



Framework Agreement

between

The Scottish Government

and

The Scottish Charity Regulator

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1. Introduction

- 1.1 The Office of the Scottish Charity Regulator (OSCR) was established by the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act). It is a constituent part of the Scottish Administration headed by a body corporate office-holder. It is not part of the Scottish Government and, for administrative purposes it is classified as a Non-Ministerial Department (NMD).
- 1.2 This Framework Agreement sets out the terms of an agreement between OSCR and the Scottish Government, in relation to the governance, financing and operation of the functions of OSCR.

2. Scottish Charity Regulator's role and functions

- 2.1 OSCR is the independent registrar and regulator of charities in Scotland. Section 1(5) of the 2005 Act sets out OSCR's general functions:
- to determine whether bodies are charities
 - to keep a public register of charities
 - to encourage, facilitate and monitor compliance by charities with the provisions of the 2005 Act
 - to identify and investigate apparent misconduct in the administration of charities and to take remedial or proactive action in relation to such misconduct
 - to give information or advice, or to make proposals, to the Scottish Ministers on matters relating to OSCR's functions.
- 2.2 As the independent registrar and regulator, OSCR is responsible for its operational activities and the decisions it takes.
- 2.3 OSCR has a significant role to play in creating and ensuring an environment within which charities directly contribute to the economic and social development of Scotland and in which they continue to be supported by the public.
- 2.4 The Scottish Government's National Outcomes most relevant to OSCR are:
- We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others.
 - Our public services are high quality, continually improving, efficient and responsive to local peoples' needs.
- 2.5 OSCR's strategic objectives are directly relevant to these two National Outcomes.

3. Roles, responsibilities and relationships

3.1 Scottish Ministers and the Scottish Government

- 3.1.1 The Scottish Government is responsible for formulating and implementing third sector policy, including the legislative framework for charity regulation.

- 3.1.2 Although OSCR accounts are not formally consolidated with Scottish Government accounts, the budget for OSCR is considered together with the Finance, Employment and Sustainable Growth portfolio for the purposes of setting the overall Scottish budget. Such an arrangement secures a degree of internal scrutiny of OSCR's proposed budget, together with some flexibility in the event of unforeseen financial pressures.
- 3.1.3 After OSCR's annual report and accounts have been prepared and published in accordance with the Public Finance and Accountability Act (Scotland) 2000, OSCR must send a copy of the report to Scottish Ministers and lay a copy of the report before the Scottish Parliament.
- 3.1.4 OSCR has a statutory function to advise Ministers on matters relating to OSCR's functions. Often, this advice will be offered as part of an ongoing dialogue between OSCR and the Scottish Government. This may also take the form of direct advice on particular issues about its functions. OSCR may also, as part of its Annual Report, make general recommendations arising from the exercise of its functions. The Scottish Government will endeavour to provide a formal response to these recommendations as soon as is reasonably practicable.

3.2 Director General for Governance and Communities

- 3.2.1 Currently, the Director General for Governance and Communities in the Scottish Government (the DG), as Portfolio Accountable Officer, is responsible for ensuring that effective and healthy working relationships are maintained between OSCR and Scottish Government, and that any financial and other management controls applied by the Scottish Government are appropriate and sufficient to safeguard public funds. The DG should also be satisfied that the controls being applied by OSCR conform to the requirements both of propriety and of good financial management.
- 3.2.2 The DG will also promote alignment between OSCR and the Scottish Government as appropriate, for example ensuring that:
- the Board and Chief Executive of OSCR are aware of strategic developments and decisions by the Scottish Government which may impact on OSCR;
 - the Scottish Government has due regard to information and/or advice provided by OSCR;
 - appropriate Scottish Government corporate services are available to support and facilitate the work of OSCR; and
 - an appropriate Framework Agreement is in place, and maintained.
- 3.2.3 The DG will ensure that the appraisal of OSCR's Chief Executive is considered as part of the Senior Civil Service pay and performance system. The appraisal will be carried out by OSCR's Chair, and counter-signed by the DG (or an appropriate member of the DG's staff).

3.2.4 The DG will arrange an annual appraisal interview with the OSCR's Chair to discuss and review the Chair's performance.

