

# **FRAMEWORK DOCUMENT**

## **SCOTTISH ENVIRONMENT PROTECTION AGENCY (SEPA)**

**December 2014**

# SCOTTISH ENVIRONMENT PROTECTION AGENCY: FRAMEWORK DOCUMENT

## Introduction

1. This framework document has been drawn up by the Scottish Government (SG) in consultation with the Scottish Environment Protection Agency (SEPA). It sets out the broad framework within which SEPA will operate and defines key roles and responsibilities which underpin the relationship between SEPA 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 is subject to approval by the Minister for Environment, Climate Change and Land Reform and the Portfolio Accountable Officer (PAO).
2. The document will be reviewed and updated, as necessary, and at least every 2-3 years.
3. Any proposals to amend the framework document either by the SG or SEPA 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 SEPA.
4. Legislative provisions or Ministerial directions shall take precedence over any part of this document.
5. References to SEPA include any subsidiaries and joint ventures<sup>1</sup> owned or controlled by SEPA. SEPA shall not establish subsidiaries or enter into joint ventures without the express approval of the SG. If such a subsidiary or joint venture is created, there shall be a document setting out the arrangements between it and SEPA.
6. Six copies of the document shall be placed in the Scottish Parliament Information Centre (SPICe). It shall also be published on the SG and SEPA websites.

## SEPA's Purpose, Functions and Objectives

7. SEPA's purpose, as set out in the [Regulatory Reform \(Scotland\) Act 2014](#), is to ensure that Scotland's environment is protected and improving, including ensuring that natural resources are managed in a sustainable way. In carrying out its functions for that purpose, SEPA must, except to the extent that it would be inconsistent with its purpose, contribute to improving the health and wellbeing of people in Scotland and to achieving sustainable economic growth<sup>2</sup>.

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<sup>1</sup> As defined in International Financial Reporting Standard (IFRS) 11

8. In pursuing its purpose, SEPA shall contribute to the achievement of the SG's purpose of focussing Government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth by aligning its outcomes, strategic objectives and values with the SG's published Economic Strategy and the [National Performance Framework](#) (NPF).

9. SEPA's main statutory functions, duties and powers are set out in the [Environment Act 1995](#).

10. Additional functions have also been given to SEPA under legislation enacted since its formation. SEPA shall ensure that these functions, duties and powers, and any other functions, duties and powers subsequently assigned to it, are performed in line with statutory requirements.

11. SEPA's main statutory functions include:

- the regulation of activities or processes that may pollute water, air or land;
- the regulation of waste storage, transport, treatment and disposal;
- the regulation of keeping and disposing of radioactive materials;
- running Scotland's flood warning systems;
- participating as a statutory consultee to the planning system.

12. SEPA's other principal responsibilities include:

- monitoring, analysing and reporting on the state of Scotland's environment;
- helping implement the Zero Waste Strategy;
- controlling, in conjunction with the Health and Safety Executive, the risk of major accidents at industrial sites;
- operating the Scottish component of the Radioactive Incident Monitoring Network;
- providing advice to the SG in a variety of policy areas.

13. The status of SEPA's statutory functions set out under relevant legislation will take precedence over any summary included in this framework document.

14. SEPA's strategic objectives, as agreed by the Scottish Ministers, are set out in their updated [Corporate Plan for 2012-17](#).

15. These strategic objectives support delivery of the following outcomes:

- Scotland's environment is protected and improving;
- Scotland's environment is understood and SEPA is an influential and respected authority;
- Scotland is preparing for a sustainable future and is taking steps to limit climate change;
- SEPA is a high performance organisation.

## **Relationship between Scottish Government and SEPA**

16. Effective engagement between the SG and SEPA 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 SEPA will take all necessary steps to ensure that their relationship is developed and supported in line with the jointly agreed principles set out in the statement on ‘Strategic Engagement between the Scottish Government and Scotland’s NDPBs’.

## **Governance and Accountability**

### **Legal Origins of Powers and Duties**

17. SEPA is established under the [Environment Act 1995](#) as a body corporate. The constitution of SEPA is set out in Schedule 6 of the Act. SEPA does not carry out its functions on behalf of the Crown.

