

PUBLIC BODIES: PROPOSALS FOR CHANGE



Making it work together



SCOTTISH EXECUTIVE

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SUMMARY

Background

- Public bodies have a long history in Scotland and many have played an important role in advising government and delivering services.
- The people who have served on them have performed a valuable public service and have contributed substantially to the well-being of Scotland.
- But questions have been raised by public and politicians about their accountability, openness and representativeness.
- The current 180 or so public bodies differ greatly in their origins, roles and responsibilities – so only a detailed case-by-case review could determine their utility in the modern context.
- The review has acknowledged the complexity of public bodies in Scotland and come up with conclusions that reflect a practical attempt to address some important and long-standing governance issues in many areas of Scottish public service.
- The review is therefore a major and timely tidying-up, modernising exercise in the way Scotland runs itself.

Outcome of the Review

- Every one of the bodies sponsored by the Executive has been tested during the review against a new set of principles. These stipulate that arm's length bodies should be established or retained if:
 - They have a distinct role to play and functions to perform that cannot be carried out at least as effectively by any other organisation.
 - They are clearly accountable to Ministers and the people whom they serve for the functions they perform.
 - They are able to work in a joined up way with other organisations and are able to draw new people into the processes of government in its widest sense.
 - They are properly run, efficient and effective, and deliver value for money.
- Annex B to the report explains which public bodies Ministers believe should or could be abolished, merged or otherwise altered, taking into account the underpinning principles. The Executive intend to abolish 52 public bodies. Action will be taken in an appropriate, proportionate way – there is no ‘one size fits all’ solution. A further 61 bodies are the subject of ongoing fundamental review by Executive departments.

- The Executive will also make structural changes. These will bring enhanced openness, professionalism, accountability to Ministers and the public, and diversity of membership building on reforms that have been made in recent years.
- Specifically the Executive intends to:
 - Strengthen the new Standards Commission by giving it the power to oversee appointments Ministers make and to appoint independent assessors to appointment panels;
 - Step up the drive to attract a wider cross-section of people to serve on public bodies - the Executive will report annually to Parliament on progress;
 - Overhaul and modernise the systems for training and paying Board members – the Executive wants the right people, wants them to be properly equipped for their jobs, and to be paid fairly and sensibly;
 - Require Boards to become even more open, accountable and effective by: completing implementation of the Ethical Standards Act; by making them consult users and the public, partner organisations and local authorities more imaginatively; and by requiring them to make information about their activities available more widely; and
 - Overhaul the systems for ensuring that public bodies work to the Executive's agenda. The Executive will put in place a tight new regime for ensuring that arm's length bodies know, understand and implement Ministers' priorities, and for ensuring that steps will be taken if they fail to do so.
- The Executive will ensure that those public bodies that remain have a genuine role to play, operate effectively and efficiently, that they improve continuously in every aspect of performance and service, and that they are wound up when they are no longer necessary. Thus:
 - Each public body will be reviewed at least once every 5 years. The regular review will also check governance, accountability, and responsiveness to the public and partner organisations, and make tough recommendations for action if there are signs of weakness; and
 - Any future proposal to set up a new public body will have to satisfy the Executive's criteria and be tested against alternative delivery options. A public body will only be set up if there is an absolutely clear and widely recognised need for one.

Conclusion

- So, following the review the remaining public bodies will be:
 - Fewer in number;
 - doing a job that needs to be done – and can best be done by a public body;
 - more accountable to Ministers and communities;
 - open and transparent in their ways of working;
 - representative of the full diversity of Scotland’s communities;
 - fit for purpose in the 21st Century.
- Alongside the Executive, local government and the private and voluntary sectors, the remaining, reformed public bodies will continue to play a valued role in the new Scotland.
- The review is one of the means the Executive is using to bring the spirit of devolution into all the institutions of Scottish government and so drive up the standards of Scotland’s public services.

PUBLIC BODIES REVIEW

THE CONTEXT

1. As society has become more complex throughout the industrialised world it has become progressively more important for Government to supplement its internal knowledge and understanding and skills base. Governments have looked to share governance with others, particularly by drawing in experts to serve on public bodies that provide advice and deliver services. They have had to strike a balance between giving public bodies enough freedom to operate effectively and making sure that they are appropriately accountable to executives and legislatures.

2. In Scotland devolution has brought the network of arm's length advisory and executive bodies into much sharper focus. It has given added weight to concerns about their contemporary role, their value and, in particular, about their accountability. The Scottish Parliament expects to scrutinise closely and hold Ministers to account, to consider new issues and to contribute to the policy-making process in a way that differs from the Westminster approach, frequently drawing on expertise that extends outwith government but within Scottish society, and more widely.

3. There is also an expectation that the Scottish Executive will consult more widely and more deeply, both formally and informally, with the Parliament, the full range of interest groups and the public and draw in and utilise expertise that exists in Scotland within the framework of the governance of Scotland. New areas in which Ministers need advice, and are required to act, emerge more rapidly than in the past. Hence Ministers need the flexibility to be able to act and obtain advice quickly.

4. More generally there is an expectation that the spirit of genuine, participative democracy that underpins the Parliament should be applied more widely.

5. The purpose of the review was to consider all Scottish public bodies¹ against this background of fundamental changes in both the UK constitution and in the expectations of the people of Scotland about the way that they should be governed.

OBJECTIVES OF THE REVIEW OF PUBLIC BODIES

6. The specific objectives of the review were:

- To secure a set of principles that should underpin the organisation and delivery of devolved central government services in the new Scotland. To explore the relationship between the Executive and the bodies it sponsors and between them and other interests – for example, local government, the Parliament and civic Scotland;

¹ A definition of the types of public body which operate at arm's length, together with alternative mechanisms for delivering functions, is at Annex A. Cross-Border Public Authorities, which generally fall within the legislative competence of the UK Parliament but to which Scottish Ministers make appointments, have not been considered during this review.

- To test all public bodies, and the single person Commissioners appointed by Ministers, and any future proposals to establish public bodies, against these principles. To abolish those bodies whose existence is not justified by reference to them – either by ceasing the function if it is no longer needed, or by moving it to another organisation, or bringing the function into, or closer to, the Executive;
- To ensure that those public bodies that remain operate effectively and are appropriately accountable to Ministers and Parliament and have legitimacy in the eyes of the public, most particularly by further modernising the appointments process; and
- To secure maximum value for money with a rolling review of the remaining public bodies in the context of wider scrutiny of the functions they carry out.

