

**The Scottish Legal Aid Board  
Governance and Accountability  
Framework Document  
(Revised June 2018)**

# THE SCOTTISH LEGAL AID BOARD GOVERNANCE AND ACCOUNTABILITY FRAMEWORK DOCUMENT

## Introduction

1. This framework document has been drawn up by the Scottish Government (“the SG”) in consultation with the Scottish Legal Aid Board (“SLAB”). It sets out the broad framework within which SLAB will operate and defines key roles and responsibilities which underpin the relationship between SLAB and the SG. While this document does not confer any legal powers or responsibilities, it forms a key part of the accountability and governance framework and should be reviewed and updated as necessary, and at least every 2-3 years. Any proposals to amend the framework document either by the SG or NDPB 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 SLAB. Legislative provisions shall take precedence over any part of the document.

2. References to SLAB include any subsidiaries and joint ventures owned or controlled by SLAB. SLAB shall not establish subsidiaries or enter into joint ventures without the express approval of the SG.

3. Copies of the document shall be placed in the Scottish Parliament Information Centre (SPICe). It shall also be published on the SG and SLAB websites.

## Purpose

4. SLAB is to contribute to the achievement of the SG’s primary purpose of increasing sustainable economic growth by aligning its aims and objectives with [the Programme for Government](#), [Scotland’s Economic Strategy](#) and [National Performance Framework](#).

5. SLAB’s statutory duties are to:

Under the Legal Aid (Scotland) Act 1986 (“the Act”) SLAB is charged with the general function of ensuring that legal aid and advice and assistance are available in accordance with the Act and regulations made thereunder, and administering the Scottish legal aid fund. The Act gives SLAB the power to:

- do anything which it considers necessary or expedient for securing the provision of legal aid and advice and assistance with the legislation;
- do anything which is calculated to facilitate or is incidental to or conducive to the discharge of its functions;

and as part of that, amongst other things:

- to undertake any inquiry or investigation which it considers necessary or expedient in relation to the discharge of its functions;

- to give Scottish Ministers such advice as it may consider appropriate in relation to the provision of legal aid and advice and assistance in accordance with the Act; and
  - to give Scottish Ministers such advice as it may consider appropriate in relation to the availability and accessibility of legal services in Scotland.
6. SLAB's Purpose and Strategic Aims, as agreed by the Scottish Ministers, contribute to the Scottish Government's National Outcomes and an efficient and effective justice system.
7. SLAB's Strategic Purpose is:
- To manage and improve continuously publicly funded legal assistance and to advise Scottish Ministers on its strategic development for the benefit of society.
8. SLAB's Strategic Objectives are:
- To deliver improvements to legal aid processes that increase efficiency and improve the experience of system users and customers.
  - To advise Scottish Ministers on the strategic development of legal assistance and its contribution to a Scotland in which rights are supported and disputes are resolved fairly and swiftly.
  - To ensure that our organisation has the culture and capability to be responsive to our customers, the justice system and developments in legal and advice services.
  - To build and maintain effective and collaborative relationships with the legal and advice sector and our public sector partners as we seek to achieve our Purpose and contribute to wider SG aims.

### **Relationship between SG and SLAB**

9. Effective strategic engagement between the SG and SLAB is essential in order that they work together as effectively as possible to maintain and improve public services and deliver improved outcomes. Both the SG and SLAB 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 SG and Scotland's NDPBs'](#)

### **Governance and accountability**

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

10. SLAB is established under the Act as a corporate body governed by between 11 and 15 members including a chairman. The Act sets out SLAB's main governance arrangements. SLAB does not carry out its functions on behalf of the Crown.

