

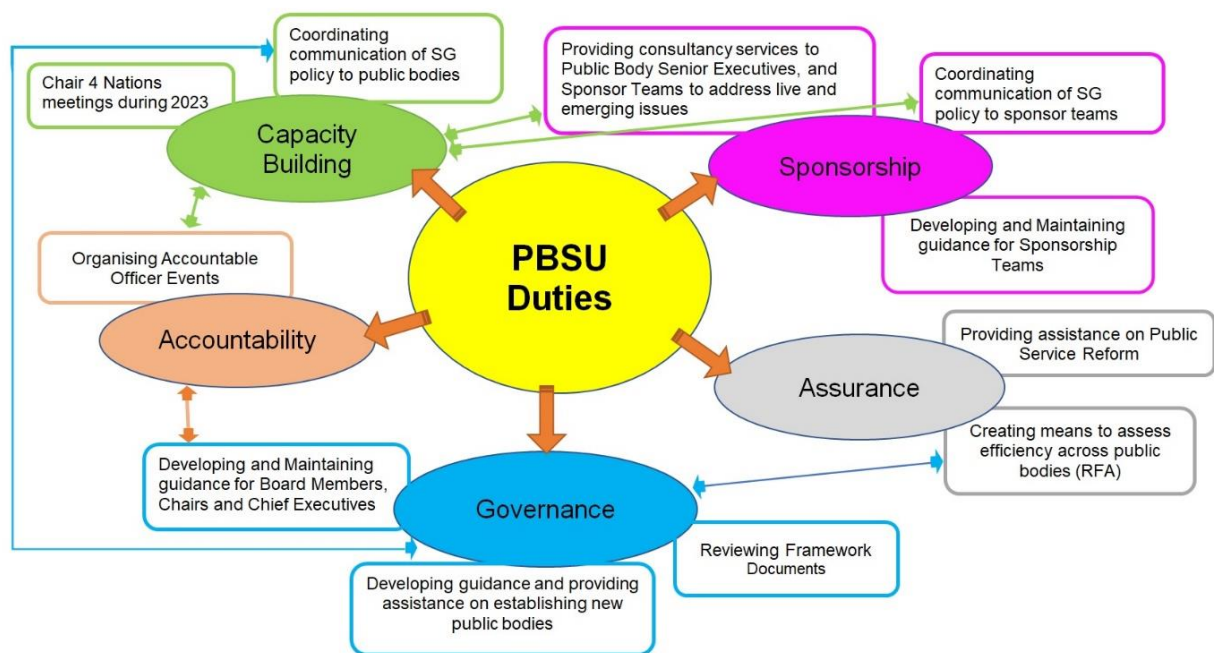
Supplementary written submission from the Scottish Government Public Bodies Support Unit, dated, May 2024