UNDERPINNING PRINCIPLES

7. The set of principles that the Executive has adopted is as follows:

- The Scottish Ministers must be, and must be seen to be, directly accountable to the Scottish Parliament for the overall policy and strategic framework within which all devolved functions are carried out;
- Arm's length public bodies do have an important role to play in the governance of devolved Scotland – for example, by bringing expertise to bear in the delivery of certain functions, giving specialist advice to Ministers, and where quasi-judicial decisions need to be made;
- Where there is a very strong argument for Ministers remaining directly accountable to Parliament for the execution of a function the presumption should be that it must be carried out within the Executive (either within the core or by an Executive Agency). In these circumstances interposing an unnecessary barrier between Ministers and those carrying out the function conflicts with the principle of direct accountability;
- If it is clear that Ministers should be distanced from a function for some reason they should not necessarily be held responsible for the manner of its execution, provided that they have given clear strategic direction to those expected to carry it out;
- The mechanisms for carrying out Executive functions on behalf of Ministers or for providing advice to them must be fit for purpose relative to the scale, complexity and significance of the function, and as flexible and transparent as circumstances allow;
- A public body should only be established or remain in existence if it has a distinct role to play and distinct functions to perform;

- Every public body must be clearly and appropriately accountable to Ministers and the people whom they serve for the functions they perform. There must be clarity about what the body itself is responsible for doing;
- Every public body must be able to work in a joined up way with other organisations and be able to draw new people into the processes of government in its widest sense; and
- Every public body must be properly run, efficient and effective, and deliver value for money.

APPLYING THE PRINCIPLES TO EXISTING PUBLIC BODIES AND TASK FORCES AND PROPOSALS FOR NEW BODIES/TASK FORCES

8. The analysis at Annex B explains which public bodies Ministers believe should or could be abolished or merged or otherwise altered taking into account the underpinning principles. It explains why, how and when a change of status could be achieved.

9. Annex B includes 113 bodies. The Executive has concluded that the other 70 public bodies that are sponsored by the Executive do have a clear continuing role to play, taking into account the underpinning principles, and so should be retained in their present form.

10. The review has shown that in many circumstances arm's length public bodies, operating within a new framework of accountability, are better-placed than any other type of organisation, including the Executive itself, to carry out functions on behalf of Scottish Ministers because:

- Ministers and the core Scottish Executive should ideally focus on strategic direction or policy-making rather than carrying out executive functions or detailed casework;
- Public bodies can be a cost effective way of bringing particular expertise or experience to bear on the delivery of certain functions; of securing specialist advice for Ministers; or of dealing with complex casework in detailed areas where it would be impractical or disproportionate to retain expertise within the Executive, or where it would be unreasonable to expect Ministers to be directly involved or to take a view;
- Public bodies are necessary where quasi-judicial decisions need to be made or appeals decided and independent judgement must be guaranteed (e.g. tribunals), and where there is a consensus within society that decisions should not be taken by politicians (e.g. mechanisms for the distribution of lottery funds); and
- Public bodies and Task Forces and similar ad hoc groups are also a potentially very effective way of drawing a wider cross section of society into the processes of government and thereby extending civic participation.

11. But the number of public bodies sponsored by the Executive is not set in stone. Bodies will be wound up if and when it is clear that they no longer have a useful role to play, taking into account the underpinning principles. There will also be circumstances in which the Executive concludes that a new public body is required. However:

- Any proposal for a new body will be tested thoroughly and imaginatively against the underpinning principles and the alternative delivery options described in Annex A.
- The relevant Minister will always report any proposal to set up a new public body to the relevant Committee of the Parliament. He/she should explain how the proposal is consistent with the underpinning principles and what alternative arrangements have been examined, including delivery of the function by civil servants in the core of the Executive or in an Executive Agency or by an existing public body or by one or more local authorities or in the private, voluntary or community sectors.

12. As indicated in Annex A, Task Forces and other similar ad hoc, short life groups are a flexible and effective means of securing advice for the Executive and for the Executive to engage with Scottish society. Task Forces are not public bodies and so most of the recommendations in this report do not apply to them. However in future Ministers will inform the Convener of the relevant Parliamentary Committee in writing when they appoint a new high-level Task Force. The approval of Parliament will not be required as the establishment of Task Forces and similar groups does not require legislation. The letter will explain the remit of the Task Force and how long it is intended to remain in existence.

THE WAY FORWARD

13. So the Executive accepts that there is a case for public bodies in the new Scotland and that many of the reforms introduced over the last few years – notably the Nolan procedures governing public appointments - are bearing fruit. But there is further work to be done in reforming public bodies and the framework in which they operate, in particular to try to diversify their membership and to clarify the arrangements for accountability. There need to be clear statements about who is responsible for what, and why. In particular Ministers need to be confident that public bodies are clear about the remit that has been given to them and the scope for them to exercise discretion. The steps the Executive intend to take are set out in the remainder of this document.

IMPROVING ACCOUNTABILITY AND GOVERNANCE OF PUBLIC BODIES

14. The notion of accountability in relation to public bodies is usually understood in terms of ‘upward accountability’ – i.e. the public body is the ‘agent’ of government, is responsible for carrying out a function, and as such is required to give an account of how the duty is being fulfilled. But public bodies operate in a world of ‘multiple accountability’. That means that they have a duty to continuously improve and strengthen their links to stakeholders, users, customers and the general public, as well as to be accountable to Ministers and Parliament.

15. In addition to the public bodies which Ministers sponsor, and which are directly accountable to them, there is also a range of other bodies delivering public services in Scotland whose principal relationship is with a public body rather than a Minister. Examples are Local Enterprise Companies, Area Tourist Boards, Further Education Colleges and Higher Education Institutions, which relate respectively to Scottish Enterprise, Highlands and Islands Enterprise, VisitScotland, the Scottish Further Education Funding Council and the Scottish Higher Education Funding Council. The Nolan principles on conduct and propriety tend to apply to such bodies, but in terms of policy relationships they stand at one step further removed than sponsored bodies, and indeed in the case of Further Education Colleges and Higher Education Institutions there are agreed constraints on Ministers' involvement in their affairs.

16. Ministers, too, are accountable for their actions in relation to public bodies – to Parliament and to the electorate. They also have responsibilities to the public bodies who are accountable to them.

17. The following paragraphs describe in general terms the rights and responsibilities of each of the players involved. But it is important that arrangements for accountability should be proportionate and fit for purpose taking into account the size and nature of each body – Executive and Advisory NDPBs, for example, will be accountable to Ministers in different ways. A balance needs to be struck between ensuring that enough information about what public bodies are doing is available to all with an interest, and allowing the public bodies to carry out their core business efficiently, at arm's length from Ministers.

(a) Ministers and SE Officials

18. Ministers/officials have a duty to explain clearly to the public what is expected of members of public bodies in general and why they feature as a tier of government. The Executive will publish a straightforward generic guide to public bodies and, in order to try to educate public opinion over the longer term, also aim to produce appropriate explanatory material that can be used in schools.

19. Ministers need to explain clearly to each public body through regular guidance what they expect them to achieve in terms of outcomes, and how they intend to monitor them and generally interact with them. They need to describe the sorts of circumstances in which they would generally intervene or use powers of direction (such an explanation cannot be exhaustive because not every set of circumstances can be foreseen). This guidance should be made available to Parliament and to the wider public.

20. Ministers/officials need to be consistent in following guidance on appointment procedures and in providing guidance and training and appropriate remuneration/compensation for members of public bodies.

21. Ministers/officials need to apply the principles of modern performance management. They need to allow bodies appropriate arm's length room for manoeuvre consistent with the agreed remit of the body, set clear objectives for it and monitor progress towards them, and identify a range of appropriate incentives and sanctions to encourage progress. To this end the Business Development Unit in the Executive will carry out a review of the sponsorship function across the Executive and develop models of best practice for use by sponsor

divisions. They will also advise on what training should in future be given to staff working in sponsor divisions.