3.3 OSCR Board

3.3.1 OSCR is headed by a Board, members of which are appointed by Scottish Ministers through the public appointment process. The Board are responsible for the leadership, strategic direction and governance of the organisation, ensuring that it achieves its statutory objectives and carries out its functions effectively and efficiently. The Board will ensure that OSCR has appropriate arrangements in place for corporate, business and workforce planning, risk and financial management, and reporting on its performance.

3.3.2 Board members have collective responsibility for the actions and decisions of OSCR. OSCR is designated as an office which is not a ministerial office in the Scottish Administration. OSCR is therefore accountable directly to the Scottish Parliament, rather than to Ministers.

3.3.3 The Chair of the OSCR Board is appointed by Scottish Ministers and leads the Board in reaching decisions and pursuing its strategy. The Chair has a particular role in representing OSCR to stakeholders. The Chair will carry out annual appraisal interviews with other members of the Board.

3.4 OSCR's Chief Executive (Accountable Officer)

3.4.1 OSCR's Chief Executive is responsible for the day-to-day operation of the organisation's functions and for leading its staff. The Chief Executive is held to account by the Board for the efficient and effective management and delivery of OSCR's business.

3.4.2 The Chief Executive is designated as the Accountable Officer for OSCR by the Principal Accountable Officer for the Scottish Administration (in accordance with the terms of the Public Finance and Accountability (Scotland) Act 2000). The Chief Executive is personally answerable to the Scottish Parliament for

- the effective and efficient operation of OSCR;
- safeguarding the public funds for which it has charge;
- ensuring propriety and regularity in the handling of those funds; and
- ensuring that OSCR complies with the requirements of the Scottish Public Finance Manual (SPFM), including ensuring that appropriate counter-fraud arrangements and policies are in place.

3.4.3 The Accountable Officer is responsible for ensuring that financial procedures comply with relevant financial guidance issued by the Finance Directorate and the Scottish Procurement and Commercial Directorate. OSCR will engage with the relevant Finance Business Partners (or equivalent).

4. Relationship between the Scottish Government and OSCR

- 4.1 The Scottish Government and OSCR are committed to the principle of good communications, especially where the work of one has bearings upon the responsibilities of the other. OSCR will, therefore, ensure where appropriate that the relevant Scottish Government Directorate is informed in advance of any significant OSCR announcements or publications which may have implications for the Scottish Government. Scottish Government Directorates will, in turn, where appropriate inform OSCR in advance of any Scottish Government announcements or publications which may have significant implications for OSCR or the charity sector.
- 4.2 The Scottish Government and OSCR will establish and maintain effective working relations through regular contact with each other, including meetings as appropriate. The DG will advise the Chair and/or Chief Executive of OSCR of appropriate points of contact.
- 4.3 Officials in the Scottish Government will maintain routine contact with OSCR through staff nominated by OSCR for that purpose.
- 4.4 The Scottish Government will look to OSCR for advice on regulatory aspects of policy affecting charities, where OSCR has particular expertise, knowledge or information that could assist the Government's formulation or implementation of policy.

5. Scottish Parliament

- 5.1 Members of the Scottish Parliament (MSPs), through Parliamentary Questions, may ask Scottish Ministers about their own relations with OSCR and Ministers will answer such questions. However, Scottish Ministers are not accountable for OSCR's operations and where questions are asked about matters that are the responsibility of OSCR, the Minister's answer should state this position and refer the MSP to OSCR.
- 5.2 Should Scottish Ministers receive correspondence about OSCR's operations from MSPs, stakeholders, or members of the public, OSCR where appropriate will be contacted to provide information so an appropriate response is sent.
- 5.3 Board members, the OSCR Chief Executive and members of OSCR staff where appropriate will give written or oral evidence to Committees of the Scottish Parliament when invited to do so. The Scottish Parliament has the power to require the Board members, Chief Executive or any member of OSCR staff to attend a Parliamentary Committee.

