



# **FRAMEWORK DOCUMENT BETWEEN THE SCOTTISH GOVERNMENT AND THE SCOTTISH COMMISSION ON SOCIAL SECURITY**

**Last Updated: July 2020**

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## **1. Introduction**

This framework document sets out the broad framework within which the Scottish Commission on Social Security (SCoSS) operates and defines key roles and responsibilities which underpin the relationship between SCoSS and the Scottish Government (SG). The framework document does not confer any legal powers or responsibilities. Therefore, SCoSS's statutory responsibilities as defined in the Social Security (Scotland) Act 2018 (the Act) agreed by the Scottish Parliament, take priority.

SCoSS is an independent advisory Non-Departmental Public Body ("NDPB"). As is the case with all other relevant NDPBs, SCoSS has certain responsibilities to the SG in undertaking its work. However, in performing its statutory functions SCoSS is not subject to the direction or control of any member of the Scottish Government.

This document forms a key part of the accountability and governance framework. It should be reviewed and updated as necessary and at least every two to three years.

Any proposals to amend the framework document by either the SG or SCoSS will be taken forward in consultation and in the light of SG priorities and policy aims.

Any question regarding the interpretation of the document shall be determined by the SG after consultation with SCoSS. Legislative provisions shall take precedence over any part of the document.

References to SCoSS include the Chair, Members and any working groups or committees formed by SCoSS.

Copies of the document shall be placed in the Scottish Parliament Reference Centre. It shall also be published on the SG and SCoSS websites.

## **2. Purpose**

SCoSS is an independent advisory Non-Departmental Public Body (“NDPB”). Its primary purpose is to provide scrutiny of the Scottish social security system (including benefit regulations). SCoSS was established on 21 January 2019 as per section 21 of the Act.

The Act sets out a key role for SCoSS in providing independent scrutiny on legislative proposals and advice to Scottish Ministers to support them in achieving a social security service which is human rights based, respects the dignity of individuals and contributes to reducing poverty in Scotland.

SCoSS’s statutory functions, under section 22 of the Act, are to:

- scrutinise legislative proposals on social security in accordance with section 97 of the Act;
- prepare and submit reports to the Scottish Ministers and the Scottish Parliament on any matter relating to social security that Ministers or the Scottish Parliament request the Commission to report on;
- prepare and submit reports, from time to time, to Ministers and the Scottish Parliament providing an assessment of the extent to which Social Security Charter expectations are being met and provide recommendations for improvements if SCoSS assesses that expectations within the [Scottish Social Security Charter](#) are not being met.

### **3. Relationship between Scottish Government and the Scottish Commission on Social Security**

Effective strategic engagement between the SG and SCoSS is essential in order that they work together as effectively as possible to assist the SG in maintaining and improving public services and deliver improved outcomes. Both the SG and SCoSS will take all necessary steps to ensure that their relationship is developed and supported in line with the jointly agreed principles set out in the statement on '[Strategic Engagement between the Scottish Government and Scotland's NDPBs](#)'. Agreements on the details of working arrangements will be set out in Memoranda of Understanding and other documentation, as appropriate.

#### **Advice/scrutiny of legislative proposals**

The SG will work to ensure it gives SCoSS as much time as possible to scrutinise draft regulations and will strive to share drafts and provide information as early as possible to allow SCoSS to seek and obtain clarification from relevant policy officials.

#### **Response to advice/scrutiny from Scottish Ministers**

The SG will respond to reports on proposals for regulations from SCoSS to ensure the delivery of a social security service which is human rights based, and in line with the principles of the Act. If SG proceeds to lay regulations before SCoSS has been able to report, it will issue a statement explaining why it is appropriate to lay the regulations on this basis.

#### **Information Requests by SCoSS**

The SG will provide access to relevant information within reasonable timescales for use by SCoSS in accordance with the 'Memorandum of Understanding on the Handing of Information Shared Between the Two Authorities'. The SG will provide additional explanation or assistance if required to interpret this information.

#### **Resources afforded to SCoSS**

The SG will provide SCoSS with the staff and resources it needs to carry out its functions, as required by paragraph 11 of Schedule 1 of the Act. An operating budget will be set annually as part of the SG's normal budget process.