SPCB Supported Bodies Landscape Review Committee

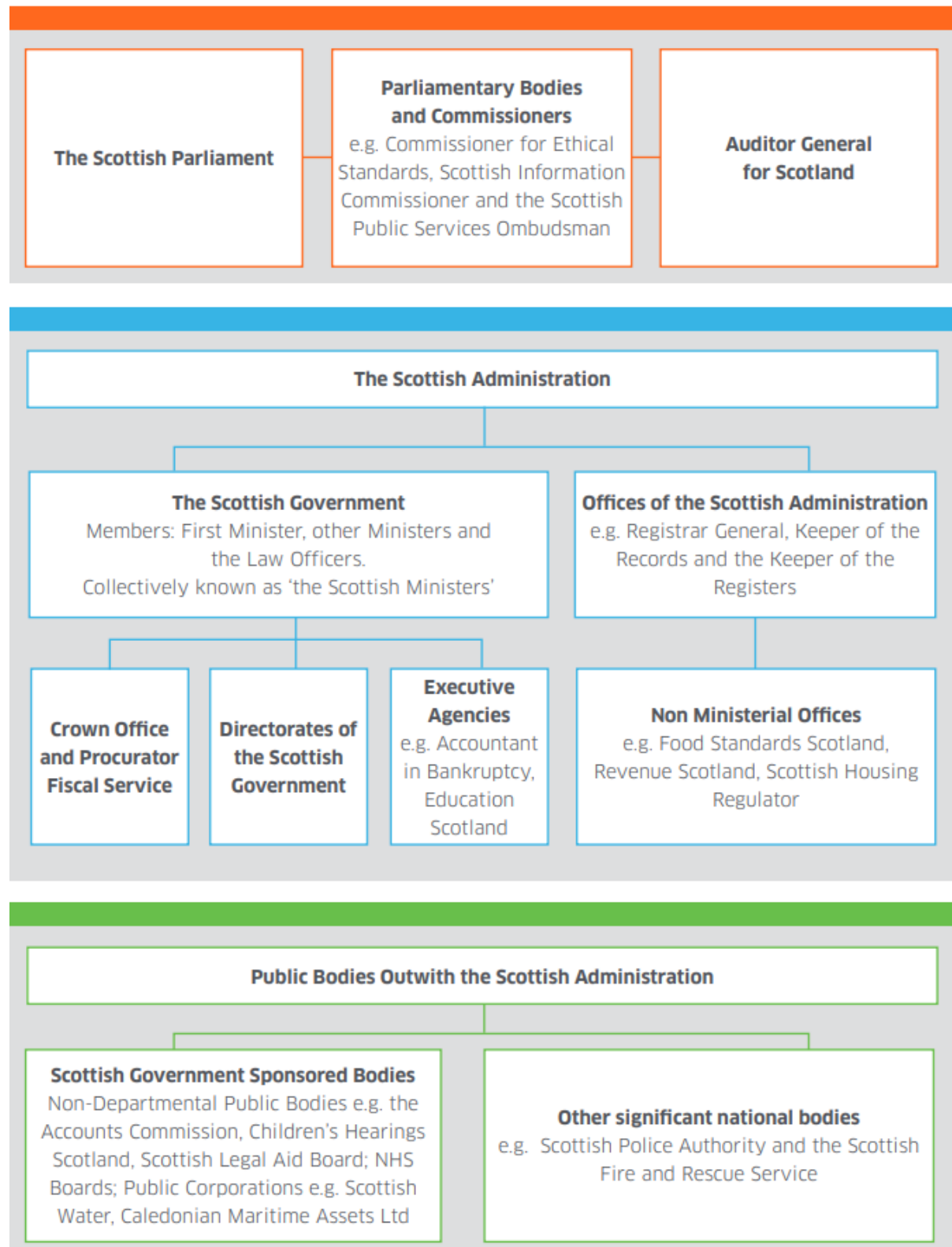
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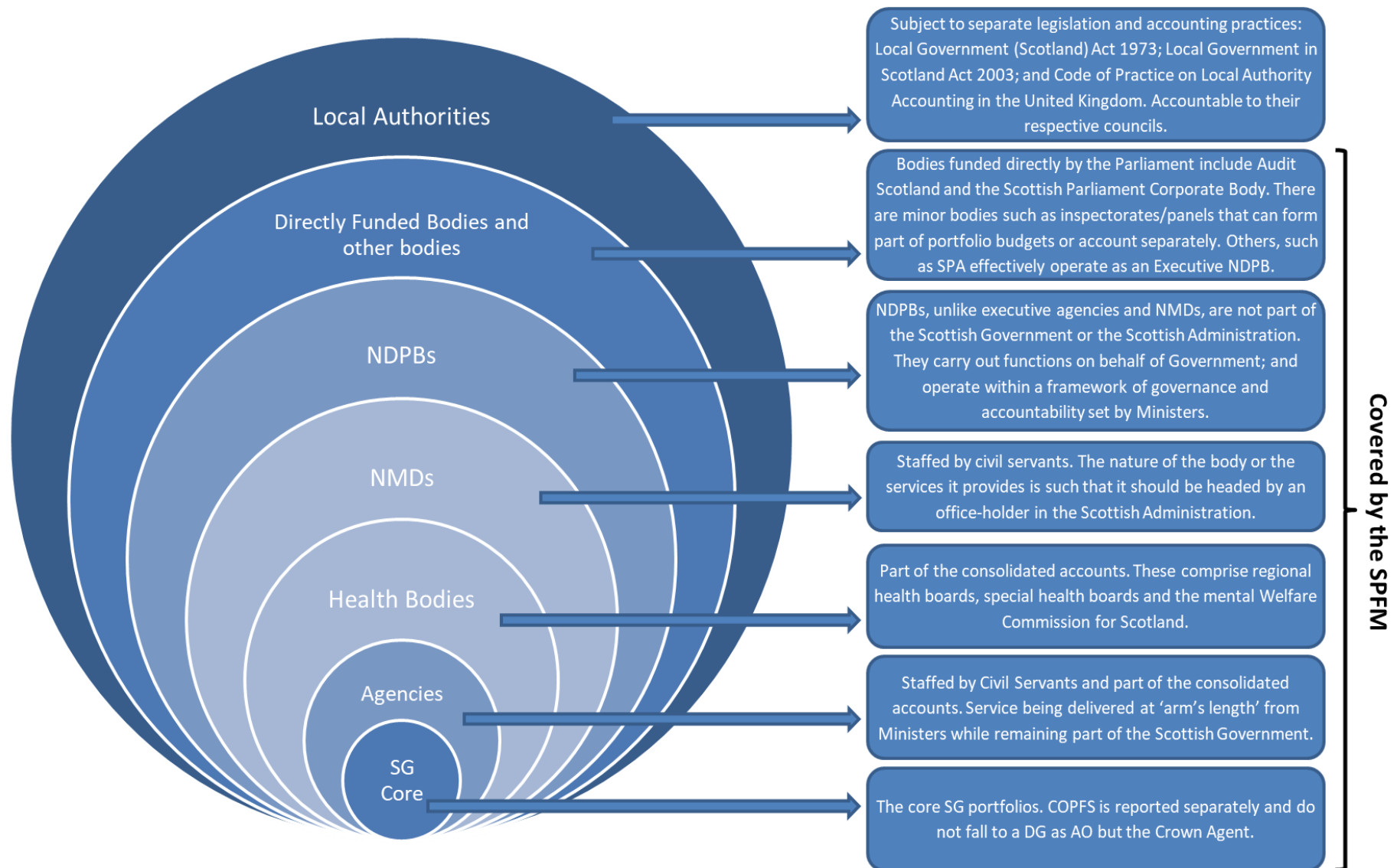
Public Bodies Support Unit (PBSU) Duties



The organisation of central government over devolved matters in Scotland: the Scottish Parliament, the Scottish Administration and bodies out with the Scottish Administration



