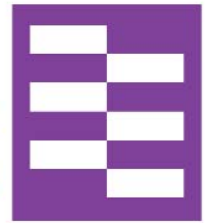




Ministry of  
**JUSTICE**  
National Offender  
Management Service

**Essex**  
Probation



Essex Probation (the “Probation Trust”)  
**Governance Handbook**

**Version 3**

**Approved by the Board of Essex Probation on 8th June 2010**

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## INTRODUCTION

This Governance Handbook has been developed by the Probation Trust Programme in consultation with the first wave of probation Trusts, with Board Secretaries and other probation colleagues. Responsibility for updating the handbook will rest in future between NOMS and the Probation Association and is currently carried out within the Probation Trusts Programme (PTP). The handbook was first issued to the first six Probation Trusts in 2008 and has subsequently been subject to review, both in terms of scope and content. This most recent review, incorporating the views of some Board/Trust Secretaries suggested a more modular, slimmed down approach to governance. This handbook also reflects the changes brought about by the creation of the NOMS Agency in April 2008 and the continuing developments around the Trust programme, contracts and the public sector environment.

The Governance Handbook has been designed to identify the mandatory requirements of a Trust in relation to its corporate responsibilities and the requirements of legislation. It sets minimum standards for relevant areas of activity and seeks to identify best practice where appropriate.

Section 1 of the handbook is a summary of the mandatory requirements placed on Probation Trusts. Section 2 contains a suite of model papers for modification to local requirements and then adoption by the Trust Board. Section 3 relates best practice in the public sector.

Probation Trusts are required to have in place a Statement of Internal Control which places an important public disclosure obligation on the Probation Trust Board. Effectively, such a Statement places responsibility for the system of internal control unequivocally with the Probation Trust Board. That responsibility encompasses:

- Setting appropriate policies on internal control;
- Seeking regular assurance that will enable the Probation Trust Board to satisfy itself that the system is functioning effectively; and
- Ensuring that the system of internal control is effective in managing risks in the manner that the Probation Trust Board has approved.

Probation Trusts have been established in legislation as the Public Sector bodies that will contract with the Secretary of State for the provision of probation services. They have also been established as bodies corporate and as such are separate organisations that are not part of the Crown. Given this identity the relationship between central Government and the Trusts is more complex with the additional requirement of the Contract to be added to the overall governance arrangements. Trusts' overall responsibilities can therefore be broken down into 3 mandatory areas:

- Legal Requirements, such as the Offender Management Act 2007, and the duties placed upon all statutory bodies;
- Contracts with the Secretary of State and the specific service provision requirements therein; and
- Principles and targets laid down by central government such as the requirements of VAT reporting and the specific role of the Accountable Officer.

## **Overall Aims of the Provision of Probation Services**

The Offender Management Act 2007 sets out the aims of the provision of probation services as follows:

- i) protection of the public*
- ii) reduction of re-offending*
- iii) proper punishment of offenders*
- iv) ensuring offenders' awareness of the effects of crime on the victims of crime and the public and*
- v) the rehabilitation of offenders*

These aims are therefore the basis on which the Secretary of State will contract with any provider for the provision of probation services.

## **The Probation Trust's legal origins of powers and duties**

The Probation Trust's powers and duties stem from the Offender Management Act 2007 ("The Act"). Schedule 1 of the Act designates Probation Trusts as a body corporate, its name having been identified in the Order establishing it. A Probation Trust is not to be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown (and, accordingly, its property is not to be regarded as property of, or property held on behalf of, the Crown).

The Act places the statutory duty for making arrangements for probation services on the Secretary of State who will contract with providers to deliver these services. The Act enables the creation of new public sector bodies, Probation Trusts, with whom the Secretary of State may contract, alongside providers from the voluntary, charitable and private sectors.

There are restrictions in place relating to certain arrangements in connection to the provision of probation services. Arrangements in the Act relating to restricted probation provision may only be made with a Probation Trust or other public body. Restricted probation provision relates to the giving of assistance to any court in determining the appropriate sentence to pass, or making any other decision, in respect of a person charged with or convicted of an offence. These restrictions can only be lifted by the Secretary of State making an order to repeal them, which includes the power to provide for that restriction to cease to have effect for such purposes as may be specified in the order. This must be laid in each house of Parliament – i.e. it is subject to the affirmative procedure. Further it was agreed in Parliament that Offender Management would be retained within the public sector until 2010, although this is not a legislative requirement.

Trusts principal contacts will be with the Director of Offender Management (DOM) as the representative of the Secretary of State. The DOMs and their teams will be responsible for management of the contract, delivery of regional commissioning and provision of funding through the payment of Trust invoices. DOMs will report to the NOMS Chief Operating Officer, who in turn will report to the NOMS Director General. This contract management role is undertaken on behalf of the Secretary of State.

The NOMS Director General has been designated the Accounting Officer for NOMS and will designate the Accountable Officer for the Trust.

The Ministry of Justice, and in turn the NOMS Agency, will also be required to account for the resources provided to the Trusts including financial reporting. Some of the mandatory elements of the overall Trust Governance will relate to these specific responsibilities.

### **Ministerial Responsibility**

The Secretary of State in the Ministry of Justice will account for the Probation Trust's business in Parliament and, as a result of the Offender Management Act 2007, has the statutory duty for the provision of probation services. The Secretary of State can establish public sector Probation Trusts who will be contracted to deliver the probation provision in a given area.

The Secretary of State is responsible for the appointment of the Chair and a minimum of four Board members of the Probation Trust, one of whom, where practicable, on appointment shall be a Local Authority member. The Secretary of State may also appoint the first Chief Executive of the Probation Trust. The Secretary of State can make a property transfer scheme and staff transfer scheme to transfer the property and employees of the former Local Probation Board to the Probation Trust.

The Secretary of State must consult at least annually with members of the Welsh Assembly and other key stakeholders in determining the provision for probation services for the coming 12 months. By 31<sup>st</sup> March of each year an annual plan must be in place that identifies how the probation provision will be met for the forthcoming year. The Secretary of State must continue to publish National Standards for the Management of Offenders.

## SECTION 1 MANDATORY REQUIREMENTS

### 1. Legislation

#### 1.1 The Offender Management Act 2007

##### Background

The Offender Management Act 2007 (OM Act) is the primary legislation that determines the establishment of Probation Trusts and provides the statutory framework for the provision of probation services. The OM Act received Royal assent in July 2007. It has changed the requirement for the statutory responsibility for the provision of probation services, removing it from Probation Boards and placing it upon the Secretary of State. It also allows for the Secretary of State to make arrangements for the provision of probation services including the establishment of Probation Trusts who are the public sector bodies designed to contract with the Secretary of State for the provision of probation services. The Secretary of State may choose to contract with other providers, except in respect of “restricted probation provision” - which relates to the giving of assistance to any court in making a decision – and which can only be provided by a public sector body. Further, Ministers agreed in Parliament that core offender management work would not be competed until April 2010.

The OM Act is split into different sections with the main clauses providing the policy and the associated schedules providing greater clarity. Part I of the OM Act and Schedules 1 and 2 are the main areas for Trusts to be aware of.

The OM Act can be accessed at this address:

[http://www.opsi.gov.uk/acts/acts2007/ukpga\\_20070021\\_en\\_1](http://www.opsi.gov.uk/acts/acts2007/ukpga_20070021_en_1)

Schedule 1 of the OM Act is where the bulk of the information relating to how a Probation Trust is contained. For example, Schedule 1 says that

##### *Name and status*

*(1) A probation trust is a body corporate.*

*(2) The name of the Trust is that specified in the order establishing it.*

This schedule also identifies the minimum number of Trust Board members -

##### *Membership and terms of appointment*

*(1) A probation trust shall consist of -*

- (a) a chair and not less than four other members appointed by the Secretary of State; and*
- (b) the chief executive.*

## What must a Trust do?

The OM Act provides information on some things that a Trust must do and they are:

- When established, the purpose of a Trust must include contracting with the Secretary of State
- Publish an annual plan for each year in which it expects to carry out activities
- Consist of a chairman, not less than 4 other members appointed by the Secretary of State (including where practicable a local councillor) and the Chief Executive.
- Keep proper accounts and proper records in relation to the accounts
- Prepare a statement of accounts for each financial year
- Comply with any general or specific directions given by the Secretary of State
- Provide the Secretary of State with any information as he may from time to time direct
- Appoint a Chief Executive (apart from the first who can be appointed by the Secretary of State)
- Determine the Terms and Conditions of the Chief Executive (again with the exception of the first)

## What can a Trust do?

There are a number of things that a Trust can do and they are:

- Enter into contracts with another Probation Trust or any other person which provide for the carrying out by the trust of activities which contribute to the achievement of any probation provision under section 2(1) of the Offender Management Act 2007
- Appoint employees of the Trust
- Determine the terms and conditions of Trust employees
- Regulate their own procedure including quorum
- Authorise a Board member, committee, Chief Executive or other member of staff to do anything that the Trust would otherwise have to do itself
- Manage Land held by others
- Acquire and dispose of property<sup>1</sup>
- Accept gifts
- Borrow or invest money but only with the approval of the Secretary of State

## What can't a Trust do?

There are a number of things that a Trust cannot do and these include:

- Determine the remuneration, fees or expenses; and pensions, allowances or gratuities of all employees without the approval of the Secretary of State
- A Trust may not hold land<sup>2</sup>

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<sup>1</sup> In this instance property does not mean land or buildings but refers to other assets such as machinery and vehicles

<sup>2</sup> Holding land includes freehold or leasehold

## **2. Contractual Requirements**

### **Background**

The Offender Management Act 2007 (OM Act) provides the legislative framework for the establishment of Probation Trusts as the public sector provider of probation services. The OM Act places the statutory duty for the provision of probation services onto the Secretary of State who is able to contract with a number of providers including Probation Trusts. Under the OM Act the purpose of a trust relates to contracting with the Secretary of State as follows:

### ***Power to establish Probation Trusts***

*The purposes of a Probation Trust must consist of or include the making or performance by the Trust of contracts with the Secretary of State under section 3 (2).*

### **The First Wave Trust Contracts**

The first wave trust contracts were drafted after detailed work with the initial six areas and NOMS, including a 3 day workshop with representatives from all parties. The contracts were drafted with a number of specific additional clauses designed to assist the first wave of Trusts as they operated in their initial contractual year. In recent times many changes, including the requirements around notice period have been implemented and the contracts for the first six Trusts now mirror more closely those of the subsequent Trusts.

### **The Current Contract**

The contract developed for the second wave of Trusts (and that which will be used as the template for the next wave of Trusts) has been developed as a result of the operation of the first wave contracts. However, the approach and the look and feel of the terms and conditions of the new contract are fundamentally different. The key principle of the new contract is one of mutual trust and cooperation. As two public sector bodies it is unlikely that either party would take a dispute to court so an escalation process, with clear timetables and levels of escalation has been developed. Overall the new terms and conditions are more light touch with the emphasis on negotiation as the means of dealing with any arising issues requiring resolution. Further, the Service Level Agreements established with Probation Boards continue to include elements of the contractual requirements ensuring that the move from SLA to contract is less difficult.

There have been some changes to the Contract schedules and these are related to further advancement in our thinking such as the shorter and more well-defined Service Specification at Schedule 2 and the changes to Schedule 10, Notice of Change Procedures.

## List of Contract Sections

Section Name	Section No	Sub Sections
Partnering approach	1	Underlying Principles Representatives Changes Early Warning Conflicts/Ambiguities
Parties Roles and Responsibilities	2	The Authority's Obligations The Trust's Obligations Key Personnel
Performance Management	3	Rectification Process Authority Further Action
Planning	4	Annual Plan Service Continuity Plan Exit Management Plan
Duration and Termination	5	Commencement and Duration Termination for Cause by the Authority Termination by the Trust Consequences of Termination Exit Assistance
Employment Provision	6	Employment Code of Practice on Workforce Matters Equality and Diversity
Liabilities	7	Insurance <i>Force Majeure</i> Relief due to the Authority's default
Assets and Ownership of IPR	8	Trusts Assets Sites IT Central Contracts Intellectual Property Rights (IPR) IPR Infringement
Charges and Payment	9	Charges Paying Sub-Contractors Recovery of Sums Due
Security	10	Security Clearance and Access to the Authority's premises Protection of Personal Data Freedom of Information Confidentiality Publicity
Records and Information	11	Management Information Reports Retention of documents
Statutory Control	12	Health and Safety Prevention of Corruption Environmental/Sustainability issues
Disputes	13	Dispute Procedure

General Provisions	14	Service of Notices and Communications Sub-Contracting Novation Conflict of Interest Waiver Interpretation
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### The Teckal Exemption for Probation Trusts

Public procurement rules allow for certain types of contracting between a public sector body and another public body to be identified as “internal procurement”.<sup>3</sup> This means that those contracts identified as such do not have to be subject to the requirements to advertise contracts externally and accept bids from relevant external suppliers.

In order to determine the likelihood of a situation being internal procurement the public body providing the services has to be both legally and economically dependent on the contracting authority.

However, the boundaries of the Teckal Exemption are still being defined and there is no figure in either monetary or percentage terms to indicate what constitutes economic dependency.

Probation Trusts should exercise caution in the pursuit of external funding and other contracts, keeping a clear tally of the amount of revenue generated and other associated details to ensure that as case law develops there is clarity over what is already undertaken at the local level.

The Offender Management Act 2007 requires Trusts to include the making or performance of a contract with the Secretary of State as a main purpose when established. A Trust’s income is generally only that raised as a result of invoicing against the Trust contract and therefore the current contract with Trusts is regarded as being exempt from public procurement rules.

### 3. Principles of Central Government

The Ministry of Justice, through NOMS, is the sponsoring Government Department and provides the funding for Trusts. As public sector bodies, Probation Trusts are provided with public funds to deliver their contracted services and are subject to specific requirements as a result of this. Most of the particular rules and requirements can be found within the suite of model papers in Section 2. However, there are some additional elements that should be noted and have been referenced specifically in this section. Further versions of the Handbook are likely to include additional reference material in this section as Trusts mature.

#### 3.1 Accountable Officer - specific accountabilities and responsibilities

Each public sector body must have an Accountable Officer who is usually the Chief Executive. The Ministry of Justice Accounting Officer (“PAO”) has designated the Director General of the NOMS Delivery Agency as the NOMS Accounting Officer. The Director General will in most cases designate the Chief Executive of the Probation Trust as the Probation Trust’s Accountable Officer (“AO”).

<sup>3</sup> Internal procurement is described as arrangements under which the supplier and the recipient of the goods or services are identical.