## **4. Governance and accountability**

### **Legal origins of powers and duties**

SCoSS was established by section 21 of the Act as a body corporate and does not carry out its functions on behalf of the Crown. The body's functions are defined in section 22 of the Act. Schedule 1 of the Act sets out the parameters of the body's legal status, powers, procedures, finance and membership.

### **Ministerial responsibilities**

The Scottish Ministers must not direct SCoSS in any way and are not responsible for day to day operational matters. However, Scottish Ministers are ultimately accountable to the Scottish Parliament for the activities of SCoSS and its use of resources.

Scottish Ministers' responsibilities include:

- agreeing SCoSS's strategic aims and objectives as part of its business plan;
- providing SCoSS with such staff and resources as required to carry out its functions;
- carrying out responsibilities specified in the Act, such as appointments to SCoSS's Board and approving the terms and conditions of the Chair and members of SCoSS, and;
- other matters such as approving the remuneration of the Chair and Board Members of SCoSS in line with [SG Pay Policy](#) and laying accounts (together with the annual report) before the Parliament.

### **The Chair's responsibilities**

The Chair is accountable to the Scottish Ministers and, in common with any individual with responsibility for devolved functions, may also be held to account by the Scottish Parliament. Communications between SCoSS and the Scottish Ministers should normally be through the Chair. The Chair is responsible for ensuring that SCoSS's policies and actions support the Scottish Ministers' wider strategic policies and that its affairs are conducted with probity.

In leading SCoSS, the Chair is expected to ensure:

- the body delivers its principal aims as set out in the Act and that the Board is working effectively;
- members are fully briefed on terms of appointment, duties, rights and responsibilities;
- work with the rest of the Board and the Accountable Officer to oversee effective management of SCoSS's budget;
- there is a code of conduct for Members in place, approved by Scottish Ministers;
- the performances of individual Board members is assessed on a continuous basis and formal appraisals undertaken annually;
- the work of SCoSS is subject to regular self-assessment, that SCoSS is working effectively with clear vision and by working closely with Members to make sure its objectives are delivered successfully;
- in discussion with Members, SCoSS's work plan is set and tasks are allocated to the secretariat and Members;
- SCoSS plays a key role in advising Scottish Ministers on social security legislative proposals and informing draft regulations that the SG lays before Parliament, and;
- succession planning takes place to ensure that SCoSS is diverse and effective, and the Scottish Ministers are advised of SCoSS's needs as and when vacancies arise.

## **SCoSS Member responsibilities**

Members of SCoSS, including the Chair, are non-executive appointments made by the Scottish Ministers in line with the Code of Practice for Ministerial Public Appointments in Scotland. The role of Members is to provide direction, support and guidance to ensure the body delivers and is committed to delivering its functions effectively and efficiently and in accordance with the aims, policies and priorities identified within the Act. Individual Members, under the leadership of the Chair, have the following responsibilities, including, but not limited to:

- taking forward the strategic aims and objectives for SCoSS as agreed with the Scottish Ministers;
- bringing their unique experience, perspective and knowledge to SCoSS discussions;
- representing the agreed views of SCoSS in public forums where appropriate, and;
- complying at all times with the agreed behaviours in the Code of Conduct and within the rules relating to the use of public funds and conflict of interest.

Further guidance on how Members should discharge their duties is provided in appointment letters and in [On Board – A Guide for Members of Statutory Boards](#).

## **Accountable Officer responsibilities**

The Principal Accountable Officer for the Scottish Administration will designate the Deputy Director of Social Security Policy as the Accountable Officer for the SG portfolio budget for SCoSS. The responsibilities of an Accountable Officer are set out in detail in the Memorandum to Accountable Officers for Parts of the Scottish Administration. They are personally answerable to the Scottish Parliament for ensuring that:

- the financial and other management controls applied by the SG are appropriate and sufficient to safeguard public funds and, more generally, that those being applied by SCoSS conform to the requirements both of propriety and of good financial management;
- the key roles and responsibilities which underpin the relationship between the SG and SCoSS are set out in a framework document – and that this document is regularly reviewed as necessary and at least every two to three years;
- effective relationships are in place at Director and Deputy Director level between the SG and SCoSS in accordance with the strategic engagement principles, and;
- there is effective continuous assessment and appraisal of the performance of the Chair of SCoSS, in line with the requirements of the Code of Practice for Ministerial Public Appointments in Scotland.

