

BCS: Memorandum of Understanding

Action required

1. The Commission is invited to consider the latest draft of the Memorandum of Understanding (MoU) between the BCS and the Scotland Office. This will become the principal governance document setting out roles and responsibilities of the Commission and its sponsor department.

Background

2. The Commission previously considered the draft MoU at its meetings in October 2016 (Paper BCS 43/2016) and February 2017 (Paper BCS 56/2017). Comments made in February were submitted to Scotland Office and a revised version of the MoU is now attached at Annex A.
3. A decision is still awaited as to the date of transfer of responsibility for Scottish Parliament boundaries from BCS to LGBCS. This is expected in May 2017 and the MoU wording anticipates that transfer.

Conclusion

4. The Commission is invited to further consider the draft MoU and agree it as the final version.

**Secretariat
February 2017**

Memorandum of Understanding
between the Scotland Office
and the Boundary Commission
for Scotland

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1. INDEPENDENCE OF THE BOUNDARY COMMISSION FOR SCOTLAND

1.1 The Boundary Commission for Scotland (BCS) is an advisory Non-Departmental Public Body (NDPB). These are usually set up to perform functions that are technical or require political neutrality, and are therefore not suitable for departments under direct ministerial control. The BCS is sponsored by the Scotland Office (SO)

1.2 The BCS is independent of government in terms of:

- the recommendations it makes on any necessary changes to the Parliamentary constituencies of the House of Commons in Scotland;
- the actions it carries out and judgement exercised in coming to those recommendations.

1.3 The BCS is an advisory, rather than an executive NDPB. The main characteristics of advisory NDPBs, as set out in Cabinet Office guidance are:

- Sponsor department usually sets strategic framework,
- Advice is impartial and apolitical
- Ministers of the sponsoring department are accountable to Parliament.
- Independent of but established by department without separate legal personality.
- Committee of independent specialists (supported by civil servants as a secretariat).
- Sources of income are included in the departmental estimate.
- Do not produce their own accounts – any income or expenditure forms part of the department's accounts.¹

1.4 BCS and SO agree to work within the norms of good financial and corporate governance required by all SO business units and staff, complying as far as possible with Treasury and Cabinet Office guidance on the roles and responsibilities of sponsor departments and NDPBs.² Nothing in this Memorandum should compromise the independence of the BCS.

1.5 This Memorandum will facilitate continued trust in the BCS's ability to perform the duties given to it by Parliament as an independent body, while following SO best practice in financial and corporate governance. In seeking a balance between these two elements, BCS and SO take particular note of the Treasury guidance statement that nothing should discourage the application of sheer common sense.³

¹ *Classification Of Public Bodies: Guidance For Departments* Cabinet Office 27 April 2016
<<https://www.gov.uk/government/publications/classification-of-public-bodies-information-and-guidance>>

² *Managing Public Money* (TSO, London, 2007), Chapter 7 'Working with others.'

³ *Managing Public Money*, Foreword.

2. PURPOSE OF THE MEMORANDUM

2.1 To fulfill the general requirement to understand the BCS's strategy, performance and delivery, this document sets out:

- i. the function and structure of the BCS;
- ii. accountability mechanisms, role and responsibilities of BCS and SO, particularly:
 - arrangements for funding the BCS
 - how the relationship between BCS and SO is to be conducted.

2.2 BCS and SO will be careful to understand and observe their respective responsibilities. In particular, BCS and SO will maintain at all the times the independence of the BCS regarding both the recommendations it makes, the judgement exercised in coming to those recommendations, and the decisions it takes in relation to the conduct of a review.

2.3 The secretariat is a shared resource between the BCS and the Local Government Boundary Commission for Scotland (LGBCS). It is the intention of the BCS, the LGBC and their respective sponsors to ensure that the secretariat functions effectively as a shared resource, allowing appropriate levels of flexibility to help both Commissions fulfill their statutory remits. Further information about the respective responsibilities of these bodies is set out at Annex A.

2.4 This memorandum will be effective from [xx]. It will be reviewed every three years. Amendments may be made at any time by agreement between the signatories.