### 3.1.1 Principal Accounting Officer

The Ministry of Justice PAO is accountable to Parliament for the performance of the Probation Trust and is also responsible for advising the responsible minister:

- on an appropriate framework of objectives and targets for the Probation Trust in the light of the department's wider strategic aims and current Public Service Agreement (PSA) targets;
- on an appropriate budget for the Probation Trust in the light of the sponsor department's overall public expenditure priorities by reference to an appropriate formula; and
- how well the Probation Trust is achieving its strategic objectives and whether it is delivering value for money.

The Ministry of Justice PAO is also responsible for ensuring that the Probation Trust has arrangements in place in order to:

- monitor the Probation Trust's activities on a continuous basis;
- address significant problems in the Probation Trust, making such interventions as are judged necessary;
- periodically carry out an assessment of the risks both to the sponsoring department and Probation Trust objectives and activities;
- inform the Probation Trust of relevant government policy in a timely manner; and
- bring concerns about the activities of the Probation Trust to the full Probation Trust Board; requiring explanations and assurances that appropriate action has been taken.

### 3.1.2 Trust Accountable Officer

Chief Executives are normally designated the Accountable Officer of public bodies. HM Treasury has set out the responsibilities for the Accountable Officer role in their publication "Managing Public Money" (published in Oct 2007). The appointment as Accountable Officer reflects the fact that he or she has responsibility for the overall organisation, management and staffing of the body, and for its procedures in financial and other matters.

The Chief Executive, as the Probation Trust's Accountable Officer is personally responsible for safeguarding the public funds for which he or she has charge; for ensuring propriety and regularity in the handling of those public funds and for the day to day operations and management of the organisation. Although the Probation Trust Board will appoint all but the first Chief Executive of the Trust, the Board must be aware that the Chief Executive will have to carry the responsibilities of Accountable Officer. However, the decision to designate the Chief Executive as the Accountable Officer<sup>4</sup> is for the sponsoring department alone.

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<sup>4</sup> Cabinet Office Guidance for Public Bodies suggests that Accounting Officers should normally be required to attend the National School of Government Course "An Introduction to Public Accountability for Chief Executives".

### 3.2 VAT and other Tax issues

Probation Trusts must register, report upon and be liable for VAT under the circumstances described in the (attached) VAT document “VAT in the Public Sector”. An agreement on VAT treatment for Trusts has been reached with Her Majesty's Revenue and Customs (HMRC).

## 4. Designated responsibilities of the Chief Executive, Chair and Probation Trust Board

### 4.1 Responsibilities of the Chief Executive

#### 4.1.1 Specific Accountable Officer Activities

Is personally responsible for safeguarding the public funds for which he or she has charge
Ensuring propriety and regularity in the handling of public funds
Ensuring the recording and submitting of objections to decisions considered or taken by the Probation Trust Board in matters of propriety or regularity, and on issues relating to the wider responsibilities of the AO for economy, efficiency and effectiveness
Signing the accounts and ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any directions issued by the Secretary of State
Signing a Statement of Accountable Officer's responsibilities, for inclusion in the annual report and accounts
Being available, if required, to give evidence, when summoned before the PAC on the Probation Trust's stewardship of public funds

#### 4.1.2. Specific Chief Executive Activities:

The Chief Executive will be responsible for the day to day management of the Probation Trust
Signing a Statement on Internal Control regarding the system of internal control, for inclusion in the annual report and accounts
Acting in accordance with the terms of this document, and other instructions and guidance issued from time to time by the Sponsoring Department, the Treasury and the Cabinet Office including Managing Public Money
Preparing Annual plans for service provision and the financial consequences of that service portfolio, including an assessment of the risks associated
Establishing, in agreement with the sponsoring department, the Probation Trust's corporate and business plans in the light of the sponsoring department's wider strategic aims and current PSA(s)
Informing the sponsoring department of progress in helping to achieve the sponsoring department's policy objectives and in demonstrating how resources are being used to achieve those objectives
Ensuring that timely forecasts and monitoring information on performance and finance are provided to the sponsoring department; that the sponsoring department is notified promptly if any over or under spends are likely at the year end position or a critical position is developing and that corrective action is taken; and that any significant problems whether financial or otherwise, and whether detected by internal audit or by other means, are

notified to the sponsoring department in a timely fashion.
Advising the Probation Trust Board on the discharge of the Probation Trust's responsibilities as set out in this document, in the founding legislation and in any other relevant instructions and guidance that may be issued from time to time
Advising the Probation Trust Board on the Probation Trust's performance compared with its aim[s] and objectives
Ensuring that financial considerations are taken fully into account by the Probation Trust Board at all stages in reaching and executing its decisions, and that financial appraisal techniques are followed
Taking action as set out in Managing Public Money if the Probation Trust Board, or its Chair, is contemplating a course of action involving a transaction which the Chief Executive considers would infringe the requirements of propriety or regularity or does not represent prudent or economical administration, efficiency or effectiveness, questionable feasibility, or is unethical
Ensuring that the Probation Trust as a whole is run on the basis of the standards, in terms of governance, decision making etc.

## 4.2 Responsibilities of the Chair

Leadership of the Board ensuring the effectiveness on all aspects of the role and setting its agenda
Ensuring that members receive accurate, timely and clear information that is appropriate for their respective duties
Establishing effective communication with members, service users, staff and other stakeholders
Facilitating the effective contribution of all members and ensure that constructive relations exist between members and staff
Acting as the Senior Representative of the Trust in Contractual negotiations with the DOM
Communications with the relevant Minister
Delivery as required of the Secretary of State's wider strategic policies
Ensuring that the Trusts affairs are conducted with probity inc. ensuring the communication & dissemination of relevant actions or policies
Ensure the formulation of the Probation Trust s' strategy
Ensure that the Probation Trust Board, in reaching decisions, takes proper account of guidance provided by the PAO and the responsible minister or the department as well as the Chief Executive.
Promote the efficient and effective use of staff and other resources
Deliver high standards of regularity and propriety; and represent the views of the Probation Trust Board to the general public
Ensure the work of the Probation Trust Board and its members is reviewed and working effectively, on a regular basis, usually annually, when being considered for re-appointment
Use performance evaluations as the basis for determining individual and collective professional development programmes for members relevant to their duties as Probation Trust Board members
Consider whether the Probation Trust Board has a balance of skills appropriate to directing the Probation Trust's business, as set out in the Government Code of Good

Practice on Corporate Governance and advise Secretary of State if there any significant skills deficits.
Ensure that Probation Trust Board members are fully briefed on terms of appointment, duties, rights and responsibilities
Ensure that the Probation Trust Board recognises their responsibility to take the advice of the AO or to document why they have chosen not to
Ensure that he or she, together with the other Probation Trust Board members, receive appropriate training on corporate responsibilities
Ensure that new members of the Trust Board receive an appropriate induction on joining

### 4.3 Responsibilities of the Trust Board

**The Probation Trust Board must ensure, through the Chief Executive, that arrangements are in place to meet its accountabilities to the NOMS Agency and through the Agency to Parliament. These include:**

Agreeing and delivering the contract with NOMS for the provision of probation services in the Trust area.
Agreeing the accounts and ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any directions issued by the Secretary of State
Agreeing a Statement on Internal Control regarding the system of internal control, for inclusion in the annual report and accounts
Ensuring that effective procedures for handling complaints about the Probation Trust are established and made widely known within the Probation Trust
Acting in accordance with the terms of this document, and other instructions and guidance issued from time to time by the Sponsoring Department, the Treasury and the Cabinet Office including Managing Public Money
Being available, if required, to give evidence, when summoned before the PAC on the Probation Trust's stewardship of public funds
Preparing Annual plans for service provision and the financial consequences of that service portfolio, including an assessment of the risks associated
Ensuring that the Trust has established, in agreement with the sponsoring department, its corporate and business plans in the light of the sponsoring department's wider strategic aims and current PSA(s)
Hold the Chief Executive to account for the operational performance of the Trust

**SECTION 2 – ESSEX PROBATION’S GOVERNANCE ARRANGEMENTS**

## **2.1 Scheme of Delegation**

### **Introduction**

The scheme of Delegation sets out those areas of responsibility which have been delegated and/or allocated to nominated lead officers. Those who may act in their absence will be determined by the Chief Executive.

The Chief Executive is ultimately responsible for the day-to-day management of the Probation Trust and the effective use of resources. In particular the Chief Executive is responsible for ensuring that value for money is obtained from the Probation Trust's resources.

Specific responsibilities delegated to other Executive Directors, Directors or Managers of the Probation Trust are set out in the Scheme of Delegations developed by the Trust. Nominated officers remain accountable to the Chief Executive who will nominate an Executive Director, Director or Manager to act on his/her behalf in his/her absence.

### **RESPONSIBILITIES AND DELEGATION**

The Probation Trust Board will exercise financial supervision and control by:

- Formulating the financial strategy;
- Requiring the submission and approval of annual budgets within approved allocations;
- Approving SFIs;
- Defining specific responsibilities placed on directors and employees as indicated in the Scheme of Delegation.

All Directors, managers and employees have a general responsibility for the security of the property, for avoiding loss, for economy and efficiency in the use of resources and for conforming with the requirements of these Instructions. Should any difficulty arise regarding their interpretation or application then the advice of the Director of Finance or authorised nominee must be sought before action is taken.

It is the duty of the Chief Executive, Directors and managers, to ensure that existing staff and all new appointees are informed of their responsibilities within these Instructions. Breaches of these Instructions will be reported to the Director of Finance .

Within these SFIs it is acknowledged that the Chief Executive is ultimately accountable to the Board for ensuring it meets its obligations to perform its functions within the available financial resources. The Chief Executive has overall responsibility for activities and is responsible to the Board for ensuring that its financial obligations and targets are met.

The Chief Executive and Director of Finance will, as far as possible, delegate their detailed responsibilities but they will remain accountable to the Board for financial control.

## **2.2 Standard Financial Instructions**

These Standing Financial Instructions were adopted by the Essex Probation Board on 8<sup>th</sup> June 2010.

## **STANDING FINANCIAL INSTRUCTIONS - CONTENT**

### **1 INTRODUCTION**

- 1.1 General
- 1.2 Responsibilities and Delegation

### **2 ACCOUNTING ARRANGEMENTS**

### **3 ANNUAL ACCOUNTS AND REPORTS**

### **4 FINANCIAL PLANS, BUDGETARY CONTROL AND MONITORING**

- 4.1 Plans and Budgets
- 4.2 Budgetary Delegation
- 4.3 Budgetary Control
- 4.4 Virements
- 4.5 Capital Expenditure

### **5 FINANCIAL REPORTING**

- 5.1 Reporting to the Board
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### **6 FINANCIAL SYSTEMS AND PROCEDURES**

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- 14.3 Risk Management
- 14.4 Information
- 14.5 Agreement for financial services with other Probation bodies or outside agencies
- 14.6 Potential Litigation

## 1. INTRODUCTION

### 1.1 General

These Standing Financial Instructions (SFIs) set out the conduct of the Probation Trust Board's members in relation to all financial matters with which they are concerned. They should be read in conjunction with the Financial Delegation Schedule (Appendix C) which sets out the authority limits to which the financial delegations set out to these Standing Financial Instructions are subject.

These SFIs detail the financial responsibilities, policies and procedures to be adopted by the Probation Trust. They are designed to ensure that financial transactions are carried out in accordance with the law and Government policy in order to achieve propriety, accuracy, economy, efficiency and effectiveness. They should be used in conjunction with other relevant documents within the Governance Handbook.

These SFIs identify the financial responsibilities which apply to everyone working for the Probation Trust and its **constituent** organisations. *They do not provide detailed procedural advice and should be read and applied in conjunction with the relevant legislation and departmental finance procedure guidance.*

### 1.2 Responsibilities and Delegation

#### 1.2.1 The Probation Trust Board

The Probation Trust Board exercises financial control by:

- a) creating the financial strategy
- b) approving budgets within the approved allocations/income
- c) approving financial procedures and systems
- d) agreeing specific responsibilities placed on members of the Probation Trust Board and employees as shown in the Financial Delegation Schedule

#### 1.2.2 The Chief Executive

The Chief Executive has overall executive responsibility for the Probation Trust's business, is accountable to the Chair and the Probation Trust Board and as designated Accountable Officer ("AO") shall be responsible to the Secretary of State for the financial affairs of the Probation Trust. He/she is supported in this role by the Director of Finance, who will advise on all aspects of detailed financial management and administration.

1.2.3 The Chief Executive, through the Director of Finance, shall ensure that appropriate financial instructions are in place and will ensure that members of the Probation Trust Board, employees and all new appointees are notified of their responsibilities and that they are observed throughout the Probation Trust. The

Chief Executive shall ensure that the necessary arrangements are in place to organise and supervise the financial affairs of the Probation Trust, delegating appropriate specific responsibility to the Director of Finance.

1.2.4 The Chief Executive must have in place, in support of these SFIs, a set of detailed accounting procedures. These shall provide for a proper system of internal control with appropriate segregation of duties. The accounting procedures shall be designed to ensure that all expenditure is properly authorised and validated, that all income, expenditure, debts and liabilities are properly recorded in the accounting records, that statutory obligations are complied with, and that the assets of the Probation Trust are safeguarded.

1.2.5 The Director of Finance is responsible for:

a) The provision of financial advice to members of the Probation Trust Board and employees in respect of all financial issues including:

- i) Financial control and propriety
- ii) Evaluating value for money
- iii) Assessing the financial implications of plans
- iv) Setting budgets and monitoring expenditure
- v) The annual accounts

b) Implementing and maintaining the Probation Trust's financial policies

c) designing, maintaining and supervising an effective system of internal financial control including ensuring that detailed financial systems and procedures are prepared and documented

d) ensuring that adequate documentation and records are kept to explain the Probation Trust's transactions in order to show, with reasonable accuracy, the financial position at any time

e) determining, preparation and maintenance of all accounts, certificates, estimates, records and reports necessary for the Probation Trust to carry out its statutory duties

f) drawing up and maintaining accounting procedures. These will include, but will not necessarily be limited to, segregation of duties, general information technology control, purchase orders, payments, invoicing, receipts, imprest accounts, debtors control, banking, payroll, general ledger, reporting, controlled stationery **and** arrangements for delegation of budgets. Such procedures should comply with guidance the Ministry of Justice may issue together with this Governance Handbook and these Financial Instructions. They should be in a form and detail sufficient to meet local needs.