Landscape of Public Bodies



Public Body Classification Characteristics

Public Body	Characteristics	Accountability
Executive Agencies	<p>Integral part of the Scottish Government; Defined business unit, with a clear focus on delivery, headed by a Chief Executive; Large enough to be independently accountable within the parent Portfolio; Part of the Director General 'family'; Chief Executive is supported by a management Board (normally with some external non-exec members); Staffed by civil servants, including the Chief Executive.</p>	<p>Ministers set the policy and resources framework and are ultimately accountable to Parliament for the functions and performance of the Agency; The Chief Executive is accountable for operational delivery; Ministers hold the Chief Executive to account for the performance of the Agency and is supported in this (where appropriate) by the relevant Director General/Director; The Chief Executive is normally designated as the Accountable Officer; Accountable Officer responsible for the use of resources but Ministers remain accountable to the Parliament for the allocation of public funds; Framework document defines the relationship between Ministers, Portfolio Accountable Officer (and Director where appropriate) and the Chief Executive; Prepares its own annual reports and accounts which are presented to Ministers and laid in front of Parliament.</p>
Non Ministerial Offices	<p>Part of the Scottish Administration and staffed by Civil Servants; Are established by Statute and headed by a non-ministerial office holder which is either an individual or a body corporate with specific statutory functions; Government Departments in their own right – not an integral part of a DG command or a specific ministerial portfolio;</p>	<p>Responsibility/accountability for the delivery and performance of statutory functions rests with the Office Holder, who is directly accountable to the Scottish Parliament; Scottish Ministers remain responsible for the configuration of the policy environment within which the NMO operates;</p>

	<p>Established to deliver a specific service/function which tends to be a core function of the state which exceptionally doesn't require the same accountability through Ministers to Parliament;</p> <p>Funded direct from the Scottish Consolidated Fund rather than via Ministers;</p> <p>Accounts not included in the Scottish Government's consolidated accounts.</p>	<p>Ministers ultimately accountable to Parliament for the functions of the body and have the power to wind it up (subject to Parliamentary approval where required);</p> <p>The relationship between the NMO, Government and Ministers is set out in a Framework document;</p> <p>Generally the Accountable officer is not the Office Holder;</p> <p>The Accountable Officer is responsible for the use of resources but Ministers remain accountable to the Parliament for the allocation of public funds;</p> <p>Prepares its own annual reports and accounts which are presented to Ministers and laid in front of Parliament.</p>
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Public Body	Characteristics	Accountability
Public Corporations	<p>Are established by statute or under the Companies Act;</p> <p>Are industrial or commercial enterprises, largely trading bodies, under direct control of Scottish Ministers;</p> <p>Headed by a Board whose members are appointed by Ministers;</p> <p>A body corporate, staff are employed by the body and are not civil servants;</p> <p>Allocated and manage their own budgets.</p>	<p>Directly accountable to Ministers, and through Ministers to Parliament.</p> <p>Chief Executive is designated as the Accountable Officer;</p> <p>Accountable Officer responsible for the use of resources but Ministers remain accountable to the Parliament for the allocation of public funds;</p> <p>Board holds the Chief Executive to account;</p> <p>Ministers ultimately accountable to Parliament for the functions and performance of the body and have the power to wind it up (subject to Parliamentary approval (as required));</p> <p>Provided loans from Government;</p> <p>Prepares its own annual reports and accounts which are presented to Ministers and laid in front of Parliament.</p>
Executive NDPBs	<p>Have their own legal identity i.e. are established by statute or set up as companies ltd by guarantee;</p> <p>Carry out administrative, commercial, executive or regulatory functions on behalf of the Scottish Government;</p> <p>Provide specialist advice to Ministers and others;</p> <p>Headed by a Board which is appointed by Ministers;</p> <p>A body corporate, staff are employed by the body and are not civil servants;</p> <p>Allocated and manage their own budgets.</p>	<p>Directly accountable to Ministers, and through Ministers to Parliament;</p> <p>Chief Executive is designated as the Accountable Officer;</p> <p>Accountable Officer responsible for the use of resources but Ministers remain accountable to the Parliament for the allocation of public funds;</p> <p>Board holds the Chief Executive to account;</p> <p>Ministers ultimately accountable to Parliament for the functions and performance of the body and have the power to wind it up (subject to Parliamentary approval (as required));</p>

		<p>The relationship between Ministers, SG and the NDPB is set out in the relevant legislation and the Management Statement/Financial Memorandum;</p> <p>Most NDPBs funded by Grant-in-aid (some are funded through sectoral levies) and receive an annual guidance letter;</p> <p>Prepares its own annual reports and accounts which are presented to Ministers and laid in front of Parliament.</p>
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Public Body	Characteristics	Accountability
Advisory NDPBs	<p>Are established by Statute or administratively by Ministers;</p> <p>Carry out advisory functions, providing independent specialist/expert advice to Ministers and others;</p> <p>Headed by a Board which is appointed by Ministers;</p> <p>Do not normally employ staff (administrative support is normally provided by Scottish Government staff);</p> <p>Are not normally responsible for budgets other than remuneration (where paid) and expenses for Board members.</p>	<p>Directly accountable to Ministers, and through Ministers to Parliament.</p> <p>Ministers ultimately accountable to Parliament for the functions and performance of the body and have the power to wind it up (subject to Parliamentary approval (as required));</p> <p>The relationship between Ministers, SG and the NDPB is set out in an appropriate framework document;</p> <p>Do not normally produce annual accounts.</p>
Public Body	Characteristics	Accountability
Tribunal NDPBs	<p>Are established by statute;</p> <p>Are responsible for tasks and advice relating to specialist areas of the law;</p> <p>Independently of Government decide the rights and obligations of private citizens toward each other or Government/public authorities;</p> <p>Carry out judicial or semi judicial functions but are separate from the court system;</p> <p>Have specialist and lay members who are appointed by Ministers;</p> <p>Tend not to employ staff (staff support normally provided by the Scottish Government);</p> <p>Are not normally responsible for budgets or expenditure other than remuneration (where paid) and expenses for Board members.</p>	<p>Directly accountable to Ministers, and through Ministers to Parliament.</p> <p>Ministers ultimately accountable to Parliament for the functions and performance of the body and have the power to wind it up (subject to Parliamentary approval (as required));</p> <p>The relationship between Ministers, the SG and the NDPB is set out in an appropriate framework document;</p> <p>Do not normally produce annual accounts.</p>

