.7 Budget holders shall ensure, before an order for goods or services is placed, that the purchase has been properly considered and forms part of the department's

allocations, agreed business plans, or other known and specific funds available to the department.

- 10.8 The Director of Finance shall ensure that payment for goods and services is only made once the goods and services are received other than under the terms of a specific contractual arrangement.
- 10.9 Budget Holders shall ensure, before an order for goods or service is placed, that the purchase has been properly considered and forms part of the department's allocations, agreed business plans, or other known and specific funds available to the department.
- 10.10 Where an officer certifying accounts or claims relies upon other officers to do preliminary checking he shall, wherever possible, ensure that those who check delivery or execution of work act independently of those who have placed an order and negotiated prices and terms. Budget Managers must therefore ensure, within delegated limits that there is effective separation of duties between:
- The person placing the order;
 - The person certifying receipt of goods and services, and;
 - The person authorising the invoice manually or electronically

That no one person should undertake all three functions.

- 10.11 In the case of contracts for building or engineering works which require payment to be made on account during progress of the works, the Director of Finance shall make payment on receipt of a certificate from the technical consultant or officer. Without prejudice to the responsibility of any consultant or works officer appointed to a particular building or engineering contract, a contractor's account shall be subject to such financial examination by the Director of Finance and such general examination by a works officer as may be considered necessary, before the person responsible for the contract issues the final certificate. To assist financial control, a contracts register should be created.
- 10.12 Where a contract is based on the measurement of time, materials or expenses, the checks to be carried out must provide confirmation that:
- the time charged is in accordance with the time sheets;
 - the rates of labour are in accordance with the appropriate rates;
 - the materials have been checked as regards quantity, quality, and price;
 - the charges for the use of vehicles, plant and machinery have been examined.
- 10.13 The Director of Finance may authorise advances on the imprest system for petty cash and other purposes as required. Individual payments must be restricted to the amounts authorised by the Director of Finance and appropriate vouchers obtained and retained in accordance with the policy on culling and retention of documents.
- 10.14 NHS Borders officers responsible for commissioning self employed contractors (who were previously employees of the Board or other NHS bodies) must ensure that, subject to their delegated authority and before any work assignment is agreed, that evidence is obtained from the self employed contractor that confirms their status to ensure that NHS Borders is not held liable for Income Tax and National Insurance by the Inland Revenue. This evidence must be submitted to the Director of Finance.

- 10.15 Advance Payment for supplies, equipment or services shall not normally be permitted. Should exceptional circumstances arise, any proposal must be submitted to the Director of Finance at the earliest opportunity. The Director of Finance shall take appropriate advice in determining a course of action.
- 10.16 Advance payments to general medical practitioners and community pharmacists shall comply with the specific contractor NHS plans and regulations.
- 10.17 The budget holder is responsible for ensuring that all items due under a payment in advance contract are received and he must inform the Director of Finance or Chief Executive immediately problems are encountered.

SECTION 11

CONSTRUCTION INDUSTRY SCHEME

- 11.1 The scheme is to be administered in accordance with guidance supplied by HM Revenue and Customs, booklet CIS348.
- 11.2 In the event of any doubt, the Deputy Director of Finance (Financial Accounting) Financial Services Department (Newstead), will determine whether a payment should be made gross or net of deduction of tax and shall consult with the HMRC, as necessary.
- 11.3 The Director of Finance is responsible for remitting to the HMRC any tax deducted from payments made to sub-contractors. The Director of Finance must ensure that this is done in accordance with the timetable(s) set out in CIS348, as appropriate.

SECTION 12

PAYMENT OF SALARIES AND WAGES

- 12.1 Staff may be engaged or regraded only by authorised officers within the limit of the approved budget and establishment when agreed by the Chief Executive or other authorised officer unless following successful grading appeals.
- 12.2 The Remuneration Committee of the Staff Governance Committee will approve any changes to the remuneration, allowances and conditions of service of the Chief Executive and other Directors in accordance with the Code of Corporate Governance.
- 12.3 The Director of Finance is responsible for:
- specifying timetables for submission of properly authorised time records and other notifications;
 - ensuring the processing of payroll data;
 - making payment on agreed dates and
 - agreeing the method of staff payment.
- 12.4 The Director of Workforce shall be responsible for issuing contracts of employment and for dealing with variations to, or termination of, contracts of employment.
- 12.5 Each employee shall be issued with a contract which shall comply with current employment legislation and be in a form approved by the Board.

- 12.6 A signed copy of the engagement form and such other documents necessary for the payment of staff as they may require shall be sent to the Payroll Manager immediately upon the employee commencing duty.
- 12.7 A termination of employment form and such other documents as they may require, for payment purposes, shall be submitted to the Payroll Manager immediately upon the effective date of an employee's resignation, retirement or termination being known. Where an employee fails to report for duty in circumstances which suggest that he or she has left without notice, the Payroll Manager shall be informed immediately.
- 12.8 A notification of change form shall be sent to the Payroll Manager by the Director of Workforce immediately upon the effective date of any change in state of employment or personal circumstances of an employee being known.
- 12.9 Where the personnel and payroll systems are connected by an electronic interface the requirement for contract/engagement forms, termination of employment forms and notification of change forms to be sent to the Payroll Manager may be altered to allow for such information to be transmitted by electronic means providing always that appropriate procedures for such transmissions are agreed by the Director of Finance.
- 12.10 All time records, staff returns and other pay records and notifications shall be in a form approved by the Director of Finance and shall be certified and submitted in accordance with his instructions. Where this information is transmitted by electronic means, appropriate procedures covering such transmissions require to be agreed by him or her.
- 12.11 Subject to the limits laid down in the Scheme of Delegation, all early retirements which result in additional costs being borne by the employer will be submitted to the Board. The Chair shall personally authorise payments in respect of the Chief Executive, and the Chief Executive shall personally authorise payments in respect of all other employees, following approval by the Board.
- 12.12 The Director of Workforce and Planning and the Director of Finance shall be jointly responsible for ensuring that rates of pay and relevant conditions of service are in accordance with current agreements. The Chief Executive or the Remuneration Committee in appropriate circumstances, shall be responsible for the final determination of pay, but subject to the statutory duty of the Director of Finance, who shall issue instructions regarding:
- Verification of documentation or data;
 - The timetable for receipt and preparation of payroll data and the payment of staff;
 - Maintenance of subsidiary records for Superannuation, Income Tax, National Insurance and other authorised deductions from pay;
 - Security and confidentiality of payroll information in accordance with the principle of the Data Protection Act, 1984;
 - Checks to be applied to completed payroll before and after payment;
 - Authority to release payroll data to a Security firm, if applicable;
 - Methods of payment available to various categories of staff;
 - Procedures for payment of cheques, bank credits or cash to staff;
 - Procedures for unclaimed wages which should not be returned to salaries and wages staff;
 - Pay advances authorised in paragraph 12.16 and their recovery;

- Maintenance of regular and independent reconciliation of adequate control accounts;
- Separation of duties of preparing records and handling cash;
- A system to ensure the recovery from leavers of sums due by them; and
- A system to ensure recovery or write-off of payment of pay and allowances.

12.13 The Director of Finance or Director of Workforce and Planning shall have the right to request work rosters or any other supporting information to ensure that correct payments are made to staff.

12.14 The Remuneration Committee shall approve performance assessments and salary uplifts of the Chief Executive and all other Executive and Management posts reporting directly to the Chief Executive.

12.15 The Medical Director and Director of Workforce and Planning, acting together and with the agreement of the Chair of the Remuneration Committee, are given delegated authority to approve payments, in circumstances where recruitment has to be actioned urgently and requires agreement for expedience reasons. Where such approval is given, powers are delegated to the Director of Workforce to agree appropriate contractual arrangements. There is a requirement for such payments to be homologated at the following Remuneration Committee.

12.16 The Director of Finance shall ensure salaries and wages are paid on the currently agreed dates, but may vary these when necessary due to special circumstances (e.g. Christmas and other Bank Holidays). Payment to an individual shall not be made in advance of normal pay, except:-

- To cover a period of authorised leave involving absence on the normal pay day; or
- As authorised by the Chief Executive or Director of Finance to meet special circumstances and limited to the net pay due at the time of payment.

All employees shall be paid by bank credit transfer monthly unless otherwise agreed by the Director of Finance.

SECTION 13

TRAVEL, SUBSISTENCE AND OTHER ALLOWANCES

13.1 The Director of Finance shall ensure that all expense claims by employees of NHS Borders or outside parties are reimbursed in line with the relevant national pay agreements or otherwise approved within the authority of the Staff Governance Committee and that all such claims should be supported by receipts wherever possible. Removal expenses will be limited to £6,000, authority has been given to the Medical Staffing Officer to approve to a limit of £8,000 on an individual basis in exceptional circumstances following agreement of the Director of Workforce. Executive Director removal expenses must be approved by the Remuneration Committee.

13.2 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses will be submitted to the Deputy Director of Finance (Financial Accounting), duly certified in an approved form, and made up to a specified day of each month. The names of officers authorised to sign such records will be sent to the

Deputy Director of Finance (Financial Accounting), together with specimen signatures for manual authorisations and an approved list of officers with appropriate access control permissions for electronic authorisation and will be amended on the occasion of any change.

- 13.3 The Chair shall personally authorise all expense claims from the Chief Executive. The Chief Executive shall personally authorise all expense claims from the Executive Directors of the Board.
- 13.4 The Chair shall personally authorise all expense claims from Non-Executive Board Members. In the absence of the Chair, this duty shall be undertaken by the Chief Executive or Director of Finance.
- 13.5 The certification by or on behalf of the Director of a service, or Head of Department shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by NHS Borders.
- 13.6 The Director of Finance shall issue additional guidance on the submission of expense claims, specifying the documentation to be used, the timescales to be adhered to and the required level of authorisation. The express approval of the Director of Finance or Deputy Director of Finance (Financial Accounting) is required for claims which are signed by the claimant after three months of the month of claim. If approval is not given the claimant may submit a grievance in accordance with the appropriate grievance procedure.