22. The principle of a regular, quinquennial review of each public body by the Executive will be maintained. The focus will be on continuous improvement – trying to identify ways of making the body operate more effectively. The relevant sponsoring Scottish Minister will review the performance management, accountability and governance arrangements in place with the Chair of the body during the review. Each quinquennial review will take into account the recommendations on public appointment procedures and training and on performance management, governance and accountability (see below), and decide in the light of the review what specific steps need to be taken to improve the arrangements. Ministers will report the outcomes of quinquennial reviews to Parliament.

(b) Parliament

23. It is up to Parliament to use its existing powers to hold Ministers and public bodies to account, to highlight weaknesses or failings, and to identify and encourage appropriate dissemination of good practice.

24. Many public bodies are creatures of statute and are thus normally required to submit their annual reports and accounts to Parliament. Parliament is entitled to invite the Chair or Chief Executive of any public body and/or the sponsoring Minister, to attend and ask questions of them.

25. The Executive made it clear in the February 2000 consultation document on Modernising Public Appointments that they were opposed to any form of pre-appointment role for Parliament in Executive appointments but did float the notion of some form of standardised post-appointment Parliamentary process. Responses to the consultation revealed very little support indeed for pre-appointment Parliamentary involvement, and not much more for standardised post-appointment Parliamentary involvement. The main message seemed to be that existing Parliamentary powers of scrutiny, supplemented with an annual debate on the Executive's Annual Report on Public Appointments, would provide ample opportunity for MSPs to monitor appointments.

26. The Executive is committed to working with the Parliamentary authorities to ensure that Parliament is able to use existing powers effectively. The plans outlined elsewhere in this document will also extend Parliament's ability to scrutinise Ministers and public bodies, e.g.

- A Scottish Commissioner for Public Appointments will report to Parliament annually on public appointments.
- Ministers must report any proposal to set up a new public body to the relevant Parliamentary Committee.
- Ministers must notify Chairs of relevant Parliamentary Committee of decisions to set up Ministerial Task Forces.

(c) Members of Public Bodies

27. It is up to the members of each public body to ensure that they comply with all the requirements of ‘upward accountability’ – to Ministers and Parliament - described above. They also need to ensure that they are operating effectively and are accountable and responsive to their other stakeholders.

28. The specific recommendations (many of which were suggested in the Cabinet Office publication “*Quangos: Opening the Doors*” in 1998) that need to be taken into account by Ministers and Chairs of bodies as they review public bodies’ accountability and governance arrangements during quinquennial reviews are:

- Public bodies should hold Annual Open Meetings, where practicable and appropriate. They should also hold other meetings in public unless there is a good reason for not doing so.
- Where practicable, public bodies should release summary reports of meetings.
- Public bodies should invite evidence from members of the public in relation to matters of public concern.
- Public bodies should aim to consult their stakeholders and users on a wide range of issues by means of questionnaires, public meetings or other forms of consultation, including by using the internet imaginatively and by setting up local or national networks to whom they could be partly accountable. Where services are delivered locally on behalf of the Executive across Scotland (i.e. directly to consumers in all or most local authority areas) formal mechanisms must be put in place for taking account of local needs and for co-operating with other local service providers, in particular through community planning mechanisms and Economic Forums.
- All public bodies should ensure that they comply, in terms of their recruitment and employment practices and the carrying out of their functions, with equal opportunities legislation and with other guidance issued by the Executive on equality best practice, and in general that they have robust procedures in place to recruit staff, particularly at director level.
- Members of public bodies will be required to comply with the Code of Conduct drawn up under the Ethical Standards Act.
- Boards of Executive NDPBs must ensure that their purchasing, financial control and audit and risk management arrangements are beyond reproach.
- All public bodies should produce Annual Reports and make them publicly available.
- Executive NDPBs should produce and distribute widely information on their role and achievements, making full use of the internet.

- All public bodies should give appropriate opportunities to the general public to shadow members. The Executive is running a pilot scheme, acting as a facilitator by collecting names of people wanting to shadow members of public bodies and of bodies prepared to offer shadowing opportunities, and by advertising the system.

APPOINTING SUITABLE PEOPLE AS NON-EXECUTIVE DIRECTORS AND MEMBERS

29. Where a public body is necessary it is crucial that it is properly run. The key pre-requisite is that people who satisfy objective criteria for the specific posts in question are appointed as non-Executive directors of Executive NDPBs and members of advisory bodies.

30. The specific qualifications required for a non-Executive director or member will vary from board to board. Some boards will require a mix of people ranging from experts in the subject to people with broad management experience. Other bodies - notably advisory NDPBs dealing with specialist issues, and some tribunals - will require a narrower range of people. Ministers, senior Executive officials and the relevant Chair must decide together what mix is appropriate for each Board.

31. The fundamental requirement is that non-Executive directors should bring a capacity to apply independent judgement. Non-Executive directors serving on Executive NDPBs must also be able to work with others on a Board to:

- Set out a clear vision and mission statement for the body that is consistent with the strategic direction set by Ministers and ensure that its functions are carried out in line with the vision;
- Ensure that the body fulfils all its obligations in terms of accountability (to stakeholders, Ministers, the Parliament and the wider public);
- Ensure that the body is managed efficiently and effectively and in line with the principles of good governance; and
- Challenge Executive Directors where necessary.

32. People must continue to be appointed as non-Executive directors and members on merit regardless of age, gender, race, disability, political views or the interests they represent, as they have been throughout the UK since the Nolan procedures were introduced in the mid-nineties. In practice virtually everyone serving on a Scottish public body today has been through the Nolan process.

33. It is a matter of concern to Ministers that disproportionately few women and disabled people, and people from ethnic minorities, from lower socio-economic groups and from outwith the central belt are appointed to Scottish public bodies (other than Children's Panels on which women constitute the majority). This means that the full potential of Scottish society is not being tapped - most bodies are making decisions on the basis of the views of a relatively narrow strand of society. The Executive would like to be able to achieve a better balance.

34. In order to achieve the above ends, and taking into account the responses to the consultation on Modernising Public Appointments in 2000, the Executive has decided that:

- The starting point must remain the Nolan-based procedures for public appointments under which Ministers make appointments to bodies that they sponsor on the basis of externally-imposed guidelines;
- The guidelines will be owned, and compliance with them monitored, by a Scottish Commissioner for Public Appointments (SCPA) who will be required to report to Parliament annually. There was overwhelming support for the notion of a SCPA in the consultation on Modernising Public Appointment procedures in 2000;
- The UK Commissioner for Public Appointments will continue to discharge her current remit in respect of appointments by Scottish Ministers until a SCPA is appointed;
- The SCPA will be responsible for appointing and training independent assessors to sit on Executive appointments panels, and for helping to provide training to others who are involved in the appointments process, including Executive officials;
- The SCPA will also be given a remit to draw up a strategy for encouraging more people from currently under-represented groups to apply for public appointments, including running development programmes for people with potential but who lack all the necessary decision-making and managerial skills to fulfil the minimum requirements for members of public bodies. The SCPA will work in partnership with the Executive in this area building on the work already being undertaken to diversify public appointments;
- The Executive will review the targets for women and ethnic minorities with the SCPA once appointed;
- The Executive will introduce an appropriate guaranteed interview scheme for disabled candidates who meet the key criteria for posts;
- Under the terms of the Scottish Compact the Executive will ensure that nominations are sought from voluntary sector interests as appropriate for public bodies. The SCPA will monitor compliance with this obligation;
- The Executive will make an annual statement to Parliament on their appointments to public bodies, commenting in particular on the progress towards diversity targets; and

- A central unit in the Executive will oversee most of the standard elements of the appointments process (such as issuing information packs, acknowledging applications, convening appointments panels) in respect of most of the bodies sponsored by the Executive. The aims will be to bring a greater consistency of approach, and to make the process smoother for applicants and more efficient by maximising economies of scale. However this will not in any way undermine the principle that the Minister sponsoring the relevant public body will have the final say as to who is appointed to the Board.