18. For administrative purposes, SEPA is classified as an executive non-departmental public body (NDPB).

### **Ministerial Responsibilities**

19. The Scottish Ministers are ultimately accountable to the Scottish Parliament for the activities of SEPA and its use of resources. They are not, however, responsible for SEPA’s day to day operational matters. Their responsibilities include:

- approving SEPA’s corporate plan, including SEPA’s strategic objectives, outcomes and performance measures;
- agreeing the budget and the associated grant in aid requirement to be paid to SEPA, and securing the necessary Parliamentary approval;
- approving the level of charges to be levied by SEPA;
- carrying out responsibilities specified in the [Environment Act 1995](#) such as appointments to SEPA’s Board, approving the terms and conditions of Board members;
- approving SEPA’s pay remit;
- laying the annual accounts, together with the annual report, before the Scottish Parliament;
- carrying out devolved Ministerial functions in relation to SEPA derived from any other legislation.

20. In accordance with statute, the Scottish Ministers may give SEPA directions with which it must comply, including directions to enable European or International commitments to be met. The SG will issue directions to SEPA via the

[Ask@sepa.org.uk](mailto:Ask@sepa.org.uk) mailbox and these will be recorded and a list kept and updated by SEPA.

21. The Scottish Ministers have powers to call-in applications, determine appeals and set charges in relation to SEPA's regulatory and other functions, where such powers have been devolved to the Scottish Ministers under the Scotland Act 1998.

### **SEPA Board Responsibilities**

22. The members of SEPA, known collectively as the Board, including the Chair, are non-executives appointed by the Scottish Ministers in line with the [Code of Practice for Ministerial Public Appointments in Scotland](#). Legally, the Board constitutes SEPA.

23. The Board must comprise at least 8 members, but not more than 12. As well as appointing the Chair, the Scottish Ministers will appoint a member as Deputy Chair.

24. The role of the Board is to provide leadership, direction, support and guidance to ensure that the Agency delivers its functions effectively and efficiently and in accordance with the aims, policies and priorities of the Scottish Ministers. It has corporate responsibility, under the leadership of the Chair for:

- taking forward the strategic aims and objectives 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 SEPA or on the attainability of its operational targets;
- promoting the efficient, economic and effective use of staff and other resources by SEPA 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 SEPA 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. In accordance with the [Audit Committees](#) section of the SPFM, 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 in reaching decisions;
- ensuring that the Board receives and reviews regular financial information concerning the management of SEPA and is informed in a timely manner about any concerns regarding the activities of SEPA;

- appointing, with the approval of the Scottish Ministers, SEPA's Chief Executive and, in consultation with the SG, set 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 SEPA and the delivery of outcomes;
- demonstrating high standards of corporate governance at all times, including openness and transparency in its decision making.

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**

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

26. The Chair is responsible for providing active and effective leadership, direction, support and guidance to ensure that the Board delivers, and is committed to delivering, its functions effectively and efficiently and in accordance with the aims, policies and priorities of the Scottish Ministers. He or she is also responsible for formulating the Board's strategy for discharging its statutory duties.

27. In directing and leading the Board, the Chair must ensure that:

- the work of the Board and its members is subject to regular self-assessment and that the Board is working effectively;
- the Board has a balance of skills appropriate to directing SEPA business, in accordance with recognised good practice in corporate governance, and that any skills gaps are brought to the attention of the SG;
- the Board members are fully briefed on terms of appointment, duties, rights and responsibilities;
- he or she, together with the other Board members, receives appropriate induction training, including on financial management and reporting requirements and on any differences that may exist between private and public sector practice;
- the Scottish Ministers are advised of SEPA needs when Board vacancies arise;

- he or she assesses the performance of individual Board members on a regular basis and undertakes a formal appraisal at least annually and when being considered for reappointment;
- there is a code of conduct for Board members in place, approved by the Scottish Ministers.

