

B/17/67

NSS Formal Board Meeting – Thursday, 29 June 2017

Annual Review of NSS's Standing Orders

Purpose

NSS's Standing Orders were last published with amendments in June 2016. Since then, a number of changes have been proposed and this paper provides an update on the amendments as currently recommended by the NSS Board's Sub-Committees and the NSS Executive Management Team (EMT).

Recommendation

The Board is asked to approve the amendments to NSS's Standing Orders.

Timing

If approved, any amendments will be incorporated immediately for publication on the NSS website.

Background

As part of the NSS Audit and Risk Committee's annual review cycle of the Standing Orders, the NSS Board Sub-Committees have reviewed their respective Constitutions and Terms of Reference, the details of which are summarised below.

The reference to the NSS Chief Operating Officer has been removed from all sections of the Standing Orders as this position no longer exists.

NSS Audit and Risk Committee

The Committee reviewed its Constitution and Terms of Reference at its meeting on 27 March 2017 and no changes were required.

NSS Performance and Finance Committee

The Committee reviewed its Constitution and Terms of Reference at its meeting on 23 February 2017 and agreed that no amendments were necessary.

NSS Staff Governance Committee

The Committee reviewed its Constitution and Terms of Reference at its meeting on 16 February 2017. They agreed corrections to a few minor typographical errors, an updated frequency to reflect a reversion to quarterly meetings, an update to bullet point 5b to refer more generally to "staff engagement mechanisms", and the inclusion of reference in bullet point 5c to receiving and action on feedback.

NSS Clinical Governance Committee

Following discussion at the Clinical Governance Committee Development Session on 17 May 2017, some updates were made to include the additional role of Executive Lead for Clinical Governance within the regular attendees, as well as the changes to some annual report titles. These were agreed at the most recent Clinical Governance Committee meeting held on 12 June 2017, along with two more minor amendments which were requested as points of clarification.

NSS Information Governance Committee

The NSS Information Governance Committee reviewed its Terms of Reference at its meeting on 27 April 2017 and no additional changes were required.

NSS Remuneration and Succession Planning Committee

At its meeting on 2 March 2017, the Committee reviewed its Terms of Reference and agreed revised wording in the section on the approval process for appointments as agreed by the Committee at its meeting on 6 December 2016 and the subsequent decision to invite the NSS Employee Director to become a Member of the Committee. Section 5(c) was also amended to emphasise the need to assess individual's potential as well as performance.

Further amendments were considered and agreed by the Committee at its meeting on 12 June 2017 to reflect the Scottish Government NHS Circular under which it is constituted and to describe the main purpose of the Committee.

NSS Executive Management Team

At its meeting on 20 February 2017, the Executive Management Team considered its Terms of Reference and agreed to make a number of minor amendments to reflect recent changes to its membership and who would chair meetings should the NSS Chief Executive be incapacitated.

Scheme of Delegation

The Executive Management Team also reviewed the NSS Board's Scheme of Delegation to ensure it was fit for purpose and suggested a number of amendments to reflect recent changes in individuals' areas of responsibility.

Code of Conduct

The Code of Conduct for Members forms part of NSS's Standing Orders and was last updated in 2014 to reflect the new style Code prepared by the Commissioner for Ethical Standards in Public Life. No further changes are required at this time.

Annual Review of NSS's Standing Orders

In accordance with the Terms of Reference in NSS's Standing Orders, the NSS Audit and Risk Committee undertook an annual review of the Standing Orders and the proposed amendments tracked in the attached document were supported for recommendation to the NSS Board.

Engagement

Engagement has included members of the NSS Board and Executive Management Team.

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STANDING ORDERS

(NHS National Services Scotland (NSS) is the common name for the Common Services Agency (CSA) for the Scottish Health Service)

**June 2017⁶
(~~Final Draft~~ Version 07.²⁰)**

Index

Pages

	Pages
Standing Orders	
1. Membership	3
2. Ordinary Meetings	3
3. Notice of Meetings	3
4. Special Meetings	3
5. Chair	4
6. Vice-Chair	4
7. Quorum	4
8. Minutes	4
9. Closure of Debate or Adjournment	4
10. Voting	4
11. Conflict of Interest	5
12. Motion Contradictory of Previous Resolution	5
13. Schedule of Decisions Reserved for the Board	5
14. Scheme of Delegation	5
15. Common Seal	6
16. Sub-Committees and Special Committees	6
17. Executive Management Team	7
18. Application and Suspension of Standing Orders	7
19. Suspension of Members	7
Appendix I	
Scheme of Delegation	8
Appendix II	
Scheme for the Administrative Arrangements for the Discharge of the Functions of the Board by its Sub-Committees in Accordance with the Terms of Standing Order 16.	10
A. Audit & Risk Committee	11
B. Remuneration <u>and Succession Planning</u> Committee	14
C. Staff Governance Committee	16
D. Clinical Governance Committee	18
E. Performance and Finance Committee	20
F. Information Governance Committee	22
Appendix III	
NSS Executive Management Team – Constitution and Terms of Reference	24
Annex A	
Members’ Code of Conduct	

STANDING ORDERS

For regulating the business and proceedings of the Board of the Common Services Agency for the Scottish Health Service (which is known by the common name of NHS National Services Scotland) made in terms of Part IV Regulation 9 of the Common Services Agency (Membership and Procedure) Regulations 1991. (SI 1991 No. 564 (S.49)).

1. MEMBERSHIP

The Board consists of eight Non-Executive Members and three Executive Members appointed by the Scottish Ministers.

Non-Executives

- Chair;
- NHS Chair/Chief Executive Stakeholder representative;
- Employee Director; and
- Five lay members

Executives

- Chief Executive
- Medical Director
- Director of Finance

2. ORDINARY MEETINGS

The ordinary meetings of the Board shall, unless the Board order, be held in each financial year at such place, on such date, and at such time as the Board shall from time to time determine but not less than once in every three months. Meetings of the Board shall be open to NSS staff and the public apart from Commercial in Confidence matters.

3. NOTICE OF MEETINGS

- i) The Board Secretary, NSS, shall cause notices of all ordinary meetings of the Board, together with a note of the agenda, and any Sub-Committee and Special Committee Minutes and reports which are to be submitted to such meetings, to be delivered electronically or otherwise so as to reach each Member of the Board six clear days before the date of the meeting.
- ii) Notice of the time and place of the meeting of the Board shall be published on the NSS website.
- iii) No business shall be transacted at any meeting of the Board other than that specified in the agenda unless with the consent of the majority of the Members of the Board present.