35. It follows from the above that the SCPA, working in partnership with the Executive and other agencies, will play a crucial role both in actively helping to ensure that public bodies become more effective and in helping Parliament to scrutinise the work of public bodies and Ministers in relation to them.

36. The SCPA will need its independence enshrined to enable it to carry out its job effectively. It will thus be established by statute. However the SCPA will not be a new body. The Executive intends to merge the SCPA with the new Standards Commission given that the Standards Commission will already have a role in overseeing aspects of what members of public bodies do. The precise terms of the legislation and in particular the mechanism for appointing the SCPA will be the subject of further consultation. The net additional costs of establishing a Scottish Commissioner for Public Appointments are likely to be in the region of £200k, depending on the precise remit.

EQUIPPING APPOINTEES

37. Members of public bodies must be appointed on merit. But once they are in place, it is crucial that they are provided with the necessary information and training to ensure that they are able to carry out their duties to the highest standards.

38. Precise training and information requirements vary from Board to Board, depending on both the type of body and the nature of its functions. Each Board, in consultation with the relevant Department in the Scottish Executive, should ensure that tailored induction and ongoing development packages are made available that are relevant to the Board's functions. In particular there will in future be an expectation that non-Executive directors of Executive NDPBs should receive training on risk assessment and financial and project management. The costs of tailored training will be met from each Board's annual running costs.

39. Every member of every Board will also receive a comprehensive standard induction pack covering generic issues such as roles and responsibilities of public bodies, and accountability and governance arrangements. The Executive will let a contract to produce the induction pack.

REWARDING MEMBERS OF PUBLIC BODIES

40. A review of the remuneration of non-Executive members of public bodies has been carried out. The main points to note about the current arrangements are:

- Most people who volunteer to serve on public bodies do not receive any remuneration beyond expenses. Although most members of Executive NDPBs and NHS bodies are paid, most members of advisory NDPBs and tribunals are not; and
- The wide variation of practice between those NDPBs that do pay remuneration.

41. Remuneration varies between an annual salary and ad hoc per-day/per-meeting payments. Variations in remuneration rates between bodies do not obviously reflect relevant differentials in their nature and responsibilities. Pay policy has been decided for individual Boards by Ministers on an ad hoc basis, over a long timeframe. There is little in the way of prescriptive central guidance. The total sum payable in remuneration in 1998-99 (i.e. assuming no vacancies) was a little over £4m.

42. Most Board members are reimbursed travel and subsistence expenses, but here too there is wide variation of practice. A minority of Board members are also offered other allowances – such as ‘homework allowances’, ‘locum’ fees, help with childcare costs.

43. The system is also seen as outmoded by people whom Ministers expect to work very hard on public bodies to deliver Executive objectives – and to carry the can when things go wrong.

44. In the Parliament’s ELL Committee inquiry into the SQA, the SQA Board were strongly criticised for not operating at a strategic level and ensuring that suitable performance management arrangements were in place. But the Committee suggested that the Executive consider in future paying SQA Board members a modest sum in order to “help underline their responsibilities to the SQA”.

45. The objectives of reform are:

- Modernisation and simplification;
- Making public bodies more effective by attracting more people of suitable calibre; and
- Attracting more applicants from groups and sectors that are currently under-represented on public bodies.

46. The approach the Executive intends to adopt is as follows:

- It will be for each Minister to decide on the remuneration rates, if any, for the bodies including tribunals he or she sponsors taking into account their circumstances and central guidance and affordability;
- A central unit within the Executive will be responsible for evaluating posts against set criteria and comparative information, taking into account the budget of each body, its perceived importance and workload on appointees rather than the category into which each falls, and for advising sponsor Ministers on a ‘rate for the job’;

- The indicative ‘rate for the job’ will be a fixed element plus a standard fee on the basis of contractual time commitment, taking into account attendance at meetings, with an appropriate differentiation between Chairs and ordinary members;
- The costs of remuneration will continue to be met, as now, from public bodies’ running costs;
- Standardised arrangements for allowances and expenses will be introduced for all bodies, including childcare and carers’ costs and locum payments to employers who release staff to serve on public bodies. These arrangements will take account of DSS and Inland Revenue rules on benefit entitlement and tax liability;
- Where public bodies employ staff, their pay and benefits will continue to be linked broadly to Civil Service rates but will also take account of the central guidance on members’ remuneration as described above. Any proposal to offer a remuneration package that is markedly out of line with the norm will need the approval of the First Minister and Deputy First Minister having been discussed with the Minister for Finance; and
- Any allowances paid to members of a Task Force will take into account the system of remuneration for members of public bodies described above.

MANAGEMENT OF PUBLIC BODIES BY SCOTTISH EXECUTIVE

47. For the purposes of accountability each public body sponsored by the Executive is responsible to a specific Scottish Minister. That Minister is responsible for making appointments to the body and generally ensuring that it acts in accordance with guidance issued by the Executive. The day to day task of monitoring and working with each public body falls to a sponsor division within the relevant Minister’s Department.

48. The overall policy on public bodies is the responsibility of the Minister for Finance and Local Government. A central unit within Corporate Services Group that reports to the Minister will in future be responsible for ensuring that sponsor divisions and Ministers receive regular and consistent guidance on all aspects of public bodies.

NDPB CLASSIFICATION

1. An NDPB is formally defined as:

“a body which has a role in the processes of national Government, but is not a Government department or part of one, and which accordingly operates to a greater or lesser extent at arm’s length from Ministers.”

In simple terms, this means a national or regional public body, carrying out its day-to-day functions independently of Ministers, but for which Ministers are ultimately accountable. All NDPBs fall within this broad definition, but each type of NDPB displays distinct characteristics. These characteristics can be used as an aid to classification.

Executive NDPBs

2. Executive NDPBs usually display the following characteristics:

- They are set up by Ministers to carry out administrative, commercial, executive or regulatory functions on their behalf;
- They have a national remit;
- They are legally incorporated and have their own legal identity. This means that they are established by Act of Parliament, by Royal Charter, under the Royal Prerogative, or incorporated under Companies Act legislation;
- They are not departments or agencies of the Scottish Executive;
- They are not Crown bodies and do not have Crown status;
- Appointments to the boards of the bodies are made by Ministers, by officials on behalf of Ministers, or by The Queen on the advice of Ministers; and
- Ministers are ultimately answerable for the performance of the bodies and for their continued existence. For example, Ministers have the power (subject to Parliamentary approval if necessary) to wind the bodies up.