#### **Ministerial responsibilities**

11. The Scottish Ministers are ultimately accountable to the Scottish Parliament for the activities of SLAB and its use of resources. They are not however responsible for day to day operational matters and founding legislation prevents them from issuing guidance that relates to the consideration or disposal (whether in general or in respect

of individual applications) of applications for legal aid or advice and assistance or supplementary or incidental applications or requests to SLAB in connection with any case where legal aid or advice and assistance has been made available. The Scottish Ministers' responsibilities include:

- agreeing SLAB's strategic aims and objectives and key targets as part of the corporate planning process;
- agreeing the budget and the associated grant in aid requirement to be paid to SLAB, and securing the necessary Parliamentary approval;
- carrying out responsibilities specified in the Legal Aid (Scotland) Act 1986 (the Act) such as appointments to SLAB's Board, determining the terms and conditions of Board members, and approving the appointment of the principal officer ("chief executive"); and
- other matters such as approving SLAB's Chief Executive and staff pay remit in line with SG [Pay Policy](#) and laying the accounts (together with the annual report) before the Parliament

### **NDPB Board Responsibilities**

12. The members of SLAB, including the chairman ("the chair") are referred to in this document as the "Board". The Board consists of non-executives who are appointed by the Scottish Ministers in line with the Code of Practice for Ministerial Public Appointments in Scotland and having consulted with the Law Society of Scotland for solicitor members or Faculty of Advocates for faculty members. The role of the Board is to provide leadership, direction, support and guidance to ensure SLAB delivers and is committed to delivering its functions effectively and efficiently and in line with the general aims, policies and priorities of the Scottish Ministers. It has corporate responsibility, under the leadership of the chair, for the following:

- taking forward strategic aims and objectives for SLAB agreed by the Scottish Ministers;
- determining the steps needed to deal with changes which are likely to impact on the strategic aims and objectives of SLAB or on the attainability of its operational targets;
- promoting the efficient, economic and effective use of staff and other resources by SLAB in a manner consistent with the principles of [Best Value](#), including, where appropriate, participation in [shared services](#) arrangements and ensuring that effective arrangements are in place so that SLAB acts corporately in accordance with the priorities set out in the SG's Statement of Corporate Expectations;
- ensuring that effective arrangements are in place to provide assurance on risk management, governance and internal control. (The Board must set up an audit committee chaired by a non-executive member to provide independent advice and assurance on the effectiveness of the internal control and risk management systems);

- taking into account relevant guidance issued by the Scottish Ministers, subject to the statutory exclusion noted at paragraph 11;
- approving the [annual report and accounts](#) and ensuring Scottish Ministers are provided with the annual report and accounts to be laid before the Scottish Parliament (in the case of annual accounts, once they are audited). The chief executive as the Accountable Officer of the public body is responsible for signing the accounts and ultimately responsible to the Scottish Parliament for their actions
- ensuring that the Board receives and reviews regular financial information concerning the management and performance of SLAB and is informed in a timely manner about any concerns regarding the activities of SLAB;
- appointing with the approval of the Scottish Ministers, SLAB Chief Executive and, in consultation with the SG, setting appropriate performance objectives and remuneration terms linked to these objectives which give due weight to the proper management and use of resources within the stewardship of SLAB and the delivery of outcomes;
- demonstrating high standards of corporate governance at all times, including openness and transparency in its decision making; and
- consider succession planning in liaison with the Sponsorship Team to ensure that the board is diverse and effective, and the Scottish Ministers are advised of SLAB needs when Board vacancies arise

Further guidance on how the Board should discharge its duties is provided in appointment letters and in '[On Board](#)- A guide for Board Members of Public Bodies in Scotland'.

### **The Chair's Responsibilities**

13. The chair is accountable to the Scottish Ministers and, may be held to account by the Scottish Parliament. Communications between SLAB Board and the Scottish Ministers should normally be made through the chair. He or she is responsible for ensuring that SLAB's policies and actions support the Scottish Ministers' wider strategic policies and that its affairs are conducted with probity.

14. In leading the Board the Chair must ensure that:

- the work of the Board is subject to regular self-assessment and that the board is working effectively;
- the Board has a balance of skills appropriate to directing SLAB business, in accordance with recognised good practice in corporate governance and is diverse both in terms of relevant skills, experience and knowledge appropriate to directing SLAB business, and in terms of protected characteristics under the [Equality Act 2010](#);
- the Board members are fully briefed on terms of appointment, duties, rights and responsibilities;

- all Board members receive appropriate induction training, including on financial management and reporting requirements and, as appropriate, on any differences that may exist between private and public sector practice;
- the Scottish Ministers are advised of SLAB needs when Board vacancies arise; and
- there is a code of conduct for Board members in place, approved by the Scottish Ministers and in accordance with the Ethical Standards in Public Life etc. (Scotland) Act 2000.