1.2.6 Probation Trust Board Members and Employees

All members of the Probation Trust Board and employees, severally and collectively, are responsible for:

- a) the security of the property of the Probation Trust
- b) avoiding loss
- c) exercising economy and efficiency in the use of resources

d) complying with Standing Orders, SFIs, Financial Procedures and Financial Delegation Schedule.

#### 1.2.7 Contractors and their Employees

Any contractor or employee of a contractor who is empowered by the Probation Trust to commit the Probation Trust to expenditure, or who is authorised to obtain income shall be covered by these instructions. It is the responsibility of the Chief Executive to ensure that such persons are made aware of this

a) These instructions form a major part of the Probation Trust's internal financial control framework. The main aims of the instructions are to

- provide sufficient safeguards to the Board, the Chief Executive and the Director of Finance in the performance of their duties and responsibilities
- ensure that the financial dealings of the Probation Trust are conducted properly and in accordance with best practice
- afford adequate safeguards and protection to the staff of the Probation Trust engaged in the handling of public money.

b) All staff who are involved in financial administration in any way must adhere to these instructions. Non-compliance may result in disciplinary action in accordance with the Probation Trust's disciplinary procedures, which could result in dismissal.

## 2. ACCOUNTING ARRANGEMENTS

2.1. The following principles shall be observed in the allocation of accounting duties.

a) The duties of providing information regarding sums due to or from the Probation Trust and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them.

b) Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.

2.2 Any forms, documentation or procedures of a financial or accounting nature shall only be introduced or amended after consultation and with the approval of the Director of Finance. Financial records shall not be disposed of other than in accordance with arrangements approved by the Director of Finance on behalf of the Chief Executive.

## 3. ANNUAL ACCOUNTS AND REPORTS

3.1 Probation Trust Boards will be required to produce a statement of accounts in accordance with a Direction issued by the Secretary of State. The Chief Executive may delegate responsibility for the preparation of accounts to the Director of

Finance. The Accounts Direction from the Secretary of State sets out the fixed presentational format of the statement of accounts and advises that technical guidance is set out in the Probation Finance Manual.

3.2 The Director of Finance will, on behalf of the Probation Trust:

- a) prepare financial returns in accordance with accounting policies and guidance given by the Treasury, Ministry of Justice and generally accepted accounting policies
- b) prepare and submit annual financial reports to the Ministry of Justice certified in accordance with current guidelines
- c) following approval by the Chief Executive (Accountable Officer) submit financial returns to the Ministry of Justice for each financial year in accordance with the format and timetable prescribed by the Ministry of Justice

3.3 The Probation Trust's annual Accounts must be audited by an auditor appointed by the Audit Commission or Wales Audit Office as applicable. The Probation Trust's audited annual accounts must be presented to a public meeting and made available to the public.

3.4 The Probation Trust will publish an annual report, in accordance with guidelines on local accountability and present it at a public meeting. This document will comply with requirements as set out in the Probation Finance Manual.

## **4 FINANCIAL PLANS, BUDGETS, BUDGETARY CONTROL AND MONITORING**

### **4.1 Plans and Budgets**

4.1.1 The Chief Executive will submit a Business Plan to the Probation Trust Board which takes account of Financial targets and available resource limits. The plan will contain;

- a) the key assumptions on which the plan is based
- b) details of key changes in workload, delivery of services or resources required to achieve the plan

4.1.2 The Director of Finance, in consultation with and on behalf of the Chief Executive, will present budgets to the Probation Trust Board for approval. These budgets will:

- a) align with the objectives set out in the Business Plan
- b) be prepared within available resource limits, including workforce plans
- c) identify potential risks
- d) be prepared after consultation with budget holders.

4.1.3 The Director of Finance will monitor financial performance against budget and plan and report to the Chief Executive and Probation Trust Board.

4.1.4 The approved budget will give authority for expenditure to be incurred in the year to which the budget relates. It is subject to concurrence with Standing Orders

and this document. Any change in the budget would need to comply with the financial instructions relating to virements.

## **4.2 Budgetary Delegation**

4.2.1 The management of a budget shall be delegated by the Chief Executive for specified purposes. Each delegation must be in writing and should clearly define the value of the budget, the purpose, the responsibilities, virement authority, reporting requirements and planned service delivery and must be signed by the relevant budget holder to signify acceptance of the delegation.

4.2.2 The Chief Executive and delegated budget holders must not exceed the budget total or virement limits set by the Probation Trust Board.

## **4.3 Budgetary Control**

4.3.1 The Chief Executive, in consultation with the Director of Finance, shall put in place budgetary control arrangements to ensure the approved budget is not exceeded.

4.3.2 Approval of the annual revenue budget shall be deemed to be authority to incur expenditure up to the amounts specified in those estimates, subject to compliance with Standing Orders and those instructions and provisions within the Scheme of Delegation (Appendices B and C to the Standing Orders). An approved estimate shall not, in whole or in part, be used for any purpose other than that for which it was duly authorised except as set out in the instruction on virement

4.3.3 The Director of Finance shall be responsible for the provision of timely, accurate and comprehensive financial management information on a regular basis to designated budget holders. The Director of Finance shall provide the necessary support, training and advice to enable budget holders to effectively manage the finances for which they are responsible.

4.3.4 Budget holders are responsible for ensuring that they report as determined by the Director of Finance, any likely variance from the budget and forecast under or over spend on any head of expenditure. Any overspending shall be met wherever possible by a transfer of funds from another head of expenditure in accordance with the instruction on virement.

4.3.5 Expenditure proposals which exceed the limits set in paragraph 11 of the Standing Orders shall require the prior approval of the Board as indicated.

4.3.6 The Chief Executive is responsible for identifying and implementing cost improvements and income generation activities in accordance with the requirements of the Business Plan and a balanced budget.

## **4.4 Virement**

4.4.1 Expenditure shall normally be incurred in accordance with the revenue and capital budgets approved by the Probation Trust Board. Any variation to those approved budgets shall be strictly in accordance with the instructions set out below.

4.4.2 The Chief Executive, in consultation with the Director of Finance, shall be authorised to exercise virement within the revenue budget subject to the limits determined within the Financial Delegations Schedule.

4.4.3 Virement proposals outside of those limits will require the approval of the Probation Trust Board which will also need to seek approval of the DOM where the contract, governance arrangements or Finance Commissioning Framework dictate.

4.4.4 The Chief Executive shall be authorised to review and determine from time to time schemes for delegation of virement to budget holders managing operational cost centres, within these overriding limits.

## **4.5 Capital Expenditure**

4.5.1 Where applicable the general rules applying to delegation and control shall also apply to capital expenditure.

4.5.2 Capital requirements together with business cases for the capital shall be drawn up annually together with a multi year programme and based on allocations notified by NOMS/DOM. The Capital Programme should be drawn up by the Chief Executive in consultation with the Director of Finance for the approval of the Board and in accordance with central guidelines.

4.5.3 Capital expenditure will require the receipt of a capital allocation from the Ministry of Justice.

## **5 FINANCIAL REPORTING**

### **5.1 Reporting to the Board**

5.1.1 The Director of Finance shall arrange for financial monitoring reports to be provided to the Probation Trust Board in accordance with agreed reporting arrangements.

5.1.2 The Director of Finance will ensure that the reports are in a form approved by the Probation Trust Board and are likely to include;

- a) Income and expenditure to date and forecast year end position
- b) Movements in working capital
- c) Movements in cash and capital
- d) Explanations of any material variances from plan
- e) Explanations of corrective action where necessary and the Chief Executive's and/or Director of Finance's opinion of whether the actions are sufficient to correct the situation.

5.1.3 The Director of Finance shall be consulted on all reports with financial implications at the draft stage, and given sufficient time to be satisfied as to the accuracy and appropriateness of such reports before they are finalised and published. Such reports will be approved by the Chief Executive prior to publication or submission to the Board.

5.1.4 The Chief Executive will identify any material financial implications in any report submitted to the Board.

5.1.5 The Director of Finance has discretion to report separately to the Board on any financial matter.

5.1.6 The Board Secretary or Trust Legal Advisor nominated by the Probation Trust Board shall be consulted on any matter where the lawfulness of any financial decision or any procedural issues involving any financial matter needs to be determined.

## **5.2 Financial Returns to the Ministry of Justice and Grant Claims**

5.2.1 The Chief Executive will be responsible for ensuring that records are maintained and information supplied for all financial returns and cash claims in the manner and to procedures as prescribed by the Director of Finance. The Director of Finance will be responsible for ensuring that any financial returns or drawdown claims are prepared and submitted on a timely basis and are consistent with the appropriate guidelines.

## **6. FINANCIAL SYSTEMS AND PROCEDURES**

### **6.1 Banking Arrangements**

6.1.1 The Director of Finance is responsible for managing the Probation Trust's banking arrangements and for advising the Probation Trust on the provision of banking services and operation of accounts. This advice will take into account guidance/directions issued from time to time by the Ministry of Justice. All banking arrangements shall be made by or under the supervision of the Director of Finance who shall be authorised to operate such banking accounts as may be considered necessary.

6.1.2 The Probation Trust Board shall approve the banking arrangements.

6.1.3 The Director of Finance will prepare detailed instructions on the operation of bank accounts which must include;

- a) the conditions under which each bank account is to be operated
- b) those authorised to sign cheques or other orders drawn on the Probation Trust's accounts

6.1.4 The Director of Finance shall ensure that

- a) payments made from bank accounts do not exceed the amount credited to the account except where arrangements have been made
- b) an appropriate number of bank accounts is established but only sufficient for the effective operation of the Probation Trust's business
- c) bank accounts shall include the name of the Probation Trust in their title
- d) no bank accounts are operated in the name of an individual

e) all cheques drawn on behalf of the Board shall be signed by the Director of Finance , or any other Officer duly authorised by the Director of Finance , or bear the facsimile signature of the Director of Finance

f) the Board is informed in writing of all arrangements made with the Probation Trust's bankers for accounts to be overdrawn.

6.1.5 All payments made through the BACS system or through direct debit arrangements shall be operated only on the authority of the Director of Finance or such other officer duly authorised by the Director of Finance in accordance with internal control procedures.

6.1.6 The threshold over which cheques must be manually signed by the Director of Finance or any other Officer duly authorised by the Director of Finance must be discussed and agreed with the Board's Audit Committee.

6.1.7 All cheques and Giro payment forms shall be ordered only on the authority of the Director of Finance who shall make proper arrangements for their custody and issue.

6.1.8 The Director of Finance must advise the Probation Trust's bankers in writing of the conditions under which each account is operated.

## **6.2 Tendering and Review of Banking Arrangements**

6.2.1 The Director of Finance will review the commercial banking arrangements of the Probation Trust at regular intervals to ensure they reflect best practice and represent best value for money including seeking competitive tenders where appropriate.

6.2.2 Where appropriate competitive tenders should be sought at least every five years. The results of the tendering exercise should be reported to and approved by the Probation Trust Board.

## **6.3 Income**

6.3.1 The collection of all sums due to the Probation Trust shall be under the supervision of the Director of Finance who shall be responsible for designing, maintaining and ensuring compliance with systems for the proper recording, invoicing, collection and accounting of all monies due.

6.3.2 All monies received by an officer of the Probation Trust shall, without delay, be paid intact into the Probation Trust's bank account. Under no circumstances should any payment be made out of income received.

6.3.3 All sums received by any officers, on behalf of the Probation Trust, shall immediately be acknowledged by the issue of an official receipt or other agreed method. Any subsequent transfer of official monies from one member of staff to another shall similarly and immediately be acknowledged in writing in line with arrangements approved by the Director of Finance .

6.3.4 All receipt books and similar items shall be ordered and supplied by the Director of Finance, who shall also satisfy him/herself as to the arrangements for their control.

6.3.5 Under no circumstances shall personal cheques be cashed out of money held on behalf of the Probation Trust.

6.3.6 Particulars of all charges to be made for work done or goods supplied by the Service shall be promptly notified to the Director of Finance in a form approved by him/her. Such accounts shall specify that payment should be remitted directly to the Director of Finance.

6.3.7 The Director of Finance shall be consulted on any proposals for the introduction of, or variation to, any scale of charges. Any subsequent report to the Probation Trust Board shall be prepared jointly by the Chief Executive and Director of Finance.

#### **6.4 Debt Recovery**

6.4.1 The Director of Finance is responsible for the appropriate recovery action on all outstanding debts. No debt in respect of an amount due, once established, shall be discharged otherwise than by payment in full or by appropriate authority for write off as described in accordance with losses procedures.

6.4.2 The Director of Finance shall prepare an annual report on all write offs for receipt by the Audit Committee. The Audit Committee will agree any changes to the delegated limits for write off set out in the Financial Delegations Schedule.

6.4.3 The Director of Finance shall maintain a record of all debts written off, showing details of recovery action and authorisation for write off. Such record should be available for inspection by the Board, the Director of Finance and the Auditors.

6.4.4 The Director of Finance shall have all necessary powers of debt recovery. Where legal action is required legal advice will be sought from a suitably qualified person. Legal proceedings will only be instituted in accordance with Standing Order 22.

#### **6.5 Security of Cash, Cheques and other Negotiable Instruments**

6.5.1 The Director of Finance is responsible for:-

- a) designing, the systems and procedures for handling cash and negotiable instruments
- b) approving the format of all receipt books or other forms of recording monies received or receivable
- c) ordering and controlling such stationery
- d) providing adequate facilities and systems for collecting and handling cash e.g. safes, key handling, coin operated machines

6.5.2 Under no circumstances must personal cheques or IOUs be cashed out of petty cash imprest accounts.

6.5.3 All cheques, postal orders, cash etc shall be banked intact. Disbursements shall not be paid from cash received except under arrangements approved by the Director of Finance.

6.5.4. Unofficial funds shall not be deposited in Probation Trust's safes unless in special sealed envelopes/locked containers. The Probation Trust should make it clear to depositors that it is not to be held liable for any loss and written indemnities must be obtained absolving the Probation Trust of any responsibility for any loss.

6.5.5 Payments from local imprest accounts shall be limited to minor items of expenditure (to a maximum value from time to time reviewed by the Director of Finance).

6.5.6 On leaving the employment of the Service or otherwise ceasing to be entitled to hold an imprest, an officer shall account to the Chief Executive for the amount advanced.

## **6.6 Investments**

6.6.1 Temporary cash surpluses must be held only in such investments as notified by the Secretary of State and authorised by the Probation Trust Board and in accordance with Managing Public Money.

6.6.2 The Director of Finance will prepare procedural instructions on the operation of investment accounts and on the records to be maintained.

6.6.3 The Director of Finance is responsible for advising the Board on investments<sup>5</sup> and for ensuring investments are made to the Probation Trust's best advantage, with due regard to risk. Such investments shall be in the name of the Probation Trust.

