



An Chomhairle Náisiúnta um Oideachas Speisialta
National Council for Special Education

Corporate Governance Guide - Appendices

A Guide for NCSE Council Members

February 2023



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APPENDIX 1: Education of Persons with Special Educational Needs (EPSEN) Act 2004



Number 30 of 2004

EDUCATION FOR PERSONS WITH SPECIAL EDUCATIONAL NEEDS ACT 2004

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Membership and Meetings of Council

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The Chief Executive Officer

Acts referred to

Civil Service Commissioners Act 1956	1956, No. 45
Civil Service Regulation Acts 1956 to 1996	
Comhairle Act 2000	2000, No. 1
Companies Acts 1963 to 2001	
Comptroller and Auditor General (Amendment) Act 1993	1993, No. 8>
Education Act 1998	1998, No. 51
Health Act 1970	1970, No. 7



Number 30 of 2004

**EDUCATION FOR PERSONS WITH SPECIAL EDUCATIONAL NEEDS
ACT 2004**

AN ACT TO MAKE FURTHER PROVISION, HAVING REGARD TO THE COMMON GOOD AND IN A MANNER THAT IS INFORMED BY BEST INTERNATIONAL PRACTICE, FOR THE EDUCATION OF PEOPLE WITH SPECIAL EDUCATIONAL NEEDS, TO PROVIDE THAT THE EDUCATION OF PEOPLE WITH SUCH NEEDS SHALL, WHEREVER POSSIBLE, TAKE PLACE IN AN INCLUSIVE ENVIRONMENT WITH THOSE WHO DO NOT HAVE SUCH NEEDS, TO PROVIDE THAT PEOPLE WITH SPECIAL EDUCATIONAL NEEDS SHALL HAVE THE SAME RIGHT TO AVAIL OF, AND BENEFIT FROM, APPROPRIATE EDUCATION AS DO THEIR PEERS WHO DO NOT HAVE SUCH NEEDS, TO ASSIST CHILDREN WITH SPECIAL EDUCATIONAL NEEDS TO LEAVE SCHOOL WITH THE SKILLS NECESSARY TO PARTICIPATE, TO THE LEVEL OF THEIR CAPACITY, IN AN INCLUSIVE WAY IN THE SOCIAL AND ECONOMIC ACTIVITIES OF SOCIETY AND TO LIVE INDEPENDENT AND FULFILLED LIVES, TO PROVIDE FOR THE GREATER INVOLVEMENT OF PARENTS OF CHILDREN WITH SPECIAL EDUCATIONAL NEEDS IN THE

EDUCATION OF THEIR CHILDREN, FOR THOSE PURPOSES TO ESTABLISH A BODY TO BE KNOWN AS THE NATIONAL COUNCIL FOR SPECIAL EDUCATION AND TO DEFINE ITS FUNCTIONS, TO CONFER CERTAIN FUNCTIONS ON HEALTH BOARDS IN RELATION TO THE EDUCATION OF PEOPLE WITH SPECIAL EDUCATIONAL NEEDS, TO ENABLE CERTAIN DECISIONS MADE IN RELATION TO THE EDUCATION OF PEOPLE WITH SUCH NEEDS TO BE THE SUBJECT OF AN APPEAL TO AN APPEALS BOARD AND TO PROVIDE FOR RELATED MATTERS. [19th July 2004]
BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.— (1) In this Act, unless the context otherwise requires—

“Act of 1998” means the Education Act 1998 ;

“Appeals Board” shall be construed in accordance with section 36 ;

“Child” means a person not more than 18 years of age;

“Council” shall be construed in accordance with section 19 ;

“Education plan” shall be construed in accordance with section 3 or 8, as appropriate;

“Health board” means—

(a) a health board established under section 4 of the Health Act 1970 ,

(b) the Eastern Regional Health Authority, or

(c) the Northern Area Health Board, the East Coast Area Health Board or the South-Western Area Health Board;

“Minister” means the Minister for Education and Science;

“National association of parents” has the same meaning as it has in the Act of 1998;

“parent” has the same meaning as it has in the Act of 1998;

“prescribed” means prescribed by regulations made by the Minister under this Act;

“Recognised school management organisations” has the same meaning as it has in the Act of 1998;

“Recognised trade union or staff association” means a trade union or staff association recognised by the Minister for the purposes of negotiations that are concerned with the remuneration, conditions of employment, or working conditions of employees;

“Relevant health board” means the health board in whose functional area the child or person concerned resides;

“school” means a recognised school (within the meaning of the Act of 1998);

“School year” has the same meaning as it has in the Act of 1998;

“Special educational needs” means, in relation to a person, a restriction in the capacity of the person to participate in and benefit from education on account of an enduring physical, sensory, mental health or learning disability, or any other condition which results in a person learning differently from a person without that condition and cognate words shall be construed accordingly;

“Special educational needs organiser” shall be construed in accordance with section 26 ;

“student” has the same meaning as it has in the Act of 1998;

“team” shall be construed in accordance with section 8 , 9 or 11 as appropriate;

“Voluntary body” has the same meaning as it has in the Comhairle Act 2000 .

(2) In this Act—

- (a) a reference to a section is a reference to a section of this Act, unless it is indicated that reference to some other enactment is intended,
- (b) a reference to a subsection, paragraph or subparagraph is a reference to a subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended,
- (c) a reference to any other enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended, extended or adapted by or under any subsequent enactment.

Inclusive education.

2.—A child with special educational needs shall be educated in an inclusive environment with children who do not have such needs unless the nature or degree of those needs of the child is such that to do so would be inconsistent with—

- (a) the best interests of the child as determined in accordance with any assessment carried out under this Act, or
- (b) the effective provision of education for children with whom the child is to be educated.

Preparation of education plan by school (including steps preliminary to such preparation).

3.— (1) *Subsection (2)* applies where the principal of a school—

- (a) having been notified by the parents of a student in the school that they are of the opinion referred to in this paragraph and been requested by them to take the measures specified in *subsection (2)*, considers that opinion to be well founded, namely, an opinion that the student is not benefiting from the education programme provided in the school to children who do not have special educational needs to the extent that would be expected of the student, or
- (b) otherwise forms such an opinion in respect of a student in the school.

(2) Where this subsection applies, the principal of the school shall take such measures as are practicable to meet the educational needs of the student concerned.

(3) Where the principal of a school, having taken the measures referred to in *subsection (2)*, is of the opinion that the student concerned is still not benefiting from the education programme provided in the school and that his or her difficulty in doing so may arise from his or her having special educational needs, the principal, after consultation with the parents of the

student, shall, subject to *subsection (6)*, arrange for an assessment of the student to be carried out.

(4) Without prejudice to *section 5 (5)*, an assessment referred to in *subsection (3)* shall be—

- (a) commenced as soon as practicable, and in any case not later than 1 month, after the principal has reached the opinion referred to in that subsection,
- (b) completed as soon as practicable, and in any case not later than 3 months, after the principal has reached that opinion, and
- (c) carried out in accordance with such guidelines relating to persons who are to carry out assessments under this section and the form that those assessments are to take as may be issued from time to time by the Council,

and references in this section to the carrying out of such an assessment include references to the preparation of a statement of the findings in relation to the assessment.

(5) Where an assessment carried out in accordance with *subsection (4)* establishes that the student concerned has special educational needs the principal shall, subject to *subsection (11)*, within 1 month from the receipt by him or her of the assessment, cause a plan to be prepared for the appropriate education of the student (in this Act referred to as an “education plan”).

(6) Where the principal of a school is of the opinion, having regard to any guidelines that may be issued by the Council from time to time under *subsection (8)*, that the arrangement of an assessment under *subsection (3)* of a student is not practicable he or she shall request the Council to arrange for an assessment of the student under *section 4*.

(7) If the Council accedes to a request under *subsection (6)*, *section 4*, with the necessary modifications, and *section 5* shall apply accordingly.

(8) The Council may from time-to-time issue guidelines to principals of schools as to the matters they shall have regard to before forming an opinion of the kind referred to in *subsection (6)*.

(9) In relation to the preparation of an education plan under *subsection (5)*, the principal shall ensure that—

- (a) the parents of the child, the special educational needs organiser with responsibility for the school concerned and such other persons as the principal considers appropriate are consulted and, in the case of the parents of the child, their involvement in the preparation is facilitated, and
- (b) guidelines for the time being in force under *section 9 (3)* are complied with unless he or she decides, with the consent of that special educational needs organiser, that there are good and substantial reasons for their not being complied with.

(10) Immediately after an educational plan has been prepared under *subsection (5)* the principal of the school shall furnish to the parents of the child concerned and the special educational needs organiser with responsibility for the school a notice in writing of that fact, together with a copy of the plan.

(11) Where the principal of a school is of the opinion that—

- (a) having regard to the nature and extent of a child's special educational needs as established by an assessment under this section, the preparation of an education plan under *subsection (5)* in accordance with the guidelines for the time being in force under *section 9 (3)* will not meet the child's special educational needs, or
- (b) whether the opinion is formed in consequence of a review under *section 11* or otherwise, an education plan prepared under *subsection (5)* in respect of a child is not meeting those needs of the child and the taking of any steps by a special educational needs organiser under *section 11* on foot of any report by the principal under *subsection (3)* of that section is unlikely to result in those needs being met,

the principal shall request the Council to prepare an education plan under *section 8* in respect of the child.

(12) If the Council accedes to a request under *subsection (11)*, then *subsections (3) to (5)* of *section 8* shall apply and, in the case of *paragraph (b)* of *subsection (11)*, the education plan prepared by the Council under *section 8* shall supersede the education plan referred to in that paragraph.

(13) If the Council refuses to accede to a request under *subsection (6)* or *(11)*, then the principal, or the parents of the child concerned, may appeal against that refusal to the Appeals Board.

(14) On the hearing of an appeal under *subsection (13)*, the Appeals Board may—

- (a) allow the appeal and give a direction to the Council requiring it, as appropriate, to—
 - (i) arrange for an assessment of the child concerned to be carried out under *section 4*, or
 - (ii) cause to be prepared an education plan in respect of the child concerned under *section 8*,

or

- (b) dismiss the appeal.

(15) The Council shall comply with a direction given to it under *subsection (14)*.

Assessment of child by or on behalf of health board or Council.

4.— (1) Where the relevant health board is of the opinion that a child who is not a student has or may have special educational needs it shall cause an assessment under this section of that child to be carried out.

(2) Where the Council is of the opinion that a child who is a student has or may have special educational needs it shall, unless an assessment under *section 3* of the child is being or has been carried out, cause an assessment under this section of that child to be carried out.

(3) Where the parents of a child are of the opinion that the child has or may have special educational needs they may request—

- (a) the relevant health board, or
- (b) in the case of a child who is a student, the Council,

to cause an assessment under this section of the child to be carried out.

(4) Subject to *subsection (5)*, within 1 month from the receipt of a request under *subsection (3)*, the health board or the Council shall cause the assessment to be commenced and thereafter to be completed without undue delay.

(5) A health board or the Council may refuse to accede to a request under *subsection (3)* if—

- (a) it is of the opinion that there are insufficient grounds to support the requesters' opinion that the child has special educational needs, or
- (b) an assessment under this Act has been carried out in respect of the child in the 12 months prior to the date of the request.

(6) An assessment for the purposes of this section shall include an evaluation and statement of the nature and extent of the child's disability (including in respect of matters that affect the child overall as an individual) and an evaluation and statement of the services which the child will need so as to be able to participate in and benefit from education and, generally, to develop his or her potential.

(7) If a health board or the Council refuses to accede to a request under *subsection (3)* the parents of the child concerned may appeal against that refusal to the Appeals Board; such an appeal shall be determined by the Appeals Board within 6 weeks from the date that it receives the appeal.

(8) On the hearing of an appeal under *subsection (7)*, the Appeals Board may—

- (a) allow the appeal and direct the health board or the Council, as the case may be, to cause to be carried out an assessment under this section of the child, or
- (b) dismiss the appeal.

Mode of assessment under *section 3* or *4*.

5.—(1) An assessment under *section 4* shall be carried out with the assistance of persons possessing such expertise and qualifications as the health board or the Council considers appropriate; those persons may, in the discretion of the board or the Council, include one or more of the following:

- (a) a psychologist;
- (b) a medical practitioner;
- (c) the principal of the school which the child is attending or a teacher of that school nominated by the principal;
- (d) an appropriately qualified social worker; and
- (e) a therapist who is suitably qualified to provide support services in respect of the special educational needs of the child.

(2) A health board, the Council or a principal, as appropriate, shall facilitate, in a manner that is consistent with the assessment being carried out effectively, the participation by the parents of the child concerned in the carrying out of an assessment under *section 3* or *4*.

(3) Before causing an assessment under *section 4* (other than pursuant to a request under *subsection (3)* of that section) to be carried out, the health board or the Council shall give notice in writing to the parents of the child of the intention to do so and the reasons therefor and, subject

to *subsection (4)*, shall not cause the assessment to be carried out without the consent in writing of the parents.

(4) Where the parent of a child fails or refuses to give his or her consent, within such period as may be specified by the health board or the Council, to the carrying out of an assessment under *section 4* to which *subsection (3)* applies, the health board or the Council, as the case may be, may apply to the Circuit Court for an order dispensing with the requirement under *subsection (3)* for the parent's consent and the Circuit Court may, on the hearing of the application, make such an order if it considers it in the best interests of the child to do so.

(5) An assessment under *section 3* or *4* shall be carried out in a manner which conforms to such standards as may from time to time be determined, after consultation with the Minister, by a prescribed body, that is to say, a body standing prescribed by regulations made by the Minister for Health and Children for the purposes of its determining the standards that assessments under those sections must conform to.

(6) In carrying out an assessment under *section 4*, the health board or the Council, as appropriate, shall have regard to any relevant assessment of the child concerned that is available to it at that time.

(7) A statement of the findings in relation to an assessment that has been carried out under *section 4* and any relevant documents relating to that assessment shall be made available immediately to the parents of the child concerned after that statement has been prepared.

(8) The health board or the Council, as the case may be, shall make available all or part of that statement to such persons engaged in the education of the child as it considers appropriate, having regard to the need to ensure that such persons are informed of the child's educational needs; the parents of the child shall be informed by the board or the Council of the fact of its having so made available all or part of that statement, and of the identity of the person or persons to whom it has been made available, as soon as may be after it has done so.

(9) An application under *subsection (4)* to the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the child concerned resides.

Appeals in relation to assessments.

6.—(1) Parents may, in respect of their child, appeal to the Appeals Board against an assessment made under *section 3* or *4* in relation to the child on the ground that it was not carried out in a manner which conforms with the standards determined under *section 5 (5)*.

(2) The Appeals Board shall hear and determine an appeal under this section within 2 months after the making thereof and such a determination may be one either to—

(a) allow the appeal and give such direction as it considers appropriate to the principal, the health board or the Council, as appropriate, (which may include a direction requiring a fresh assessment under *section 3* or *4* to be carried out in relation to the child), or

(b) dismiss the appeal.

(3) A principal of a school, a health board or the Council shall comply with a direction given to him or her or it under *subsection (2)*.

Provision of services.

7.—(1) In the case of a child who is not a student, the relevant health board shall, subject to *subsection (2)*, provide to the child such of the

services identified in the assessment carried out under *section 4* in relation to the child as are necessary to enable him or her to participate in and benefit from education.

(2) Where, in performing its functions under *subsection (1)*, a health board is of the opinion that particular services can most effectively be provided for by the Council, it shall inform the Council of that opinion by notice in writing and, upon being so informed, the Council shall, subject to *subsection (5)*, provide those services to the child concerned.

(3) In the case of a child who is a student the Council shall, subject to *subsection (4)*, ensure that there are provided to him or her such of the services identified in the education plan prepared in relation to the child as are necessary to enable him or her to participate in and benefit from education.

(4) Where, in performing its functions under *subsection (3)*, the Council is of the opinion that particular services can most effectively be provided for by the relevant health board, it shall inform the health board of that opinion by notice in writing and, upon being so informed, the health board shall, subject to *subsection (5)*, provide those services in respect of the child concerned.

(5) If a dispute arises between the Council and a health board as to which of them can more effectively provide particular services identified as being required in respect of a child by an assessment or an education plan, as appropriate, the dispute shall, within 2 months from the dispute arising, be referred by either or both of them to the Appeals Board for its determination (and which determination shall be made within 2 months from its referral) and, on the hearing of the reference, the Appeals Board shall determine which of them shall provide those services and give a direction to the Council or the health board, as the case may be, to that effect accordingly.

(6) The Council or the relevant health board shall comply with a direction given to it under *subsection (5)*.

(7) The provision of services under *subsection (1)* or (3) by a health board or the Council shall be made as soon as practicable after the completion of the assessment or, as the case may be, the preparation of the education plan in respect of the child concerned.

(8) The fact that—

(a) an appeal against an assessment under *section 6* or an appeal under *section 12* in relation to an education plan is made, or

(b) a dispute is referred under *subsection (5)*,

shall not, during the period pending its determination, absolve the Council or a health board (or both) of the duty of providing such of the services to the child concerned as are, irrespective of the outcome of the determination of the appeal or dispute, required by this section to be provided to him or her.

Preparation of education plan at direction of Council.

8.—(1) The Council upon being informed by a health board or the principal of a relevant school that a child has special educational needs, shall, unless an education plan has been or is being prepared under *section 3* in respect of the child, direct the relevant special educational needs organiser to cause to be prepared a plan for the appropriate education of the child (in this Act also referred to as an “education plan”).

(2) The preparation of an education plan under this section shall commence not later than 1 month from the direction concerned referred to in *subsection (1)* being given and be completed without undue delay and, in any case, not later than 2 months from its being commenced.

(3) The relevant special educational needs organiser shall convene a group of persons (in this Act referred to as a “team”) to provide advice to him or her in relation to the preparation of the plan concerned and a team may provide such advice to that organiser accordingly.

(4) A team shall include, subject to *subsection (6)*, the parents of the child concerned and the principal of the relevant school, or a teacher of that school nominated by that principal to be a member of the team, and may include one or more of the following—

- (a) the child where this is considered appropriate by the special educational needs organiser having regard to the age of the child and the nature and extent of the child's special educational needs.
- (b) a psychologist employed by the Minister or the National Educational Psychological Service, or a person determined by the special educational needs organiser to have sufficient expertise in psychology and nominated, as the case may be, by the Minister, the said service or the organiser to be a member of the team, and
- (c) any other person whom the parents or the special educational needs organiser consider appropriate and nominate to be a member of the team, being a person who holds a qualification granted or awarded by a professional body, which qualification—
 - (i) relates to the education of children with special educational needs, and
 - (ii) stands recognised for the purposes of this paragraph by the Council.

(5) With respect to the preparation of an education plan under this section the team shall have regard to any needs, other than educational needs, of the child concerned which are specified in the assessment under *section 4* and shall ensure that the education plan is consistent with the provision for such needs.

(6) A parent of the child concerned shall not be a member of a team unless he or she consents to being such a member.

(7) In this section—

“Relevant school” means the school which the child concerned is attending or which it is proposed the child will attend;

“relevant special educational needs organiser” means the special educational needs organiser with responsibility for the area in which the relevant school is situated or, as the case may be, for the particular category of school designated pursuant to *section 26 (5)* into which the relevant school falls.

9.—(1) An education plan under *section 3* or *8* shall be in such form as the Council may determine from time to time and specify in a notice published, in such manner as it thinks fit, for the purposes of this subsection.

Content of education plan.

- (2) The matters to be specified in an education plan under section 3 or 8 shall include—
- (a) the nature and degree of the child's abilities, skills and talents;
 - (b) the nature and degree of the child's special educational needs and how those needs affect his or her educational development;
 - (c) the present level of educational performance of the child;
 - (d) the special educational needs of the child;
 - (e) the special education and related support services to be provided to the child to enable the child to benefit from education and to participate in the life of the school;
 - (f) where appropriate, the special education and related services to be provided to the child to enable the child to effectively make the transition from pre-school education to primary school education;
 - (g) where appropriate, the special education and related support services to be provided to the child to enable the child to effectively make the transition from primary school education to post-primary school education, and
 - (h) the goals which the child is to achieve over a period not exceeding 12 months.

(3) The Council may prepare guidelines with respect to the matters to be provided in an education plan prepared under section 3 by reference to the category of special educational need (being a category of such need specified in the guidelines for the purpose) that is relevant to the child concerned and, in particular, by reference to that category, with respect to the matters specified in *paragraph (e), (g) and (h) of subsection (2)*.

(4) The Council may amend guidelines for the time being in force under *subsection (3)*.

(5) The Council, in preparing or amending guidelines under *subsection (3)*, shall do so in accordance with the policy for the time being of the Minister in relation to the education of children with special educational needs.

(6) The Council shall publish, in such manner as it thinks fit, guidelines prepared by it under *subsection (3)*.

(7) The principal of the school concerned shall implement an education plan and, for the purpose of preparing and implementing that plan, that school shall be provided with the necessary moneys and support services in accordance with section 13.

(8) Where the transfer from one school to another school of a child in respect of whom an education plan has been prepared is proposed, the principal of the first-mentioned school shall consult, before such transfer takes place, with the principal of the second-mentioned school for the purpose of—

- (a) ensuring that the principal of the second-mentioned school is informed of the content of the education plan, and
- (b) assisting the principal of the second-mentioned school in amending the plan, where such amendment is considered necessary by that principal having regard to the special

educational needs of the child and the operation of that school (which amendment that principal is authorised by this subsection to make).

(9) Where it is proposed to amend a child's education plan pursuant to *subsection (8)(b)*, the principal of the school to which the child is to be transferred shall inform the parents of the child of the proposed amendment and they may request that that principal consult with the relevant special educational needs organiser and that principal shall comply with that request.

(10) Where a special educational needs organiser is consulted pursuant to *subsection (9)*, he or she may decide to reconvene the relevant team, or, as the organiser thinks fit, engage the assistance of one or more of the members of that team, or in the case of an education plan prepared under *section 3*, convene a group of persons (in this Act also referred to as a "team"), for the purpose of reviewing the content and implementation of the plan and may, as a consequence of that review, amend the plan.

Designation of school.

10.— (1) The Council may—

(a) of its own volition, or

(b) at the request of the parents of a child in respect of whom an education plan has been prepared under *section 8 (1)*,

designate the school which a child with special educational needs or, in the case of request under *paragraph (b)*, the child referred to in that paragraph is to attend for the time being and that school shall admit the child as a student upon being directed by the Council to do so.

(2) In making a designation under *subsection (1)*, the Council shall have regard to the needs of the child concerned, the wishes of the child's parents and the capacity of the school to accommodate the child and to meet his or her needs, including that capacity when the school has such additional resources made available to it as the Council recommends to the Minister (which recommendation the Council may, by virtue of this subsection, make).

(3) Where a school is designated under *subsection (1)* in respect of a particular child, the board of management of that school may, within 4 weeks from the date that the school is informed of the designation, appeal to the Appeals Board against—

(a) that designation, or

(b) a recommendation of the Council, communicated to the school as part of that designation, in respect of the additional resources referred to in *subsection (2)* to be given to the school.

(4) On the hearing of an appeal under *subsection (3)*, the Appeals Board may—

(a) allow the appeal and, in the case of a designation, cancel the designation and, in the case of a recommendation, cancel, or, as it thinks appropriate, vary the recommendation, or

(b) dismiss the appeal.

(5) On the hearing of an appeal under *subsection (3)*, the burden of proving that a school does not have adequate resources to enable it to meet the needs of the child concerned shall be on the board of management of that school.

(6) If the Council fails or refuses to make a designation under *subsection (1)* at the request of parents under *paragraph (b)* of that subsection or fails or refuses to make such a designation of a particular school specified in their request (if such has been specified), the parents may appeal to the Appeals Board against that failure or refusal.

(7) On the hearing of an appeal under *subsection (6)*, the Appeals Board may—

(a) allow the appeal and give a direction to the Council requiring it to designate under *subsection (1)* a school or, as the Appeals Board thinks appropriate, the particular school specified in the request, or

(b) dismiss the appeal.

(8) If the subject of an appeal under *subsection (6)* is whether a particular school specified in a request of parents should be designated, the Appeals Board shall cause the board of management of that school to be made a notice party to the appeal and that board shall have the right to make submissions to the Appeals Board in relation to the matter (and *subsection (5)* shall apply for this purpose as it applies for the purposes of an appeal under *subsection (3)*); for the purposes of such an appeal the Appeals Board shall require the Council to indicate whether it would, if it were to designate the particular school concerned, make a recommendation of the kind referred to in *subsection (2)* and if it indicates that it would make such a recommendation, to specify the nature of it.

(9) The Appeals Board shall hear and determine an appeal made under *subsection (3)* or *(6)* within 2 months from the making thereof.

(10) The Council shall comply with a direction given to it under this section.

(11) In this section “school” includes a centre for education (within the meaning of the Education Act 1998).

Review of education plan. **11.—** (1) Without prejudice to *subsection (4)*, the principal of the relevant school shall review or cause to be reviewed at regular intervals, but in any case not less than once a year, the operation of each education plan for children who are attending the school—

(a) for the purpose of establishing whether or not the child concerned has received the services required as contained in the education plan and is achieving the goals specified in the education plan, and

(b) with a view to making recommendations in a report under *subsection (2)*, being recommendations for the amendment of the plan and the purposes of which are to assist the child concerned in achieving any of those goals that he or she is not achieving.

(2) The principal shall make a report to the parents of the child concerned and the relevant special educational needs organiser of the outcome of a review under *subsection (1)*.

(3) Where, as a result of his or her consideration of that report, the special educational needs organiser is of the opinion that the goals specified in the plan concerned have not been achieved the organiser shall reconvene the relevant team, or, as the organiser thinks fit, engage the assistance of one or more of the members of that team, or, in the case of an education plan prepared under section 3 , convene a group of

persons (in this Act also referred to as a “team”), for the purpose of reviewing the content and implementation of the plan and may, as a consequence of that review, amend the plan.

(4) Where parents have reason to believe that the goals specified in an education plan prepared in respect of their child are not being achieved and a review of the plan has not occurred in the previous 6 months, they may request the principal of the relevant school to arrange for such a review and where the principal considers it appropriate to accede to their request he or she shall carry out or cause to be carried out that review as if it were a review under *subsection (1)*, and *subsection (2)* shall apply accordingly.

(5) If the principal decides that it is not appropriate to accede to a request under *subsection (4)* he or she shall give notice in writing of the decision and the reasons therefor to the parents within 2 weeks from receiving the request.

(6) The parents may, within 1 month from the receipt by them of the notice referred to in *subsection (5)*, appeal to the Appeals Board against a refusal by the principal to accede to a request under *subsection (4)*.

(7) The Appeals Board shall hear and determine an appeal made under *subsection (6)* within 1 month from the making thereof and such a determination may be one either to—

- (a) allow the appeal and give a direction to the principal requiring him or her to review or cause to be reviewed the education plan (and such a review shall be regarded as a review under *subsection (1)*, and *subsection (2)* shall apply accordingly), or
- (b) dismiss the appeal.

(8) The principal of a relevant school to whom a direction is given under *subsection (7)* shall comply with it.

(9) In this section “relevant school” and “relevant special educational needs organiser” have the same meaning as they have in [section 8](#).

12.— (1) Parents may, in respect of their child, appeal to the Appeals Board against—

- (a) the discharge by the Council or a principal of a school of its or his or her duties in relation to—
 - (i) any statement or description of their child's special educational needs as set out in an education plan, or
 - (ii) any other statement or description appearing in the education plan as initially prepared or as it stands amended for the time being in consequence of a review, on the ground that the statement or description is incorrect or inadequate to meet the child's special educational needs, or
- (b) the discharge by a school or a health board of its duties with respect to an education plan on the ground that there has been a failure by it to implement any part of the plan.

(2) The Appeals Board shall hear and determine an appeal under this section within 2 months from the making thereof and such a determination may be one either to—

Appeals in relation to education plans.

(a) allow the appeal and, as appropriate, give a direction to the principal of the relevant school or the Council requiring the principal or the Council to amend the plan in such manner as the Appeals Board considers appropriate and specifies in its direction or give such other direction to the principal, the relevant health board or the Council relating to the child's education as the Board considers appropriate, or

(b) dismiss the appeal.

(3) The principal of the relevant school, a health board or the Council shall comply with a direction given to him or her or it under *subsection (2)*.

(4) In this section "relevant school" has the same meaning as it has in *section 8*.

Duty of Minister and Minister for Health and Children to make resources available.

13.— (1) The Minister and the Minister for Health and Children shall each, with the consent of the Minister for Finance, out of moneys provided by the Oireachtas, provide such moneys and other resources as are determined by him or her for the purposes of the preparation and implementation of education plans prepared in respect of children with special educational needs.

(2) Each of the following—

(a) a determination by the Minister or the Minister for Health and Children in respect of the matters referred to in *subsection (1)*, and

(b) an exercise by the Minister for Finance of the power of consent under that subsection,

shall be in accordance with the policies from time to time formulated by the Minister, the Minister for Health and Children or the Minister for Finance, as the case may be, in relation to the performance of each of his or her functions as a Minister of the Government.