28. 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**

29. 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 SEPA and with the rules relating to the use of public funds and to conflicts of interest. (In this context, 'public funds' means not only any funds provided to SEPA by the Scottish Ministers but also any other funds falling within the stewardship of SEPA, including trading and investment income, gifts, bequests and donations.) General guidance on Board members' responsibilities is provided in [On Board: A Guide for Board Members of Public Bodies in Scotland](#).

### **Chief Executive Responsibilities**

30. SEPA's Chief Executive is employed and appointed by the Board, with the approval of the Scottish Ministers and is accountable to the Board for the performance, management and staffing of SEPA, and for ensuring that its functions are delivered and targets met through effective and properly controlled executive action. Specific responsibilities to the Board include:

- advising the Board on the discharge of its responsibilities - as set out in this framework 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 SEPA adheres, where appropriate, to the SG's [Programme and Project Management Principles](#);
- having robust performance and risk management arrangements - consistent with the [Risk Management](#) section of the SPFM - in place that support the achievement of SEPA'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 SEPA, including effective measures against fraud and theft consistent with the [Fraud](#) section of the SPFM;
- establishing appropriate documented internal delegated authority arrangements in accordance with the [Delegated Authority](#) section of the SPFM;
- advising the Board on the performance of SEPA compared with its aims and objectives;
- preparing SEPA's corporate and annual operating plans, in light of the strategic aims and objectives agreed by the Scottish Ministers;
- ensuring effective relationships with SG officials;
- 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;
- signing the annual accounts and ensuring that proper records are kept relating to the annual accounts and signing a Statement of Accountable Officer's responsibilities for including in the annual report and accounts.

### **SEPA Accountable Officer Responsibilities**

31. The PAO for the Scottish Administration, the Permanent Secretary of the SG, will designate the Chief Executive as the Accountable Officer for SEPA. Accountable Officers are personally answerable to the Scottish Parliament for the exercise of their functions, as set out in the [Memorandum to Accountable Officers for Other Public Bodies](#). These include:

- ensuring the propriety and regularity of SEPA's finances and that there are sound and effective arrangements for internal control and risk management;
- ensuring that SEPA's resources are used economically, efficiently and effectively and that appropriate arrangements are in place to secure Best Value, judged for the public sector as a whole and in a 'Team Scotland' context;
- ensuring compliance with relevant guidance issued by the Scottish Ministers, in particular the SPFM;
- signing the annual accounts and associated governance statements;

- a statutory duty to obtain written authority from the Board/Chair before taking any action which he or she considered would be inconsistent with the proper performance of the Accountable Officer functions.

32. The Chief Executive may be appointed as a member of the Board by the responsible Minister. If such an appointment is made, the Chief Executive should ensure that their responsibilities as a Board Member do not conflict with their responsibilities as Accountable Officer. If the Board proposes taking action which the Chief Executive, in their role as Accountable Officer, could not endorse, the Chief Executive shall vote against such action and must ensure that their opposition as a Board member as well as Accountable Officer is clearly recorded.

33. The Minister for Environment, Climate Change and Land Reform has approved the appointment of the Chief Executive as a member of the Board.

### **Portfolio Accountable Officer (PAO) Responsibilities**

34. The PAO for the Scottish Administration, the Permanent Secretary of the SG, has designated the Director General Enterprise, Environment and Innovation as the Accountable Officer for the SG portfolio charged with responsibility for SEPA. The responsibilities of a PAO are set out in detail in the [Memorandum to Accountable Officers for Parts of the Scottish Administration](#). He or 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 SEPA 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 SEPA are set out in a framework document - and that this document is regularly reviewed by the SG;
- compliance with the framework document is effectively monitored by the sponsor unit;
- effective relationships are in place at SG Director and Deputy Director level between the SG and SEPA in accordance with the strategic engagement principles;
- there is effective continuous assessment and appraisal of the performance of the Chair of SEPA, in line with the requirements of the Code of Practice for Ministerial Public Appointments to Public Bodies in Scotland, if appropriate.