SECTION 14

CONTRACTING AND PURCHASING

- 14.1 This section should be read in conjunction with Section E of the Code of Corporate Governance and the Tendering Procedure set out at Appendix 1. These procedures specify the arrangements for the placing of contracts and for the purchase of supplies and equipment.
- 14.2 The requisitioner shall seek to obtain best value through the application of Standing Orders, Standing Financial Instructions and the Tendering Procedure. In so doing, the advice of the appropriate procurement adviser (Procurement, Pharmacy, Estates or IM&T) should normally be followed. Where the requisitioner has sound evidence that this advice is inappropriate or that it is divergent from best professional practice, the Director of Finance or Chief Executive shall be consulted, whose decision shall be final.
- 14.3 Where national, regional or local contracts exist (including framework arrangements), use of these contracts is mandatory. Only in exceptional circumstances and with the authority of the Board's lead Procurement manager or Director of Finance, based on existing schemes of delegation, shall goods or services be ordered outwith such contracts. [CEL 05(2012)]
- 14.4 NHS Borders shall comply as far as is practicable with the Scottish Capital Investment Manual and other Scottish Government Health Department guidance on contracting and purchasing.

- 14.5 NHS Borders will utilise the Public Contracts Scotland Portal for the advertisement of all procurement of goods and services, to the value of over £50K, which are not covered by local or national contracts.
- 14.6 European Union Procurement Directives shall have effect as if incorporated in these Standing Financial Instructions.
- 14.7 Orders must not be split or otherwise placed in a manner devised so as to avoid the financial thresholds.

Acceptance and Award by Chief Executive, etc

- 14.8 The Chief Executive as Accountable Officer is authorised to accept tenders and award contracts up to a value of £250,000 (including VAT suffered) and where the most economically advantageous tender is to be accepted. Tenders and contracts in excess of this amount will require to be approved by the Board.
- 14.9 The limits for delegation for the acceptance of tenders must be approved by the Board.

Waiver

- 14.10 Formal tendering procedures may be waived by officers to whom powers have been delegated by the Board or Chief Executive as detailed in the Scheme of Delegation within Section E of the Code of Corporate Governance without reference to him or her, where:
- The estimated expenditure or income does not, or is not reasonably expected to, exceed £10,000 (including VAT suffered); or
 - Where the supply is proposed under special arrangements negotiated by the Scottish Government in which event the said special arrangements must be complied with.
- 14.11 Formal tendering procedures may be waived by officers to whom powers have been delegated by the Board or Chief Executive as detailed in the Scheme of Further Delegation within Section E of the Code of Corporate Governance, where:
- The timescale genuinely precludes competitive tendering. Failure to plan the work properly is not a justification for single tender; or
 - Specialist expertise is required and is available from only one source; or
 - The task is essential to complete the project, and arises as a consequence of a recently completed assignment and engaging different consultants for the new task would be inappropriate or;
 - There is a clear benefit to be gained from maintaining continuity with an earlier project. However, in such cases the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering; or
 - Where provided for in the Scottish Capital Investment Manual.

The exercise of this authority and reason for the decision made must be recorded in the waiver of tender register.

14.12 Where it is decided that competitive tendering is not applicable and should be waived, the fact of the waiver and the reasons should be documented and reported by the delegated officers to the Board in a formal meeting and recorded in a register kept for that purpose.

Quotations

14.13 Quotations are required where formal tendering procedures are waived.

14.14 Where quotations are required they should be obtained from at least three firms/individuals based on specifications and / or statement of requirements prepared by, or on behalf of, NHS Borders.

14.15 Quotations should be in writing or by secure electronic means approved by the Chief Executive unless they determine that it is impractical to do so in which case quotations may be obtained by telephone/fax. Confirmation of telephone quotation should be obtained as soon as possible and the reasons why the telephone quotation was obtained should be set out in a permanent record. 'Quick Quote' facility can be utilised as an alternative to the above, this facility is available on the Public Contracts Scotland Portal.

14.16 All quotations should be treated as confidential and should be retained for inspection in accordance with NHS Borders Records Retention Schedules.

14.17 The Chief Executive or nominated officer should evaluate the quotations and select the one which gives best value. If this is not the lowest then this fact and the reasons why the lowest quotation was not chosen should be in a permanent record and reported to the Director of Finance.

14.18 Non-competitive quotations in writing or by secure electronic means approved by the Chief Executive may be obtained for the following purposes with the recorded approval of the Director of Finance where:

- The supply of goods/services of a special character for which it is not, in the opinion of the Chief Executive or their nominated officer, possible or desirable to obtain competitive quotations;
- The goods/services are required urgently.

Single Tender

14.19 The limited application of the single tender rules should not be used to avoid competition or for administrative convenience or to award further work to a consultant originally appointed through a competitive procedure.

Maintenance Measured Term Contracts

14.20 The Director of Finance and Head of Estates shall establish through competitive tendering, for each three year period an approved a list of Maintenance Contractors.

- Works not exceeding a value of £10,000 (including VAT suffered) may be instructed from the maintenance contractors listed on a time and material basis;

- Works exceeding £10,000 (including VAT suffered) but not exceeding £25,000 (including VAT suffered) will be ordered on the basis of competitive tenders invited from the maintenance contractors listed or other approved contractors;
- All contractors either listed as maintenance contractors or approved contractors may be invited to tender for works in excess of £25,000 (including VAT suffered).

14.21 Where a project exceeds the threshold set out above, for reasons that could not be foreseen before the project commenced, then the justification for continuing to complete the project without going out to tender should be documented on file and be approved by the Director of Finance and Head of Estates unless the revised value exceeds £25,000 (including VAT suffered) in which case the authority of the Chief Executive is required.

Third Party Developer Schemes

- 14.22 Where accommodation is procured through the Third Party Developer Scheme in conjunction with General Medical Practitioners and the District Valuer independently determines the lease rent, the Contract price in this instance will not be set through competitive tender.
- 14.23 Where an NHS Borders organisation procures accommodation through a Third Party Developer but in conjunction with General Medical Practitioners, the District Valuer independently determines the leased rent. The contract price in these instances will not be set through competitive tender.
- 14.24 Irrespective of the authority vested by 13.18 above, the supervising officer will seek to obtain best value through competition from approved jobbing contractors on NHS Borders's list. The supervising officer will ensure strict adherence to the NHS Borders jobbing contractor's conditions of service.

Official Orders

- 14.25 No goods, services or works other than works and services executed in accordance with a contract and purchases from petty cash shall be ordered except on an official order, whether hard copy or electronic, and contractors shall be notified that they should not accept orders unless on an official order form or processed via an approved secure electronic medium. Verbal orders shall be issued only by an officer designated by the Chief Executive and only in cases of emergency or urgent necessity. These shall be confirmed by an official order issued no later than the next working day and clearly marked 'Confirmation Order'. National and Local contracts should be used where available/appropriate.
- 14.26 Official orders shall be consecutively numbered, in a form approved by the Director of Finance and shall include such information concerning prices or costs as he may require. The order shall incorporate an obligation on the contractor to comply with the conditions printed thereon as regards delivery, carriage, documentation, variations etc.
- 14.27 Manual requisition forms shall only be issued to and signed by officers authorised by the Chief Executive. Lists of authorised officers shall be maintained and a copy of such list supplied to the Director of Finance.
- 14.28 No order shall be issued for any item or items for which there is no budget provision or for which no funding has been provided under the delegated powers of virement, unless authorised by the respective Director of Finance on behalf of his Chief Executive. Members and officers must ensure that all contracts, leases, tenancy agreements and other commitments they enter into on behalf of NHS Borders for which a financial liability may result but without secured funding or budget provision are notified to the Director of Finance in advance of any commitment being made.

Purchases from Petty Cash

- 14.29 Purchases from Petty Cash will be restricted in value and by type of purchase and records maintained in accordance with instructions issued by the Director of Finance, and shall not be placed in a manner devised to avoid the financial thresholds specified.

Trial and Lending

- 14.30 Goods e.g. medical equipment shall not be taken on trial or loan in circumstances that could obligate or compromise NHS Borders in a future procurement process.

Management Consultants

- 14.31 Management Consultants are defined as always having two characteristics. Firstly they are engaged to work on specific projects that are regarded as outside the usual business of the NHS Borders and there is an end-point of their involvement, and secondly the responsibility for the final outcome of the project largely rests with NHS Borders. Management Consulting is distinct from 'outsourcing' or 'staff substitution'.
- 14.32 Management Consultants should only be engaged after all other options have been explored. This should include an assessment of whether internal resources could be used instead. Documentary evidence, based on the assessment, should be recorded in the register to be held within Supplies, that benefit will accrue to NHS Borders. The officer responsible for seeking the engagement should carry out the assessment using the standard documentation devised for this purpose. Approval based on the outcome of the assessment, should be given by officers who have delegated authority to approve tenders, and the decision must be reported to the appropriate Committee.
- 14.33 The following guiding principles should be followed for the placing and controlling of all management consultancy assignments. These principles include the recommendations contained in the NHS Circular MEL(1994) 4, which advise health bodies of the results of a review undertaken on the use of Management Consultants and sets out a course of action to be adopted.
- 14.34 In consideration of whether a particular Management Consultant should be accepted, officers shall have regard to whether the Management Consultants are capable of carrying out the assignment, whether value for money will be obtained and whether probity is demonstrated in awarding the contract and these decisions should be formally recorded, using the standard documentation devised for this purpose, in a register held within the Supplies Department.
- 14.35 Appointment of Management Consultants should be through use of National Framework Contract or by competitive tender, where no such Framework exists. This section should be read in conjunction with the detailed tendering procedures contained in section E on approval of tenders by officers to whom powers have been delegated by the Chief Executive and the Tendering Procedure set out in Appendix 2, to the Code of Corporate Governance. Where it is likely that there will be successive assignments, these should also be subject to tender arrangements. It may be appropriate, for follow on assignments to appoint one management consultant under a call off arrangement and to carry out periodic systematic reviews, to be documented in the register held within the Supplies Department, of such contracts, to ensure they are not self perpetuating, thus losing the benefit of commercial competition. To avoid self perpetuation, a clear contract duration with clear contract deliverability or financial cap must be specified.
- 14.36 It is recognised that tender action is not always appropriate. In this event, formal tendering procedures may be waived by officers to whom powers have been delegated by the Chief Executive as detailed within Section E of the Scheme of Delegation.