15. The Chair assesses the performance of individual Board members on a continuous basis and undertakes a formal appraisal at least annually. The Chair, in consultation with the Board as a whole, is also responsible for undertaking an annual appraisal of the performance of the Chief Executive.

### **Individual Board Members' Responsibilities**

16. Individual Board members should act in accordance with the responsibilities of the Board as a whole and comply at all times with the code of conduct adopted by SLAB and with the rules relating to the use of public funds and to conflicts of interest. (In this context "public funds" means not only the Scottish Legal Aid Fund but also any other funds falling within the stewardship of SLAB, including trading and investment income, gifts, bequests and donations.) General guidance on board members' responsibilities is summarised in their appointment letters and is also provided in [On Board: A Guide for Board Members of Public Bodies in Scotland](#).

### **NDPB Chief Executive responsibilities**

17. The chief executive of the Scottish Legal Aid Board is employed and appointed by the board with the approval of the Scottish Ministers. He/she is the Board's principal adviser on the discharge of its functions and is accountable to the Board. His/her role is to provide operational leadership to SLAB and ensure that the Board's aims and objectives are met and SLAB's functions are delivered and targets met through effective and properly controlled executive action. His/her general responsibilities include the performance, management and staffing of SLAB. General guidance on the role and responsibilities of the chief executive is contained in '[On Board](#).' Specific responsibilities to the Board include:

- advising the Board on the discharge of its responsibilities - as set out in this document, in the founding legislation and in any other relevant instructions and guidance issued by or on behalf of the Scottish Ministers - and implementing the decisions of the Board;
- ensuring that financial considerations are taken fully into account by the Board at all stages in reaching and executing its decisions, and that appropriate financial appraisal and evaluation techniques, consistent with the [Appraisal and Evaluation](#) section of the [Scottish Public Finance Manual](#) (SPFM), are followed;
- ensuring that SLAB adheres, where appropriate, to the SG's [Programme and Project Management \(PPM\) Principles](#);

- having robust performance and risk management arrangements - consistent with the [Risk Management](#) section of the SPFM - in place that support the achievement of SLAB's aims and objectives and that facilitate comprehensive reporting to the Board, the SG and the wider public;
- ensuring that adequate systems of internal control are maintained by SLAB, including effective measures against fraud and theft consistent with the [Fraud](#) section of the SPFM;
- establishing appropriate documented internal delegated authority arrangements consistent with the [Delegated Authority](#) section of the SPFM;
- advising the Board on the performance of SLAB compared with its aims and objectives;
- preparing SLAB's corporate and business plans, in the light of the strategic aims and objectives agreed by the Scottish Ministers;
- ensuring effective relationships with SG officials; and
- ensuring that timely forecasts and monitoring information on performance and finance are provided to the SG; that the SG is notified promptly if over or under spends are likely and that corrective action is taken; and that any significant problems whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the SG in a timely fashion.
- ensuring staff pay proposals are in line with SG [Pay Policy](#) and submitted in time and the necessary approvals obtained prior to implementing any annual award.

### **NDPB Accountable Officer responsibilities**

18. The Principal Accountable Officer for the Scottish Administration (the Permanent Secretary of the SG) has designated the chief executive as the Accountable Officer for SLAB. Accountable Officers are personally answerable to the Scottish Parliament for the exercise of their functions. These are set out in the Act and the [Memorandum to Accountable Officers for Other Public Bodies](#). These include:

- ensuring the propriety and regularity of SLAB's finances and that there are sound and effective arrangements for internal control and risk management;
- ensuring that the resources of SLAB are used economically, efficiently and effectively and that appropriate arrangements are in place to secure Best Value;
- ensuring compliance with relevant guidance issued by the Scottish Ministers, in particular the SPFM and SG [Pay Policy](#)
- signing the annual accounts and associated governance statements; and
- a statutory duty to obtain written authority from the Board / chair before taking any action which he/she considered would be inconsistent with the proper performance of the Accountable Officer functions.

19. It is incumbent on the chief executive to combine his / her Accountable Officer responsibilities to the Scottish Parliament with his/her wider responsibilities to the Board. The Board / chair should be fully aware of, and have regard to, the Accountable Officer responsibilities placed upon the chief executive, including the statutory duty described above.

