

Crofting Commission Framework Document

Contents

Introduction.....	2
Purpose	2
Governance and Accountability	3
The Board	3
The Chief Executive	4
The Accountable Officer	5
The Scottish Ministers.....	5
SG Portfolio Accountable Officer	6
Relationship between Scottish Government and the Crofting Commission	6
NDPB staff management responsibilities.....	7
Broad responsibilities for NDPB staff.....	7
Pay and conditions of service	7
Pensions, redundancy and compensation.....	7
Corporate and business plans	8
Annual report and accounts	8
External audit	9
Internal audit	9
Budget management and delegated authority	9
Governance and Risk.....	10
Risk management	10
Internal control	10
Budget and finance	11
Remuneration.....	12
Banking and cash management	13
Annex A: Specific Delegated Financial Authorities	14

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Introduction

1. This framework document is agreed between the Crofting Commission and the Scottish Ministers. It summarises how the Crofting Commission and Scottish Government (SG) will work together, and the key roles and responsibilities of:

- the Board
- the Chief Executive and Accountable Officer of the Crofting Commission;
- the Scottish Ministers; and
- the Portfolio Accountable Officer within the SG whose remit includes the Crofting Commission.

2. While this document does not confer any legal powers or responsibilities, it forms a key part of the accountability and governance framework and as a live document it should be reviewed by SG and the Crofting Commission regularly, and at least every 2-3 years. Any significant changes will be agreed between the Board and the Scottish Ministers.

3. Any question regarding the interpretation of the document will be determined by the SG after consultation with the Crofting Commission. Legislative provisions take precedence over any part of the document.

4. The Crofting Commission is not permitted to establish any subsidiaries or enter into joint ventures without express approval from Scottish Ministers.

5. Copies of the document will be published on the Crofting Commission website.

Purpose

6. The Crofting Commission is established under the provisions of the Crofters (Scotland) Act 1993, as amended, ("the 1993 Act"),

7. The Crofting Commission has the general functions of:

- regulating crofting;
- reorganising crofting;
- promoting the interests of crofting; and
- keeping under review matters relating to crofting, and such other functions conferred on it by or under the 1993 Act or under any enactment.

8. In exercising its functions the Crofting Commission must have regard to:

- the desirability of supporting population retention in the crofting counties and in any area in which there are crofts;
- the impact of changes to the overall area of land held in crofting tenure on the sustainability of crofting.

9. The Crofting Commission must discharge its functions in accordance with such directions of a general or specific character as may from time to time be given to them in writing by the Scottish Ministers.

10. In exercising its functions of reorganising and regulating crofting, it shall be the duty of the Commission to:

- keep under general review all matters relating to crofts and crofting conditions, including, without prejudice to the foregoing generality, land settlement;

- collaborate so far as their powers and duties permit with any body or person in the carrying out of any measures for the economic development and social improvement of the crofting counties;
- advise the Scottish Ministers on any matter relating to crofts and crofting conditions which they may refer to them, or on which they may think fit to submit advice to them;
- exercise the powers conferred on them by the 1993 Act, in such manner as may seem to them in each case desirable.

Governance and Accountability

11. This section summarises the specific responsibilities and accountabilities of the key people involved in governance of the Crofting Commission.

The Board

12. Members of the Board of the Crofting Commission, including the Chair, are either elected in accordance with Schedule 1 of the Act or appointed by the Scottish Ministers in accordance with said schedule and in line with the [Code of Practice for Ministerial Public Appointments in Scotland](#). The Chair and Board Members are accountable to the Scottish Ministers and also to the Scottish Parliament and may be required to give evidence to Parliamentary Committees.

13. Scottish Ministers must select a member to chair the Crofting Commission, or they may delegate to the Crofting Commission the duty to select a member to chair.