Public Body	Characteristics	Accountability
Health Bodies	<p>Established by statute; Deliver healthcare services or provide management, technical or advisory services within the NHS. They exercise functions of the Scottish Ministers in relation to the NHS; and also certain functions conferred directly on them, in both devolved and reserved areas. They have rights and liabilities which are separate from those of Scottish Ministers; Have a Board whose members are appointed by Ministers [NB In the “pilot” cases of Fife and Dumfries and Galloway Health Boards, there are also directly elected members]; A body corporate, they normally employ their own staff, who are not civil servants; Normally allocated and manage their own budgets.</p>	<p>Directly accountable to Ministers, and through Ministers to Parliament. Subject to the legal direction of Ministers, who also have the power to make regulations re: the exercise of their functions; Chief Executive is designated as the Accountable Officer; Accountable Officer responsible for the use of resources but Ministers remain accountable to the Parliament for the allocation of public funds; Board holds the Chief Executive to account; Ministers ultimately accountable to Parliament for the functions and performance of the body and have the power to wind it up (subject to Parliamentary approval (as required)); The legal relationship between Ministers, SG and the body is set out in the relevant legislation and the Management Statement/Financial Memorandum; Funded by Grant-in-aid as set out in sections 85AA to 88 of the National Health Service (Scotland) Act 1978; Prepares its own annual reports and accounts which are presented to Ministers and laid in front of Parliament.</p>

Note: **Parliamentary Commissioners and Ombudsmen** and the ‘**Other Significant National Bodies**’, which are part of Scotland’s public bodies landscape, are not described in the table above. Parliamentary Bodies are funded by, and accountable to, the Parliament and there is not a direct relationship between them and Government. The ‘Other Significant National Bodies’ are a range of national bodies which do not fit into the recognised public body categories and each operates within a different framework of accountability to Ministers.

Recommendations of Sponsorship Review and Scottish Government Actions

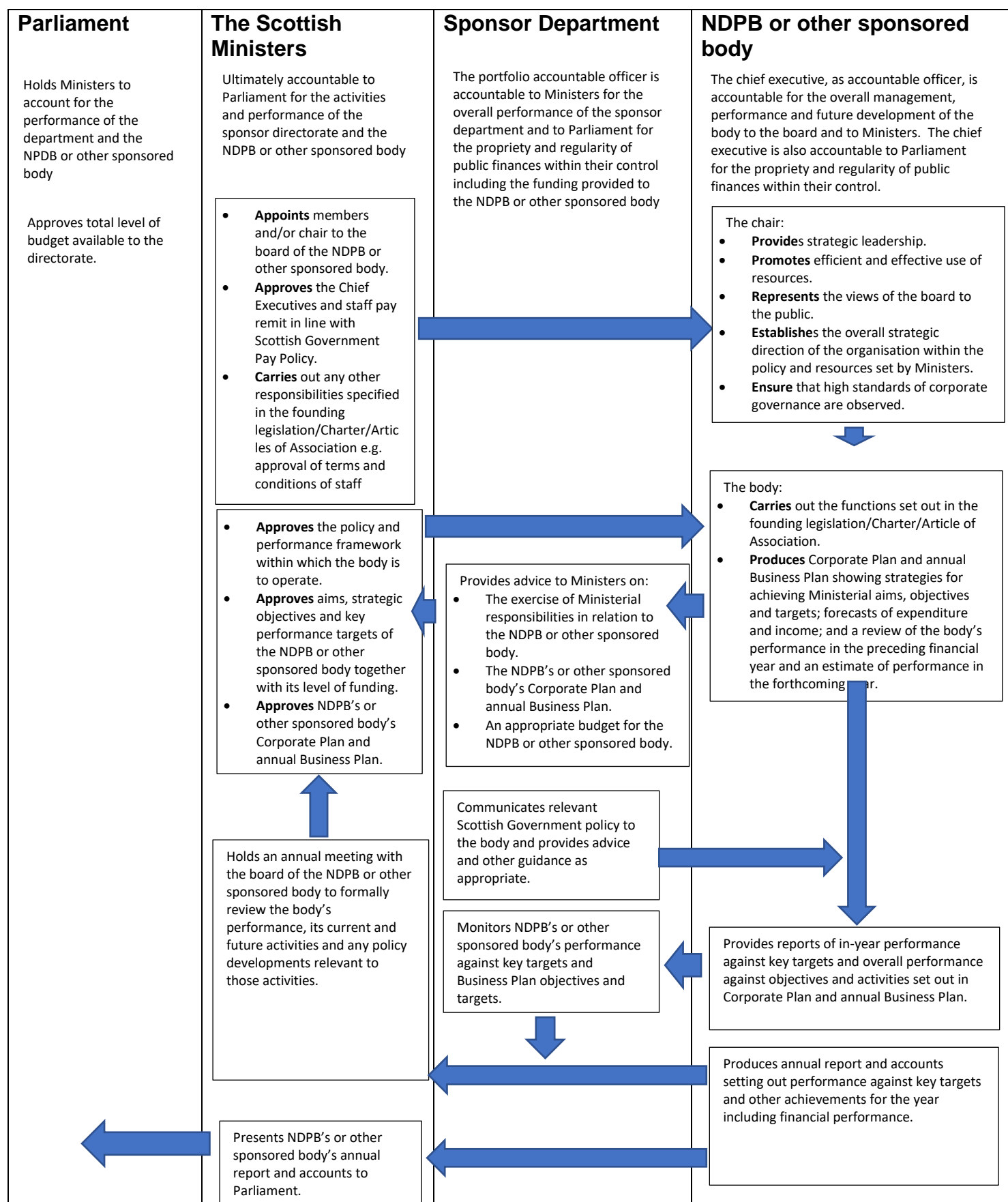
No.	Recommendation	Action Taken
1	Portfolio Accountable Officers should ensure that sponsor teams work with public bodies and the public body Accountable Officers to make roles and responsibilities as clear as possible, discussing the wording in the framework document to ensure a shared understanding.	<p>PBSU conducted a wholesale review of the model framework documents. The model framework document for Executive NDPBs was updated and bespoke model framework documents for Executive Agencies, NMOs and Advisory NDPBs created.</p> <p>The new model framework documents reflect the recommendations of the Progress Review of Scottish Government Relationships with Public Bodies and give more prominence to the roles and responsibilities involved.</p> <p>A central repository of framework documents has been created by PBSU which allows DGs to review them on an ongoing basis to ensure that model framework documents are up to date and accurate.</p>
2	Portfolio Accountable Officers should ensure that a full business case and evaluation of different governance options is carried out, drawing on advice from Public Bodies Support Unit and other central teams including Finance and SG Legal Directorate, before any new public body is created, that advice reflects a presumption against the creation of further small public bodies, and that all of the analysis and eventual decision are retained to inform future sponsorship of the body.	<p>PBSU developed a Ministerial Control Framework for the creation of new public bodies, which was approved by Cabinet and is now in place.</p> <p>Guidance on establishing new public bodies was also revised to align with the Ministerial Control Framework.</p>
3	If there is a decision that the creation of a small public body is essential, the relevant Portfolio Accountable Officer should ensure that arrangements are made for the body to access corporate functions through shared services or collaborative contracts, to increase the resilience of the body.	See Actions for recommendation 2.
4	Public Bodies Support Unit should coordinate work with senior sponsors and sponsor teams to seek views from Chairs and Board members on how SG manages its relationship with the Board.	<p>Sponsor Teams engaged with their public bodies on the report and their relationships with SG.</p> <p>PBSU has engaged with Boards on an individual/ad hoc basis, when capacity allows and engaged with a selection of Board Chairs/members/Chief Executive when producing guidance on managing difficult relationships.</p>