3. There are a number of bodies which display all of the above characteristics but are not classified as NDPBs - for example, NHS Bodies. They also have their own accountability arrangements.

Advisory NDPBs

4. Advisory NDPBs usually display the following characteristics:

- They are established by Ministers, or by officials working on behalf of Ministers, to provide independent expert advice or to provide input into the policy-making process;
- They have a national remit;

- They are formal bodies with defined membership and clear terms of reference;
- They meet on a regular basis (at least once a year);
- They are standing bodies (i.e. in existence for more than 12 months);
- They are not part of a department or agency of the Scottish Executive, or part of some other organisation;
- Appointments to the bodies are made by Ministers, by officials on behalf of Ministers, or by The Queen on the advice of Ministers;
- Those appointed to the body are independent of Government and drawn from outside the public sector. (A body made up of more than two-thirds public servants is unlikely to be classified as an NDPB); and
- Ministers are ultimately answerable for the performance of the bodies and for their continued existence.

Other NDPBs

6. Tribunal NDPBs, whilst still falling within the broad NDPB definition, are easily recognisable categories of public body. They are simply tribunals - i.e. statutory bodies which decide the rights and obligations of private citizens towards a Government department or other public authority or towards each other. Although their functions are essentially judicial, they are separate from the formal court system. If the body does not have a statutory base, or only “recommends” rather than “decides”, then it is unlikely to be a tribunal NDPB (although it may be an advisory NDPB).

ALTERNATIVES TO PUBLIC BODIES

7. An Executive function which can be managed within relatively clear-cut pricing and quality guidelines may be suitable for contracting out to competent private sector companies, or may not need to be retained within Government at all.

8. In the case of a proposed regulatory body, self-regulation by responsible persons, if necessary with Executive encouragement and some initial funding, may be a sound alternative to a new regulatory NDPB.

9. In some cases it may be possible to set up or persuade an existing voluntary body to undertake the task, perhaps by providing limited support from Government initially.

10. Where a function is primarily local in its focus the option of a transfer to local democratic control should always be considered carefully.

11. Establishing an Executive Agency is an option where a set of Executive functions can be carried out reasonably discretely within a clear policy framework set by Ministers provided that they are not functions which need to be carried out at arm’s length for ECHR or other reasons. Executive agencies are an integral part of the Executive but have a strong

emphasis on the delivery of outputs. They carry out Executive functions of the civil service which, while still required, are not appropriate for transfer to the private sector. They are staffed by civil servants but the Chief Executive is directly accountable, and has a right of access, to the responsible Minister.

12. A number of bodies set up as “Task Forces” display the characteristics of advisory NDPBs. The “Task Force” label was originally used to denote an advisory body set up at short notice to investigate a particular issue of concern and which would report back to Ministers within a year or so, after which it would be abolished. Task Forces and similar ad hoc groups such as Departmental Advisory Groups can be very helpful and flexible ways of securing advice for Ministers, particularly where expertise does not exist within the Executive, and especially (but not only) in relation to fast-breaking or new issues.

PROPOSALS FOR ABOLITION OR REFORM OF PUBLIC BODIES**MINISTER FOR ENVIRONMENT AND RURAL DEVELOPMENT****EXECUTIVE NDPBS****Scottish Agricultural and Biological Research Institutes (SABRIs):**

Hannah Research Institute
Macaulay Research Institute
Moredun Research Institute
Rowett Research Institute
Scottish Crop Research Institute

Proposal: Declassify as non-departmental public bodies.

Why: Their classification as non-departmental public bodies is anomalous, as they do not carry out public service or central government functions. Instead, the Scottish Executive acts as a funder of the SABRIs, supporting their contribution to the long-term science base in Scotland and the UK, and acting as a purchaser or customer of strategic programmes of research at the institutes. Ministers are therefore accountable not for the functions themselves but for the expenditure of the grant-in-aid funds (which represent more than 50% of each Institute's income). The Institutes can therefore be declassified as public bodies in the same way as universities are not treated as NDPBs. It is proposed that Ministers retain the existing grant-in-aid controls.

How: A decision to declassify in itself will be accompanied by the cessation of the appointment of members of the Boards of the Institutes and amendments to the relevant Articles of Association of the Institutes. The Executive proposes to retain or secure control over the appointment of the Chairman of the Board in each case.

When: In principle by June 2002.

ADVISORY NDPBS

Fisheries (Electricity) Committee

Proposal: Abolish.

Why: The Inspector of Salmon and Freshwater Fisheries can undertake the function, with advice from the Scottish Executive Enterprise and Lifelong Learning Department. A closer link with fisheries policy in the future should enable a more constructive dialogue to be developed.

How: Since this Committee is appointed by statute, in accordance with 'The Electricity Act 1989', abolition would require legislation.

When: When the legislative timetable allows.

Scottish Standing Committee for the Calculation of Residual Values of Fertilisers and Feeding Stuffs

Proposal: Abolish.

Why: This is not work that needs to be done by or on behalf of the Executive: it is of value to the industry and would be produced in the absence of this Committee. The Scottish Agricultural College (SAC) is being encouraged to take on the function of this committee (data production) on a full cost recovery basis.

How: By providing the SAC with resources within its advisory services budget to cover the cost of taking on the task and producing the data for publication on the presumption that in the longer term the SAC can turn this into a self-financing publication. The Committee would be disbanded but the SAC would be encouraged to consider appointing an advisory committee to oversee its work and thus give it greater weight and credibility.

When: With immediate effect.

Advisory Committee on Sites of Special Scientific Interest (ACSSSI)

Proposal: The ACSSSI will be subject to further review. Whether the function should continue to be carried out by the ACSSSI in its present form, or should be delivered in some other way, will be considered in the light of responses to the consultation paper on “The Nature of Scotland” issued in March 2001.

Why: Ministers believe it is important that key stakeholders have a right for their unresolved objections to SSSI notifications to be considered by an independent scientific panel. This principle was affirmed in “The Nature of Scotland”.

How: Whether the function should continue to be carried out by the ACSSSI in its present form, or should be delivered in some other way, will be considered in the light of responses to the consultation.

When: No decision about the future discharge of the ACSSSI’s function will be taken until the consultation responses have been fully considered. The consultation period for “The Nature of Scotland” finished at the end of May.

PUBLIC CORPORATIONS

East of Scotland Water Authority

West of Scotland Water Authority

North of Scotland Water Authority

Proposal: The decision to move to a single water authority was announced by Ministers on 28 February 2001 and this was the subject of a consultation which ended on 13 June.

Why: The aim is to create an authority which will be significantly more efficient and more able to meet the competitive challenge facing the industry in Scotland,

How: This change will be implemented through the forthcoming Water Services Bill.

When: The Bill is expected to be introduced in Parliament in autumn 2001.

MINISTER FOR HEALTH AND COMMUNITY CARE

EXECUTIVE NDPBS

National Board for Nursing, Midwifery and Health Visiting for Scotland (NBS)

Proposal: Abolish.