- 14.37 Assignments should be made by entering into a contract and not simply by letter. NHS Scotland standard Terms & Conditions of Contract should be used where possible. Variation from standard terms and conditions should be discussed with and approved by the Procurement Steering Group. The agreement should explicitly cover the payment of expenses and place a limit on the amount payable. Received invoices should always be provided to support claims for expenses, to ensure that the expenditure has been incurred.
- 14.38 At conclusion of an engagement, an overall review and evaluation for all projects more than £25,000 (inclusive of VAT), should be carried out using the standard documentation devised for this purpose, as formal records of the Management Consultant's effectiveness, by the officer responsible for engaging the Management Consultant, and recorded in the register held within the Supplies Department. Specific issues to be addressed in any review should be:
- Was the work completed on time
 - Were costs contained within the contracted figure
 - Did the consultants carry out all their contractual obligations
 - Were the terms of reference discharged
 - How did the consultants key people perform
 - Were effective and realistic solutions proposed
 - Did the engagement represent value for money
- 14.39 The outcome of the review and evaluation must be reported to the same Committee as the initial assessment was reported to. The degree of record keeping will vary depending on the materiality of the contract.
- 14.40 It should be noted that Professional Adviser fees are exempt from the process contained in sections 14.31 to 14.38 above. Professional Advisers are defined as having two characteristics. Firstly they are engaged on work that is an extended arm of the work done in-house and secondly they provide an independent check. Examples include professional advice on the treatment of VAT, work carried out in relation to ratings revaluations/appeals. Professional Advisers fees relating to capital projects such as architects, quantity surveyors, structural engineers etc. are also exempt from this process.

Property Advisers

- 14.41 The Scottish Government Health Department Property Transaction Manual 2000 states that all external professional advisers, including Property Advisers, Independent Valuers and other valuers or consultants if engaged, should be appointed by competitive tender unless the fees for the work are estimated at less than £1,000 when fee negotiation may be adopted. The Valuation Office Agency offers a valuation service and may be included in the list of those invited to tender for this work.

Invitation to Tender

- 14.42 NHS Borders shall ensure, through utilisation of the Public Contracts Scotland Portal and pre qualification questionnaires, PQQ, the appropriate selection of prospective tenders. The short listed invitees would normally consist of six, and in no case less than three, firms/individuals, having regard to their capacity determined through PQQ

utilisation to supply the goods or materials or to undertake the services or works required.

14.43 NHS Borders shall ensure that tenders will be invited following the process of contract advertisement with in the Public Contracts Scotland Portal, or through Frameworks Scotland or 'hub' South East Scotland Territory Partnering Agreement.

Contracts

14.44 NHS Borders may only enter into contracts within their statutory powers and shall comply with:

- Standing Orders;
- Standing Financial Instructions;
- EU Directives and other statutory provisions;
- Any relevant directions including the Scottish Capital Investment Manual and guidance on the Use of Management Consultants;
- Such of the NHS Standard Contract Conditions as are applicable.

14.45 Where specific contract conditions are considered necessary by the lead officer appointed by the Chief Executive or Director of Finance, or by the Project Team/Board, where appropriate, advice shall be sought from suitably qualified persons. Where this advice is deemed to be legal advice, this must be sought from the Central Legal Office.

14.46 Where appropriate, contracts shall be in or embody the same terms and conditions of contract as was the basis on which tenders or quotations were invited.

14.47 In all contracts made by NHS Borders, Members and officers shall endeavour to obtain best value. The Chief Executive or Director of Finance shall formally nominate an officer who shall oversee and manage each contract.

14.48 All contracts entered into shall contain standard clauses empowering NHS Borders to:

- Cancel the contract and recover all losses in full where a company or their representative has offered, given or agreed to give, any inducement to staff or officials;
- Recover all losses in full or enforce specific performance where goods or services are not delivered in line with contract terms.

14.49 The Director of Finance shall ensure that the arrangements for financial control and financial audit of building and engineering contracts JCT, Frameworks Scotland NEC3, 'hub' and property transactions comply with the guidance contained within the current version of the NHS Scotland Property Transactions Handbook and the Scottish Capital Investment Manual - SCIM. The technical audit of these contracts shall be the responsibility of the relevant Director.

14.50 Contracts shall be executed on behalf of the Board as follows:-

- A contract which is executed in the form of an attested deed shall be subscribed on behalf of the Board by the Chair or Vice-Chair and Chief Executive and the Common Seal shall be affixed to it where required.

- A contract in writing, but not in deed form, shall be executed on behalf of the Board by the Chief Executive or other officer acting on their authority.
- A contract which may be validly made verbally may be made on behalf of the Board by the Chief Executive or other officer acting on their authority, but shall be confirmed in writing.
- A building, engineering property or capital contract should be signed by the Chief Executive or other officer acting on their authority.
- Any document required to be completed on behalf of the Board in connection with legal proceedings, including the acquisition and disposal of property, shall be signed in accordance with Ministerial direction.

Acceptance of Financial Assistance, Gifts and Hospitality, and Declaration of Interests

- 14.51 The principles relating to the acceptance of financial assistance, gifts and hospitality from commercial sources and declaration of interest are stated in Section C of the Code of Corporate Governance.
- 14.52 Where the maintenance of a register is referred to for recording interests in contracts or receipt of gifts/inducements, a register will be maintained by the Chief Executive.
- 14.53 No order shall be issued for any item or items, for which an offer of gifts (other than low cost items, e.g. calendars, diaries, pens and like value items) or hospitality has been received, from the person interested in supplying goods or services. Any officer receiving such an offer shall notify his senior officer as soon as is practicable.
- 14.54 Visits at supplier's expense to inspect equipment, etc. should only be undertaken in exceptional circumstances and must have the prior written approval of the Chief Executive.

SECTION 15

STORES

- 15.1 Subject to the responsibility of the Director of Finance for the systems of control, the overall control of stores, except for pharmaceutical stocks, shall be the responsibility of designated officers. The day to day management may be delegated to departmental officers and Stores Manager/Keepers, subject to such delegation being entered in a record available to the Director of Finance. The control of pharmaceutical stocks shall be the responsibility of the Director of Pharmacy.
- 15.2 The responsibility for security arrangements and the custody of keys for all stores' locations shall be clearly defined in writing by the Directors of Estates and Facilities/Director of Pharmacy and the designated officer referred to in the above clause in the case of the Board. Wherever practicable, stocks shall be marked as health service property.
- 15.3 All stores records shall be in such form and shall comply with such system of control as the Director of Finance shall approve.
- 15.4 All goods received shall be checked as regards quantity and/or weight and inspected as to quality and specifications. A delivery note shall be obtained from the supplier at the time of delivery and shall be manually signed or receipt acknowledged electronically by the person receiving the goods. Instructions shall be issued to staff

covering the procedure to be adopted in those cases where a delivery note is not available. Particulars of all goods received shall be entered on a goods received record or input to computer file on the day of receipt. Where goods received are seen to be unsatisfactory or short on delivery they shall be accepted only on the authority of the designated Supplies/Pharmaceutical Officer and the supplier shall be notified immediately.

- 15.5 The issue of stores shall be supported by an authorised requisition and a receipt for stores issued shall be given to the Supplies/Pharmaceutical Department, independent of the Storekeeper. Where a 'topping-up' system is used, a record shall be maintained in a form approved by the Director of Finance (such a form may be electronic in place of paper). Regular comparisons shall be made of the quantities issued to wards/departments, etc and explanations recorded of significant variations.
- 15.6 Requisitions whether for stock or non-stock items may be transmitted electronically and not held in paper form providing always that appropriate procedures for such transmissions are agreed by the Director of Finance.
- 15.7 All transfers and returns shall be recorded on forms provided for the purpose and approved by the Director of Finance.
- 15.8 Breakages and other losses of goods in stores shall be recorded as they occur, and a summary shall be presented to the Director of Finance at regular intervals. Tolerance limits shall be established for all stores subject to unavoidable loss, e.g. shrinkage in the case of certain foodstuffs and natural deterioration of certain goods.
- 15.9 Stocktaking arrangements shall be agreed with the Director of Finance and there shall be a physical check covering all items in store at least once a year. The physical check shall involve at least one other officer other than the Storekeeper and the Director of Finance shall have the right to attend, or be represented at their discretion. The stocktaking records shall be numerically controlled and signed by the officers undertaking the check. Any surplus or deficiency revealed on stocktaking shall be reported immediately to the Director of Finance, and he may investigate as necessary. Any known losses of stock items not under the control of the stores department shall be reported to the Director of Finance.
- 15.10 Where a complete system of stores control is not justified, alternative arrangements shall require the approval of the Director of Finance.
- 15.11 The designated Officers/Pharmaceutical Officer shall be responsible for a system approved by the Director of Finance for a review of slow-moving and obsolete items for condemnation, disposal, and replacement of all unserviceable articles. The designated Supplies/Pharmaceutical Officer shall report to their Chief Executive any evidence of significant overstocking and of any negligence or malpractice (see also Section 23).
- 15.12 Instructions for stock-take and basis of valuation will be issued at least once per year by the Director of Finance where appropriate.