4. SPECIAL MEETINGS

The Board Secretary, NSS, shall cause a meeting of the Board to be called at any time on being required so to do by the Chair of the Board or on receiving a requisition in writing for that purpose specifying the business proposed to be transacted at that meeting and signed by one-third of the whole number of Members of the Board, including at least two Members who are not also officers of NSS, a Health Board or the Scottish Ministers, which meeting shall be held within fourteen days of receipt of the requisition, provided that no business shall be transacted at that meeting other than that specified in the requisition.

5. CHAIR

At every meeting of the Board the Chair, if present, shall preside. If the Chair is absent from any meeting the Vice-Chair, if present, shall preside, and if the Chair and Vice-Chair are both absent the Members present at the meeting shall elect from among themselves a person to act as Chair for that meeting provided that person is not also an officer of NSS, a Health Board or the Scottish Ministers.

6. VICE-CHAIR

The Board shall appoint a Member, who is not also an officer of NSS, to be Vice-Chair and any person so appointed shall, so long as they remain a Member of the Board, hold office for such a period as the Board may decide. The appointment shall be confirmed by the Cabinet Secretary for Health, Wellbeing and Sport.

The Vice-Chair may, at any time, resign from that office by giving notice in writing to the Chair, and the Board may appoint another member as Vice-Chair.

7. QUORUM

No business shall be transacted at a meeting of the Board unless at least one-third of the whole number of Members of the Board, of whom at least two should be Members who are not also officers of NSS, a Health Board or the Scottish Ministers, are present thereat.

Unless otherwise determined, a quorum for NSS Board Sub-Committees shall be at least two Non-Executive Members.

8. MINUTES

- i) The names of the Members present at a meeting of the Board or of a Sub-Committee shall be recorded in the Minutes.
- ii) Minutes of the proceedings of a meeting of the Board shall be drawn up by or on behalf of the Board Secretary, NSS, and shall be submitted to the next ensuing meeting of the Board for approval as a correct record of the meeting and signed by the person presiding at the next ensuing meeting.
- iii) The Board Secretary will forward a copy of the Minutes of every meeting of the Board to the Scottish Ministers, via an appointed officer of the Scottish Government, on behalf of the Chief Executive no later than one week before the date of the next meeting of the Board after that to which they relate.

9. CLOSURE OF DEBATE OR ADJOURNMENT

- i) A meeting of the Board may be adjourned to any other hour, day or place.
- ii) A motion for adjournment of any meeting or adjournment of any debate on any question or the closure of debate shall be put to the meeting without discussion. Unless the time and place are specified in the motion for adjournment, the adjournment shall be until the next ordinary meeting.

10. VOTING

All acts of, and all questions coming and arising before the 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.

11. CONFLICT OF INTEREST

Sections 4 and 5 of the attached Members' Code (Annex A) should be referred to for full details relating to Registration and Declaration of Interests.

- i) Board Members' directorships of companies likely or possibly seeking to do business with NHSScotland and other significant interests shall be published in NSS's Annual Report and the information shall be kept up to date for inclusion in succeeding Annual Reports.
- ii) A formal Register of Members' interests shall be established, maintained and reviewed annually. Its existence shall be brought to the attention of the people of Scotland and the Register shall be made publicly available.

12. MOTION CONTRADICTIONARY OF PREVIOUS RESOLUTION

A motion which is contradictory of a Resolution of the Board shall not, unless submitted in the report of a Sub-Committee, be competent within six months of the date of adoption of such Resolution. The rescinding of any Resolution shall not affect or prejudice any action proceeding or liability which may have been competently done or undertaken under any such Resolution before being rescinded.

13. SCHEDULE OF DECISIONS RESERVED FOR THE BOARD

Decisions reserved for the Board include:-

- a) the approval of strategy, business plans and budgets;
- b) the approval of Standing Orders - which will include a scheme of delegation (see Appendix I);
- c) the approval of Standing Financial Instructions;
- d) the establishment, terms of reference and reporting arrangements for all Sub-Committees acting on behalf of the Board;
- e) the approval of personnel policies including arrangements for the appointment/removal and remuneration of key staff;
- f) the approval of financial and performance reporting arrangements;
- g) the approval of audit arrangements;
- h) the approval of the annual report and accounts;
- i) the approval of capital expenditure schemes and disposals beyond the delegated limits of the NSS Chief Executive;
- j) any other matter on which the Board deem it competent to express a view.

14. SCHEME OF DELEGATION

Notwithstanding the terms of Section 13 above, the Board shall delegate its responsibility as set out in the Scheme of Delegation. This is attached at Appendix 1 and shows the approved officers, approved alternate officers, and the areas of delegated responsibilities. Those identified as approved officers or their deputies may only operate within their delegated authorities as described within Appendix 1 of NSS Standing Financial Instructions (SFIs). Officers named in the Scheme of Delegation may delegate authority within the financial limits defined in NSS SFIs, but they remain personally accountable for all transactions within their area of responsibility and for the actions of those to whom they delegate authority.

15. COMMON SEAL

The Common Seal of the Board shall be kept by the Board Secretary, NSS, in a suitable place secured by a sufficient lock and he/she shall be responsible for its safe keeping and use. Any document or proceeding requiring authentication by the Board shall be executed for and on behalf of the Board by the affixation of their Common Seal and attested by any one Member of the Board and by an officer of NSS authorised by the Board for this purpose. The Common Seal shall not be affixed to any document except by Order of the Board.