## **Scottish Government Deputy Director responsibilities**

The Deputy Director for Social Security Policy Division has responsibility for overseeing the relationship between the SG and SCoSS. They will support high performance working and nurture effective working relationships which support the alignment of SCoSS with the [Scottish Social Security Charter](#). They will work closely with SCoSS's Chair to maintain and develop positive relationships with SCoSS, characterised by openness, trust, respect and mutual support. They will be supported by a sponsor unit in discharging these functions.

## **Secretariat support staff responsibilities**

Scottish Ministers will provide staff resources to assist SCoSS to undertake its functions. Specific responsibilities of secretariat support staff include;

- dealing with the everyday administrative matters relating to SCoSS and providing day to day support;
- acting as an initial point of contact and ensuring effective relationships with the SG sponsor unit;
- supporting the development of an efficient and effective work programme for SCoSS, including through ongoing engagement with SG officials;
- ensuring SCoSS adheres, where appropriate, to SG policies;
- liaising with stakeholders and across the SG as appropriate and;
- preparing board papers and reports as required.

## **Sponsor unit responsibilities**

The SG sponsor unit for SCoSS sits within the Social Security Policy Division. It is the normal point of contact for SCoSS in dealing with the SG. The unit, under the direction of the Deputy Director, is the primary source of advice to the Scottish Ministers on the discharge of their responsibilities in respect of SCoSS and undertakes the responsibilities of the Accountable Officer on their behalf.

Specific responsibilities include:

- discharging sponsorship responsibilities in line with the principles and framework set out in the document [Strategic Engagement between the Scottish Government and Scotland's NDPBs](#) and ensuring that sponsorship is suitably flexible, proportionate and responsive to the needs of the Scottish Ministers and SCoSS;
- ensuring that appointments to SCoSS are made timeously and in accordance with the [Code of Practice for Ministerial Appointments to Public Bodies](#) in Scotland;
- proportionate monitoring of SCoSS's activities through an adequate and timely flow of appropriate information, agreed with SCoSS, on performance, budgeting, control and risk management;
- addressing in a timely manner any significant problems arising in SCoSS, alerting the responsible Minister where considered appropriate;
- ensuring that the objectives of SCoSS and the risks to them are properly and appropriately taken into account in the SG's risk assessment and management systems, and;
- informing SCoSS of relevant SG policy in a timely manner.

## **Social Security Policy Division responsibilities**

Social Security Policy Division will hold SCoSS's budget and has responsibility for the recruitment and retention of SCoSS's secretariat.

The Social Security Policy Division will work in conjunction with the SCoSS secretariat to ensure that:

- HR policies, practices and systems comply with employment and equality legislation, and standards expected of public sector employers;
- the level and structure of the secretariat, including grading and staff numbers, are appropriate to its functions and the requirements of economy, efficiency and effectiveness (subject to the SG [Pay Policy for Staff Pay Remits](#));
- the performance of the secretariat at all levels is satisfactorily appraised and SCoSS's performance measurement systems are reviewed from time to time;

- the secretariat are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve SCoSS's objectives;
- proper consultation with secretariat takes place on key issues affecting them;
- adequate grievance and disciplinary procedures are in place, and;
- effective whistle-blowing policy and procedures consistent with the Public Interest Disclosure Act 1998 are in place;

## **Audit requirements**

The Accountable Officer will work with SCoSS to:

- establish and maintain arrangements for internal audit in accordance with the Public Sector Internal Audit Standards (PSIAS) and the Internal Audit section of the SPFM;
- maintain robust records of budget spend in order to facilitate completion of the end of year accounts;
- provide SG with routine access to details of expenditure made by SCoSS in line with the budget allocated, and;
- provide necessary information, as required, to SG or Audit Scotland to facilitate any internal or external audits.

These requirements are in accordance with the Public Sector Internal Audit Standards and the Internal Audit Section of the SPFM.

## **Legal and other advice**

SCoSS should approach the sponsor unit in the first instance where a need for advice is identified. The Scottish Government Legal Department (SGLD) will not provide legal advice directly to SCoSS.

Where the sponsor unit is not able to provide sufficient guidance, or the advice sought conflicts with the needs of Scottish Ministers, SCoSS will be required to seek its own independent advice. SGLD may be able to assist in obtaining that advice through the legal services framework.