14. **The Board has overall responsibility for the delivery of the functions of the Crofting Commission**, as set out at paragraph 6 above, in accordance with the aims, policies and priorities of the Scottish Ministers. It [the Board] has corporate responsibility, under the leadership of the Chair, and will:

- set strategic plans to deliver the functions of the Crofting Commission, focusing on how the work of the Crofting Commission can most effectively contribute to the achievement of the outcomes in the [National Performance Framework](#), the [Programme for Government](#) and [Scotland's Economic Strategy](#) in collaboration with the SG and other public bodies;
- regularly scrutinise current and projected performance against the aims, objectives and targets set out in plans and take decisions on remedial action where required;
- ensure that effective governance is established and maintained, including ensuring that decision-taking is open and transparent and, with support from the Accountable Officer and the Audit and Risk Committee, ensure that key risks are identified and managed;
- approve the annual report and accounts and ensure these are provided to the Scottish Ministers to be laid before the Scottish Parliament;
- promote the efficient, economic and effective use of resources consistent with the principles of [Best Value](#), and regularly scrutinise financial performance and compliance with financial guidance issued by the SG;
- promote the wellbeing, learning and development of staff, provide support and challenge to the Chief Executive on staffing matters and ensure that the Crofting Commission meets the **NDPB staff management responsibilities** described in the section below.

15. The Chair will:

- lead the Board, ensuring that all Board members have suitable induction to understand the role and their responsibilities, that the skills and experience of all Board Members are used effectively and that the Board undertakes regular self-assessment of its performance;
- ensure that the performance of each Board member is reviewed at least once per year and that the Board and/or individual Board members undertake development activity when required to ensure the effectiveness of the Board;

- c. ensure that the Board reviews its effectiveness annually;
 - d. ensure that a Code of Conduct (aligned to the Model Code of Conduct for Board Members) is in place, that corporate actions are taken to implement it as required and that Members understand their responsibilities, using the guidance provided by the Standards Commission;
 - e. work with the Portfolio Accountable Officer or their delegate(s) and the Public Appointments Team in SG on succession planning for the Board, action necessary to fill vacancies as they arise, skills requirements and promoting diversity by encouraging applications from less represented groups, including younger people, people from minority ethnic backgrounds and people with disabilities.
16. Specific guidance on how the Chair and Board Members should discharge their duties will be provided in their appointment letters and in [On Board – A Guide for Members of Statutory Boards](#). Guidance on governance good practice is available in the Scottish Public Finance Manual and from the sponsor team, who may consult the SG Governance and Risk Team. A list of key aspects of governance to consider is included in the section on Governance and Risk below.

The Chief Executive

17. The Chief Executive is appointed by Scottish Ministers after consultation with the Chair on such terms and conditions as Scottish Ministers may determine. The Chief Executive is the principal adviser to the Board on the discharge of its functions and is accountable to the Board. The Chief Executive role is to provide operational leadership to staff working for the Crofting Commission and to ensure that its aims and objectives are met, its functions are delivered, and its targets are met through effective and properly controlled executive action.
18. The specific duties of the Chief Executive will be set out in a job description, and annual objectives will be agreed with the Chair and used in appraisal of the Chief Executive's performance.
19. In addition to any other specific duties, the Chief Executive will:
- a. advise the Board on the discharge of its responsibilities – as set out in this Framework Document, in the founding legislation and in any other relevant instructions and guidance issued by or on behalf of the Scottish Ministers;
 - b. implement or oversee implementation of the decisions of the Board;
 - c. work with the Board on preparation of the Corporate Plan, including liaising with the Senior Sponsor and/or Sponsor Team on key points which need to be addressed and the timetable for preparation and review, and work with the Board to ensure that business plans are put in place to meet the Corporate Plan aims, objectives and performance measures;
 - d. lead and manage the staff of the Crofting Commission, ensuring their wellbeing, learning and development are prioritised, and ensuring that the **NDPB staff management responsibilities** set out in the section below are addressed;
 - e. manage the budget for the Crofting Commission in line with Scottish Government Finance guidance, policies and procedures, including the Scottish Public Finance Manual, and advise the Board on financial implications of all Board decisions, ensuring that appropriate financial appraisal and evaluation techniques are followed (see the [Appraisal and Evaluation](#) section of the SPFM);
 - f. agree with the Board and the Portfolio AO or Senior Sponsor what information is required to enable the Board and SG to scrutinise the performance of the Crofting Commission and progress against overall strategic and business plan aims and objectives, and ensure that the agreed information is provided and that is both accurate and timely;
 - g. the Chief Executive's Executive Team will manage the day-to-day relationship with the Senior Sponsor and/or Sponsor Team, with other SG officials who have an interest in the

