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**Scottish Courts  
and Tribunals Service**



# **Scottish Courts and Tribunals Service**

## **Framework Document**

**Agreement Between the Scottish Ministers**

**&**

**The Scottish Courts and Tribunals Service**

**December 2024**

## Introduction

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

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

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

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

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

## Purpose

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

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

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

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

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

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

#### The Chair of the SCTS

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

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

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

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

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

### The Scottish Ministers

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

24. The Scottish Ministers will:

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

### The Director General, Education and Justice

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

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

27. The Director General Education and Justice will:

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

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

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

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

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

#### Pay and conditions of service

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

#### Pensions, redundancy and compensation

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

35. Any proposal by the SCTS to pay any redundancy or compensation for loss of office, requires the prior approval of the Scottish Ministers. Proposals on compensation payments will comply with the [Settlement Agreements, Severance, Early Retirement and Redundancy Terms](#) section of the SPFM. This includes referral to the Scottish Ministers of any proposed

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

### **External audit**

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

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

### **Internal audit**

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

### **Budget management and delegated authority**

#### General

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

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

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

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

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

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

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

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

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

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

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

64. Before entering into or continuing any finance, property or accommodation-related lease arrangement, the SCTS must be able to demonstrate that the lease offers better value for money than purchase and that all options of sharing existing public sector space have been explored. Non-property/ accommodation related operating leases are subject to a

## **Governance, Risk and Relations**

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

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

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

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

### Risk management

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

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

### Internal Control

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

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

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

### SCTS Internal Policy

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

### SG/Justice System Policy



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

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

#### Correspondence from Members of the Scottish Parliament

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

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

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

#### Information Management and Sharing

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


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

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



*Signed on behalf of the  
Scottish Courts and Tribunals Service*

*Date:*



*Signed on behalf of  
Scottish Ministers*

*Date:*