

Deloitte LLP Governance & Transparency Audit Action Points

Progress as at 3 November 2021

FINANCIAL SUSTAINABILITY

<u>Action Point</u>	<u>Ownership</u>	<u>Deloitte</u> <u>Priority</u>	<u>CC</u> <u>Weighting</u>	<u>Target Date</u>	<u>% Completed</u>	<u>Outcomes</u>
1.1	Finance	H	3	June	100%	Incorporated 2022/23 budget process
1.2	Finance/CEO	H	3	September	100%	Current Structure Projected to 5 Years.
1.3	CEO/Convener	H	1	September	50%	Contract awarded. Conclusions anticipated mid -November
1.4	CEO/Operations	H	2	To follow 1.3	-	
1.5	CEO/AFC/Board	H	1	September	30%	Now part of 1.3
1.6	Finance	M	4	July	100%	Approved at July Audit & Finance Committee
1.7	Finance	L	5	July	100%	Incorporated 2022/23 budget process

LEADERSHIP

<u>Action Point</u>	<u>Ownership</u>	<u>Deloitte</u> <u>Priority</u>	<u>CC</u> <u>Weighting</u>	<u>Target Date</u>	<u>% Completed</u>	<u>Outcomes</u>
2.1	Board	H	1	October	100%	The Board has cancelled its earlier 'no confidence' position
2.2	Board	H	1	June	100%	New Convener appointed July
2.3	Convener	H	3	Feb-22	100%	Guidance provided to Convener on undertaking appraisal process
2.4	CEO	H	3	August	100%	SMT Training Plan Formalised and populated
2.5	CEO/Convener	H	2	June	100%	CEO and Convener now document communications with Sponsor Division. A recap of these is now a Standing Item on Board agenda
2.6	Convener/Business S	H	2	September	100%	Training sourced. 1 Workshop Completed. Final workshop scheduled 2 Nov
2.7	Convener	H	2	August	100%	CC Solicitor will be main contact in event AO unavailable
2.8	Convener/Business S	H	2	September	100%	Refer to 2.6
2.9	Business Support	M	4	September	100%	AFC agreed revised training plan to go to Dec Board meeting
2.10	Business Support	M	4	September	100%	Feedback monitoring form created and circulated

GOVERNANCE

<u>Action Point</u>	<u>Ownership</u>	<u>Deloitte</u> <u>Priority</u>	<u>CC</u> <u>Weighting</u>	<u>Target Date</u>	<u>% Completed</u>	<u>Outcomes</u>
3.1	Convener	H	3	August	90%	Final conclusions submitted to SG 20.10.21
3.2	CEO	H	3	August	100%	Board confirmed at October Meeting
3.3	Convener	H	3	August	90%	Linked to 3.1
3.4	CEO/Convener	H	3	October	30%	Head of Finance has created an initial draft for comment
3.5	CEO/AFC	H	4	Linked to 3.4	-	
3.6	Convener/Business S	H	2	September	100%	Refer to 2.6
3.7	Business Support	H	2	September	100%	Refer to 2.6
3.8	Business Support	H	2	September	100%	Refer to 2.6
3.9	Finance/AFC	H	3	August	100%	KPI Report has transferred to Board Agenda & AFC Workplan in line with SG Audit & Assurance Committee Handbook
3.10	Business Support/Bo	H	3	December	25%	Pre-election materials being developed

OPENESS & TRANSPARENCY

<u>Action Point</u>	<u>Ownership</u>	<u>Deloitte</u> <u>Priority</u>	<u>CC</u> <u>Weighting</u>	<u>Target Date</u>	<u>% Completed</u>	<u>Outcomes</u>
4.1	CEO	H	3	August	100%	Reviewed
4.2	Business Support	H	3	September	100%	Training delivered and follow up plan in place.
4.3	CEO/AFC	H	2	Jan-22	30%	Linked to outcome of 4.2
4.4	CEO/Board	H	3	Nov	100%	Regulatory Case Stats incorporated into Board Papers
4.5	Business Support	M	4	July	100%	Incorporated into minute taking process
4.6	SMT	M	4	August	100%	Written reports now standard, with oral reports only as needed
4.7	CEO	M	4	August	100%	Captured within other Action Points
4.8	CEO/Board	M	2	June	100%	Captured within Board Workplan; Board now scrutinises this.
4.9	Business Support	M	3	June	100%	Incorporated into SMT Agenda as Standing Item
4.10	Business Support	M	2	December	-	revision to be completed following joint training, for Dec Board