16. SUB-COMMITTEES AND SPECIAL COMMITTEES

The foregoing Standing Orders shall, as far as applicable and so far as not hereby modified, be the rules and regulations for the proceedings of Sub-Committees and Special Committees and in addition the following special rules shall apply:-

- i) The Board may, and if so directed by the Scottish Ministers, appoint Sub-Committees whose membership may, subject to (ii) below, include persons who are not Members of the Board for the exercise on their behalf of any of the Board's functions subject to such restrictions or conditions as the Board may think fit, or as the Scottish Ministers may direct.
- ii) All ad hoc Sub-Committees shall include at least one Member of the Board and may include any Members who are co-opted.
- iii) Sub-Committees and the Chair thereof shall be appointed as determined by the Board.
- iv) A casual vacancy in a Sub-Committee or a Special Committee may be filled by the Board at their next ordinary meeting following a vacancy occurring.
- v) Special Committees and the Chair thereof may be appointed by the Board.
- vi) Any Member of the Board who may be specially useful to a Sub-Committee for the consideration of a remit made to the Sub-Committee, may for the purposes of that remit be co-opted to the Sub-Committee.
- vii) Minutes or a report of the proceedings of a Sub-Committee or a Special Committee shall be drawn up by or on behalf of the Board Secretary, NSS, and submitted for noting by the Board at the first ordinary meeting of the Board held after the next ensuing meeting of the Sub-Committee or Special Committee (see Appendix II).
- viii) The functions of the Board shall be referred to Sub-Committees and special Committees in accordance with the terms and provisions of Appendix II and, unless in their opinion the matter is urgent, the Board, before exercising any function or dealing with any matter so referred to a Sub-Committee or Special Committee, shall receive and consider a report by such Sub-Committee or Special Committee with regard to the function or matter in question.
- ix) The Board may, subject to the Standing Orders of the Board, delegate certain functions to Sub-Committees or Special Committees. A Sub-Committee or a Special Committee may, notwithstanding that the matter is a delegated one, direct that before action is taken their decision be submitted to the Board for confirmation.

17. EXECUTIVE MANAGEMENT TEAM

The Executive Management Team (EMT) is the senior management group of NSS and has decision making responsibility for operational issues within NSS. Its members are responsible for the execution of Board Strategy and ensuring organisational compliance with policies and procedures, in addition to making recommendations as appropriate to the NSS Board on strategic and similar matters.

- i) Details of the Terms of Reference of the NHS NSS Executive Management Team are detailed in [Appendix III](#).

18. APPLICATION AND SUSPENSION OF STANDING ORDERS

- i) No Standing Order shall be suspended or dispensed with unless with the consent of a two-thirds majority of the Members of the Board present and voting.
- ii) It shall not be competent to rescind or alter any of the Standing Orders, including the rules contained in the immediately preceding Standing Orders, except by the Resolution of the Board to that effect.

19. SUSPENSION OF MEMBERS

- i) If any Member of the Board disregards the authority of the Chair, obstructs a meeting or, in the opinion of the Chair, otherwise 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.
- ii) If such a motion is carried, the suspended Member shall leave the meeting room immediately. If the Member fails to comply, the Chair may order the suspended member to be removed from the meeting.
- iii) 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.
- iv) 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.

SCHEME OF DELEGATION

This appendix should be read in conjunction with the Standing Financial Instructions

Areas of Responsibility	Approved Officer/s	Approved Alternate Officers
Risk Management	Director of Strategy & Governance	Associate Director of Planning, Performance & Service Delivery
Statutory and Regulatory Compliance	Director of Strategy & Governance	Associate Director of Corporate Affairs & Compliance
Business Continuity and Emergency Planning	Director of Strategy & Governance	Associate Director of Planning, Performance & Service Delivery
Information Management	Director of Strategy & Governance	Associate Director of Corporate Affairs & Compliance
Data Protection Scheme	Director of Strategy & Governance	Associate Director of Clinical Governance & Quality Improvement / Associate Director of Corporate Affairs & Compliance
Public Participation, Engagement and Complaints	Director of Strategy & Governance	Associate Director of Corporate Affairs & Compliance
Standing Financial Instructions	Director of Finance & Business Services	Associate Director of Finance
Internal Audit and Service Audit	Director of Strategy & Governance	Associate Director of Corporate Affairs & Compliance
External Audit	Director of Finance & Business Services	Associate Director of Finance (Financial Planning & Analysis)
Fraud	Director of Finance & Business Services	Associate Director of Finance (Financial Services)
Fire Safety	Director of Finance & Business Services	Associate Director, Facilities Management
Health and Safety	Director of HR & Workforce Development	Head of Healthy Working Lives
Legal	Director of Central Legal Office	Head of Contracts Department at Central Legal Office
Information Governance	Director of Strategy & Governance	Associate Director of Corporate Affairs & Compliance
Equality and Diversity	Director of Strategy & Governance	Associate Director of Corporate Affairs & Compliance
Research Governance	Medical Director	Director of Healthcare Sciences

Caldicott Guardian	Medical Director	NSS Deputy Caldicott Guardian
HAI and Decontamination	Director of Nursing Medical Director	<u>Lead Consultant, HAI, AMR, Infection Prevention and Control and Decontamination</u> <u>Health Protection Scotland</u> Director of Nursing
Professional Regulatory Compliance	Medical Director	Director of Nursing

**SCHEME FOR THE ADMINISTRATIVE ARRANGEMENTS FOR
THE DISCHARGE OF THE FUNCTIONS OF THE BOARD BY ITS
SUB-COMMITTEES IN ACCORDANCE WITH THE TERMS OF
STANDING ORDER 16.**

A - AUDIT & RISK COMMITTEE - CONSTITUTION AND TERMS OF REFERENCE

1. Constitution

The Audit & Risk Committee is established as a sub-committee of the NSS Board. The purpose of the Committee is to assist the NSS Board in delivering its responsibilities by providing assurance that an appropriate system of internal control has been implemented and is operating effectively. In meeting this requirement, the Chair of the Audit & Risk Committee submits an annual report summarising the activities of the Committee to assure the NSS Board that the Committee's responsibilities are being discharged in accordance with its remit.

2. Membership and Attendees

2.1 Membership

The Audit & Risk Committee shall comprise at least three Non-Executive Members of the NSS Board, one of whom shall act as Chair, with at least two Members being present at meetings of the Committee.

2.2 Attendees

Attendees are as follows:-

- the Chair of the NSS Board
- the Chief Executive
- the Director of Finance and Business Services
- the Director of Strategy and Governance
- the Associate Director of Corporate Affairs and Compliance
- Internal Auditor
- External Auditor
- Service Auditor

In addition, all Non-Executive Members of the NSS Board are entitled to attend meetings of the Committee.

3. Frequency of Meetings

The Committee shall meet as required but not less than four times a year.

4. Minutes of Meetings

Minutes of the proceedings of the Audit & Risk Committee shall be drawn up by or on behalf of the Board Secretary, NSS, and submitted for approval to the next meeting of the Committee and thereafter submitted by its Chair to the first ordinary meeting of the NSS Board for noting. In the interim, a report on the proceedings or unapproved minutes will be submitted to the NSS Board for information.