3. STRUCTURE AND FUNCTION OF THE BOUNDARY COMMISSION FOR SCOTLAND

3.1 Structure

3.1.1 The general structure of the BCS is laid out in Schedule 1 to the Parliamentary Constituencies Act 1986 (as amended). The BCS consists of a Chair, Deputy Chair and two members. It is served by a Secretary and secretariat. The 1986 Act specifies that the ex-officio Chair of the Commission is the Speaker of the House of Commons. The Deputy Chairman is a judicial appointment, appointed by the Lord President of the Court of Session, and is unpaid. Two further Commissioners are appointed by the Secretary of State for Scotland. The appointment of the Commissioners will comply with the Code of Practice of the Office of the Commissioner on Public Appointments.

3.1.2 There are assessors (technical advisors) to the BCS. They are the Chief Executive of Ordnance Survey and the Registrar General of Births, Deaths and Marriages for Scotland. They are available to provide technical advice whenever the Commission has a need to consult them on their areas of expertise. They are invited to all Commission meetings but can choose to be represented by deputies. Sheriffs Principal also provide advice and assistance, without remuneration, when required, in particular acting as chairs for public hearings during reviews.

- 3.1.3 There is more information about the staff recruitment and management, remuneration and expenses arrangements of the BCS at Annex C. SO is the sponsoring department for the BCS.

3.2 Function

- 3.2.1 The BCS exists to fulfill statutory duties given to it by Parliament. These duties are:

- to keep under continuous review the boundaries of the Parliamentary constituencies of the House of Commons in Scotland;
- to make recommendations on any necessary revisions to those boundaries.

- 3.2.2 The relevant legislation detailing these duties is the Parliamentary Constituencies Act 1986 (as amended, particularly by the Parliamentary Voting System and Constituencies Act 2011 (PVSC) and the Scotland Act 1998, as amended.⁴

- 3.2.3 The report of the next Review is due to be submitted before 1 October 2018 in accordance with the PVSC Act 2011, as amended by the Electoral Registration and Administration Act 2013. After October 2018, reports are to be submitted every five years.

4. ACCOUNTABILITY

4.1 Parliamentary accountability

- 4.1.1 Scotland Office Ministers will account for the BCS's business in Parliament. Where communication with Parliament is necessary, BCS and SO will be careful to observe their respective responsibilities.
- 4.1.2 The BCS must submit an annual progress report to the Speaker of the House of Commons, in accordance with section 10(4) of the PVSC Act 2011.

4.2 Financial accountability

- 4.2.1 The Director of the SO, as SO Accounting Officer (SOAO), is accountable overall for the financial management of BCS, and through SO Ministers, is accountable to Parliament for the money spent by SO. SOAO is the principal ministerial adviser on matters affecting SO as a whole, including resource allocation to and expenditure by the BCS. This includes, among others, being satisfied that the BCS has:

- adequate resources to carry out its statutory remit;
- financial resources available to ensure the efficient and effective conduct of its business, in accordance with the arrangements set out in Annex D;
- systems in place to safeguard financial propriety and regularity.

⁴ Parliamentary Constituencies Act 1986: www.legislation.gov.uk/ukpga/1986/56/contents;
Parliamentary Voting System and Constituencies Act 2011:
www.legislation.gov.uk/ukpga/2011/1/contents
<http://www.legislation.gov.uk/ukpga/1998/46/contents>.

4.2.2 Unless agreed by SO and, as necessary, HM Treasury, the BCS shall follow the principles, rules, guidance and advice in *Managing Public Money*, referring any difficulties or potential bids for exceptions to SO's Corporate Services Division.⁵ Once the funding has been agreed, BCS shall have authority to incur expenditure approved in the funding without further reference to SO. This authority is subject to any restrictions imposed by this document or by statute.

4.2.3 However, the BCS shall obtain SO's prior written approval before:

- entering into any undertaking to incur any expenditure that is not provided for in BCS's annual funding as approved by SO.
- incurring expenditure for any purpose that is or might be considered novel or contentious, or which has or could have significant future cost implications;
- making any significant change to the scale of operation or funding of any initiative or particular scheme previously approved by SO;
- making any change of policy or practice which has wider financial implications or which might significantly affect the future level of resources required;
- carrying out policies that go against the principles, rules, guidance and advice in *Managing Public Money*;
- incurring any expenditure for which the authorisation of the SO Approvals Board is needed: BCS will ensure that SO provides it with adequate advice from time to time about what types of expenditure fall into this category.