(3) In formulating any such policy, the Minister of the Government concerned shall have regard to, and take due account of, the following principles—

(a) that the provision of resources by the State in fulfilment of its duties under Article 42 of the Constitution (being the resources available to the State and allocated by it in a manner consistent with common good) shall be such as to ensure the equitable treatment of every child in the State,

(b) that the objective of the educational provision made by this Act is to ensure that children with special educational needs have the same right to avail of, and benefit from, appropriate education as do their peers who do not have such needs.

Duty of schools.

14.— (1) The board of management of a school shall—

(a) ensure that *section 2* is complied with as respects that school,

(b) ensure that parents of a student with special educational needs are—

(i) informed of their child's needs and how those needs are being met, and

(ii) consulted with regard to, and invited to participate in, the making of all decisions of a significant nature concerning their child's education.

- (c) co-operate to the greatest extent practicable with the Council and its employees and, in particular, provide to the Council such information as the Council may from time-to-time reasonably request for the performance by it of its functions,
- (d) ensure that all relevant teachers and other relevant employees of the school are aware of the special educational needs of students.
- (e) ensure that teachers and other relevant employees of the school are aware of the importance of identifying children and students who have special educational needs, and
- (f) inculcate in students of the school an awareness of the needs of persons with disabilities.

(2) *Subsection (1)* is in addition to, and not in substitution for, any other enactment imposing duties on boards of management of schools.

(3) Any person (other than a school) who or which provides education to persons with special educational needs, being a person funded in whole or in part from moneys provided by the Oireachtas, shall provide to the Council such information as the Council may from time-to-time reasonably request for the performance by it of its functions.

(4) A request under *subsection (1)(c)* or (3) shall be complied with within such period (not being a period longer than 1 month from the date of the request) as the Council specifies in the request.

Planning for future education needs.

15.— (1) In preparing or reviewing an education plan, the principal of the relevant school or relevant special educational needs organiser shall, from the child's attaining such age as the principal or organiser considers appropriate, have regard to the provision which will need to be made to assist the child to continue his or her education or training on becoming an adult.

(2) In performing the functions under *subsection (1)*, the principal or the special educational needs organiser shall—

- (a) ascertain the wishes of the child concerned and of his or her parents, and
- (b) take such steps as are necessary as will enable the child to progress as a young adult to the level of education or training that meets his or her wishes or those of his or her parents and that are appropriate to his or her ability.

(3) In preparing or carrying out a review of an education plan in respect of the child who has special educational needs and who within the following 12 months will reach the age of 18 years, the Council shall cause an assessment to be made of—

- (a) the extent, if any, to which goals set out in any previous such plan or the plan, as the case may be, successfully met the special educational needs of the child or student, and
- (b) the reasons for any failure to meet those goals and the effect any such failure has had on the development of the child,

and the plan shall include measures to address any such effect.

Implementation of relevant education policy by health boards.

16.—A health board, in the performance of its functions under this Act, shall implement the policies relating to education generally and the education of children with special educational needs and to the provision

of support services which are formulated, from time to time, by the Minister or the Minister for Health and Children.

Liaison officers.

17.—The Council and each health board shall designate one or more of its officers, not below such rank as the Council after consultation with the chief executive officer of the health board shall determine, to perform the following functions, namely to ensure, so far as practicable, that—

- (a) the activities of the Council and those of the health board, in so far as they relate to their respective functions under this Act, are co-ordinated, and
- (b) the policies of the Council and those of the health board, in so far as they relate to their respective functions under this Act, are consistent,

and each officer so designated shall be known as a “liaison officer”.

Delegation of functions of principals, etc.

18.— (1) The principal of a school may delegate the performance of any of the functions conferred on him or her by this Act to such teacher in the school as the principal considers appropriate and a function so delegated shall, accordingly, be performable by the teacher concerned.

(2) The relevant special educational needs organiser shall give all such advice and assistance as is reasonable to the principal and teachers of the school concerned in their performance of functions under this Act.

National Council for Special Education.

19.— (1) There shall stand established on the establishment day a body to be known as an Chomhairle Náisiúnta um Oideachas Speisialta or in the English language the National Council for Special Education, and which in this Act is referred to as the “Council”, to perform the functions conferred on it by or under this Act.

(2) The Council shall be a body corporate with perpetual succession and a seal and power to sue and be sued in its corporate name and, with the consent of the Minister (given with the approval of the Minister for Finance), to acquire, hold and dispose of land or an interest in land and to acquire, hold and dispose of any other property.

(3) *Schedule 1* to this Act shall apply to the Council.

Functions of Council.

20.— (1) The Council shall have the following functions:

- (a) to disseminate to schools, parents and such other persons as the Council considers appropriate information relating to best practice, nationally and internationally, concerning the education of children with special educational needs;
- (b) in consultation with schools, health boards and such other persons as the Council considers appropriate to plan and co-ordinate the provision of education and support services to children with special educational needs;
- (c) in consultation with schools and with such persons as the Council considers appropriate to plan for the integration of education for students with special educational needs with education for students generally;
- (d) to make available to the parents of children with special educational needs information in relation to their entitlements and the entitlements of their children;
- (e) to ensure that the progress of students with special educational needs is monitored and that it is reviewed at regular intervals;

- (f) to assess and review the resources required in relation to educational provision for children with special educational needs;
 - (g) to ensure that a continuum of special educational provision is available as required in relation to each type of disability;
 - (h) to review generally the provision made for adults with disabilities to avail of higher education and adult and continuing education, rehabilitation and training and to publish reports on the results of such reviews (which reviews may include recommendations as to the manner in which such provision could be improved);
 - (i) to advise all educational institutions concerning best practice in respect of the education of adults who have disabilities;
 - (j) to advise the Minister in relation to any matter relating to the education of children and others with disabilities;
 - (k) to consult with such voluntary bodies as the Council considers appropriate, (being bodies whose objects relate to the promotion of the interests of, or the provision of support services to, persons with disabilities) for the purposes of ensuring that their knowledge and expertise can inform the development of policy by the Council and the planning and provision of support services, and
 - (l) to conduct and commission research on matters relevant to the functions of the Council and, as it considers appropriate, to publish in such form and manner as the Council thinks fit the findings arising out of such research.
- (2) The Council shall have the power to do all things necessary for or incidental to the performance of its functions.
- (3) The Council, in the performance of its functions, shall—
- (a) implement the policies relating to education generally and the education of children with special educational needs which are formulated, from time to time, by the Minister (including the policy referred to in section 13), and
 - (b) in giving advice to the Minister—
 - (i) provide an assessment of the implications of that advice for the resources, including financial resources, available to the State in respect of the provision of education, and
 - (ii) have regard to the practical implementation of that advice.
- (4) The Minister may by order—
- (a) confer on the Council such additional functions relating to the provision by the Council of support services to children with special educational needs as he or she considers appropriate,
 - (b) make such provision as he or she considers necessary or expedient in relation to matters ancillary to or arising out of the conferral on the Council of functions under this subsection or the performance by the Council of functions so conferred.

Membership of Council.

21.— (1) The Council shall consist of a chairperson and 12 ordinary members.

(2) The chairperson and ordinary members of the Council shall be appointed by the Minister from among persons who have a special interest in or knowledge relating to the education of children with special educational needs.

(3) Before making appointments to the Council under this section, the Minister shall consult with—

- (a) national associations of parents,
- (b) recognised trade unions and staff associations representing teachers and principals of schools, and
- (c) recognised school management organisations,

with a view, where the Minister considers it appropriate to do so, to appointing as members of the Council persons nominated for such appointment by those associations, trade unions and organisations, but the number of nominees of those associations, trade unions and organisations (taken as a whole) that may be so appointed shall not exceed 4.

(4) The Minister shall appoint to the Council—

- (a) 2 members from among persons nominated for such appointment by the National Disability Authority (and equal numbers of men and women shall be nominated by that Authority for that purpose),
- (b) 1 member from among persons nominated for such appointment by the Minister for Health and Children (and equal numbers of men and women shall be nominated by that Minister of the Government for that purpose).

(5) The Minister shall ensure that at least 6 of the members of the Council are women and at least 6 of them are men.

(6) The Minister shall have regard to the desirability of there being amongst those appointed under this section as members of the Council persons who themselves have special educational needs, their parents and representatives.

(7) The members of the Council (including the chairperson and deputy chairperson) may be paid such allowances for expenses as the Minister, with the consent of the Minister for Finance, may determine.

Consultative forum.

22.—(1) There shall be, for the purpose mentioned in *subsection (2)*, a consultative forum, that is to say, a group of persons who shall be appointed in accordance with *subsections (3) and (5)* and who, as a collective body, are referred to subsequently in this section and in *section 23* as the “consultative forum”.

(2) The purpose referred to in *subsection (1)* is the purpose of the Council's consulting the consultative forum with respect to the performance by the Council of one or more functions, or elements of one or more functions, determined by the Council, from time to time, to be functions or elements of functions appropriate for such consultation to take place in relation to them.

(3) Such number of persons (not exceeding 17) as the Council considers appropriate shall be appointed by the Council to be members of the consultative forum and the Council shall ensure, as far as practicable, that at least 7 of the members so appointed are women and at least 7 of them are men.

(4) Before appointing persons to be members of the consultative forum the Council shall consult with—

- (a) the Minister,
- (b) national associations of parents,
- (c) voluntary bodies whose objects relate to the promotion of the interests of, or the provision of support services to, persons with disabilities,
- (d) recognised school management organisations,
- (e) recognised trade unions and staff associations representing teachers and principals of schools,
- (f) the National Disability Authority,
- (g) the Psychological Society of Ireland, and
- (h) such other persons having a special interest in or knowledge relating to the education of children with disabilities as the Council considers appropriate.

(5) Such number of persons (not exceeding 3) as the Minister considers appropriate shall be appointed by the Minister to be members of the consultative forum and, as far as practicable, at least one of the members so appointed shall be a woman and at least one of them shall be a man.

(6) The Council and the Minister shall have regard to the desirability of there being amongst those appointed under this section as members of the consultative forum persons who themselves have special educational needs, their parents and representatives.

(7) The term of office of each member of the consultative forum shall be determined by the Council with the consent of the Minister.

(8) The members of the consultative forum may be paid such allowances (if any) for expenses incurred by them in the discharge of their functions as may be determined by the Minister with the consent of the Minister for Finance.

Implementation report.

23.— (1) The Council, after consultation with the consultative forum and the Minister shall, within 12 months from the establishment day, make a report (in this section referred to as the “implementation report”) to the Minister outlining the steps that must be taken in order that the provisions of this Act will be fully implemented within the period specified in the report.

(2) The period so specified shall not be more than 5 years from the establishment day.

(3) The implementation report shall—

- (a) specify a date for the commencement of each of the provisions of this Act (other than *sections 19 to 21*),
- (b) provide an estimate of the resources that will be necessary for the taking of each step in the implementation of this Act, and
- (c) contain a review of any other relevant enactments or instruments under enactments that affect, or may affect, the performance of the Council's functions under this Act and make such recommendations to the Minister as the Council considers appropriate in relation to the amendment, repeal or revocation, as appropriate of those enactments or instruments.

(4) In preparing the implementation report, the Council shall also consider how the educational needs of children with special educational needs can, to the greatest extent practicable, be met pending the full implementation of this Act; the Council shall include in the report recommendations in that regard.

Chief Executive Officer. **24.—** (1) There shall be a chief executive of the Council who shall be appointed by the Council (and such officer shall be known, and is in this Act referred to, as “the Chief Executive Officer”).

(2) The Chief Executive Officer shall be appointed in a wholetime capacity and for a term of 7 years.

(3) The Chief Executive Officer shall be appointed in accordance with procedures determined by the Council with the consent of the Minister.

(4) The Chief Executive Officer shall manage and control generally the staff, administration and business of the Council, and shall perform such other functions as may be conferred on him or her by the Council.

(5) *Schedule 2* to this Act shall apply to the Chief Executive Officer.

Employees. **25.—** (1) Subject to the consent of the Minister and the Minister for Finance, the Council may, from time to time, appoint such and so many persons to be employees of the Council as the Council may determine.

(2) Subject to such conditions as it thinks fit, the Council may delegate to the Chief Executive Officer any of the functions of the Council in relation to the appointment of employees and the determination of selection procedures.

(3) Except as otherwise provided by this Act, the Chief Executive Officer and each other employee of the Council shall be employed on such terms and conditions as the Council, with the consent of the Minister and the Minister for Finance, may from time to time determine.

(4) Except as otherwise provided by this Act, the Council shall pay to its employees (including the Chief Executive Officer) such remuneration, fees and allowances for expenses as the Council, with the consent of the Minister and the Minister for Finance, may from time to time determine.

(5) The Civil Service Commissioners Act 1956 and the Civil Service Regulation Acts 1956 to 1996 shall apply to the Chief Executive Officer and to employees of the Council.

Special educational needs organisers. **26.—** (1) The Council may appoint such and so many persons as it determines to perform the functions expressed by this Act to be performable by special educational needs organisers and each person who is so appointed shall be known, and in this Act is referred to, as a “special educational needs organiser”.

(2) A special educational needs organiser shall carry out his or her duties under this Act under the direction and control of the Council.

(3) A special educational needs organiser shall have such qualifications, expertise and experience relevant to the education of children with special educational needs as the Council considers appropriate.

(4) A special educational needs organiser shall, in addition to the functions conferred on him or her under this Act, perform such additional functions as may be assigned to him or her by the Council.

(5) A special educational needs organiser shall perform his or her functions in respect of particular areas in the State or particular categories

of school in the State as the Council may from time to time designate as being that organiser's responsibility.

(6) The board of management, principal, teachers and other members of staff of a school shall give all such assistance as may reasonably be required by the special educational needs organiser in the performance by him or her of his or her functions.

Curriculum.

27.—The National Council for Curriculum and Assessment shall consult with the Council prior to advising the Minister under section 41 (2)(f) of the Education Act 1998 .

Removal of Council from office.

28.—(1) Where the Minister is of the opinion that the Council has failed, neglected or refused to perform a function assigned to it under this Act or has failed to effectively perform any such function or otherwise has contravened this Act, the Minister may, after first advising the Council of his or her opinion and considering any explanation given in response, appoint a person to inquire into any matter giving rise to that opinion.

(2) A person appointed under *subsection (1)* shall—

- (a) inquire into the matters giving rise to the Minister's opinion and any related matter and report to the Minister on the findings of the inquiry,
- (b) for the purposes of this section, be entitled at all reasonable times to enter the premises of the Council to inquire into the affairs of the Council or to conduct an inspection of the premises, equipment and records where the inspection is, in his or her opinion, relevant to the inquiry,
- (c) be afforded all reasonable co-operation and assistance by the Council and its employees, including access to such premises, equipment and records as the person may require, to enable the person to perform his or her functions under this section.

(3) Where the Minister, after considering the report referred to in *subsection (2)(a)*, remains of the opinion that the Council has failed, neglected or refused to perform a function assigned to it under this Act or has failed to effectively perform any such function or otherwise has contravened this Act, the Minister shall, by notice in writing, inform the Chief Executive Officer and the chairperson of the Council, and shall give a copy of the report to the Chief Executive Officer and the chairperson.

(4) The Council may make representations to the Minister in respect of the report within 14 days after the date of receipt of the report.

(5) After the end of the period referred to in *subsection (4)* and after considering the representations, if any, of the Council in respect of the report, the Minister may by order remove the members of the Council and terminate their membership if—

- (a) the Minister remains of the opinion that the Council has failed, neglected or refused to perform a function assigned to it under this Act or has failed to effectively perform any such function or otherwise has contravened this Act, and
- (b) the Minister is of the opinion that the Council should be removed.

(6) Where an order is made under *subsection (5)*, the Minister shall appoint such person or body of persons as he or she thinks fit to perform the functions of the Council and that person or body shall perform those

functions until the commencement of the first meeting of the Council after the appointment of its members under *subsection (8)*.

(7) Where an order is proposed to be made under *subsection (5)*, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

(8) The Minister shall, within 12 months of the removal of the members of the Council, appoint, in replacement of those members, members of the Council in accordance with *section 21*.

(9) The remuneration, if any, of a person appointed under *subsection (1)* or of a person or member of a body appointed under *subsection (6)* shall be determined by the Minister with the consent of the Minister for Finance and be paid out of moneys provided by the Oireachtas.

Accounts and audits.

29.— (1) The Council shall keep, in such form as may be approved of by the Minister, all proper and usual accounts and records of all moneys received or expended by it.

(2) Accounts kept in accordance with *subsection (1)* shall, to the extent directed by the Comptroller and Auditor General, be submitted by the Council for audit to the Comptroller and Auditor General, at such intervals and by such date as the Comptroller and Auditor General may from time to time determine and, immediately after the audit, a copy of the accounts, together with a copy of the report of the Comptroller and Auditor General on the accounts, shall be submitted by the Council to the Minister.

(3) The Council shall cause copies of the accounts submitted under this section to the Minister, together with copies of the report of the Comptroller and Auditor General on those accounts, to be laid before each House of the Oireachtas.

Accountability of Chief Executive Officer to Committee of Public Accounts.

30.— (1) The Chief Executive Officer shall, whenever required to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, give evidence to that Committee on—

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General which the Council is required by this Act to prepare,
- (b) the economy and efficiency of the Council in the use of its resources,
- (c) the systems, procedures and practices employed by the Council for the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting the Council referred to in a special report of the Comptroller and Auditor General under *section 11 (2)* of the *Comptroller and Auditor General (Amendment) Act 1993* or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *paragraph (a)*, (b) or (c)) that is laid before Dáil Éireann.

(2) In the performance of his or her duties under this section, the Chief Executive Officer shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

Accountability of Chief Executive Officer to other Oireachtas Committees.

31.—(1) The Chief Executive Officer shall, whenever required to do so by a Committee (or a subcommittee of such a committee) appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann) to examine matters relating to the Department of Education and Science, or to disabilities, give evidence to that Committee on the performance, by him or her, or by the employees of the Council, of his or her or their duties in relation to the Council's functions under this Act.

(2) In the performance of his or her duties under this section, the Chief Executive Officer shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

Gifts.

32.— (1) The Council may accept gifts of money, land or other property upon such trusts and conditions, if any, as may be specified by the donor.

(2) The Council shall not accept a gift if the trusts or conditions attached to it would be inconsistent with its functions.

(3) The Council shall include in each report published by it under section 34 details of all gifts accepted by it during the period to which the report relates.

Committees.

33.— (1) The Council may establish committees to assist and advise it in relation to the performance of any of its functions.

(2) The Council may delegate to a committee any of its functions which, in its opinion, can be better or more conveniently performed by a committee.

(3) A committee established under this section may include or consist of persons who are not members of the Council but who have particular expertise in relation to the field of special educational needs.

(4) Members of a committee—

(a) shall be appointed subject to such terms and conditions, and

(b) may be paid by the Council such allowances (if any) for expenses incurred by them in the discharge of their functions,

as the Council may determine, subject to the consent of the Minister.

(5) The Council may, subject to this Act, determine the terms of reference and regulate, by standing orders or otherwise, the procedures and business of a committee including the filling of casual vacancies, but, subject to any such regulation, a committee may regulate its own procedures.

(6) A committee shall appoint, from time to time, a chairperson from among its members.

(7) The Chief Executive Officer may—

(a) opt to be a member of a committee, or

(b) in lieu of his or her opting to be such a member, may nominate, with that other's consent, another to be such a member,

and where the Chief Executive Officer so opts or nominates another, the Chief Executive Officer or the other person, as the case may be, shall be deemed to stand appointed as a member of the committee but shall not

be entitled to cast a vote in respect of any matter falling to be decided by the committee.

(8) A member of a committee may be removed by the Council at any time for stated reasons.

(9) The Council may at any time dissolve a committee established by it.

(10) The Council shall have regard to the desirability of such gender balance in the membership of a committee under this section as the Minister considers appropriate and determines, from time to time, when making appointments to a committee.

(11) A committee shall provide the Council with such information as the Council may from time to time require, in respect of the committee's activities and operation, for the purposes of the performance by the Council of its functions.

Annual report and information.

34.— (1) Subject to *subsection (2)*, the Council shall prepare and publish, in such form and manner as it considers appropriate, a report of its activities and proceedings under this Act.

(2) A report under *subsection (1)* shall be prepared—

(a) in the case of the first such report, at the end of 1 year after the establishment day, and relate to the Council's activities and proceedings under this Act during that year, and

(b) thereafter, at the end of 1 year following the preparation of the preceding report, and relate to the Council's activities and proceedings under this Act during the preceding 12 months.

(3) The Council shall provide the Minister with a copy of the report under *subsection (1)* and the Minister shall cause the report to be laid before each House of the Oireachtas.

(4) The Council shall provide the Minister with such information as the Minister may from time to time require.

Establishment day.

35.—The Minister shall within one year from the passing of this Act by order or orders appoint a day to be the establishment day for the purposes of *sections 19* and *36* and the day that is so appointed for the purposes of one of those sections may be different to that which is so appointed for the other of them.

Special Education Appeals Board.

36.— (1) On the establishment day there shall stand established the Special Education Appeals Board (in this Act referred to as the "Appeals Board") to hear and determine appeals made pursuant to this Act.

(2) The Appeals Board may sit in divisions of itself to hear appeals.

(3) In hearing and determining an appeal under this Act, the Appeals Board shall act in accordance with such procedures as may be determined from time to time by it, with the consent of the Minister, and such procedures shall ensure that—

(a) the parties to the appeal are assisted, through mediation, to reach agreement on the matters the subject of the appeal where the Appeals Board is of the opinion that reaching such agreement is practicable in the circumstances,

(b) hearings are conducted with the minimum of formality consistent with giving each of the parties a fair hearing,

(c) the Appeals Board performs its functions in accordance with the policies referred to in *section 13 (2)*.

(4) The Appeals Board shall be independent in the performance of its functions.

(5) The Appeals Board shall consist of a chairperson and such number of ordinary members as may be determined, by the Minister.

(6) The chairperson and ordinary members of the Appeals Board shall be appointed by the Minister from among persons who have a special interest in or knowledge of education and in particular the education of persons with special educational needs.

(7) The term of office of the chairperson and the ordinary members of the Appeals Board shall be for such period as shall be determined by the Minister.

(8) The chairperson or an ordinary member of the Appeals Board may resign by letter addressed to the Minister.

(9) The chairperson or an ordinary member of the Appeals Board may be removed from office by the Minister.

(10) The chairperson and ordinary members of the Appeals Board shall be paid such allowances for expenses as the Minister, with the consent of the Minister for Finance, may determine.

(11) The Appeals Board may, with the consent of the Minister given with the concurrence of the Minister for Finance, appoint such and so many persons to be employees of the Appeals Board as the Board considers necessary to assist the Board in the performance of its functions and each person so appointed shall hold office on such terms and receive such remuneration as the Appeals Board with the consent of the Minister for Finance determines.

Report of Appeals Board. **37.—** (1) The Appeals Board shall submit a report of its activities and particulars of its accounts to the Minister at such intervals (not being less than once a year) and in such manner and format, as the Minister directs.

(2) The Minister shall cause copies of a report under *subsection (1)* to be laid before each House of the Oireachtas.

Provision for mediation in certain cases. **38.—** (1) This section applies to cases in which a person with special educational needs or, if the person with such needs is a minor, a parent of the person—

(a) makes a complaint to the Minister that the special educational needs of the person are not being met, or

(b) proposes to bring, or has brought, proceedings in any court seeking redress in respect of an alleged failure by the Minister or the State to meet those needs of the person (whether the failure to be alleged or alleged in the proceedings is expressed as amounting to a breach of Article 42 of the Constitution, a failure to comply with this Act or howsoever otherwise).

(2) The Minister may make regulations (“the regulations”) as respects cases to which this section applies enabling—

(a) a complaint mentioned in *subsection (1)(a)*, or

(b) an alleged failure by the Minister or the State mentioned in *subsection (1)(b)*,

to be the subject of mediation.

(3) The reference in *subsection (2)* to a matter being the subject of mediation is a reference to the matter being referred, in accordance with procedures specified in the regulations, to an individual or body appointed in accordance with the regulations (“the mediator”) for the purpose of mediation being conducted by the mediator in relation to it, that is to say, mediation conducted with a view to resolving the issue or issues the subject of the complaint or the proceedings or the proposed proceedings concerned.

(4) The regulations shall provide that, for the purpose of resolving that issue or those issues, the mediator shall—

- (a) inquire fully into each relevant aspect of the issue or issues,
- (b) provide to, and receive from, the parties to the mediation such information and generally make such suggestions to each of them as the mediator considers appropriate, and
- (c) on completion of any hearing (or the last of them where there is more than one hearing) conducted for that purpose, prepare and furnish to each of the parties a report in relation to the mediation,

and the regulations shall also contain the provisions referred to in *subsection (5)*.

(5) Those provisions are—

- (a) a provision prohibiting, subject to such exceptions as may be specified in the regulations, the disclosure of any statements made or information given by the parties to the mediation for the purpose of the mediation,
- (b) a provision prohibiting, subject to such exceptions as may be specified in the regulations, the disclosure of the report referred to in *subsection (4)(c)* to persons other than the parties to the mediation,
- (c) provisions specifying procedures with respect to the appointment of the mediator, and those provisions shall enable only—
 - (i) a body which is independent of the persons who will be parties to the mediation to make such an appointment (and such provision shall be in addition to any provision made by the regulations under *subsection (6)*),
 - (ii) an individual or body who or which is independent of those persons to be the subject of such an appointment,
- (d) a provision specifying that mediation shall not be conducted pending the hearing and determination of an appeal under this Act that lies in respect of the matter concerned, and
- (e) such provisions consequential on, or incidental to, the foregoing provisions or the provisions of *subsection (3)* or *(4)* as the Minister may consider necessary or expedient.

(6) The regulations may also provide that only a body falling within a class of bodies standing recognised for the time being by the Minister for the purposes of the provision referred to in *subsection (5)(c)(i)*, may, subject to that provision, make an appointment of the kind referred to in that provision.

(7) A court hearing proceedings such as are referred to in *subsection (1)(b)*, may, in making any decision as to the costs of those proceedings, have regard to, if such be the case—

- (a) that the person bringing those proceedings refused to participate in a mediation provided for by the regulations in relation to the issue or issues the subject of those proceedings, or
- (b) that that person did not participate in good faith in such a mediation, and, for the purpose of determining whether that person did not so participate in good faith, the court may have regard to the report referred to in *subsection (4)(c)* prepared in relation to the mediation.

(8) In this section “body” means a body corporate or an unincorporated body of persons.

Duty of health boards.

39.— (1) Where it appears to the Council that a health board could, by taking specified action, assist in the preparation or implementation of an education plan in respect of a particular child or assist more generally in the performance of the Council of its functions, then it may, by notice in writing, request the assistance of that board, specifying the action in question.

(2) Before making a request under *subsection (1)*, the Council shall consult with the board concerned.

(3) A board of which a request under *subsection (1)* is made shall comply with the request unless it considers that—

- (a) the assistance concerned is not required,
- (b) compliance with the request would not be compatible with its functions or duties or would unduly prejudice the performance of any of its functions, or
- (c) having regard to the resources available to the board it is not possible for it to comply with the request.

(4) Where a board decides not to comply with a request it shall give notice in writing to the Council of that decision and the reasons therefor.

(5) The Council may appeal against a decision of the board referred to in *subsection (4)* to the Appeals Board.

(6) On the hearing of an appeal under *subsection (5)*, the Appeals Board may—

- (a) allow the appeal and direct the board concerned to comply with the request, the subject of the appeal, or
- (b) dismiss the appeal.

(7) A health board shall comply with a direction given to it under *subsection (6)(a)*.

Amendment of section 7 of Act of 1998.

40.— Section 7 of the Education Act 1998 is amended by inserting the following subsections after subsection (4):

“(5) In carrying out his or her functions in respect of the provision, planning and co-ordination of support services, the Minister may, following consultation with the Minister for Health and Children, request the assistance of a relevant health board.

(6) A health board of which a request under subsection (5) is made shall comply with the request.”.