## **5. SCoSS responsibilities**

### **Business Plan**

SCoSS should aim to have a business plan in place for each financial year. SCoSS should agree with the SG the issues to be addressed in the plan and the timetables for its preparation and review. The finalised plan shall reflect SCoSS's strategic aims and objectives as agreed with Scottish Ministers. Where possible, the plan should demonstrate how SCoSS contributes to the [SG's National Performance Framework](#) (NPF).

### **Annual Report & Accounts**

SCoSS must publish an annual report of its activities together with its audited accounts after the end of each financial year. The annual report should comply with the Annual Accounts section of the SPFM and the Government Financial Reporting Manual (FReM) and outline SCoSS's main activities and performance against agreed objectives and targets for the previous financial year.

The draft report should be submitted to the SG for comment and shared with Ministers prior to publication. Any factual inaccuracies, in relation to budget and other matters, should be addressed before publication. In order to promote transparency, the final version should be made available on SCoSS's website. SCoSS shall be responsible for the publication of the annual report.

### **Budget Management**

Paragraph 11 of Schedule 1 of the Act sets out a responsibility on the Scottish Ministers to "provide the Commission with such staff and other resources as it requires to carry out its functions". As such, SCoSS secretariat and the sponsor unit will work jointly to ensure that SCoSS has the resources it needs to dispense its functions appropriately.

SCoSS will be responsible for managing its own budget. The sponsor unit may provide advice if necessary.

No automatic uplift for SCoSS's budget will be applied, in line with other public bodies, other than for costs associated with secretariat salaries. Level of budget will set on a yearly basis based on standard budgetary process.

If SCoSS identifies a need for increased resource from a future budget or Spending Review, a case for additional funding should be submitted to the sponsor unit. This will subsequently be considered as a standard part of the budget setting process.

If additional resources are needed in-year, or underspends become apparent, SCoSS should raise these, in the first instance, with the sponsor unit.

### Pay and conditions of service, pensions, redundancy and compensation

As above, secretariat staff remain civil servants employed by the SG. Changes to pay and conditions, etc. will be made in line with wider SG arrangements.

SCoSS's budget should be reviewed to reflect any changes to staff remuneration.

### Budget notification

Each year, in the light of decisions by the Scottish Ministers on the allocation of budgets for the forthcoming financial year, the SG will send to SCoSS a formal statement of its budgetary provision. This will include a note of any related matters and details of the budget monitoring information required by the SG. The terms of that letter, referred to as the Budget Allocation and Monitoring letter, should be viewed as complementing the content of this document.

### **Performance management**

SCoSS shall maintain management information and undertake effective budget management. It should review, in a timely and effective manner, its financial and non-financial performance against the strategic aims, objectives and milestones set out in its business plan. The results of such reviews should be reported on a regular basis to SCoSS Members and copied to the SG. The SG shall assess SCoSS's performance proportionately, on a continuous basis and hold a formal review meeting with the Chair at least twice a year. These will be conducted by the sponsor unit and be attended by the SCoSS secretariat. Additionally the responsible Cabinet Secretary shall meet the Commission Chair as and when required.

## **Conduct of Members**

The Chair and Board Members of SCoSS must make sure they are familiar with, and that their actions comply with, the provisions of the [Code of Conduct](#) which is based on the '[Model Code for Members of Devolved Public Bodies](#)' and has been adopted by SCoSS.

## **SCoSS staff management**

SCoSS is not able to directly employ its own staff. Therefore, as per [paragraph 11](#) of Schedule 1 of the Act, Scottish Ministers will provide SCoSS with such staff and other resources as it requires to carry out its functions.

All staff working for SCoSS are civil servants and bound by the Civil Service Code and other civil service requirements as to their conduct, impartiality and confidentiality, etc. (Section 4 of the Staff Handbook applies.)

Secretariat staff members owe their primary responsibility to the Commission. The SG or the sponsor unit must not instruct them in the performance of their duties except with the agreement of SCoSS.

The Chair, in discussion with Members, shall outline the key tasks and actions required to the Lead Secretary secretariat manager. The Chair and Lead Secretary shall review delivery of key objectives on a regular basis – any concerns with staff performance shall be raised with the Lead Secretary or, if appropriate, with the Accountable Officer.