work of the Crofting Commission and other key stakeholders, including staff of other public bodies.

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

The Accountable Officer

21. The Principal Accountable Officer for the Scottish Administration will designate a senior official in the Crofting Commission, usually this will be the Chief Executive unless there are specific reasons not to, as the Accountable Officer. The Accountable Officer is personally responsible for the propriety and regularity of the public finances of the Crofting Commission and ensuring that its resources are used economically, efficiently and effectively, as required by section 15 of the Public Finance and Accountability (Scotland) Act 2000 and may be called to give evidence to the Public Audit Committee of the Scottish Parliament. The responsibilities of the Accountable Officer are set out in full in the [Memorandum to Accountable Officers for Other Public Bodies](#) in the Scottish Public Finance Manual.

22. It is important for the Chair and Board members to recognise that one aspect of these duties is the requirement under section 15(8) of the Public Finance and Accountability (Scotland) Act 2000, where the Accountable Officer considers that any action they are required to take is not consistent with their Accountable Officer responsibilities, they must obtain written authority from the Board and send a copy of the written authority to the Auditor General for Scotland as soon as possible and to the Clerk of the Public Audit Committee. The Accountable Officer should consult the Portfolio Accountable Officer before seeking written authority from the Board in these circumstances and should always notify the Portfolio Accountable Officer when such a written authority has been issued.

23. Where the duties of the Accountable Officer and the Chief Executive are not combined in one person, the Accountable Officer will work closely with the Chief Executive on governance, and in particular to ensure that the key governance issues highlighted in the section on Governance and Risk below are addressed.

The Scottish Ministers

24. The Scottish Ministers select, or delegate the duty to select, the Chair and hold the Board to account for the performance of the Crofting Commission and its use of resources. Ministers are ultimately accountable to the Scottish Parliament for ensuring that the Board is discharging its duties effectively, although the Parliament will scrutinise the performance of the Crofting Commission directly as it does with all public sector bodies. The Scottish Ministers are not directly responsible for the operation of the Crofting Commission.

25. The Scottish Ministers will:

- a. agree the strategic aims, objectives and key targets of the Crofting Commission as part of the corporate planning process;
- b. agree the budget for the Crofting Commission and secure the necessary Parliamentary approval;
- c. approve the Code of Conduct of the Crofting Commission Board;
- d. approve pay remits or proposals and superannuation arrangements for the staff, Chief Executive, Chair and Board members;
- e. Lay the accounts of the Crofting Commission before the Scottish Parliament;
- f. Appoint the Chief Executive after consultation with the Chair.
- g. As per Schedule 1, section 10(2) of the 1993 Act, the Scottish Ministers may provide the services of such staff to the Commission as the Commission consider appropriate.

SG Portfolio Accountable Officer

26. The Principal Accountable Officer for the Scottish Administration (the Permanent Secretary of the SG) has designated the Director General for NetZero as the Portfolio Accountable Officer (AO) for the SG portfolio budget which will provide funding for the Crofting Commission.