## **7 ALLOWANCES AND PAYMENT OF MEMBERS OF THE PROBATION TRUST BOARD AND EMPLOYEES**

### **7.1 Remuneration of the Chair and (Non-officer) Board members**

7.1.1 The Secretary of State will determine allowances for the Chair and members of the Probation Trust Board.

### **7.2 Staff Appointments**

7.2.1 No officer, Probation Trust Board member or employee may engage, re-engage or regrade employees either on a permanent basis or temporary nature or hire agency staff or agree to changes in any aspect of remuneration unless authorised to do so by the Chief Executive via the published procedures of delegated authority for staffing arrangements.

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<sup>5</sup>

NOMS Finance to provide guidance to Boards on investment practice

7.2.2 Commencing pay rates will be determined in accordance with the National Negotiating Council terms and conditions.

### **7.3 Payroll**

7.3.1 The Director of Human Resources, in consultation with the Director of Finance, is responsible for:

- a) the payment of salaries and wages, allowances and other emoluments to all employees and former employees
- b) specifying the timetable for submission of properly authorised time records or other notifications
- c) agreeing the methods of payment
- d) making payments on agreed dates
- e) ensuring that no salary or other emolument is paid via an imprest account or through the payment of invoices system

7.3.2 The Director of Human Resources, in consultation with the Director of Finance, will issue and maintain instructions on:

- a) verification and documentation of data
- b) maintenance of subsidiary records e.g. income tax, social security etc
- c) security and confidentiality of payroll information
- d) authority to release payroll data under the provisions of the Data Protection Act
- e) pay advances and their recovery
- f) checks to be applied to completed payroll
- g) maintenance of a regular and independent reconciliation of pay control accounts
- h) separation of duties
- i) methods of payment available to various categories of staff
- j) procedures for payment by BACS and cheque and recall as applicable
- k) recovery of money and property due to the Probation Trust from those leaving the Probation Trust's employment
- l) timetable for receipt and preparation of payroll data and payment of pay and allowances.

7.3.3 Nominated managers have delegated responsibility for:

- a) submitting time records and other notifications in accordance with agreed timetables
- b) completing time records and other notifications in accordance with the instructions issued by the Director of Finance
- c) submitting termination forms in accordance with instructions.

7.3.4 Regardless of the arrangements for providing the payroll service, The Director of Finance shall ensure that the chosen method is supported by appropriate

(contracted) terms and conditions, adequate internal controls and audit review procedures and that suitable arrangements are made for the collection of payroll deductions and payment of these to appropriate bodies.

## **7.4 Contracts of Employment**

The Probation Trust Board shall delegate responsibility to the Director of Human Resources to:

- a) ensure that all employees are issued with a Contract of Employment in an approved form and which complies with employment legislation
- b) to deal with variations to, or termination of, contracts of employment which have been approved by the Chief Executive.

## **8 NON PAY EXPENDITURE**

### **8.1 Delegation of Authority**

The level of non-pay expenditure will be approved by the Probation Trust Board on an annual basis and the Chief Executive will approve the level of delegation to budget managers including:

- a) the list of managers who are authorised to place requisitions for the supply of goods and services
- b) the maximum level of each requisition and the system of authorisation above that level.

### **8.2 Requisitioning**

- 8.2.1 When choosing an item to be supplied/service to be received, the requisitioner shall always seek to obtain the best value for money and should seek advice in cases of doubt.
- 8.2.2 When considering purchases which approach the limits above which formal contract tendering is required, the advice of the Director of Commissioning or his/her nominee should be sought in good time.

### **8.3 Official Orders**

- 8.3.1 Official orders, in a form approved by the Director of Finance, shall be used in all cases for the supply of goods or services except where the transaction is in accordance with the use of a Probation Trust credit card or a purchase from Petty Cash.
- 8.3.2 Verbal orders should only be placed exceptionally i.e. in cases of emergency or urgent necessity. These must be confirmed by an official order form. Orders placed by FAX or email are satisfactory provided the official form is used.

- 8.3.3 Orders should not be split or otherwise placed in a manner to avoid financial thresholds being exceeded.
- 8.3.4 Official orders shall indicate clearly the nature and quantity of the materials, work or services required and any relevant contract or agreed price. Quotations shall be obtained in all cases where it is practicable to do so and the terms of the accepted quotation stated on the order.
- 8.3.5 Orders shall not be issued for the supplying of goods or services unless the expenditure is covered by the appropriate and sufficient budgetary provision for the year in which the supply will be provided.
- 8.3.6 Official Orders must be consecutively numbered.
- 8.3.7 The Director of Finance will maintain a register of all approved signatories and the specimen signatures of all officers authorised to sign orders. Changes to the list shall be notified to the Director of Finance immediately.
- 8.3.8 All orders shall be signed by a designated authorised senior officer. The Director of Finance will ensure practicable arrangements are made to ensure the duties of ordering are separated from responsibility for receiving of goods or certification for payment.

#### **8.4 The Payment Process and Payment Verification**

The Director of Finance shall be responsible for the prompt payment of accounts and claims. Payment of contract invoices shall be in accordance with contract terms or otherwise in accordance with national guidelines.

- 8.4.1 The Director of Finance will:
- a) Periodically advise the Probation Trust Board on the review of thresholds above which quotation or formal tenders must be obtained. Once agreed these shall be incorporated into Financial Delegations Schedule.
  - b) Provide instructions within the Financial Delegations Schedule on obtaining goods and services, incorporating the thresholds.
  - c) Be responsible for the prompt payment of all properly authorised accounts and claims and in accordance with Public Sector prompt payment policy
  - d) Be responsible for ensuring that payment is only made once the goods and services have been received (with the exception of circumstances allowable in Prepayments).

8.4.2 The Director of Finance will design and maintain procedures for verification, recording and payment of all amounts payable which include maintaining a list of those named officers, together with their specimen signatures, who are authorised to certify invoices and records shall be maintained and reviewed regularly and amended on the occasion of any personal change.

8.4.3 The verification and certification process shall provide :

- a) That goods have been received, examined and approved and are in accordance with the specification and price, (or the work has been done satisfactorily).
- b) That contracts based on the measurement of time, materials or expenses are charged at appropriate rates
- c) That expenditure is within the budgetary provisions and is in accordance with Standing Orders and Financial Instructions.
- d) That prices and expenditure code allocations are correct and that all credit for discounts, adjustments, returns etc. have been claimed and taken into account.
- e) That the account is arithmetically correct i.e. all calculations, additions etc.
- f) That an account has not been previously passed for payment.
- g) That appropriate entries have been made in inventories and/or store records where appropriate.
- h) That no person shall authorise payments from which there is any personal benefit.
- i) That VAT has been properly accounted for in accordance with current VAT rules and guidance.
- j) That there are instructions to employees regarding the handling and payment of accounts within the Finance department
- k) A timetable and procedures for submission of accounts for payment to the Director of Finance.

8.4.4 Certification shall not be by the person who has signed the above verification checks and will normally be by an officer at a higher level of seniority. Certification will however include assurance that the appropriate verification checks have been carried out and signified accordingly.

8.4.5 The supplier of creditor payment services (or the in-house creditor payment section if appropriate) shall examine, as far as considered necessary and appropriate, all invoices passed to them for payment and shall be entitled to

receive such information and explanations as may be required before executing payment.

## **8.5 Expense Claims**

- 8.5.1 The Director of Finance shall prescribe the process, form and timetable by which claims by officers, staff and members of the Probation Trust Board are submitted.
- 8.5.2 The Chief Executive or his/her representative shall ensure that all claims are certified by an authorised senior officer to indicate that all journeys are appropriate and that all allowances are both reasonable and properly claimable.

## **8.6 Loans**

- 8.6.1 Under no circumstances may funds be loaned to any person except for the following approved purposes:
  - i) for the purchase of public transport season tickets
  - iii) for such other purposes as the Probation Trust Board may from time to time agree within the authority set by the Management Statement and Financial Memorandum.
- 8.6.2 All records relating to such loans will be maintained in a form prescribed by the Director of Finance.

## **9 VOLUNTARY FUNDS**

- 9.1 Voluntary funds are deemed to be funds held by officers of the Probation Trust on behalf of third parties as a consequence of joint working arrangements. For example funds held on behalf of offenders and their families and Offender Benevolent funds.
- 9.2 A voluntary or unofficial fund as defined for the purpose of this regulation is any fund, other than an official fund of the Probation Trust, which is controlled wholly or in part by an officer by reason of his/her employment.
- 9.3 The Chief Executive or his/her representative shall ensure that all such funds are notified to the Director of Finance who shall, as necessary, prescribe or approve appropriate procedures for the administration, accounting and audit of such funds. This will include separate bank accounts for funds to comply with audit requirements.
- 9.4 The Chief Executive, with the Director of Finance's advice, will be responsible for ensuring that all such funds are declared to him/her and that annual accounts, audited by suitably qualified auditors, are submitted within a reasonable time after the end of the accounting period to the body responsible for the management and control of each fund.

- 9.5 Any voluntary funds held shall, wherever appropriate, be in the name of the Probation Trust.
- 9.6 All investments of Probation Trust fund money under the Probation Trust's control shall be made in the name of the Probation Trust or in the name of nominees approved by the Probation Trust Board.
- 9.7 All officers or members acting as Probation Trustees by virtue of their official position shall deposit all securities etc relating to the Probation Trust with the nominated person unless the deed otherwise provides.

## **10. ASSETS**

### **10.1 Asset Registers and Inventory**

- 10.1.1 The Chief Executive is responsible for maintaining a register of assets, taking account of the advice of the Director of Finance on the form of the register and the method of updating
- 10.1.2 The Probation Trust will maintain a centralised asset register recording fixed assets. The minimum data to be held shall be as determined by NOMS/Ministry of Justice guidelines.
- 10.1.3 Inventories will be maintained at each local premise of all furniture, fittings and equipment owned by the Probation Trust Board (other than consumable stores) in accordance with guidelines set by NOMS/Ministry of Justice. Such inventories shall be kept, and updated at the time equipment etc. is purchased, in a form approved by the Director of Finance.
- 10.1.4 The Director of Finance or nominated staff shall have access to all Probation Trust Board properties to be able to check inventories.
- 10.1.5 The Chief Executive shall ensure that a check takes place as a minimum in accordance with NOMS/MoJ guidance on all the items in the inventory, and be responsible for taking action in relation to any discrepancies found.
- 10.1.6 The Probation Trust's property shall not be removed otherwise than in accordance with the ordinary course of business, or used otherwise than for normal official purposes except in accordance with specific authority of the Chief Executive.
- 10.1.7 Surplus equipment/property shall be disposed of under the auspices of the Chief Executive, who will be expected to dispose of them in accordance with NOMS/Ministry of Justice guidelines

### **10.2 Security of Assets**

- 10.2.1 The Chief Executive is responsible for the overall control of all assets.
- 10.2.2 The Director of Finance shall determine the asset control procedures which will make provision for:

- i) recording of managerial responsibility for each asset
- ii) identification of additions and disposals
- iii) physical security of assets
- iv) verification of the existence , condition and title to assets
- v) reporting all costs associated with an asset
- vi) reporting, recording and safekeeping of cash, cheques and negotiable instruments
- vii) identification of discrepancies between physical asset verification and asset register

10.2.3 Any damage to or loss of Probation Trust property must be reported in accordance with loss procedures.

### **10.3. Stores**

10.3.1 The Chief Executive will be responsible for the overall control of consumable stores. The day to day responsibility may be delegated by him/her to nominated employees in accordance with schemes of delegation.

10.3.2 The Director of Finance shall set out procedures and systems to regulate the stores including records for receipt of goods, issue, returns and losses and stocktaking.

10.3.3 The Director of Finance or internal audit staff will be entitled to check physical stores with stores records and other financial records of the Probation Trust.

10.3.4 Surplus and obsolete items of stock shall be disposed of following the procedures determined for all surplus and obsolete property and goods.

## **11. DISPOSALS, LOSSES AND SPECIAL PAYMENTS**

### **11.1 Disposals**

11.1.1 The Director of Finance must provide procedures for the disposal of assets including through obsolescence, which must be notified to managers.

11.1.2 The Director of Finance must be notified of the estimated market Value of an asset due to be disposed of by authorised staff. Where appropriate, professional advice should be considered.

11.1.3 All obsolete items should be recorded by the Director of Finance indicating the means of disposal and countersigned by a second signatory.

### **11.2 Losses and Special Payments**

11.2.1 The Director of Finance will provide procedural instructions on the reporting, recording and accounting for obsolescence, losses and special payments.

11.2.2 The Director of Finance shall maintain a Losses and Special Payments register which records all write off action.

- 11.2.3 The Director of Finance and Chief Executive must be notified of all cases of fraud, corruption or theft.
- 11.2.4 The Director of Finance will make the notifications required in accordance with the Fraud Prevention Policy.
- 11.2.5 The Director of Finance will ensure that the Fraud Prevention Policy is periodically reviewed and make recommendations to the Probation Trust Board for any changes he/she deems appropriate.
- 11.2.6 All write offs of losses shall be approved within the delegation limits set out in the Financial Delegations Schedule.
- 11.2.7 No special payments exceeding delegated limits shall be made without the prior approval of NOMS/Ministry of Justice.
- 11.2.8 The Director of Finance should consider whether an insurance claim should be made for any loss incurred.

## **12. GIFTS AND HOSPITALITY**

### **12.1 Code of Conduct**

12.1.1 All Probation Trust staff, officers and members of the Board must abide by the Probation Trust's Code of Conduct in relation to the acceptance and declaration of gifts and hospitality.

### **12.2 Recording**

12.2.1 The Probation Trust must maintain a gifts and hospitality register at the appropriate levels to ensure instances of offers made and received, (whether accepted or declined), are recorded. Those instances of a wholly routine or trivial nature (e.g. coffee and biscuits at a meeting) do not need to be recorded.

12.4.2 The register must identify:

- Reference number
- Date
- Name of person being offered gift/hospitality
- Name of person offering gift/hospitality
- Description
- Venue
- Approximate costs
- Whether the offer was accepted or declined

### **12.3 Record keeping and retention**

12.3.1 In order to establish a robust audit trail that supports accountability and the statement on internal control records must be maintained. Electronic copies of the register, and any supporting documentation must be retained securely for a period of

3 years. Where there is any related retention period (e.g. contract records), then that of the greatest period should be applied.

## **12.4 Reporting, monitoring and review**

12.4.1 In order to provide the necessary level of assurance that the requirements of these Standing Financial Instructions in relation to gifts and hospitality are being complied with, Registers must be regularly reported, monitored and reviewed.