## **Scottish Government Director and Deputy Director**

35. The Director for Environment and Forestry and Deputy Director for Environmental Quality have responsibility for overseeing and ensuring effective relationships between the SG and SEPA which support alignment of SEPA's business to the Government's Purpose and National Outcomes and high performance by SEPA. They will work closely with SEPA's Chief Executive and be answerable to the PAO for maintaining and developing positive relationships with SEPA characterised by openness, trust, respect and mutual support. They will be supported by a sponsor unit in discharging these functions. The Director shall be responsible for assessing the performance of the SEPA Chair.

## **Sponsor Unit Responsibilities**

36. The SG sponsor unit for SEPA is the SEPA Sponsorship and Pollution Reduction Team and is the normal point of contact for SEPA in dealing with the SG. The sponsor 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 SEPA and undertakes the responsibilities of the PAO on his or her behalf. Specific responsibilities include:

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

## **Internal Audit**

37. SEPA shall:

- establish and maintain arrangements for internal audit in accordance with the [Public Sector Internal Audit Standards](#) (PSIAS) and the [Internal Audit](#) section of the SPFM;
- 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 SEPA Accountable Officer;
- forward promptly to the SG the audit charter (or equivalent agreed with the appointed internal auditors), strategy, periodic audit plans and annual audit assurance report, and other relevant reports as requested;
- keep records of, and prepare and forward promptly to the SG an annual report on fraud and theft suffered by SEPA and notify the SG at the earliest opportunity of any unusual or major incidents.

38. The SG's Internal Audit Division has a right of access to all relevant documents held by SEPA's internal auditor, including where the service is contracted out.

## **External Audit**

39. The Auditor General for Scotland (AGS) audits, or appoints auditors to audit, SEPA's 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. SEPA shall instruct its auditors to send copies of all management reports and correspondence relating to those reports and responses to the SG.

40. The AGS, or examiners appointed by the AGS, may carry out examinations into the economy, efficiency and effectiveness with which SEPA has used its resources in discharging its functions. For the purpose of these examinations the examiners have a statutory right of access to documents and information held by relevant persons. In addition, SEPA 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**

41. SEPA 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 SEPA. It should comply with the [Financial Reporting Manual](#) (FReM) and outline SEPA's main activities and performance against agreed objectives and targets for the previous financial year.

42. The accounts must be prepared in accordance with relevant statutes and the specific accounts direction, including compliance with the FReM, and other relevant guidance issued by the Scottish Ministers. Information on performance against key financial targets is within the scope of the audit and should be included in the notes to the accounts. Any subsidiary or joint venture owned or controlled by SEPA shall be consolidated in its accounts in accordance with International Financial Reporting Standards as adapted and interpreted for the public sector context.

43. The report and accounts should be submitted in draft to the SG for comment. In the case of the accounts, these should be submitted to the SG for comment at least five working days before they are submitted to SEPA's Board and the final version should be available for laying before the Scottish Parliament by the Scottish Ministers within nine months following the close of the previous financial year. 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 at the earliest possible date following the completion of the formal sign-off and approval process. 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. SEPA shall be responsible for the publication of the annual report and accounts e.g. on SEPA's website.

## **Management Responsibilities**

### **Corporate and Annual Operating Plans**

44. SEPA must ensure that a corporate plan, agreed with the Scottish Ministers, is in place and published on SEPA's website. SEPA 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 explain SEPA's strategic aims and objectives as agreed by the Scottish Ministers, indicative budgets and any priorities set by the Scottish Ministers. The plan shall demonstrate how SEPA contributes to the achievement of the SG's primary Purpose of creating a more successful country, with opportunities for all Scotland to flourish through increasing sustainable economic growth and alignment with the NPF. SEPA's corporate plan should generally include:

- an overview, and explanation, of SEPA's purpose, outcomes and values;
- an analysis of the context in which SEPA operates;

- principal objectives and associated 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;
- an estimate of the resources required to achieve the plan;
- indicators against which performance can be judged;
- details of planned efficiencies, describing how SEPA proposes to achieve better value for money, including through collaboration and shared services;
- other matters as agreed between the SG and SEPA.