- Maintenance of records. **41.**— (1) The Council shall keep and maintain records for the purpose of—
- (a) identifying persons to whom special educational and support services are being provided,
 - (b) identifying schools and other places where such services are provided to persons with special educational needs, and
 - (c) planning the provision of special educational and support services.
- (2) In performing its functions under *subsection (1)* the Council shall, to the greatest extent practicable, co-ordinate its system of record-keeping with the systems of record-keeping maintained by health boards and any other relevant public bodies.
- Regulations. **42.**— (1) The Minister may make regulations prescribing any matter which is referred to in this Act as prescribed or to be prescribed or in relation to any matter referred to in this Act as the subject of regulations or for the purposes of enabling any provision of this Act to have full effect.
- (2) Every regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.
- Grants to Council and Appeals Board. **43.**—The Minister may, in each financial year of the Council and of the Appeals Board, pay to the Council and the Appeals Board, out of moneys provided by the Oireachtas, a grant of such amount as he or she, with the consent of the Minister for Finance, determines towards the expenses of the Council or the Appeals Board, as the case may be, in the performance of its functions.
- Service of notices. **44.**— (1) A notice under this Act shall, subject to *subsection (2)*, be addressed to the person concerned by name, and may be served on or given to the person in one of the following ways:
- (a) by delivering it to the person;
 - (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
 - (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address.
- (2) Where a notice under this Act is to be served on or given to a person who is the owner or occupier of land and the name of the person cannot be ascertained by reasonable inquiry, it may be addressed to the person by using the words the owner or, as the case may require, the occupier.
- (3) For the purposes of this section, a company within the meaning of the Companies Acts 1963 to 2001, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

Dissolution of body established under section 54 of Act of 1998.

45.— (1) The National Council for Special Education (referred to in subsequent sections of this Act as the “former Council”) established by order under section 54 of the Act of 1998 is dissolved.

(2) References to the National Council for Special Education in an enactment (other than this Act) or in an instrument made thereunder or in the memorandum of association or articles of association of any company (within the meaning of the Companies Acts 1963 to 2001) or any other legal document, shall be construed, on and after the commencement of this section, as references to the Council.

Legal proceedings pending against former Council.

46.—Where, immediately before the commencement of this section, any legal proceedings are pending in any court or tribunal to which the former Council is a party, the name of the Council shall be substituted in the proceedings for that of the former Council or, as the case may be, such trustee or agent thereof, or added in those proceedings as may be appropriate, and those proceedings shall not abate by reason of the substitution.

Transfer of property rights and liabilities of former Council.

47.— (1) The following shall be and are, by virtue of this section, transferred to the Council—

- (a) all property and rights relating to such property held or enjoyed immediately before the commencement of this section by the former Council or any trustee or agent thereof acting on its behalf,
- (b) all liabilities incurred before such commencement by the former Council or any trustee or agent thereof acting on its behalf that had not been discharged before such commencement,

and, accordingly, without any further conveyance, transfer or assignment—

- (i) the said property, real and personal, shall, on such commencement, vest in the Council for all the estate, term or interest for which, immediately before such commencement, it was vested in the former Council but subject to all trusts and equities affecting the property and capable of being performed,
- (ii) those rights shall, as and from such commencement, be enjoyed by the Council, and
- (iii) those liabilities shall, as and from such commencement, be liabilities of the Council.

(2) All moneys, stocks, shares and securities transferred to the Council by this section which, on the commencement of this section, are standing in the name of the former Council or any trustee or agent thereof shall, upon the request of the Council, be transferred into its name.

(3) Every right and liability transferred to the Council by this section may, on or after the commencement of this section, be sued on, recovered or enforced by or against the Council in its own name and it shall not be necessary for the Council to give notice to the person whose right or liability is transferred by this section of the transfer.

Bonds, guarantees, contracts, etc., of former Council.

48.—Every bond, guarantee or other security of a continuing nature made or given by or on behalf of the former Council to any person or given by any person to and accepted by or on behalf of the former Council and every contract or agreement made between the former Council or any trustee or agent thereof acting on its behalf, and any other person and in force but not fully executed and completed immediately before the

commencement of this section shall continue in force on and after such commencement and shall be construed and have effect as if the name of the Council was substituted therein for that of the former Council or, as appropriate, any trustee or agent thereof acting on its behalf, and shall be enforceable by or against the Council.

Transfer of staff of former Council. **49.**—Every person who, immediately before the commencement of this section, is an employee of the former Council shall, on such commencement, become and be an employee of the Council and the rights and entitlements in respect of tenure, remuneration, fees, allowances, expenses and superannuation enjoyed on the commencement of this section by that person shall not, by virtue of the operation of this Act, be any less beneficial than those rights and entitlements enjoyed by that person immediately before such commencement.

Plans, reports, etc., under Act privileged. **50.**—Every plan, report and assessment prepared or made under this Act shall, for the purposes of the law of defamation, enjoy qualified privilege.

Expenses. **51.**—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Amendment of Act of 1998. **52.**—Section 2(1) of the Act of 1998 is amended by substituting the following definition for the definition of “disability”:

“ ‘disability’ means, in relation to a person, a restriction in the capacity of the person to participate in and benefit from education on account of an enduring physical, sensory, mental health or learning disability, or any other condition which results in a person learning differently from a person without that condition and cognate words shall be construed accordingly;”.

Short title and commencement. **53.**— (1) This Act may be cited as the Education for Persons with Special Educational Needs Act 2004.

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

SCHEDULE 1

Membership and Meetings of Council

Section 19.

1. In this Schedule, unless the context otherwise requires, “member” means a member of the Council, including the chairperson.

2. (1) Upon its establishment the Council shall provide itself with and retain in its possession a seal.

(2) The seal of the Council shall be authenticated by the signature of—

(a) the chairperson of the Council or other member of the Council authorised by the Council to act in that behalf, and

(b) an employee of the Council authorised by the Council to act in that behalf.

(3) Judicial notice shall be taken of the seal of the Council and every document purporting to be an instrument made by the Council and to be sealed with the seal of the Council (purporting to be authenticated in

accordance with *subparagraph (2)*) shall be received in evidence and be deemed to be such instrument without further proof unless the contrary is shown.

3. (1) The Minister may at any time, for stated reasons, remove from office a member of the Council.

(2) The Council may at any time, with the consent of the Minister, for stated reasons, remove a member from office, other than the chairperson.

(3) A member (other than the chairperson) may at any time resign from office as a member by notice in writing to the chairperson and the resignation shall take effect on the date of the meeting of the Council next held after receipt by the Council of the notice.

(4) The chairperson may at any time resign from office as a member by notice in writing to the Chief Executive Officer and the resignation shall take effect on the date of the meeting of the Council next held after receipt by the Chief Executive Officer of the notice.

(5) A member who is absent from all meetings of the Council for 6 consecutive months, unless the absence was due to illness or was approved of by the Council, shall cease to be a member at the expiration of that period.

(6) The Minister, when appointing a member, shall specify the term of office of the member which shall not exceed 4 years.

(7) A member shall not serve more than 2 terms of office that are consecutive terms of office.

(8) Where a casual vacancy occurs among the members the Council shall notify the Minister who shall appoint a person to fill such a casual vacancy and a person so appointed shall, subject to this Schedule, hold office for the remainder of the term of office of the member whose death, resignation, removal from office or ceasing for any other reason to hold office occasioned the casual vacancy.

4. (1) The Council shall, from time to time, elect from among its members a deputy chairperson.

(2) The deputy chairperson shall hold office for such term as may be specified by the Council at the time of his or her appointment, unless—

(a) he or she resigns the office of deputy chairperson, or

(b) the Council by a resolution, of which not less than 7 days notice of the intention to propose is given to each member and for which not less than two thirds of the members vote, removes the deputy chairperson.

(3) The deputy chairperson may at any time resign from office by notice in writing to the Council and the resignation shall take effect on the date of the meeting of the Council next held after the receipt by the Council of the notice.

(4) Where, at an election of the deputy chairperson, 2 or more persons receive an equal number of votes, it shall be determined by lot which of those persons shall be deputy chairperson.

5. (1) The Minister shall fix the date, time and place of the first meeting of the Council.

(2) The Council shall hold at least 6 meetings in each year and such and so many other meetings and at such times as the chairperson may determine.

(3) The quorum for a meeting of the Council shall be 4.

(4) At least 3 days before a meeting of the Council notice of the time and place of the meeting shall be sent to each member of the Council signed—

(a) by the Chief Executive Officer or chairperson, or

(b) if the meeting is convened by members, by those members.

(5) If the meeting is convened by members, the notice convening the meeting shall specify the business to be transacted at that meeting.

(6) At a meeting of the Council—

(a) the chairperson shall if present, be the chairperson of the meeting, or

(b) if and so long as the chairperson is not present, or if the office of chairperson is vacant, the deputy chairperson shall, if present, be the chairperson of the meeting, or

(c) if and so long as the chairperson is not present or the office of chairperson is vacant, and the deputy chairperson is not present or the office of deputy chairperson is vacant, the members who are present shall choose one of their number to preside at that meeting.

6. (1) Minutes of the proceedings of all meetings of the Council shall be drawn up and entered in a book kept for that purpose and such minutes shall be signed by the chairperson of the next subsequent meeting.

(2) The names of all members present at a meeting of the Council shall be recorded in the minutes of the proceedings of the meeting.

(3) At a meeting of the Council every act of the Council and every question coming before the Council shall be determined by a majority of the votes of members (including the chairperson) present and voting in relation to the act or question and, in the case of an equal division of votes on any act or question arising at a meeting of the Council (other than the election of the chairperson or deputy chairperson), the chairperson or other person presiding at that meeting shall have a second or casting vote.

7. Subject to *paragraph 5(3)*, the Council may act notwithstanding one or more than one vacancy among its members or any deficiency in the appointment of a member which may subsequently be discovered.

8. Save as is otherwise provided by any enactment, including this Act, the Council may make, from time to time, such standing orders as it thinks fit for the regulation of its proceedings and may amend or revoke such standing orders.

SCHEDULE 2

The Chief Executive Officer

Section 24.

1. The Chief Executive Officer shall perform his or her functions subject to such policies as may be determined from time to time by the Council and shall be answerable to the Council for the efficient and effective

management of the Council and for the due performance of his or her functions.

2. (1) The Chief Executive Officer may delegate any of his or her functions to an employee of the Council, unless they are functions delegated to the Chief Executive Officer by the Council and they have been so delegated subject to the condition that they shall not be sub-delegated, and the employee concerned shall be accountable to the Chief Executive Officer for the performance of the functions so delegated.

(2) Notwithstanding any such delegation, the Chief Executive Officer shall at all times remain accountable to the Council for the performance of the functions so delegated.

3. The Chief Executive Officer shall not hold any other office or position without the consent of the Council.

4. The Chief Executive Officer shall hold office subject to such terms and conditions (including terms and conditions relating to remuneration, fees and allowances for expenses) as the Council, with the consent of the Minister and the Minister for Finance, may from time to time determine.

5. The Chief Executive Officer shall not be a member of the Council, but he or she may, in accordance with procedures established by the Council, attend meetings of the Council and shall be entitled to speak to and advise such meetings.

APPENDIX 2: Indicative list of legislation governing the operation the NCSE

Establishment Legislation

Education for Persons with Special Educational Needs Act, 2004 (EPSEN)

Other Legislations with a bearing on EPSEN

Education Acts, 1998 to 2012

Education (Welfare) Act, 2000

Equal Status Acts, 2000 to 2012

Disability Act, 2005

Education (Admission to Schools) Act, 2018

Conditions of Employment

Terms of Employment (Information) Act, 1994

National Minimum Wage Act, 2000

Payment of Wages Acts, 1991 to 2022

Minimum Notice and Terms of Employment Act, 1973

Organisation of Working Time Act, 1997

Parental Leave Acts, 1998 and 2019

Protection of Employees (Part-Time Work) Act, 2001

Protection of Employees (Fixed-Time Work) Act, 2003

Dismissal / Redundancy

Unfair Dismissal Acts, 1977 to 1993

Redundancy Payments Acts, 1967 to 2022

Protection of Employment Act, 1977

Protection of Employment (Employers' Insolvency) Act, 1984

Other Legislation

Employment Equality Act 1998

Maternity Protection Acts, 1994 and 2004

Official Languages Acts, 2003 and 2021

Data Protection Act, 2018

Ethics in Public Office Acts, 1995 and 2001

Freedom of Information Act 2014

Ombudsman Acts, 1980 to 2012

Protected Disclosures Acts, 2014 and 2022

Regulation of Lobbying Act 2015

Health and Safety

Safety, Health and Welfare at Work Act, 2005

Industrial Relations

Industrial Relations Acts, 1946 to 2019

Employment in the Civil Service

Civil Service Regulations Acts, 1956 to 2005

Finance Legislation

Comptroller and Auditor General (Amendment) Acts, 1923 to 1993

Late Payments in Commercial Transactions Regulations 2012 (Prompt Payments)

Finance Acts, 2001 to 2021

Pensions Legislation

Public Service Superannuation (Miscellaneous Provisions) Act 2004 and 2018

Family Law Acts, 1995 to 2019

Pensions Acts, 1990 and 2002

Financial Emergency Measures in the Public Interest Acts, 2009 to 2013

● **APPENDIX 2a: Summary of Government and Legislative**

Requirements

It is essential to the good governance of the NCSE that the organisation as a whole – Council, Executive and staff – act in compliance with the various legislative and ethical obligations it faces. The Education for Persons with Special Educational Needs Act, 2004 provides a fundamental legislative base for the NCSE. This appendix also deals with the ethical and legal responsibilities emanating from employment legislation, the Freedom of Information Act, the Data Protection Act, the Official Languages Act, Safety, Health and Welfare Acts, the Code and the Ethics in Public Bodies Acts.

In addition to these government and legislative requirements, there is an accepted framework of public service values which underpin the work of the NCSE. These are inherent in the work and culture of public service bodies and include the following: commitment, respect, loyalty, selflessness, and objectivity; in other words the highest standards of personal and professional integrity.

Where relevant, Notes for Council members are included with the description of the legislative piece or government code. The material is presented under the following headings:

- 1 Education for Persons with Special Educational Needs Act, 2004
- 2 The Council as an Employer
- 3 Freedom of Information Act, 2014
- 4 Data Protection Act, 2018
- 5 Official Languages Acts, 2003 and 2021
- 6 Safety, Health and Welfare Act, 2005 (as amended)
- 7 Ombudsman Acts 1980 to 2012
- 8 The Protected Disclosures Acts, 2014 and 2022
- 9 Regulation of Lobbying Act 2015
- 10 Code of Practice for the Governance of State Bodies (2016) - Code of Conduct & Ethics
- 11 Disability Act, 2005

1 *Education for Persons with Special Educational Needs Act, 2004*

- The Act is the primary source of legislation for determining NCSE's responsibilities. The functions of the Council are set out in Section 20 of the Act.
- In essence, these paragraphs outline the mission of the Council and so provide a focus for Council activities. The responsibility for carrying out these functions is collective – for management and the Council. No hierarchy of importance is established by the legislation and, therefore, it is a matter for the Council to prioritise and make progress on all of the areas outlined in accordance with its

strategic plan. The collective and collegiate responsibility as well as confidentiality considerations have been referred to earlier in the guide and the Council must always act to safeguard this collective responsibility.

- The Minister for Education/Minister for Special Education & Inclusion has the power to expand the Council's brief. Section 20(3) of the Act provides that the NCSE shall implement policies formulated from time to time by the Minister for Education/Minister for Special Education & Inclusion and give advice on resourcing and implementation issues.
- Furthermore, Section 20(4) allows the Minister for Education/Minister for Special Education & Inclusion to expand the functions of the NCSE by order. This facility means that the Minister for Education/Minister for Special Education & Inclusion does not have to change the Act if a change in functions is required.
- Section 19 and Schedule 1 of the Act make provision for the establishment of the Council including its membership and meetings including the making of standing orders Section 24 and Schedule 2 make provision in regard to the office of NCSE Chief Executive. It is important that the Council regularly review that it is acting in accordance with Schedule 1 and that the Chief Executive is performing her/his functions in accordance with Schedule 2.
- Section 22 of the Act provides for the Council to appoint a consultative forum.
- Section 26 of the Act provides for the appointment of Special Educational Needs Organisers, who discharge functions under the Act and as assigned by NCSE and act under the direction and control of the Chief Executive as staff of the Council.

2

The Council as an Employer

- The Council is the employer of those who work for the NCSE.
- The Council should ensure that the NCSE has in place a statement of terms and conditions of employment and clear policies on human resource management issues such as promotion, disciplinary and grievance procedures, and staff development. This will allow the NCSE to:
 - comply with employment law
 - avoid discrimination of any kind against employees or potential

The staff employed by NCSE are employed as civil servants. Therefore, their terms of employment are governed by the Civil Service Regulations Act, 1956-2005 and by the provisions of An Cód Pearsanra, the Personnel Code for the civil service, which assembles all relevant Department of Finance circulars and letters to personnel officers on personnel matters.

3 The Freedom of Information Act 2014

The Freedom of Information Act 2014, provides the following statutory rights:

- A legal right for each person to access their information held by public bodies.
- A legal right for each person to have official information relating to him/herself amended where it is incomplete, incorrect or misleading.
- A legal right for each person to obtain reasons for decisions by public bodies affecting oneself.

The Act asserts the right of members of the public to obtain access to official information held by the NCSE to the greatest extent possible consistent with the public interest and the right to privacy of individuals.

The following records come within the scope of the Act:

- All other records created from the commencement date of the FOI Act, i.e., 21 April 1998.
- Any records created before commencement of the Act that are necessary to the understanding of a current record.

Section 8 of the Act requires FOI bodies to prepare a Publication Scheme concerning the publication of information by the body in conformity with a model publication scheme and guidelines on its website.

In accordance with the requirements of the FOI Act, the NCSE has:

- published information on its website explaining the procedure to get access to information or to establish what information is held by the organisation
- delegated FOI decision making functions to appropriate staff and internal review decisions to appropriate Executive managers
- developed an organisational FOI Policy and Standard Operating Procedure for dealing with FOI requests

Notes for the Council

- All records created and held by the Council have the potential to be released in response to an enquiry. In addition, citizens will have the right to seek 'reasons for acts' of the Council. This will place an onus on the Council to record the reasoning behind decisions.
- Council members should bear the provisions of the Freedom of Information Act in mind when contributing to decisions and recording those decisions in Council minutes.

4 The Data Protection Act 2018

A new European Union- wide framework known as the General Data Protection Regulation (GDPR) came into force on the 25 May 2018 and changed the rules on data protection.

The GDPR and the law enforcement Directive provide for higher standards of data protection for individuals, and impose increased obligations on organisations that process personal data. They also increase the range of possible sanctions for infringements of these rules.

Some of the key features of the 2018 Act are;

- Establishment of the Data Protection Commission.
- The setting out of restrictions to data subject rights- and detailing how this will be enforced, including the powers of the Commission to investigate and impose administrative fines, as well as personal liability in some cases.
- The NCSE is subject to the provisions of the Data Protection Act and, as a result, has a responsibility to make sure it is in compliance with the legislation.

5 The Official Languages Acts 2003 and 2021

- This provides a statutory framework for the delivery of services through the Irish language. The primary objective of the Act is to ensure better availability and a higher standard of public services through Irish.
- Statutory obligations are placed on public bodies to make specific provision for delivery of such services in a coherent and agreed fashion.
- Public bodies are required to agree language schemes with the Department of Arts, Heritage and Gaeltacht when requested by the Minister for Education/ Minister for Special Education & Inclusion and to implement the commitments of such statutory schemes. The NCSE has not to date been requested to prepare such a scheme.
- Pending agreement of such a scheme the principal implications for the NCSE include:
 - The requirement to ensure that the Irish language only, or the Irish and English languages together, are used, on stationery, on signage and on advertisements
 - The duty to reply to correspondence, in writing or by electronic mail, in the language in which that correspondence was written
 - The duty to ensure that any communication providing information to the public, in writing or by electronic mail, is in the Irish language only or in the Irish and English languages
 - The duty to publish certain documents that would be of interest to the public, in Irish and in English simultaneously, for example annual reports and strategic plans
 - The duty to prepare a scheme detailing the services that it will provide through the mediums of both Irish and English and the measures it will adopt to ensure that any service not provided through the medium of the Irish language will be so provided in the future

- The duty to ensure that an adequate number of staff are competent in the Irish language and that particular Irish language requirements are met regarding the provision of services in Gaeltacht areas.

6 Safety, Health and Welfare at Work Act 2005

The Safety, Health and Welfare at Work Act 2005 (SHWW) represents a modernisation of Irish occupational health and safety laws, with a primary focus on the prevention of workplace accidents, illnesses and dangerous occurrences. It provides for significantly increased fines and penalties aimed at deterring violations of safety and health laws. The legislation primarily requires all employers:

- to prepare a Safety Statement and to update the Statement annually
- to conduct health and safety risk assessments

SHWW 2005 consolidated and updates the original 1989 Act and introduced a number of significant changes, including:

- an expanded general duty on employers, which includes a duty to manage work activities so that they do not endanger persons at work (whether employees, contractors, contractor's employees, members of the public, etc.);
- a change in the employers duties to make it an offense to require an employee to work in a situation of serious and imminent danger or to engage in improper conduct or behaviour, which covers bullying and stress;
- a requirement to train employees where a risk assessment states that such training was required;
- a provision that employees, while at work, must not endanger safety arising from being under the influence of 'an intoxicant', which includes alcohol and drugs, whether illegal or legal;
- the requirement that risk assessments must be in writing and periodically evaluated;
- significant new penalties for breach of the duties contained in the 2005 Act;
- provision for fixed charge penalties (on the spot fines) up to €1,000 have also been included in the 2005 Act.

7 Ombudsman Acts 1980 to 2012

Under the Ombudsman (Amendment) Act 2012, the NCSE, together with 180 other public bodies, was brought within the remit of the Ombudsman and the Ombudsman for Children from May 2013. The general function of the Ombudsman is to investigate complaints from members of the public who believe that they have been unfairly treated by public bodies. The Ombudsman for Children has a similar remit in regard to complaints in respect of Children.

8 The Protected Disclosures Acts, 2014 and 2022

The Acts are intended to provide a robust statutory framework within which workers can raise concerns regarding potential wrongdoing that has come to their attention in the workplace. The Acts further transcribe significant employment and other protections available if an individual is penalised by their employer or suffers any detriment after making a protected disclosure.

A good faith reporting charter was reviewed and agreed by Council in 2012 and is attached at **Appendix 14**. This charter includes compliance with the obligations of the protected disclosures legislation. In addition, public bodies are required to publish a report on protected disclosures in accordance with section 22 of the Protected Disclosures Act 2014 no later than 30 June in each year. The 2022 Act expanded the scope of the regime to cover volunteers, unpaid trainees, board members, shareholders, supervisory bodies and job applicants.

9 Regulation of Lobbying Act 2015

The Regulation of Lobbying legislation is designed to provide information to the public about who is lobbying whom about what. People who lobby designated public officials must register and make a return to SIPO every four months. The NCSE Chief Executive is a designated public official under the Regulation of Lobbying Act 2015.

10 Code of Practice for the Governance of State Bodies (August 2016) - Code of Conduct and Ethics

The Code imposes a range of obligations for the Council and members;

- The Code of Conduct for the NCSE should be approved by the Council. The up-to-date Code of Conduct should be available on the NCSE's website and brought to the attention of all Council members, management and employees.
- Council to formally confirm compliance with the up-to-date requirements of the Code. However there may be an adaptation of the Code possible, once agreed with the parent Department.
- Council should satisfy itself that all statutory obligations are identified and made known to it. This has obvious implications for the Executive and the advice and assurances provided.
- Determination of ethical procedures to be put in place to deal with post resignation/retirement employment, appointment and/or consultancy of directors and employees by the private sector and to ensure these are monitored and enforced. The requirements of the ethics legislation are outlined in detail including disclosures and conflicts of interest issues.

- In relation to travel policy, there is a need to achieve economy and efficiency and compliance with DOF circulars. The NCSE has developed a travel policy in this regard.
- The NCSE must have a Corporate Procurement Policy Plan which includes oversight to ensure that the NCSE is adhering to EU and national procurement rules and operating effective VFM practices. NCSE has developed a procurement plan which has been approved by Council.
- A Code of Business Conduct for Council Members as agreed by Council is attached at **Appendix 3**. These Corporate Governance Guidelines also form part of the Members' code of business conduct.
- The *Ethics in Public Office Acts, 1995 and 2001*, require public bodies to ensure that all Council members observe the highest standards of business ethics. The NCSE is a prescribed body for the purposes of the Ethics Acts and so Council members are required to make an annual declaration. A summary outline of reporting and other obligations for Council members and staff under Ethics legislation is attached at **Appendix 15**.
- The Council is responsible for determining specific values and standards for the organisation, building on the core values and standards set out in the suggested Framework for a Code of Business Conduct. Individual Council members are expected to show leadership by promoting these values and standards.

Notes for the Council

- Council members should always act fairly, in good faith and in an impartial way to meet the objectives of the NCSE. They should ensure that nothing they do or say should ever weaken the public's faith in the integrity of the public service and, in particular, of the NCSE and its Council members.
- Council members should avoid publicly criticising the Council and should not take any action (directly or indirectly) against the NCSE.
- To ensure continued integrity and transparency, and to avoid public concern on loss of confidence Council members should be aware that issues such as the receipt of gifts and hospitality, conflicts of interest and public accountability assume a significant importance. Minor breaches can attract significant criticism and adverse press coverage. This is largely due to the sensitivities arising from the fact that state bodies are owned by the State on behalf of the citizens of Ireland.
- Council members have a responsibility to be loyal to the Council and be fully committed to all its business activities. They should be aware of their duty to conform to the highest standards of ethics.

- Council members must respect their fellow Council members and staff of the Council and the role they play, treating them with courtesy at all times.
- Members may sometimes be called upon to represent the Council in dealing with the public and/or other external organisations. In these circumstances, it is their duty to maintain the reputation of the organisation by treating people in a helpful and courteous manner; on a timely, reliable and, where appropriate, confidential basis; and in an open and efficient way. Any statements made on behalf of the Council must be made in accordance with arrangements determined by the Council.
- Council members must be (and be seen to be) selfless and objective. They must adhere to the highest standards of personal and professional integrity. Specifically, Council members must:
 - demonstrate *selflessness* by taking decisions solely in terms of public interest and in the interests of the Council. They should not act in order to gain or benefit for themselves, their parent organisation or family or friends
 - demonstrate *integrity* by not placing themselves under any financial or other obligation to an individual or organisation that might reasonably be thought to influence the performance of their duties
 - be *objective*: decisions on NCSE business should be taken solely on their merit and not on the basis that they will be beneficial for the representative constituency of Council members
 - commit themselves to participate vigorously and energetically in Council discussions but also *ethically* and *honestly* at all times.

11 The Disability Act 2005

The Disability Act 2005 places a statutory obligation on public service providers to support access to services and facilities for people with disabilities. Under the Act, people with disabilities are entitled to:

- Have their health and educational needs assessed.
- Have individual service statements drawn up, setting out what services they should get.
- Access independent complaints and appeals procedures.
- Access public buildings and public service employment.

The Assessment of Need (AoN) is a statutory process under the Disability Act 2005 whereby the HSE reports on the health needs and where deemed relevant, the

education needs of a child/young person. The legal responsibility for the AoN process lies with the HSE, and following a legal judgement in 2021, the NCSE has an obligation to organise a report on a child or young person's education needs on behalf of the HSE under AoN.

When a HSE Assessment Officer, is of the opinion that "there may be a need for an education service to be provided" to a child/young person, the NCSE will, upon receipt of a referral from the HSE Assessment Officer, nominate an expert to assist in the carrying out of the completion of the report of educational need. This report subsequently feeds back into the HSE process.

In compliance with statutory obligations under AoN and in recognition of the HSE AON process being subject to ongoing legal challenges, the NCSE will continue to respond to any Court Order referrals received in respect of the AoN process. In order to assist the education providers in undertaking this work, a comprehensive suite of supports has been developed, including the establishment of a dedicated NCSE AoN Team.

APPENDIX 3: Council Code of Business Conduct (2022)

Adopted by Council on 24th February 2022

Principles of the Code

This Code of Business Conduct applies to all Council members of the National Council for Special Education (NCSE). The Code emphasises the Council's commitment to the highest standards of ethical conduct.

As per the Code of Practice for the Governance of State Bodies (2016), all Council members have a fiduciary duty to the NCSE, to act in good faith and in the best interests of the NCSE. The principle fiduciary duties set out in the Code are:

- to act in good faith in the interests of the NCSE;
- to act honestly and responsibly in relation to the work of the NCSE;
- to act in accordance with the NCSE's obligations and exercise powers only for the purposes of the work of the NCSE;
- not to benefit from or use the NCSE's property, information or opportunities for personal or anyone else's benefit unless previously agreed;
- not to restrict the Council member's power to exercise an independent judgment;
- to avoid any conflict between the Council member's duties to the NCSE and the Council member's other declared conflict of interests unless the Council member is released from their duty to the NCSE in relation to the matter concerned;
- to exercise the care, skill and diligence which would be reasonably expected of a Council member. A Council member may be held liable for any loss resulting from their negligent behaviour; and
- to have regard to the interests of other NCSE members.

Purpose of the Code

While it is not possible for a set of rules or guidelines to provide for all situations that may arise, Council members are expected to ensure that all their activities are governed by the ethical standards reflected in this Code in letter and in spirit. This Code of Business Conduct is part of, and must be read in conjunction with, the NCSE Guide for Council Members on Corporate Governance. The purpose of the Code is to ensure that all Members act ethically at all times and in a manner that promotes and maintains the confidence and trust in the good name of the NCSE.