27. The Portfolio AO's duties are to establish a framework for the relationship between SG and a public body, oversee the operation of that framework, ensure the public appointments to the body are made appropriately and ensure that appropriate assurance is provided on the performance and governance of the body. These activities are known collectively as '**sponsorship**'. In practice, the Portfolio AO is likely to delegate some or all sponsorship duties to a Director or Deputy Director as Senior Sponsor and/or to other SG officials in a 'Sponsor Team'. The responsibilities of a Portfolio Accountable Officer are set out in detail in the [Memorandum to Accountable Officers for Parts of the Scottish Administration](#).

28. The Portfolio AO will:

- a. make sure the framework document is agreed between the Scottish Ministers and the Board of the Crofting Commission, reviewed regularly and oversee the operation of the roles and responsibilities set out;
- b. ensure that financial and other management controls being applied by the Crofting Commission are appropriate and sufficient to safeguard public funds and conform to the requirements both of propriety and of good financial management;
- c. in line with [Code of Practice for Ministerial Appointments](#), ensure that public appointments are made in good time and secure appropriate skills, experience and diversity amongst Board members, working with the Chair on succession planning; that there is effective induction for new appointees; and ensure that there is regular review and a formal annual appraisal of the performance of the Chair;
- d. support regular and effective engagement between the Crofting Commission and the relevant Scottish Minister(s); and
- e. make sure there is clear, documented delegation of responsibilities to a Senior Sponsor and/or Sponsor Team and that the Board and senior officials of the Crofting Commission are aware of these delegated responsibilities.

29. The Portfolio AO remains personally answerable to the Scottish Parliament for the effectiveness of sponsorship activity.

Relationship between Scottish Government and the Crofting Commission

30. Strategic engagement between the SG and the Crofting Commission is essential in order that they work together as effectively as possible to maintain and improve public services and deliver improved outcomes. Specific governance and accountability roles are described in the section above, but more generally, both the SG and the Crofting Commission will take all necessary steps to ensure that their relationship is developed and supported in line with the jointly agreed principles set out in the statement on '[Strategic Engagement between the Scottish Government and Scotland's NDPBs](#)'. This emphasises the need for cooperation and good communication, and particularly early warning from either side about any emerging risk or issue with significant implications for the operation or governance of the Crofting Commission.

31. The Sponsor Team's primary function is to carry out the responsibilities delegated to it by the Portfolio AO, directly or via the Senior Sponsor, as described above. In addition to ensuring that the arrangements in this framework document operate effectively, managing public appointments and providing assurance to the Portfolio AO, the Sponsor Team will usually be the first point of contact for the body on any issue with SG. As part of the assurance they provide to the Portfolio AO, they must ensure that key actions and decisions agreed are documented and implemented. This includes ensuring that SG teams implement any agreed actions.

NDPB staff management responsibilities

32. The Scottish Ministers will give due consideration to putting in place a formal arrangement as to the legal basis on which staff are supplied to the Commission under schedule 1 para 10(2) of the Act and the associated legal conditions that govern this arrangement.

Broad responsibilities for NDPB staff

33. The Chief Executive, challenged and supported by the Board, has responsibility for the recruitment, retention and motivation of its staff. The broad responsibilities toward staff are to ensure that:

- HR policies, practices and systems comply with employment and equalities legislation, and standards expected of public sector employers;
- the level and structure of staffing, including grading and staff numbers, are appropriate to its functions and the requirements of economy, efficiency and effectiveness (subject to the [SG Pay Policy for Staff Pay Remits](#));
- the performance of staff at all levels is regularly appraised and performance management systems are reviewed from time to time;
- staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the body's objectives;
- proper consultation with staff takes place on key issues affecting them, as appropriate, including working in partnership with trade unions;
- effective grievance and disciplinary procedures are in place and ensures that staff know where to access and how to use;
- effective whistle-blowing policy and procedures consistent with the Public Interest Disclosure Act 1998 are in place and ensures that staff know where to access and how to use; and
- a code of conduct for staff is in place.