4.2.4 Further details of the financial framework for the BCS are set out at Annex D.

5. ROLES AND RESPONSIBILITIES

5.1 BCS corporately

Review and forward Planning

5.1.1 As well as the necessary day-to-day interactions between BCS and SO, the parties will arrange a quarterly meeting, or equivalent appropriate discussions, to discuss matters, which may include, among others:

- the timetable and general progress of the next boundary review;
- the aims and objectives for the year ahead;
- any potential risks that could make achievement of the BCS's statutory functions more or less difficult or which could affect the BCS's smooth running in general;
- financing of the next boundary review;
- staffing;
- relevant comparative discussion of the work of similar bodies, including the Boundary Commissions for England, Wales and Northern Ireland;
- any other issues that the BCS and SO agree need to be addressed.

⁵ <https://www.gov.uk/government/publications/managing-public-money>

- 5.1.2 The discussions will be supported by any documentation that the parties agree will help. This documentation might include, BCS's forecast outturn by resource headings, other reviews and forecasts of past and future activities, and the BCS's risk register produced in accordance with paragraph 5.15 below.
- 5.1.3 The quarterly discussions between SO and BCS are solely for the purposes of ensuring effective corporate governance. Discussions will not extend to proposals or recommendations that the BCS is preparing under its statutory duties.

General guidance:

- 5.1.4 HM Treasury directs all NDPBs to comply with a number of general guidance documents and instructions on corporate structures (see Annex E). BCS must comply with the parts of the guidance applicable to its own structure and work in particular with guidance on: risk management; fraud, propriety and regularity; and appraising potential partners.

Risk Management:

- 5.1.5 The BCS shall ensure that the risks it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance. BCS will maintain a risk management strategy, in accordance with the Treasury guidance *Management of Risk: Principles and Concepts*.⁶
- 5.1.6 The BCS will adopt and implement policies and practices to safeguard itself against fraud and theft. All members of the BCS and its secretariat are required to take action as set out in paragraphs 3.8.6 of *Managing Public Money* if they believe any other member of the BCS or its secretariat is contemplating action which could:
- infringe the requirements of propriety or regularity;
 - infringe the requirements of any document (including this Memorandum) setting out the financial and non-financial duties of the BCS;
 - infringe any other rules governing the conduct of the BCS;
 - does not represent prudent and economical administration, value for money, efficiency or effectiveness;
 - is of questionable feasibility, or is unethical.

Appraisal of potential partners:

- 5.1.7 The BCS should also work with its procurement service provider (currently the Scottish Government) and take all reasonable steps to appraise the financial standing of any body with which it intends to enter into a contract or to give grant or grant-in aid.

⁶ <https://www.gov.uk/government/publications/orange-book>

5.2 Scotland Office Corporately

5.2.1 The SO will ensure that the BCS is supported by a finance manager, taken from the department's Corporate Services Division (or successor). The finance manager's role will be to provide the BCS with financial management expertise, ensuring BCS's expenditure is recorded and forecasted accurately.

5.2.2 Within SO, the sponsor team (currently in the Constitutional Policy Division) will act as the day-to-day point of contact for the BCS and will work with other teams across government as appropriate. The sponsor team is the main source of advice to ministers on their responsibilities regarding the BCS, advising on:

- the progress of the BCS with regard to its statutory remit in general and in the event of significant risk to the delivery of that remit in particular.
- appropriate funding for the BCS in the light of SO's overall public expenditure priorities; and
- how well the BCS is delivering value for money in the delivery of its statutory remit.

5.2.3 The sponsor team is also responsible for arrangements in relation to the following:

i. Financial:

- Ensuring that the secretariat is aware of its duty to comply with those administrative practices applicable to the expenditure of public funds that SO shall specify; and that the secretariat takes account of the advice on NDPB financial management responsibilities set out in "Public Bodies – A Guide for Departments," as amended or augmented from time to time.⁷

ii. Recruitment

- Conducting the recruitment process and appoint other members of the BCS when necessary;
- Conducting the recruitment process jointly with the Scottish Government and appoint the BCS Secretary when necessary;

iii. Governance

- Assessing the risks to SO surrounding the BCS's delivery of its statutory remit;
- Informing the BCS in a timely manner of any prospective changes to the statutory framework governing the work of the BCS;
- Supporting the BCS in keeping up-to-date with any relevant guidance issued by the Treasury or the Cabinet Office (CO) regarding NDPBs;