12.4.2 The Director of Finance shall ensure that appropriate reporting mechanisms are in place and that reviews:

- Are completed annually;
- Are conducted by an Officer at an appropriate level of seniority to ensure effective challenge.
- Provide assurance that registers are correctly and fully completed, and regularly updated/maintained;
- confirm that registers cover all relevant staff groups, and that all staff are aware of requirements;
- confirm that any identified breaches of the Code of Conduct or approval requirements in relation to gifts and hospitality are reported and any remedial action is taken as necessary.

## **12.5 Disposal of Unacceptable gifts**

12.5.1 The Director of Finance shall determine a suitable method for disposing of unacceptable gifts that are non-returnable.

## **13. Insurance**

The Director of Finance will ensure that there is adequate insurance cover maintained in relation to services which are not Core Services (as defined in the Trust Contract). See Insurance Schedule to Trust Contract for details of insurance and indemnity provided by NOMS under the terms of the Trust Contract.

## **14. INTERNAL CONTROL**

### **14.1 Internal Audit**

The Probation Trust Board is responsible for ensuring it maintains an effective and comprehensive system of internal control which addresses the main risks to which the Probation Trust is exposed. The effectiveness of this system must be reported in the Statement on Internal Control and in any accountability reports required by the sponsoring department.

14.1.1 The Probation Trust Board's arrangements provide for:

- i) the independent and continuous scrutiny and supervision of all accounting and financial operations and related management controls of the Probation Trust Board and its officers;

- ii) the review and supervision of appropriate arrangements for the control and safe custody of all property, stocks and equipment; and
- iii) the provision of best value investigations to ensure efficiency and economy is secured and loss through wastage is minimised.
- iv) independent assurance as to the effectiveness of internal controls in addressing the key risks to which the Probation Trust is exposed.
- v) Obtaining appropriate assurances from external suppliers and partners as to the effectiveness of their internal controls.

14.1.2 Internal Audit representatives shall have authority to:

- i) Enter at all reasonable times any Probation Trust Board properties.
- ii) Have access to all records, documents, and correspondence relating to any financial and other transactions and other matters under review by the auditors.
- iii) Require and receive such explanations as are necessary from any employee of the Probation Trusts concerning any matter under examination.
- iv) Require any employee of the Probation Trust to produce cash, stores or any other Probation Trust Board property under their control.

14.1.3 Internal Audit findings, conclusions and recommendations will be reported to the Chief Executive as Accountable Officer.

14.1.4 Internal Audit reports will be considered by the Audit Committee who will monitor the application of recommendations contained therein.

## **14.2 Retention of Records**

14.2.1 The Chief Executive will be responsible for the retention of all financial records for periods required in accordance with requirements of external auditors, Her Majesty's Customs and Revenue, legal requirements etc. and for the secure destruction of such records at the end of the appropriate retention period.

14.2.2 In consultation with the Director of Finance, the Chief Executive will draw up a schedule outlining the minimum retention periods to be adopted for different records.

## **14.3 Risk Management**

The Probation Trust shall have in place an effective system for identifying and managing its key risks. The risk management policy must be consistent with guidance issued by the sponsoring department. Where services are contracted out to a third party supplier or partner, the Probation Trust should ensure it has an effective system in place for identifying and managing shared risks.

## **14.4 Information**

The Director of Finance is responsible for the accuracy and security of the computerised financial data and shall

- i) implement any procedures to ensure that the Probation Trust's data, programs and hardware are protected from accidental or intentional disclosure to unauthorised persons, deletion, modification, theft or damage, having regard to the relevant Data protection legislation.
- ii) ensure that adequate controls exist over data entry, processing, transmission and output to ensure security, privacy, accuracy, completeness and timeliness of data .
- iii) ensure there is an adequate audit trail through the computerised system, which is reviewed such as the Director considers necessary

#### **14.5 Agreements for Financial Services with other Probation bodies or outside agencies**

Where there is a contract for financial services with another Probation body or external agency the Director of Finance shall ensure that the agreement clearly defines the responsibility of all parties for the security, privacy, accuracy, completeness and timeliness of data.

#### **14.6 Potential Litigation**

- 14.6.1 Any member of staff or Board member who becomes aware of any circumstance which could give rise to legal challenge or claim shall report the matter in accordance with the Code of Conduct.
- 14.6.2 The Chief Executive shall inform the Board and the Director of Finance and where necessary the Director of Human Resources of all matters where there is a likelihood that the Probation Trust will face or wish to make a legal challenge or claim, in accordance with Standing Orders. Appropriate legal advice will be sought from an appropriately qualified person.
- 14.6.3 Legal proceedings will only be instituted in accordance with Standing Order 22.

**15. THE NOMS REGULATORY FRAMEWORK FOR PROBATION**

<b>Legislative Controls</b>	<b>Primary Legislation</b> Offender Management Act 2007.	Overall legislative backing to the new NPS.	Parliament
	<b>Secondary Legislation</b> Offender Management Act 2007 Commencement Orders. Offender Management Act 2007 Orders establishing Trusts Approved Premises Regulations.	Legislative arrangements establishing Probation Trusts.	Parliament
	<b>Trust Contracts</b>	Document that identifies the requirements of the Trust.	NOMS/Trusts
<b>Government Reqs</b>	<b>Ministry of Justice Directions issued under Schedule 1 Para 12(1)</b> e.g. Accounts Directions	Issued under the Act by the Home Secretary	Accounts Direction is agreed with HMT.
	<b>Schemes made under the Offender Management Act 2007</b> e.g. Transfer of Property	Issued under the Act by the Secretary of State for Justice.	NOMS
	<b>Accountable Officer Memorandum</b>	Issued by NOMS to Chief Executives	HM Treasury requirement
	<b>NOMS Resource Accounting Manual</b>	Under Accounts Direction	Agreed with HMT & AFU
<b>Essex Probation Governance Arrangements</b>	<b>Code of Conduct</b> <b>Standing Orders</b> <b>Standing Financial Instructions</b>	Adopted [date] Adopted 8 <sup>th</sup> June 2010  Adopted 8 <sup>th</sup> June 2010	

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## **FRAMEWORK AND POWERS**

### **1 STATUTORY FRAMEWORK**

- 1.1 Essex Probation (the Probation Trust) is a statutory body which came into existence on 1<sup>st</sup> April 2010 under the Offender Management Act 2007 (Establishment of Probation Trusts) Order 2010, (the Establishment Order).
- 1.2 The principal place of business of the Probation Trust is Cullen Mill, 49 Braintree Road, Witham, Essex CM8 2DD.
- 1.3 Probation Trusts are established by the Offender Management Act 2007 (“The Act”) and regulations or Orders made under that Act.
- 1.4 As a statutory body, the Probation Trust has specified powers to contract in its own name and to act as a corporate Probation Trustee. In the latter role it is accountable to the Charity Commission for those funds deemed to be charitable as well as to the Secretary of State for Justice.
- 1.5 The Probation Trust is required to adopt Standing Orders for the regulation of its proceedings and business. The Probation Trust must also adopt Standing Financial Instructions (SFIs) as an integral part of Standing Orders setting out the responsibilities of individuals.
- 1.6 The Probation Trust will also be bound by such other statutes and legal provisions which govern the conduct of its affairs.

### **2 NOMS FRAMEWORK**

- 2.1 In addition to the statutory requirements the Secretary of State through the Ministry of Justice issues further directions (mandatory) and guidance. These are normally issued under cover of a circular or letter.
- 2.2 The Probation Trust is required to draw up a schedule of decisions reserved to the Probation Trust, and ensure that management arrangements are in place to enable responsibility to be clearly delegated to senior executives (a scheme of delegation). The Probation Trust is also required to establish an Audit Committee and any other Committee or Panel that may be required to meet the statutory and legal obligations of the Board. The Codes of Conduct make various requirements concerning possible conflicts of interest of Probation Trust Board members.
- 2.3 The Freedom of Information Act 2000, Data Protection Act and Information Security – linked to transmission, storage of information (National Policy) sets out the requirements for public access to information on the Probation Trust.

### **3 DELEGATION OF POWERS**

The Probation Trust has powers to delegate and make arrangements for delegation. The Standing Orders set out the detail of these arrangements.

## **BOARD MEMBERSHIP AND OFFICERS**

### **4 THE PROBATION TRUST BOARD: COMPOSITION OF MEMBERSHIP, TENURE AND ROLE OF MEMBERS**

#### **4.1 COMPOSITION OF THE MEMBERSHIP OF THE PROBATION TRUST**

In accordance with the Offender Management Act 2007 the composition of the Probation Trust shall be:

- The Chair of the Probation Trust (Appointed by the Secretary of State);
- Not less than 4 appointed members including where practicable at least one member who is, when appointed, a member of a relevant local authority as defined in the Act (appointed by the Secretary of State);
- The Chief Executive.

#### **4.2 APPOINTMENT OF CHAIR AND MEMBERS OF THE PROBATION TRUST**

The Chair and members are appointed by the Secretary of State, in accordance with the Offender Management Act 2007.

#### **4.3 TERMS OF OFFICE OF THE CHAIR AND MEMBERS**

The period of tenure of office of the Chair and members and the termination or suspension from office of the Chair and members are contained in the terms of their appointment by the Secretary of State.

#### **4.4 SHARED OFFICE**

Where the office of a member of the Probation Trust is shared jointly by more than one person:

- i) Either or both of those persons may attend or take part in meetings of the Probation Trust;
- ii) If both are present at a meeting they should cast one vote if they agree;
- iii) In the case of disagreements no vote should be cast;

iv) The presence of either or both of those persons should count as the presence of one person for the purposes of the Quorum.

#### **4.5 ROLE OF MEMBERS**

The Probation Trust will function as a corporate decision-making body, the Chief Executive and members appointed by the Secretary of State will be full and equal members. Their role as members of the Probation Trust will be to consider the key strategic and managerial issues facing the Probation Trust in carrying out its statutory and other functions.

#### **4.6 CHIEF EXECUTIVE**

The Chief Executive shall be responsible for the overall performance of the executive functions of the Probation Trust. He/she is the Accountable Officer for the Probation Trust and shall be responsible for ensuring the discharge of obligations under Financial Directions and in line with the requirements of the Accountable Officer Memorandum for Probation Trust Chief Executives.

#### **4.7 APPOINTED MEMBERS**

The members appointed by the Secretary of State shall not be granted nor shall they seek to exercise any individual executive powers on behalf of the Probation Trust. They may, however, exercise collective authority when acting as members of or when chairing a committee of the Probation Trust which has delegated powers.

#### **4.8 CHAIR**

The Chair shall be responsible for the Probation Trust Board and chair all Probation Trust meetings when present. The Chair has certain delegated executive powers. The Chair must comply with their terms of appointment and with these Standing Orders.

The Chair shall work with the Ministry of Justice over the appointment of members and once appointed shall take responsibility either directly or indirectly for their induction, their portfolios of interests and assignments, and their performance.

If a Trust is seeking to suspend or dismiss a Chief Executive (CE), the chair will seek the advice and guidance of the NOMS Chief Operating Officer before the Trust takes action.

The Chair shall work in close harmony with the Chief Executive and shall ensure that key and appropriate issues are discussed by the Probation Trust in a timely manner with all the necessary information and advice being made available to the Probation Trust to inform the debate and ultimate resolutions.

#### **4.9 CORPORATE ROLE OF THE BOARD**

i) All business shall be conducted in the name of Essex Probation.

- ii) All funds received by the Probation Trust shall be held in the name of the Probation Trust or accounted for by the Probation Trust in the event of a pooled budget arrangement.
- iii) The powers of the Probation Trust established under statute shall be exercised by the Probation Trust meeting in public session except as otherwise provided for in Standing Orders.
  
- iv) The Probation Trust shall define and regularly review the functions it exercises on behalf of the Secretary of State.

#### **4.10 LEAD ROLES FOR BOARD MEMBERS**

The Chair will ensure that the designation of Lead roles or appointments of Probation Trust members as required by the Ministry of Justice or as set out in any statutory or other guidance will be made in accordance with that guidance or statutory requirement (e.g. appointing a Lead member with responsibilities for health and safety).

### **5 SECRETARY APPOINTED BY THE PROBATION TRUST BOARD**

- 5.1 The Probation Trust Board shall appoint a Secretary who shall make arrangements for adequate servicing of the Probation Trust Board, committees and sub-groups of the Probation Trust Board.
- 5.2 The Probation Trust shall ensure that it operates within the terms of relevant legislation and advises on the legal and constitutional aspects of policy and practice. This may be a specified part of the role of the Secretary.

### **6 DIRECTOR OF FINANCE**

The Probation Trust Board shall appoint a Director of Finance who shall be responsible for the provision of financial advice to the Probation Trust Board and to its members and for the supervision of financial control and accounting systems. He/she shall be responsible along with the Chief Executive for ensuring the discharge of obligations under relevant Financial Directions.

## **MEETINGS OF THE PROBATION TRUST**

### **5 HOLDING MEETINGS OF THE PROBATION TRUST**

- 5.1 Meetings of the Probation Trust shall be held at least four times a year. Probation Trusts shall decide on the dates and times of the meeting. Once the dates have been agreed, they shall not be amended without the approval of the Probation Trust or, in a case of urgency, by the Chair or Secretary nominated by the Probation Trust Board.
- 5.2 A special meeting of the Probation Trust may be called, subject to proper notice of calling a meeting, at any time by the Chair, or on the request, in writing, to the Secretary nominated by the Probation Trust Board, of at least half of the members of the Probation Trust.

## **6 MEETINGS IN PUBLIC**

- 6.1 Meetings of the Probation Trust Board shall be held in public except when the Probation Trust Board resolves to exclude the press and public in accordance with the Scheme at appendix A setting out the circumstances in which the Probation Trust Board may meet in private.
- 6.2 Where the Secretary nominated by the Probation Trust Board anticipates that the Probation Trust Board may resolve to exclude the press and public from any meeting or part of a meeting, he or she shall mark the agenda accordingly.
- 6.3 The Secretary nominated by the Probation Trust Board shall give notice to the public of meetings of the Probation Trust Board on a basis to be determined by the Probation Trust Board.
- 6.4 The agenda for a meeting shall be a public document from the time of its issue by, or with the authority of, the Secretary nominated by the Probation Trust Board.
- 6.5 Reports and papers to be considered by the Probation Trust Board in the public part of its agenda shall be public documents when the agenda for the meeting has been issued, provided they are issued to the Probation Trust Board with the agenda.
- 6.6 Committees of the Probation Trust (other than the audit committee and any employer/employee negotiating committee) shall be held in public on the same basis as the Probation Trust meetings, unless the Probation Trust Board decides otherwise.