6. Financial regime

- 6.1 As a Non-Ministerial Department, OSCR's budget will appear separately in the annual Budget Act. When setting budget proposals in a Spending Review, the Scottish Government will liaise with OSCR to identify its resource requirements. It will ultimately be for Scottish Ministers to ensure OSCR has sufficient resources to meet its statutory obligations and to determine the budget proposals to be submitted to the Parliament as part of the Budget Act.
- 6.2 OSCR will be responsible for preparing and managing its budget for each financial year, and for ensuring that expenditure is in line with this budget. Where appropriate, OSCR will provide monitoring information on its expenditure to the Scottish Government Finance Directorate as requested.
- 6.3. OSCR's accounts will be prepared in accordance with the accounts direction issued by Scottish Ministers under section 19(4) of the Public Finance and Accountability (Scotland) Act 2000 and in compliance with the principles and disclosure requirements of the Government Financial Reporting Manual (FReM).
- 6.4 OSCR is responsible for maintaining a sound system of internal control that supports the achievement of OSCR's policies, aims and objectives and for regularly reviewing the effectiveness of that system. A governance statement will be provided by the Accountable Officer as part of the annual accounts.
- 6.5 Subject to budgetary limitations and the requirements of the SPFM, OSCR has full authority to meet its statutory obligations. However, 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.
- 6.6 OSCR will operate financial and other systems which provide the Chief Executive as Accountable Officer with sufficient information to assure them that OSCR's income and expenditure is being handled in a proper and prudent manner, and that it is achieving efficiency improvements and value for money from its resources in delivering its functions. OSCR will use the Scottish Government's accounting system (SEAS), to provide financial information.
- 6.7 OSCR will report annually on the steps taken during each financial year to improve efficiency, effectiveness and economy (including details of shared services activity), under the terms of the Public Services Reform (Scotland) Act 2010 and the associated guidance

7. Accountable Officer arrangements

- 7.1 The Chief Executive acts as the Accountable Officer for OSCR. The responsibilities of OSCR's Accountable Officer are set out in the Memorandum to Accountable Officers for Parts of the Scottish Administration, published in the SPFM.

- 7.2 The Accountable Officer is responsible for promoting the efficient, economic and effective use of staff and other resources by OSCR and has a duty to secure Best Value, in accordance with Scottish Government guidance for Accountable Officers. This includes the concepts of good corporate governance, performance management and continuous improvement: it also includes where appropriate participation in shared services arrangements.
- 7.3 The Accountable Officer and the Board will be advised by an Audit Committee operating in accordance with the Scottish Government Audit Committee Handbook and with membership and operating procedures determined by the Audit Committee Terms of Reference. The remit of the Audit Committee will include supporting the Accountable Officer and the Board with regard to the efficient and effective use of income and expenditure and the associated responsibilities for risk, control, governance and assurance. The Audit Committee will meet at least three times a year and will be chaired by a member of the OSCR Board. The external and internal auditors will be invited to attend.

8. Procedures for accounting, audit, monitoring and reporting

- 8.1 OSCR is required to establish internal audit mechanisms, in accordance with the objectives and standards laid down in the Government Internal Audit Manual and in a way which demonstrates best value for money.
- 8.2 The DG reserves the right to have appropriate representatives (e.g. Internal Audit) undertake any work required to provide independent assurance about OSCR's management and control, if he or she considers it necessary.
- 8.3 OSCR is subject to external audit by the Auditor General for Scotland (AGS) or by auditors appointed by the AGS.

9. Risk management

- 9.1 OSCR is required to implement and monitor appropriate risk management arrangements - in accordance with the relevant guidance in the SPFM- for the successful delivery of OSCR's functions and projects. OSCR's risks, including public and employer liability, are carried in line with the Scottish Government's policy on insurance.
- 9.2 The Accountable Officer will keep the relevant Finance Business Partner in the core Scottish Government informed of the level of any contingent liabilities, including where possible an assessment of their values. Where appropriate, s/he will report contingent liabilities to the Scottish Parliament, seeking prior approval where appropriate in line with the SPFM.

10. Use of Scottish Government services and contracts

- 10.1 OSCR and the Scottish Government are committed to the use of shared services, and to ensuring that services meet an agreed standard. The expectation is that OSCR will continue to use existing Scottish Government corporate services and negotiated contracts. Where OSCR is giving consideration to withdrawing from shared service contracts, it will enter into discussions with the Portfolio Accountable Officer prior to making any financial or contractual commitments.
- 10.2 OSCR will continue to receive the following direct services from the Scottish Government:
- Financial services (including the Scottish Government Accounting System (SEAS) and Easybuy)
 - Internal audit;
 - HR services (including payroll and pension administration); and
 - Estates services.
- 10.3 Scottish Government HR and finance officers will provide annual Certificates of Assurance to OSCR Accountable Officer, within the required timescales for OSCR's audit and assurance processes.