45. The corporate plan should inform the development of an annual operating plan for each financial year. SEPA's annual operating plan 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 SEPA's annual operating plan should be provided to the sponsor unit in draft and the plan should be agreed prior to the start of the relevant financial year.

### **Budget Management**

46. 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 SEPA a formal statement of its budgetary provision, a note of any related matters and details of the budget monitoring information required by the SG. The statement of budgetary provision will set out the budget within the classifications of resource Departmental Expenditure Limits (DEL), capital DEL and ring-fenced (non-cash) DEL. SEPA will also inform the sponsor unit at the earliest opportunity if a requirement for Annually Managed Expenditure (AME) budget is identified. Transfers of budgetary provision between the different classifications would require the prior approval of the SG Finance Directorate. Any proposals for such transfers should therefore be submitted to the sponsor unit. The SG should also be advised in the event that budget provision was forecast to be higher than estimated net expenditure. Subject to the above, transfers of provision within the classifications may be undertaken without reference to the SG, subject to any constraints on specific areas of expenditure e.g. the approved pay remit.

47. 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 agreed budget SEPA shall, unless otherwise agreed with the SG, ensure a corresponding reduction in its gross expenditure. The extent to which SEPA 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 SEPA must consult, and obtain the prior approval of, the SG before using any excess to fund additional expenditure or to meet existing pressures. The SG will consider requests by SEPA to meet cost pressures on them but in light of the portfolio pressures overall. Failure to obtain prior approval for the use of excess income – excluding income from gifts, bequests and donations – to fund additional expenditure may result in corresponding reductions in budgets for the following financial year.

48. In-year variations in SEPA's income will be kept under regular review by the SG and SEPA as part of monthly tracking / monitoring of budgets as well as at quarterly Finance meetings. Approval must be sought from the SG for additional expenditure arising from excess income of over £250,000 either in individual instances or at an aggregated level.

### **Cash Management**

49. Any [grant in aid](#) (i.e. the cash provided to SEPA by the SG to support the allocated budget) 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 SEPA - 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 SEPA.

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

### **Risk Management**

51. SEPA shall ensure that the risks that it faces are identified and managed in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and develop a risk management strategy, in accordance with the [Risk Management](#) section of the SPFM. Reporting arrangements should ensure that the sponsor unit is made aware of significant corporate risks and how they are being managed. The SG sponsor unit should then 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**

52. SEPA should adopt and implement policies and practices to safeguard itself against fraud, bribery, corruption 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. In addition SEPA should take risk-based and proportionate steps to appraise the financial standing of any supplier or other body with which it intends to enter into a contract or to provide funding.

### **Performance Management**

53. SEPA 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 outcomes, objectives, targets and milestones set

out in the corporate and annual operating plans. The results of such reviews should be reported on a regular basis to the Board and copied to the SG. The Board shall assess SEPA's performance on a continuous basis and undertake a formal internal review at least twice a year.

54. The responsible Minister shall meet SEPA's Chair as necessary and such meetings may include discussions on SEPA's performance, where appropriate.

## **SEPA Staff Management**

### *Broad responsibilities for SEPA staff*

55. SEPA will have responsibility for the recruitment, retention, training and development 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 best practice 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 SEPA'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 SEPA's objectives;
- full and proper consultation with staff takes place on key issues affecting them;
- appropriate grievance and disciplinary procedures are in place;
- whistle-blowing procedures consistent with the [Public Interest Disclosure Act 1998](#) are in place;
- 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*

56. SEPA 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. SEPA 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*

57. Superannuation arrangements for SEPA staff are subject to the approval of the SG. SEPA staff shall normally be eligible for a pension provided by the Local Government Pension Scheme. Staff may opt out of the occupational pension scheme provided by SEPA, but the employers' contribution to any personal pension arrangement, including stakeholder pension, shall normally be limited to the national insurance rebate level.

58. Any proposal by SEPA 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 for an individual outwith any existing approved scheme and before the individual is approached and any offer made either orally or in writing.