No.	Recommendation	Action Taken
5	Portfolio Accountable Officers should ensure that each NDPB and agency in their area of responsibility has in place a well-developed performance framework that sets out Ministers' priorities within the overall National Performance Framework outcomes, defines as clearly as possible how success will be measured and ideally covers expectations over several years. This performance framework would usually be a central feature of the body's Corporate Plan and should be aligned with a medium-term financial plan and the projected budget for the public body.	PBSU collaborated with the Chairs of both the Scottish Delivery Bodies Group and the NDPB Chief Executive Forum to jointly develop a performance framework.
6	Portfolio Accountable Officers should require that sponsor teams and senior sponsors who report to them are using the templates and following the guidance, and require that any decisions not to follow the guidance or template are clearly documented for the corporate record.	<p>DGs worked to ensure that all sponsors teams within their portfolio understand that deviation from guidance must form part of the corporate record.</p> <p>Newly launched guidance is being promoted within each portfolio as best practice.</p>
7	Portfolio Accountable Officers should ensure that there is regular contact between NDPB Boards and both Ministers and SG officials, particularly senior officials. This is likely to include attendance at Board meetings for discussion of relevant topics, to ensure a good understanding of strategic priorities and issues. Routine attendance of SG officials at all NDPB Board meetings as observers can undermine the proper accountabilities within the system so should only be approved by Portfolio Accountable Officers where this is justified as an escalation beyond normal governance arrangements.	<p>This aligns with the actions being taken to implement recommendation 5.</p> <p>DGs took steps to ensure there is regular contact between their public bodies and SG and that attendance at NDPB Board meetings is proportionate.</p>
8	Portfolio Accountable Officers and senior sponsors should review the capacity and capability needed in their teams to ensure that relationships are being managed well with all public bodies, and consider how best to organise that – through policy teams or sponsorship hubs, for instance – to ensure that there is a proper focus on sponsorship activity and a strong link with policy development. In reviewing the capacity and capability, it will be important to have nominated people who can provide support to Portfolio Accountable Officers and senior sponsors in managing relationships with NMOs and agencies as well as NDPBs.	<p>DGs completed a review of the capacity and capability within their sponsor teams by the end of 2022. PBSU advised on different models of sponsorship.</p> <p>Since then, there has been a further risk review co-ordinated by PBSU into the sponsorship of public bodies in Summer 2024. The recommendations of that review are being implemented.</p>