Council members must at all times exercise due care, skill, prudence and diligence, acting in the utmost good faith in the discharge of their functions. In this regard, Council members should take reasonable steps to ensure that any advice provided by them to the NCSE takes cognisance of the NCSE's corporate, regulatory and statutory obligations.

Council members must treat all information obtained in the course of performing their duties on behalf of the NCSE as strictly confidential unless there is clear evidence, instruction or indication to the contrary. Specifically, information relating to the NCSE, the State or State bodies, to which Council members become privy and which is not

in the public domain, is to be treated as confidential. Council members should be aware that the non-disclosure obligation in respect of privileged or confidential information does not cease when their membership of the Council has ended.

It is expected that members will attend all Council meetings and members should use their reasonable endeavours to attend all meetings.

Ethics in Public Office Acts, 1995 and 2001

Council and Committee Members should observe the highest standards of honesty and integrity and comply with relevant provisions of the Ethics in Public Office Act, 1995 and Standards in Public Office Act, 2001. All those who hold Council membership must comply with the relevant provisions of the legislation, with compliance with the Ethics Acts deemed to be a condition of appointment.

To ensure this, they should adhere to the following:

- Submit in January each year, a declaration of interests statement and a declaration of the interests of persons connected to them, to the Secretary of the Council.
- Disclose to the Chairperson of the NCSE, any matters or interests or interests of persons connected to them, which may be in conflict, or in potential conflict, with the business of the NCSE in advance of Council meetings, or at the start of meetings if not possible or known beforehand. Committee members should follow the same practice of disclosure to the Committee Chair in advance of or at the start of meetings. Committee Chairs should disclose to the Secretary to the Committee.
- Excuse themselves from discussions or decisions concerning matters or interests involving conflicts or potential conflicts of interest, and those of persons connected to them, whether or not such conflicts have previously been disclosed.
- The Chairperson of the NCSE Council should disclose to the CEO any matters or interests and that of persons connected to them, which may be in conflict, or in potential conflict, with the business of the NCSE.
- The Chairperson should absent the meeting when the Council is deliberating or deciding on a matter in which the Chairperson or that of a person connected to them has an interest. Other members attending the meeting should choose one of the members present at the meeting to chair the meeting.
- Return documents to the Secretary of the Board at the earliest opportunity where a Council member or persons connected to them, receives documents relating to their interests or of persons connected to them.
- Not seek to influence any other member of Council or any member of the Executive in relation to matters or interests that are the subject of a conflict or potential conflict of interest for the member or a person connected to them.
- Avoid giving or receiving corporate gifts, hospitality, preferential treatment or benefits which might affect or appear to affect the ability of the donor or the recipient to make independent judgment on business transactions.

- Avoid use of the NCSE's resources or time for personal gain or for the benefit of persons/organisations unconnected with NCSE.
- Ensure that any information acquired through Council business is only used as required for NCSE Council purposes.
- Do not seek to acquire NCSE information through Council except as required for Council purposes.
- Do not disclose privileged or confidential information during the term of office or afterwards when Council membership has ended.
- Only claim expenses legitimately incurred relating to membership.
- Do not retain documentation obtained during terms as a Council member and return such documentation to the Secretary of the Council, or otherwise indicate to the Secretary that all such documentation has been disposed of in an appropriate manner. In the event that former Council members require access to Council papers from the time of their term on the Council, this can be facilitated by the Secretary of the Council, where appropriate.
- Acceptance of further employment where the potential of conflict of interest arises should be restricted during a reasonable period of time after NCSE membership has ceased.
- Bring immediately to the attention of Council members, evidence or concerns that there is non-compliance with any statutory obligations, suspected wrongdoing, malpractice, improper or unethical practice that apply to the Council with a view to having the matter rectified. The matter should also be brought to the attention of the Minister for Education by the Chairperson indicating (i) the consequences of such non-compliance and (ii) the steps that have been or will be taken to rectify the position.
- It is expected that members will cooperate with any relevant internal audit, which may be required as part of the internal audit process.

Circulation

This Code of Business Conduct as approved by Council will be circulated to Members and published on www.ncse.ie

APPENDIX 4: Standing Orders of the Council of NCSE

Adopted by Council on 24th February, 2022

ESTABLISHMENT

The National Council for Special Education (NCSE) was established as a Corporate Body under the Education for Persons with Special Educational Needs (EPSEN) Act 2004 with effect from 1 October 2005 by Order of the then Minister for Education and Science.

PURPOSE OF THE STANDING ORDERS

These Standing Orders provide a framework for the regulation of Council meetings. Article 8, Schedule 1 of EPSEN enables Council to adopt and change such standing orders. Nothing in Standing Orders may take precedence over the provisions for such meetings set out in EPSEN or otherwise enacted. These Standing Orders should be read in conjunction with the Terms of Reference for the Council of the NCSE.

ADOPTION

These Standing Orders were adopted by Council on 24th February, 2022 at its 129th meeting. The NCSE has adopted a corporate governance regime in accordance with best practice as set out in the Code of Practice for the Governance of State Bodies 2016. The revised Standing Orders meet the requirements set out in the suggested Terms of Reference for State Boards in the 2016 Code.

ARRANGEMENTS FOR MEETINGS

1. EPSEN sets out that Council shall meet at least 6 times a year and as otherwise required. At the last scheduled Council meeting in the calendar year the Council shall declare dates, times and locations of at least 6 meetings for the next calendar year.
2. The locations, dates and times of future meetings may be changed due to special reasons, by the bringing the new date as near as possible to the declared date of the scheduled meeting. Meetings may be held in-person, virtually or in a hybrid format, dependent on the prevailing situation and requirements of the Council.
3. Written notice of the time and place of each meeting together with the Agenda and relevant papers shall be issued by the Council secretary or the Chief Executive Officer (CEO) at least seven days in advance of the meeting.
4. Where there is a need conduct urgent or specific business of the Council which cannot await or be satisfactorily dealt with at the next scheduled Council meeting, additional meetings may be held providing:
 - At least 3 days before a meeting of Council, notice of the time and place of the meeting is sent to each member of Council signed by the CEO or the chairperson or by at least four members of Council;

- If the meeting is convened by members, the notice convening the meeting shall specify the business to be transacted at that meeting.
5. Written notice of the time and place of each additional meeting together with the Agenda for the meeting shall be issued by the CEO to all members at least three days before the meeting. In the case of an additional meeting called by members, these members will be identified on the notice and be required to advise notice of the time and place of the meeting and specifying the business to be transacted.
 6. The chairperson, CEO and secretary to the Council are responsible for the effective management of the Council's agenda and ensuring that adequate time is available for discussion of all agenda items, in particular strategic issues.
 7. The chairperson is responsible for ensuring that the Council receives accurate, timely and clear information. The secretary to the Council will ensure that the Council receives information and papers in a timely manner to enable full and proper consideration to be given to the issues. Council is authorised to seek any information it requires from the NCSE, through the CEO, in order to perform its duties.
 8. The secretary to the Council reports to the chairperson on all Council governance matters and assists the chairperson in ensuring relevant information is made available to the Council and its committees. The Council secretary is also responsible for advising the Council, through the chairperson, on all governance matters.
 9. The secretary to the Council is responsible for the formal induction of new members of the Council and organising mentoring for Council members where required.
 10. The quorum for any meeting of Council is four. A duly convened meeting of the Council at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Council. In the event that a member cannot attend in-person, the Council chairperson may agree to a member being deemed present via video-conference or tele-conference or similar means. Urgent business of Council may be agreed via email or other electronic media where such business cannot await the next scheduled meeting of Council.
 11. If a quorum does not exist, then the meeting will be deemed to have been postponed. Following the postponement, the chairperson will make the necessary arrangements to re-convene the meeting on a suitable date. In the event that it does not prove reasonable to re-convene the meeting, then the business of the postponed meeting shall be brought forward to the next scheduled meeting.
 12. In addition to Council members, the CEO will attend meetings of the Council unless unavailable. Other senior management of the Council will attend as

appropriate. From time to time, the Council may invite guest speakers to address the Council.

13. The Council shall elect (in accordance with the process set out in Article 4, Schedule 1 of EPSEN 2004) from among its members a deputy chairperson who shall hold office for such term as may be specified by the Council. In the absence of the chairperson, the elected deputy chairperson shall chair the meeting. In the absence of both the chairperson and the deputy chairperson, the remaining members present shall elect one of their members present to chair the meeting.
14. The Council may go into private session at any time, and a member of the Council will record the business and proceedings of that part of the Council business. The record of the private session will become part of the record of the meeting. The chairperson and the CEO as required following such a private session will act on the decisions taken by the Council.
15. The Council should meet at least twice a year without management present to discuss any matters deemed relevant.
16. At a meeting of the Council every act of the Council and every question coming before the Council shall be determined by a majority of votes of members (including the chairperson) present and voting in relation to the act or question and, in the case of an equal division of votes on any act or question arising at a meeting of the Council (other than the election of the chairperson or deputy chairperson), the chairperson or other person presiding at the meeting shall have a second or casting vote.
17. The Council secretary shall minute the proceedings and resolutions of all meetings of Council, including recording the names of those present and in attendance.
18. In the absence of the Council secretary, the CEO will nominate a member of staff to minute the proceedings of the Council meeting.
19. Draft minutes of meetings shall be circulated to all members of the Council following approval by the chairperson.
20. At each meeting the Council shall adopt the minutes of the previous meeting with or without amendment. The minutes will then be signed by the chairperson and the CEO and retained by the Council secretary as the permanent official record of the meeting.
21. All proceedings of the Council and business of the Council shall be deemed as confidential and not for public comment unless specifically approved by Council. In this regard, the Council may approve as official spokespersons for the Council, various Council members or executive members from time to time. The detail of any meeting will not be disclosed or commented on. Council members must act in accordance with the Code of Business Conduct for Council members.

22. All documents relating to the business of the Council, and its committees, are deemed to be confidential.
23. Committees appointed by the Council shall consist of a chairperson, secretary and members. The CEO may opt to be a member of a committee or nominate another to be a member but is not entitled to vote on matters arising. Other than for the CEO Performance Committee, the secretary will normally be a member of the executive. Minutes of meetings will be prepared and circulated in advance of the next Council meeting via the Council secretary.
24. The chairperson of a Committee shall report the minutes of meetings to the Council via the Council secretary for inclusion in the Agenda of the next ordinary meeting of the Council. The minutes of the Committee shall be distributed to Council members at the next Council meeting.

APPENDIX 4a: Terms of Reference for the Council of the National Council for Special Education (NCSE)

Adopted by Council on 24th February 2022

The NCSE was established under the Education for Persons with Special Educational Needs (EPSEN) Act 2004. The EPSEN Act sets out the membership of the Council, its functions and various requirements concerning terms of office, frequency of Council meetings and procedural issues for Council meetings. The NCSE has adopted a corporate governance regime in accordance with best practice as set out in the Code of Practice for the Governance of State Bodies 2016.

The purpose of this document is to set out the terms of reference of the Council of the NCSE. These terms of reference should be read in conjunction with the approved Standing Orders for Council meetings. Nothing in these terms of reference may take precedence over the statutory requirements for the Council set out in the EPSEN Act.

Membership

Members of the Council shall be appointed by the Minister for Education in accordance with Section 21 of the EPSEN Act. The Council shall comprise a Chairperson and 12 members. When the chairperson is writing to the Minister in connection with Council membership and reappointments, the chairperson should draw attention to the current gender balance on the Council, noting the requirements outlined in the EPSEN Act.

Members of the Council should not hold appointments to more than two State Boards at the same time unless the specific statutory provisions enable such service.

Each term of office may be for a period of up to four years, as determined by the Minister at the time of appointment. A member shall not serve more than two terms of office that are consecutive terms of office. If exceptionally, it is decided that a Council member should serve a further additional Council term, or that a renewal of appointment would bring to a total period of service to above eight years, this requires Ministerial approval.

Frequency of Meetings

The Council shall meet at least six times a year and as otherwise required.

Functions of Council

The functions of Council are set out in Section 20 of the Education for Persons with Special Educational Needs (EPSEN) Act 2004. They include:

- planning for, and co-ordinating, **the provision of education** for children with special educational needs and ensuring that a continuum of provision is available

- conducting and commissioning **research** into special education
- **advising** the Minister for Education/Minister for Special Education & Inclusion on policy in relation to special education
- **disseminating information**, including best practice, on special education to parents, schools and other interested persons
- **reviewing** generally the **provision made for adults** with disabilities to avail of further, higher and/or continuing education and advising educational institutions concerning best practice in the education of adults with a disability.

Duties of Council

Section 24(4) of the EPSEN Act provides that the Chief Executive Officer (CEO) shall manage and control generally the staff, administration and business of the Council and shall perform such other functions as may be conferred on him or her by the Council. Duties include:

- Appointment of the CEO.
- Council shall advise and support the chairperson, the CEO and management.
- Council shall establish, from time to time, such committees of the Council as are necessary to assist it in the performance of its duties. They may include members who are not Council members if specialist skills are required. All protocols concerning the operation of the Council shall be applied to a committee. The committees shall have written terms of reference which have been approved by Council and reviewed annually.
- Five committees currently support Council and include:
 - Finance
 - Audit and Risk
 - CEO performance
 - Research
 - Policy and Strategy.
- The provision of statutory documents such as the Annual Report and Annual Accounts.
- Monitoring of performance: the Council shall receive regular reports from the management team and Council committees.
- Council shall satisfy themselves that the systems of internal control, including financial and risk management, are robust and defensible.
- Council shall keep itself up to date and fully informed about strategic issues and changes affecting the NCSE and the environment in which it operates.
- Council shall, at least once a year, review its own performance, constitution, these terms of reference and standing orders to ensure it is operating at maximum effectiveness and implement any changes it considers necessary.

- Council shall, at least every three years, arrange for an external evaluation of the Council and its committees.
- Council shall review the results of Council performance evaluation process that relate to the composition of the Council and corporate governance generally.
- Council shall ensure that the NCSE adheres to the principles and provisions set out in the 2016 (or subsequent) Code of Practice for the Governance of State Bodies (and any other corporate governance codes that apply to the NCSE).
- Council shall keep under review corporate governance developments (including ethics-related matters) that might affect the NCSE, with the aim of ensuring that the NCSE's corporate governance policies and practices continue to be in line with the best practice as set out in the 2016 (or subsequent) Code of Practice for State Bodies.
- Council shall ensure that the Minister for Education is kept informed of matters arising within the NCSE.

Proceedings of Council

All proceedings of Council and the business of Council shall be deemed as confidential and not for public comment unless specifically approved by Council.

- In this regard, the Council may approve as official spokespersons for the Council, various Council members or executive members from time to time.
- The detail of any meeting will not be disclosed or commented on.
- Council members must act in accordance with the Code of Business Conduct for Council members.

Council is authorised to obtain, at the NCSE's expense, outside legal or professional advice where they judge it necessary to discharge their responsibilities as Council members. Such advice should normally be sought by the CEO on behalf of Council unless Council considers that the prevailing circumstances would deem this imprudent. In such circumstances, Council should seek such advice through the secretary to the Council.

APPENDIX 5: Schedule of Reserved Council Functions & Delegated Functions to the CEO

Agreed by Council on 6th September 2018 and amended on 24th February 2022

1. Introduction

The Code of Practice for the Governance of State Bodies 2016 requires that Council should have a formal schedule of matters specifically reserved to it for decision to ensure that the direction and control of the NCSE is firmly in its hands.

The Code specifically requires that the following should be reserved functions:

- significant acquisitions, disposals and retirement of assets of the State Body or its subsidiaries; the schedule should specify clear quantitative thresholds for contracts above which Council approval is required;
- major investments and capital projects;
- delegated authority levels, treasury policy and risk management policies;
- approval of terms of major contracts;
- in non-commercial State Bodies, assurances of compliance with statutory and administrative requirements in relation to the approval of the appointment, number, grading, and conditions of all staff, including remuneration and superannuation;
- approval of annual budgets and corporate plans;
- production of annual reports and financial statements;
- appointment, remuneration and assessment of the performance of, and succession planning for, the Chief Executive Officer; and
- significant amendments to the pension benefits of the Chief Executive Officer and staff (which may require Ministerial approval).

2. Schedule of Reserved Functions of Council

The following list of reserved functions of Council was agreed by Council following review and amendment at the Council meeting on 6th September 2018.

1. Determination of NCSE policy and the issue of policy directives to the Executive.
2. Determination of communication policy and strategy
3. Assessment of the performance of the Chief Executive Officer/Performance Management of the CEO
4. Determination of succession planning for the post of the CEO
5. Appointment of CEO
6. Approval of delegated authority levels
7. Terms and Conditions of employment of staff subject to appropriate approvals as per EPSSEN Act 2004
8. Determination of ethical procedures to be put in place to deal with post resignation/retirement employment, appointment and/or consultancy of Council members and employees by the private sector and to ensure these are monitored and enforced
9. Annual declaration to the Minister that the Council has a system of internal control in place
10. Approval of and opening/closing of bank accounts

11. Purchase and disposal of land or property
12. Acceptance of gifts as per EPSEN Act, 2004
13. Approval of proposals and terms and conditions for all major investments and capital projects including purchases of services, equipment and materials over €250,000 in value exclusive of VAT, ensuring alignment with medium to long term goals
14. Approval of disposal of assets (valued at €100 or more) to Council members, staff or related persons. Should the cost of retrieval or disposal exceed the cost of the asset, the decision should be delegated to the CEO.
15. Approval for the disposal and retirement of assets, including related terms and conditions, at or above the value of €150,000
16. Determination of procedures for maintaining an appropriate relationship with the external auditor
17. Annual review and determination of the effectiveness of the system of internal controls, including financial, operational and compliance controls and risk management
18. Approval of the formal charter for the internal audit of the NCSE
19. Determination of person, other than the Chief Executive, to whom the Head of Internal Audit/Internal Audit Function should report
20. Preparation and adoption of a strategic plan for a period of 3-5 years ahead
21. Approval of Annual Work Plan, Corporate Plans, Annual budgets and Annual Reports and Accounts/Financial Statements and Performance Delivery Agreement
22. Approval of major Council publications
23. Identification of ways to improve the effectiveness of the Council, following review, which should include required competencies of members
24. Appointment of and approval of written constitutions and written terms of reference for the Council, Council Audit & Risk Committee and other Council Committees and agreed timeframes for review and update
25. Approval of a Code of Business Conduct for Council members and employees
26. Regulate the procedures to monitor and manage disclosure of interests and dealing with potential conflicts of interest situations for management and Council members
27. Determination of procedures for employees making protected disclosures under the provisions of the Protected Disclosures Act 2014
28. Determination of compliance with all statutory and governance obligations, which will involve all such obligations being identified and made known to the Council. Notification of non-compliance with obligations to the Minister
29. Approval of the risk management policy and framework, including the appointment of a Chief Risk Officer. Oversight of implementation and monitoring of its effectiveness
30. Approval of a Corporate Procurement Policy Plan and adherence to EU and national procurement policy and guidelines
31. Determination and approval of procedures to monitor, report, and enforce the relevant rules and requirements as set by the Department of Finance
32. Oversight of compliance by the Council with its legal and financial compliance requirements
33. Approval of initiation of Legal Proceedings

34. Response to 3rd Party Legal Proceedings/Settlement of Legal Action to be brought to the attention of Council but should not necessarily require advance Council approval as such responses may be required urgently
35. Appointment and removal of Secretary to Council

Note

Decisions of the Council will be recorded in the minutes of the Council meeting. Where appropriate the Council may provide more detailed directions to the Executive in writing.

3. Delegated Functions to the CEO

The following list of delegations functions to the NCSE CEO was agreed by Council following review at the Council meeting on 24th February 2022.

1. Sanctioning of proposals for purchases of services, equipment and materials up to €250,000 exclusive of VAT (subject to further delegation not exceeding €100,000 exclusive of VAT).
2. Approval of disposal of assets (valued at €100 or more) where the cost of retrieval or disposal exceeds the cost of the asset; the approval may be delegated to a PO.
3. Approval to adjust sub- heads within non-pay budget lines.
4. Appointment of employees other than those listed in the reserved functions of the Council.
5. Performance Management of staff.
6. Operational policy, guidelines and decision-making subject to limits prescribed by the Council's reserved functions.
7. Day to day communications within the agreed communications strategy.
8. Appointment of staff reporting directly to the CEO.
9. Approval to update the list of bank payment authorisers along with one of the following members- the Council Chairperson, Deputy Chairperson or Chair of the Finance Committee.

APPENDIX 6: Agreed Terms of Reference of NCSE Committees

- Finance (2022)
- Audit and Risk (2022)
- CEO Performance (2022)
- Strategy and Policy (2022)
- Research (2022)

APPENDIX 6a: NCSE Finance Committee Terms of Reference

Reviewed and approved by Council in 2022

Role

The role of the Finance Committee is to update and advise the Council on its financial position. The Committee's role is advisory, to report and make recommendations, in order to support Council financial decision making.

Membership

The Council shall appoint the members. The Committee shall consist of not fewer than three Council members. An appropriate person who is not a member of Council may be appointed by Council as a member of the Finance Committee. A quorum shall be two members. The Committee shall appoint a Chairperson.

The Head of Finance, Research and Governance shall act as secretary to the Committee. The CEO may nominate another officer to act as secretary as required. Membership of the Committee shall cease on the occurrence of any of the following:

- resignation of the Council member from the Committee or from the Council;
- expiry or termination of the Council member's appointment to the Council;
- cessation of the Committee;
- resolution of the Council altering the composition of the Committee.

Attendance

The Committee may request the Chief Executive, the Internal Auditor, or any other person to attend meetings, as necessary. Other members of the Council and executive may attend as an observer with the agreement of the Committee. Should the chair of the Committee not be available for a meeting, the Committee shall appoint a replacement chair at the meeting.

Meetings and minutes

- The Finance Committee will normally meet prior to every meeting of the Council to consider the Finance Report.
- There shall be no fewer than four meetings a year.
- Conflicts of interest shall be disclosed at the start of each meeting and where a disclosure is made, the member shall remove themselves for this item and not participate in any decision relating to the item.
- Minutes shall be kept of each meeting and circulated to all members of Council. Where a written report is not available, the Chairperson will make a verbal report to Council.

Duties and decision making

The duties of the Committee are advisory to Council:

- to examine the draft annual budget and make recommendations to the Council in relation to it;
- to consider expenditure planning in the draft annual budget;
- to examine funding requirements and make recommendations to Council on priorities/requirements for additional funding;

- to monitor the implementation of the approved annual operating budget during the course of the year;
- to review banking arrangements;
- to review financial controls;
- to consider other topics, as defined by the Council;
- to review the format of the Council's accounts;
- to report to the Audit & Risk Committee on any matters it considers pertinent to the approval of the year- end Financial Statement;
- to review the operation of the NCSE corporate governance procedures and to report to the Audit & Risk Committee on any matters it considers pertinent.
- to review legal proceedings and legal services involving the NCSE and report to Council annually.

Performance Review

- The Committee shall conduct a self-assessment annually to review its performance. It shall report its conclusions and recommend any changes it considers necessary to Council.
- The Committee shall review its Terms of Reference annually and recommend any changes it considers necessary to Council.

APPENDIX 6b: NCSE Audit and Risk Committee

Terms of Reference

Reviewed and approved by Council in 2022

Role

To support the NCSE Council in its responsibilities for issues of risk, control and governance by reviewing the comprehensiveness of assurances in meeting the Council's assurance needs and reviewing the reliability and integrity of these assurances.

Independence

The Committee shall be independent in the performance of its functions and responsibilities and in the determination and monitoring of its work programme and shall not be subject to direction or control from any other party which could impair the carrying out of its functions.

Membership

Council shall appoint the members to the Committee in accordance with the criteria and procedures which it has agreed. The Committee shall consist of not fewer than three members of Council. An external person will be appointed by Council and will be nominated by Council to be appointed by the Committee as its Chairperson. Another appropriate person who is not a member of Council may also be appointed by Council as a member of the Committee. A quorum shall be 2 members.

Membership of the Committee shall cease on the occurrence of any of the followings:

- a) resignation of the member (including Chairperson) from the Committee or from the Council;
- b) in the case of the Chairperson on expiry or termination of his /her appointment;
- c) in the case of other members, on expiry or termination of his/her appointment to the Council;
- d) cessation of the Committee;
- e) resolution of the Council altering the composition of the Committee.

When the Council comes to the end of its term, the Chairperson of the Audit & Risk committee will continue in that capacity pending the decision by new Council on the re-establishment of the Audit & Risk committee.

The NCSE Head of Function responsible for Audit will act a Secretary to the Committee. The Secretary of the Committee shall be an officer nominated by the Chief Executive.

Attendance

The Chief Executive, the Head of Finance, and Committee Secretary shall normally attend meetings. The Committee may ask other officials to attend to assist it with its discussions in any particular matter. The Committee may ask all or any who usually attend, but who are not members, to withdraw to facilitate open and frank discussions of particular matters. The Internal Auditor shall attend at least one meeting each year or part thereof. Other Council members may be invited by the Committee to attend meetings or part of a particular meeting. The Audit Committee shall meet with the external auditors at least once a year without executive staff present. Should the Chairperson not be available for a meeting, the Committee shall appoint a replacement Chairperson for the meeting.

Meetings and Minutes

Meetings shall be held at least four times a year. The Committee Chairperson may convene additional meetings as deemed necessary. The Council may request the Committee to convene further meetings to discuss particular issues on which it seeks the Committee's advice. Minutes shall be kept of each meeting and circulated to all members of the Council.

Authority

The committee is authorised by the Council to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee and all employees are directed to cooperate with any request made by the Committee.

The Committee is authorised by the Council to obtain outside legal or other independent professional advice, and to secure the attendance of outsiders with relevant experience and expertise if it considers this necessary, subject to reasonable expense and budgets agreed by Council.

Responsibilities

The Audit and Risk Committee will advise the Council on:

- I. the strategic processes for risk, internal control and governance;
- II. the accounting policies, the financial statements, and the annual report of the organisation, including the process for review of the financial statements prior to submission for audit, levels of error identified, and management's letter of representation to the external auditors;
- III. the planned activity and results of both internal and external audit;
- IV. adequacy of management response to issues identified by audit activity, including external audit's management letter;
- V. assurances relating to the management of risk and corporate governance requirements for the State body;
- VI. proposals for tendering for either internal or external audit services or for purchase of nonaudit services from contractors who provide audit services;
- VII. anti-fraud policies, protected disclosure processes, and arrangements for special investigations; and

Duties and decision making

In discharging its responsibilities to advise Council, the duties of the Committee will include:

a) to review the annual financial statement before submission to the Council focusing particularly on;

- (i) any reports from the Finance Committee
- (ii) any changes in accounting practices
- (iii) major judgmental areas;
- (iv) significant adjustments resulting from the audit;
- (v) compliance with accounting standards;
- (vi) compliance with government and legal requirements.

b) to ensure the operation of an internal audit function in the Council in accordance with Chapter 7 of the Code of Practice for State Bodies;

(i) to discuss problems and reservations arising from the interim and final audit;

(ii) to meet the external auditors once a year without the executive present

(iii) to review the external auditor's management letter and management's response;

(iv) to ensure coordination between internal and external auditors and ensure that the internal audit function is adequately resourced and has appropriate standing within the Council;

(v) to consider the major findings of internal investigations and management's response;

(vi) to consider other topics, as defined by the Council.

(vii) Review the adequacy and effectiveness of the organisation's process for the identification, assessment and control of corporate and divisional level risk.

(viii) Report to the Board on matters relating to the organisation's process for risk management and management action to mitigate risk.

(ix) Review and report to the Council on the system of internal control.

(x) Agree the specifications for the procurement of internal audit services and recommend the specifications to the Council for approval.

(xi) Advise Council of the appointment by the executive of the internal audit service provider selected in accordance with the agreed specifications and appropriate procurement procedures.

c) to oversee the development and implementation of appropriate Council self-evaluation procedures.

Reporting

The Chairperson of the Audit committee shall attend part of at least one Council meeting each year and shall submit an annual written report to Council. Verbal reports will be made by the Committee to Council following each Committee meeting by the Chairperson or by a Committee member deputed by the Committee.

Information Requirements

For each meeting the Audit and Risk Committee will be provided (well ahead of the meeting) with:

- a) a report summarising any significant changes to the State body's strategic risks and a copy of the strategic/corporate Risk Register;
- b) a progress report from the Head of Internal Audit summarising:
- c) work performed (and a comparison with work planned);
- d) key issues emerging from the work of internal audit;
 - I. management response to audit recommendations;
 - II. changes to the agreed internal audit plan; and
 - III. any resourcing issues affecting the delivery of the objectives of internal audit.
 - IV. Internal audit Reports with Management responses to recommendations
- e) a progress report (written/verbal) from the external audit representative
- f) management assurance reports; and
- g) reports on the management of major incidents, "near misses" and lessons learned.