5. Terms of Reference

Internal Control and Corporate Governance

- a) To evaluate the effectiveness of the internal control environment (including risk management and corporate decision-making processes) and ensure that reasonable steps are being taken to safeguard assets and prevent and detect fraud and other irregularities;
- b) To ensure that the organisation has the relevant controls and risk management arrangements in place to allow the Chief Executive to sign the Governance Statement. This should include ensuring that, in conjunction with the Director of Finance, a review has been undertaken and that appropriate compliance evidence is available for the external auditor. It is not intended that the review would be included in the annual accounts;

- c) To emphasise the importance of effective co-ordination and liaison between Internal, External and Service Audit;

Internal Audit

- d) To make recommendations for the programmes of work to be carried out by the Internal Auditors. To approve the annual and longer term plans for Internal Audit;
- e) To review the Internal Audit progress reports from the Internal Auditor;
- f) To review and report to the NSS Board on the conclusions arising from the annual report of the Internal Auditors;
- g) To ensure that action is taken by the Chief Executive and the Executive Management Team on audit recommendations and monitor progress in their implementation;
- h) To review the action planned by the management of NSS to remedy weaknesses identified or other criticisms of the financial management made by the Internal Auditor and to report to the NSS Board on such action planned and/or taken if the Committee deem it appropriate; and
- i) To hold meetings with the Internal Auditor to discuss his/her annual report and the scope of the audit examinations.
- j) To monitor and review the effectiveness of the internal audit function.

External Audit

- k) To review reports from the Appointed External Auditor;
- l) To ensure that action is taken by the Chief Executive and the Executive Management Team on audit recommendations and monitor progress in their implementation;
- m) To review the action planned by the management of NSS to remedy weaknesses identified or other criticisms of the financial management made by the Appointed External Auditor, and to report to the NSS Board on such action planned and/or taken if the Committee deem it appropriate; and
- n) To hold meetings with the Appointed External Auditor to discuss his/her annual report and the scope of the audit examinations.

Service Audit

- o) To review and approve the annual plans prepared by the Service Auditor(s);
- p) To review progress reports from the Service Auditor(s);
- q) To review the findings and conclusions arising in the final reports from the Service Auditor(s) prepared in accordance with relevant accounting and auditing standards;
- r) To recommend on behalf of the NSS Board, the release of Service Audit reports to NHSScotland for the purposes of informing their annual governance and assurance requirements;
- s) To review the action planned by the management of NSS to remedy weaknesses identified or other criticisms made by the Service Auditor, and to report to the NSS Board on such action planned and/or taken if the Committee deem it appropriate; and
- t) To hold meetings with the Service Auditor to discuss his/her annual report and the scope of the audit examinations.

Annual Accounts

- u) To review the Annual Accounts of NSS for the Board and conduct a regular review on behalf of the NSS Board of all statutory audit material including the Annual Report or Management Letter relating to certification of the Annual Accounts of NSS;

Annual Report

- v) To undertake an annual evaluation of the effectiveness of the Audit & Risk Committee and to include comment on how the Committee has discharged its remit within the annual report from the Chair to the NSS Board;

Standing Orders

- w) To review annually NSS's Standing Orders, including its Terms of Reference, which include the Scheme of Delegation;

Other Governance Responsibilities

- x) To review annually the content of the register of gifts and hospitality in accordance with the Members' Code of Conduct and NSS policy;
- y) To review annually schedules of losses, special payments and compensations;
- z) To review annually the nature of the expenditure incurred by each Strategic Business Unit on the employment of Management Consultants in the preceding year;
- aa) To review annually the content of the Fraud Action Plan and to review quarterly the content of the Fraud and Other Illegal Acts Register;
- bb) To review quarterly the risk management arrangements and assure the overall process;
- cc) To review quarterly the NSS corporate risk register as set out in the Integrated Risk Management Approach;
- dd) To update the NSS Accounting Policies as required;
- ee) To review quarterly the NSS Feedback, Comments, Concerns and Complaints Report in the context of reputational risk; and
- ff) To hold in-camera sessions with auditors prior to each meeting, as required.

6. Authority

The Committee is authorised by the NSS Board to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employees and all employees are directed to co-operate with any request made by the Committee.

The Committee is authorised by the NSS Board to obtain outside legal or other independent professional advice and to secure the attendance of outsiders with relevant experience and expertise if it considers this necessary.

B - REMUNERATION AND SUCCESSION PLANNING COMMITTEE - CONSTITUTION AND TERMS OF REFERENCE

1. Constitution

Each NHSScotland Board, through its Standing Orders, is required to establish a Remuneration Committee, whose main function is to ensure the application and implementation of fair and equitable pay systems on behalf of the Board, as determined by Ministers and the Scottish Government and described in MEL(1993)114 and subsequent amendments. The Committee is also, through the Staff Governance Committee, required to provide assurance that systems and procedures are in place to manage the issues set out in MEL(1993)114 so that the overarching staff governance responsibilities can be discharged.

The Remuneration and Succession Planning Committee is established as a sub-committee of the NSS Board. The Committee is to submit an annual report to the NSS Board and the NSS Staff Governance Committee to give assurance around the detail of the remuneration and succession planning arrangements and monitoring process and that the Committee's aims are being met.

2. Membership and Attendees

2.1 Membership

The Committee shall comprise the Chair of the NSS Board and at least three Non-Executive Members of the NSS Board, of which one must be the Employee Director, and one of whom shall act as Chair.

2.2 Attendees

Attendees are as follows:-

- the Chief Executive
- the Director of Human Resources and Workforce Development

The Committee may require others to attend specific meetings.

3. Frequency of Meetings

The Committee shall meet as required but not less than three times a year.

4. Minutes of Meetings

Minutes of the proceedings of the Committee shall be drawn up by or on behalf of the Board Secretary, NSS, and submitted by its Chair for approval to the next meeting of the Committee. A report on the proceedings of the Committee shall be drawn up by or on behalf of the Board Secretary and submitted for information to the first ordinary meeting of the Staff Governance Committee held after the meeting of the Committee and to the NSS Board.

5. Terms of Reference

- a) Conduct a regular review of the NSS Board's policy for the remuneration and performance management of members of the Executive and Senior Management Cohorts in the light of any guidance issued by the Scottish Government Health and Social Care Directorates and the National Performance Management Committee remaining in force.

A direction order or specific Scottish Government Health and Social Care Directorates instruction will be required for any payments which fall outwith the terms of the guidance.