⁷https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/80084/PublicBodiesGuide2006_7_planning_funding_0.pdf

- Supporting the BCS to put into effect any recommendations accepted by Government, which affect the BCS and that are issued by the Public Accounts Committee (PAC), other Parliamentary Select Committees, on another Parliamentary authority;
- Supporting the BCS to put into effect any recommendations accepted by the UK Government, which affect the BCS and that are issued by the Public Accounts Committee (PAC), other Parliamentary Select Committees, or another Parliamentary authority;
- Helping to resolve appropriately any difficulties which arise, seeking to address them in the first instance, informally. If appropriate, SO should seek to discuss and resolve any concerns about BCS activities with the BCS Secretary in the first instance, and only where necessary to raise the concerns with the Deputy Chair;
- Having the right of access to BCS records and personnel for audits and operational investigations. However, SO does not have any right of access to any material which relates directly to recommendations to be made to Ministers before they are made public. SO must respect the importance of the independence of the BCS's recommendations when requesting or granting access to any BCS material;
- Ensuring that SO Private Office is kept informed as necessary, in particular during any selection or appointment process of Members of the Commission. This is because two Members of the BCS are appointed by the Secretary of State for Scotland.

iv. Propriety and regularity:

- Informing the SOAO and take action as set out in paragraphs 3.8.6 of *Managing Public Money* if it is believed that any member of the BCS or its secretariat is contemplating action which could:
 - infringe the requirements of propriety or regularity
 - infringe the requirements of any document (including this Memorandum) setting out the financial and non-financial duties of the BCS;
 - infringe any other rules governing the conduct of the BCS;
 - not represent prudent and economical administration, value for money, efficiency or effectiveness;
 - be of questionable feasibility, or is unethical.

v. Working jointly:

- The sponsor team and BCS agree that the monitoring, assessing and information exchange between both parties will:
 - use open dialogue to signal any intended monitoring or assessment activity, with adequate warning time, and as 'light a touch' as possible in the assessment itself;
 - involve the BCS in identifying the best ways to do these activities, maintaining this involvement as much as possible throughout the activities;
 - avoid unannounced activities of this kind unless absolutely necessary, fostering as much as possible a culture of open

- communication and ‘no surprises’;
- ensure all activities maintain BCS’s ability to deliver recommendations to Ministers, observing the appropriate level of independence for the BCS.
- ensure all activities maintain BCS’s ability to deliver recommendations to Ministers, observing the appropriate level of independence for BCS.
- Make any unannounced assessment activities measures of last resort. Their use will be rare under normal circumstances, and they will be preceded by informal engagement and dialogue which seek to achieve the same outcome.

5.3 Members of the BCS

5.3.1 The Commission is an independent, non-political and totally impartial body. The members of the BCS have been recruited by open competition, selected for demonstrating a range of proven abilities, which they will be expected to continue to demonstrate throughout their period of appointment. These include the ability to:

- Work in an independent and politically neutral manner while commanding the confidence of stakeholders across the democratic process in Scotland;
- Think analytically, come to reasoned conclusions on the basis of a sound evaluation of information and negotiate effectively to achieve goals;
- Successfully manage and deliver complex projects and programmes;
- Work successfully in a small team and also address and interact effectively with members of the public, in contexts such as public meetings.
- The Commission emphasises strongly that the results of previous elections do not and should not enter into their consideration when they are deciding their recommendations. Nor does the Commission consider the effects of their recommendations on future voting patterns.

5.3.2 The members will also be expected to:

- Attend meetings of the BCS;
- Formulate proposals according to the remit of the legislation governing the BCS;
- Follow the Seven Principles of Public Life set out by the Committee on Standards in Public Life;
- Observe the terms and conditions of appointment referred to in their letters of appointment.

5.4 The BCS Secretary

5.4.1 The BCS Secretary should ensure that the BCS as a whole is run on the basis of the standards, decision-making and financial management set out in Annex D. This includes, among others:

- Ensuring the successful delivery of the BCS's statutory remit;
- Advising the Deputy Chair and members of the Commission on all aspects of BCS work;
- Ensuring effective procedures for handling complaints about BCS exist

- and are widely known;
- Acting in line with this Memorandum, *Managing Public Money* and other instructions and guidance issued from time to time by HM Treasury and Cabinet Office;
 - Giving evidence when summoned before Parliament;
 - Meeting regularly with SO to discuss progress as described at paragraphs 5.1.1-5.1.3 above.
 - Informing SO of likely over or under-spend and of corrective action to address each;
 - Working with SO to resolve any difficulties which arise in a timely fashion;
 - Accompany the SOAO to PAC hearings relating to the BCS, if necessary.