As and when appropriate the Committee will also be provided with:

- a) proposals for the terms of reference of internal audit / the internal audit charter;
- b) quality assurance reports on the Internal Audit Unit;
- c) the draft financial statements;
- d) the draft governance statement;
- e) a report on any changes to accounting policies;
- f) external audit's management letter;
- g) a report on any proposals to tender for audit functions, where appropriate;
- h) a report on co-operation between internal and external audit; and
- i) the risk management policy.

Performance Review

The Committee shall conduct a self-assessment annually to review its performance. It shall report its conclusions and recommend any changes it considers necessary to Council.

The Committee shall review its Terms of Reference annually and recommend any changes it considers necessary to Council.

APPENDIX 6c: NCSE CEO Performance Committee Terms of Reference

Reviewed and approved by Council in 2022

Role

To review the performance of the CEO in relation to the organisational Business Plan.

Membership

- The Council shall appoint the members. The Committee shall consist of not fewer than three Council members including the Council Chairman. A quorum shall be two members. The Committee shall appoint a Chairperson.
- A member of the Committee shall act as secretary to the Committee; Peter Archer is the current appointed secretary.
- Membership of the Committee shall cease on the occurrence of any of the following:
 - resignation of the Council member from the Committee or from the Council
 - expiry or termination of the Council member's appointment to the Council;
 - cessation of the Committee;
 - resolution of the Council altering the composition of the Committee.

Attendance

The Chief Executive may be requested to attend as required.

Meetings and minutes

- There shall be at least two meetings each year.
- Minutes shall be kept of each meeting and kept on the appropriate file.
- Where a new Committee is in place and conducting their first review, the outcome from the last review of the previous Committee should be circulated to the new Committee.

Duties

On behalf of the Council the Committee shall:

- Agree the CEO's Business Plan in line with the Annual Work Programme agreed by the Council following discussion with the CEO.
- Set and agree performance targets with the CEO.
- Review performance in relation to the agreed Business Plan.

Decision Making

The Committee shall report to the Council during its private meeting and inform the CEO of the Council's views and recommendations.

Performance Review

- The Committee shall conduct a self-assessment annually to review its performance. It shall report its conclusions and recommend any changes it considers necessary to Council.
- The Committee shall review its Terms of Reference annually and recommend any changes it considers necessary to Council.

APPENDIX 6d: NCSE Strategy and Policy Committee Terms of Reference

Reviewed and approved by Council in 2022

Role

To make appropriate expert inputs into the development of policy advice and ongoing NCSE strategic activities.

Membership

The Council shall appoint the members. The Committee shall consist of not fewer than three Council members. An appropriate person who is not a member of Council may be appointed by Council as a member of the Strategy and Policy Committee. A quorum shall be two members. The Committee shall appoint a Chairperson.

The Head of Policy and Practice shall act as secretary to the Committee. The CEO may nominate another officer to act as secretary as required.

Membership of the Committee shall cease on the occurrence of any of the following:

- resignation of the Council member from the Committee or from the Council;
- expiry or termination of the Council member's appointment to the Council;
- cessation of the Committee;
- resolution of the Council altering the composition of the Committee.

Attendance

The Chairman and the Chief Executive may attend meetings. Other members of Council and the executive may attend with the agreement of the Committee. Should the chair of the Committee not be available for a meeting, the Committee shall appoint a replacement chair at the meeting.

Meetings and minutes

- There shall be at least four meetings each year.
- Conflicts of interest shall be disclosed at the start of each meeting and where a disclosure is made, the member shall remove themselves for this item and not participate in any decision relating to the item.
- Minutes shall be kept of each meeting and circulated to all members of the Council. Where a written report is not available, the Chairperson will make a verbal report to Council.

Duties

The duties of the Committee are to advise Council about matters relating to policy and strategy.

Decision Making

The Committee shall prepare proposals for consideration by the Council.

Performance Review

- The Committee shall conduct a self-assessment annually to review its performance. It shall report its conclusions and recommend any changes it considers necessary to Council.
- The Committee shall review its Terms of Reference annually and recommend any changes it considers necessary to Council.

APPENDIX 6e: NCSE Research Committee

Terms of Reference

Reviewed and approved by Council in 2022

Role

The Research Committee will advise Council on the research policy and programme.

Membership

The Council shall appoint the members. The Committee shall consist of not fewer than three Council members. An appropriate person who is not a member of Council may be appointed by Council as a member of the Research Committee. A quorum shall be two members. The Committee shall appoint a Chairperson.

The Head of Finance, Governance and Research shall act as secretary to the Committee. If necessary, the CEO may nominate another officer to act as secretary.

Membership of the Committee shall cease on the occurrence of any of the following:

- resignation of the Council member from the Committee or from the Council;
- expiry or termination of the Council member's appointment to the Council;
- cessation of the Committee;
- resolution of the Council altering the composition of the Committee.

Attendance

The Chairperson and the Chief Executive may attend meetings. Other members of the Council and executive may attend with the agreement of the Committee. Should the chair of the Committee not be available for a meeting, the Committee shall appoint a replacement chair at the meeting.

Meetings and minutes

- There shall be at least four meetings each year.
- Conflicts of interest shall be disclosed at the start of each meeting and where a disclosure is made, the member shall remove themselves for this item and not participate in any decision relating to the item.
- Minutes shall be kept of each meeting and circulated to all members of Council. Where a written report is not available, the Chairperson will make a verbal report to Council.
- Minutes of meetings will be signed off by members via email in advance of circulation to Council.

Duties

The duties of the Committee will be advisory to Council and make appropriate expert inputs into:

- the strategic development of the Council's research policy including the Council's multi-annual research programme;
- the strategic review of the Council's research policy and programmes;
- the prioritising of the areas and types of research;

- quality assuring and providing detailed comments on draft research reports and recommending reports for sign off by Council.

Decision Making

- The Committee shall prepare proposals and recommend reports for adoption by the Council.
- The Committee shall review and agree research tenders for acceptance.

Performance Review

- The Committee shall conduct a self-assessment annually to review its performance. It shall report its conclusions and recommend any changes it considers necessary to Council.
- The Committee shall review its Terms of Reference annually and recommend any changes it considers necessary to Council.

APPENDIX 7: Council Agenda Template

Agenda NCSE Council Meeting XXth X 20XX Xth meeting of Council Trim Castle Hotel Council Meeting (10.00- 16.00)				
Item no	Item	Documentation	Council action required	Time alloc (mins)
1	Reminder – declaration of interests (standing governance item) <i>(lead – Chairperson)</i>	See note for members at foot of this page ¹	For information	5
2	Draft minutes of previous meetings and actions/matters arising <i>(lead - Chairperson)</i>	Draft Minutes	Agree minutes and update/matters arising	5
3	Chief Executive Report <i>(lead - CEO)</i>	CEO Report No x/xx	For discussion and agreement	20
4	Other agenda item <i>(lead - Senior Official)</i>	Presentation and/or papers	For information and discussion	
5	Other agenda item <i>(lead - Senior Official)</i>	Presentation and/or papers	For information and discussion	
6	Other agenda item <i>(lead – Senior Official)</i>	Presentation and/or papers	For information and discussion	
Lunch 12.45- 13.15				
7	Other agenda item <i>(lead – Senior Official)</i>	Presentation and/or papers	For information and discussion	
8	Other agenda item <i>(lead – Senior Official)</i>	Presentation and/or papers	For information and discussion	
9	Strategy and Policy Committee Report (lead- Committee Chairperson)	Committee Minutes & other papers	For information/ decision on any recommendations	10

¹ **Important Note for Members:** The code of conduct for Board/Committee members requires them to be honest and open with regard to conflicts of interest (either real or perceived). Members must not use their position for personal gain in business, political or social relationships. Therefore, a member who has, or may be perceived to have, such a personal interest in a particular matter under consideration should declare that interest, withdraw from all discussions relating to it and take no part in any vote on such matter

10	Audit & Risk Committee Report (<i>lead - Committee member</i>)	Committee Minutes & other papers	For information/decision on any recommendations	10
11	Finance Committee Report (<i>lead - Committee Chairperson</i>)	Committee Minutes Finance Report & other papers	For information/decision on any recommendations	15
12	Research Committee Report (<i>lead - Committee Chairperson</i>)	Committee Minutes Research reports & other papers	For information/decision on any recommendations	10
13	Other agenda item (<i>lead – Senior Official</i>)	Presentation and/or papers	For discussion and approval	
14	Other agenda item (<i>lead – Senior Official</i>)	Presentation and/or papers	For information and discussion	
15	AOB (<i>lead - Chairperson</i>)	AOB		10

Regular items:

- Work plan, budget request and risk register for forthcoming year (December)
- Work plan progress report every second meeting (as part of the CEO report)
- Annual review of work plan for current year (December)
- CEO report (every meeting with updates on activities)
- Report on highest risks (every meeting)
- Draft policy papers (as required)
- Draft research reports (as required)
- Draft requests for tender for goods or services over €250k (as required)
- Committee minutes and other reports from Committees (every meeting)
- Annual report approval (March/April)
- Annual draft accounts approval for submission (February)
- Review of the effectiveness of the System of Internal Controls (March)
- Approval of the formal charter for the internal audit (December)
- End of year report from Chair of ARC (December)
- Self-assessment and evaluation of Council performance and that of its Committees (December, with a mid-year in June). External review every 3 to 4 years.

- Council to meet at least twice a year without executive present to discuss matters deemed relevant (usually self-assessment of Council performance and other business)
- Disclosure of interests- Statements required by 31st January annually and disclosures to be made as required at every meeting/Committee meeting as matters of material interest arise
- Approval and annual review of Performance Delivery Agreement- annually time can vary.
- Approval of core corporate documents, e.g. Corporate Procurement Plan, Protected Disclosure Policy, Customer Charter etc. (as required)
-

APPENDIX 8: NCSE Statement of Strategy – 2022 – 2024 July 2022

(Click [link](#) to open)

Our Mission

We support an inclusive education system that enables students and adults with special educational needs to achieve their potential; to acquire the knowledge, skills and dispositions necessary to participate meaningfully in the social, cultural and economic activities of society; to live fulfilled lives.

Our Vision

A society where children and adults with special educational needs are supported through meaningful learning experiences to have the opportunity to achieve their potential in education and participate as valued citizens to live fulfilled lives.

Our motto is:

Working together to deliver a better special education service

Our Values

- 1. Person-centred:** Children and adults with special educational needs and their families are at the centre of what we do.
- 2. Inclusion-focused:** Inclusion guides our beliefs and actions.
- 3. Equity and equality-focused:** We allocate additional resources equitably and fairly to schools in line with the needs of students and within Department of Education policy.
- 4. Evidence-informed:** We base policy advice on research evidence, national and international best practice, consultation with our stakeholders and expert knowledge.
- 5. Expert-led:** We are an expert source of valuable information, guidance and support to parents and schools as well as providing professional development for practitioners.
- 6. Consultation-focused:** We engage in regular and extensive consultation with our stakeholders.

Goals, Actions and Outcomes

Goal 1

Support students, parents and schools to enhance the educational participation, learning experience of and outcomes for students with SEN.

Actions	Outcomes
1. Review and allocate supports to schools under DE schemes.	Schools are resourced under the DE schemes to enable them to support students achieve better outcomes.
2. Provide information, advice and support to schools and education stakeholders on including students with SEN.	School leaders, staff, and other education stakeholders have access to information, advice and support about resources, supports and transition pathways to make informed decisions to support the education of students with SEN.
3. Provide professional development based on models of best practice to enhance the education and inclusion of students with SEN.	Schools have access to capacity building professional development and training opportunities.
4. Provide advice, information and support to parents and students on education matters including resources and supports, transition planning and pathways.	Parents and students have access to information and advice about resources and supports available to make informed decisions about services, supports and transition pathways.
5. Provide a wrap-around support service in schools including occupational therapists, speech and language therapists and behavioural practitioners as part of the School Inclusion Model.	The School Inclusion Model is rolled out, evaluated and in place nationally.
6. Identify the need for and plan the establishment of special classes and special schools.	A range of educational placement options are available for students in line with need.
7. Review the impact of the supports, advice and professional development provided to schools and parents.	The impact of the supports, advice and professional development provided to schools and parents is measured and data used to continuously improve provision.
8. Maintain data on provision of SEN resources, analyse data and trends to inform planning and review.	Data is available on supports and services provided to schools and parents.

<p>9. Work with the HSE to comply with statutory obligations under the Disability Act.</p>	<p>A clear statement of educational needs is provided as part of obligations</p>
<p>10. Support access to transitions programmes for young adults requiring specialist supports in pilot sites as part the Comprehensive Employment Strategy.</p>	<p>Young adults with special educational needs are supported in transitioning to post-school life in pilot sites and a map for national roll-out is developed.</p>

Goal 2

Provide independent, expert and evidence-informed policy advice to the Minister for Education that is underpinned by a comprehensive research programme

<p>Actions</p>	<p>Outcomes</p>
<p>1. Produce an annual programme of commissioned and in-house research.</p>	<p>NCSE activities are supported and informed by a robust evidence base arising from the research programme.</p>
<p>2. Scope and review current provision and the most recent national and international research evidence and maintain our work with the European Agency.</p>	<p>NCSE is up to date on the most recent research evidence and our international networks are maintained.</p>
<p>3. Disseminate research findings through an annual research conference and the publication of reports.</p>	<p>Our research outputs are disseminated through our annual research conference and are used as a source of information by the NCSE and our stakeholders.</p>
<p>4. Engage in extensive consultation with our education stakeholders, including our Consultative Forum, parents, students and advocacy groups and draw on expert knowledge and advice.</p>	<p>Our education stakeholders, parents, students and advocacy groups are enabled to contribute to our service delivery work, research and policy development through extensive consultation and engagement.</p>
<p>5. Identify and advise the DE on key areas for policy review and advice.</p>	<p>The NCSE is recognised as a source of independent expertise and knowledge on special education.</p>

<p>6. Develop independent policy advice as requested by the Minister for Education & support the implementation of advice as required.</p>	<p>The Minister for Education has expert independent evidence base to plan for policy in the area of special education and it supported in implementing advice as required.</p>
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Goal 3

Develop and maintain an effective organisational culture that complies with all corporate governance and regulatory requirements and support the delivery of services

<p>Actions</p>	<p>Outcomes</p>
<p>1. Put in place appropriate organisational structures to underpin the delivery of services within available resources.</p>	<p>Our work and business processes provide an infrastructure to effectively deliver our services.</p>
<p>2. Enhance staff engagement and professional development for staff to support the effective delivery of our services.</p>	<p>Our staff are supported and empowered to effectively deliver our services.</p>
<p>3. Support the ongoing modernisation of our service delivery by a programme of digitalisation and process improvement.</p>	<p>Online services to schools and parents use appropriate and managed IT platforms. The NCSE has an ongoing programme of business process review and improvement.</p>
<p>4. Maintain governance and control processes in line with statutory regulations and <i>The Code of Practice</i>, provide training on matters as appropriate and engage in the public sector reform programme.</p>	<p>NCSE fully meets its corporate governance and public sector reform obligations.</p>
<p>5. Annual reporting on compliance with all business, corporate and budget requirements. in line with the Performance Delivery Agreement.</p>	<p>NCSE fully meets its statutory, regulatory and business requirements and obligations and reports on compliance to the DE.</p>
<p>6. Disseminate public information on special education issues through our website and engaging with the media.</p>	<p>Our stakeholders and the wider public have access to information on special education provision, are aware of what the NCSE does and are kept up to date on emerging special education issues.</p>

APPENDIX 9: NCSE Work Plan 2022

Strategic Goal 1:			
Support students, parents and schools to enhance the educational participation, learning experience of and outcomes for students with SEN.			
No	Functional Objective/Actions	Timeframe (Owner)	Progress
1.1	Allocate and review supports to all schools under DE schemes.	Q4 (HW)	
1.2	Identify the need for and plan the establishment of special classes and special schools, in line with Education (Admissions to School) Act 2018	Q3 (HW)	
1.3	Assist the DE in the development and implementation of the new frontloaded SNA model	Q3 (HW)	
1.4	Manage, develop and support, in conjunction with DE and other relevant agencies and departments, the implementation of the new School Inclusion Model, including evaluation of project.	Q4 (HW & JD)	
1.5	To expand the School Inclusion Model as agreed by Government.	Q2 (TJ & HW)	
1.6	Provide advice, information and support to parents	Ongoing (HW)	
1.7	Develop and provide a range of professional development and in school supports to schools to build their capacity in the education and inclusion of students with special educational needs, including prioritising the ongoing supports for schools regarding the SET model	Q4 (PP & HW)	
1.8	Further develop and embed the new regional management structure within NCSE	Q4 (PP & HW)	
1.9	Maintain data on provision of special educational needs resources, analyse data and trends to inform planning and review.	Ongoing (HW)	
Relate Risks in 2021 Risk Register (to be updated with the 2022 risks when agreed):			
Risk 1: That the regional team structure and services delivery (supported by specialist leads) is inadequate to provide the necessary supports to build sufficient school capacity to address the learning and care needs of students			
Risk 2: That inadequate special places are available to meet demand, leading to poorer outcomes for children and reputational damage to the NCSE.			
Risk 3: That there is inconsistent or incorrect application of DE policy in NCSE decisions on resource allocations to schools.			

Risk 5: That the NCSE is unable to respond adequately to unexpected environmental events, including Covid-19 and adverse weather, leading to reputational damage and/or a loss of organisation capacity.
 Risk 7: That NCSE's activities and roles are misunderstood or unclear, whether by the public or key stakeholders, resulting in reputational damage.
 Risk 9: That essential functions are compromised, either by economic pressures or by the need to divert management resources to new areas of work at short notice leading to a loss of operational capacity.
 Risk 10: That commissioned researchers will produce poor quality work which could result in a poor evidence base to support policy development or guidelines.

Strategic Goal 2:

Provide independent, expert and evidence-informed policy advice to the Minister for Education that is underpinned by a comprehensive research programme

No	Functional Objective/Actions	Timeframe (Owner)	Progress
2.1	Manage the annual programme of commissioned & in-house research: (a) SIM evaluation, as required (b) Tracking Students after school study (c) History of special education in Ireland (d) Impact of Covid-19 study	Ongoing (JD)	
2.2	Plan and deliver an annual research conference	Q4 (JD)	
2.3	Initiate new research work on: (a) NCSE Service evaluation (assuming budget is made available) (b) Evaluation of transition programme for school leavers pilot (assuming budget is made available)	Q1-Q4 (JD)	
2.4	Coordinate the Irish work of the European Agency for Special Needs and Inclusive Education (EASNIE) and disseminate the agency's materials.	Ongoing (PP)	
2.5	Scope current and new research areas in special education.	Ongoing (JD)	
2.6	Publish policy advice on Special Classes and Special Schools. Support DoE with the taking forward of key recommendations	Q2 (PP) Q1-Q4 (PP)	

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	Disseminate the advice and consult with key stakeholders.	Q1-Q4 (PP)	
2.7	Work with the DoE in implementation of previous policy advice	Q1-Q4 (PP)	
2.8	Implement evaluation framework for NCSE programme of teacher professional learning	Q2 (PP)	
	Update format and content of teacher professional learning based on evaluation feedback and best international practice on innovative adult learning approaches Ensure that our suite of TPL is aligned to other key frameworks including Cosán (Teaching Council Framework for CPD)	Q3-Q4 (PP) Q-1-Q4 (PP)	
2.9	Engage in consultation with education stakeholders, parents, students and advocacy groups as part of the development of policy advice.	Q1-Q4 (PP)	
2.10	Examine the Implications for NCSE arising from Part 2 of the Disability Act relating to assessment of need and provision of educational service for adults from 2020 and put in place the preparations necessary to meet NCSE's responsibilities under the Act. Examine the implications for the NCSE arising from Section 8 (3) of the Disability Act and the recent court judgements, and put in place preparations necessary to meet NCSE's responsibilities.	Q2 (PP & HW)	
2.11	In conjunction with HSE, pilot a transition programme for school leavers	Q1-Q4 (PP)	

Relate Risks in 2021 Risk Register (to be updated with the 2022 risks when agreed):

Risk 7: That NCSE's activities and roles are misunderstood or unclear, whether by the public or key stakeholders, resulting in reputational damage.

Risk 10: That commissioned researchers will produce poor quality work which could result in a poor evidence base to support policy development or guidelines.

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Strategic Goal 3: Maintain an effective organisation that complies with all corporate governance and regulatory requirements and support the delivery of services within an appropriate infrastructure for the organisation			
No	Functional Objective/Actions	Timeframe (Owner)	Progress
3.1	Maintain governance and control processes in line with statutory regulations and the Code of Practice for the Governance of State Bodies and engage in the public service reform programme.	Ongoing (all POs)	
3.2	Annual reporting on compliance with all business, corporate, Governance, DES 2020 Action Plan and budget requirements in line with the Performance Delivery Agreement. .	Ongoing (all POs)	
3.3	Finalise and publish the new Statement of Strategy 2022 - 2026.	Q1 (JD)	
3.4	Continue to review and develop our work and business processes and align as appropriate with budgets and shared services developments.	Ongoing (all POs)	
3.5	Support the Council and the Consultative Forum in the delivery of their functions including supporting the Chairperson in the recruitment process for the new Council and commence the establishment of the new Consultative Forum.	Ongoing (JD)	
3.6	Provide guidance and information to parents, students, adults with disabilities and schools on special education, including a review of existing content on NCSE Website.	Q1-Q4 (PP)	
3.7	Deliver a programme of information sessions with parents and engage in regular consultation sessions with parents and advocacy groups.	Q1-Q4 (PP)	
3.8	Provide the necessary corporate supports for the permanent NCSE Support Service, to include agreement on grades, recruitment, accommodation and appropriate ICT infrastructure.	Ongoing (TOL)	
3.9	Enhance and improve our internal and external communications, including development of the NCSE website as a key resource for parents, schools and other stakeholders.	Ongoing (TJ)	

Relate Risks in 2022 Risk Register:

Risk 5: That the NCSE is unable to respond adequately to unexpected environmental events, including Covid-19 and adverse weather, leading to reputational damage and/or a loss of organisation capacity.

Risk 6: That internal or external parties misuse personal data in the care of NCSE, leading to financial and reputational damage.

Risk 7: That NCSE's activities and roles are misunderstood or unclear, whether by the public or key stakeholders, resulting in reputational damage.

Risk 8: That effective governance in line with the 2016 Code of Practice is not in place leading to lack of compliance and reputational damage.

	On track
	Minor issues or delays
	Major issues or delays

APPENDIX 10: Performance Delivery Agreement

Performance Delivery Agreement

Department of Education

And

National Council for Special Education

2022

Prepared by: Special Education Section

Document Version: Final

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1. INTRODUCTION AND CONTEXT

1.1 Purpose and Scope of the Agreement

The Oversight Agreement 2022-2024 and this Performance Delivery Agreement (PDA) act as a performance contract between the Department of Education (referred to as 'the Department') and the National Council for Special Education (referred to as 'the NCSE').

This agreement will:

- (i) Provide clarity on the strategic and operational aspects of the organisations' relationship;
- (ii) Provide a basis and framework for the delivery of high quality services and agreed levels of performance;
- (iii) Facilitate high levels of governance within the NCSE in line with best practice;
- (iv) Provide structured arrangements for communications, reporting and liaison between the organisations;
- (v) Facilitate engagement and co-operation between the organisations.

The purpose of the agreement is to:

- (i) Set out a management and accountability framework, in which an agreed level of performance/service is formalised.
- (ii) Specify the level of service to be delivered during the year between the Department and the NCSE. This is to ensure that resources are used in an efficient and cost effective manner to support the delivery of high quality education for children and young people with special educational needs.
- (iii) Support specific high level goals and objectives of the Department and the NCSE and sets out a number of targets for the NCSE in line with the NCSE's Statement of Strategy and work plan, as set out in the oversight agreement.
- (iv) Define the outcome indicators on which the performance of the NCSE shall be measured.
- (v) Set out how the Department will support the NCSE in the delivery of outcomes and specify the means by which the Department shall provide the necessary resources to the NCSE to enable them achieve their targets.

This Agreement supersedes all previous Performance Delivery Agreement.

To the greatest extent possible, this Agreement has been developed in accordance with applicable statutory provisions, relevant national strategies and Government policies, the Public Spending Code published by the Department of Public Expenditure and Reform, the revised Code of Practice for the Governance of State Bodies effective from 1st September 2016, Exchequer funding guidance protocols as laid down by D/PER and the Department's Action Plan for Education and the NCSE Statement of Strategy 2022-2024. However, this agreement remains a dynamic document and subject to modification in line with changes in the wider public sector.

This Agreement is not a legally binding agreement nor a contract and is not intended to limit or curtail the undertaking or implementation of measures / actions or the adoption of policies that serve the best interest of both bodies and accord with statutory responsibilities. This agreement does not look to replace the statutory functions of the Council as set out in the EPSEN Act 2004 or the strategic role of the NCSE Council. It is not exhaustive in its identification of roles and responsibilities nor does it seek to supersede existing working arrangements between the bodies where such relations serve the best interests of all concerned.

Both parties to this Agreement will ensure that Department and NCSE staff involved in the progression of the delivery of special educational needs supports to schools are familiar with the contents of this Agreement and comply with its requirements. Interaction and engagement between the two bodies shall be conducted in accordance with the principles and provisions of this Agreement. The Agreement acknowledges that the EPSEN Act 2004 sets out other stakeholders that the NCSE works with and therefore does not look to manage, but to support these relationships.

1.2 Duration of the Agreement

This Agreement is valid from 1st January to 31st December 2022. The agreement will be reviewed on an annual basis.

At the agreement of both the Department and the NCSE, the duration of this Agreement may be extended to enable its successor document to be agreed. The timeframe for such agreement will factor in the need for the NCSE Council to review and approve any such extension.

The content of this Agreement may be amended or modified as required provided mutual agreement is obtained from both parties.

1.3 Flexibility and Amendment of Targets

Both parties recognise that it may become necessary to change, modify, add to or otherwise alter, agreed performance targets during the course of this agreement, due to unforeseen circumstances. A necessity for amendments may be prompted by changes in e.g. legislation, government/ministerial priorities or policies, prevailing operating circumstances and/or broader political economic, financial or related priorities.

Where amendments become necessary, both parties will engage in meaningful and timely consultations. Such consultation will include consideration of any increase or reduction in effort required to achieve amended targets and any related impact on total output requirements. In the course of all consultations, the Department will be cognisant of the resources required by the NCSE to deliver priorities or the need to deprioritise some objectives if additional delivery requirements emerge. The Department also acknowledges that there may be co-dependencies in some instances where the delivery of objectives also requires the commitment of other stakeholder agencies. At all times, the NCSE is working

with all stakeholders in delivering the Government’s objectives for provision of supports to children with special educational needs.

1.4 Reporting and Liaison Structures

- Both parties recognise the importance of regular meetings and ongoing dialogue. In that context, the following liaison arrangements are agreed: In addition to ongoing regular dialogue between management in relevant areas of responsibility in the two organisations, Special Education Section Officials shall meet members of senior management within the relevant areas of responsibility in the NCSE on a quarterly basis. The purpose of these meetings is to discuss progress and issues relating to supporting schools to enable students with special educational needs achieve better outcomes and ensure a range of educational placement options are available.
- Special Education Section officials, up to and including PO or equivalent level typically, and the Principal Officer, NCSE with responsibility for Corporate Governance, shall meet bi-annually, to coincide with the receipt of bi-annual progress reports, over the course of the year. At these meetings, progress on the implementation of the Goals and Actions outlined in the Agreement, including governance, management/financial control and any issues arising in relation to the operation of this Performance Delivery Agreement will be discussed. Typically, these meetings will take place in early July and October.
- Requests for information from the Department to the NCSE relating to legal matters must be responded to by the NCSE within 5 working days. This is to ensure matters can be addressed efficiently and may assist with reducing unnecessary legal costs as cases may be resolved earlier.
- To review the progress on the services outlined in this Agreement, the following schedule of meetings have been agreed with the final meeting reviewing the overall performance and agreeing the priorities for the following year.

Date	Department Senior Officials & NCSE Senior Management	Department Officials up to P.O.& NCSE Governance Managers	Purpose
February	X		PDA Agreement
May	X		Progress, Program Implementation & operations.
July		X	Governance Review
September	X		Progress, Program Implementation & operations.
October		X	Governance Review
December	X		PDA 2023 & Performance

			Review.
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If required, appropriate attendees may attend on behalf of, or in addition to, the officials outlined above, and prior notice will be given in such cases.

1.5 Oversight Agreement

There is an Oversight Agreement in place between the Department and the NCSE, which is valid from 1st January 2022 to the 31st December 2024 and will be reviewed annually – unless it is extended at the mutual agreement of the Department and the GDA. There is a commitment between the Department and the NCSE to comply with the Oversight Agreement. The Performance Delivery Agreement operates within the parameters of the Oversight Agreement.