Pay and conditions of service

34. The Crofting Commission will comply with SG Pay Policy in relation to staff and the Chief Executive. The Commission's permanent staff are Scottish Government civil servants, on the same terms and conditions of employment and pay policy as SG Main. Payment of salaries should also comply with the [Tax Planning and Tax Avoidance](#) section of the SPFM. Proposals on non-salary rewards will comply with the guidance in the [Non-Salary Rewards](#) section of the SPFM.

Pensions, redundancy and compensation

35. Superannuation arrangements for staff are subject to the approval of the Scottish Ministers. Crofting Commission staff are civil servants and therefore will automatically be enrolled in [Alpha](#). Staff will also be eligible to switch to [Partnership](#). Staff may opt out of the occupational pension scheme provided, but your employer would not make pension contributions to any personal pension arrangement, including stakeholder pension.

36. Any proposal by the Crofting Commission to move from existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the prior approval of the Scottish Ministers. Proposals on compensation payments will comply with the [Settlement Agreements, Severance, Early Retirement and Redundancy Terms](#) section of the SPFM. This includes referral to the Scottish Ministers of any proposed severance scheme (for example, a scheme for voluntary exit), business case for a settlement agreement being considered for an individual, or proposal to make any other compensation payment. In all instances, a body should engage with the Sponsor Team prior to proceeding with proposed severance options, and prior to making any offer either orally or in writing.

Corporate and Business Plans

37. The Crofting Commission will prepare a draft strategic or corporate plan every 5 years setting out its strategic aims, objectives and targets over that period, for consideration by the Scottish Ministers. When a new plan is to be prepared, the Chief Executive or their delegate will liaise with the Sponsor Team to agree the key points to be addressed and the timetable for preparation and review. The final, agreed version of the strategic or corporate plan will be published on the Crofting Commission website.

38. The corporate plan will include the Crofting Commission's:

- purpose and principal aims;
- contribution to the national outcomes set out in the [National Performance Framework](#), the Programme for Government and Scotland's Economic Strategy in collaboration with the SG and other public bodies;
- analysis of the environment in which it operates;
- key objectives and associated key performance targets for the period of the plan, and the strategy for achieving those objectives;
- indicators against which its performance can be judged;
- details of planned efficiencies, describing how better value for money will be achieved, including through collaboration and use of shared services; and
- other key points agreed with the Sponsor Team as described above.

39. The corporate plan will inform the development of a separate annual business plan for each financial year, which will include key targets and milestones for the year immediately ahead, aligned to the NPF, and be linked to budgeting information so that, where possible, resources allocated to achieve specific objectives can be identified. A copy of the business plan will be provided to the sponsor unit prior to the start of the relevant financial year.

Policy Plan

40. In accordance with section 2C of the 1993 Act, the Crofting Commission will produce a Policy Plan every five years. The Crofting Commission may from time to time, and must if required by Scottish Ministers, vary the Policy Plan. The Policy Plan requires the approval of Scottish Ministers before it comes into effect, and it must be published on the Crofting Commission website.

Annual report and accounts

41. The Crofting Commission will publish an annual report of its activities together with its audited accounts after the end of each financial year. The annual report and accounts will cover the activities of any corporate, subsidiary or joint ventures under the control of the Crofting Commission. It will comply with the Government [Financial Reporting Manual](#) (FReM) and outline the NDPB's main activities and performance against agreed objectives and targets for the previous financial year. It is the responsibility of the Chief Executive, as Accountable Officer, to sign the accounts

42. The accounts will be prepared in accordance with relevant statutes and the specific accounts direction and other relevant guidance issued by the Scottish Ministers. Any financial objectives or targets set by the Scottish Ministers should be reported on in the accounts and will therefore be within the scope of the audit.