- b) Agree all the terms and conditions of employment of members of the Executive Cohort, including job description, basic pay, performance pay and bonuses (individual and team) and benefits (including pension, removal arrangements & cars), with reference to Scottish Government Health and Social Care Directorates guidance, Ministerial directions and protocols.
- c) Agree objectives for members of the Executive Cohort in the light of any guidance issued by the Scottish Government Health and Social Care Directorates and the National Performance Management Committee remaining in force and ensure that their performance and potential is rigorously assessed throughout the year against these objectives; objectives may, by agreement with the individual being assessed, be revised in the course of the year to reflect changes in circumstances.
- d) Ensure that effective arrangements are in place for carrying out b) and c) above in respect of members of the Senior Management Cohort.
- e) The Chair of the Committee on behalf of the NSS Remuneration and Succession Planning Committee, will agree appointments, terminations and early retirement settlements in line with the Protocol below.
- f) The Committee must submit the remuneration arrangements for members of the Executive and Senior Management Cohorts to the External Auditor for scrutiny, in accordance with normal audit requirements.
- g) To review and approve annually the Discretionary Points awarded by the NSS Committee on Consultants' Discretionary Points, for reporting to the NSS Board and to provide confirmation of the process followed in the allocation of the points.
- h) The Committee will give full consideration to succession planning, taking into account the challenges and opportunities facing the organisation and the skills and expertise required.

REMUNERATION AND SUCCESSION PLANNING COMMITTEE RESPONSIBILITIES PROTOCOL FOR MANAGING APPOINTMENT, PERFORMANCE AND TERMINATION OF STAFF

Appointments

- ◆ The Chair of the Committee will approve all new or additional jobs created on a range with a salary maximum over £75,000. In addition, they will agree all appointments where the lower half of the range, with a salary maximum over £75,000, will not secure the preferred candidate.
- ◆ A report on decisions will be submitted to the next meeting of the Committee. The Committee will also receive monthly reports on new posts with salaries up to £75,000.
- ◆ Director of Human Resources and Workforce Development to submit a yearly report analysing trends for all salaries equivalent to the minimum salary of the Executive Cohort grades.

Performance Appraisal

- ◆ Chair of the NSS Board to undertake the performance appraisal of Chief Executive.
- ◆ Chair of the NSS Board to review the Chief Executive's performance assessment of other members of the Executive Cohort.
- ◆ Committee to satisfy itself that the performance management process and its application is transparent, rigorous, evidence-based and fully documented in respect of the Chief Executive and other members of the Executive Cohort prior to individuals being informed of the performance appraisal ratings.
- ◆ Chief Executive to agree Directors' performance appraisals of members of the Senior Management Cohort. Committee to satisfy itself that a rigorous performance assessment process had been applied in determining the overall performance ratings for members of the Senior Management Cohort prior to individuals being informed.

Termination/Early Retirement Settlements

- ◆ The Chief Executive is responsible for approving termination/early retirement settlements up to £75,000 cost to NSS. Where the full cost of the settlement exceeds £75,000, the case must be submitted to the Chair of the Committee for approval.
- ◆ A report on all termination/early retirement settlements approved in the period between meetings will be submitted to the next meeting of the Committee. The Committee will also receive monthly reports on settlements in month and year to date.
- ◆ Confidentiality clauses in settlement agreements can only be used within NHSScotland where there are clear and transparent reasons for inclusion and there has been explicit agreement between both the employer and the employee.

C – STAFF GOVERNANCE COMMITTEE – CONSTITUTION AND TERMS OF REFERENCE

1. Constitution

The National Services Scotland (NSS) Staff Governance Committee (SGC) is established in accordance with the guidance given in the Staff Governance Standard 4th Edition published by the Scottish Government in June 2012.

The SGC is established as a sub-committee of the NSS Board to which the SGC is to submit an annual report to give the Board assurance around the detail of staff governance arrangements and monitoring process and to assure the Board that the SGC's aims are being met.

2. Membership

The Staff Governance Committee shall comprise:-

- at least four Non-Executive Directors, of which one must be the Employee Director, and one of whom shall be the Chair of the Committee; and
- at least three Trade Union Representatives.

While the Committee will endeavour to have a balance in representation, at least two Non-Executive Directors plus one Trade Union Representative must be present at meetings of the Committee. The Chief Executive and Director of Human Resources and Workforce Development should be in attendance at meetings of the Staff Governance Committee as required.

3. Frequency of Meetings

The Committee shall meet as required but not less than ~~four~~ three times a year.

4. Minutes of Meetings

Minutes of the proceedings of the Staff Governance Committee shall be drawn up by or on behalf of the Board Secretary, NSS, and submitted for approval to the next meeting of the Committee and thereafter submitted by its Chair to the first ordinary meeting of the Board for noting. In the interim, a report on the proceedings or unapproved minutes will be submitted to the Board for information.

5. Terms of Reference

The Staff Governance Committee shall support and maintain a culture within NSS where the delivery of the highest possible standard of staff management is understood to be the responsibility of every employee and is built upon partnership working and collaboration.

The specific responsibilities of the Committee are to:-

- a) Review the NSS ~~s~~Structures and processes to ensure that they continue to be fit for purpose and that delivery against the Staff Governance Standard is being achieved; including an agreed Great Place to Work Plan for NSS.
- b) Review and update the Staff Governance Action Plan to reflect the key areas for NSS ~~based on feedback collated through staff engagement mechanisms arising from the NHSScotland Staff Survey~~, ensuring that it reflects the key people issues within NSS.

- c) Direct, monitor and evaluate the policies, processes, strategies and implementation plans relating to people management within NSS. This includes reviewing and challenging these to, ensuring ensure that clear outcomes are established, seeking and acting on feedback, and tracking progress to ensure that the highest standards of governance are achieved.
- d) Consider any policy amendment, funding or resource submission to achieve the Staff Governance Standard, providing support as required to drive forward.
- e) Establish detailed and timely staff governance data reporting standards, ensuring that information is provided to support both NSS operating activities and national monitoring.
- f) Provide staff governance information for the Statement of Internal Control.
- g) To review quarterly staff risks contained in the NSS Corporate Risk Register and set out in the Integrated Risk Management Approach, identifying and reporting on specific areas of concern.
- h) To review quarterly the NSS complaints report in the context of staff risk.
- i) Overseeing the continued roll-out of the NSS values programme, ensuring that the values are embedded within NSS structures and processes.