Why: NBS currently operates in both a reserved area (regulation of health professions) and a devolved area (nurse education in support of NHS Scotland). Although it is directed and sponsored by the Scottish Executive, its legislative basis is controlled from Westminster and the UK Government has already announced its intention to abolish it.

How: Its functions relating to regulation will transfer to the UK-wide body, the Nursing and Midwifery Council (NMC). The devolved functions (for education) will be taken on by a new nursing and midwifery education body in Scotland. The Health Department proposes that the governance of this new body should be unified with that of the Scottish Council for Postgraduate Medical and Dental Education and the Post Qualification Education Board for Health Service Pharmacists in Scotland, under a single governing council. This new council would have Special Health Board status.

When: The NBS will be abolished on 31 March 2002.

Scottish Medical Practices Committee (SMPC)

Proposal: Abolish.

Why: Under statute, the SMPC acts to ensure that “the number of medical practitioners undertaking to provide general medical services in the areas of different Health Boards is adequate”. In doing so, it – and not the Island Health Boards or Primary Care Trusts – determines whether vacancies for general medical practitioners (GPs) should be filled. Over many years, the members of the Committee have carried out their role diligently, professionally and with success. However, the regime which they operate does not fit with plans to make local NHS systems responsible for managing all the resources for primary health care, including provision for GPs. Accordingly, the Committee should be abolished.

How: The SMPC’s prime function will ultimately become the responsibility of local NHS systems. SMPC is established under section 3 of the National Health Service (Scotland) Act 1978. Primary legislation will be required for abolition.

When: The date on which abolition takes effect should be carefully planned with stakeholders in order to resolve their concerns around the changes. We need to ensure the smooth transfer of the SMPC’s responsibilities in manpower planning and other matters (for example in the management of the Inducement Payment Scheme which supports medical practices in the most remote rural and island areas).

ADVISORY NDPBS**Health Appointments Advisory Committee**

Proposal: Abolish.

Why: The Scottish Executive consultation document “Appointments to Public Bodies in Scotland: Modernising the System”, sought views on the process for health appointments and stated that the Health Appointments Advisory Committee was under review as part of this Scottish Executive-wide process. Respondents favoured a consistent Scottish Executive approach for all appointments.

How: The term of appointment of the remaining 3 members ended on 31 December 2000 and could not be extended under public appointment guidelines. This effectively terminated the operation of the Health Appointments Advisory Committee.

When: Formally, with immediate effect. The appointments of all board members have expired and this effectively terminates the operation of the body.

Post Qualification Education Board for Health Service Pharmacists in Scotland (PQEB)

Proposal: To unify the governance arrangements for PQEB with that of the Scottish Council for Postgraduate, Medical and Dental Education (SCPMDE) and the successor body to the National Board for Nursing, Midwifery and Health Visiting for Scotland (NBS) as a single new Special Health Board.

Why: To ensure that post-qualification educational support for health service pharmacists is better integrated with the support provided for other NHS staff groups and more responsive to the changing needs of NHS Scotland, and to promote multi-disciplinary learning in support of team-working.

How: Based on the same principle as the new unified NHS Boards being introduced from 30 September 2001, a single new Special Health Board would assume governance responsibility for the PQEB, SCPMDE and the successor body for NBS. Subject to further detailed work with the bodies themselves and the relevant professional bodies, each would retain their existing (or in the case of the successor to NBS their prospective) operational responsibilities but would be accountable to a single governing council, which would in turn be accountable to the Scottish Executive. The new Special Health Board would also take on responsibility for providing educational support for other NHS staff groups, such as the Professions Allied to Medicine and health scientists.

When: The new Special Health Board could be established by 1 April 2002.

Scottish Advisory Committee on Drug Misuse

Proposal: Declassification to a Departmental Advisory Committee.

Why: This cross-cutting Committee is chaired by the Deputy Minister for Justice, so there is direct accountability to Ministers. Whilst it performs an important advisory function, it has neither executive nor financial responsibilities nor financial remuneration for members and does not itself commission or produce written work. The Scottish Advisory Committee on Alcohol Misuse, chaired by the Deputy Minister for Health and Community Care, is set up in a similar way.

How: Declassification will enable a less bureaucratic framework, which can be implemented without any significant operational problems. Ministers will continue to receive expert advice from a multi-disciplinary group of representatives.

When: There are no organisational, financial or other impediments to an immediate de-classification.

Scottish Advisory Committee on the Medical Workforce

Proposal: Subject to planned review.

Why: The Scottish Advisory Committee on the Medical Workforce and its sub-committees have previously carried out a variety of workforce planning functions centrally, but there is a need to examine the effectiveness of these arrangements in the light of recent and prospective changes in the medical workforce, and moves towards better integration with service planning. The Scottish Health Plan “Our National Health: A plan for action, a plan for change” proposed a fundamental review of medical workforce planning, including the most appropriate mechanisms for planning for the supply of doctors and dentists.

How: Further details of the medical workforce planning review will be announced shortly.

When: The review of medical workforce planning will commence during the summer and is expected to report in Spring 2002.

NHS BODIES

Health Technology Board for Scotland

Proposal: Subject to further review.

Why: The Scottish Health Plan “Our National Health: A plan for action, a plan for change” commits the Chief Medical Officer to work with relevant interests to achieve better integration and co-ordination of those national organisations and professional bodies with an interest in clinical quality, which includes the Health Technology Board for Scotland.

How: The Chief Medical Officer will be reviewing the relationships between these bodies as a precursor to establishing a better integrated and more effective way of supporting NHS Scotland to deliver national priorities and standards. This work will include consideration of the inter-relationship between different bodies with similar remits, such as the Clinical Standards Board for Scotland and the National Institute for Clinical Excellence in England.

When: The Review will be completed by autumn 2001 with a view to implementing any organisational changes as quickly as possible thereafter.

Clinical Standards Board for Scotland

Proposal: Subject to further review.

Why: The Scottish Health Plan “Our National Health: A plan for action, a plan for change” commits the Chief Medical Officer to work with relevant interests to achieve better integration and co-ordination of those national organisations and professional bodies with an interest in clinical quality, which includes the Clinical Standards Board for Scotland.

How: The Chief Medical Officer will be reviewing the relationships between these bodies as a precursor to establishing a better integrated and more effective way of supporting NHS Scotland to deliver national priorities and standards. This work will include consideration of the inter-relationship between different bodies with similar remits, such as the Health Technology Board for Scotland and the National Institute for Clinical Excellence in England.

When: The Review will be completed by autumn 2001 with a view to implementing any organisational changes as quickly as possible thereafter.

Scottish Hospital Trust

Proposal: Abolish.

Why: The functions of the Scottish Hospital Trust could be performed effectively from within the NHS and would not appear to be required to be held at arm’s length from Ministers. NHS Trusts and Health Boards already operate Endowment funds in respect of donations received since the establishment of the NHS in 1948. The abolition of the Scottish Hospital Trust would bring all endowment funds within the control of NHS Scotland.

How: The Scottish Hospital Trust was established under statute, therefore legislation would be required to dissolve the Trust and distribute its assets to NHS Scotland.

When: As the legislative timetable allows.

State Hospitals Board for Scotland

Proposal: To review the structure and accountability of the State Hospitals Board for Scotland (currently a Special Health Board).