## **7 NOTICE OF MEETINGS**

- 7.1 Where practicable at least five clear working days before a meeting of the Probation Trust a notice, with an agenda and the tabling of relevant Probation Trust Board papers, to attend the meeting signed by, or with the authority of, the Secretary nominated by the Probation Trust Board shall be sent to every member of the Probation Trust.
- 7.2 Failure to serve a notice on any member of the Probation Trust in itself shall not affect the validity of the meeting but a formal explanation of the failure should be made at the next meeting of the Probation Trust Board.

## **8 QUORUM**

No business shall be transacted at any meeting of the Probation Trust, unless at least five members are present.

## **9 CHAIR OF THE MEETING**

- 9.1 The Chair of the Probation Trust shall preside at a meeting of the Probation Trust. If the Chair is absent from the meeting, such member as the Probation Trust chooses, excluding the Chief Executive, shall preside, although the Probation Trust may choose to have such a member designated for this purpose.
- 9.2 Any power or duty of the Chair in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.
- 9.3 The Chair may, at any time, if he or she thinks it desirable in the interests of public order, adjourn a meeting or suspend a sitting of the Probation Trust to a convenient time to be named by him or her.
- 9.4 The decision of the Chair on all points of procedure and order and his or her interpretation of these standing orders shall be final, and will not be subject to debate.

## **10 MINUTES**

- 10.1 Minutes of the proceedings of a meeting of the Probation Trust Board shall be produced and a copy shall be sent to each member of the Probation Trust Board at least five clear working days before the meeting of the Probation Trust Board at which such minutes are to be agreed.
- 10.2 After agreement the minutes shall be signed by the Chair (or in his absence by the chair of the meeting at which the minutes are agreed).
- 10.3 A meeting of the Probation Trust Board, for which a minute of the proceedings has been made and signed in accordance with 10.2 above, shall be deemed to have been duly convened and held and all members present duly qualified, until it is proved otherwise.
- 10.4 The minutes of the Probation Trust Board shall be retained by the Secretary nominated by the Probation Trust Board for such period of time as determined by the Trust in line with statutory requirements.

## **11 BUSINESS REQUIRING PROBATION TRUST CONSIDERATION**

- 11.1 All operational matters are delegated to the Chief Executive who shall also advise the Probation Trust Board on all strategic matters. The following business requires the consideration of the Probation Trust Board or relevant subcommittee:-
- i) approval of the Probation Trust's three year and annual plan,
  - ii) determination of long-term strategy and related objectives, approval of the Probation Trust's committee structure
  - iii) approval of amendments to standing orders and standing financial instructions
  - iv) approval of the annual report and accounts
  - v) approval of the budget
  - vi) matters involving capital expenditure where the budgeted amount is exceeded by more than £25,000

- vii) new business developments where the income derived from the new business is expected to exceed £100,000 per annum
- viii) major issues of policy (the decision whether a matter involves a major issue of policy in any case of doubt falling to the Chair for determination)
- ix) matters relating to statutory inspections and action plans arising from them
- x) matters delegated to committees but on which, nevertheless, they decide it is appropriate to seek the confirmation of the Probation Trust Board
- xi) periodic notification of any incidents of serious further offending by offenders supervised by officers of the Probation Trust
- xii) notification of any reportable health and safety incidents which are sufficiently serious so as to require notification to the Health & Safety Executive without delay,
- xiii) Any other matter not delegated to a committee or the Chief Executive.

## **12. NOTICE OF AGENDA ITEMS**

- 12.1 Members wishing to place an item on the agenda shall inform the Secretary nominated by the Probation Trust Board by notice in writing at least ten clear working days before a meeting of the Probation Trust, or such greater number as determined by the Probation Trust. Each such notice shall be dated and signed by the person submitting it.
- 12.2 If the Secretary nominated by the Probation Trust Board considers that the notice is not in order or is framed in improper language, he or she will take the direction of the Chair as to whether and in what form it shall appear on the agenda. The decision of the Chair, after consultation if possible with the member concerned, shall be final.
- 12.3 The Chair may restrict the number of items on the agenda in order to ensure the proper disposal of business at a meeting.

## **13 VOTING**

Where the Chair considers it appropriate, the business of the Probation Trust Board shall be conducted by consensus. However in the event of a formal vote being required, which any individual member of the Probation Trust Board can insist upon, the question shall be determined by a majority of those Probation Trust members present and voting, with the method of voting being at the discretion of the Chair. In the case of an equality of votes the Chair or other member presiding at the meeting shall have a second or casting vote.

## **14 RECORDING OF DISSENTING VOTES**

Any member dissenting from a resolution passed by the Probation Trust Board shall be entitled to have his or her name recorded in the minutes, provided he or she so requests at the meeting.

## **15 RECORD OF ATTENDANCE**

The Secretary nominated by the Probation Trust Board shall provide an attendance list to record the attendance of each member at a meeting of the Probation Trust Board and it shall be the responsibility of each member individually to sign such list; the names recorded therein shall be accepted as the attendance record.

## **16 CONDUCT OF BUSINESS**

The conduct of business at a meeting of the Probation Trust Board shall be at the discretion of the Chair.

## **17 SUSPENSION AND VARIATION OF STANDING ORDERS**

Providing a meeting of the Probation Trust Board is quorate, the Probation Trust Board may, in its discretion, at any time, suspend or vary these Standing Orders.

## **18 COMMITTEES OF THE PROBATION TRUST**

### **18.1 APPOINTMENT OF COMMITTEES**

18.1.1 The Probation Trust Board shall appoint an audit committee annually.

18.1.2 The Probation Trust Board may, at any time, appoint such other committees, as the Probation Trust Board shall decide.

18.1.3 The Probation Trust Board may at any time alter the membership of a committee and may at any time dissolve any committee other than the audit committee.

### **18.2 MEMBERSHIP OF COMMITTEES**

18.2.1 The membership of committees shall comprise such members of the Probation Trust Board as the Probation Trust Board may from time to time decide.

18.2.2 Both the Chair and the Chief Executive of the Probation Trust Board shall be ex-officio members of every committee with full voting rights, however, the Board Chair or Chief Executive should not be chair of the Audit Committee and the Chief Executive shall not sit on the committee that determines any matter related to the Chief Executive's pay, benefits, allowances, performance appraisal or such related matters. The Chief Executive may however be a member of any committee that considers and determines matters related to the pay, benefits, allowances, performance appraisal or such related matters of Directors or other managers.

18.2.3 Probation Trust Board members who are not members, ex-officio or otherwise, of a committee, may attend by invitation committee meetings at the discretion of the chair of the committee but may not vote on resolutions.

### **18.3 CHAIR OF COMMITTEES**

18.3.1 The Probation Trust Board shall appoint a chair of each committee (the Committee Chair), in accordance with a procedure to be agreed by the Probation Trust.

18.3.2 In the absence from a committee meeting of the Committee Chair , the committee shall elect a chair for that meeting.

#### **18.4 DATES OF COMMITTEE MEETINGS**

The times, dates and places of committee meetings shall be agreed by that committee subject to the minimum number of meetings per annum being set by the Probation Trust Board. However, the Secretary nominated by the Probation Trust Board shall summon any committee on the request of the Committee Chair, the Chair of the Probation Trust or of any three members thereof; or without such request, upon any circumstances arising which, in his or her opinion, make it desirable that a meeting of the committee shall be called.

#### **18.5 NOTICE TO MEETINGS OF COMMITTEES**

Five clear working days at least before a meeting of a committee, a notice to attend the meeting signed by, or with the authority of, the Secretary nominated by the Probation Trust Board, shall be sent to every member of the committee specifying the business to be transacted. Except with the permission of the committee, no other business shall be transacted.

#### **18.6 QUORUM**

The quorum of any committee shall be such as the Probation Trust Board shall decide.

#### **18.7 VOTING IN A COMMITTEE**

Except where the Probation Trust Board determines otherwise, the Committee Chair shall seek to conduct the business of a committee by consensus, but in the event of a formal vote being required, the question shall be determined by a majority of those committee members present and voting, with the method of voting being at the discretion of the Committee Chair. In the case of an equality of votes the Committee Chair or other member presiding at the meeting shall, if permitted by the committee's terms of reference, have a second or casting vote.

#### **18.8 RECORDING OF DISSENTING VOTES**

Any member dissenting from a resolution passed by the committee shall be entitled to have his or her name recorded in the minutes, provided he or she then and there so requests.

#### **18.9 MINUTES OR REPORTS OF COMMITTEES APPOINTED BY THE PROBATION TRUST BOARD**

18.9.1 The minutes of committees appointed by the Probation Trust Board shall be issued to each member of the Probation Trust Board with the notice for the meeting of the Probation Trust Board to which they are to be submitted. In case of urgency, such minutes or reports may be issued during the interval between the notice and the meeting of the Probation Trust Board provided that due notice of the business is included in the notice.

18.9.2 Minutes of committees shall distinguish between those minutes or reports, which are submitted as recommendations for the confirmation and/or approval of the Probation Trust Board, and those minutes conveying decisions which are within the powers, if any, delegated to the committee.

## **18.10 TERMS OF REFERENCE AND DELEGATION TO COMMITTEES**

18.10.1 Without prejudice to the powers of the Probation Trust Board, committees shall have delegated power to discharge such powers and duties of the Probation Trust as are delegated to that committee by its terms of reference.

18.10.2 The terms of reference of committees shall be as approved by the Probation Trust Board.

## **18.11. RECORD OF ATTENDANCE**

18.11.1 The Secretary shall provide an attendance list to record the attendance of each member at a meeting of a committee and it shall be the responsibility of each member individually to sign such list.

18.11.2 The names recorded there shall be accepted as the attendance record.

## **SEAL AND LEGAL PROCEEDINGS**

### **21 CUSTODY OF THE SEAL AND SEALING DOCUMENTS OF THE PROBATION TRUST**

21.1 The common seal of the Probation Trust is to be used for the purposes of executing legal documents that are required to be under seal. The seal shall be kept in the custody of the Secretary nominated by the Probation Trust Board and the affixing of the common seal shall be attested by the Secretary nominated by the Probation Trust Board or in his or her absence by a person nominated by the Secretary nominated by the Probation Trust Board.

21.2 A decision of the Probation Trust Board, delegated committee, or officer acting under delegated powers shall be sufficient authority for the sealing of any document necessary to give effect to the decision.

21.3 The common seal of the Probation Trust shall be affixed to those documents which, in the opinion of the Secretary nominated by the Probation Trust Board, require to be sealed.

- 21.4 The Secretary nominated by the Probation Trust Board [or his or her nominated representative] shall have authority to sign on behalf of the Probation Trust such documents which in his or her opinion are not required to be sealed and which have been approved for signature on behalf of the Probation Trust in accordance with these Standing Orders and the Probation Trust's Policies and procedures then in force.

## **22 INSTITUTION OF LEGAL PROCEEDINGS**

The Secretary nominated by the Probation Trust Board, in consultation with the Chair or Chief Executive as appropriate, is authorised, where it is judged appropriate in protecting or furthering the Probation Trust's interests, to institute, defend, and arrange for the conduct and representation of the Probation Trust in any relevant legal proceedings, either of a criminal or civil character, or any hearing or enquiries before any administrative or other tribunal, including planning appeals. Where any document will be a necessary step in legal proceedings on behalf of the Probation Trust, it shall, unless any provision otherwise requires or authorises, or the Probation Trust Board have given the necessary authority to some other person for the purpose of such proceedings, be signed by the Secretary nominated by the Probation Trust Board or such other person as the Probation Trust Board authorises.

## **BOARD MEMBERS' INTERESTS**

### **23 DECLARATIONS OF INTEREST AND REGISTER OF INTERESTS**

- 23.1 Within 28 days of these standing orders coming into force, or within 28 days of appointment to office (if that is later), members must register any relevant financial or other interests in a register of members' declared interests, to be drawn up annually and maintained by the Secretary nominated by the Probation Trust Board to the Probation Trust.
- 23.2 Members shall declare their relevant interests by notifying the Secretary nominated by the Probation Trust Board in writing of:
- i) any employment or business carried on by that member
  - ii) the member's employer, or appointing authority, and any business of which the member is a partner or director
  - iii) the name of any person, other than the relevant Probation Trust, who has made a payment to the member in respect of any expenses incurred by the member in carrying out that member's duties
  - iv) the name of any corporate body which has a place of business or land in the Probation Trust's area and in which the member has a beneficial interest in a class of securities of that body which exceeds the nominal value of £25,000 or 1% of the total issued share capital of that body
  - v) a description of any contract for goods, services or works made between the Probation Trust and the member, or a firm in which the member is a partner, a company of which the member is a director, or a body of the description specified in sub-paragraph (iv)
  - vi) the address or specific location of any land in which the member has a beneficial interest and which is in the area of the Probation Trust

vii) the address or specific location of any land where the landlord is the Secretary of State and the tenant is a firm in which the member is a partner, a company of which the member is a director, or a body of the description specified in sub-paragraph(iv)

23.3 Within 28 days of these standing orders coming into force, or within 28 days of appointment to office (if that is later) members must register their other interests in the Probation Trust's register by notifying the Secretary nominated by the Probation Trust Board in writing of their membership of or position of general control or management in any

- i) body to which that member has been appointed or nominated by the Probation Trust as its representative
- ii) Public authority or body exercising functions of a public nature
- iii) Company, industrial and provident society, charity, or other body directed to charitable purposes
- iv) Body whose principal purposes include the influence of public opinion or policy; and
- v) Trade union or professional association.

23.4 Members must within 28 days of becoming aware of any change to the interests specified under paragraphs 23.2 and 23.3 above, provide written notification to the Secretary nominated by the Probation Trust Board of that change.

23.5 Members must not accept gifts or offers of hospitality received in connection with their position as a Probation Trust member, apart from the following exceptions. Gifts of a trivial or inexpensive nature, or from overseas Governments or organisations, can be accepted, as can offers of occasional conventional and inexpensive hospitality, such as working lunches. If there are any doubts or concerns as to what constitutes these exceptions members should consult the Secretary nominated by the Probation Trust Board.

23.6 The offer of any gift or hospitality, whether or not it is accepted, must be reported to the Secretary nominated by the Probation Trust Board. The Secretary nominated by the Probation Trust Board can advise, if necessary, on the propriety of acceptance. Where it is not possible to seek advice before deciding whether to accept, the member should act in accordance with the principles above, and report the offer at the first available opportunity. The Secretary nominated by the Probation Trust Board should maintain a register of gifts and hospitality.