D - CLINICAL GOVERNANCE COMMITTEE - CONSTITUTION AND TERMS OF REFERENCE

1. Constitution

The National Services Scotland (NSS) Clinical Governance Committee (CGC) is established in accordance with the guidance given in MEL (1998) 75, reinforced by MEL (2000) 29.

The CGC is established as a sub-committee of the NSS Board, to which the CGC is to submit an annual report and any other such matter as the CGC sees fit to draw to the Board's attention.

2. Membership and Attendees

2.1 Membership

Membership shall comprise the following:

- The Board Chair
- At least three further Non-Executive Directors of NSS nominated by the NSS Chair and confirmed by the NSS Board.
- The Chair shall be the NSS Chair or a Non-Executive Director of NSS nominated for the role by the NSS Chair, and confirmed by the NSS Board.
- Up to two further members co-opted by the CGC. These additional members shall not be members of the NSS Board, but they may be NSS employees.

2.2 Attendees

Attendees are as follows:

- The Chief Executive, Executive Lead for Clinical Governance, Medical Director and Head of the Clinical Directorate (which may or may not be the Medical Director).
- The clinical leads from within the Clinical Directorate, as well as the Directors and Medical Directors of Strategic Business Units should attend meetings, as required by the CGC.
- The CGC may require other NSS staff to attend meetings in pursuance of their normal duties. These staff would normally, although not exclusively, be involved as leads in clinical governance activities across NSS or individual Strategic Business Units.

3. Frequency of Meetings

The CGC shall meet as required but not less than three times a year.

4. Minutes of Meetings

Minutes of the proceedings of the CGC shall be drawn up by or on behalf of the Board Secretary, NSS, and submitted for approval to the next meeting of the Committee and thereafter submitted by its Chair to the first ordinary meeting of the Board. In the interim, a report on the proceedings or unapproved minutes will be submitted to the Board for information. The CGC is to report activities and progress annually to the NSS Board as described in section 1, paragraph 24 of these terms of reference. The CGC is to determine the style and content of these reports, subject to guidance and direction by the NSS Board.

5. Terms of Reference

The CGC shall discharge the following functions:

- a) Review and challenge NSS performance in delivering health outcomes.
- b) Review and challenge reports on clinical adverse events, risks and complaints, including their identification, causes, management, lessons learnt and service improvement implemented.
- c) Review regular reports on blood and tissue safety to satisfy itself that appropriate action is being taken to provide an adequate and safe supply.
- d) Review compliance with clinical regulatory requirements.
- e) Review major NSS programmes in support of clinical and public health services.
- f) Gather and monitor information on any upcoming or potential developments within the health service and public health, including statistic trend analysis, and assure itself that NSS is appropriately positioned to support these.
- g) Review and challenge reports on progress against the NSS Equality Outcomes and the NSS Participation Standard.
- h) Draft annually a clinical governance report for inclusion in NSS's Annual Report.
- i) Review annual reports on:
 - Infection Prevention and Control Healthcare Acquired Infection
 - Research, Development and Innovation
 - Clinical Professional Appraisal and Revalidation
 - Feedback, Comments, Concerns and Complaints

6. Other Activities

Where relevant, the CGC may consult with other bodies with an interest in clinical governance in NSS.

E – PERFORMANCE AND FINANCE COMMITTEE – CONSTITUTION AND TERMS OF REFERENCE

1. Constitution

The Performance and Finance Committee is established as a sub-committee of the NSS Board to look at appropriate and specific matters on behalf of the Board and to report back the Committee's conclusions and recommendations to the Board.

2. Purpose

The purpose of the Committee is to keep under review the financial position of NSS and to ensure that suitable arrangements are in place to secure economy, efficiency and effectiveness in the use of all resources, and that the arrangements are working effectively.

In performing its functions, the Committee is expected to operate at a strategic governance level.

3. Membership

- The Committee shall comprise four non-executive directors. All other non-executive directors are invited to attend if they so wish.
- One of the Committee members shall act as the Chair.
- The Committee shall be quorate if at least two members are present.
- In addition, the NSS Chief Executive, ~~NSS Chief Operating Officer~~, NSS Director of Finance and Director of Strategy and Governance shall be in attendance.

4. Frequency

- Meetings shall be held at such intervals as the Committee may determine in order to conduct its business.
- It is anticipated that the Committee will generally meet three times per year.

5. Minutes of Meetings

- Minutes of proceedings of the Committee shall be drawn up by or on behalf of the Board Secretary, NSS, and submitted for approval to the next meeting of the Committee and thereafter submitted by its Chair to the first ordinary meeting of the Board for noting. In the interim, a report of the proceedings or unapproved minutes will be submitted to the Board for information.

6. Transact / approve on behalf of the Board

- Approve the draft NSS Local Delivery Plan for submission to the Scottish Government.
- Approve the annual revisions to the NSS Standing Financial Instructions.
- Approve any procurement contracts which the NSS Standing Financial Instructions require to be approved by the Board.
- Update the Committee's terms of reference annually.
- At the request of the Board or the Chair and under delegated authority, to approve any procurements which require the authority of the Board or the Chair of the Board under NSS Standing Financial Instructions.

7. Recommend to the Board

- At the request of the Board or the Chair, at Outline Business Case and / or Full Business Case stage, to review the financial aspects and make recommendations for any Business Cases which need to be submitted to the Scottish Government for approval.
- To review and recommend the annual 3-year or 5-year (as required) Local Delivery Plan (LDP) and Financial Plans, prepared consistent with statutory financial responsibilities, focusing on:
 - Service deliverables
 - the balance between financial stretch and achievability
 - the implications of current-year events on the plan
 - the integration of financial, workforce and performance planning
 - reviewing such information as is prepared on the cost of each major service undertaken
 - capital programme and funding
- An Annual Report of its activities and effectiveness.

8. Review and challenge

- To review quarterly any occurrences where the Standing Financial Instructions have not been followed, including those relating to:
 - Choice, requisitioning and ordering of goods and services and payments thereof; and
 - Tendering arrangements for the appointment of management consultants.
- Regularly review the forward service and financial plans, and both the current and planned management actions, of NSS. These reviews are to be based on actual performance, key issues experienced and any major new risks and opportunities identified.
- NSS delivery against LDP targets.
- NSS Sustainable Development Action Plan.
- The delivery of Best Value and Efficiency programmes, utilising where appropriate measures from the performance management system.
- The content of financial reporting and information presented to the Board.
- The Business risks contained in the NSS corporate risk register and associated management actions as set out in the Integrated Risk Management Approach.