## **Commission Chair and Member Pay**

The Chair and Members have been appointed to SCoSS through a public appointment round regulated and monitored by the Ethical Standards Commissioner. As such, their pay and conditions are the responsibility of the Public Appointments branch of the Directorate for People within the SG.

Remuneration (daily fees), allowances and expenses paid to the Chair and Members must comply with the [SG Pay Policy for Senior Appointments](#) and any specific guidance on such matters issued by the Scottish Ministers.

## **6. Specific financial provisions**

SCoSS as established by the Act, is an advisory NDPB established by the Scottish Ministers. SCoSS does not enjoy any status, immunity or privilege of the Crown and is therefore unable to enter into contracts in its own name.

This prohibits SCoSS from engaging in the following: financial investments; borrowing; lease holding; lending, etc. This is not intended to be an exhaustive list, and advice should be sought from the sponsor unit on any financial matters not otherwise covered in this framework.

The budget allocated to SCoSS will be held on its behalf by the Lead Secretary to SCoSS.

### **Delegated authorities**

SCoSS's specific delegated financial authorities – as agreed in consultation between SCoSS and the SG – are set out in the attached **Appendix**. SCoSS shall obtain the SG's prior written approval before incurring any expenditure that falls outside these delegations. The Commission shall also comply with any requirements for prior SG approval included in the SPFM and/or this document. Prior SG approval must always be obtained before incurring expenditure for any purpose that is or might be considered novel, contentious or repercussive, or which has or could have significant future cost implications.

### **Income generation**

SCoSS does not hold the ability to generate income.

If gifts are offered to SCoSS or its Members then they consider if there are any associated costs in receiving these or any conflicts of interests arising. SCoSS shall keep a written record of any such gifts, etc. and what happened to them.

### **Tax arrangements**

SCoSS must comply with all relevant rules on taxation, including VAT. All individuals who would qualify as employees for tax purposes should be paid through the SG payroll system with tax deducted at source. It is the responsibility of SCoSS to observe VAT legislation and recover input tax where it is entitled to do so. The implications of VAT in relation to procurement and shared services should be considered at an early stage to ensure that financial efficiency is achieved.

## **Third party grants**

Unless covered by a specific delegated authority SCoSS shall not, without the SG's prior written agreement, provide grant funding to a third party. Such funding would be subject to the guidance in the [State Aid](#) section of the SPFm. Guidance on a framework for the control of third party grants is provided as an [annex](#) to the Grant and Grant in Aid section of the SPFm.

## **Procurement and payment**

Procurement shall be undertaken by Scottish Ministers on behalf of SCoSS. Procurement should be undertaken by appropriately trained and authorised staff and treated as a key component of achieving SCoSS's objectives consistent with the principles of [Value for Money](#), the highest professional standards and any legal requirements. All external consultancy contracts over the value of £10,000 or any proposal to award a contract without competition (non-competitive action) must be endorsed in advance by the Accountable Officer. Contacts over £50,000 must be approved by the Cabinet Secretary for Finance.

SCoSS shall pay all matured and properly authorised invoices relating to transactions with suppliers in accordance with the [Expenditure and Payments](#) section of the SPFm and in doing so shall seek, wherever possible and appropriate, to meet the SG's target for the payment of invoices within 10 working days of their receipt.

## **Special payments and losses**

Unless covered by a specific delegated authority SCoSS shall not, without the SG's prior written approval, make special payments or write-off of losses. Special payments and losses are subject the guidance in the [Losses and Special Payments](#) section of the SPFm.

**SPECIFIC DELEGATED FINANCIAL AUTHORITIES**

The limits outlined below represent the total which may be agreed by the named party in relation to a single expense or over the life of a contract award.

**Lead Secretary**

The Lead Secretary has authority to authorise any routine expenditure of SCoSS, inclusive of remuneration claims, travel expenses, contractor invoices and publication costs, etc, to the limit of £10,000. Beyond this level clearance should be sought from the Accountable Officer.

**Accountable Officer**

The Accountable Officer has authority to authorise contracts and or expenses in excess of £10,000 and up to £50,000. For expenditure beyond £50,000 the Accountable Officer shall obtain approval from the Director for Social Security.