2. MUTUAL COMMITMENTS

Both parties are committed to the promotion of partnership, responsiveness and mutual co-operation in their ongoing interactions. Both parties agree to consult and to keep each other fully apprised on all matters of mutual relevance. This is to be underpinned by a “no surprises” approach to matters of mutual concern.

Both parties undertake to ensure that no unnecessary delays will arise in respect of decision making, responses to correspondence, information requests or related matters. In relation to parliamentary questions or other parliamentary business, the NCSE will provide appropriate material within the specified timeline. The NCSE will be the point of contact for all such requests through NCSE-operations-unit@ncse.ie.

The NCSE will advise and keep the Department up to date as regards opportunities or risks associated with the development informally and formally via the Early Warning Report on a quarterly basis.

Both parties commit to keep each other fully apprised and updated on any emerging issues or planned public announcements, by ensuring that there is prior consultation on draft reports in advance of final approval or publication.

Both parties commit to putting in place urgent communications arrangements between the NCSE and the Department and vice versa, should a significant issue arise. In addition, the Department shall inform the NCSE of any media contact and enquiries relevant to the work of the NCSE, and likewise the NCSE will keep the Department informed.

The Department will be cognisant of the demands placed on the NCSE in delivering the service commitments set out in this Performance Delivery Agreement and will support the NSCE in its endeavours wherever practicable.

3. INPUTS

3.1 NCSE Budget

Budget 2022	Pay Allocation	Non-Pay Allocation	Withheld	Total Allocation 2022
NCSE Overall Budget	12,724,751	10,132,615	321,385	23,178,751

The pay allocation provides for the agreed staffing levels under the delegated sanction, the recruitment of staff under Government Decision on NCSE re-structuring (2nd July 2019), increments and pay increases.

The pay allocation provides for the agreed staffing levels under the delegated sanction, together with increments and pay increases, and includes an allocation for the funding of the additional 25 Advisors for four months (September 2022 to December 2022)

An amount of €2,000,000 has been allocated for the proposed expansion of the SIM project. The existing SIM project costs are divided between Pay €2,440,000 and Non-pay €2,323,615. €39,000 will be retained by the Department for payment of office accommodation allowances to the visiting teacher service.

€282,385 will be retained by the Department for payment of for the costs associated with 4 NEPS psychologists for the SIM.

3.2 Staff

Grade	Staff in post May 2022	Staff Sanctioned
Civil Servants - administrative		
Chief Executive	1	1
Principal	4	4
Assistant Principal	7	7
Higher Executive Officer	7	6
Executive Officer	9	9
Administrative Officer	1	1
Clerical Officer	4	7

Temporary Clerical Officer	4	
Sub-total	37	35

Civil Servants – professional/technical		
Regional Manager	5	5
Specialist / Practice Lead	6	5
Team Manager	11	10
SENO	63	73
SIM Project Therapists/BPs	6	11
ISTP Project – Therapists and Therapy Managers	14	33
Sub-total	10	137
	5	
Total Civil Service Staff	14	172
	2	
Seconded/Permanent Teaching staff		
Advisors	50	75
<u>Visiting Teachers</u>	43	43
Sub-total	93	118
Total	23	290
	5	

4. PERFORMANCE MEASUREMENTS AND SERVICE LEVEL COMMITMENTS

This section specifies the high level performance indicators and more detailed outputs/ service level commitments, in line with the DoE Statement of Strategy, Action Plan for Education 2022 and the NCSE Statement of Strategy 2022/2024.

Outputs		NCSE Actions	Key Performance Indicator	Timeframe
School Inclusion Model				
Progress the School Inclusion Model to build school capacity to ensure students have access to the right supports at the right time	APED	Manage the S.I.M. project in CHO7	Projects operational at local level	Ongoing
Support the planning process for the expansion of SIM.	APED	Manage the expansion of SIM.	Projects operational at local level	Ongoing
Advertise new RFT for evaluation of new agreed SIM Pilot		When plans for expansion of SIM have been finalised, commission a new evaluation of the project	Evaluation completed and published	Dependent on decision regarding new SIM Model
Special Needs Assistants (SNAs)				
Support the development of new model for allocating Special Needs Assistants (SNAs) to mainstream primary and post primary schools for students in mainstream classes as requested by Sp Ed	APED	Assist in the development of a new model	New model developed	Ongoing
Inform schools of their Special Needs Assistant (SNA) allocation before the end of the school year (mainstream, special schools and special class SNA allocations).	APED	Inform schools of their SNA allocation under the new model	Schools informed of their allocation and supported to implement the new model at school level	Q2
Develop and implement an appeals process and a process to conduct exceptional needs reviews for schools in relation to the SNA allocations	APED	Appeal process and exceptional needs review process for SNA allocation developed	Appeals and Reviews conducted and schools notified of outcomes	Ongoing

Special Education Teacher Allocation Model				
Embed the Special Education Teacher model which provides a unified allocation model for special educational support teaching needs to each school, based on the school's educational profile, to ensure support is available for all pupils who require it.	APED	Support the implementation of the revised model for allocating Special Educational Needs Teachers in schools	S.E.T. allocation model operational in all mainstream schools	Ongoing
Support the review and redevelopment of the SET model over the next 18months		Provide support and input to the SET Model Review planned both at Operational and policy unit levels	Revised SET allocation model in place for 2024/25 school year	Ongoing
Provide additional support for new schools, schools with rapidly developing enrolments and schools which have exceptional circumstances arising in their school, pending the next review of the allocations	APED	Provide support for schools by NCSE support services. Conduct exceptional needs reviews and issue allocations for new and developing schools as advised by Sp Ed.	Additional support provided to new schools and rapidly developing schools, where required. Reviews conducted and allocations issued.	Ongoing
Ensure that data are collected and available in 2021 and there is engagement with the sector so that school profiles can be updated at the next review stage	APED	Assist in the collection of data	Data is collected to ensure model can be updated.	Ongoing
Teacher Professional Learning & in-school support				
A range of teacher professional development seminars is provided to schools to build their capacity in the education and inclusion		Develop, plan and deliver a programme of TPL seminars	TPL programme delivered in accordance	Ongoing

of students with special educational needs.			e with plan and school needs	
A range of in school supports is provided to schools to build their capacity in the education and inclusion of students with special educational needs.		Develop, plan and deliver a programme of in school supports	In school support programme delivered in accordance with plan and school needs	Ongoing
Support the needs of Ukrainian children with SEN				
A pathway for Ukrainian pupils requiring the support of special class and special school placements is established.		Assist DE to develop a pathway for Ukrainian pupils to access specialist provision in the absence of diagnosis of disability and/or professional reports and implement agreed pathway.	A pathway for Ukrainian pupils to access specialist provision are established, communicated to all stakeholders and implemented.	September 2022
Guidelines for meeting the needs of children with SEN				
NCSE Behaviour Framework.	APED	Develop guidelines and ensure they align with the DE Behaviours of Concern.	Guidelines, published, and disseminated to schools	Q3
Guidelines to support the Transitioning needs of Schools leavers who require specialist supports		Develop Guidelines	Progress the development of guidelines engage in stakeholder consultation	On-going and into 2023
Autism Good Practice Guidance for schools	APED	– Interagency collaboration in the use of the guidance document (NCSE/NEPS./Inspectorate)	– Interagency collaboration in the use of the guidance document (NCSE/NEPS./Inspectorate)	Ongoing
Special Schools and Special Classes				

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Identify the need for and plan for sufficient special school and special class places for students with SEN	APED	Planning in conjunction with the department takes place in advance of September 2023 and beyond	Sufficient special school and special class places are available in 2023 and beyond	Ongoing
Provide an annual update of the long term forecast for special classes to Special Ed and PBU. and the operation of the Admissions Act in this regard	APED	Update the long term forecast based on new prevalence rates and historical special class enrolment figures	Update long term forecast for special classes	Q3
A framework to operate S67 of the Admissions to School Act 2018 once commenced.		Design, develop and implement (where appropriate) a framework to operate S67 of the Admissions to School Act once commenced. Consult and engage with Tulsa as appropriate as part of the design and development	Implementation of S67 as appropriate	Ongoing
Updated S37A process following recent legislative changes once commenced and update process as required		Review current S37A process following recent legislative changes once commenced and update process as required	Implementation of S37A as required	Ongoing
Publish policy advice on special classes and special schools	APED	Policy advice submitted to Minister	Policy advice is published	Q3
Support the implementation of recommendations arising from policy advice on special schools and classes		Support implementation	Implementation of recommendations underway	Ongoing
Appropriate staffing in place in special schools		Review and confirm the appropriate staffing on a timely basis annually. Engage with the Department on any	Staffing allocations confirmed to the Dept. and to schools by	Q2

		review of how special schools are resourced and the introduction of any staffing appeal mechanisms for special schools.	agreed date. Clarity on staffing appeals mechanisms for special schools.	
Disability Act				
Develop a process to assist the HSE in their Assessment of Need process in the context of identifying education needs for inclusion on the AON report		Develop a process to assist the HSE in their Assessment of Need process to nominate the appropriate person to carry out an assessment of Identified Education Needs	Referrals for Assessment Officers are responded to on a timely basis within the required timeframes.	Ongoing
ISL Scheme				
Progress proposals for ISL Scheme		Assist with the development of an ISL scheme and implement scheme when finalized	Applications under ISL scheme are appropriately processed	Ongoing
Summer Provision				
Support the development of the Summer Programme		Develop resources and initiatives to support the Summer Programme Assist with proposals for the implementation of the development of a revised Summer Education Programme Scheme	Publication of resources for Summer Programme 2022. Engage with the development of a revised 2023 scheme. Attendance as required at meetings regarding the development of the scheme.	Q3 On-going
Assistive Technology and Home Tuition scheme				
Ensure cases and data are managed in a timely manner.		Application process in line with current policy, appropriately processed and responded to in a timely manner. Manage at a local level.	Ensure cases are supported and managed in a timely manner. Establishment and Attendance, as required, at meetings at a local level. Data is	Ongoing

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			collected on each of the schemes.	
EPSEN Act				
Engage in the EPSEN Act review		Participate in the EPSEN Act review on the Steering group and working group,	Attend and engage in Steering and working Group meetings as required. Review complete and report submitted to the Minister	Ongoing due to complete by Q1 2023

Section 37a				
Engage in the Section 37A review		Participate in the review.	Attendance at meetings as required. Report complete and submitted to the Minister by December 2022.	Q4 2022

School Transport Scheme				
Support the review of school transport scheme		Participate in reviews of school transport scheme	Proposals developed to revise and update scheme	On-going

Comprehensive Employment Strategy Action 1.4				
Develop practices around transitions and implement actions to support the pilot of the CES 1.4 Action point		Develop practices around transitions and lead on the pilot along with the DE and other stakeholders	Transitions planning work developed and pilot developed and evaluation of same advertised	On-going
Support the Implementation of Priority Initiatives of the Minister for Special Education & Minister for Special Education				

Improving Supports: Reviewing and improving the Assistive Technology Support scheme		Participate in reviews of Assistive Technology Scheme	Proposals developed to revise and update schemes	
Expand linkages with Tusla in respect of the TESS and AEARS programs with a focus of RSD		Implement a process for frequent and substantive engagement with Tusla	4 meetings per year	

1.2 Core Activities and Service Commitments

The Core Activities Plan – Section 1 sets out the core activities and service commitments to be provided by the NCSE in 2022 which outlines the Goals and Service Commitments relating to each activity along with associated outcomes and delivery targets in line with the NCSE Statement of Strategy.

The Core Activities Plan – Section 2 sets out the financial work plan between Special Education, Special Needs Tuition Grants (SNTG) Section of the Department and NCSE, in relation to financial reporting and drawdown of funding.

5. PDA BI-ANNUAL PROGRESS REPORT

The NCSE shall compile and submit a bi-annual Progress Report to the Department providing a summary of progress and detailing the developments that have taken place in the preceding six months. These Reports shall be reviewed by the Department and any issues or queries arising shall be communicated to the NCSE.

6. REVIEW PROCESS

This Agreement is for 2022 only. It will be fully reviewed towards the end of 2022. It may then be modified for 2023 or extended by mutual written agreement, to allow for the development of a new PDA.

7. POTENTIAL RISK FACTORS/CONSTRAINTS

As resources for the period of the agreement will be agreed and included in the agreement, resource constraints need not be included as a potential risk factor.

The NCSE produce a Risk Register on an annual basis and a copy is submitted to the Department and is attached to this document.

8. FAILURE TO DELIVER

The reason(s) for any failure to deliver can be explored between the Department and the NCSE with appropriate actions put in place. There may be a range of actions/steps depending on the scale of the variation of the result from the target including Section 28 of the EPSEN Act which provides procedures in the event of the Failure, neglect or refusal of the Council to perform a function assigned to it or failure to effectively perform any such function.

In its oversight role, the Council commits to ensure that the NCSE meets its mandate, statutory obligations and specific performance targets as outlined in this document. The Chairperson undertakes to ensure that performance against targets is monitored on an ongoing basis and that statutory and related obligations are met.

9. AGREEMENT APPROVAL

Signed:

Signed:

**John Kearney,
Chief Executive Officer,
National Council for Special Education**

Date:

**Martina Mannion,
Assistant Secretary General,
Department of Education**

Date:

APPENDIX 11: NCSE Risk Management Strategy and Policy

Reviewed and agreed by the NCSE Council in December 2021

Introduction

The Council of the NCSE has agreed this NCSE risk management strategy and policy to ensure that risks are appropriately identified and assessed, that appropriate responses to risk are adopted and that effectiveness of responses is reviewed. This policy briefly outlines the roles and responsibilities of the Council, its Audit and Risk Committee, the Internal Auditor, and the Executive in ensuring that risk is appropriately managed with appropriate governance oversight.

Council Role

In line with the requirements of the Code, the Council of the NCSE (Board) will:

- ensure that risk management is a standing meeting agenda item at the Audit and Risk Committee and periodically at Council. Risk management will be reported on by the Chief Risk Officer to the Council on a quarterly basis and as required;
- include risk management within the terms of reference of the Audit and Risk Committee;
- include risk management experience/expertise in the competencies in the Audit and Risk Committee and, expert advice will be sought externally if necessary;
- appoint a Chief Risk Officer and provide for a direct reporting line to the Council;
- approve the Risk Management Policy, set the NCSE's risk appetite, and approve the risk register at least annually;
- review management reporting on risk management and note/approve actions as appropriate;
- require external review of effectiveness of risk management framework on a periodic basis.

Risk Appetite

Risk appetite has been defined as "The amount of risk which is judged to be tolerable and justifiable".

The risk appetite of the NCSE will be determined by Council in the context of its review of risks and reports thereon. The approach of the NCSE Council will be in line with the Risk Management Guidance of the Department of Finance in regard to the mitigation of risk ie the objective is to not to prevent risk totally but to contain it to an acceptable level and

ensuring that the cost of controls to mitigate risk are not disproportionate to the potential impact of the risk being managed. The NCSE Risk Appetite Statement was most recently agreed by Council at its meeting of xxx.

Role of the Audit & Risk Committee

The Council's Audit and Risk Committee in accordance with its terms of reference approved by Council, will review the adequacy and effectiveness of the organisation's process for the identification, assessment and control of corporate and divisional level risk and will report to Council on matters relating to the organisation's process for risk management and management action to mitigate risk.

Standing item on Audit & Risk Committee and Council agenda

Risk management will be a standing item at Audit and Risk Committee meetings and will be considered by Council on its agenda periodically. The Council will approve the risk management plan and risk register on an annual basis. The Council will consider an external review of effectiveness of the NCSE risk management framework through the internal audit programme or otherwise on a periodic basis.

Role of NCSE Internal Auditor

The NCSE internal auditor will review the effectiveness of the NCSE risk management framework as required from time to time, will undertake reviews of particular areas of identified risk as required within the internal audit programme and will report to the Audit and Risk Committee.

Chief Risk Officer

The Council has allocated the function of CRO to the CEO. The CEO reports to and is accountable, to the Council. The CEO will ensure that appropriate policies and procedures are developed and applied by NCSE management as approved by Council. When the highest risks are identified, the CEO will report to Council on the management and mitigation of those risks.

Roles of Heads of Function and Council Staff

Heads of Functions in NCSE are responsible for risk management in their respective areas and report to the CEO. Other staff within the NCSE are required to report to their immediate managers in regard to risk and to the Head of Function or CEO as appropriate.

Department of Finance Guidelines for Risk Management in the Public Service applied in NCSE

The NCSE follows the Department of Finance Guidelines for Risk Management in the Public Service. Risk management is an integral and ongoing part of the general management process. In line with this policy, the risk management process is kept as simple and straightforward as possible, and existing structures including work/business/budget plans are used, as far as possible. The CEO and Heads of Function are required to put in place effective mechanisms for risk management and develop mitigating actions and controls as appropriate. The process of risk identification and assessment will be reviewed at least once a year by the executive, the Audit and Risk Committee and by Council

NCSE Risk Register

The NCSE risk register is reviewed by the executive annually and submitted to and agreed by the Audit and Risk Committee and Council.

The register identifies the key risks, the controls in place to mitigate risk and the actions planned to manage residual risk. The register classifies and rates the raw risk and the residual risk on a scale of likelihood and impact. The register clarifies ownership of the risk and when the action is planned to be effected. The basis for rating of the risks as set out in the register is explained in Appendix 2.

Approval of Risk management Policy by Council

NCSE Risk management strategy and policy was reviewed and approved by Council at its 127th meeting on 9 December 2021 on the recommendation of the NCSE Audit and Risk Committee.

Appendix 1:

Requirement of the Code of Practice for the Governance of State Bodies

The Code of Practice for the Governance of State Bodies (Section 8) requires that each State body should develop a Risk Management Policy; that the Board (NCSE Council in the case of NCSE) should approve the risk management framework and monitor its effectiveness; that the Council should review material risk incidents and note or approve management's actions, as appropriate.

The Code goes on to specify that key elements of the Council's oversight of risk management would include:

- make risk management a standing meeting agenda item;
- consider establishing a Risk Committee or including it in the charter of the Audit and Risk Committee;
- include risk management experience/expertise in the competencies of at least one director. Where composition of the Board does not allow for this, expert advice should be sought externally;
- appoint a Chief Risk Officer or empower a suitable management alternative, and provide for a direct reporting line to the board;
- approve the Risk Management Policy, set the State body's risk appetite, and approve the risk management business plan and risk register at least annually;
- review management reporting on risk management and note/approve actions as appropriate;
- require external review of effectiveness of risk management framework on a periodic basis.

The Code also indicates that Chairman's report to the Minister on the NCSE system of internal financial controls should describe the key procedures put in place by the Council to identify business risks and to evaluate their financial implications.

Appendix 2:

Risk register ratings and guidelines

Raw risk (i.e. before controls implemented)			
	impact	likelihood	ranking
High	5	5	5
	4	4	4
	3	3	3
	2	2	2
Low	1	1	1

Residual risk (i.e. having regard to controls currently in operation)			
	impact	likelihood	ranking
High	5	5	5
	4	4	4
	3	3	3
	2	2	2
Low	1	1	1

NOTES

Select indicator on scale above relating to the headings of “impact”, “likelihood” and “ranking” which is in your best judgement is appropriate to the identified risk.

High should be selected for “**impact**” where you consider that the occurrence of the risk which you identify would have a most significant impact in scale on the NCSE and its functions.

High **likelihood** should be selected where you consider that the risk which you identify would have high likelihood of occurring.

Ranking indicator should be determined based on an assessment of the combination of impact and likelihood

Give one indicator under each heading for each identified risk.

APPENDIX 12: NCSE Financial Policies and Procedures Manual (FPPM) (2023)



FINANCIAL POLICIES AND PROCEDURES MANUAL

1.2023

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1 INTRODUCTION

1.1 Purpose of this document

The purpose of the Financial Policies and Procedures Manual (FPPM) is to document the financial policies and procedures implemented within the National Council for Special Education (NCSE).

- It provides information related to funding, purchasing, payroll, budgeting and accounting.
- It delineates the different roles of Council, the Department of Education (the Department), the CEO and staff in dealing with NCSE financial matters.
- It forms a key element of the system of internal control overseen by the Council.
- It provides policy statements to aid in financial decision making and the procedural steps for implementation.
- It is also designed to assist staff in handling daily financial transactions.
- While this document is fully operational it is routinely reviewed and updated as necessary.

1.2 Legislative Background

The NCSE was initially established in December 2003 by order of the Minister for Education as an independent statutory agency of his Department. It was re-established under primary legislation by the Education for Persons with Special Educational Needs Act 2004 (EPSEN). The NCSE was set up to improve the delivery of education services to persons with special educational needs arising from disabilities. Further information on its general functions is available on www.ncse.ie. A number of provisions of EPSEN are of particular relevance to the FPPM and are quoted under:

Section 24: Refers to the office of the CEO and her function of managing and controlling the staff, administration and business of the NCSE

Section 29: Refers to Accounts and Audits

Section 30: Refers to the Accountability of the CEO to the Public Accounts Committee

Section 43: Refers to the payment of grants by the Minister to the NCSE

1.3 Expansion of the NCSE

On 16th March 2017 the Department announced to the expansion of the NCSE to include services formerly delivered by the Special Education Support Service, the National Behaviour Support Service and the Visiting Teacher Service (VTS). The financial management of these services commenced transitioning to the NCSE in 2017 with final transition as of 31st August 2019. The FPPM 2020.1 reflects the transition of these responsibilities, roles and procedures.

1.4 NCSE Financial System and Budgets

- The NCSE is required to maintain appropriate financial records and uses the SAGE financial management system (FMS) in support of these requirements (See Appendix O which provides information about access and backing up the SAGE system).
- The NCSE is wholly funded by the Department to meet pay and non-pay expenditure requirements. There are agreed procedures in place governing the release of funds to the NCSE. (See Chapter 2 for details of funding procedures agreed with the Department).
- The NCSE is required to purchase goods and services in line with government policy to ensure value for money (VFM) and meet regulatory requirements (See Chapter 3 for details of NCSE procurement and purchasing procedures).
- The NCSE is required to apply central government policy on travel and subsistence expenses for its staff and Council members (see Chapter 4 for details of NCSE expense claims procedures).
- The staff of the NCSE are civil servants (Section 25 (5) of the EPSEN). The NCSE has arranged a service level agreement with the Payroll Shared Service Centre (PSSC) operated by DPER to provide payroll services (See Chapter 5 on details of NCSE payroll procedures).
- The NCSE operates a commercial bank account to manage its receipts and payments. The NCSE appointed Bank of Ireland as its bankers following a procurement process (See Chapter 6 for details of NCSE banking procedures).
- NCSE assets with a life of more than one year and value greater than €100 are capitalised (designated as fixed assets) and depreciated over their useful economic lives. From the 01/01/2021 the asset amount increases to €10,000. The NCSE classifies refurbishment of premises held on long term leasehold, furniture, equipment and specified software as fixed assets. (See Chapter 7 for details of NCSE procedures for treatment of fixed assets).
- The NCSE is required to prepare an operational budget based on the budget allocation notified by the Department and manage its expenditure within the approved budget. (See Chapter 8 for details of NCSE procedures for budget management).

- The NCSE is required to prepare accounts and submit to the Office of the Comptroller & General for audit (See Section 9 for details of NCSE accounting procedures).
- The FPPM should be read in conjunction with other important documents applicable to the financial management of public bodies including:
 - Public Financial Procedures
 - Government procurement procedures
 - The Code of Practice for the Governance of State Bodies

2 INCOME

2.1 Policy Statement

- To administer strict financial control of funding and expenditure to ensure sufficient cashflow to meet immediate expenditure commitments in accordance with the agreed budget while ensuring the NCSE observes the objectives and procedures governing the funding of the NCSE as agreed with the Department and does not hold excess funds.

2.2 Legal & Policy Framework

- The funding of the NCSE by the Department by way of grant is carried out in accordance with Section 43 of the EPSEN Act and general public financial procedures, including in particular the terms of Department of Finance Circular 0013/2014. These procedures provide an important overarching framework in relation to the management of public funding provided to bodies delivering services not administered directly by Government Departments and deal, inter alia, with the funding of bodies by instalments, the avoidance of over-issues of funds and the recovery of excess payments.
- A Budget & Funding Procedure between the Department and the NCSE is in place which sets out the agreed objectives and procedures governing the funding of the NCSE. (See Appendix P).

2.3 Procedures

- An operational budget is agreed by the Council based on prescribed limits set by the Department (See Chapter 9).
- The Executive profiles the budget to forecast monthly cashflow requirements for the year and agrees a schedule of advances (Pay & Non Pay) to meet the forecast cashflow requirements with the Department.
- The NCSE submits requests for funding on an approved application form to the Department and provides all necessary background information for the Department to understand NCSE requirements for funding.
- NCSE funding requests are approved by the AP Finance Unit prior to notification issuing to the Department.
- Income is received by Electronic Funds Transfer (EFT) from the Department into the NCSE current bank account.
- The Department forwards notification of the transfer to inform the NCSE that a payment has been made.
- NCSE cashflow is monitored by the NCSE Finance Unit.
- The FMS is updated with details of the transfer of funds and the transfer notification received from the Department is filed on the Bank Statement of Accounts file.
- A reconciliation of bank statements against receipts and payments is carried out on a monthly basis by EO or CO Finance Unit and reviewed by the HEO or AP Finance Unit.
- A report showing expenditure on a monthly basis is circulated to budget managers.
- The NCSE provides a monthly report of expenditure to the Department.
- An annual reconciliation with DES records of funding with NCSE records of income is conducted.

2.4 Responsibility and Approval

Record Income Received	Clerical Officer / Executive Officer Finance Unit
Maintain Bank File	Clerical Officer / Executive Officer Finance Unit
Monitor Cashflow and request funding	AP / HEO / EO Finance Unit
Annual Reconciliation of Funding	AP / HEO Finance Unit

3 PURCHASES AND PROCUREMENT

3.1 Policy Statement

- The NCSE will ensure that its procurement activity operates in accordance with best practice, utilising appropriate systems and available staff resources efficiently in order to ensure value for money purchasing in line with NCSE strategic priorities and budget limits, with probity and accountability and in compliance with government policies as outlined in the National Public Procurement Policy Framework (NPPPF). The NPPPF comprises: EU and Irish legislation; government policy as set out in documents like circulars; general procurement guidelines for goods and services; capital works guidance; and information notes, template documentation and other documents issued by the Office of Government Procurement (OGP). These are available at www.ogp.gov.ie.

3.2 Legal & Policy Framework

- The OGP publication Public Procurement Guidelines for Goods and Services sets out the steps to be followed in conducting an appropriate competitive process under EU and national rules¹.
 - The NCSE must comply with the provisions of national legislation and national agreements covering tax clearance requirements, prompt payments, health and safety, pay agreements etc. in so far as they apply to it.
 - The Public Service Management Act 1997 requires the provision of cost effective services to achieve better use of resources and to comply with the requirements of the Comptroller and Auditor General (Amendment) Act 1993.

¹ EU Directive 2004/18/EC covers the procurement procedures of public sector bodies.

Directive 2004/17/EC covers the procurement procedures of entities operating in the utilities sector. They are published in Official Journal L 134 of 30 April 2004 and can be accessed on the EU Publications Office portal at <http://europa.eu.int/eur-lex/en/index.html>, or on the EU

public procurement website <http://simap.eu.int>. Additional guidelines on the engagement of consultants in the civil service, appraisal and management of capital expenditure in the public sector, on the engagement of advertising, public relations and creative design services, green procurement and facilitating small and medium enterprises are available on www.per.gov.ie, www.ogp.gov.ie and www.etenders.gov.ie.

- The Code of Practice for the Governance of State Bodies 2016 reaffirms the requirements of state bodies to strive for economy, efficiency, transparency and effectiveness in their expenditure.
- The NPPPF requires state bodies to develop a corporate procurement plan.
- The NCSE has a Corporate Procurement Plan which aims to build on existing good practices and provide a focus for further development and improvement in this critical function. Such plans are the formal outcome of a review of recent expenditure and current procurement processes. It sets practical and strategic goals and objectives for improved procurement outcomes and appropriate measures to achieve these aims. The current Corporate Procurement covers the period 2019-2022. A new Corporate Procurement Plan for the period 2023-2026 has been prepared.
- Information on procurement policy and general guidance on procurement matters is published by the OGP. These can be viewed on the national procurement website www.ogp.gov.ie.
- The OGP has arranged framework agreements and drawdown agreements and these should be utilised where possible.
- From time to time, the Department of Public Expenditure and Reform publishes circulars impacting the procurement of certain goods and services by public bodies (for example, circular 02/16 on the procurement of ICT). These are also available on the OGP website and should be noted as required.

3.3 Responsibilities

Both the Council and executive have responsibilities in respect of procurement and these are set out under the Council of the NCSE:

- It is the responsibility of the Council as the governing body of the NCSE to satisfy itself that the requirements for public procurement are adhered to.
- The Council is required to be fully conversant with the current value thresholds for the application of EU and national procurement rules.
- The Council should satisfy itself that procurement policies and procedures have been developed and published to all staff.