9. Best value

The Committee shall provide assurance to the Board on achievement and maintenance of Best Value standards as set out against the Scottish Government's 'Best Value in Public Services – Guidance For Accountable Officers' framework.

F – INFORMATION GOVERNANCE COMMITTEE – CONSTITUTION AND TERMS OF REFERENCE

1. Constitution

The Information Governance Committee (IGC) is established as a sub-committee of the NSS Board, to which the IGC is to submit an annual report and any other such matter as the IGC sees fit to draw to the Board's attention.

2. Membership and Attendees

2.1 Membership

Membership shall comprise the following:

- The Board Chair
- At least three further Non-Executive Directors of NSS nominated by the NSS Chair, one of whom shall act as Chair, confirmed by the NSS Board.
- Up to two further members co-opted by the IGC. These additional members shall not be members of the NSS Board, but they may be NSS employees.

2.2 Attendees

Attendees are as follows:

- The Chief Executive, the Medical Director (who is also the Caldicott Guardian for NSS) and the Director of Strategy and Governance (who is also the Executive Lead for Information Governance and the Senior Information Risk Owner).
- The IGC may require other NSS staff to attend meetings in pursuance of their normal duties. These staff would normally, although not exclusively, be involved as leads in information governance activities across NSS or individual Strategic/Support Business Units (SBUs).

3. Frequency of Meetings

The Committee shall meet as required but not less than three times a year.

4. Minutes of Meetings

Minutes of the proceedings of the IGC shall be drawn up by or on behalf of the Board Secretary, NSS, and submitted for approval to the next meeting of the Committee and thereafter submitted by its Chair to the first ordinary meeting of the Board. In the interim, a report on the proceedings or unapproved minutes will be submitted to the Board for information. The IGC is to report activities and progress annually to the NSS Board as described in paragraph 1 of these terms of reference. The IGC is to determine the style and content of these reports, subject to guidance and direction by the NSS Board.

5. Terms of Reference

The IGC shall discharge the following functions:

- (a) The IGC is to consider and scrutinise NSS's compliance with relevant legislation, duties under Common Law and performance against national standards with regards to information governance. This duty covers the following components of information governance: Caldicott Guardianship and Confidentiality; Data Protection; Information Security; Freedom of Information and Records Management.
- (b) The IGC is to review at each meeting reports on performance relating to information governance matters across NSS and satisfy itself that appropriate progress is being made to improve the quality of information governance across NSS.
- (c) The IGC is to satisfy itself that each NSS SBU has processes in place to monitor and report information governance incidents, risks and complaints.
- (d) The IGC is to review at each meeting identified information governance risks, issues and complaints, and satisfy itself that appropriate action has been taken, lessons learnt and improvements implemented.
- (e) The IGC is to draft annually an information governance report for inclusion in NSS's Annual Report.

6. Other Activities

Where relevant, the IGC may consult with other bodies with an interest in information governance in NSS.

NSS EXECUTIVE MANAGEMENT TEAM – CONSTITUTION AND TERMS OF REFERENCE

1. ROLE

1.1 The Executive Management Team (EMT) is the senior management group of NSS which is accountable to the NSS Board and has decision making responsibility for operational issues within NSS. Its members are responsible for the execution of Board Strategy and ensuring organisational compliance with policies and procedures, in addition to making recommendations as appropriate to the NSS Board on strategic and similar matters. The EMT's role in NSS financial authorisation processes (recruitment, non-pay contracts, business cases, project management, budgeting etc.) is set out in the NSS Standing Financial Instructions.

2. REMIT

- Taking decisions on operational and other issues which extend beyond the delegated authority of individual members in order to ensure the effective and efficient management of NSS;
- Overseeing strategic issues within NSS and making recommendations on all relevant issues to NSS Board;
- Reviewing and managing monthly organisational performance and risks which represent concern at corporate level;
- Reviewing reports and approving their submission to the Board;
- Commissioning individual pieces of work and leading/mandating implementation of Board decisions; and
- Providing advice and recommendations to the NSS Chief Executive ~~and Chief Operating Officer~~ in matters delegated to them.

3. MEMBERSHIP

3.1 The EMT comprises the NSS Chief Executive and the following Directors;

- NSS Chief Executive (Chair)
- ~~NSS Chief Operating Officer~~
- Executive Medical Director
- Executive Director of Finance and Business Services
- Director for Public Health and Intelligence
- Director for Scottish National Blood Transfusion Service
- Director for Information Technology
- Director for Procurement, Commissioning and Facilities
- Director for Practitioner and Counter Fraud Services
- Director for Central Legal Office
- Director for Strategy and Governance
- Director for Customer Engagement and Development
- Director for HR and Workforce Development
- Director for Nursing and Executive Lead for Clinical Governance

3.2 If a Member cannot attend they will nominate an alternate to attend on their behalf.

- 3.3 The EMT may invite others to attend for all or part of any meeting as and when appropriate and necessary.
- 3.4 The Executive Medical Director of the NSS Board is also the Director of the Clinical Directorate.

4. MEETINGS

- 4.1 Meetings are normally held on a monthly basis with informal meetings held biweekly.
- 4.2 Meetings are chaired by the NSS Chief Executive or, if incapacitated, by the ~~Chief Operating Officer~~ Medical Director. If absent due to other circumstances, the NSS Chief Executive will nominate a chair for that meeting taking the Agenda into consideration.
- 4.3 Arrangements for, and the minutes of the meeting are undertaken by or on behalf of the Board Secretary, NSS.
- 4.4 Reports to be submitted to the EMT should be sent to the Board Secretary, NSS, or nominated deputy at least five working days before the meeting. Any late reports will only be submitted at the discretion of the NSS Chief Executive, or, in their absence, their designated deputy.
- 4.5 The majority of staff issues are transacted at NSS Partnership Forum meetings where the management side comprises the EMT or nominated deputy. NSS Partnership Forum meetings are normally held on a monthly basis.
- 4.6 Portfolio management of organisational change and business transformation, information technology, and corporate initiatives are transacted by the EMT at Portfolio Management Group meetings. These meetings are normally held monthly on a rotating basis and reported on at EMT meetings.