Why: To secure the most appropriate care for both existing and future users of the service against the background of emerging developments in forensic psychiatric services and new accountability arrangements in NHS Scotland.

How: An expert group will be established to examine what lessons may be learned from the Special Hospitals in England where there have been recent changes in status. These considerations will have no effect on the location of the State Hospital at Carstairs, nor on its security. Any proposals will be subject to a full consultation.

When: The review should be completed by the end of 2001.

Health Boards (15)

National Health Service Trusts (28)

Proposal: To replace the 43 separate board structures of the existing Health Boards and Trusts with 15 new unified NHS Boards.

Why: The purpose of these changes announced in the Scottish Health Plan: “Our National Health: A plan for action, a plan for change” is to clarify responsibility, increase accountability, streamline bureaucracy, improve NHS planning, and integrate local decision-making.

The Scottish Health Plan includes a commitment to a high level review of the management and decision-making structures appropriate for a post-devolution and post-internal market NHS Scotland.

How: In order to achieve change quickly, powers set out in secondary legislation will be used to establish new unified NHS Boards.

Any fundamental changes in the structures of NHS Scotland resulting from the review will be the product of full and considered discussion, debate and consultation, and are likely to require primary legislation.

When: The new unified NHS Boards will be established by 30 September 2001. The review will commence shortly.

Scottish Council for Postgraduate Medical and Dental Education (SCPMDE)

Proposal: To unify the governance arrangements for SCPMDE with that of the Post Qualifications Education Board for Health Service Pharmacists in Scotland (PQEB) and the successor body to the National Board for Nursing, Midwifery and Health Visiting for Scotland (NBS) as a single new Special Health Board.

Why: To ensure that postgraduate educational support for doctors and dentists is better integrated with the support provided for other NHS staff groups and more responsive to the changing needs of NHS Scotland, and to promote multi-disciplinary learning in support of team-working.

How: Based on the same principle as the new unified NHS Boards being introduced from 30 September 2001, a single new Special Health Board would be established with governance responsibility for SCPMDE, PQEB and the successor body for NBS. Subject to further detailed work with the bodies themselves and the relevant professional bodies, each would retain their existing (or in the case of the successor to NBS their prospective) operational responsibilities but would be accountable to a single governing council, which would in turn be accountable to the Scottish Executive. The new Special Health Board would also take on responsibility for providing educational support for other NHS staff groups, such as the Professions Allied to Medicine and health scientists.

When: The new Special Health Board could be established by 1 April 2002.

Common Services Agency for NHSScotland (CSA)

Proposal: To review the governance arrangements for the Common Services Agency and its constituent operating divisions.

Why: The Scottish Health Plan “Our National Health: A plan for action, a plan for change” includes a commitment to ensure that the work of national NHS bodies like the CSA, is properly co-ordinated and aligned to national policies and priorities.

How: Further details of the review process will be announced shortly. Particular emphasis will be placed on strengthening stakeholder involvement in the work of the Board and in establishing the appropriate accountability arrangements between the Agency and the Scottish Executive.

When: The review should be completed by the end of 2001.

MINISTER FOR SOCIAL JUSTICE**EXECUTIVE NDPBS****Scottish Homes**

Proposal: Abolish as an NDPB and convert into an Executive Agency.

Why: Powers are being taken in the Housing (Scotland) Bill to abolish Scottish Homes and to transfer its principal functions, and staff, to the Scottish Executive, where they will be performed on Ministers' behalf by a new Executive Agency. The Bill also provides for a series of inter-related changes which make it no longer appropriate to have a national housing public body. For instance, it will strengthen local authorities' strategic role in relation to housing, and progressively transfer responsibility for Scottish Homes' development funding to local authorities to underpin that new strategic role. Ministers also want to ensure that those functions which do need to continue to be managed at the national level should be properly accountable to Ministers and Parliament. Bringing the functions within an Executive Agency will provide that accountability.

How: The Housing (Scotland) Bill provides for the NDPB to be abolished. A new Executive Agency, reporting direct to Ministers, will be established administratively.

When: It is expected that the change in Scottish Homes' status will occur on 1 November 2001, although for a period thereafter Scottish Homes will continue in residuary form to deal with some outstanding issues.

MINISTER FOR FINANCE AND LOCAL GOVERNMENT

ADVISORY NDPBS

Scottish Valuation and Rating Council

Proposal: Abolish.

Why: The development of close liaison between Executive officials, the Assessors, local authority revenue staff and representative business organisations, together with the consultative approach generally adopted on rating and valuation matters, has rendered the Council's advisory role largely redundant.

How: As a non-statutory advisory NDPB, legislation is not required.

When: With immediate effect, subject to consultation with the body.

MINISTER FOR TRANSPORT AND PLANNING

ADVISORY NDPBS

Building Standards Advisory Committee

Proposal: To be examined more fully in the context of the current review of the building control system.

Why: Currently the Building Standards Advisory Committee is an essential statutory body providing technical advice to Ministers but the role it performs may change depending on the outcome of the review.

How: Amendment of primary legislation would be necessary and this will be considered as part of the fundamental review of building control, which is already underway.

When: When the legislative timetable allows.

NATIONALISED INDUSTRIES

Scottish Transport Group (STG)

Proposal: Abolish.

Why: The Scottish Transport Group was formed in January 1969 as a public authority under the Transport Act 1968 principally to operate bus and ferry services. The Transport (Scotland) Act 1989 provided for the disposal of the Group's assets and its dissolution thereafter. The Scottish Bus Group Disposal Programme, published by the then Government in 1990, set out the arrangements for the dissolution of the Group and the handling of outstanding matters. All 10 bus operating subsidiaries were sold off by 1991. The shipping interests, CalMac, were transferred to the ownership of the Secretary of State for Scotland in April 1990.

How: The appointment of the Chairman and Members of the STG Board will expire on 31 December 2001. The Group has no executive functions and the only outstanding issue is the wind-up of STG pension schemes and disposal of surplus funds. Ministers have given a commitment to the dispersal of up to £100m of the surplus to STG pension scheme members. Before this can take place there are Parliamentary processes to be completed before the Group can be wound-up.

When: The dispersal of funds to the pension scheme is expected to be completed by the Autumn, allowing the wind-up of the Group before the Member's terms of office expire at the end of the year.

MINISTER FOR EDUCATION, EUROPE AND EXTERNAL AFFAIRS**EXECUTIVE NDPBS****Community Learning Scotland (CLS)**

Proposal: Review status.

Why: Policy developments on adult education and literacy, neighbourhood renewal and youth issues will impact on the development support needed at national level for community learning.

How: An Executive-led internal review based on assessment of consequences for CLS of future decisions about related national developments.

When: To be completed by early October.

Scottish Qualifications Authority (SQA)

Proposal: Review status.

Why: Although the SQA was created only 4 years ago, recent problems with the discharge of one of its primary functions, the administration of examinations, have given rise to the need to re-examine whether the present organisational arrangements strike the best balance between Ministerial accountability for the education system and operational responsibility for the various functions of the SQA.

How: The Policy, Finance and Management Review (PFMR) has been brought forward from 2002 to 2001. As part of the standard PFMR process, the first stage will be a prior options review to examine the organisational options for the discharge of the SQA's functions.