5.4.2 A full statement of the Secretary's responsibilities is at Annex F.

Agreed by:

James Dowler Head of Constitutional Policy Division, Scotland Office

Isabel Drummond-Murray
Scotland

Secretary to the Boundary Commission for

ANNEXES

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ANNEX A

Information about the BCS, LGBCS and their respective sponsoring bodies

The Boundary Commission for Scotland (BCS)

An organisation described in part 3 of this document. The BCS includes a deputy chair, two Commissioners, Assessors, and officers, a Secretary and a secretariat staff which is a resource shared with the LGBCS.

The Scotland Office (SO)

The UK Government department with responsibility for constitutional policy relating to Scotland and the sponsoring body for the Boundary Commission for Scotland.

The Local Government Boundary Commission for Scotland (LGBCS)

An organisation established by the Local Government (Scotland) Act 1973.⁸ The Commission includes Commissioners, and secretariat staff, which is a resource shared with the BCS. The Commissioners are the Chair, the Deputy Chair and not more than four other members. The Commissioners are appointed by Scottish Ministers.

The Scottish Government (SG)

The devolved government of Scotland, as constituted under the Scotland Act 1998 (as amended by the Scotland Act 2016).⁹ The SG is the sponsoring body for the LGBCS.

⁸ <http://www.legislation.gov.uk/ukpga/1973/65/contents>.

⁹ <http://www.legislation.gov.uk/ukpga/1998/46/contents>.

ANNEX B

The Boundary Commissions for Scotland – Corporate Services Provision Summary

1. The Boundary Commission for Scotland (BCS; <http://www.bcomm-scotland.independent.gov.uk/>) and the Local Government Boundary Commission for Scotland (LGBCS; <http://www.lgbc-scotland.gov.uk/>) share resources and a workforce. Both Commissions are independent organisations who are funded by the Scotland Office and Scottish Government respectively. For efficiency and practical reasons the two bodies share a workforce and the following arrangements are in place for the supply of corporate services to the two commissions.

Service	Provider
Staff	Scottish Government employees on assignment to the Commissions
HR services, including payroll	Scottish Government People Directorate
Finance systems and services	Scottish Government Finance Directorate
ICT	Information Services and Information Systems (Scottish Government)
Procurement services, supplier management and set-up	Scottish Government Procurement Directorate
Accommodation services	Scottish Legal Aid Board under the terms of a MOTO

2. Costs incurred by the Commissions are recorded separately, where applicable, for example for reviews and public engagement on UK boundary reviews, or staff allocated to work to a specific Commission. Other corporate costs, such as accommodation, ICT and consumables are shared equally by the Commissions.

3. This arrangement will be reviewed annually to ensure that the work and costs of the Secretariat team are equally utilised by the Commissions. The review will be a tripartite discussion with the Scottish Government LGBCS sponsor team, the Scotland Office BCS sponsor team and Commission Secretariat.

4. The arrangement whereby services are provided by the Scottish Government means that the Scottish Government meets the BCS expenditure then invoices the Boundary Commission for Scotland for this amount. The Scotland Office holds the BCS budget and uses that to pay the Scottish Government on behalf of the BCS. This invoicing will be done quarterly and each invoice request will be accompanied by a breakdown of the relevant expenditure.

Agreed by:

Isabel Drummond- Murray, Secretariat for the Boundary Commissions

Brian Peddie, The Scottish Government, Directorate for Local Government and Communities

Laura Stewart, The Scotland Office, Head of Corporate Services

ANNEX C

Staff recruitment and management, remuneration and expenses

The ex-officio Chair of the BCS is the Speaker of the House of Commons.

The Deputy Chair is a Judge of the Court of Session who is not paid for BCS work. He or she is entitled to be reimbursed for expenses incurred in carrying out BCS duties.

The Members of the BCS are paid a daily fee which is set by the SO, subject to the agreement of the Treasury. Payment is made to Members, with the necessary tax and national insurance deductions, for days (or half days) spent either preparing for, attending or following up on Commission meetings or functions. It is the responsibility of members to ensure that tax and national insurance deductions are appropriate. The members are also entitled to be reimbursed for expenses incurred in carrying out their BCS duties.