### **Portfolio Accountable Officer responsibilities**

20. The Principal Accountable Officer for the Scottish Administration will designate the Director-General for Education, Communities and Justice as the Accountable Officer for the SG portfolio budget for SLAB. The responsibilities of a Portfolio Accountable Officer are set out in detail in the [Memorandum to Accountable Officers for Parts of the Scottish Administration](#). He / she is 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 SLAB 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 SLAB are set out in a framework document - and that this document is regularly reviewed;
- effective relationships are in place at Director and Deputy-Director level between the SG and SLAB in accordance with the [strategic engagement principles](#); and
- there is effective continuous assessment and appraisal of the performance of the chair of SLAB, in line with the requirements of the [Code of Practice for Ministerial Public Appointments in Scotland](#).

### **SG Director and Deputy Director**

21. The Director for Justice and Deputy Director for Civil Law and Legal System Division have responsibility for overseeing and ensuring effective relationships between the SG and SLAB which support alignment of SLAB's business to the SG's Purpose and National Outcomes and high performance by SLAB. They will work closely with the SLAB chief executive and be answerable to the Portfolio Accountable Officer for maintaining and developing positive relationships with SLAB characterised by openness, trust, respect and mutual support. They will be supported by a sponsor unit in discharging these functions. The Director for Justice shall be responsible for assessing the performance of the SLAB chair, at least annually.

### **Sponsor unit responsibilities**

22. The SG sponsor unit for SLAB is the Access to Justice Team. It is the normal point of contact for SLAB in dealing with the SG. The unit, under the direction of the Director/Deputy Director, is the primary source of advice to the Scottish Ministers on the discharge of their responsibilities in respect of SLAB and undertakes the responsibilities of the Portfolio Accountable Officer on his/her behalf. Specific responsibilities include:



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

### **Internal audit**

23. SLAB shall:

- establish and maintain arrangements for internal audit in accordance with the [Public Sector Internal Audit Standards](#) and the [Internal Audit](#) section of the SPFM;
- set up an audit committee of its Board, in accordance with the [Audit Committees](#) section of the SPFM, to advise both the Board and the chief executive in his/her capacity as SLAB Accountable Officer;
- forward timeously to the SG the audit charter, strategy, periodic audit plans and annual audit assurance report, including the SLAB Head of Internal Audit’s opinion on risk management, control and governance and other relevant reports as requested; and
- keep records of, and prepare and forward timeously to the SG an annual report on fraud and theft suffered by SLAB and notify the SG at the earliest opportunity of any unusual or major incidents.

24. The SG’s Internal Audit Division has a right of access to all documents held by the SLAB internal auditor, including where the service is contracted out. The SG has a right of access to all NDPB records and personnel for any purpose.

### **External audit**

25. The Auditor General for Scotland (AGS) audits, or appoints auditors to audit, SLABs’ annual accounts and passes them to the Scottish Ministers who shall lay them before the Scottish Parliament, together with the auditor’s report and any report

prepared by the AGS. For the purpose of audit the auditors have a statutory right of access to documents and information held by relevant persons. SLAB shall instruct its auditors to send copies of all management reports (and correspondence relating to those reports) and responses to the SG.

26. The AGS, or examiners appointed by the AGS, may carry out examinations into the economy, efficiency and effectiveness with which SLAB has used its resources in discharging its functions. The AGS may also carry out examinations into the arrangements made by SLAB to secure Best Value. For the purpose of these examinations the examiners have a statutory right of access to documents and information held by relevant persons. In addition, SLAB shall provide, in contracts and any conditions to grants, for the AGS to exercise such access to documents held by contractors and sub-contractors and grant recipients as may be required for these examinations; and shall use its best endeavours to secure access for the AGS to any other documents required by the AGS which are held by other bodies.

### **Annual report and accounts**

27. SLAB must publish an annual report of its activities together with its audited accounts after the end of each financial year. The annual report must cover the activities of any corporate, subsidiary or joint ventures under the control of SLAB. It should comply with the Government [Financial Reporting Manual](#) (FReM) which is in force for the year for which the statement of accounts are prepared and detail SLAB's main activities and performance against agreed objectives and targets for the previous financial year.