No.	Recommendation	Action Taken
9	Portfolio Accountable Officers should work with Internal Audit to draw on their advisory support on the management of public body relationships and to build self-assessment reviews of public body relationships in their areas, using the toolkit which Internal Audit and Public Bodies Support Unit plan to develop, into their overall assurance planning. Specific internal audits of relationships with an individual body should be built into audit planning where risk assessment suggests this is necessary.	<p>PBSU worked with Internal Audit in developing a self-assessment toolkit.</p> <p>Linked to the self-assessment toolkit, PBSU also developed a public body RAG rating system which aligns with DG assurance rounds. The RAG rating is populated by sponsors and provides DGs with a quarterly overview of their public bodies.</p>
10	Portfolio Accountable Officers should ensure that all public bodies within their area of responsibility are aware that formal escalation of a risk or issue is an accepted part of good governance, and that they are clear on the process for escalation when this is required.	<p>In addition to the new RAG rating system, PBSU launched a learning module on Pathways designed for sponsors on managing difficult situations. The module based guidance consists of a series of different case studies of when things could go wrong and provides practical examples of how these should be handled and escalated.</p> <p>A further module to managing difficult relationships has also been produced and launched on Pathways. It focuses on the softer skills required if breakdowns in relationships happen.</p> <p>PBSU is also developing 'Stress Test' exercises which public bodies can carry out to test their governance structures, accountabilities and relationships with SG.</p>
11	When public bodies or their sponsors escalate a risk or issue, this should be done through established DG assurance and risk management arrangements taking account of the urgency of the risk or issue. Where time pressure means that decisions relating to a risk or issue cannot wait an appropriate meeting, DG business management teams should ensure that any decision made is documented for the corporate record. In either case, the decision and the reasons for it, plus any further follow up action proposed, should be communicated in writing to the public body and/or the sponsor team.	The actions taken in implementing recommendation 10 also contributed to the implementation of recommendation 11. An important further step in addressing this was DGs ensuring all staff understand the clear route of escalation of risk within their respective Portfolios.

No.	Recommendation	Action Taken
12	Portfolio Accountable Officers should take a formal decision, based on advice from sponsor teams and/or senior sponsors in consultation with the Public Bodies Support Unit, if a situation has arisen in which SG needs to intervene in the operation of a public body in a way that cuts across established lines of accountability. Any such decision should be communicated in writing to the public body. Interventions in the governance or operation of NMOs should not be made without legal advice.	DGs are fully aware that early consultation with PBSU is vital in the context of this recommendation.
13	Public Bodies Support Unit should ensure that coaching and/or mentoring support is offered to the chief executive of every public body, particularly newly-appointed chief executives and those facing challenging situations or intense scrutiny.	<p>PBSU launched a learning module to support the role of the Accountable Officer. This module is complemented by annual Accountable Officer Events, the first of which was held in December 2022.</p> <p>PBSU also works with the Chairs of both the Scottish Delivery Bodies Group and the NDPB Chief Executive Forum to better understand their support for new Chief Execs and those going through challenging situations</p>
14	Identify two experienced team leaders with a good understanding of public body governance issues to take up post in the Public Bodies Support Unit to provide additional capacity for development, support and challenge, and review what additional staffing would be required to create a Public Bodies Hub to coordinate improvement work on sponsorship and Ministerial appointments and provide a first point of contact to sponsor teams on all public body issues.	Two new team leaders were identified from within the Directorate. The resource is reviewed on an ongoing basis.

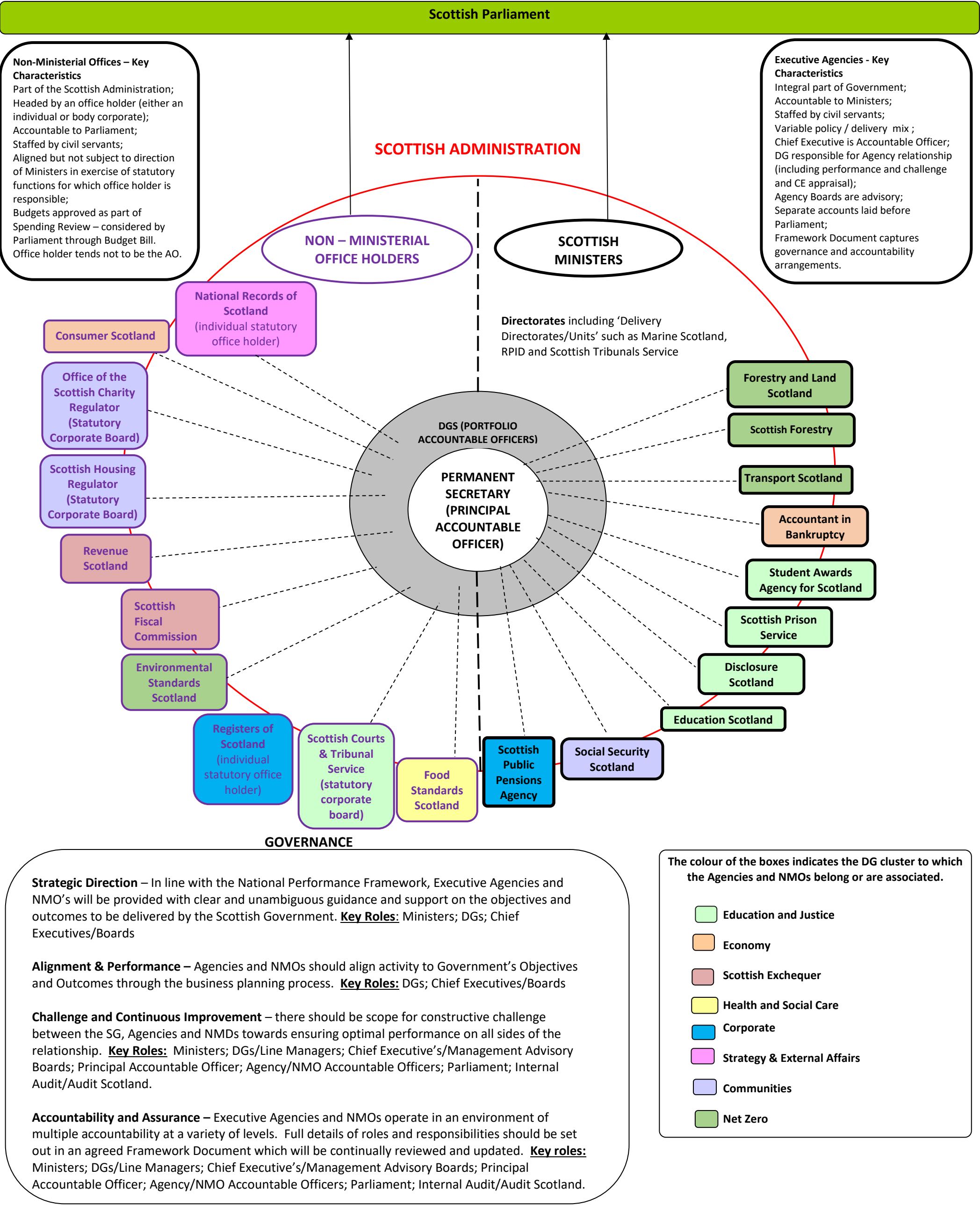
Accountability framework for NDPBs and other sponsored bodies.