Assistant Commissioners may be appointed, by the Secretary of State, at the request of the Commission, to assist the Members of the BCS in their duties. They are paid a daily fee (or pro rata for half day worked) which is set by the SO, subject to the agreement of the Treasury.

The BCS Secretary post holder is recruited through a joint SO/SG recruitment process. The Secretary, who is the Commission's senior officer, is normally a civil servant assigned from the Scottish Government, and the Secretary of State is invited to approve the appointment (in accordance with Paragraph 7 of Schedule 1 of the Parliamentary Constituencies Act 1986, as amended) following a recommendation by Scotland Office senior management. Thus the appointment is a civil service appointment, rather than a Ministerial appointment. The appointment will be made in consultation with the Commission.

As part of their overall responsibilities, the Secretary will be responsible for the propriety, regularity and economy, efficiency and effectiveness of the Commission's financial activities. In these matters the Secretary will be answerable directly to the Director of the Scotland Office, who maintains overall accountability to Parliament for all monies voted by Parliament. The financial duties of the Secretary to the Commission are set out below (Annex F). The Commission shall not give the Secretary instructions which conflict with the duties as set out below. The Secretary is subject to Scottish Government performance management procedures.

The Scotland Office is the sponsoring department of the BCS.

BCS secretariat supports the work of the BCS secretary and the Commissioners. The BCS secures the share of the resources of the joint secretariat that it needs in agreement with LGBCS. BCS should satisfy itself that the LGBCS is taking on its duties towards staff such as recruitment, retention, development, non-discrimination, performance appraisal, responsibility for staff costs, pay, condition of service and others.

Travel and subsistence payments for the Deputy Chair, Members of the BCS, the Assistant Commissioners and Assessors will be paid at SG rates in operation at the time the expense was incurred. Current travel and subsistence rates will be provided by SG at the start of each financial year or when there is a change in terms. The Secretary and secretariat staff will be paid at SG rates in operation at the time the expense was incurred.

ANNEX D

Financial Framework

1. The following is the financial framework within which the BCS will operate.

Amendment and Review

2. This financial framework may be changed in accordance with Government accounting and Treasury requirements, to take account of new developments. If either SO or the BCS requires changes to be made they shall notify the other in writing. Any changes will be agreed by both parties.

Planning and Budgeting Arrangements

3. Both parties recognise that the BCS must be funded to the degree necessary for it to fulfil effectively the statutory requirements on it, and that it must do so in a way that secures the best possible value for public money. Provision for the Commission is made in the Supply Estimates. The Accounting Officer for the vote on which the Commission's provision is borne is the Director of the Scotland Office. He or she is responsible for ensuring that the provision made is within the ambit of the amount of the vote and that Parliamentary authority has been given. He or she is also responsible for satisfying himself or herself that the financial and other management controls applied by the Scotland Office are appropriate and sufficient to safeguard public funds; that those being applied by the Commission conform to the requirements of propriety, good financial management and best value for money; and that the Commission observes the conditions of this memorandum in the uses which are made of all voted provision.
4. The Secretary will prepare and submit SO estimates and financial returns at such time, and in such form, as SO may require (see financial monitoring section below). SO will supply the Secretary with such information (staff costs etc.), as are required to inform the process of allocation of funds for the BCS from the SO in good time to allow for the finalisation of the Commission's corporate plan. SO will provide the BCS with details of funds allocated to it, by the earliest practicable date and, if possible, by the start of the financial year in question
5. The documentation prepared by each party shall be copied to the other for information and agreement.
6. Subject to SO's general approval of the Secretary's estimates, and SO's advice as to whether there are any specific exceptions, the Secretary may incur planned expenditure without further reference to SO.
7. However, the BCS shall consult with SO and, if agreed that it is

necessary, obtain SO's prior written approval before:

- entering into any undertaking to incur any expenditure that is not provided for in BCS's annual funding as approved by SO;
 - incurring expenditure for any purpose that is, or might be, considered novel or contentious, or which has or could have significant future cost implications or imply any new financial commitments;
 - making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by SO;
 - making any change of policy or practice which has wider financial implications, that might have repercussions or which might significantly affect the future level of resources required; or
 - carrying out policies that go against the principles, rules, guidance and advice in *Managing Public Money*.
8. Consultation between both parties shall occur about any potential under or overspend on the agreed current year provision and the Secretary must give warning of this at the earliest opportunity. On a monthly basis, the Commission shall submit to the Scotland Office a financial statement in an agreed format confirming total spend in the financial year to date. It should also provide a forecast of the outturn for the financial year.