SECTION 16

LOSSES AND SPECIAL PAYMENTS

- 16.1 Any officer discovering or suspecting a loss of any kind must inform their head of department, who must immediately inform the Director of Finance. Where a criminal offence is suspected, the Counter Fraud Policy and Action Plan must be applied.
- 16.2 The Director of Finance shall maintain a losses and compensation register in which details of all losses shall be recorded as they are known. Write-off action shall be recorded against each entry in the register.
- 16.3 Losses are classified in accordance with SFR 18.1 'Details of Losses and Special Payments' issued by the Scottish Government Health Department in the NHS Board's Accounts Manual for Accounts.
- 16.4 In accordance with the Scheme of Delegation, the Chief Executive may, acting together with the Director of Finance, or any officer, approve the writing-off of losses within the limits delegated to the Board by the Scottish Government Health Department.

Limits of Authority

Losses (Per Case)

	£
Cash Losses:-	
1. Theft, fraud, arson, etc	5,000
2. Overpayments of salaries, wages, fees and other allowances	5,000
3. Other causes, including unvouched or incompletely vouched payments	5,000
4. Nugatory and fruitless payments	5,000
5. Claims Abandoned	
a) Private Accommodation	5,000
b) Road Traffic Acts	5,000
c) Other	5,000
Stores Losses	
6. Theft, fraud, arson, etc	20,000
7. Incidents of the Service:-	
a) Fire	20,000
b) Flood	20,000
c) Accident	20,000
8. Deterioration in Store	20,000
9. Stocktaking discrepancies	20,000
10. Other Causes	20,000
Losses of Furniture and Equipment and Bedding and Linen in Circulation	
11. Theft, fraud, arson, etc	10,000
12. Incidents of the Service:-	
a) Fire	10,000
b) Flood	10,000
c) Accident	10,000
Special Payments	
13. Disclosed at physical check	10,000
14. Other Causes	20,000

Compensation Payments - Legal Obligation*

15.	Clinical	250,000
16.	Non-Clinical	100,000

Ex Gratia Payments*

17.	Extra-contractual payments	5,000
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Compensation Payments Ex-Gratia

18.	Clinical	250,000
19a.	Non-Clinical	100,000
19b.	Financial Loss	25,000
20.	Other Payments	2,500

Damage to Buildings and Fittings

21.	Theft, fraud, arson, etc	20,000
22.	Incidents of Service:-	
	a) Fire	20,000
	b) Flood	20,000
	c) Accident	20,000
23.	Other Causes	20,000
24.	Extra Statutory and Extra-Regulatory Payments	NIL
25.	Gifts in Cash or Kind	2,500
26.	Other Losses	2,500

* Payments in satisfaction of claims settled out of court are sometimes described as ex-gratia for legal purposes. These should not be noted in the losses statement.

- 16.5 The exercise of powers of delegation in respect of losses and special payments will be subject to the submission of an annual report to the Audit Committee identifying which powers have been exercised and the amount involved.
- 16.6 The Board shall formally annually approve any losses and compensation payments when approving the statutory Annual Accounts.
- 16.7 No special payments exceeding the delegated limits laid down and subsequent amendments thereto shall be made without prior approval of the Scottish Government Health Department.
- 16.8 The Director of Finance shall be authorised to take any necessary steps to safeguard the interests of the Board in bankruptcies and company liquidations.
- 16.9 All articles surplus to requirements or unserviceable shall be condemned or otherwise disposed of by an officer authorised for that purpose by the Director of Finance.
- 16.10 The condemning officer shall satisfy themselves as to whether or not there is evidence of negligence in use and shall report any such evidence to the Director of Finance and Chief Executive, who shall take the appropriate action.

SECTION 17

ENDOWMENT FUNDS

- 17.1 Endowment (or non-exchequer) Funds are those gifts, donations and endowments made under the relevant charities legislation and held on trust for purposes relating to the National Health Service, the objects of which are for the benefit of the National Health Service in Scotland. They are administered by the Board acting as trustees. An Endowments Committee will be responsible for the management of the Board's Endowments Funds.
- 17.2 The foregoing sections of these Standing Financial Instructions shall apply to the Endowment Funds of the Board, except that expenditure from Endowment Funds shall be restricted to the purposes of the appropriate Fund and made only with the approval of the respective Trustees.
- 17.3 All Members of the Board, appointed by Scottish Ministers, are by virtue of their appointment Trustees of the Borders NHS Board Endowment Fund. By virtue of his appointment, the Chair of NHS Borders is also appointed Chair of the Board of Endowment Fund Trustees. By virtue of their appointment by Scottish Ministers, Executive and Non-executive Members of NHS Borders Board are "ex officio" Trustees of NHS Borders Endowment Fund. The Vice Chair shall be elected by the Trustees.
- The Trustees have specific responsibilities:
 - Acting together and individually with all other Trustees;
 - Control cannot be delegated to staff or fund managers;
 - Must have an understanding of ideals and purposes of the Endowment Fund;
 - Cannot carry out activities beyond the remit within the appropriate legislation;
 - Money can only be spent for charitable purposes within the remit of the charity or the purposes of a restricted fund;
 - Transactions entered into by Trustees, which although legal but are outwith the Charity's objectives and are deemed to be 'ultra vires', and could lead to the Trustees being personally liable for any loss incurred by the Endowment Fund.
- 17.4 Meetings of the Board of Trustees shall be held not less than four times per annum. Meetings will be quorate when at least five Trustees are present. In the absence of the Chair, the Vice Chair shall preside. In the absence of both the Chair and the Vice Chair, the Trustees shall nominate a Chair for the meeting.
- 17.5 The remit of the Board of Trustees is:
- Approve an annual budget for Unrestricted Funds based on recommendations from the Endowment Advisory Group
 - Consider expenditure proposals based on recommendations from the Endowment Advisory Group
 - Consider fund raising proposals as recommended by the Fundraising Sub Group
 - Ensure that funds received for specific purposes are used in accordance with the expressed wishes of the legator or donor so far as is reasonably practical
 - Appoint an Investment Advisor to the Fund and review their performance over the agreed contract period

- Determine the investment policy, taking cognisance of the capital value necessary to generate the required level of income and monitor the performance of the investments within that policy on a regular basis
 - Taking account of advice from the Investment Advisor, authorise investment / disinvestment decisions. Investments to be reviewed with the Investment Advisor not less than twice per annum
 - Appoint an Auditor to the Endowment Fund
- 17.6 Under the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 the Trustees have a responsibility to:-
- Provide on request an up to date annual report and set of accounts in a form and content consistent with the requirements of the Act;
 - Control and manage the finances of the Endowment Fund, ensure proper accounts are kept as required by Statute, regulations and reported in a form prescribed as best practice in the Statement of Recommended Practice - SORP;
 - Control the investment policy and monitor the performance of the investments within that policy on a regular basis;
 - Prepare an annual statement of accounts comprising an Income and Expenditure Statement, Balance Sheet and Cash Flow Statement, together with additional information by way of notes all consistent with the requirements laid down under SORP;
 - The annual statement of accounts must be approved by the Trustees and signed by one of their members on their behalf and as authorised by them.
- 17.7 The Director of Finance shall ensure that annual accounts are prepared as soon as possible after the year end and in accordance with the Charities (Scotland) Act 1992, and that proper arrangements are made for these to be subject to audit by a separately appointed External Auditor.
- 17.8 The Director of Finance shall maintain such accounts and records as may be necessary to record and protect all transactions and funds of the Trustees as Trustees of Endowment Funds, including an Investments Register consistent with the current statutory requirements (Law Reform (Miscellaneous Provision) (Scotland) Act 1990).
- 17.9 All share and stock certificates and property deeds shall be deposited either with the Trustee's Board's Bankers or Investment Advisers, or in a safe, or a compartment within a safe, to which only a designated responsible officer will have access.
- 17.10 The ownership of all shares and stock certificates, if managed by a commercial concern, shall be periodically verified by the auditors appointed by the Trustees.
- 17.11 All gifts, donations and proceeds of fundraising activities which are intended for Endowment Funds shall be handed immediately to the Director of Finance, or an officer nominated by him or her for the purpose, to be banked directly into the appropriate Endowment Fund, subject to the local use of smaller amounts as agreed from time to time.
- 17.12 All gifts accepted shall be received and held in the name of appropriate Trustees and administered in accordance with the Trustees' policy, subject to the terms of specific Funds.

- 17.13 As Trustees may accept gifts for specific and non-specific purposes relating to the Health Service, officers shall, in cases of doubt or where there are material revenue expenditure consequences, consult the Director of Finance before accepting any gifts.
- 17.14 The Director of Finance shall be required to advise the appropriate Trustees on the financial implications of any proposal for fundraising activities which the Board may initiate, sponsor or approve under the guidance contained in Circular No 1981 (GEN) 34.
- 17.15 The Director of Finance shall be kept informed of all enquiries regarding legacies and shall keep an appropriate record. After the death of a testator, all correspondence concerning a legacy shall be dealt with on behalf of the appropriate Trustees by the Director of Finance who alone shall be empowered to give an executor a good discharge.
- 17.16 Where it becomes necessary for the Trustees to obtain a grant of probate, or to make an application for Confirmation of Executor in order to obtain a legacy due to the Trustees under the terms of a will, the Director of Finance shall be the Trustees' nominee for the purpose.
- 17.17 Non-Exchequer Funds shall be invested by the Director of Finance in accordance with Board policy and subject to statutory requirements. The Director of Finance shall have authority to obtain professional advice on investments.
- 17.18 The Endowment Fund Board of Trustees is required to review its Terms of Reference on an annual basis.