Annex A to NSS Standing Orders



CODE OF CONDUCT for Members of NHS National Services Scotland

**(NHS National Services Scotland (NSS) is the common name for the
Common Services Agency (CSA) for the Scottish Health Service)**

**September 2014
(Final Version 1.0)**

CODE OF CONDUCT

CONTENTS

Section 1: Introduction to the Code of Conduct

Appointments to the Boards of Public Bodies

Guidance on the Code of Conduct

Enforcement

Section 2: Key Principles of the Code of Conduct

Section 3: General Conduct

Conduct at Meetings

Relationship with Board Members and Employees of Public Bodies

Remuneration, Allowances and Expenses

Bribery

Gifts and Hospitality

Confidentiality Requirements

Use of Public Body Facilities

Appointment to Partner Organisations

Section 4: Registration of Interests

Category One: Remuneration

Category Two: Related Undertakings

Category Three: Contracts

Category Four: Houses, Land and Buildings

Category Five: Interests in Shares and Securities

Category Six: Gifts and Hospitality

Category Seven: Non Financial Interests

Section 5: Declaration of Interests

General

Interests which Require Declaration

Your Financial Interests

Your Non-Financial Interests

The Financial Interests of Other Persons

The Non-Financial Interests of Other Persons

Making a Declaration

Frequent Declaration of Interests

Dispensations

Section 6: Lobbying and Access to Members of Public Bodies

Introduction

Rules and Guidance

Annexes

Annex A Sanctions Available to the Standards Commission for Breach of Code

Annex B Definitions

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 for NSS. 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 NHS National Services Scotland “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 NSS and of wider diversity and equality issues. You should also take steps to familiarise yourself with the appointment process that NSS will have agreed with the Scottish Government’s Public Appointment Centre of Expertise.
- 1.6 You should also familiarise yourself with how NSS’s policy operates in relation to succession planning, which should ensure NSS has a strategy to make sure it has 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 Board. 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 of Conduct 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 NSS of which you are a member and in accordance with the core functions and duties of NSS.

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 NSS 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 NSS 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 and employees of NSS 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 NSS.

- 2.2 You should apply the principles of this Code to your dealings with fellow members of NSS, 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 NSS.

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 NSS.

Conduct at Meetings

- 3.2 You must respect the chair, your colleagues and employees of NSS 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 NSS (including those employed by contractors providing services)

- 3.3 You will treat your fellow board members and any staff employed by NSS 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. NSS 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 NSS regarding remuneration, allowances and expenses.

Bribery

- 3.5 Members of NSS should familiarise themselves with the terms of the Bribery Act 2010 which came into force on 1 July 2011 and makes it a criminal offence to take part in active bribery (make a bribe) or passive bribery (receiving a bribe).

(a) Active Bribery: Section 1 of the Act makes it an offence for a person to offer, give or promise to give a financial or other advantage to another individual in exchange for improperly performing a relevant function or activity.

(b) Passive Bribery: Section 2 of the Act makes it an offence for a person to request, accept or agree to accept a financial or other advantage in exchange for improperly performing a relevant function or activity.

- 3.6 You must be committed to the prevention of bribery and all forms of corruption. You should note that NSS operates a zero tolerance approach to bribery committed by any person working at NSS and any person who provides services for or on behalf of NSS and that any allegation of bribery by a Board Members or NSS employee will be investigated in accordance with relevant processes and procedures and may be reported to the authorities, as appropriate.
- 3.7 NSS will not work with other organisations who it considers do not share its commitment to preventing bribery and corruption.
- 3.8 The NSS approach to addressing fraud, which includes bribery, is set out in Section 3 of its Standing Financial Instructions.

Gifts and Hospitality

- 3.9 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.
- 3.10 You must never ask for gifts or hospitality.
- 3.11 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 NSS. 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 NSS.
- 3.12 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 NSS may be involved in determining, or who is seeking to do business with NSS, 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 NSS then, as a general rule, you should ensure that NSS pays for the cost of the visit.
- 3.13 You must not accept repeated hospitality or repeated gifts from the same source.

Confidentiality Requirements

- 3.14 There may be times when you will be required to treat discussions, documents or other information relating to the work of NSS 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.
- 3.15 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 purpose of personal or financial gain, or for political purposes or used in such a way as to bring NSS into disrepute.

- 3.16 All personal health information is held under strict legal and ethical obligations of confidentiality. Information given in confidence should not be used or disclosed in a form that might identify a patient without this or her consent.

It is policy that all NSS employees must be aware of, and respect, a patient's right to confidentiality. All employees must comply with the NHSScotland Code of Practice on Protecting Patient Confidentiality. Failure to comply with the Code of Practice is a disciplinary offence.

Use of Public Body Facilities

- 3.17 Members of NSS 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 NSS 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 NSS.

Appointment to Partner Organisations

- 3.18 You may be appointed, or nominated by NSS, 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.
- 3.19 Members who become directors of companies as nominees of NSS will assume personal responsibilities under the Companies Acts. It is possible that conflicts of interest can arise for such members between the company and NSS. It is your responsibility to take advice on your responsibilities to NSS 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 NSS Register. It is your duty to ensure that any changes in circumstances are reported within one month of them changing.
- 4.2 This Regulations ¹as 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;

¹ SSI – The Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003 Number 135, as amended.
September 2014 (Final Version 1.0)

- the holder of an office;
- 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 NSS 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 NSS.

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 which constitute a holding in a company or organisation which may be significant to, of relevance to, or bear upon, the work and operation of (a) NSS and (b) the **nominal value** of the shares is:.

- (i) greater than 1% of the issued share capital of the company 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 3.11 (a) to (c) of this 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 NSS. 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 NSS. 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 NSS 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 discussions or decision making in your role as a member of NSS.
- 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 NSS 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 NSS and another body. Keep particularly in mind the advice in paragraph 3.18 of this 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 NSS. 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 NSS 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 NSS 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

- 6.1 In order for NSS 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 NSS 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 NSS.
- 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 NSS.
- 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 NSS and its members. This does not prohibit you from being remunerated for activity which may arise because of, or relate to, membership of NSS, 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 NSS.

6.9 The members Code should be read in conjunction with the Standing Financial Instructions of NSS.

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 NSS;
 - ii) all meetings of one or more committees or sub-committees of NSS;
 - 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 NSS 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 NSS be reduced, or not paid.

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

- (a) where the member of NSS 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 NSS 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 Convenor 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.

END