Hypothetical RAG Rating

DG Scottish Exchequer - Public Body RAG Rating																							
Public Body	Classification	Getting the Basics Right						Performance		Relationships			Culture		Emerging Issues							Overall RAG Rating	
		Is the current make up of the Board sufficient and is there Board succession planning in place? (RED OR GREEN)	Have new Board Members received a full induction? (RED OR GREEN)	Has a Board Evaluation been completed in the last 12 months? (RED OR GREEN)	Have the Board and Accountable Officer completed learning modules on Governance Hub? (RED OR GREEN)	Is there a Framework Document in place which has been signed off by the Board and Minister? (RED OR GREEN)	Has the Public Body Central Repository been updated? (RED OR GREEN) https://erdm.scotland.gov.uk:8443/documents/A40208991/details	Is the body performing well against their performance targets and are they delivering on outcomes? (RED OR GREEN)	Is the body operating within its budget? (RED OR GREEN)	Has there been a qualification to the Annual Accounts? (RED OR GREEN)	Has there been regular engagement between body and SCS in the last quarter? (RED OR GREEN)	Is their a positive working relationship between body and SG?	When did the Minister last meet the Chair?	Is their a positive working relationship between Chair and Chief Exec?	Has the body completed a staff survey exercise in last 12 months? (RED OR GREEN)	Are there any issues arising from the staff survey?	Has a S.22 report been carried out on the body in last 24 months? (RED OR GREEN)	Have lessons learned been shared following any S.22/23 reports? (RED OR GREEN)	Are there any planned S.22 reports? (RED OR GREEN)	Are there any major projects planned or underway?	Are there any upcoming events that could impact on the operations of the body?		Are there any live issues?
Body A	Executive Agency												N/A										
Body B	Executive NDPB																						
Body C	Non-Ministerial Office																						

Scottish Government, Executive Agencies and Non-Ministerial Offices - Governance and Accountability Arrangements



Scottish Government, Non-Departmental Public Bodies, Tribunals, Public Corporations and Health Bodies - Governance and Accountability Arrangements

Governance & Accountability Framework - General

Statutory

Accountable Officers – duties flow from PFA Act; captured in Scottish Public Finance Manual, Management Statement / Financial Memorandum and the Memorandum to Accountable Officers

Founding Legislation (where appropriate) – specifies functions, funding and accountability arrangements, appointment of a Board and the Chief Executive (Board accountable to Ministers)