28. The accounts must be prepared in accordance with the Act, the Public Finance and Accountability (Scotland) Act 2000 and the specific accounts direction (including compliance with the FReM) and other relevant guidance issued by the Scottish Ministers. Any financial objectives or targets set by the Scottish Ministers should be reported on in the accounts and will therefore be within the scope of the audit. Any subsidiary or joint venture owned or controlled by SLAB shall be consolidated in its accounts in accordance with International Financial Reporting Standards as adapted and interpreted for the public sector context.

29. The draft annual report should be submitted to the SG for comment, and the draft accounts for information, at latest by 30 June (or date as otherwise agreed). The final version should be available for laying before the Scottish Parliament by the Scottish Ministers by 30 November. The annual report must not be published before it has been laid. Whilst the statutory date for laying and publishing accounts audited by the AGS is by 31 December, following the close of the previous financial year, there is an expectation on the part of the Scottish Ministers that accounts will be laid and published as early as possible. The accounts must not be laid before they have been formally sent by the AGS to the Scottish Ministers and must not be published before they have been laid. SLAB shall be responsible for the publication of the report and accounts e.g. on SLAB's website.

### **Management responsibilities**

#### **Corporate and Operational plans**

30. SLAB must ensure that a [corporate plan](#), agreed with the Scottish Ministers, is in place and published on SLAB's website. SLAB shall agree with the SG the issues to be addressed in the plan and the timetable for its preparation and review. The

finalised plan shall reflect SLAB's strategic aims and objectives as agreed by the Scottish Ministers, indicative budgets and any priorities set by the Scottish Ministers. It shall demonstrate how SLAB contributes to the achievement of the SG's primary purpose of increasing sustainable economic growth and alignment with the SG's [National Performance Framework](#) (NPF). The corporate plan for SLAB should include:

- the purpose and principal aims of SLAB;
- an analysis of the environment in which SLAB operates;
- key objectives and associated key performance targets for the period of the plan, the strategy for achieving those objectives and how these will contribute towards the achievement of the SG's primary purpose and alignment with the NPF;
- indicators against which performance can be judged;
- details of planned efficiencies, describing how SLAB proposes to achieve better value for money, including through collaboration and shared services; and
- other matters as agreed between the SG and SLAB.

31. [The corporate plan](#) should inform the development of a separate operational plan for each financial year. The operational/business plan for SLAB should include key targets and milestones for the year immediately ahead, aligned to the NPF, and be linked to budgeting information so that, where possible, resources allocated to achieve specific objectives can be identified. A copy of SLAB's operational/business plan should be provided to the sponsor unit prior to the start of the relevant financial year.

### **Budget management**

32. 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 SLAB by 31 March a formal statement of its budgetary provision, including a note of any related matters and details of the budget monitoring information required by the SG. Whilst a specific budget is allocated to the Legal Aid Fund, the actual funding for legal aid is demand led and not cash limited. Transfers of budgetary provision between the different summary classifications as advised would require the prior approval of the SG Finance Directorate. Any proposals for such transfers should therefore be submitted to the sponsor unit. Transfers of provision within the summary classifications may be undertaken without reference to the SG, subject to any constraints on specific areas of expenditure e.g. the approved pay remit.

33. If the trading and other resource income - or the net book value of disposals of non-current assets - realised is less than included in the most up to date agreed budget SLAB shall, unless otherwise agreed with the SG, ensure a corresponding reduction in its gross expenditure. (The extent to which SLAB exceeds agreed budgets shall normally be met by a corresponding reduction in the budgets for the following financial year.) If income realised is more than included in the most up to date agreed budgets SLAB must obtain the prior approval of the SG before using any excess to fund additional expenditure. (Failure to obtain prior approval for the use of excess income - excluding income resulting from gifts, bequests and donations - to fund additional expenditure may result in corresponding reductions in budgets for the following financial year.)