SECTION 18

PRIMARY CARE CONTRACTORS

- 18.1 In line with Scottish Government arrangements, the Practitioner Services Division (PSD) of National Services Scotland is the payment agency for all Family Health Services (FHS) contractor payments:-
- Primary Medical Services;
 - Prescribing;
 - General Dental Services
 - General Pharmaceutical Services
 - General Ophthalmic Services
- 18.2 The Director of Finance shall conclude a 'Service Level Agreement' with the PSD covering administration of primary care contractors, payment validation, monitoring and reporting and the provision of an payment verification process conducted by National Services Scotland.
- 18.3 The Primary Care Contracts Manager (NHS Lothian) will approve additions to, and deletions from, approved lists of contractors, taking into account the health needs of the local population, and the access to existing services. All applications and resignations received will be dealt with equitably, within any time limits laid down in the contractors' NHS Terms and Conditions of Service.

18.4 The Primary Care Contracts Manager (NHS Lothian) will:-

- Ensure that lists of all Primary Care contractors, are maintained and kept up to date; and
- Ensure that systems are in place to deal with applications, resignations, inspection of premises, etc, within the appropriate contractor's terms and conditions of service.

18.5 The Director of Finance shall ensure that National Services Scotland systems are in place to provide assurance that:

- Only contractors who are included on the Board's approved lists receive payments;
- All valid contractors' claims are paid correctly, and are supported by the appropriate documentation and authorisations;
- All payments to third parties are notified to the General Practice Independent Contractors on whose behalf payments are made;
- Ensure that regular independent post payment verification of claims is undertaken to confirm that:
 - Rules have been correctly and consistently applied;
 - Overpayments are prevented wherever possible; if, however, overpayments are detected, recovery measures are initiated;
 - Fraud is detected and instances of actual and potential fraud are followed up.
- Exceptionally high/low payments are brought to his/her attention;
- Payments made on behalf of the Board by National Services Scotland are pre-authorised;
- Payments made by the National Services Scotland are reconciled with the cash draw-down reported by the Scottish Government to Health Boards.

18.6 The Director of Finance shall issue operating procedures to cover all payments made by National Services Scotland (both payments made directly and payments made on behalf of the Board).

18.7 Payments made to all Primary Care independent contractors and community pharmacists shall comply with their appropriate contractor regulations.

SECTION 19

ALIGNED AND POOLED BUDGETS

19.1 Partnership arrangements have been developing to give Health bodies and Local Authorities the flexibility to be able to work with other agencies to respond effectively to improve services, either by joining up existing services, or developing new, co-ordinated services. Such partnership arrangements provide for aligned and pooled budgets.

19.2 An aligned budget is the position when clearly identified financial resources are being used jointly. The funds are identified by the partner organisations and grouped together in a joint 'pot', but the funds are still technically held within each partner organisation in separate, distinct budgets. This enables each partner organisation to identify and account for their own contribution to the joint 'pot'.

- 19.3 A pooled budget is a mechanism by which each partner to the agreement contributes funding to form a discrete 'fund' for the partnership arrangement or organisation. Within this fund or 'pool', initially the funding contributed by each partner, will be identifiable to each partner but in time the origin of individual contributions lose their original identity and are committed and accounted for against the joint aims of the partners. To meet their own statutory obligations, and justify their contribution to the fund, agencies must clearly state the purpose, scope and outcomes for services within the pooling agreement.
- 19.4 For accountability and legal reasons, a pooled budget resides in a 'host' partner, either a health body or a local authority organisation, which manages it on behalf of the partners and in accordance with its standards of financial governance and the requirements of the agencies for monitoring and review.
- 19.5 Partnership arrangements entered into by NHS Borders must comply with the Community Care and Health Act 2002 and the detailed guidance issued by the Scottish Government Joint Futures Unit on aligned and pooled budgets.

The following paragraphs relate mainly to aligned budgets (as opposed to pooled budgets).

- 19.6 As a non-statutory body, the responsibility for the functions carried out by a partnership body will remain with each partner organisation and the NHS component will formally report through the Clinical Executive to the CHCP and the Board.
- 19.7 A partnership agreement or Heads of Agreement must be drawn up between the partner organisations which will specify the services to be managed jointly, the governance arrangements, the accountability arrangements, the budgetary control arrangements, and the financial reporting and monitoring arrangements. The partnership agreement must be approved by each partner organisation's Director of Finance before budgetary control can be devolved to a partnership body.
- 19.8 Each partner will agree the level of its contribution in advance of each financial year. The level of contribution from the Board will be agreed by the Strategy and Performance Committee taking account of the need to balance the amount of flexibility that NHS Borders wants to enable through the aligned budget against the risk of being able to fulfil all service needs. Levels of contribution will have to allow, among other things, for decisions made about inflation levels, developments, service pressures, service priorities, capital charges and cash savings targets.
- 19.9 The contribution to the aligned budget must be used on the agreed services set out in the partnership agreement. The aligned budget will be discrete, and will be ring-fenced to the uses specified in the partnership agreement. The partnership agreement must also specify the mechanism for changing in-year levels of contribution.
- 19.10 Accountability will be discharged at two levels in aligned budget arrangement, i.e. within the partnership body, and to the Clinical Executive, CHCP and Board in respect of the NHS component.
- 19.11 Each partnership body will appoint a lead officer who will be accountable to a Joint Board for the combined budget.

- 19.12 The Chief Executive will remain accountable to the Scottish Government for the financial contribution made by their organisation.
- 19.13 Partnership bodies will be subject to both financial and value for money audit by both internal audit and the Auditor General for Scotland.
- 19.14 The lead officer of the partnership body shall prepare Standing Orders which will set out compliance with the Codes of Conduct, Accountability and Practice on Openness and the underlying principles of good Corporate Governance as set out in the Cadbury and Nolan Reports and the detailed guidance issued by the Scottish Government and others.
- 19.15 The lead officer of the partnership body shall issue Financial Regulations and Standing Financial Instructions in accordance with directions issued by the Scottish Government in order to regulate the conduct of the Joint Board, both Members and officers, in all financial matters. Such regulations and instructions will specify the arrangements for the provision of financial advice to the Joint Board.
- 19.16 The partnership body's Standing Orders and Financial Regulations and Standing Financial Instructions/Regulations shall be agreed by the Board and shall have the effect as if incorporated in the Standing Orders and Standing Financial Instructions of the Board.
- 19.17 The above instructions will equally apply to new formal partnership arrangements with Local Authorities which the Board may develop in future years.

SECTION 20

PATIENTS' FUNDS AND PROPERTY

- 20.1 NHS Borders has the responsibility (NHS Circular 1976 (GEN) 68), and the Adults with Incapacity (Scotland) 2000 Act (Part 4) to provide safe custody for money and personal property (thereafter referred to as 'property') which is:
- Handed in by a patient;
 - In the possession of an unconscious or confused patient;
 - In possession of a patient dying in hospital or dead on arrival;
 - Managed on behalf of an incapable patient.
- 20.2 The Chief Executive shall be responsible for ensuring that patients or their guardians, as appropriate, are informed before or at admission by:
- notices and information booklets;
 - hospital admission documentation and property records;
 - the oral advice of administrative and nursing staff responsible for admissions;
- that the Board will not accept responsibility or liability for patients' monies and personal property brought into the Board's premises, unless it is handed in for safe custody and a copy of an official patient's property record is obtained as a receipt.
- 20.3 The Director of Finance shall provide written procedures for all staff whose duty it is to administer the property. This shall include instructions for accepting, recording,

safekeeping, continuing management and disposal of (both discharge and death of a patient) the property.

20.4 Interest bearing bank account(s) shall be opened, under arrangement of the Director of Finance, solely for the management of patients' funds.

20.5 In summary, the procedure shall require:-

- Patients, relatives, carers and guardians, as appropriate, to be informed before or at any time of the patient's admission, that the Board shall not take responsibility or liability for property brought to the Board's premises unless it is handed in for safe keeping and an official receipt obtained. This will be done by:
 - Notices and leaflets;
 - Hospital admission documents;
 - Verbal advice of administrative and nursing staff.
- Systems for:
 - Collection and banking of funds, pension and other income belonging to patients;
 - For paying to patients' pocket money, or paying creditors on their behalf ;
 - Recording intrusions on behalf of patients;
 - Recording, holding and maintaining where appropriate, patients' property;
 - To ensure patients' pension and allowances are dealt with in accordance with NHS Circular 1981 (GEN) 42 and the Social Security Contributions and Benefits Act 1992;
 - Returning to the patient their money and property on discharge;
 - Disposal of a deceased patient's estate;
 - Reporting financial information (Form 19).
- Compliance with the Adults with Incapacity (Scotland) Act (Part 4) (thereafter referred to as the 'Act'). The procedure shall include instruction to Authorised Managers of their roles under the Act:
 - Principles of intervention;
 - Method of intervention;
 - What can and cannot be managed;
 - Authority limits;
 - Record keeping and reporting;
 - Use of patients' funds;
 - Sale of assets;
 - Reviewing and revoking certificates;
 - Variation of authority;
 - Supervisory body requirements.