### **Property Acquisition, Disposal and Management**

59. SEPA shall follow the guidance in the [Property: Acquisition, Disposal and Management](#) section of the SPFM. The procedures, safeguards and key points in this section must be taken into account for 'current' and 'non-current' assets. Assets are defined in the SPFM and include: land, buildings and other rights in property; plant, equipment, machinery and vehicles. More detailed guidelines are provided on the [Acquisition of Property](#) and [Disposal of Property](#) and are to be followed. Holdings of property, plant and equipment should be kept under regular review by SEPA, using an asset register or the electronic Property Information Mapping System (ePIMS).

60. SEPA must seek advice from the SG Property Division (PD) at the earliest opportunity when an acquisition or disposal of property or interest in property is being considered. The sponsor unit must be kept fully advised so that they are well-placed to coordinate the scrutiny of business cases, preparation of incurring expenditure requests and in the presentation of advice to the Scottish Ministers. Furthermore, prior to offering land and property assets for sale elsewhere, SEPA must notify PD of the surplus asset so that it may be [internally advertised](#). This provides a mechanism for the transfer, at market value, of public sector property. Where another body, which is party to 'the Trawl', expresses an interest to acquire the asset, the transfer should be undertaken following the [Guidelines for the Transfer of Property within the Scottish Public Sector](#). This process takes one month and must be completed before commencing marketing or entering into a commitment to sell elsewhere.

61. SEPA shall not acquire or establish any new or replacement offices or other accommodation without the prior approval of the sponsor unit and after consultation with the Property Controls Team - a partnership between PD and the Scottish Futures Trust. The timescales for doing so are set out in the SPFM but should be preferably two years prior to any lease expiry, break option or rent review.

## **Delegated Authorities**

62. SEPA's specific delegated financial authorities are set out in the attached **Appendix**. SEPA shall obtain the SG's prior written approval before entering into any undertaking to incur any expenditure that falls outside these delegations or which is not provided for in SEPA's annual budget as allocated by the Scottish Ministers. SEPA 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 where any costs are estimated as being over £250k or which might be considered novel, contentious or repercussive or which has or could have significant future cost implications unless already included in SEPA's approved budget.

63. In addition to the above requirements, SEPA shall also provide the sponsor unit with an annual report on certain expenditure within delegated limits. The transactions which should be included in this report are set out in the attached **Appendix**.

## **Income Generation**

64. SEPA shall seek to maximise 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 SEPA shall be determined in accordance with the [Fees & Charges](#) section of the SPFM.

65. Gifts, bequests or donations received by SEPA 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, SEPA 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 SEPA shall consider if there are any associated costs in doing so or any conflicts of interests arising. SEPA shall keep a written record of any such gifts etc, their estimated value and what happened to them.

## **Financial Investments**

66. SEPA shall not make any financial investments without the prior approval of the SG. Equity shares in ventures which further the objectives of SEPA shall equally be subject to SG approval unless covered by a specific delegation. SEPA shall not invest in any venture of a speculative nature.

## **Borrowing**

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

## **Lease Arrangements**

68. Unless covered by a specific delegated limit SEPA shall not, enter into any finance, property or 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, SEPA must be able to demonstrate that the lease offers better value for money than purchase and that all reasonable options of sharing existing public sector space have been explored. Non-property/accommodation related operating leases and leases of land for gauging stations are subject to specific delegated authority limits (see **Appendix**). SEPA must have capital DEL provision for finance leases and other transactions, which are in substance borrowing.

## **Tax Arrangements**

69. 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. SEPA 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 SEPA to observe VAT legislation and recover input tax where it is entitled to do so. SEPA must also ensure that it accounts properly for any output tax on sales or disposals

## **Lending and Guarantees**

70. Any lending by SEPA 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 SEPA shall not, without the SG’s prior approval, lend money, charge any asset or security, 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**

71. SEPA has broad statutory powers within the provisions of the [Environment Act 1995](#) to take measures to protect the environment. Consequently, but subject to the provisions elsewhere within this framework document, SEPA can disburse grant monies to third parties in pursuance of the carrying out of its functions. Such funding would be subject to the guidance in the [State Aid](#) section of the SPFM. Guidance on a framework for the control of third party grants is provided as an [annex](#) to the [Grant and Grant in Aid](#) section of the SPFM.