### **Cash management**

34. Any [grant in aid](#) (i.e. the cash provided to SLAB by the SG to support the allocated budget and the Legal Aid Fund) for the year in question must be authorised by the Scottish Parliament in the annual Budget Act. Grant in aid will normally be paid in monthly instalments on the basis of updated profiles and information on unrestricted cash reserves. Payment will not be made in advance of need, as determined by the level of unrestricted cash reserves and planned expenditure. Unrestricted cash reserves held during the course of the year should be kept to the minimum level consistent with the efficient operation of SLAB - and the level of funds required to meet any relevant liabilities at the year-end. Grant in aid not drawn down by the end of the financial year shall lapse. Grant in aid shall not be paid into any restricted reserve held by SLAB.

35. The banking arrangements adopted by SLAB must comply with the [Banking](#) section of the SPFM.

### **Risk management**

36. SLAB shall ensure that the risks that it faces are dealt with in an appropriate manner, in accordance with relevant aspects of generally recognised best practice in corporate governance, and develop a risk management strategy, consistent with the [Risk Management](#) section of the SPFM. Reporting arrangements should ensure that the sponsor unit is made aware of relevant risks and how they are being managed. The SLAB audit committee is also required, at the earliest opportunity, to notify the relevant SG Audit and Risk Committee if it considers that it has identified a significant problem which may have wider implications.

### **Fraud management**

37. SLAB should adopt and implement policies and practices to safeguard itself against fraud and theft, in accordance with the [Fraud](#) section of the SPFM. Application of these processes must be monitored actively, supported by a fraud response plan and robust reporting arrangements. This includes the establishment of avenues to report any suspicions of fraud.

### **Performance management**

38. SLAB shall operate management information and accounting systems that enable it to review, in a timely and effective manner, its financial and non-financial performance against the strategic aims, objectives, targets and milestones set out in the corporate and business plans. The results of such reviews should be reported on a regular basis to the Board and copied to the SG. The SG shall assess SLAB's performance on a continuous basis and undertake a formal internal review at least twice a year. The responsible Cabinet Secretary / Scottish Minister shall meet SLAB chair at least once a year.

### **NDPB staff management**

#### *Broad responsibilities for NDPB staff*

39. SLAB will have responsibility for the recruitment, retention and motivation of its staff. The broad responsibilities toward its staff are to ensure that:

- personnel policies, practices and systems comply with employment and equalities legislation, and standards expected of public sector employers;
- the level and structure of its staffing, including grading and staff numbers, are appropriate to its functions and the requirements of economy, efficiency and effectiveness (subject to the [SG Pay Policy for Staff Pay Remits](#));
- the performance of its staff at all levels is satisfactorily appraised and SLAB's performance measurement systems are reviewed from time to time;
- its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve SLAB's objectives;
- proper consultation with staff takes place on key issues affecting them;
- adequate grievance and disciplinary procedures are in place;
- whistle-blowing procedures consistent with the [Public Interest Disclosure Act 1998](#) are in place; and
- a code of conduct for staff is in place based on the Model Code for Staff of Executive NDPBs – see chapter 5 of [Public Bodies: A Guide for Departments](#).

#### *Pay and conditions of service*

40. SLAB shall submit to the SG for approval (normally annually unless a multi-year deal has been agreed) a pay remit in line with the SG Pay Policy for Staff Pay Remits and negotiate a pay settlement within the terms of the approved remit. Proposals on non-salary rewards must comply with the guidance in the [Non-Salary Rewards](#) section of the SPFM. SLAB shall comply with employment and equalities legislation. The terms and conditions of the chief executive are subject to a separate approval exercise in line with the SG Pay Policy for Senior Appointments.

#### *Pensions, redundancy and compensation*

41. Superannuation arrangements for SLAB staff are subject to the approval of the SG. NDPB staff shall normally be eligible for a pension provided by its own scheme. Staff may opt out of the occupational pension scheme provided by SLAB.

42. Any proposal by SLAB to move from existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the prior approval of the SG. Proposals on compensation payments must comply with the [Severance, Early Retirement and Redundancy Terms](#) section of the SPFM. This includes referral to the SG of any proposed compensation payment being considered for an individual outwith any existing approved scheme and *before* the individual is approached and any offer made either orally or in writing.

#### **Asset and property management**

43. SLAB shall maintain an accurate and up-to-date record of its current and non-current assets 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 that SLAB holds for operational purposes (rather than investment) at the earliest opportunity so it may be advertised internally. An [Internal Advertisement](#) form must be completed and submitted at least one month prior to property being advertised on the open market. Any proposal to acquire land, buildings or other rights in property for accommodation / operational purposes should comply with the SPFM.