20.6 The Director of Finance shall prepare an abstract of receipts and payments of patients' private funds in the form laid down in the Manual for Accounts. This abstract shall be audited independently and presented to the Audit Committee annually, with the auditor in attendance at the meeting.

SECTION 21

AUDIT

- 21.1 In accordance with Standing Orders, the Board shall formally establish an Audit Committee, with clearly defined terms of reference, which will consider:-
- Internal Control and Corporate Governance;
 - Internal Audit;
 - External Audit;
 - Code of Corporate Governance;
 - Accounting Policies;
 - Annual Accounts (including the schedules of losses and compensations);
 - Risk Management;
 - Information Governance;
 - Counter Fraud.
- 21.2 Where the Audit Committee feels there is evidence of ultra vires, i.e. illegal or unauthorised transactions, evidence of improper acts, or if there are other important matters that the Committee wish to raise, the Chair of the Audit Committee should refer the matter to a full meeting of the Borders NHS Board. Exceptionally, the matter may need to be referred to the Scottish Government Health Department.
- 21.3 It is the responsibility of the Audit Committee to regularly review the operational effectiveness of the internal audit service. The Audit Committee shall be involved in the selection process when an internal audit service provider is changed.
- 21.4 The Director of Finance shall be notified immediately whenever any matter arises which involves, or is thought to involve, irregularities involving cash, stores, other property of the Board, or any suspected irregularity in the exercise of any function of a financial nature, and at his discretion, normally through the Fraud Liaison Officer, shall participate in the investigation of cases of fraud, misappropriation or other irregularities in accordance with the Counter Fraud Policy and Action Plan.
- 21.5 The Chief Executive is responsible for:
- Ensuring arrangements are adequate to review, evaluate and report on the effectiveness of internal control including the establishment of an effective internal audit function (in accordance with Government Internal Audit Standards and the Audit Committee Handbook);
 - Ensuring that the Chief Internal Auditor prepares the following plans for approval by the Audit Committee:
 - Strategic audit plan covering the coming five years;
 - A detailed operational plan for the coming year.
 - Designating an officer as the Fraud Liaison Officer to work with NHS Scotland Counter Fraud Services and co-ordinate the reporting of frauds and thefts.
- 21.6 Ensuring that an annual internal audit report is prepared by the Chief Internal Auditor, in accordance with the timetable laid down by the Audit Committee, for the consideration of the Audit Committee and the Board. The report must cover:
- A clear statement on the effectiveness of internal control;
 - Major internal control weakness discovered;
 - Internal control evaluation;
 - Progress against plan over the previous year.

21.7 The Director of Finance is entitled without necessarily giving prior notice to require and receive:

- Access to all records, documents and correspondence relating to any financial or other relevant transactions, including documents of a confidential nature;
- Access at all reasonable time to any land, premises or employee of each organisation;
- The production of any cash, stores or other property of each organisation under an employee's control; and
- Explanations concerning any matter under investigation.

21.8 The Chief Internal Auditor, as required, will produce interim reports for the Audit Committee, which contain details of work completed, recommendations made and the response of managers to these recommendations.

ROLE OF INTERNAL AUDIT

21.9 The purpose of Internal Audit is to provide an objective evaluation and opinion on the adequacy and effectiveness of governance, risk management and control. The role of Internal Audit and scope of activities are as set out in the Government Internal Audit Standards, including Internal Audit's assurance role and consulting services.

21.10 Internal Audit operates in accordance with the Definition of Internal Auditing, Code of Ethics and Standards set out in the Government Internal Audit Standards. Any deviations from the standards will be reported to the Audit Committee, and significant deviations will be considered for inclusion in the Statement on Internal Control.

21.11 The Chief Internal Auditor's reporting line is to the Chief Executive. However, the Chief Internal Auditor has direct access and freedom to report to the Audit Committee, Chairman and the Board. Within this right, the Chief Internal Auditor has freedom to meet in private with the Chairperson of the Audit Committee.

21.12 Internal Audit has the right to determine audit scopes, perform work and issue reports free from interference. In particular, Internal Audit has the right to issue reports without necessarily obtaining agreement or approval from directors or operational managers.

21.13 Internal Audit is entitled without necessarily giving prior notice to require and receive:

- (a) access to all records, documents, correspondence or information relating to any transactions or matters, including documents of a confidential nature;
- (b) access at all reasonable times to any land, premises or employee of the health board;
- (c) the production of any cash, stores or other property of the health board under an employee's control; and
- (d) explanations concerning any matter under investigation.

- 21.14 At least one director will represent NHS Borders on the panel which selects and appoints the Chief Internal Auditor who will be employed in line with the Consortium Agreement with NHS Lothian.
- 21.15 The Chief Internal Auditor is responsible for appointing members of the Internal Audit team, in line with the Consortium Agreement. The Chief Internal Auditor will appoint candidates to maintain appropriate professionalism, skills and experience to deliver Internal Audit's assurance and consulting services.
- 21.16 The Chief Internal Auditor will normally attend Audit Committee meetings.
- 21.17 The Chief Internal Auditor shall prepare risk-based audit plans for approval by the Audit Committee. Unless otherwise agreed by the Audit Committee, audit plans will comprise:
- (i) a detailed annual audit plan for the forthcoming year; and
 - (ii) outline audit plans covering the two years thereafter.
- 21.18 In addition to standard audit reports, the Chief Internal Auditor shall prepare an annual report to be considered by the Audit Committee. The annual report will confirm whether:
- (i) adequate and effective internal controls were in place throughout the year;
 - (ii) the Chief Executive as Accountable Officer has implemented a governance framework sufficient to discharge the responsibilities of this role; and
 - (iii) the internal audit plan has been delivered in line with the Government Internal Audit Standards.
- 21.19 Directors and operational managers are required to respond fully to draft audit reports within two weeks of the issue date. Responses should be presented either in writing or during a close-out meeting with Internal Audit. If an appropriate response is not received, Internal Audit can deem the draft audit report and management actions as being fully accepted.
- 21.20 Directors and operational managers must address issues raised in audit reports by the agreed target dates. Finance department will follow-up on the completion of management actions, and provide the Audit Committee with reports on completion. Failure by directors or managers to complete agreed actions on time shall be reported by Finance to the Audit Committee.
- 21.21 In addition to the appropriate directors and operational managers, Internal Audit will issue copies of final audit reports to the board's external auditors.

EXTERNAL AUDIT

- 21.22 The External Auditor is concerned with providing an independent assurance of each organisation's financial stewardship including value for money, probity, material accuracy, compliance with guidelines and accepted accounting practice for NHS accounts. Responsibility for securing the audit of the Board rests with Audit Scotland.

The appointed External Auditor's statutory duties are contained in the Public Finance and Accountability (Scotland) Act 2000.

21.23 The appointed auditor has a general duty to satisfy himself that:

- The organisation's accounts have been properly prepared in accordance with directions given under the Public Finance and Accountability (Scotland) Act 2000;
- Proper accounting practices have been observed in the preparation of the accounts;
- The organisation has made proper arrangements for securing economy, efficiency and effectiveness in the use of its resources.

21.24 In addition to these responsibilities, Audit Scotland's Code of Audit Practice requires the appointed auditor to consider:

- Whether the statement of accounts presents a true and fair view of the financial position of the organisation.

21.25 The Audit Committee provides a forum through which Non-Executive Members can secure an independent view of any major activity within the appointed auditor's remit. The Audit committee has a responsibility to ensure that NHS Borders receives a cost-effective service and that co-operation with senior managers and Internal Audit is appropriate.

SECTION 22

INFORMATION MANAGEMENT AND TECHNOLOGY

22.1 The Director of Finance shall be responsible for the accuracy and security of the financial data of the Board.

22.2 The Director of Finance shall devise and implement any necessary procedures to protect the Board and individuals from inappropriate use or misuse of any financial or other information held on computer files for which he has responsibility and shall take account of the provisions of the Data Protection Act 1998.

22.3 The Director of Finance shall satisfy themselves that such computer audit checks and reviews as they may consider necessary, are being carried out.

22.4 The Director of Finance shall ensure that new financial systems and amendments to current financial systems are developed in a controlled manner and thoroughly tested prior to implementation. Where this is undertaken by an organisation outwith NHS Borders, assurances of adequacy will be obtained from them prior to implementation.

22.5 The Director of Finance shall ensure that contracts or agreements for computer services for financial applications with the Board or any other agency shall clearly define the responsibility of all parties for the security, privacy, accuracy, completeness, and timeliness of data during processing and storage. The contract or agreement should also ensure rights of access for audit purposes.

22.6 Where the Board or any other agency provides a computer service for financial applications, the Director of Finance shall periodically seek assurances that adequate controls are in operation.

22.7 Where computer systems have an impact on corporate financial systems the Director of Finance shall ensure that:

- Systems acquisition, development and maintenance are in line with corporate policies such as an Information Management and Technology Strategy;
- Data produced for use with financial systems is adequate, accurate, complete and timely and that a management (audit) trail exists;
- The Director of Finance staff have access to such data.

22.8 The Chief Executive shall arrange to draw up business continuity plans to ensure minimal disruption to business operations in the event of an interruption in the operation of Board IM&T systems.

SECTION 23

CAPITAL AND FIXED ASSETS

23.1 The Chief Executive shall ensure that

- There is an adequate appraisal and approval process in place for determining capital expenditure priorities and the effect of each proposal upon the financial plans for each organisation.
- Capital investment, whether public or private, is consistent with an approved Estates and Property Strategy, and supportive of the Local Delivery Plan.
- All stages of capital schemes are managed and shall institute procedures to ensure that schemes are delivered on time and to cost.
- Appropriate project management and control arrangements are in place.