When: The prior options stage will be completed by early autumn.

TRIBUNALS

Independent Schools Tribunal²

Proposal: Candidate for reform, but to be reviewed in the context of a wider review of the current system of appeal committees.

Why: The Scottish Executive is currently considering whether improvements can be made to the current system of appeal committees and it seems sensible to review the structure of this Tribunal at the same time to see if improvements can be made. The Independent Schools Tribunal exists to provide a route of appeal for independent schools against any decision by Ministers to serve a notice of complaint on the school or refuse it registration. It is chaired by a Sheriff Principal and one possible option might be to transfer its functions to the Courts.

How: Options for change are being considered.

When: When the legislative timetable allows.

² Although the Independent Schools Tribunal is not currently categorised as a public body, this has been identified as a candidate for reform.

FIRST MINISTER/MINISTER FOR SPORT, CULTURE AND THE ARTS

EXECUTIVE NDPBS

Scottish Screen

Proposal: Review in the context of the current developments in the new media and convergence and Scottish Executive's strategy for the creative industries.

Why: Since Scottish Screen was created to develop and promote the film industry in Scotland, a growing awareness has developed of the potential of Scotland's creative industries more broadly. The Executive wishes to maximise the contribution of the creative industries to Scotland's economy. The sector is developing rapidly and technological convergence has wide ranging implications for approaches to content creation. The roles of other bodies, notably Scottish Enterprise and to a lesser extent the Scottish Arts Council, have been and will continue to be important. It is necessary to be sure that organisational arrangements are well fitted to the needs of the industry and fully consistent with the Executive's future strategy for the creative industries.

How: The Executive intends to review support for the creative industries to maximise their contribution to Scotland's future economy and organisational issues will be reviewed in the light of its conclusions.

When: Conclusions on any necessary adjustments to organisational support for creative industries are likely to be reached in the first half of 2002.

ADVISORY NDPBS

Ancient Monuments Board for Scotland (AMB)

Proposal: Abolish.

Why: The body was set up under statute when the range of expertise it provides was not available to Scottish Ministers from their own officials. That is no longer the case, particularly through the advice available from Historic Scotland. External advice will remain of value, but this can be obtained in a more focussed and less formal way.

How: Abolition of the AMB will require legislation – the repeal of section 22 of the Ancient Monuments and Archaeological Areas Act 1979.

When: When the legislative timetable allows.

Historic Buildings Council for Scotland (HBCS)

Proposal: Abolish.

Why: The body was set up under statute when the range of expertise it provides was not available to Scottish Ministers from their own officials. That is no longer the case, particularly through the advice available from Historic Scotland. External advice will remain of value, but this can be obtained in a more focussed and less formal way.

How: Abolition of the HBCS will require legislation. Various sections of Part 1 of the Historic Buildings and Ancient Monuments Act 1953 will require to be repealed. Certain provisions in sections 69, 71 and 72 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 will also require to be repealed.

When: When the legislative timetable allows.

Royal Fine Art Commission for Scotland (RFACS)

Proposal: Review status further.

Why: Independence of both Scottish Ministers and local authorities in making judgements is a fundamental requirement of the effectiveness of the Commission's work. Ways of increasing that independence through a modern alternative to NDPB status will be explored. Part of the review will consider whether there is scope for the function to be discharged on a regional basis. The review will have to reflect the continuing requirement for public funding and accountability for the use of the funds. The removal of Royal Commission status, which no longer has the rationale which existed in 1927 when the body was set up, would also assist the effort to evolve a more modern form of organisation to discharge the functions; this is intended as the first step in the review process.

How: The Executive intends to review the status, organisation and remit appropriate for a modernised design review body. The review will be subject to consultation.

When: Conclusions on any necessary changes are likely to be reached in the first half of 2002.

Royal Commission on the Ancient and Historic Monuments of Scotland (RCAHMS)

Proposal: Review status further.

Why: Ministers are aware of the requirement upon Governments under international convention to ensure that there exists a body of public record in this field. The review does not signal any lessening of interest in the work of the Royal Commission. On the contrary, the review will explore possible ways of enhancing its role, building on its charitable status to evolve a modern alternative to NDPB status. The review will have to reflect the continuing requirement for public funding and accountability for the use of the funds. The removal of Royal Commission status, which no longer has the rationale which existed in 1908 when the body was set up, is intended as a first step in the review process. This should assist in giving the body a clearer identity, fostering greater understanding for its activities and encouraging wider access to the public facilities it provides.

How: The Executive intends to explore, in consultation with the present Commissioners, alternative models to NDPB status. The review shall not cover the functions and organisation of the body, which were reviewed in 1998.

When: Conclusions are likely to be reached in the first half of 2002.

DEPUTY FIRST MINISTER**EXECUTIVE NDPBS****Scottish Conveyancing and Executry Services Board (SCESB)**

Proposal: Abolish, with transfer of function to the Law Society of Scotland.

Why: The policy of introducing competition with solicitors in relation to conveyancing and executry services has had very limited success. Of 11 practitioners registered with the Board, only 2 are practising independently of solicitors' firms. It is unlikely that income from registration fees payable by practitioners, and their contribution to insurance premiums, will fully fund the cost of the Board in the foreseeable future. The Law Society of Scotland has in place a regulatory structure for solicitors and their employees. The regulation of these professions can be seen as a natural extension of the Law Society's activities.

How: Primary legislation will be required.

When: As soon as a legislative opportunity arises.

ADVISORY NDPBS**Central Advisory Committee on Justices of the Peace for Scotland (CACJPS)**

Proposal: Possible candidate for reform, to be examined more fully in the context of the impending review of the District Courts.

Why: The CACJPS is a non-statutory body whose remit is to advise and make recommendations to Ministers on Justices of the Peace and the work of the District Courts. A commitment to a wide-ranging review of the District Courts has been given by Ministers, and the efficiency of current procedures for providing advice to Ministers on the District Courts and Justices of the Peace will be examined as part of that overall review.

How: As stated, as part of the review of the District Courts.

When: As the review develops over the next year or so.

Justices of the Peace Advisory Committees (32) (JPAC)

Proposal: Possible candidates for reform, to be examined more fully in the context of the impending review of the District Courts.

Why: There are 32 non-statutory Justices of the Peace Advisory Committees (JPACs) which advise Ministers on appointments of Justices of the Peace across Scotland at a local level. A commitment to a wide-ranging review of the District Courts system has been given by Ministers, and the efficiency of current procedures for appointing Justices of the Peace will be examined as part of that overall review.

How: As stated, as part of the review of the District Courts.

When: As the review develops over the next year or so.

MINISTER FOR ENTERPRISE AND LIFELONG LEARNING

EXECUTIVE NDPBS

Scottish Further Education Unit (SFEU)

Decision: This Unit no longer has NDPB status, with effect from 1 April 2001. However, it will continue as a refocused Unit for the Further Education sector.

Why: Following an internal review and a subsequent consultation exercise with the Further Education sector, it was announced, on 3 April 2000, that the Unit would continue but that it would no longer be an NDPB.

How: Ministers no longer appoint any Board members.

When: As stated, with effect from 1 April 2001.