43. The SG Sponsor Team should receive a copy of the annual report for comment, and a copy of the draft accounts for information, by August. The Crofting Commission is responsible for the publication of the annual report and accounts after they have been laid by the Scottish Ministers. Whilst the statutory deadline for laying and publishing accounts audited by the AGS is 31 December after the end of the relevant financial year, the Scottish Ministers expect that accounts will be laid before the Scottish Parliament and published as early as possible.

External audit

44. The Auditor General for Scotland (AGS) audits, or appoints auditors to audit, the Crofting Commission's annual accounts and passes them to the Scottish Ministers who then lay them before the Scottish Parliament, together with the auditor's report and any report prepared by the AGS. The AGS, or examiners appointed by the AGS, may also carry out examinations into the economy, efficiency and effectiveness with which the body has used its resources in discharging its functions and/or carry out examinations into the arrangements made by the Crofting Commission to secure Best Value.

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

Internal audit

46. The Crofting Commission will:

- establish and maintain arrangements for internal audit in accordance with the [Public Sector Internal Audit Standards](#) and the [Internal Audit](#) section of the SPFM;
- set up an Audit Committee of its Board, in accordance with the [Audit Committees](#) section of the SPFM, to advise both the board and the Accountable Officer;
- ensure that the Sponsor Team and the Portfolio AO/Senior Sponsor receive promptly after they are produced or updated: the audit charter, strategy, periodic audit plans and annual audit assurance report, including the Head of Internal Audit opinion on risk management, control and governance – and provide any other relevant audit reports as requested by sponsors;
- keep records of, and prepare and forward promptly to the SG an annual report on fraud and theft suffered by the Crofting Commission and notify the Portfolio AO or Senior Sponsor immediately of any unusual or major incidents.

47. The SG's Internal Audit and Assurance Directorate has an expectation of cooperation and access to relevant material when required, the parameters for which would be set out in an engagement document before information was shared. The Crofting Commission should make it clear on their own Privacy Notice that material may be shared with SG's Internal Audit and Assurance Directorate in certain circumstances

Budget management and delegated authority

48. Each year the Sponsor Team will send the Board and Accountable Officer a Budget Allocation and Monitoring letter, notifying the Crofting Commission of the budget provision, any related matters and details of the budget monitoring information required. The Crofting Commission will comply with the format and timing of the monitoring information requested and with any requests for further information.

49. The statement of budgetary provision will set out the budget within the classifications of resource Departmental Expenditure Limits (RDEL), capital DEL (CDEL) and Ring-fenced (non-cash) (RfDEL) – and, where applicable, Annually Managed Expenditure (AME). These categories are explained in [Annual Budget Processing](#) in the SPFM, and the Crofting Commission will not transfer budgetary provision between the categories without the prior approval of the SG Finance Directorate, which should be sought via the Sponsor Team. Transfers within the categories are at the discretion of the Board or, subject to delegated authority, the Chief Executive or relevant senior manager, if these do not breach any other constraints, for instance the approved pay remit.

50. Where budgetary provision includes projected income, including any income from disposal of non-current assets, the Chief Executive will ensure that the SG Finance Directorate and Sponsor Team are made aware promptly of any forecast changes in income – usually via the monthly budget monitoring statement. The Scottish Ministers expectation is that any shortfall in income will be offset by a matching reduction in gross expenditure, and prior approval from the SG Finance Directorate and the Sponsor Team must be sought for any alternative arrangement. Similarly, if income is higher than originally projected, this may only be used for additional spending or to meet pressures with the prior approval of the SG Finance Directorate and Sponsor Team. Failure to obtain prior approval for the use of excess income to fund additional expenditure may result in corresponding reductions in budgets for the following financial year. The only exception is where the income is from gifts, bequests and donations but this must be spent within the same financial year as the receipt.

51. The Crofting Commission's specific delegated financial authorities - as agreed in consultation between the Board and the Scottish Ministers - are set out in Annex A. The Board will obtain the prior written approval from sponsors and SG Finance before entering into any undertaking to incur any expenditure that falls outside these delegations, and before incurring expenditure for any purpose that is or might be considered novel, contentious or repercussive or which has or could have significant future cost implications.