23.2 The Director of Finance shall ensure that every capital expenditure proposal meets the following criteria:

- Complies with delegated authority for capital investment issued by Scottish Government Health Department;
- Potential benefits have been evaluated and compared with known costs;
- Potential purchasing authorities should be able and (as far as can be ascertained) willing to meet cost consequences of the development as reflected in prices; and
- Complies with the guidance in the NHS in Scotland Scottish Government Scottish Capital Investment Manual including appropriate option appraisal and business case preparation.

23.3 Consideration should be given to the use of Private Finance or Operating Leases where appropriate.

23.4 The Director of Finance shall maintain a system for assessing whether leases or any PFI/PPP contracts should be accounted for as on or off balance sheet in the context of SSAP21, IFRS17 and any other relevant guidance advice received.

23.5 Refinancing of any PPP/PFI projects may be undertaken, however, guidance issued by the Scottish Government in June 2006 must be followed in order to facilitate appropriate Scottish Government approval. Refinancing is often undertaken once a PPP/PFI project has been completed and it is essentially the substitution of new debt on more attractive terms.

- 23.6 In the case of large capital schemes a system shall be established for progressing the scheme and authorising necessary payments up to completion. The Director of Finance shall ensure that provision is made for regular reporting of actual expenditure against authorisation of capital expenditure.
- 23.7 It is mandatory that Post Project Evaluation be carried out at the completion of all capital projects in excess of £250,000
- 23.8 Where capital assets are sold, scrapped, lost or otherwise disposed of, their value must be removed from the accounting records and each disposal must be validated by reference to authorisation documents and invoices (where appropriate). Where land and property is disposed of, the requirements set out in the NHS Scotland Property Transactions Handbook, together with any subsequent amendments, shall be followed.
- 23.9 There is a requirement to achieve best value when disposing of assets belonging to NHS Borders. Competitive tendering should normally be undertaken in line with the requirements of each organisation's tendering procedure.
- 23.10 Competitive Tendering or Quotation procedures shall not apply to the disposal of:
- Any matter in respect of which a fair price can be obtained only by negotiation or sale by auction as determined (or pre-determined in a reserve) by the Chief Executive or their nominated officer;
 - Obsolete or condemned articles and stores, which may be disposed of in accordance with the supplies policy of the Board;
 - Items to be disposed of with an estimated sale value of less than £5,000, this figure to be reviewed annually
 - Capital expenditure purchases which fall into the following categories should be included as fixed assets:
 - Intangible assets such as computer software licence which can be valued and are capable of being used within NHS activities for more than one year and have a replacement cost equal to or greater than £5,000;
 - Tangible assets which are capable of being used for a period of which could exceed one year and have a cost equal to or greater than £5,000;
 - Assets of lesser value than £5,000 which may be included as fixed assets where they form part of a networked computer system purchased at approximately the same time and cost over £5,000 in total, or where they are part of the initial cost of equipping a new development and total over £5,000.
 - Items arising from works of construction, demolition or site clearance, which should be dealt with in accordance with the relevant contract;
 - Land or buildings concerning which Scottish Office Guidance has been issued but subject to compliance with such guidance.
- 23.11 Managers must ensure that:
- All assets are to be disposed of in accordance with MEL (1196) 7 'Sale of Surplus and Obsolete Goods and Equipment';
 - The Director of Finance is notified of the disposal of any fixed assets;
 - All proceeds from the disposal of fixed assets are notified to the Director of Finance.

- 23.12 The overall control of fixed assets shall be the responsibility of the Chief Executive, advised by the Director of Finance.
- 23.13 The Board shall maintain an asset register recording fixed assets. The minimum data set to be held within these registers shall be as specified in the Capital Accounting Manual (Section 10) as issued by the Scottish Government Health Department.
- 23.14 The organisation shall maintain a register of any assets held under operating leases or Private Finance Initiative contracts.
- 23.15 The Director of Finance shall approve fixed asset control procedures. This procedure shall make provision for:
- Recording managerial responsibility for each asset;
 - Identification of additions and disposals and transfers between departments;
 - Identification of all repairs and maintenance expenses;
 - Physical security of assets;
 - Periodic (at least annual) verification of the existence of, condition of and title to assets recorded;
 - Identification and reporting of all costs associated with the retention of an asset.
- 23.16 Additions to fixed asset registers must be clearly attributed to an appropriate asset holder and be validated by reference to:
- Properly authorised and approved agreements, architect's certificates, supplier's invoices and other documentary evidence in respect of purchases from third parties;
 - Stores requisitions for own materials and wages records for labour including appropriate overheads;
 - Lease agreements in respect of assets held under a finance lease and capitalised.
- 23.17 The Director of Finance shall approve procedures for reconciling balances on fixed assets accounts in ledgers against balances on fixed asset registers.
- 23.18 All discrepancies revealed by verification of physical assets to fixed asset register shall be notified to the Director of Finance.
- 23.19 The value of each asset shall be indexed to current values in accordance with methods specified in the Capital Accounting Manual (Section 4).
- 23.20 The value of each asset shall be depreciated using methods and rates as specified in the Capital Accounting Manual.
- 23.21 The Director of Finance shall approve procedures for the calculation of capital charges as specified in the Capital Accounting Manual.

SECTION 24

RISK MANAGEMENT AND INSURANCE

- 24.1 The Chief Executive shall ensure that NHS Borders has a programme of risk management that will be approved and monitored by the Board. The programme of risk management shall include, amongst other things
- A process for identifying and quantifying risks and potential liabilities;
 - Engendering among all levels of staff a positive attitude to the control of risk;
 - The implementation of a programme of risk awareness training;
 - Management processes to ensure that all significant risks and potential liabilities are addressed, including effective systems of internal control, cost effective insurance cover, and decisions on the acceptable level of retained risk. All significant risks and action taken to manage the risks will be reported to the Board;
 - The maintenance of an organisation-wide risk register;
 - Contingency plans to offset the impact of adverse events;
 - Audit arrangements, including internal audit, clinical audit, health and safety review;
 - Arrangements to review the risk management programme;
 - A process whereby the risk management plans are measured against compliance with CNORIS standards.
- 24.2 The existence, integration and evaluation of the above elements will provide a basis for the Risk Management Board to make a statement to the Audit Committee of the Board on the effectiveness of risk management arrangements in the organisation.
- 24.3 In the case of Partnership Working with other agencies, the NHS Borders risk management framework will be shared to identify and quantify the individual risks, particularly where responsibility cannot be assigned to an individual partner.
- 24.4 The Director of Finance shall ensure that insurance arrangements exist in accordance with the risk management programme.

SECTION 25

FINANCIAL IRREGULARITIES

This section should be read in conjunction with the NHS Borders Counter Fraud Policy and Action Plan contained within Section D of the Code of Corporate Governance.

SUSPECTED THEFT, FRAUD AND OTHER IRREGULARITIES

INTRODUCTION

The following procedures should be followed, as a minimum, in cases of suspected theft, fraud, embezzlement, corruption or other financial irregularities to comply with Scottish Government Health Department Circular No HDL (2005) 5. This procedure also applies to any non-public funds.

Theft, Fraud, Embezzlement, Corruption and Other Financial Irregularities

The Chief Executive has the responsibility to designate an officer within the Board with specific responsibility for co-ordinating action where there are reasonable grounds for believing that an item of property, including cash, has been stolen.

It is the designated officer's responsibility to inform as he deems appropriate, the Police, the Counter Fraud Services (CFS), the appropriate Executive Director, the Appointed Auditor, and the Chief Internal Auditor where such an occurrence is suspected.

Where any officer of the Board has grounds to suspect that any of the above activities has occurred, his or her local manager should be notified without delay. Local managers should in turn immediately notify the Director of Finance, who should ensure consultation with the CFS, normally by the Fraud Liaison Officer. It is essential that preliminary enquiries are carried out in strict confidence and with as much speed as possible.

If, in exceptional circumstances, the Director of Finance and the Fraud or Deputy Fraud Liaison Officer are unavailable, the local manager will report the circumstances to the Chief Executive who will be responsible for informing the CFS. As soon as possible thereafter, the Director of Finance should be advised of the situation.

Where preliminary investigations suggest that *prima facie* grounds exist for believing that a criminal offence has been committed, the CFS will undertake the investigation, on behalf of, and in co-operation with the Board. At all stages, the Director of Finance and the Fraud Liaison Officer and Director of Workforce and Planning will be kept informed of developments on such cases. All referrals to the CFS must also be copied to the Chair of the Audit Committee and/or Board Chair.

Remedial Action

As with all categories of loss, once the circumstances of a case are known, the Director of Finance will require to take immediate steps to ensure that so far as possible these do not recur. However, no such action will be taken if it would prove prejudicial to the effective prosecution of the case. It will be necessary to identify any defects in the control systems, which may have enabled the initial loss to occur, and to decide on any measures to prevent recurrence.

Reporting to SGHD

While normally there is no requirement to report individual cases to the Scottish Government Health Department there may be occasions where the nature or scale of the alleged offence or the position of the person or persons involved, could give rise to national or local controversy and publicity. Moreover, there may be cases where the alleged fraud appears to have been of a particularly ingenious nature or where it concerns an organisation with which other health sector bodies may also have dealings. In all such cases, the Scottish Government Health Department must be notified of the main circumstance of the case at the same time as an approach is made to the CFS.

Responses to Press Enquiries

Where the publicity surrounding a particular case of alleged financial irregularity attracts enquiries from the press or other media, the Chief Executive should ensure that the relevant officials are fully aware of the importance of avoiding issuing any statements, which may be regarded as prejudicial to the outcome of criminal proceedings.