SLAB is also subject to the [SG Asset Management Policy](#), including the requirement for acquisition of a new lease, continuation of an existing lease, decision not to exercise a break option in a lease or purchase of property for accommodation / operational purposes, to be approved in advance by Scottish Ministers. The Property Controls Team should be consulted as early as possible in this process. All assets (property, plant and equipment) are to be properly recorded and updated as necessary by SLAB on the Cabinet Office [electronic Property Information Mapping System](#) (e-PIMS).

## **Specific financial provisions**

### **Delegated authorities**

44. SLAB's specific delegated financial authorities - as agreed in consultation between SLAB and the SG - are set out in the attached **Appendix**. SLAB shall obtain the SG's prior written approval before entering into any undertaking to incur any expenditure that falls outside these delegations. SLAB 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**

45. SLAB shall seek to optimise income - grant in aid does not qualify as income - from all sources, including from the [European Union](#), and ensure that the SG is kept informed. Novel or contentious proposals for new sources of income or methods of fundraising must be approved by the SG. Fees or charges for any services supplied by SLAB shall be determined in accordance with the [Fees & Charges](#) section of the SPFM.

46. Gifts, bequests or donations received by SLAB score as income and should be provided for in the agreed resource DEL and capital DEL budgets, updated as necessary in consultation with the SG. However, SLAB should be able to demonstrate that expenditure funded by gifts etc is additional to expenditure normally supported by grant in aid (i.e. SG core funding) or by trading and other income. Before accepting such gifts etc SLAB shall consider if there are any associated costs in doing so or any conflicts of interests arising. SLAB shall keep a written record of any such gifts etc and what happened to them.

### **Financial investments**

47. Unless covered by a specific delegated authority SLAB shall not make any financial investments without the prior approval of the SG. That would include equity shares in ventures which further the objectives of SLAB. SLAB shall not invest in any venture of a speculative nature.

## **Borrowing**

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

## **Lease arrangements**

49. Unless covered by a specific delegated authority SLAB shall not enter into any finance, property or accommodation related lease arrangement – including the extension of an existing lease or the non-exercise of a tenant's lease break - without the SG's prior approval. Before entering/ continuing such arrangements SLAB 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 specific delegated authority. SLAB must have capital DEL provision for finance leases and other transactions which are in substance borrowing.

## **Tax arrangements**

50. Non-standard tax management arrangements should always be regarded as novel and/or contentious and must therefore be approved in advance by the SG. Relevant guidance is provided in the [Tax Planning and Tax Avoidance](#) section of the SPFM. SLAB 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 payroll system with tax deducted at source. It is the responsibility of SLAB to observe VAT legislation and recover input tax where it is entitled to do so. SLAB must also ensure that it accounts properly for any output tax on sales or disposals. 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.

## **Lending and guarantees**

51. Any lending by SLAB must adhere to 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 SLAB shall not, without the SG's prior approval, 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 or in International Financial Reporting Standards), whether or not in a legally binding form. Guarantees, indemnities and letters of comfort of a standard type given in the normal course of business are excluded from this requirement.

## **Third party grants**

52. Unless covered by a specific delegated authority SLAB shall not, without the SG's prior 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 & Grant in Aid section of the SPFM. This section does not apply to making grants out of the Legal Aid Fund, which is a statutory duty of SLAB.

## **Impairments, provisions and write-offs**

53. Assets should be recorded on the balance sheet at the appropriate valuation basis in accordance with the FReM. Where an asset - and that includes investments - suffers impairment it is important that the prospective impairment and background is communicated to the SG at the earliest possible point in the financial year to determine the implications for SLAB's budget. Similarly any significant movement in existing provisions or the creation of new provisions should be discussed in advance with the SG. Write-off of bad debt and/or losses scores against SLAB's resource DEL budget classification and is subject to a specific delegated limit.

## **Insurance**

54. SLAB is subject to the SG policy of self-insurance. Commercial insurance must however be taken out where there is a legal requirement to do so and may also be taken out in the circumstances described in the [Insurance](#) section of the SPFM - where required with the prior approval of the SG. In the event of uninsured losses being incurred the SG shall consider, on a case by case basis, whether or not it should make any additional resources available to SLAB. The SG will provide SLAB with a Certificate of Exemption for Employer's Liability Insurance.