Financial monitoring

9. On a monthly basis, the Commission shall submit to the Scotland Office a financial statement in an agreed format confirming total spend for the relevant month and the total spend in the financial year to date. It should also provide a forecast of the outturn for the financial year. The statement should contain any necessary explanatory narrative about the forecast expenditure, likely underspend and any committed expenditure.
10. In addition to this formal reporting requirement, SO will liaise with the Secretary on a regular basis, where necessary, to discuss the most up to date financial position, review forecast of expenditure, forthcoming procurements and any such other matters as either party may consider necessary.
11. The Secretary will be responsible for producing an annual report at the end of each financial year showing the expenditure against the funding provided for the year ending, and the provisional funding for the financial year ahead. The figures shown in the report must correspond with those reported by the SO at financial year end. The annual report will be made available publicly on the BCS's website.
12. The Commission will be expected to produce and roll forward annually a 3 year Corporate Plan which will include key activities, related performance

indicators and a forecast of required resources and expenditure for each year. The plan should be submitted by the second week in December, unless otherwise agreed by both parties, for agreement with the Scotland Office, and may be amended by agreement of the Commission and the Scotland Office.

13. Scotland Office officials are responsible for advising the Secretary of State on the Commission's Corporate Plan and ensuring that the Secretary of State has adequate information to decide on the allocation of finance to the Commission in any year as compared with competing public expenditure priorities. Scotland Office officials will provide all reasonable assistance to the Commission to ensure accurate information and statistics are used in the planning process.

Approval for purchases and disposals

14. The BCS shall:

- seek to obtain value for money when making purchases, showing effective use of resources, avoiding conflicts of interest, never using public money for private benefit;
- not separately acquire or dispose of leasehold or freehold interests in property;
- not purport to enter into commitments for the acquisition of leasehold or freehold interests in property;
- not dispose of assets without the prior approval in writing of SO;
- with regard to the purchase and custody of stores and equipment, maintain adequate inventories giving sufficiently detailed information of such stores and equipment, which shall be available for inspection by SO or its auditors on request.

Hospitality Register and away days

15. The BCS Secretary shall maintain a record of gifts and hospitality, both given and received by the Secretary, and seek approval from the SO before any gift or donation is contemplated.

16. Generally, hospitality is defined as the provision of lunches, dinners, and tickets to sporting/social or leisure events. These examples are not exhaustive.

17. Expenditure on away days, hospitality and gifts is subject to the SG procedures.

Fraud, Write-offs and special payments

18. The BCS shall:

- in the event that any instances of fraud, suspected fraud or financial irregularity arise, notify SO in accordance with the requirements of the SO fraud response plan;
- inform the SO of any losses, whether of money, value of assets lost, stolen or damaged or receipts foregone, irrespective of value;
- not make any special payments, whether ex gratia arising from maladministration within the BCS's office or otherwise, without first obtaining the approval of the SO Deputy Finance Director. Such approval will only be given in exceptional circumstances.

Availability of Records

19. The BCS shall make available to SO staff or the staff of the National Audit Office all financial and other governance records on request, subject to section 139 of the Constitutional Reform Act 2005 (prohibition on disclosure of confidential information without lawful authority).¹⁰
20. SO Internal Audit is required to provide the SO's Accounting Officer with an annual opinion on the overall state of risk management, control and governance in SO. SO therefore reserves the right of access to financial and other records, should the need arise as part of a SO review or for general oversight and assurance to the SO Accounting Officer. SO Internal Audit can also provide fraud and other irregularity investigation capability should the need arise.

Insurance

21. The BCS shall not undertake any insurance without prior approval of SO, other than third party insurance required under the Road Traffic Acts and any insurance which is a statutory obligation.
22. In the case of any claim arising against the BCS from injury to, or death of, any person, whether that person is in the employment of the BCS or otherwise, or in the case of any claim for damage to or loss of property, the BCS shall not accept liability to make any payment without the authority of SO.