Section F – Appendix 1:

TENDERING PROCEDURE

1. Invitation to Tender

- 1.1 All invitations to tender on a formal competitive basis shall state that no tender will be considered for acceptance unless submitted as follows:
- Plain, sealed package bearing a pre-printed label supplied by NHS Borders (or bearing the word 'Tender' followed by the subject to which it relates and the latest date and time for the receipt of such tender); or
 - In a special envelope supplied by NHS Borders to prospective tenderers and the tender envelopes/packages shall not bear any names or marks indicating the sender; or
 - By electronic means that identifies the date and time of receipt and keeps the contents 'closed' prior to the agreed opening, as set out below. Such facilities must be approved by the Chief Executive in advance.
- 1.2 Every tender for goods, materials, manufactured articles supplied as part of a works contract and services shall embody such of the main contract conditions as may be appropriate.
- 1.3 Every tender for building and engineering works, shall embody, or be in the terms of the current edition of the appropriate, a) Joint Contracts Tribunal (JCT) standard forms of contract amended to comply with the current version of the Property Procurement Guidance for NHSScotland - PROCODE, b) New Engineering Contract 3, (NEC3), or c) Contract conditions deemed appropriate for use within the 'hub' South East Scotland Territory Partnering Agreement. Tendering based on other forms of contract may be used only after prior consultation with the Scottish Government Health Department.
- 1.4 Every tender for goods, materials, services (including consultancy services) or disposals shall embody the NHS Standard Contract Conditions as far as this practical. The advice of NHS Borders Procurement, National Procurement or the Central Legal Office must be sought where alternative contract conditions are used. Every tenderer must have given or give a written undertaking not to engage in collusive tendering or other restrictive practice.

2. Receipt, Safe Custody and Record of Formal Tenders

- 2.1 Formal competitive tenders shall be addressed to the Chief Executive.
- 2.2 The officer designated by the Chief Executive will endorse the date and time of receipt of each tender on the unopened tender envelope/package and shall print and sign their name accordingly as means of proof of receipt. Individuals who are hand delivering tenders may witness the endorsement. A secure electronic recording system shall be in place for tenders received electronically.
- 2.3 Tenders must be stored either in a safe or other locked facility, to which only designated officers/key holders have access, from the time they are received until opening.

3. Opening Formal Tenders

- 3.1 As soon as possible after the date and time stated as being the latest time for the receipt of tenders, they shall be opened by representatives as detailed in the Scheme of Delegation. Opening of tenders can be conducted either manually or electronically.
- 3.2 Tenders for the provision of services where an in-house tender is also being invited shall be opened, either manually or electronically, as soon as practicable after the date and time stated as being the latest time for the receipt of tenders in the presence of a Non-Executive Member of the Board and the Chief Executive or Executive Director who has not been party to the preparation of any of the said tenders and neither of whom shall have pecuniary interest in the contract for which the tenders have been received.
- 3.3 The envelope/package/electronic record, or such part as may reasonably evidence receipt endorsement, shall be retained by the designated officer(s) along with the tender documents and in accordance with the NHS Borders Records Retention Schedules.
- 3.4 Every tender received shall be stamped with the date of opening and initialled by two of those present at the opening. The date stamp may be manual or electronic.
- 3.5 A permanent record shall be maintained, manually or electronically, to show for each set of competitive tender invitations despatched:-
- The names of firms/individuals invited;
 - The names of and the number of firms/individuals from which tenders have been received;
 - The total price(s) tendered;
 - Closing date and time;
 - Date and time of opening;

and the record shall be signed manually by the persons present at the opening or acknowledged electronically by a secure means.

- 3.6 Except as in Section 3.7 below, a record shall be maintained of all price alterations on tenders, i.e. where a price has apparently been altered, and the final price shown shall be recorded. Every price alteration appearing on a tender and the record should be initialled by two of those present at the opening of manual tenders. The audit trail shall include the identity of the person making the change and be date and time stamped.
- 3.7 A report shall be made in the record if, on any one tender, price alterations are so numerous as to render the procedure Section 3.6 unreasonable.

4. Admissibility and Acceptance of Formal Tenders

- 4.1 In considering which tender to accept, if any, the designated officers shall have regard to whether best value will be obtained and whether the number of tenders received provides adequate competition. In cases of doubt they shall consult the Chief Executive.

- 4.2 In exceptional circumstances and with the approval of the Chief Executive, a tender may be received and accepted after the closing date, provided that none of the tenders available for opening at the appointed time have been opened. Where the available tenders have been opened, a late tender shall be opened solely to identify the sender and returned with a letter of explanation. Tenders received after the due time and date may be considered only if the Chief Executive or nominated officer decides that there are exceptional circumstances, e.g. where significant financial, technical or delivery advantages would accrue, and is satisfied that there is no reason to doubt the bona fides of the tenders concerned.

The Chief Executive or nominated officer shall decide whether such tenders are admissible and whether re-tendering is desirable. Re-tendering may be limited to those tenders reasonably in the field of consideration in the original competition. If the tender is accepted the late arrival of the tender should be reported to the Board at its next meeting.

- 4.3 In the event of an extension of time for receipt of tenders being approved by the Chief Executive or nominated officer, all invited tenderers shall be advised of the extension and the revised closing date.
- 4.4 Incomplete tenders (i.e. those from which information necessary for the adjudication of the tender is missing) and amended tenders (i.e. those amended by the tenderer upon his own initiative either orally or in writing after the due time for receipt) should be dealt with in the same way as late tenders under Section 4.2
- 4.5 Where examination of tenders reveals errors which would affect the tender figure, the tenderer is to be given details of such errors and afforded the opportunity of confirming or withdrawing the offer.
- 4.6 Necessary discussions with a tenderer of the contents of their tender, in order to clarify technical points, etc, before the award of a contract, need not disqualify the tender.
- 4.7 While decisions as to the admissibility of late, incomplete, or amended tenders are under consideration and while re-tenders are being obtained, the tender documents shall remain strictly confidential and kept in safe keeping by an officer designated by the Chief Executive.
- 4.8 Where only one tender/quotation is received, NHS Borders must ensure, as far as practicable, that the price to be paid is fair and reasonable.
- 4.9 A tender other than the lowest (if payment is to be made by the Board), or other than the highest (if payment is to be received by the Board) shall not be accepted unless for good and sufficient reason the Board, or the Chief Executive acting with the Director of Finance within limits delegated to them, decide otherwise and report the reason for their decision to the Board
- 4.10 Where the form of contract includes a fluctuation clause all applications for price variations must be submitted in writing by the tenderer and shall be approved by the Chief Executive or nominated officer.
- 4.11 Access to all tender documentation will be managed in accordance with the requirements of the Freedom of Information (Scotland) Act 2002. Any relevant exemptions specified in the Act will be applied, taking account of both commercial

and public interest. The documentation will be retained in accordance with the NHS Borders records retention schedules (See Section A Para 29).

5. Lists of Approved Firms

5.1 NHS Borders shall compile and maintain, a contract register of all those organisations contracted to NHS Borders, whether through national or local contracts, or through specifically tendered contracts through which a short list is determined through appropriate utilisation of the Public Contracts Scotland Portal. Of those organisations invited to tender, a prequalification questionnaire will determine their status which will aid in establishing a tender shortlist provided that:-

- In the case of building, engineering and maintenance works, the Chief Executive is satisfied of their capacity, conditions of labour, etc and that the Director of Finance is satisfied that their financial standing is adequate;
- In the case of the supply of goods, materials and related services, and consultancy services, the Chief Executive or the nominated officer is satisfied as to their technical competence, etc, and that the Director of Finance is satisfied that their financial standing is adequate;
- In the case of the provision of healthcare services by a private sector provider, the Director of Finance is satisfied as to their financial standing and the Medical Director is satisfied as to their technical/medical competence.

5.2 NHS Borders shall arrange for advertisements to be issued as may be necessary, and not less frequently than every third year, in trade journals and national newspapers, inviting applications from firms for inclusion in the prescribed lists. Applications from firms or individuals wishing to be admitted to the list may also be considered at any time.

5.3 If in the opinion of the Chief Executive or the Director of Finance, it is impractical to use a list of approved firms/individuals (for example where specialist services or skills are required and there are insufficient suitable potential contractors on the list), the Chief Executive or nominated officer should ensure that appropriate checks are carried out as to the technical and financial capability of firms invited to tender or quote.

5.4 A permanent record should be made of the reasons for inviting a tender or quote other than from an approved list.

6. Post-Tender Negotiations

6.1 It is acceptable to enter into post-tender negotiations only with those tenderers who have been granted 'preferred supplier' status in any particular tendering exercise or who have a reasonable chance of gaining the contract. The negotiations must be fully documented and clearly indicate:-

- The justification for the use of post-tender negotiation;
- The aim of the negotiations and the methods used;
- A precise record of all exchanges, both written and verbal;
- Management approval for the award of contract;
- The approval of the Chief Executive.

7. Unsuccessful Tenders

- 7.1 Following completion of the tender acceptance, and having obtained confirmation from the successful tenderer of acceptance of the contract, the unsuccessful tenderers should be advised in writing that the contract has been awarded and that they have not been successful.

In advising the unsuccessful tenderers, it should be drawn to their attention that their tender documentation will be retained in accordance with the time limits set out in the policy on culling and retention. However, they should also be advised that they may collect additional copies of the documentation.

Section F - Appendix 2:

COMMON SEAL

The Common Seal shall be kept by the Board Secretary in a secure place and they shall be responsible for its safe custody and use.

The Seal shall be affixed in the presence of the Chair and the Chief Executive. If the Chair cannot be present the Vice Chair or a Non-executive Member nominated by the Chair must be present.

The Board Secretary shall keep a register which shall record the sealing of every document. Every such entry shall be signed by those present when the document is sealed. The entries in the register shall be consecutively numbered.