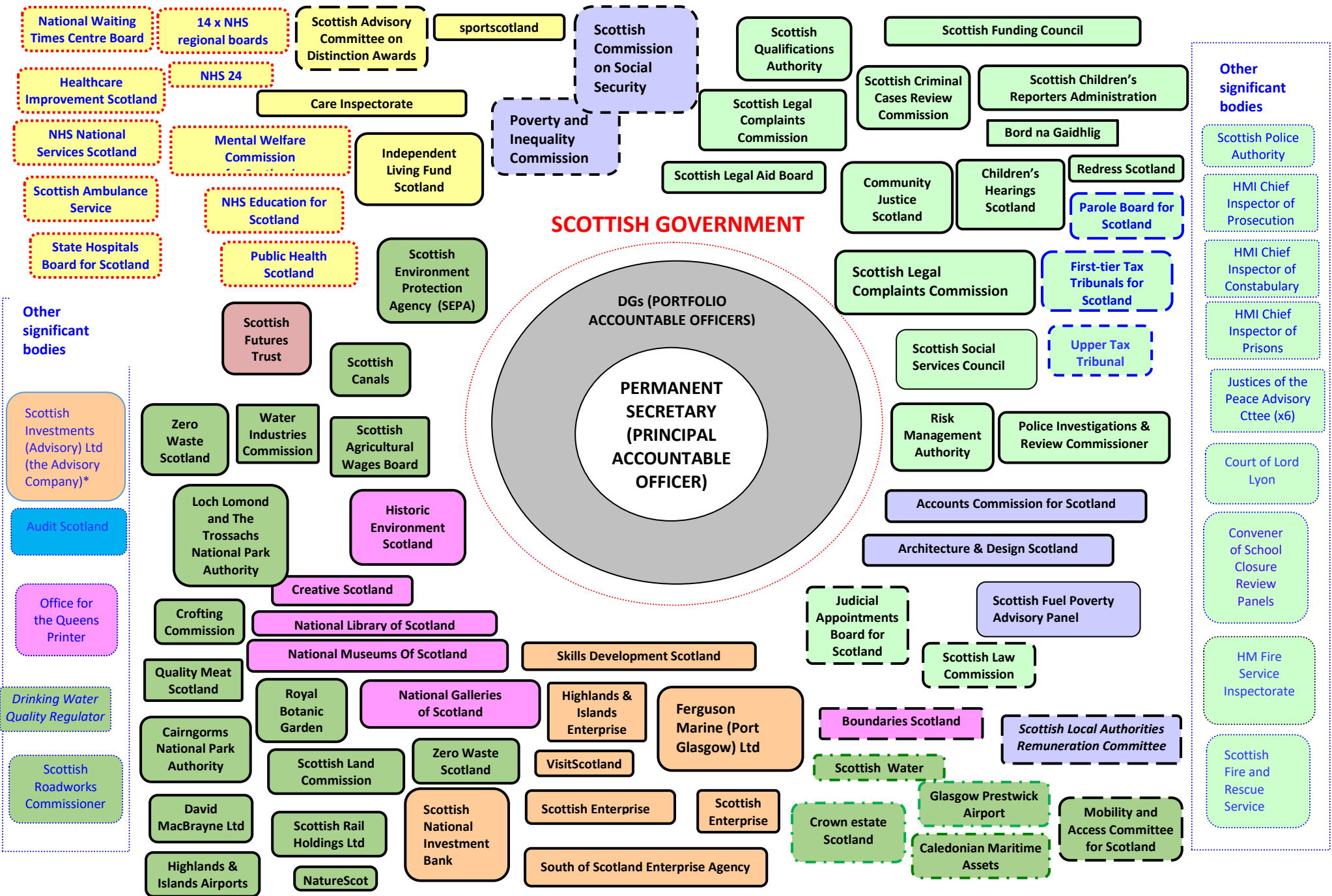
Role of Parliament – can challenge Boards, Chairs, CEs, AOs re propriety and stewardship of public funds; role for Audit Scotland, the Public Audit Committee and the Finance Committee

Administrative

Management Statements / Framework Documents and Financial Memoranda – key documents, define roles, responsibilities, including for financial accountability and performance management

Corporate, Business and Operating Plans – sets performance targets and indicators; plans submitted for approval by sponsor/Ministers

Best Value – Accountable Officers are subject to (non-statutory) duty of Best Value; bodies required to adopt a systematic approach to self-evaluation and continuous improvement in service delivery



Public Corporations - Key Characteristics & Accountability

Industrial or commercial enterprises under direct control / owned by Ministers; accountable to Ministers, who ultimately are accountable to Parliament for functions and performance of the body; Ministers agree corporate and business plans; established by statute or under the Companies Act; headed by a Board whose members are appointed by Ministers; Board holds Chief Executive to account; Chief Executive is Accountable Officer, is subject to guidance such as SPFM; prepare and lay reports and accounts; are subject to a general or specific Ministerial power of direction (with appropriate safeguards in certain circumstances); relationship between Government and the body is set out in a Framework Document.

Health bodies - Key Characteristics & Accountability

Operate within framework of controls determined by DG Health/CE of NHS Scotland (legally, controls are made by Ministers); accountable to Ministers, who ultimately are accountable to Parliament for functions and performance of the bodies; established by statute; Ministers provide funding; bodies deliver healthcare services or provide management, technical or advisory services within NHS; exercise Ministers' functions but also other functions conferred directly on them; Board appointed by Ministers (piloting directly elected members); CE is Accountable Officer, held to account by Board; is subject to guidance such as SPFM; prepare and lay own reports and accounts; Ministerial power of direction, including regulations re the exercise of functions; relationship set out in relevant legislation and a Management Statement/Financial Memorandum

Executive NDPBs - Key Characteristics & Accountability

Operate within strategic framework set by Ministers; Accountable to Ministers, who ultimately are accountable to Parliament for functions and performance of the body; own legal identity; established by statute; funded by Grant-in-Aid (or sectoral levy); carry out administrative, commercial, executive or regulatory functions on behalf of Government; specialist advice; headed by a Board appointed by Ministers; Ministers agree corporate/business plans;; CE is Accountable Officer, held to account by Board; is subject to guidance such as SPFM; prepares and lays own reports and accounts; are subject to a general or specific Ministerial power of direction (with appropriate safeguards in certain circumstances); relationship set out in relevant legislation and a Management Statement/Financial Memorandum.

Advisory NDPBs - Key Characteristics & Accountability

Operate within strategic framework set by Ministers; Accountable to Ministers, who ultimately are accountable to Parliament for functions and performance of the body; established by statute or administratively by Ministers; costs met by Scottish Government; carry out advisory functions, providing independent specialist/expert advice to Ministers and others; headed by a Board appointed by Ministers; Ministers agree corporate/business plans (where produced); do not usually employ staff (admin support normally provided by SG); where no budget responsibility, not required to produce accounts; publish annual report or statement of activity; relationship set out in a Management Statement/Financial Memorandum

Tribunal NDPBs - Key Characteristics & Accountability

Operate within strategic framework set by Ministers; accountable to Ministers, who ultimately are accountable to Parliament for functions and performance of the body; established by statute; responsible for tasks and advice relating to specialist areas of law; decide, independently of Government, the rights and obligations of private citizens toward each other or Government/public authorities; carry out judicial or semi-judicial functions but are separate from the Court system; specialist and lay members appointed by Ministers; Ministers agree corporate/business plans (where produced); tend not to employ staff; normally not responsible for budgets or expenditure, not required to produce accounts; relationship set out in a framework document.