Governance and Risk

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

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

53. If in any doubt about a governance issue, the Chair or Chief Executive should consult the Senior Sponsor or Sponsor Team in the first instance, and sponsors may in turn consult the SG Public Bodies Unit, the SG Governance and Risk Branch and/or other teams with relevant expertise.

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

Risk management

55. The Crofting Commission must develop an approach to **risk management** consistent with the Risk Management section of the Scottish Public Finance Manual and establish reporting and escalation arrangements with the Portfolio AO or Senior Sponsor.

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

Internal control

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

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

59. Any **major investment programmes or projects** undertaken should be subject to the guidance in the [Major Investment Projects](#) section of the SPFM and in line with delegated authorities. The Sponsor Team must be kept informed of progress on such programmes and projects and Ministers must be alerted to any developments that could undermine their viability. **ICT investment plans** must be reported to the SG's Office of the Chief Information Officer.

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

Budget and finance

61. Unless covered by a specific delegated authority, **financial investments** are not permitted without the prior approval of sponsors and SG Finance. This includes equity shares in ventures which further a body's objectives. Public bodies should not invest in any venture of a speculative nature.

62. Non-standard **tax management** arrangements should always be regarded as novel and/or contentious and must therefore be approved in advance by the Portfolio AO and SG Finance. Relevant guidance is provided in the [Tax Planning and Tax Avoidance](#) section of the SPFM. The Crofting Commission must comply with all relevant rules on taxation, including **VAT**, recover input tax where it is entitled to do so.

63. **Optimising income** (not including grant-in-aid) from all sources should be a priority, and sponsors should be kept informed about any significant projected changes in income. Novel or contentious proposals for new sources of income or methods of fundraising must be approved by sponsors and SG Finance. Fees or charges for any services supplied must be determined in accordance with the [Fees & Charges](#) section of the SPFM.

64. **Gifts, bequests or donations** received score as income and should be provided for in the agreed resource DEL and capital DEL budgets, but should not fund activities or assets normally covered by SG grant-in-aid, trading or fee income, and conflicts of interest must be considered – see the principles in the [Gifts](#) section of the SPFM. Note that this relates to gifts to the body - gifts to individuals are covered in the Model Code of Conduct.

65. **Borrowing** cannot be used to increase the Crofting Commission's spending power. All borrowing - excluding agreed overdrafts - must be from the Scottish Ministers in accordance with guidance in the [Borrowing, Lending & Investment](#) section of the SPFM.

66. Any lending must be in line with the guidance in the [Borrowing, Lending & Investment](#) section of the SPFM on undertaking due diligence and seeking to establish a security. Unless covered by a specific delegated limit the Crofting Commission must not **lend money, charge any asset, give any guarantee or indemnity or letter of comfort, or incur any other contingent liability** (as defined in the [Contingent Liabilities](#) section of the SPFM), whether or not in a legally binding form, without the prior approval of sponsors and SG Finance. Guarantees, indemnities and letters of comfort of a standard type given in the normal course of business are excluded from this requirement.

67. An accurate and up-to-date record of **current and non-current assets** should be maintained, consistent with the [Property: Acquisition, Disposal & Management](#) section of the SPFM. The Crofting Commission is also subject to the [SG Asset Management Policy](#), including the requirement for acquisition of a new lease, continuation of an existing lease, decision not to exercise a break option in a lease or purchase of property for accommodation / operational purposes, to be approved in advance by Scottish Ministers. The Property Controls Team should be consulted as early as possible in this process.

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

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

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

71. Unless covered by a specific delegated authority the Crofting Commission must not enter into any **finance, property or accommodation related lease arrangement** – including the extension of an existing lease or the non-exercise of a tenant's lease break - without prior approval from sponsors. Before entering/ continuing such arrangements the NDPB must be able to demonstrate that the lease offers better value for money than purchase and that all options of sharing existing public sector space have been explored.