Borrowing, Lending, Indemnities and Contingent liabilities

23. The BCS shall not open a bank account nor retain cash beyond a working imprest that has not previously been agreed with the SO's Corporate Services Division. The BCS will not have a bank overdraft at any time or borrow money in any other manner. It will not make loans, or gifts of money or of the SO's purchased assets. It will not give guarantees, indemnities or any letter of comfort or incur any contingent liability without the agreement of SO.

¹⁰ <http://www.legislation.gov.uk/ukpga/2005/4/contents>

ANNEX E

Compliance with government-wide corporate guidance and instructions

BCS will comply with the following general guidance documents and instructions:

- Appropriate adaptations of sections of Corporate Governance in Central Government Departments: Code of Good Practice
<https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments>
- The Cabinet Office's guidance Partnerships with arm's length bodies: code of good practice: <https://www.gov.uk/government/publications/partnerships-with-arms-length-bodies-code-of-good-practice>
- Managing Public Money (MPM)
<https://www.gov.uk/government/publications/managing-public-money>
- Public Sector Internal Audit Standards,
<https://www.gov.uk/government/publications/public-sector-internal-audit-standards>
- Management of Risk: Principles and Concepts:
<https://www.gov.uk/government/publications/orange-book>
- Government Financial Reporting Manual (FReM), (updated annually)Regularity, Propriety and Value for Money
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212460/Regularity_Propriety_and_Value_for_Money.pdf
- Relevant Freedom of Information Act guidance and instructions from the Ministry of Justice;
- Other relevant guidance and instructions issued by the Treasury in respect of Whole of Government Accounts;
- Other relevant instructions and guidance issued by the central departments;
- Specific instructions and guidance, relating to matters of finance and governance, issued by the Scotland Office;
- Recommendations made by the Public Accounts Committee, or another Parliamentary authority that have been accepted by the Government and are relevant to BCS.

ANNEX F

The Secretary to the Boundary Commission for Scotland

The Secretary shall:-

Finance

- a) be accountable for BCS's expenditure, manpower, capital assets and equipment; for effective, efficient and economical management; and for ensuring that financial and value for money considerations are taken fully into account by the BCS;
- b) ensure the good and efficient management of the SO assets provided to support the work of the BCS;
- c) ensure that the secretariat complies with such administrative practices applicable to the expenditure of public funds as SO shall specify;
- d) address to SO in the first instance any matter concerning or requiring the approval or consent of the Treasury;

Governance

- e) not assign absolutely to any person the responsibilities set out in this annex;
- f) ensure that the BCS observes any general guidance issued by SO to put into effect recommendations accepted by the Government, which affect the BCS and that are issued by the Public Accounts Committee (PAC); other Parliamentary Select Committees; or other Parliamentary authority.

Risk and information

- g) ensure that the risks that BCS faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance;
- h) ensure that the BCS develops and implements a risk management strategy, in accordance with HM Treasury guidance *Management of Risk: Principles and Concepts*;
- i) ensure that BCS staff and Commissioners are aware of and understand the SO's policies and procedures on information risk, and that information is handled appropriately within BCS;
- j) ensure that the BCS staff and Commissioners are aware of and understand the CO's guidance and procedures for dealing with Freedom of Information requests;

Fraud, propriety and regularity

k) ensure that BCS adopts and implements policies and practices to safeguard itself against fraud and theft, and takes all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract or to which it intends to give grant or grant-in-aid;

l) advise SO and take action as set out in paragraphs 3.8.6 of *Managing Public Money* if a member of the BCS is contemplating a course of action which the Secretary considers:

- would infringe the requirements of propriety or regularity; or the requirements of any document (including this Memorandum) setting out the financial and non- financial duties of the BCS;
- or the requirements of any other rules governing the conduct of the BCS;
- does not represent prudent and economical administration, value for money, or efficiency or effectiveness; or
- is of questionable feasibility, or is unethical.

Planning, staffing and implementation of statutory duties

m) provide any documentation that the parties agree will help to inform and facilitate the quarterly discussions with SO described in paragraphs 5.1.1-5.1.3 of the Memorandum.

n) ensure that the secretariat staffing profiles are maintained in order that the work will be carried out to meet BCS's statutory obligations;

o) ensure that the BCS successfully and efficiently carries out the duties given to it by Parliament as laid out in statute.