11. Business and Corporate plans

- 11.1 Within the strategic framework set by the OSCR Board, the Chief Executive is responsible for preparing a corporate plan covering the medium to long term business of OSCR and an annual business plan that takes appropriate account of the Scottish Government Business Strategy. The corporate plan will be agreed by the OSCR Board and should be clear on how the activities of OSCR are aligned to the Purpose and the National Outcomes set out in the National Performance Framework.
- 11.2 The Chief Executive will ensure that OSCR acts corporately in accordance with the priorities set out in the Scottish Government's annual public bodies statement of corporate expectations, as is appropriate for a Non-Ministerial Department.
- 11.3 Consistent with the timetable for public spending reviews, the Chief Executive will submit OSCR's Corporate plan covering the spending review period to the Scottish Ministers (via the Director General and relevant Finance Business Partner) for information.
- 11.4 The business plan for each financial year should generally include key targets and milestones for the year immediately ahead, and should be linked to budgeting information so that resources allocated to achieve specific objectives can be identified.
- 11.5 Copies of finalised corporate and business plans should be made available on OSCR's website.

12. Other management arrangements including pay policy and human resources

- 12.1 OSCR staff are civil servants and their terms and conditions of employment are shared with the Scottish Government, within the Scottish Government Main bargaining unit. OSCR will comply with the Civil Service Code (Scottish Government version), which sets out the core values of the Civil Service and the standards expected of civil servants.
- 12.2 The Chief Executive is a Senior Civil Servant and is subject to the Civil Service Code. The arrangements for recruiting and appointing the Chief Executive will be managed by the Senior Staff Team within the Scottish Government's Human Resources and Organisational Development Directorate. The post of Chief Executive may be filled by a managed move within the Civil Service, in the same way as any other senior management position within the Scottish Government, or it may be filled by open competition overseen by the Civil Service Commissioners. Appropriate consultation with the OSCR Board will take place.
- 12.3 The Chief Executive will be responsible for the recruitment of all other OSCR staff, in consultation with the Scottish Government's Human Resources and Organisational Development Directorate. All recruitment will adhere to the Civil Service Management Code, the Scottish Government Main Resourcing Policy and procedures and, for external recruitment, the Civil Service Commissioners' Recruitment Principle.
- 12.4 OSCR will promote and support effective employee relations and, where appropriate, consult with Civil Service Trades Unions in line with either a local Partnership Agreement or the overarching Partnership Agreement that exists between the Permanent Secretary and the Council of Scottish Government Unions.
- 12.5 The Chief Executive is responsible for the development of OSCR staff, drawing as necessary on Scottish Government staff development resources and activity. The Chief Executive is responsible for ensuring that appropriate promotion arrangements are in place, noting that OSCR staff are usually eligible for promotion opportunities within the Scottish Government Main and vice versa.
- 12.6 The responsibility for Health and Safety management lies with the Chief Executive, in line with current Health and Safety legislation, guidance and/or best practice. Assurances on Health and Safety management may be sought by the Occupational Health & Safety Branch of the Scottish Government.
- 12.7 The Chief Executive is responsible for ensuring that OSCR complies with all statutory duties and relevant Scottish Government policies to which it is subject. They are also responsible for ensuring adherence to all Scottish Government equality and diversity policies and relevant equalities legislation, including relevant public sector duties.

13. Freedom of information

- 13.1 OSCR is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and the Public Records (Scotland) Act 2011, and will strive to honour the spirit of that legislation. OSCR has adopted the Model Publication Scheme 2012 produced by the Scottish Information Commissioner.

14. Complaints and the Ombudsman

- 14.1 In respect of the service it provides to charities and the public, OSCR may be subject to investigation by the Scottish Public Services Ombudsman (SPSO) and will have in place a complaints handling procedure which complies with the statement of principles published by the SPSO.

15. Framework agreement – arrangements for review

- 15.1 This Framework Agreement can be reviewed at any time. It will be formally reviewed at least once every three years and will be published on the OSCR website.

Signed by:

David Robb, OSCR Chief Executive

Kenneth Hogg, Scottish Government Director for Local Government and Communities

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