72. Non-property / accommodation related operating leases are subject to a specific delegated authority. There must be capital DEL provision in the budget allocation for finance leases and other transactions which are in substance borrowing.

73. **Procurement** policies should reflect relevant guidance in the [Procurement](#) section of the SPFM and any other relevant guidance issued by the SG's Procurement and Property Directorate. The SG's directory of [SG Framework Agreements](#), is available to support organisations but they should check the Framework Agreement's 'buyer's guide' before proceeding to ensure they are eligible to use the Framework

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

75. The Crofting Commission is subject to the SG policy of self-insurance. Commercial **insurance** must however be taken out where there is a legal requirement to do so and may also be taken out in the circumstances described in the [Insurance](#) section of the SPFM - where required with the prior approval of sponsors and their finance business partner subject to the level of inherent financial risk. In the event of uninsured losses being incurred the SG shall consider, on a case by case basis, whether or not it should make any additional resources available to the NDPB. The relevant sponsor team will provide a Certificate of Exemption for Employer's Liability Insurance.

76. Unless covered by a specific delegated authority the Crofting Commission must not provide **grant funding to a third party** without prior agreement from sponsors and SG Finance. Guidance on a framework for the control of third party grants is provided as an annex to the [Grant & Grant in Aid](#) section of the SPFM. Subsidy control requirements for any such funding are discussed below.

77. The EU State aid regime was effectively revoked from UK law from 1 January. Following this, subsidy control provisions were covered by the UK-EU Trade and Cooperation Agreement (TCA) and the UK's international obligations, including various Free Trade Agreements and those arising as a consequence of World Trade Organisation membership. However, a new UK subsidy control regime came into force on 4 January 2023 as a result of UK Government's Subsidy Control Act 2022. Currently, any activity that a public body undertakes itself, or funds other bodies to undertake, that can be offered on a commercial market for goods and services, is subject to the regulations set out in the Subsidy Control Act 2022. A full assessment is required prior to disbursing any funding, subject to the guidance in the subsidy control section of the SPFM.

Remuneration

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

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

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

Banking and cash management

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

82. **Cash management** arrangements need to be addressed as well as overall budget management. Any [grant in aid](#) (i.e. the cash provided to the Crofting Commission by the SG to support the allocated budget) for the year in question will be authorised by the Scottish Parliament in the annual Budget Act. The Crofting Commission will normally receive monthly instalments based on updated profiles and information on unrestricted cash reserves and will not seek any payment in advance of need. The Crofting Commission will keep its unrestricted cash reserves held during the year to the minimum level needed for efficient operation and any relevant liabilities which have to be met at the year-end. Grant in aid not drawn down by the end of the financial year will lapse. The Crofting Commission will not pay Grant-in-Aid into any restricted reserve it holds.

Helpful information

83. The Public Bodies Support Unit has produced a register of reporting requirements for devolved public bodies which will help in regard to compliance with certain legislative asks. Copies of the register can be obtained from the [PBSU mailbox](#).

Annex A: Specific Delegated Financial Authorities

		Delegated Limit
External business and management consultancies		£100,000
Single tender contracts		£10,000
Capital expenditure		Capital goods and equipment £40,000 Capital works £25,000
Revenue expenditure		Items other than those noted below £100,000 Refund of monthly staff costs to the SG £250,000
Write-off of bad debt and/or losses		Cash losses – losses of accountable stores, fruitless payments and constructive losses £1,000 Claims waived or abandoned £1,000
Special payments		Extra-contractual and ex-gratia payments to contractors £1,000 Other ex-gratia payments £2,000 Compensation payments £1,000 Extra statutory and extra regulatory payments £1,000 Gifts of stores and property £250 Rewards for return of lost public property £250