- The Council should satisfy itself that procedures are in place to detect non-compliance with procurement procedures.
- The Council should ensure that competitive tendering should be the standard procedure for NCSE.

The Chairman shall annually report to the Minister and affirm adherence to the relevant procurement policy and procedures and the development and implementation of the Corporate Procurement Plan.

NCSE Executive:

- The CEO is ultimately responsible to the Council for ensuring the development and implementation of procurement policy by the executive and reporting to Council and its Finance and Audit and Risk Committees. .
- NCSE budget holders (Generally at PO level and delegated by POs on an operational basis to APs and HEOs within respective teams) are responsible:
 - for ensuring that value for money is achieved in the procurement of goods and services
 - for adherence to the legal and policy framework
 - for ensuring budget compliance, and
 - for reporting to the Finance Unit on budgetary performance, requirements and priorities.
- The NCSE has appointed a Procurement Officer to assist in the support and advise sections in the NCSE on their procurement activities, to co-ordinate the development and implementation of the NCSE's Corporate Procurement Plan and to undertake monitoring and compliance processes and report to Council on same.
- The NCSE Finance Unit will co-ordinate and manage copies of NCSE procurement records in electronic format, the contracts register and prepare a quarterly report on procurement activity.
- Line sections are responsible for:
 - procuring their own goods and services
 - for ensuring that the Contracts Register is updated at each stage of the procurement process
 - Managing their procurement files (including requests for tenders/quotes/prices, competition evaluation sheets, letters to

successful/unsuccessful bidders, contracts etc) and ensuring that soft copies of files are submitted to the Finance Unit.

- Appropriate segregation of functions will apply to ensure that where practical staff directly involved in ordering are not also involved in receiving goods/ services and/ or payment for same goods and services. By ensuring that a minimum of 3 staff are involved across these functions the NCSE seeks to ensure appropriate segregation and oversight.
- All staff have a responsibility for implementing public procurement policy.
- All staff should be aware that personal purchases may not be made using NCSE facilities.

3.4 NCSE Procurement Procedures

The purchasing section must ensure compliance with OGP and NCSE procurement procedures and retain a full record of the procurement process (including business specification, quotations sought and received, request for tender documentation, records of tenders received, the evaluation process, approval by senior manager/ Council, contract award letters, communications with unsuccessful tenders etc.) on the relevant procurement file in the Line Section. Copies of these should be submitted to the Finance Section.

The procurement procedures used will be proportionate to the risk, cost, strategic importance and complexity associated with the purchase.

Contact the NCSE Procurement Officer for advice or support with procurement activities. A detailed step-by-step guide from procurement to payment is included in Appendix E.

- The number of suppliers invited to quote (RfQ) or tender (RfT) should be sufficient to ensure adequate competition and should be selected on an objective and non-discriminatory basis. On rare occasions there may be only one supplier of a particular item and no alternative is available. Procedures for single supplier requisitions are provided at 3.5.
- A business case / technical need should be noted in advance of procurement process by line section. In certain cases this could be an email from a manager

requesting that catering be procured for a meeting, while in a business case may be required for in other circumstances.

- For Requests for Quotation (not exceeding €25,000), all correspondence seeking quotes and responses received are to be saved in line section. While three quotes (or more) should be sought in all cases, it may be that a section may receive a reply from two suppliers only within the timeframe specified.
- eTenders should be used where at all possible, and in all cases for the procurement all goods and services valued over €25,000 (ex. VAT).
- eTenders facilitates the advertising of tenders for goods and services valued at €215,000 (ex. VAT) and above on the Official Journal of the European Union (OJEU) – online notice of tenders in public sector across the EU.
- All tenders should be evaluated against clear criteria determined by the section. These criteria should be approved before the section proceeds to market and shared with the potential suppliers.
- At least two staff members should open the tenders.
 - All paper-format tenders should be dated stamped when received.
 - In eTenders, an opening date stamp is provided automatically – ensure two staff members from line section are noted in eTenders for opening of the tender box, and are available on the date of the tender box opening.
- A tender opening report should be prepared – see template in Appendix P.
- Each stage of the evaluation and selection process should be fully documented and saved to a shared folder in line section.
- Once the tendering process has taken place a report making a recommendation for selection may be submitted for appropriate approval (see table 3.1). For higher expenditure items, and in line with delegated authority levels, a recommended selection can be placed before the Council for approval to proceed with the contract.
- Unsuccessful candidates should be notified and debriefed.
- Formal offer of contract and request for Tax Clearance Cert should then be issued to successful candidate.
- Formal contract should state:
 - Terms and conditions
 - The fee
 - Clearly state that no conflict of interest arises Have a start date and end date

- Clearly outline conditions and limits of any contract extension, if one is permissible.
- Where possible, OGP templates for the request of goods or services, and for the contracts for goods or services should be used throughout the procurement process. These are available on www.ogp.gov.ie.

3.5 Sole Supplier Justification Procedures.

- On rare occasions it will not be possible to seek competitive bids for a services e.g. ensure compatibility with existing goods or servicing arrangements, professional services not available.
- A full, written justification must be prepared and approved by the PO in the area prior to requisitioning these services.
- Evidence that a supplier is a 'sole source' by issuing a tender notification on eTenders website would normally support this justification.
 - Issuing a tender notification on eTenders website with limited responses
 - A contracted venue limits supplier on site for support services
 - Use of a particular tool or provision of a seminar that can only be provided by one supplier.

EU thresholds for advertising in Official Journal of the EU

The EU and the OGP issues thresholds to which certain types of procurement processes are required. These thresholds, and their requirements, are set out below. Note these thresholds are exclusive of VAT.

Table 3.1 – Summary of Tendering Requirements

Amount (ex VAT)	Process
<€4,999	Obtain quotes from 3 competitive suppliers, ideally in written format.
€5,000 - €24,999	Send specification by e-mail to a number of suppliers (at least three) seeking e-mailed quotes. You could consider using the Quick Quotes facility on eTenders.
€25,000 - €214,999	Advertised on e-tenders
> €215,000	Advertised in EU journal

3.7 NCSE Procurement Approval Levels

It is the policy of the NCSE that decisions on major purchases and programmes of expenditure are made based on the strategic needs and priorities of the NCSE, within approved budget limits, procurement requirements, and VFM considerations based on the submission of a clear specification of requirements and assessed business case with clear responsibility and accountability. Ongoing expenditure programmes are required to be reviewed and approved regularly at the designated level within the NCSE. New programmes and major purchases are also approved in this way.

- The Council has agreed a schedule of reserved functions and delegations to the CEO .
- Council approval is required for proposals and contract terms for all major investments and capital projects including purchases of services, equipment and materials over €250,000 in value exclusive of VAT, ensuring alignment with medium to long term goals.
- Council has agreed delegations to the CEO to sanction proposals for purchases up to €250,000 exclusive of VAT (see Appendix A). Authority can be further delegated to sanction purchases as per the limits set out below.

Table 3.2: Summary of NCSE Procurement Approval Levels

Amount (ex VAT)	NCSE Delegated & Reserved Approval levels
Greater than €250,000	Council on recommendation from CEO
Not exceeding €250,000	CEO
Not exceeding €150,000	Principal Officer
Not exceeding €75,000	Assistant Principal Officer ⁴
Not exceeding €25,000	Higher Executive Officer

[1] Updated for January 2016-December 2017.

[1] The revised Code of Practice for Governance of State Bodies 2016 requires that each Board should have a formal schedule of matters specifically reserved to it for decision on acquisitions, disposals and retirement of assets of the State Body or its subsidiaries; and should specify clear quantitative thresholds for contracts above which Board approval is required – see Appendix A.

[1] For Policy and Practice Section, where no AP is in section, Specialist Lead (SL) to deputise up to AP Level for procurement approval, and for the approval of payments over €25,000 (see Section 3.10).

- In exceptional and very limited circumstances, procurement of a time sensitive may be required. It may not be possible to proceed with a competitive process. In these limited cases, approval up to €500 will need to be approved by the PO following a submission from the HEO/AO/AP. A memo should be prepared outlining the business case and rationale for not undertaking a competitive procurement process. This should be included in PAM.

3.8 Purchase ordering

- Prior to placing an order with a supplier the purchasing section shall request a Purchase Order from the Finance Unit raised on the FMS. Purchase order for contractual and utility payments made monthly or quarterly can be raised at year beginning.
- The following information should be emailed to the Finance Unit
 - Name of the supplier
 - Address of the supplier
 - Specification of Item(s)
 - Quantity ordered and agreed price if applicable
 - Budget Code, Cost Centre Code and Job Code for all items on the order.
 - Backing papers
 - Signed copy of the contract in the procurement file in the finance section.
- The CO/EO in Finance Section raises a standard Purchase Order on the FMS.
- The Purchase Order is emailed to the Line Section.
- The Line Section can forward to supplier.
- The Purchase Order should be signed by the approving officer in the purchasing section if approval in writing/ email has not already been received and a copy retained on file in the purchasing section.

3.9 Receipts of supplies and services

- When ordered supplies are received the delivery docket should be checked and signed certification should be retained on file.
- The delivery docket should be reviewed with the Purchase Order to ensure all goods ordered were actually received. If some goods ordered were not received a

record should be made of this to ensure that the invoice excludes the goods not received. If the delivery is disputed the delivery docket and Purchase Order should be retained on file. The invoice should be matched to the delivery docket. The following are the actions to be taken if deliveries are disputed:

Quantity delivered	Action taken	Documentation
Short	Accept delivery	Request credit note if invoice is incorrect
Short	Request additional items	Ensure invoice issued is for correct quantity
In excess of order	Accept delivery OR Return excess	Raise additional Purchase Order for excess OR If invoice is for quantity delivered, request credit note. Otherwise record invoice if correct.

- Once matched the delivery docket is attached to the invoice (when received).
- In the case of services, the Line Section must certify the delivery of the specified services by the provider on receipt of the invoice. A record should be kept in the Line Section of service delivery to facilitate the checking and approval process.
- **Delivered equipment or furniture must be entered into the fixed asset register and the asset tagged as appropriate (see Chapter 7)**

3.10. Invoice payment

- Supplier invoices should be directed to the NCSE Finance Unit. They must be date stamped with the date received in the NCSE.
- The Finance Unit will then forward the invoice to the purchasing section.

Line Section

- Invoices should be checked to ensure that only goods received have been invoiced. If a query arises, contact the supplier immediately.
- The invoice should be checked and approved that the invoice is correct (including arithmetical correctness, compliance with agreed price and other contract terms

and delivery).

- A Payment Authorisation Memo (PAM) – [see Appendix C] is completed by the purchasing section and submitted with relevant backing documentation to the Finance Unit for payment.
- The form is checked and certified by staff in the purchasing section to indicate compliance with NCSE financial procedures - that the purchase has been approved, tax compliance requirements confirmed, goods/services received, the documentation is correct, SAGE budget code and job code are correct, payment is correctly stated and is now due.
- The relevant procurement process should be recorded on the PAM document.
- The purchasing section should ensure that payee bank account details and the total amount payable are included on the PAM. Supplier bank account details should be received in writing and confirmed by phone where changes to the bank details are notified by the supplier.
- The PAM should be submitted to the Finance Unit promptly to ensure payment is processed within thirty days of receipt of invoice. (see also 3.10 for procedures on interest on late payments).
- Payments under €25,000 to be checked and authorised by the HEO/AO, and by the AP/SL for all payments above €25,000.

Finance Unit

- On receipt of a PAM from the Line Section, the EO/ CO in Finance Unit will check the documentation for completion, calculation and appropriate certification.
- If the invoice is for the provision of professional services 'Professional Services Withholding Tax' (PSWT) must be deducted at the standard rate of tax, currently 20% (See 3.13.11).
- If all in order, an EFT Requisition Form is completed by the EO/ CO Finance Unit and the payment is put on Business on Line for authorization. The EFT and total amount payable must be included on the requisition form (see Appendices H and J).

- The Requisition Form should be checked and signed off by the HEO/AO or higher in Finance Unit to confirm that the PAMs were certified, appropriate documentation attached and payment details are correct.
- A file containing the signed EFT requisition forms, PAMs and back up documents is presented for authorization/ signature by 2 BOL Authorized Users/ signatories. See Banking (Chapter 6) for BOL authorized users/ signatories.
- When recording the payment on the FMS the EFT number should be recorded for ease of the audit trail.
- Paid invoices are retained in the Finance Unit.

3.11. Interest on Late Payments

- Department of Finance has directed public bodies to endeavour to issue payments within **fifteen days** of receipt of invoice and to report on their performance in this regard.
- Line Sections should ensure that payments are prepared and passed to the Finance Unit in good time to ensure payments are processed in a timely manner.
- Prompt payment legislation⁵ provides that penalty interest and compensation will become payable if payments for commercial transactions are not met **within 30 days**, unless otherwise specified in a contract agreement.
- Late payments should be flagged by Line Sections and it is good practice to indicate the reason for the delay.
- The Line Section will calculate the penalty interest for the number of days overdue and the compensation and add the amount to payment due on the invoice.
- The Interest rate to be applied is the ECB main refinancing rate plus 8 percentage points. The ECB rate in force on 1 January and 1 July apply for the following six months in each year. Only one rate will apply to a late payment i.e. the rate in force on the payment date.
- Compensation is calculated as follows:
 - Penalty Interest Amount Due not exceeding €1,000 - Compensation of €40
 - Penalty Interest Amount Due exceeding €1,000 but not exceeding €10,000 - Compensation of €70
 - Penalty Interest Amount Due exceeding €10,000 - Compensation of €100

- The cost will be borne by the relevant budget line.
- The Finance Section will maintain a record of penalty interest and compensation applied to payments.
- ILP payments should be minimised. Invoices received in the line section should be processed promptly and returned to the Finance Unit to enable payment with the 15 day deadline.
- Finance maintains an invoice tracker that records invoices received by NCSE. The invoice tracker is available for other sections to view and is updated regularly.

⁵ SI 2012 European Communities Late Payment in Commercial Transactions Regulation 2012 is effective from 16th March, 2013 and revokes the previous SI of 388 2002.

3.12. Supplier Statement Reconciliations (see Appendix D)

- Supplier Statements should be registered in Finance Unit prior to disbursement to Purchasing Sections.
- Finance Unit will perform an initial check and if all in order – statement reconciles – then statement can be filed away.
- Where variations arise, the purchasing section should perform a reconciliation exercise, identifying and understanding any variations in NCSE records and those of the statement.

3.13. Recording Transactions on SAGE

- Through the Supplier Process view on SAGE, the sequence to follow is New Purchase Order → Place Orders → Deliver Orders → Pay Supplier → Update Ledger

For the most part, a Purchase Order will have been raised in advance and will appear in the Place Orders window. If a Purchase Order has not been raised, it is necessary to do so before proceeding to the next step. Enter details from the Payment Authorisation Memo on SAGE. Record the payment by clicking 'Pay in Full' on the Pay Supplier screen.

3.14. Revenue Requirements

3.14.1. Professional Services Withholding Tax (PSWT)

- The NCSE is obliged to comply with the provisions of the Finance Act in respect of the deduction of PSWT at the appropriate rate in respect of payments for professional services.
- Relevant payments to suppliers are made net of PSWT.
- The PSWT payment is recorded on the FMS in a control account and should be cleared each month when remitted to Revenue.
- A monthly return (Form F30) is sent to Revenue (Revenue Online Service) and the PSWT that has been deducted is remitted with the return.
- Each supplier receives a form F45 that details the gross payment, PSWT deducted and the net payment. This form is included with their remittance advice. The NCSE retains a copy of each form F45.
- On an annual basis a return (Form F35) is prepared and reconciled with the nominal ledger. This is remitted to Revenue with any underpayment of PSWT in the year.
- Comprehensive information on PSWT is available in a booklet “A Revenue Guide to Professional Services Withholding Tax (PSWT)” which is published on the website www.revenue.ie.

3.14.2. Value Added Tax (VAT)

- The NCSE was required to register for VAT because it receives scheduled services from abroad. The NCSE registered for VAT with the Revenue Commissioners with effect from August 2008.
- There is no minimum threshold for scheduled services.
- The purchasing section must ensure they make appropriate provision for VAT in the relevant budget line.
- The purchasing section should indicate where VAT is due when passing the PAM to the Finance Section.
- Finance Section will retain a schedule to record VAT due and arrange payment to Revenue.

- The VAT liability will become due, following either date of payment or date of receipt of invoice, whichever is the sooner. The NCSE is required to file a VAT Return (VAT 3) 3 times yearly and remit the due payment by the 19th of the month following the period end e.g. Jan-April Return due by May 19th.
- Comprehensive information on VAT is available on www.revenue.ie.

3.14.3. Tax clearance certificates

- The Council is obliged to comply with the Revenue Commissioners and Department of Finance Directives on tax clearance certificates.
- In the case where any contract with a value of €10,000 or more within any 12 month period inclusive of VAT is awarded. The contractor is required to produce a valid tax clearance cert or C2 certificate. This is a condition of obtaining a Public Sector Contract (Section 1095 Taxes Consolidation Act, 1997).
- In the case of all tenders in excess of €10,000 the tender documentation should state that it is a condition for the award of a contract that a tax clearance certificate will be required.
- The tax clearance requirement applies even where the provision of goods or services is not the subject of a formal written contract.
- Payments to suppliers/contractors are at all times conditional on the contractors being in possession of a valid appropriate certificate.
- It is the responsibility of the person awarding the contract/ authorising payment to ensure that a valid tax certificate has been obtained. The EO in the Finance Unit can arrange to check tax clearance details prior to the awarding of a contract. Furthermore a contract should not be awarded/ payment made where such certificate is not up to date.
- The EO/CO in the Finance Unit will run a tax clearance check on ROS each month and follow up with suppliers where a tax clearance cert is no longer valid.
- Further information is available on DFIN Circular 43/2006 Tax Clearance Procedures and www.revenue.ie.

3.14.4. Section 891B Returns

- Section 891B requires government departments and bodies, to make annual returns to Revenue containing details of suppliers with total payments in excess of €1,000 except where PSWT has been deducted from a payment – in this case there is no reporting threshold - every payment of this nature should be included in the return.
- An electronic file must be provided to Revenue by 30th June of the following year.

3.15. Compliance with Procurement Requirements

- Procurement files held by line section with soft copies centrally managed in the NCSE Finance Unit.
- Each file should contain a checklist which is completed by sections and checked by the Finance Unit.
- The Finance Unit will maintain a comprehensive contracts register which records details of all suppliers with contracts over the value of €25,000 and circulate on a quarterly basis for section update, along with a quarterly supplier expenditure report.
- The Finance Unit will share a cumulative spend tracker on a quarterly basis to identify all NCSE suppliers in ranges of expenditure (10-15k, 15-20k and 20-25k) for the year to date. This can be used to monitor supplier spend and inform procurement processes.
- The Finance Unit will prepare a quarterly procurement report:
 - Identifying number of suppliers and expenditure on a quarterly basis
 - Results of monitoring compliance checks for previous quarter.
 - Any other issues e.g. contracts requiring a signature, tax clearance issues, compliance issues, which may be a focus of monitoring and compliance work.

4 TRAVEL AND SUBSISTENCE (T&S) and MISCELLANEOUS EXPENSE CLAIMS

4.1. Policy statement

- It is NCSE policy to reimburse employees and Council members for properly authorised and reasonable expenses incurred on NCSE business in accordance with standard Civil Service rates and the provisions listed hereunder.
- The NCSE has a service agreement in place with the Payroll Shared Service Centre for processing T&S Claims. The Core Expense System, an electronic web based system, is used to process expense claims.
- The NCSE reports on T&S expenditure in its annual accounts in line with the requirements of the Code of Practice for Governance of State Bodies.

4.2. T&S Procedures

- It is the responsibility of the claimant to ensure that they correctly enter their claim information on the Core Expense System and submit the claim for authorisation by their designated line manager.
- Receipts where relevant should be uploaded onto to the Core Expense System (See Section 4.2.4).
- The onus is on each claimant to be aware of the regulations and to ensure their claim is made in accordance with the provisions set down in the regulations .
- All T&S claims must be checked and approved by the line manager (or a designated substitute at same grade or higher than line manager) prior to payment. (The procedures for checking claims are outlined at 4.2.4 below).
- The PSSC will process claims on a weekly basis in line with the service agreement.

[1] Circular 11/82: "Travelling and subsistence allowances are payable only in respect of necessary absence from headquarters. All travelling duties should be planned so as to reduce the total amount of travel to the minimum consistent with efficiency. All official travel should be by the shortest practicable routes and by the cheapest practicable mode of conveyance. Return tickets, contract, season or other cheap tickets should be used wherever a saving in travelling expenses is secured thereby... Travelling expenses will not be paid in respect of any portion of a journey which covers all or part of an officer's usual route between home and headquarters. Where an officer proceeds on an official journey direct from home or returns home direct, the travelling allowance payable will be calculated by reference to the distance from home or headquarters, whichever is the lesser".

[1] Except in the case of Visiting Teachers (see 4.5)

4.2.1. Use of own transport

- The HR Unit will arrange to set up a User Account on Core Expense System for staff.
- Employees required to use their own transport for NCSE business to must provide their car details on Core Expense for approval prior to making a claim
- Employees should ensure that they have adequate business insurance cover while on Council business and are required to provide the formal signed declaration form regarding insurance cover as required under 9. (1) of circular 11/1982 to HR Unit
- The kilometre rates payable to members of staff include the cost of motor insurance and therefore no element of insurance costs on privately owned motor vehicles can be reimbursed to staff.
- The Council cannot accept liability for any loss or damage resulting from the use of privately owned motor vehicles on Council business.

4.2.2. Administration of T&S Claims for Staff

- Staff are informed that it is the responsibility of the claimant to claim correctly and in accordance with the relevant regulations.
- Staff are informed, as part of their induction to submit their claims promptly and at least on a monthly basis⁸.
- Overnights must be approved by the line manager in advance.
- Foreign Travel must be approved by the CEO in advance (See Section 4.3 Foreign Travel).
- Claims are checked and must be authorised by a designated line manager/authorised substitute prior to being processed for payment.
- Where appropriate, receipts submitted for recoupment of expenses relating to a journey e.g. toll bridge, parking etc. should be uploaded to the Core Expense System. Ref Home Travel and Subsistence Guidelines Payroll Shared Services.

⁸ Staff that regularly claim can agree with their Line Manager to submit claims on a weekly or monthly basis. Staff with less regular claims should ensure their claims are submitted promptly and are up to date each month.

4.2.3. Administration of T&S Expense Claims for CEO, Council Members & Consultative Forum Members

- The CEO expenses are approved by the Head of Finance on the NSSO claims system.
- The AP in Corporate Governance will receive approval for Council meeting dates to be included in the Council T&S System from the Secretary to the Council, on foot of meetings agreed by Council. Note additional meetings may be held at short notice.
- The Head of Finance will authorise claims for members, and send to the AP in Corporate Governance who will liaise with the Finance Unit for payment.
- AP for Corporate Governance will make arrangements on T&S system with the Finance Unit, for members to receive T&S.
- Approval for Consultative Forum Members' expenses are delegated to AP in Corporate Governance.
- Where a Council Member or Consultative Forum Member is employed by another public service body they should arrange to make their claims for expenses incurred on NCSE business to their PSB employer. The PSB can then claim reimbursement for these expenses from the NCSE.

4.2.4. Procedures for Checking T&S Expense Claim Forms

- The line manager is required to check that T&S expenses were appropriately incurred by the claimant in respect of a necessary absence from their normal place of work. They should ensure distances claimed for journeys, entitlement for subsistence rates and receipts for expenses are provided and in line with NCSE procedures. The line manager should reject claims where there is insufficient information available to make this determination.
- Incomplete or incorrectly completed forms will be rejected and the claimant will be notified on Core Expense System.
- The Finance Unit will conduct a detailed check on a small % of individual claims. A report on this checking process will be made to the AP with responsibility for Finance. Claims for T&S in excess of €1,000 will be highlighted to the line Manager to confirm that the claims are checked and authorised and to ensure that the claims are processed promptly.

- Serious discrepancies which might constitute irregularities should be notified to the Finance Unit. Follow-up action will include contacting the claimant to request an explanation for the discrepancies appearing on the claim.
- The line Principal Officer will be notified in cases of serious and/ or repeated irregularities identified in individual claims. If considered to be of sufficient seriousness, these may be further referred to the HR side for appropriate action.

4.2.5. Participant Travel System

- The NCSE pays travel claims for Teachers who undertake travel to attend NCSE arranged CPD courses. These courses are arranged by the Operations section.
- The NCSE has procured a system which allows Operations to notify participants of courses and also facilitates course participants to claim Travel costs.
- The Operations section is responsible for:
 - Arranging courses and notifying course participants through the Participant Travel System
 - Checking claims submitted are appropriate for payment
 - Sending payment files to the Finance section for onward payment
 - Taking queries from course participants
 - Advising the system provider of any changes required to the system (for example, changes to the rates of payments)
 - Advising claimants that all claims for T&S must be submitted within 4 weeks
- The Finance section is responsible for:
 - Receiving payments files from Operations
 - Uploading these to the banking online system and authorising payment
 - Once paid, updating the Participant Travel System to mark these as paid
 - Assisting the Operations section with payment queries where they arise

4.3. Foreign Travel

- The duties and responsibilities of the NCSE require engagement with overseas stakeholders which is of benefit to the NCSE, the education system and national interests.
- The NCSE is committed to ensuring that all official overseas travel meets the following criteria:
 - that travel costs are kept to a minimum and official attendance provides good value for money and
 - there is a strong business case that participation by officials contributes to

- (a) the NCSE’s strategic goals as set out in its most recent Statement of Strategy, (b) the business needs and goals of the line section concerned or (c) wider Government interests or
 - Participation is important in the context of EU membership or membership of international organisations, such as the OECD, UNESCO and the Council of Europe.
- The case for attendance at meetings, conferences or training courses abroad should be strictly evaluated and prioritised by line managers in line with these criteria.
- The travel authorisation/booking form on the NCSE’s Shared Directory G:\Transfare\T&S\Foreign Travel\NCSE Foreign Travel Requisition.doc must be used for all foreign travel applications.
- All foreign travel on official business must be authorised by the CEO.
- In general, no more than one officer from the NCSE should travel to a foreign meeting/conference. Where it is considered necessary for more than one officer to travel, a business case for this must be made and authorised.
- Relevant papers providing details of the meeting/conference/training course should accompany the completed authorisation/booking form, which should also indicate if the travel cost is refundable.
- Approved authorisation/booking forms must be forwarded to the CO in the Finance Unit in order to request the arrangement of foreign travel bookings. Please note that no bookings can be made in the absence of this form and the appropriate authorisation and it is the responsibility of the officer travelling to ensure that this is forwarded in sufficient time for the flight bookings to be made.
- It is the responsibility of the officer travelling to ensure that subsistence and other expenses are kept to a minimum in accordance with Department of Finance Circular 11/82 and subsequent circulars. Claims should be submitted promptly on the PSSC Corepay System upon return. This is essential in order to monitor accurately the level of expenditure from the travel subhead.
- Maximum use should be made of public transportation options for travel to and from the airport at home and abroad.
- Where officers of the NCSE travel overseas on official programmes arranged by other State bodies, and the officers have no formal connection with the body (e.g. they are not a Director of the agency), costs associated with all travel should be borne by the NCSE, and not the agency concerned.
- The NCSE reports separately on Foreign Travel in the Annual Financial Statements in line with requirements of the Code of Practice for Governance of State Bodies.

4.4. Miscellaneous Expenses

- Miscellaneous expenses are reimbursed to staff in respect of necessary local expenditures including costs for postage, small stationery requirements and other

items best dealt with by local purchase (prior approval from the Accommodation and Services section is required for “other items”). The NCSE uses the Core Expense System to process miscellaneous expense claims.

4.4.1. Miscellaneous Expense Procedures

- It is the responsibility of each employee to ensure that they correctly enter their claim information on Core Expense System and commit the claim for authorisation.
- Receipts should be uploaded to the Core Expense System. Receipts can be scanned and then saved from Outlook to their personal folder. The receipts can then be uploaded onto Core Expense System through the claim.
- The claim is checked against receipts by the Line Manager and authorised as appropriate.
- Payments on Miscellaneous Expenses Claims are made weekly in line with Service Agreement with the PSSC.
- Expenditure on Miscellaneous Expenses is recorded on SAGE with a nominal journal import file.

5 PAYROLL

5.1. Policy Statement

Section 25 (5) of the EPSEN Act, provides that staff of the NCSE are civil servants. The NCSE implements government policy in relation to the pay and pensions of NCSE staff as civil servants.

The NCSE has service arrangements in place for the administration of HR Services through PeoplePoint and payroll through the Payroll Shared Service Centre (PSSC), which are managed by the Department of Public Expenditure & Reform.

5.2. Payroll Procedures

5.2.1. New Employees

- The NCSE Employee set up form (Appendix B) must be completed by each new staff member. This must be signed by the employee and submitted to HR Unit

along with P45 (where relevant).