## **Impairments, Provisions and Write-offs**

72. 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 SEPA'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 SEPA's resource DEL budget classification and is subject to a specific delegated limit.

## **Insurance**

73. SEPA are 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 SEPA. The SG will provide SEPA with a Certificate of Exemption for Employer's Liability Insurance.

## **Procurement and Payment**

74. SEPA'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 SEPA's objectives consistent with the principles of [Best Value](#), the highest professional standards and any legal requirements. Unless covered by a specific delegated authority any proposal to award a contract without competition, a procedure known as Non-Competitive Action (NCA), must be approved in advance by the SG. Any external consultancy contracts with a value of more than £100,000 must be approved in advance by the Cabinet Secretary for Infrastructure, Investment and Cities and the Deputy First Minister & Cabinet Secretary for Finance, Constitution and the Economy.

75. Approval to award contracts for goods, services and works without a genuine and effective competition (i.e. NCA), will only be given by the SG in exceptional circumstances. This approval will only be given when a genuine business need exists which outweighs the need to compete requirement. All evidence in support of NCA must stand up to scrutiny and challenge by a potential supplier.

76. SEPA may approve its own NCAs for: Laboratory Maintenance Contracts; and IS hardware and software maintenance contracts, if:

- using a different provider would lead to a warranty becoming invalid;
- equipment or software is so specialised that anyone other than the original supplier carrying out maintenance could raise safety issues.

77. SEPA may also approve its own NCAs in relation to emergency works where it is not practical to go through normal competitive tendering procedures. The prior approval of the Chief Executive must be sought for this and all such instances brought to the attention of the next meeting of the Board.

78. Any major investment programmes or projects undertaken by SEPA shall be subject to the guidance in the [Major Investment Projects](#) section of the SPFM. The sponsor unit must be kept informed of progress on such programmes and projects and the Scottish Ministers must be alerted to any developments that could undermine their viability. ICT investment plans must be reported to the SG's Information Services Investment Board.

79. SEPA shall pay all matured and properly authorised invoices in accordance with the [Expenditure and Payments](#) section of the SPFM. SEPA is subject to the SG target for the payment of invoices within 10 working days of their receipt.

### **Gifts Made, Special Payments and Losses**

80. Unless covered by a specific delegated authority, SEPA shall not, without the SG's prior approval, make gifts or special payments or write off losses. Special payments and losses are subject to the guidance in the [Losses and Special Payments](#) section of the SPFM. Gifts by management to staff are subject to the guidance in the [Non-Salary Rewards](#) section of the SPFM.

### **Clawback**

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

### **Board Expenses**

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

**SCOTTISH ENVIRONMENT PROTECTION AGENCY: FRAMEWORK DOCUMENT  
APPENDIX**

**SPECIFIC DELEGATED FINANCIAL AUTHORITIES**

	<b>Delegated Limit</b>
External business and management consultancies	<b>£100,000</b>
Non-competitive action (except maintenance contracts and emergency works as specified in paragraphs 76 and 77)	<b>£25,000</b>
Operating leases – other than property / accommodation related leases (which require SG approval) or leases relating to gauging stations (which are subject to the Acquisition or lease of land limit below)	<b>£250,000</b>
Investment projects <sup>1</sup>	<b>£250,000</b>
Gifts	<b>£75</b>
Claims waived or abandoned	<b>£5,000</b>
Write-off of bad debt and/or losses and research/survey projects	<b>£500,000</b>
Special Payments (other than gifts)	<b>£5,000</b>
Acquisition or lease of land	<b>£500,000</b>

SEPA will also provide the SG with an annual report briefly summarising the purpose and value of the following transactions:

- All non-competitive actions;
- All claims waived or abandoned;
- All write-offs, losses and special payments.

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<sup>1</sup>Paragraph 62 of this framework document refers. SG Finance require prior permission for any commitment in excess of the specified delegated limit of £250,000 for major programmes or projects so that overall DEL commitment levels can be assessed.