RELATIONSHIPS

<u>Action Point</u>	<u>Ownership</u>	<u>Deloitte</u> <u>Priority</u>	<u>CC</u> <u>Weighting</u>	<u>Target Date</u>	<u>% Completed</u>	<u>Outcomes</u>
5.1	Convener	H	2	August	100%	Invite automatically issued by Sponsor to Convener/Vice Convener
5.2	CEO/Convener	H	3	August	100%	Minutes/agenda of sponsor division meetings with Commission to be shared with Board
5.3	Business Support	H	3	August	100%	Standing item added to Board agenda
5.4	Convener	H	3	August	100%	SG Sponsor will be invited to CC internal meetings 'as appropriate'.

CC Weighting Key

- 1 CRITICAL
- 2 URGENT
- 3 MODERATELY URGENT
- 4 LEAST URGENT
- 5 NOT URGENT

ACTION POINT

REFERENCE

FINANCIAL SUSTAINABILITY

- The level of detail provided on staff costs in the budget should be reconsidered, with less focus on
- 1.1** staff grades and a shift to considering at a high level how the budget drives progress to the optimal staffing structure in line with the Workforce Plan.
 - 1.2** The MTFP should be revised to address the issues identified through our audit, as set out on page 12.
 - 1.3** The Commission should engage an independent review into the optimal workforce structure for the organisation.
Subject to the findings of the independent review into the Commission's workforce, the
 - 1.4** Commission should revise its Workforce Plan to clearly set out how the Commission intends to make any transition from the current structure to the proposed structure.
 - 1.5** Management, in conjunction with the Board, should carry out a review into the optimal SMT structure for the organisation, with restructuring plans subsequently prepared following appropriate staff consultation to implement this structure, subject to approval by the Board.
 - 1.6** In conjunction with the Board, management should review and formalise the budget-setting process, including setting out those involved and their stage of involvement. In carrying out this review, there should be sufficient opportunity for the Board to contribute to the budget setting process at the 'input' stage, rather than only at the 'approval' stage.
 - 1.7** For the high-level savings set out in the 'budget summary', management should clearly identify savings which have been specifically identified and those which remain to be identified – including a 'RAG' status to highlight any areas of particular risk to the Commission in terms of the achievability of savings.

ACTION POINT

REFERENCE

LEADERSHIP

- 2.1** The Commission should consider whether the CEO can reasonably expect to deliver his functions effectively in light of the Board expressing no confidence in his abilities to do so. This will need to be in consultation with the Scottish Minister. The conclusion reached should be formally communicated to the Board.

The Board should consider whether the Convener can deliver his functions effectively in light of the issues highlighted through our audit. This will need to be in consultation with the Scottish Minister. The conclusion reached should be formally recorded.

The Convener must conduct appraisals of fellow Commissioners. Appraisals for the 2020/21 year just ended should be performed as soon as possible, with plans for future appraisals clearly set out. The other Commissioners should ensure that they hold the Convener accountable for performing this key aspect of his role.

A training plan should be developed for members of SMT, informed by their role, objectives and identified development needs from their performance appraisal. The CEO should ensure that individual training plans address any perceived cross-SMT weaknesses identified either by the SMT themselves or the Board.

Communications between the CEO, Sponsor Division, and Convener, should be documented in a proportionate manner to the importance of the matters being discussed, always capturing key details of what has been communicated and setting out any actions arising.

The Board, CEO and SMT should undertake joint training to understand and appreciate each other's roles. The Sponsor Division should be invited to this. This training should focus on specific areas of perceived ambiguity in the On Board guidance, Framework Document and other key governance documents within the Commission

The Commission should nominate a Deputy Accountable Officer who will officially 'step in' when the designated Accountable Officer is unavailable.

The Board, CEO, and SMT Division should have a facilitated development session to identify the root cause of communication issues highlighted throughout our audit, their implications, and proposed solutions. The Sponsor Division should be invited to this. An action plan should be prepared following this to address these underlying issues, with this being reported to the Board until such time as all parties are satisfied that the underlying issues have been addressed.

The training plan for the Board should be subject to Board approval, and clearly set out how the training plan was informed and decided upon. It should be updated annually.

The Commission should ensure that it has systems in place to monitor who attends training and to capture how effective this training is perceived to be.