## **Procurement and payment**

55. SLAB's procurement policies shall reflect relevant guidance in the [Procurement](#) section of the SPFM and relevant guidance issued by the SG's Procurement and Commercial Directorate. Procurement should be undertaken by appropriately trained and authorised staff and treated as a key component of achieving SLAB'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 £100,000 or any proposal to award a contract without competition (non-competitive action) over the value of £100,000 must be endorsed in advance by the Chief Executive.

56. Any major investment programmes or projects undertaken by SLAB shall be subject to the guidance in the [Major Investment Projects](#) section of the SPFM and is also subject to a specific delegated authority. The sponsor unit must be kept informed of progress on such programmes and projects and Ministers must be alerted to any developments that could undermine their viability. ICT investment plans must be reported to the SG's [Office of the Chief Information Officer](#).

57. SLAB 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. SLAB's targets for paying legal aid accounts are agreed annually with Scottish Ministers.

## **Gifts made, special payments and losses**

58. Unless covered by a specific delegated authority SLAB shall not, without the SG's prior approval, make gifts or 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. Gifts by management to staff are subject to the guidance in the [Non-Salary Rewards](#) section of the SPFM. This section does not apply to making grants out of the Legal Aid Fund, which is a statutory duty of SLAB.

### **Clawback**

59. Where SLAB has financed expenditure on assets by a third party, SLAB shall make appropriate arrangements to ensure that any such assets above an agreed value are not disposed of by the third party without SLAB's prior consent. SLAB shall put in place arrangements sufficient to secure the repayment of its due share of the proceeds - or an appropriate proportion of them if SLAB contributed less than the whole cost of acquisition or improvement. SLAB shall also ensure that if assets financed by SLAB cease to be used by the third party for the intended purpose an appropriate proportion of the value of the asset shall be repaid to SLAB.

### **State aid**

60. State aid is a European Commission term which refers to forms of public assistance, given to undertakings on a discretionary basis, which has the potential to distort competition and affect trade between Member States of the European Union. Any activity that SLAB undertakes itself, or funds other bodies to undertake, that can be offered on a commercial market for goods and services is subject to state aid rules. A state aid assessment is therefore required prior to disbursing any funding and would be subject to the guidance in the state aid section of the SPFM.

### **Board expenses**

61. Remuneration, allowances and expenses paid to Board members and any pension arrangements must comply with the SG Pay Policy for Senior Appointments and any specific guidance on such matters issued by the Scottish Ministers.

**THE SCOTTISH LEGAL AID BOARD GOVERNANCE AND ACCOUNTABILITY  
FRAMEWORK DOCUMENT: APPENDIX**

**SPECIFIC DELEGATED FINANCIAL AUTHORITIES**

SLAB shall obtain the SG's prior written approval before entering into any undertaking to incur any expenditure that falls outside these delegations. SLAB 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.

	<b>Delegated Limit</b>
External business and management consultancies	£100,000
Non-competitive action	£25,000
Operating leases – other than property/ accommodation related leases	£10,000 (note 2)
Gifts	£1,000
Special payments (e.g. Ex gratia payments)	£4,000
Claims waived or abandoned	£10,000
Write-off of bad debt and/or losses	£10,000
Others as appropriate e.g.	
Guarantees etc outwith normal course of business	-
Charges on assets	-
Loans	£6,000 (note 1)
Grants (apart from grant-funding programme)	-
Grant-funding programme	Note 3
Financial investments and equity shares	Note 4
Major investment programmes/ projects	Nil

Note 1: Lending is restricted to employee related loans for travel season tickets.

Note 2: This figure refers to the total sum of the repayments under a single lease.

Note 3: As determined by Scottish Ministers, in accordance with section 4 of the Legal Aid (Scotland) Act 1986.

Note 4: SLAB are not authorised to make investments. However, third party funds may be held in an interest bearing account until the financial details of individual legal aid grants are fully concluded. Interest gained in this manner is disbursed to persons assisted by the Board or returned to the Scottish Government in accordance with determinations by the Scottish Ministers.