23.7 Refreshments and accommodation provided for members of the Probation Trust, for example at NOMS conferences or official functions, are not subject to the above requirements.

## **24 PERSONAL INTERESTS**

24.1 A member must regard him or herself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given in the register of members' declared interests, or if a decision upon it might reasonably be regarded as affecting to a greater extent than other inhabitants of

the area or areas in which the Probation Trust is entitled to operate, the well-being or financial position of:

- i) himself or herself,
- ii) a relative or a friend, provided the member is aware or ought to be aware of such interests

Or, in relation to (i) and (ii):

- iii) any employment or business carried on by such people
- iv) any person who employs or has appointed such people, any firm in which they are a partner, or any company of which they are directors
- v) Any corporate body in which such people have a beneficial interest, or
- vi) Any body listed in 24.2 below in which such people hold a position of general control or management.

24.2 The bodies referred to in 24.1 (vi) are any:

- (i) Body to which he or she has been appointed or nominated by the Probation Trust as its representative
- (ii) Public authority or body exercising functions of a public nature
- (iii) company, industrial and provident society, charity or other body directed to charitable purposes
- (iv) body whose principal purposes include the influence of public opinion or policy, and
- (v) Trade union or professional association.

24.3 In paragraph 24.1 –

- i) “Relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
- ii) “Partner” in sub-paragraph (i) above means a member of a couple who live together

## **25 DISCLOSURE OF PERSONAL INTERESTS**

A member with a personal interest in a matter who attends a meeting of the Probation Trust Board at which the matter is considered, must disclose to that meeting the existence and nature of that interest prior to the commencement of that consideration, or immediately the interest becomes apparent.

## **26 PREJUDICIAL INTERESTS**

Subject to paragraph 26.1 below, a member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement or the public interest.

- 26.1 A member may regard himself or herself as not having a prejudicial interest in a matter if that matter relates to –
- i) Another public body in which he or she holds a position of general control or management
  - ii) A body to which he or she has been appointed or nominated by the Probation Trust as its representative
  - iii) The achievement of a stated aim or objective of the Probation Trust from which the member may benefit through the receipt of performance related pay.

## **27 PARTICIPATION IN RELATION TO DISCLOSED INTERESTS**

- 27.1 A member with a prejudicial interest in any matter must:
- i) withdraw from the room where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he or she has obtained a dispensation from the Secretary of State and
  - ii) not seek improperly to influence the decision about that matter.
- 27.2 In relation to declaration of interest “meeting” means any meeting of:  
The Probation Trust Board or  
Any of the Probation Trust's committees, joint committees or working groups.
- 27.3 A declaration of interest' item shall be included on the agenda of each Probation Trust Board or committee meeting.

## **28 INTEREST OF OFFICERS IN CONTRACTS**

- 28.1 Any officer or employee of the Probation Trust who comes to know that the Probation Trust has entered into or proposes to enter into a contract in which he/she or any person connected with him/her (as defined in Standing Orders 23 and 24) has any pecuniary interest, direct or indirect, the Officer shall declare their interest by giving notice in writing of such fact to the Secretary as soon as practicable.
- 28.2 An officer or employee of the Probation Trust shall declare to the Chief Executive any other employment or business or other relationship of his/her, that conflicts, or might reasonably be predicted could conflict with the interests of the Probation Trust.

28.3 The Probation Trust will require interests, employment or relationships so declared to be entered in a register of interests of staff maintained by the Secretary .

## **29 CANVASSING OF AND RECOMMENDATIONS BY MEMBERS IN RELATION TO APPOINTMENTS**

29.1 Canvassing of members of the Probation Trust Board or of any Committee of the Probation Trust directly or indirectly for any appointment under the Probation Trust shall disqualify the candidate for such appointment. The contents of this paragraph of the Standing Orders shall be included in application forms or otherwise brought to the attention of candidates.

29.2 Members of the Probation Trust Board shall not solicit for any person any appointment under the Probation Trust Board or recommend any person for such appointment; but this paragraph of this Standing Order shall not preclude a member from giving written testimonial of a candidate's ability, experience or character for submission to the Probation Trust Board.

## **30 RELATIVES OF MEMBERS OR OFFICERS**

30.1 Candidates for any staff appointment to the Probation Trust shall, when making an application, disclose in writing to the Probation Trust whether they are related to any member or the holder of any office under the Probation Trust. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him/her liable to instant dismissal.

30.2 The Chair and every member and officer of the Probation Trust Board shall disclose to the Probation Trust Board any relationship between himself or herself and a candidate of whose candidature that member or officer is aware. It shall be the duty of the Chief Executive to report to the Probation Trust Board any such disclosure made.

## **31 APPOINTMENTS OF DIRECTOR GRADE STAFF**

31.1 Appointments to the posts of Chief Executive, Secretary, Director of Finance and Director grade staff shall be considered by an Appointments Panel consisting of the Chief Executive, Board Chair or his/her nominee and diversity advisor or any other advisor deemed necessary.

31.2 The Chief Executive, Secretary or Director of Finance shall be appointed by the Probation Trust Board having received the recommendation of the Appointments Panel.

31.3 The appointment and dismissal of any other Director grade staff shall be made by the Chief Executive having due regard to the recommendation of the Appointments Panel. The decision in respect of such appointments and dismissals shall be submitted to the Probation Trust Board for information.

- 31.4 Appointments and dismissals below the level of posts listed in 31.1 above, and the conduct of disciplinary and grievance hearings in relation to such staff are delegated to the Chief Executive (or to a member of staff nominated by him/her for this purpose) to carry out on behalf of the Probation Trust Board . This will be in accordance with the approved Policy determined by the Board.

## **STANDING ORDERS RELATING TO CONTRACTS**

### **32. COMPLIANCE WITH STANDING ORDERS**

- 32.1 Where these standing orders are in conflict with directives of the European Economic Community (EU) then EU directions, regulations or any applicable legislation implementing such directions or regulations are to be applied.
- 32.2 Every contract made by or on behalf of the Probation Trust shall comply with these Standing Orders and the Financial Delegations Schedule and no exception from any of the provisions shall be made otherwise than by direction of the Probation Trust Board.

### **33. ESTIMATES OF WORK AND SERVICES AND APPROVALS GENERALLY**

- 33.1 Provided that the Standing Orders Relating to Contracts are complied with, and the value of the contract does not exceed the amount envisaged in the budget by more than £25,000, the Chief Executive shall have a delegated power to approve any contract for the execution of any work, the supply of goods or materials, or the provision of any maintenance or services.
- 33.2 Before entering into a contract the value of which will or is estimated to cost in excess of the Chief Executive's delegation, or for which no provision has been made in the Revenue Budget, a report shall be prepared and submitted to the Probation Trust Board for approval.

### **34. TENDERING PROCEDURES**

- 34.1 Tenders for contracts shall be obtained in accordance with the methods outlined below subject to any overriding directive from the EU which requires wider invitation.
- 34.2 The Director of Commissioning shall report annually to the Board on compliance with these tendering procedures.
- 34.3 Any contract which is estimated to exceed the EU financial threshold shall be subject to public notice given in one or more local newspapers or journals circulating among such persons as undertake such contracts, or on a publicly accessible web site. After the period specified in the public notice invitations to tender stating the last date for receipt of tender shall be sent to not less than 4 of the persons who applied for permission to tender as shall be determined by the Director of Commissioning, his/her respective nominee or if fewer than four persons have applied and are considered suitable, to all such persons.

- 34.4 For contracts estimated to cost between £30,000 and the EU threshold, tenders shall be sought from interested parties either in accordance with the public notice arrangements set out at 34.3 above or by invitation. Where tenders are invited, the minimum number of tenders invited shall be three.
- 34.5 The Probation Trust may maintain a List of Approved Suppliers for the purpose of making invitations to tender. Where such a list is maintained, it will be reviewed and refreshed as determined by the Audit Committee.
- 34.6 For contracts estimated to cost between £5,000 and £30,000 a minimum of three written quotations shall be obtained.
- 34.7 Where the estimated cost is less than £5,000 it is best practice to obtain a minimum of three quotations, but in any event at least two written quotes must be obtained.
- 34.8 It should be observed that where procurement rules apply, these should be followed, irrespective of the contents of this governance handbook.

## **35. RECEIPT AND CUSTODY OF TENDERS**

- 35.1 Where tenders are invited, no tender shall be considered unless it is received in a plain, sealed, envelope and which bears the word "Tender" followed by the subject to which it relates. All prospective bidders shall be notified of these conditions.
- 35.2 Tender envelopes shall be delivered to the Secretary or other nominated officer and shall remain in his/her custody until the time appointed for their opening. The officer receiving tenders shall indicate on the envelope the date and time of receipt.

## **36. OPENING OF TENDERS**

Tenders submitted in accordance with the above procedure shall be dealt with as follows:

- 36.1 Where the estimated cost is over £30,000 tenders shall be opened at one time and only in the presence of not fewer than three of the following officers: the Chair; Chief Executive; Secretary; Director of Finance; Director of Commissioning; any other person nominated for the purpose by the Probation Trust Board, or their respective nominees.
- 36.2 The Director of Commissioning or his/her nominee shall maintain a record of all tenders received which shall indicate the names of all bidders, the date and time of opening and the signature of the individual officers present at the time of opening.
- 36.3 No tender received after the date and time specified for the receipt of tenders shall be considered unless:

- i) It was delivered by post and;
- ii) There is satisfactory evidence that the tender was posted in time for delivery before the due time and date and;
- iii) The other tenders which were received before the due time and date have not been opened.

### **37. ACCEPTANCE OF TENDERS**

- 37.1 For tenders with an estimated value which is within the Chief Executive's delegation under Standing Order 33, providing two valid tenders have been received, the Chief Executive shall have power to accept the tender which in his/her determination offers the best value.
- 37.2 In the event that only one tender is received the Chief Executive shall have power to accept that tender if in his/her determination it complies with best value.
- 37.3 Furthermore, in the case of a contract the value of which exceeds the Chief Executive's delegation under Standing Order 33, providing an estimated value has been approved by the Probation Trust Board under Standing Order 33.2, the Chief Executive may accept the lowest such tender when the amount is not more than 10% in excess of the estimate.
- 37.4 A tender which is other than the lowest if payment is to be made by the Probation Trust Board, or the highest if payment is to be made to the Probation Trust Board, or is not within 10% of an approved estimate, shall not be accepted until the Probation Trust Board has considered a report thereon from the Chief Executive.

### **38. ALTERATIONS TO TENDERS**

Where, on examination of a tender, errors or discrepancies are identified which would affect an otherwise successful tender, the bidder is to be notified and given a chance to confirm or withdraw his offer. If the bidder withdraws, the next tender is to be examined and dealt with in the same way or alternatively, at the Chief Executive's discretion; a further tendering exercise may be undertaken.

### **39. WITHDRAWAL**

- 39.1 In the event of any bidder, without proper reason, withdrawing a tender or, upon being called upon to do so refusing to sign or execute a contract after his tender has been accepted the Chief Executive may at his/her discretion award that contract to the next nearest bidder, or alternatively may undertake a further tendering exercise.
- 39.2 Any such person who withdraws as described above shall be deleted from any select list of contractors and not allowed to tender until a further report has been brought before the Probation Trust Board.

### **40. SUB CONTRACTORS AND SUPPLIERS**

- 40.1 Tenders for sub-contracts to be performed, goods or materials to be supplied, or services to be provided by nominated sub-contractors or suppliers shall be invited and dealt with as if they were for main contracts.
- 40.2 The term of the invitation shall require an undertaking by the bidder that if he is selected he will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against his own obligations under the main contract in relation to the work or goods included in the sub-contract.

#### **41. ENGAGEMENT OF CONSULTANTS**

It shall be a condition of the engagement of the services of any Engineer, Surveyor, Architect, Clerk of Works or other consultant who is to be responsible to the Probation Trust for the supervision of all or part of a contract on its behalf that in relation to the contract he/she shall:

- i) Comply with these standing orders;
- ii) At any time during the contract produce to the Chief Executive or his/her representative all records held by him/her in relation to the contract; and
- iii) On completion of the contract submit all records to the Chief Executive.

#### **42. EXCEPTIONS FOR PROPRIETARY OR URGENT GOODS AND WORKS AND OTHER MATTERS**

- 42.1 In the following circumstances and subject to the approval in writing of the Chief Executive (or in his/her absence his/her nominee) of any waiver given under this Standing Order and to any requirements of the EU nothing in these Standing Orders shall require tenders to be invited in the case of:-
- i) There being an inadequate response at any stage to the tendering processes set out in Standing Order 34.
  - ii) Purchase or sales by auction or at public fairs or markets.
  - iii) The purchase of goods, materials or services which are proprietary and which are obtainable only from one contractor and no reasonable satisfactory alternative is available.
  - iv) The execution of works of a specialised nature which are carried out by one contractor only.
  - v) The purchase of goods, materials or services which are sold only at fixed prices or prices controlled by trade organisations or in respect of which there would be, in the opinion of the Probation Trust Board or appropriate Committee, no genuine competition.
  - vi) Extensions of existing contracts approved by the Probation Trust Board or appropriate Committee provided that the contract to be extended contains an explicit provision to do so. If no such provision exists then it will be necessary to go out to tender.
  - vii) Where the urgency of the matter requires the waiver of normal procedures.
  - viii) Contracts with professional persons or firms for the provision of services in which the personal skill(s) or expertise of the provider is of primary importance provided that due regard is paid to the need to secure value for money.

- ix) Contracts for the delivery of operational services in a particular geographical locality of the Probation Trust's probation area, and for which it is not reasonably feasible to undertake a tendering exercise. In the event that the value of such contracts is within the Chief Executive's delegation under Standing Order 33, the Chief Executive shall be responsible for securing value for money.
- x) Contracts which are already contained within an OGC (Office of Government Contracting) or Local Authority Purchasing Organisation framework contract or other Government-based purchasing consortium of which the Probation Trust is a member.

42.2 Any waiver granted under Standing Order 42.1 to the tender process set out in Standing Order 34 shall be reported to the Audit Committee bi-annually by the Director of Finance.

#### **43. APPROVED FORM OF CONTRACT**

Every contract which exceeds £30,000 in value shall be in a form approved by the Secretary or Legal Adviser nominated by the Probation Trust Board and shall include:

- i) The work, materials, matter, or things to be furnished, or done; and
- ii) The price to be paid or received with the statement of discounts or other deductions; and
- iii) The time or times within which the contract is to be performed.