ACTION POINT

REFERENCE

GOVERNANCE

- The Commission's should engage with the Sponsor Division to investigate if the Framework Document can be revised to explicitly set out that, where the CEO is an employee of the Scottish Government rather than the Commission, the Board is jointly responsible with the Sponsor Division for performing an appraisal of the CEO.
- 3.1** The Board, in consultation with staff, management and the Sponsor Division, should formally agree the Commission's prospective approach to the appointment of employees in terms of appointing their own employees or using Scottish Government staff.
- 3.2** The Board, in conjunction with management and the Sponsor Division, should ensure there is an agreed protocol for ensuring that the Board has the necessary levels to effect accountability of the CEO where the CEO is an employee of the Scottish Government.
- 3.3** The Commission should consider whether it needs an overriding Code of Corporate Governance, bringing together its interpretation of its governing legislation, Scottish Government guidance as it applies to the Commission, and the Commission's Framework Document.
- In developing a Code of Corporate Governance or revising its Framework Document, the
- 3.4** Commission should consider including an explicit 'reasonableness' test for communication of matters between management, the Board and the Scottish Government.
- The Commission should arrange a joint development session between the Board and SMT on the governance arrangements as they apply across the Commission to ensure mutual understanding of the arrangements as every party expects them to work. The Sponsor Division should be invited to this.
- 3.5** The Commission should arrange training for the Board and SMT on how to effectively challenge inappropriate behaviours where an individual or group is failing to follow the arrangements as they have been agreed.
- 3.6** The Commission should arrange training for both the Board and SMT, specifically covering the strategic and operational split in public sector organisations.
- 3.7**
- 3.8**

- 3.9 The governance structure within the Commission should be reviewed to ensure that the Audit and Finance Committee is considering matters in line with its Terms of Reference, that the Board considers appropriate matters and that there is a structure in place to provide appropriate scrutiny of performance.
- 3.10 The Commission should consider how to address the expectation gap between what the role of the elected Commissioners is and what it is perceived to be, in advance of elections in 2022.

ACTION POINT

REFERENCE

OPENESS & TRANSPARENCY

- 4.1 The SMT should review the process through which papers are submitted to the Audit and Finance Committee and Board to ensure there is an appropriate review prior to the presentation.
- 4.2 Both the SMT and the Board should receive training on risk management – for example on identifying, understanding, responding to and scrutinising risk.
- 4.3 The risk registers should be reviewed in their totality to ensure that they are reflective of the risks which actually face the organisation.
- 4.4 The Commission should review its key performance indicators to ensure they provide performance information not only against the corporate plan outcomes, but also against key operational performance matters which may have a strategic impact.
- 4.5 Similar to the Audit and Finance Committee, the Board should institute a system of monitoring an Action Log as a standing item.
- 4.6 The Commission should review its practice of regularly using ‘oral’ updates for the Board and ensure that these are only used where a paper would not be appropriate.
- 4.7 The Commission should identify the methods through which it provides information to the Audit and Finance Committee and the Board and assess whether it is appropriate to continue to provide that information informally or whether the information should form part of routine reporting at arranged meetings.
- 4.8 The Board should consider whether it is appropriate for the Strategic Risk Register to be ‘for info’ or whether the Board should perform a more in-depth challenge of the risks included and excluded.

- 4.9** The SMT should explicitly consider at their meetings whether each item on their agenda should be reported to the AFC or Board and if it should, when that expects to be done.
- The Standing Orders – or equivalent – should clearly set out how informal, private meetings of the Board can be called, how they should be conducted, any records which should be kept and
- 4.10** emphasise the importance of the Board not using these meetings to in essence take Board decisions.

ACTION POINT

REFERENCE

RELATIONSHIPS

- The Commission, in consultation with the Sponsor Division, should agree a protocol for attendance
- 5.1** at Sponsor Division meetings, ensuring appropriate attendance to maintain effective relationships at appropriate levels between both parties.
- In agreeing a protocol for the meetings between the Commission and Sponsor Division,
- 5.2** consideration should be given to how the matters discussed at Sponsor Division meetings are shared with the wider Board.
- Similar to SMT meetings, there should be explicit consideration by the Commission as to whether
- 5.3** items which are on the agenda at Sponsor Division meetings have been reported to the Committee or Board and if they have not, whether they should be.
- 5.4** The Commission should consider, in consultation with the Sponsor Division, the appropriateness of representatives of the Sponsor Division attending Board or other internal Commission meetings.