#### **44. STANDARD PROVISIONS OF CONTRACTS**

In any contract made by, or on behalf of, the Probation Trust where the standard conditions adopted contain similar provisions of the same effect as provisions contained in these Standing Orders, such conditions shall be deemed to comply with these Standing Orders.

#### **45. ASSIGNMENT**

Every contract for the execution of works or for the supply of goods, materials or services shall provide that the contractor shall not assign in part or in full directly or indirectly without the written consent of the Probation Trust Board.

#### **46. SPECIFICATION**

All tenders for the execution of works or for the supply of goods, materials or services shall, unless determined otherwise by the Probation Trust Board or appropriate Committee in any particular case or specified category of cases be based on a definitive specification.

#### **47. BRITISH STANDARDS**

Where an appropriate Standard Specification or Standard Code of Practice issued by the ISO Standards or the EU equivalent is current one calendar month before the date of tender, the contract shall require all goods and materials used

or supplied and/or all workmanship to be at least in accordance with that standard.

## **OTHER MATTERS**

### **48 DELEGATION OF URGENT BUSINESS**

The Probation Trust Board may delegate authority to such member(s) as they see fit to deal with, decide or take action on the Board's behalf on such urgent matters which cannot be delayed provided that:

- i) Nothing in this standing order will authorise such action on any matter which by virtue of any statutory provision is required to be authorised by the Probation Trust Board itself
- ii) All matters dealt with or decided, and all action taken under this standing order, shall be subject to report for information to the next ordinary meeting.

### **49 DELEGATION TO THE CHIEF EXECUTIVE**

The Chief Executive shall be delegated to deal with the following matters:-

- i) Matters listed in Appendix B (Chief Executive Scheme of Delegation);
- ii) Such other matters as the Probation Trust Board shall from time to time determine.

### **50 STANDING ORDERS TO BE GIVEN TO PROBATION TRUST MEMBERS**

The Secretary nominated by the Probation Trust Board shall give a copy (on paper or electronically) of these standing orders together with any additional local orders to each member of the Probation Trust Board upon the member's appointment.

### **51 STANDING ORDERS TO BE AVAILABLE TO THE PUBLIC**

A copy of these standing orders shall be available for inspection by any member of the public on request to the Secretary or his/her nominee.

### **52 ADDITIONAL STANDING ORDERS**

The Probation Trust Board may agree additional standing orders for the conduct of its business.

### **53 MEETINGS IN PRIVATE**

The Scheme for meeting in private is reproduced at Appendix A.

## **APPENDIX A**

### **APPROVED SCHEME FOR MEETING IN PRIVATE**

- 1 This Scheme has been approved by Essex Probation and specifies the circumstances in which the Probation Trust Board may resolve to meet in private.
- 2 The Probation Trust Board may only meet in private:
  - i) Where the disclosure of information to the public would be prejudicial to the public interest by reason of its confidential nature, or
  - ii) For other special reasons arising from the nature of the business to be transacted.
- 3 Without prejudice to the generality of paragraph 2(i) above, the information referred to in that provision shall include information relating to one or more of the following categories:
  - i) A victim, an offender, a person charged with an offence but not convicted, a person who is or has been resident in Approved Premises or a relative of such a person
  - ii) A person to whom a service is being or has been provided by offenders serving punishment, rehabilitation or other orders in the community, under the supervision of an officer of a probation provider.
  - iii) a current or former employee or office holder of the Probation Trust Board or any other probation provider or another criminal justice agency, a person applying for or being considered for such an employment or appointment
  - iv) A child
  - v) The prevention, investigation or prosecution of crime
  - vi) Breaches and revocations of community sentences
  - vii) Tenders and proposed contracts
  - viii) Financial and personal information supplied by a person or organisation with which the Probation Trust has or has had a contract
  - ix) Negotiations with the Probation Trust's employees or office-holders
  - x) Legal advice, whether or not proceedings are contemplated.
- 4 Any decision by the Probation Trust to meet in private must be made by the Probation Trust Board at a meeting in public. The Chair or Secretary nominated by the Probation Trust Board must detail the category of information concerned

and the reason why it should not be disclosed, or the special reasons relied upon. Those details and reasons must be recorded in the minutes of the meeting.

## **APPENDIX B**

### **CHIEF EXECUTIVE SCHEME OF DELEGATION**

- 1 Subject to the matters reserved by Standing Orders, in particular paragraph 11, responsibility for implementing policies and decisions on operational and resource matters is delegated to the Chief Executive who, subject to the requirements of the Standing Orders and Standing Financial Instructions, the statutes and other legal provisions which govern the conduct of the affairs of the Probation Trust, may make such arrangements as he/she thinks fit for the proper performance of the matters delegated to him/her.
- 2 Without prejudice to the generality of the above paragraph, the following matters are delegated to the Chief Executive:-
  - i) The determination and payment of ex-gratia payments up to £3,000.
  - ii) The making of all virements between approved budget heads.
  - iii) The making of all write-offs of irrecoverable expenditure up to £3,000.
  - iv) The disposal of non-current assets, vehicles and mechanical handling plant up to £1 million.
  - v) The approval of capital and revenue expenditure provided that the maximum value of such expenditure does not exceed the amount envisaged in the budget by more than £25,000.
  - vi) The approval of any new business developments or activities which do not require Board approval under paragraph 11 of the Standing Orders provided always that such activities are within the powers of the Probation Trust.
  - vii) The approval of establishment changes which have no implication for increased budgetary expenditure.
  - viii) The approval of compensation payments up to £3,000 other than payments to offenders on life sentence licence in the community.
  - ix) The approval of applications to purchase leave.
  - x) The approval of applications under the accumulated leave scheme.
  - xi) The approval of extensions of salary payments during sickness beyond those permitted by national conditions of service, to a maximum duration of three months.
  - xii) The approval of extensions of the lodging allowance payable under national Conditions of Service.
  - xiii) The approval of periods of unpaid leave of absence.

- xiv) The approval of temporary promotions.
- xv) Subject to the requirements of Standing Order 31, the appointment and dismissal of all staff.
- xvi) The approval of planned overtime.
- xvii) The agreement to international exchanges of staff.
- xviii) The approval of adjustments to the hours of part time staff.
- xix) The approval of periods of special leave in accordance with national or local conditions of service.
- xx) The approval of grading and regrading.
- xxi) The approval, subject to policy guidance, or extensions of service beyond normal retiring age.
- xxii) The approval of voluntary redundancies or severance payments within the statutory scheme or contractual authority.
- xxiii) The approval, subject to policy guidance, of voluntary early retirement applications.
- xxiv) The retention of financial and other records of the Probation Trust and the secure destruction of those records at the end of the appropriate retention period.
- xxv) Oversight of all legal proceedings instituted by or against the Probation Trust.
- xxvi) Management of all formal complaints against the Probation Trust in accordance with the Complaint Policy then in force.

## APPENDIX C

### FINANCIAL DELEGATIONS SCHEDULE

<b>Section Ai: Procurement - requirements for obtaining Quotes and Tenders (excluding Consultancy services)</b>		
<b>Delegated Matter</b>		<b>Reference</b>
below £5,000	Obtain two quote and then place official order	Governance Handbook and Contract Standing Orders Practice Instruction  Limits apply to aggregate orders to single supplier in 12 month period.
£5,000 to £30,000	Obtain at least 3 competitive quotes in writing and then place official order	
£30,000 +	Seek competitive tenders after having obtained advice from Procurement Unit	
Above EU procurement thresholds	Seek competitive tenders after having obtained advice from Procurement Unit	
<b>Section Aii: Procurement - requirements for obtaining Quotes and Tenders for Consultancy services</b>		
<b>Delegated Matter</b>		<b>Reference</b>
below £5,000	Obtain two quote and then place official order	Governance Handbook and Contract Standing Orders Practice Instruction  Limits apply to aggregate orders to single supplier in 12 month period.
£5,000 to £25,000	Obtain at least 3 competitive quotes in writing and then place official order	
£25,000 to £50,000	Requires approval of Chief Executive Seek competitive tenders after having obtained advice from Procurement Unit	
£50,000	Requires approval of Director of Offender Management Seek competitive tenders after having obtained advice from Procurement Unit	
Above EU procurement thresholds	Seek competitive tenders after having obtained advice from Procurement Unit	
<b>Section Aiii: Procurement – Waiver arrangements</b>		
<b>Delegated Matter</b>	<b>Authority</b>	<b>Reference</b>
below £30,000	Chief Executive or Director of Finance and bi-annual report to Audit Committee	Governance Handbook and Contract Standing Orders Practice
£30,000 to £50,000	Chief Executive and Director of Finance and bi-annual report to Audit Committee	
£50,000 +	Board	

£50,000 +	Requires approval of Director of Offender Management Seek competitive tenders after having obtained advice from Procurement Unit	Instruction  Limits apply to aggregate orders to single supplier in 12 month period.
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<b>Section B: Levels of delegated authority</b>			
<b>Item</b>	<b>Authorised Person</b>	<b>Authorised Limit</b>	<b>Additional Notes</b>
Official Orders and contracts	Budget Holder	Approved budget	Orders must comply with procurement limits in Section A
	Delegated Authority	Approved budget	
	Chief Executive	Approved budget plus maximum £25,000	
	Board	Orders in excess of approved budget plus £25,000	
Invoices not preceded by an official order	Director	Approved budget	Payments for joint funding/public sector partnership arrangements (e.g. YOS)
	Chief Executive	Approved budget plus maximum £25,000	Payments for joint funding/public sector partnership arrangements (e.g. YOS)
Where the invoice(s) exceed the order value	Budget Holder	5%	Reason for variance to be noted clearly on invoice

Item	Authorised Person	Authorised Limit	Additional Notes	
Virement of approved budget	Budget Holder	To £5,000	All virements will be deemed as non-recurring, unless approved by a Director as recurring	
	Delegated Authority	To £5,000		
	Director	£5,000 to £10,000		
	Chief Executive	£10,000 +		
	Board	£25,000 in excess of approved budget		
Losses, write offs, disposals and Special payments	Director and Director of Finance	0 to £1,000	Reported to Audit Committee annually	
	Chief Executive	£1,000 to £3,000		
	Board and Director of Offender Management	£3,000 +		
Petty Cash Imprest	Account signatories	1 per office	List of signatories approved by Director of Finance	
	Imprest limit	See Imprest Limits Schedule (Appendix D)	Approved by Director of Finance	
	Single payment limit	£50 cash £250 cheque	Local Delivery Units	
Purchase Card authority Approved by Director of Finance (DoF approved by Chief Executive)	Chief Executive	£2,000	£500	Category of purchase restrictions apply
	MSS	£2,000	£500	
	Consortium Director	£4,000	£1,000	
	Director of Finance	£2,000	£500	
Setting of Fees and Charges	Director	0 to £10,000		
	Chief Executive and Director of Finance	£10,000 to £100,000		
	Board	£100,000 +	Proposal reviewed by Business	

			Development Committee
Capital Expenditure/Property	Chief Executive	Per contract	Capital expenditure plan reported to Board annual
	Board and Director of Offender Management	Expenditure in excess of contract	Requires business case submission
<b>Section C: Human Resources</b>			
<b>Item</b>	<b>Authorised Person</b>		<b>Additional Notes</b>
Changes to approved budget establishment	Chief Executive and Director of Finance and Director of HR		Establishment change form required
Changes to staff grading	Chief Executive and Director of Finance and Director of HR		Following job evaluation process
Changes to staff compliment in function or location	Director and Director of Human Resources		Advise Director of Finance
Changes to terms and conditions, competencies	Chief Executive and Director of Human Resources		May require consultation with JNCC
Approval to fill vacancies where no change to post	Director		HR to provide weekly list to Directors
<b>Short term cover:</b>	<b>Authorised Person</b>	<b>Authorised Limit</b>	<b>Additional Notes</b>
Vacancies > 1 fe	Budget Holder	1 fe cover after 15 days absence	Temporary staff form required
Long term sickness absence	Budget Holder	1 fe cover after 15 days absence	Temporary staff form required
Maternity leave	Budget Holder	85% value of post	Excludes periods of annual leave Temporary staff form required
Approved Premise - where staffing falls below minimum cover arrangements	Budget Holder	Full	
Phased return to work	Budget Holder	To maximum 4 weeks	
	Chief Executive	4 weeks plus	

## **APPENDIX D**

### **IMPREST LIMITS SCHEDULE**

<i>Local Delivery Unit</i>	<i>Petty Cash Imprest Limit</i>
<i>Felmores Approved Premises</i>	<i>£6,000</i>
<i>North East Essex</i>	<i>£3,600</i>
<i>West Essex</i>	<i>£4,000</i>
<i>Mid Essex</i>	<i>£2,500</i>
<i>South East Essex and Southend</i>	<i>£4,000</i>
<i>South East Essex</i>	<i>£4,200</i>
<i>Thurrock</i>	<i>£2,000</i>
<i>Cullen Mill</i>	<i>£6,000</i>
<i>Eastern Region Training Consortium</i>	<i>£1,000</i>

## Glossary of Terms

AO	Accountable Officer
C&AG	The Controller & Auditor General for England
CEO	Chief Executive Officer
Chair	Chairman of the Probation Trust Board
Chief Executive	Chief Executive of the Probation Trust Board
Committee/s	Committee or Committees of the Probation Trust Board
Contract	The contract between the Secretary of State and Probation Trusts
DOMS	Director of Offender Management
FD	Finance Director or Director of Finance
FReM	Treasury's Financial Reporting Manual
GIAS	Government Internal Audit Standards
GPC	Government Procurement Card (Barclaycard)
Members	Members of the Probation Trust Board
MoJ	Ministry of Justice
NOMS	National Offender Management Service
Order Subject to Affirmative Procedure	This means an Order (secondary legislation) that is laid before Parliament and debated in both Houses before it can be agreed, signed and Made by the Minister. Traditionally this means a greater level of scrutiny than an Order subject to the Negative Procedure.
Order Subject to Negative Procedure	This means an Order (secondary legislation) that is signed by the Minister, the Order is made at this point and then laid before Parliament. Members of Parliament must „pray against' the Order and can only vote to remove the Order rather than amend it.
PAC	Public Accounts Committee
PACU	Probation Area Coordination Unit
PAO	Ministry of Justice Accounting Officer
PSA	Public Service Agreement
ROM	Regional Offender Managers
SFI	Standing Financial Instructions
SIC	Statement of Internal Control
SoS	The Secretary of State
Sponsor unit/department	That part of the Ministry of Justice that takes the lead on Probation Trusts and related matters.
The Act	Offender Management Act 2007
WAO	Wales Audit Office