- The details provided will be used to set the employee up on the payroll system and will be retained on the employee's personnel file held by HR.
- For any new employees or staff transfers to the NCSE, the HR Unit will transfer the information to PeoplePoint who in turn will advise the PSSC.
- It is the responsibility of the employee to ensure that the details provided are correct.

5.2.2. Employee's Leaving

- HR will notify PeoplePoint in good time to effect the orderly determination of final salary payments.
- The PSSC will issue the relevant revenue documentation to employees leaving the NCSE.

5.2.3. Fortnightly Payroll

- Payroll is run every second Thursday of the month.
- Change instructions are managed in line with the service agreement.
- Finance Unit will update the social welfare refunds register by the Monday preceding deadline for issue of instruction to enable HR to include these details in the payroll changes.
- The PSSC are responsible for calculation of payroll and will undertake a check on the payroll file before finalisation.
- The payroll reports will then issue to NCSE HR Unit on Friday evening.
- HR Unit will complete a check on the payroll each fortnight
 - Check Gross Pay for all staff on payrun
 - Review Variation report and query unexpected variations
- The HR Unit will retain a record confirming that they have completed the checks on the payroll each fortnight.
- It is not possible to re-calculate an employee's payment at this stage in this payrun process but any errors identified can be rectified in a future payrun. If there is a significant error identified in a person's pay HR can instruct PSSC to pull the payment from the payrun. A separate payment can issue to the employee as a temporary measure.

- The HR Unit are not required to notify their approval to PSSC for the payrun to proceed and it will run as proposed if there is no intervention from the NCSE.
- HR Unit will forward a copy of the payroll reports to the Finance Unit and confirm payroll has been checked and the funds transfer can proceed.
- The PSSC will forward a funds transfer request form to the NCSE in advance of the Thursday payrun. The funds transfer is payable to DPER. The transfer must be completed by the Tuesday preceding the payrun.
- The payover will be set up on BOL by the CO/EO and authorised by HEO/AO and AP (or above).
- PSSC will arrange to transfer the EFT payments to the individual bank accounts at 12 midnight on the Wednesday night.
- PSSC will make available employee payslips on an online basis at least 24 hours in advance of the relevant pay day.

5.2.4. Voluntary Deductions

- The NCSE facilitates appropriately authorised voluntary deductions being made from employees pay and paid over to the relevant institutions.
- The deductions are made solely as a measure of convenience to the employee. The employee has ultimate responsibility for ensuring that the correct deductions are made.
- The PSSC administer the voluntary deductions on behalf of NCSE employees. (A list of these deductions is provided at Appendix M)
- The PSSC will forward a schedule of deductions made each month to the NCSE Finance Unit.
- The Finance Unit will arrange to remit these payments to the relevant institutions.
- The related creditors will be paid on a monthly basis, thereby bringing the balance on the FMS control account to nil on a monthly basis.

5.3. Payroll Records

- HR Unit will create and maintain Personnel files for all employees. The following pay related information will be retained on these files:
 - Contract of employment
 - Employee set up form

- Authorisation of pay increases
- Copies of performance reviews
- Copies of payroll instructions issued to PeoplePoint/ PSSC
- Bank Account Details (Finance Unit to be provided with updated details to facilitate expense payments)
- HR Unit will forward copy of payroll reports and copy of payroll check form to the Finance Unit.
- The Finance Unit will retain a soft copy of the payroll reports and will retain a hard copy of the PSSC EFT Request Form, confirmation from HR and a copy of the EFT Requisition File.
- The Finance Unit will update the FMS with details of payroll and note completion of posting on payroll check. All salary deductions will be posted to balance sheet control accounts.
- Soft and Hard copies of Voluntary Deductions Payment Instructions from PSSC will be retained on file in the Finance Unit.
- The PSSC will make available all necessary records to fulfil requirements of preparation and audit of NCSE annual accounts.

5.4. Revenue

- Payroll taxes, levies and social security charges will be deducted from employee's salaries.
- The net pay due to employees will be paid by EFT on a fortnightly basis.
- The PSSC will arrange posting and payment of P30s on the ROS website.
- The Returns will be posted on a monthly basis in accordance with the Revenue deadline
- The PSSC will undertake the end of year process for filing of tax and levies.
- The PSSC will arrange to make available ASC60s and USC60s to staff early in the following tax year.

5.5. Pensions

NCSE staff are civil servants and are pensionable under the centrally funded Civil Service pension schemes.

5.5.1. Superannuation Deductions and Payovers

- Superannuation contributions deducted from staff salaries are paid over to the Department of Finance for transfer as appropriations-in-aid into Vote 7.
- Employee superannuation contributions in respect of seconded staff will be recouped to their employers as directed by the secondee's employer.
- Employer contributions for superannuation costs in respect of seconded staff will be recouped to their employers as directed by the Department of Finance.
- The DFIN Salary Section will notify the amounts collected and will provide lodgement forms via e-mail to facilitate the payment of deductions.

5.5.2. Additional Superannuation Contribution (ASC)

- Additional Superannuation Contributions are made to NCSE staff salaries in accordance with Department of Finance regulations.
- The PPSC will notify the amounts collected to facilitate the payover of deductions.
- These deductions are paid over to the Department of Education & Skills on a monthly basis.
- The PSSC will issue a certificate to staff showing the annual deductions made.

5.5.3. Pension Payments

- Retired NCSE staff are paid their pension entitlements by the Department of Finance from Vote 7.

5.6. Budgets

- Finance Unit will prepare a forecast for payroll at the beginning of each year as part of the estimates process. This forecast will be informed by HR as the budget holder.
- The forecast will be reviewed against expenditure on a quarterly basis and as required. The PSSC and HR Unit will provide the relevant information to assist in the forecast process.

5.7. Employees of legacy services

- Seconded teachers will have their contracts of secondment with the NCSE and be paid by the Department’s Teachers Payroll.
- The Visiting Teachers will continue to be paid by the Department. .

5.8. Action and Responsibility

Action	Responsibility
Notification of NCSE payroll instructions to PSSC	PeoplePoint (overseen by NCSE HR Unit)
Service Level Agreement with PSSC sets out roles and responsibilities of parties to agreement.	
Checking of Payroll file	EO & HEO HR
Updating Social Welfare returns register	EO Finance Unit
Recording of payroll on FMS	EO Finance Unit
Set up on BOL of Payover of pensions, PRD, voluntary deductions (as notified by the DFIN)	CO/EO Finance Unit
Payment Authorisation for payover of payroll deductions	HEO/ AP (or higher) Finance Unit
Payroll Forecast	EO/ HEO/AP Finance Unit
Payroll records	EO HR Unit

6. BANK / TREASURY

6.1. Policy statement

- All Council funds should be managed in accordance with current best practice i.e. such funds are received and banked in a timely manner, are available to meet authorised commitments as they fall due, and that the security, movement and application of such funds is properly authorised and controlled.
- Funds shall be managed so as to optimise benefit to the Council, and the State generally, in terms of security, return and liquidity.
- The NCSE bank account is housed in the Bank of Ireland, College Green, Dublin 2.
- Internet banking (Bank of Ireland’s Business on Line Service) is utilised by the

NCSE and the Current account can be monitored on line.

- The NCSE will arrange payments by EFT to the maximum extent possible in line with government policy.
- The NCSE does not currently use a Credit Card account. A debit card is held in a safe for limited circumstances (details further below).
- Where a business will not accept an EFT, then the use of a proforma invoice or a Direct Debit should be explored before using the NCSE Debit Card.

6.2. Payment Procedures

- Line Sections are responsible for ensuring payments are presented to the Finance Unit in a timely manner to ensure suppliers are paid appropriately for the goods and services received by the NCSE and in accordance with late payment regulations.
- Payment will be arranged by the Finance Unit in the most economical and effective method and in accordance with government policy e.g. e-payments. Procedures for making payment by EFT and cheque are set out below.
- A Payments File will be prepared each week, providing documentation for each transaction, to facilitate appropriate checking by authorisers.

6.3. Bank reconciliations

- Bank Reconciliations for the Current Account are performed monthly.
- The reconciliations are performed electronically on the SAGE system.
- An electronic copy of the bank reconciliation report is approved by the AP or HEO in the Finance Unit (or higher) and filed electronically”.

Internet Banking - BOI Business on Line

The NCSE have an agreement with BOI to use their Internet banking facility – Business on Line. Operation of Business on Line is governed by NCSE internal procedures set out below and Bank of Ireland documents ‘*Conditions of Use*’ and the ‘*Business on Line Handbook*’. Users can only access Business on Line by logging onto their own PC

6.3.1. Administrators

The NCSE has designated two senior staff as Administrators. The BOI is advised of Administrator details and must be informed in writing by the NCSE of any personnel changes of the Administrators. The Administrators:

- train and advise staff on use of system
- liaise directly with BOI
- set up and amend Level 1 and Level 2 Authorised Users functions and staff details
- both Administrators are required to log on to system to effect these changes.

6.3.2. Level 1 Users (Finance Unit staff EO, CO)

- Create beneficiaries
- Initiate transactions
- Level 1 Users should never be authorised to perform Level 2 User functions.

6.3.3. Level 2 Users (Authorisers)

- Level 2 Users (Authorisers) authorise EFT payments
- 2 authorisers are required for each payment
- For all payment approvals two staff from the following - the PO, AP and HEO in Finance Unit or a nominated AP from a different Section may approve payments
- Level 2 Users should never be authorised to perform Level 1 User functions i.e. create beneficiaries or initiate transaction.

6.3.4. Payment Authorisations

The principle underlining the levels of authority is that EFT authorisation should in all cases occur at the appropriate level and position (as far as possible within the Finance Unit). It is only in the event that the appropriate officer (HEO and AP) in the Finance Unit is unavailable that the substitute signatory is allowed. Such substitution arrangements are necessary due to the obligations of prompt payment legislation.

Table 6.1 sets out the approval level for authorisation of EFT payments implemented by the NCSE and the Bank of Ireland.

Table 6.1: Payment Authorisation Limits for EFTs

Amount	Approved payment authorisation level of sign off.
All payments	Assistant Principal or HEO in Finance Unit. If the AP or HEO is not available, then a sub from the list maintained by the Finance Unit should be used

List of EFT Authorisers

The finance unit maintains the list of NCSE staff approved to authorise EFT payments in the bank account in the section. As per the delegated and reserved functions of Council, changes to this list can only be made by the CEO along with one of the following members - the Council Chairperson, Deputy Chairperson or Chair of the Finance Committee.

Finance Unit will authorise payments in the first instance but a list of substitutes (normally an AP in a different Business Unit) approved by the CEO and/or the Council Chairperson, Deputy Chairperson or Chair of the Finance Committee is maintained in Finance Unit.

6.4. Electronic Fund Transfers

Payroll, Travel & Subsistence and Miscellaneous Expense claims will be paid by EFT. Controls in relation to the approval of both are detailed in their relevant chapters.

Table 6.2: Payment Authorisation for Payroll and Staff Expense Claims

	Approved authorisation level of sign off.
T&S Payments Schedule	HEO and AP Finance Unit (or higher)
Payroll funds transfer to PSSC bank accounts	HEO and AP Finance Unit (or higher)
Pay Related Deduction	HEO and AP Finance Unit (or higher)
Superannuation Deduction	HEO and AP Finance Unit (or higher)

6.5. Credit Card

The NCSE does not use a Business Credit Card.

6.6. Debit Card

The NCSE has a Debit Card available linked to its bank account. This is to facilitate payments where the supplier will not accept an EFT.

In terms of measures undertaken to safeguard the use of the card, the following actions are in place:

- Access to the card is limited to a the AP in the finance unit
- The card is kept in the safe in head office
- The PO in Finance Unit is authorised to approve payments on the Debit Card of up to €300
- Approval for expenditure over €300 rests with the CEO, (or the Head of Finance in the CEOs absence). It is only when the CEO is not available due to sick leave, holidays or not available due to meetings that the Head of Finance may approve expenditure of over €300
- The bank account is reviewed and reconciled.

Where it has been agreed that the Debit Card may be used to purchase goods or services, a Purchase Order should be raised in the normal way, (details are outlined above under raising a PO)

Should the debit card be lost or stolen the following is the process

- The AP should be notified immediately who should then contact the bank requesting the card to be cancelled
- The AP should then notify the Head of Finance and the CEO

6.7. Direct Debit/ Proforma Invoice

Where a supplier does not accept an EFT, then alternative methods of payment should be explored such as Direct Debit or a pro forma invoice before the NCSE Debit Card is used. If a Direct Debit is being used, the Business Unit ordering the goods or service should review the arrangements each year when raising the PO

6.7. Quick Business Lodgement Card

The NCSE uses a Quick Lodge Card to lodge cheques. This facility can only be used for making lodgements and is free.

6.8. Deposit Account

The NCSE does not have an interest bearing account. Funding to the NCSE is provided on a monthly basis to meet current cash flow requirements.

7 FIXED ASSETS

7.1. Policy statement

- All fixed assets (including land, buildings, equipment etc.) shall be managed in accordance with current best practice i.e. that such assets are safeguarded by appropriate identification, recording, verification of existence, monitoring of condition and replacement costs.
- Disposal and replacement of equipment should be driven by the business needs of the NCSE and not by their book value.
- Fixed assets will be purchased in accordance with Procurement policies as detailed in that section (Section 3).

7.2. Asset Acquisition Procedures

- With effect from 1st January 2021, all capital items purchased with a life of more than one year and value greater than €10,000 will be capitalised and depreciated over their useful economic lives. (See Table 7.1) which is in line with Circular 21/2020 issued by DPER. Prior to 2021 all assets over €100 had been included on the fixed asset register. All historical assets purchased prior to 1st January 2021, currently listed on the fixed asset register will continue to be included in the Statement of Financial Position and the Fixed Asset Register, irrespective of the increased limit, until the asset is no longer in use and disposed of. There is no requirement to restate historical assets using the new limit of €10,000.

Table 7.1	
Asset Type	Depreciation Rates
Furniture & fittings	10 years
Office Equipment	5 years
Computer Equipment	5 years
Leasehold Refurbishment	19 years
Computer Software	3 years

- A fixed asset register will be maintained on excel. Asset details should be recorded according to the category of asset e.g.: Office equipment, furniture & fittings etc. The register should detail the following:
 - Description of asset, serial number of asset, asset tag number, date of purchase, cost price, depreciation rate, accumulated depreciation to date, depreciation charge this period, current net book value (NBV), write off. All new assets over €10,000 should be added to the register. The register should be kept up to date at all times. Once an asset has been fully depreciated it should be clearly indicated. Fully depreciated assets should not be removed from the register.
 - It is the responsibility of the NCSE accountants to calculate the yearly depreciation charge.
 - All capitalised assets are individually tagged.
 - All assets should be adequately safeguarded against damage or theft.
 - The Fixed Asset Register should be reviewed and verified on an annual basis. A report documenting the exercise is then made available for review.
 - Spot checks will also be performed by A&S Unit staff.
 - The Fixed Asset Register will be reconciled to the nominal ledger on an annual basis.

7.3. Asset Disposal Procedures

- Replacement of equipment should be driven by the business needs of the NCSE and not by the book value of the equipment.
- The CEO will be responsible for the disposal of all such items and can delegate as appropriate.
- Where an item has, or combination of items have, a value above the €150,000 (see Appendix A – Reserved Functions) the CEO (or delegated officer) will

formally bring the matter before the Council to seek approval for the disposal. Disposal of lower value items may be brought before Council meetings for mention.

- For items valued at €100 or more being disposed of to Council members, staff or related persons and where the cost of retrieval or disposal of these assets exceed the cost of the asset, then the decision will be delegated to the CEO or delegated officer.
- The CEO may then authorise a notice to all members and staff of intention to dispose of the item. Council members and staff will then be entitled to make a written bid in accordance with instructions issued with the offer. Purchase of any such item must be for non-commercial purposes and the item may not be re-sold or otherwise disposed of to any other person or organisation at more than the price paid within one year of acquiring the item. The NCSE may restrict the number of items which may be purchased by any individual or the use to which it may be put.
- A Fixed Asset Disposal Form (Appendix I) is completed and filed on the Fixed Assets Register File and the FAR updated.
- Following notification of disposal of the item, the Finance Unit will account for the income from the sale of the item.

7.4. Disposal Approval Levels

- The Council of the NCSE has agreed a schedule of reserved functions and delegations to CEO⁹.
- Council approval is required for disposal and retirement of assets, including related terms and conditions, at or above the value of €150,000.
- Council approval is required for the disposal of assets valued at €100 or more to Council members, staff or related persons.

⁹ The revised Code of Practice for Governance of State Bodies 2016 requires that each Board should have a formal schedule of matters specifically reserved to it for decision. The Code specifically requires that significant acquisitions, disposals and retirement of assets of the State Body or its subsidiaries; the schedule should specify clear quantitative thresholds for contracts above which Board approval is required – see Appendix J.

7.5. Responsibility and approval

Maintain Fixed Asset Register	HEO in IT and Facility Unit
Reconciliation of FAR to the nominal ledger	Finance Unit
Annual physical verification	IT and A&S Unit
Disposal of Assets	Council/ CEO

8. BUDGETING

Policy Statement

- To maintain a comprehensive budgeting system to manage the approved operational budget within prescribed limits, to effectively meet its statutory/ policy remit and achieve its strategic objectives, and provide accurate, relevant and timely reports.

Budget Requirements

- The NCSE executive is required to prepare draft budgets of its funding requirements (on a multi-annual basis). The timelines are set by the department.
- The Finance Unit will prepare information for the Department as part of the Estimates process which generally occurs midyear and is an estimate of funds required for the forthcoming year.
- The executive is required to submit the draft budgets to Council for approval. This is generally at the first Council meeting following the notification of the draft budget (usually December).
- The Department notifies an annual budget to the NCSE for each year. This is usually in the first month of the year.
- The executive is required to prepare an operational budget based on the approved budget and submit to Council for approval. This should occur at the first Council meeting following the allocation received from the Department assuming no delays and that there is a sufficient amount of time between the two events.
- The Department advances grants to the NCSE to fund its approved budget based on its cash flow needs and in line with the agreed procedure (See Chapter 2).

Funding is provided on a monthly basis.

- The NCSE profiles its budget on a cash basis. For this reason, budget managers must profile expenditure according to the month a payment is made. This also applies to any prepayments or accruals, which should also be profiled in the month the payment is processed. The Finance Unit will account for any accruals and prepayments in the preparation of Annual Accounts (See Chapter 9).
- The executive is required to manage expenditure within the approved budget.
- The executive is required to review and report to Council on expenditure against budget.
- The executive is required to report as necessary to the Department.
- The executive is required to ensure expenditure is managed with the approved budget parameters.
- Any budget amendments to Council headings will be approved by the CEO, the procedure for which is outlined in 8.3 below.

8.3 Procedures

- A senior member of the Finance Unit will prepare the operational budget in consultation with budget managers. Assumptions pertaining to the formation of the budget will be documented and included with the numeric calculations of the budget.
- The budget will be subsequently reviewed by the senior members of staff prior to submission to the Council for approval.
- The NCSE employs a budget template for use by all budget managers to
 - assist in effective administration of the budgets
 - advise Finance Unit of delegated authority levels for purchasing in sections
 - advise Finance Unit of monthly profiles and quarterly reviews
- The executive will provide a report on budget activity to the Finance Committee and Council as required.
- The executive will arrange to provide a report on budget activity to the Department as required.
- In relation to budget amendments:
- The PO in Finance Unit may approve transfers of up to ten thousand euros between Council headings subject to the receipt of a business case from the relevant sections and approval from the relevant POs in those sections. The PO in

Finance will then make a decision based on overall business needs and the exigencies of the NCSE service.

- Movements between overall Council headings of amounts over ten thousand euro can only be made with approval from the CEO. A business case must be submitted for consideration from the relevant sections to the PO in Finance. This business case must first be reviewed and approved by the Principal Officer in Finance Section who may then submit the business case to the CEO. The CEO will make a decision based on overall business needs and the exigencies of the NCSE service.

8.4. Responsibility and approval

- The Council is responsible for approving an annual operational budget in line with the parameters of the budget allocation notified by the Department.
- The responsibility of preparing the operational budget and reporting on it lies with the Head of Finance, Governance and Research and various members within the Finance Unit.
- NCSE budget holders (Generally at PO level and delegated by POs on an operational basis to APs within respective teams) are responsible inter alia
 - for preparing budget plans for each cost centre (See Appendix K) using profiling templates as provided by the Finance section. These templates require monthly profiled spend for the full year
 - for ensuring expenditure is in line with budgets and taking corrective action if necessary
 - for reporting to the Finance Unit on budgetary performance, requirements and priorities.
 - for providing commentary on any significant change in their expenditure on a month to month basis versus profiled spend

9 ACCRUALS BASIS OF ACCOUNTING

9.1. Policy Statement

- To ensure the financial statements are prepared in line with the agreed format and accurately represents the NCSE financial position and comply with regulatory and statutory requirements.

9.2. Legal & Policy Framework

- Section 29.1 of EPSEN states the NCSE “shall keep, in such form as may be approved of by the Minister, all proper and usual accounts and records of all moneys received or expended by it”.
- The Code of Practice for the Governance of State Bodies issued by the Department of Finance directs that state bodies are required to prepare annual accounts in accordance with GAAP.
- The NCSE prepares its annual accounts in accordance with GAAP and the Financial Reporting Standard 102 - the financial reporting standard applicable in the UK and Ireland.
- The NCSE accounts are submitted for audit to the Comptroller & Auditor General each year.

9.3. NCSE Procedures

- TThe Finance Unit follows a month end procedure to ensure the FMS and banking systems are reconciled (See Appendix N)
- The purchasing sections in the NCSE are required to include a brief description for each payment referred for processing to the NCSE Finance Section. The description will include reference to the period in which it relates to ensure it is accounted for correctly.
- Staff in Finance will review PAMS received for payment where there may be a prepayment such as a lease, subscription or a service and seek clarity from the Business Unit as required. Finance Section will also write to each area seeking details of accruals at the end of the financial year.
- The Finance Unit records this information on the NCSE finance system. A schedule is maintained to record accruals and prepayments and held on file along with backing papers.

- This schedule and backing papers is included with the accounts file provided to auditors during the audit of the annual accounts.
- According to the accruals basis of accounting, revenues are recognized when they are (1) realized or realizable, and are (2) earned (usually when goods are transferred or services rendered), no matter when cash is received. In cash accounting - in contrast - revenues are recognized when cash is received no matter when goods or services are sold. Each accounting entry is allocated to a given period, and split accordingly if it covers several periods.
- Accruals are liabilities for goods or services that have been received or supplied but have not been paid, invoiced or formally agreed with the supplier, including amounts due to employees. It is sometimes necessary to estimate the amount or timing of accruals.
- Prepayments are payments made in advance of receiving the service/ good. If a client pre-pays a subscription (or lease, etc.), the given revenue should be split to the entire time-span and not count entirely on the date of the transaction.

10 Procedures for Inputting Journal Entries

10.1. Policy Statement

Previous audit has recommended that procedures for inputting journal entries should be put in place in Finance Section where it was noted that there is an increased risk of fraud or error where journal entries are not reviewed and approved by senior management.

10.2.1 The Section requests, by email to the Finance Section, the transfer of expenditure from a nominal code to an alternative nominal code on SAGE.

10.2.2. Or an issue has been brought to the attention of senior management (AP or PO level) in the Finance Section and they give an instruction to the EO in the Section to make a revision from a nominal code to an alternative nominal code on SAGE.

10.2.3. The EO in the Finance Section reviews the request and a nominal code activity report is generated on SAGE to confirm the expenditure indicated by the section/senior management.

10.2.4. A submission is then drafted by the EO, setting out the background and reasons for the revisions and sent to the HEO in Finance seeking approval to make the revision

- 10.2.5. Where the journal request is approved, by the HEO in Finance Unit, the EO in the Finance Section completes the Journal Entry Form see Appendix O.
- 10.2.6. SAGE is then updated with the transfer details completed on the journal entry form.
- 10.2.7. A nominal code activity report is generated on SAGE to confirm the transfer of expenditure to the alternative nominal code. The Journal Entry Form and the nominal code activity report is then checked by the HEO.
- 10.2.8. An email is then sent to the Section or senior management confirming the transfer of expenditure with a copy of the SAGE nominal code activity with the transferred expenditure.

10.3. Responsibility and Approval

The EO should review any requests for transfer of expenditure from a nominal code to an alternative nominal code on SAGE. If the EO is satisfied that the amendments should be made they should prepare a submission seeking approval from the HEO in Finance Section. Journal entry forms should be signed off by an EO in Finance Section at the preparation stage and evidenced as reviewed and approved by the HEO in Finance after the amendments have been made.

In addition the NCSE Accountants as part of their annual preparation of the NCSE draft financial statements will input Journal entries in areas such as prepayments and accruals, all journals keyed by the accountants need to be checked by Finance staff to ensure they are accurate.

APPENDICES

Appendix A Reserved & Delegated Functions

Schedule of Reserved Council Functions & Delegated Functions to the CEO

Agreed by Council on 6th September 2018 and amended on 24th February 2022

1. Introduction

- The Code of Practice for the Governance of State Bodies 2016 requires that Council should have a formal schedule of matters specifically reserved to it for decision to ensure that the direction and control of the NCSE is firmly in its hands.
- The Code specifically requires that the following should be reserved functions:
- significant acquisitions, disposals and retirement of assets of the State Body or its subsidiaries; the schedule should specify clear quantitative thresholds for contracts above which Council approval is required;
- major investments and capital projects;
- delegated authority levels, treasury policy and risk management policies;
- approval of terms of major contracts;
- in non-commercial State Bodies, assurances of compliance with statutory and administrative requirements in relation to the approval of the appointment, number, grading, and conditions of all staff, including remuneration and superannuation;
- approval of annual budgets and corporate plans;
- production of annual reports and financial statements;
- appointment, remuneration and assessment of the performance of, and succession planning for, the Chief Executive Officer; and
- significant amendments to the pension benefits of the Chief Executive Officer and staff (which may require Ministerial approval).

2. Schedule of Reserved Functions of Council

The following list of reserved functions of Council was agreed by Council following review and amendment at the Council meeting on 6th September 2018.

1. Determination of NCSE policy and the issue of policy directives to the Executive.
2. Determination of communication policy and strategy
3. Assessment of the performance of the Chief Executive Officer/Performance Management of the CEO
4. Determination of succession planning for the post of the CEO
5. Appointment of CEO
6. Approval of delegated authority levels
7. Terms and Conditions of employment of staff subject to appropriate approvals as per EPSSEN Act 2004
8. Determination of ethical procedures to be put in place to deal with post resignation/retirement employment, appointment and/or consultancy of Council members and employees by the private sector and to ensure these are monitored and enforced
9. Annual declaration to the Minister that the Council has a system of internal control in place

10. Approval of and opening/closing of bank accounts
11. Purchase and disposal of land or property
12. Acceptance of gifts as per EPSEN Act, 2004
13. Approval of proposals and terms and conditions for all major investments and capital projects including purchases of services, equipment and materials over €250,000 in value exclusive of VAT, ensuring alignment with medium to long term goals
14. Approval of disposal of assets (valued at €100 or more) to Council members, staff or related persons. Should the cost of retrieval or disposal exceed the cost of the asset, the decision should be delegated to the CEO.
15. Approval for the disposal and retirement of assets, including related terms and conditions, at or above the value of €150,000
16. Determination of procedures for maintaining an appropriate relationship with the external auditor
17. Annual review and determination of the effectiveness of the system of internal controls, including financial, operational and compliance controls and risk management
18. Approval of the formal charter for the internal audit of the NCSE
19. Determination of person, other than the Chief Executive, to whom the Head of Internal Audit/Internal Audit Function should report
20. Preparation and adoption of a strategic plan for a period of 3-5 years ahead
21. Approval of Annual Work Plan, Corporate Plans, Annual budgets and Annual Reports and Accounts/Financial Statements and Performance Delivery Agreement
22. Approval of major Council publications
23. Identification of ways to improve the effectiveness of the Council, following review, which should include required competencies of members
24. Appointment of and approval of written constitutions and written terms of reference for the Council, Council Audit & Risk Committee and other Council Committees and agreed timeframes for review and update
25. Approval of a Code of Business Conduct for Council members and employees
26. Regulate the procedures to monitor and manage disclosure of interests and dealing with potential conflicts of interest situations for management and Council members
27. Determination of procedures for employees making protected disclosures under the provisions of the Protected Disclosures Act 2014
28. Determination of compliance with all statutory and governance obligations, which will involve all such obligations being identified and made known to the Council. Notification of non-compliance with obligations to the Minister
29. Approval of the risk management policy and framework, including the appointment of a Chief Risk Officer. Oversight of implementation and monitoring of its effectiveness
30. Approval of a Corporate Procurement Policy Plan and adherence to EU and national procurement policy and guidelines
31. Determination and approval of procedures to monitor, report, and enforce the relevant rules and requirements as set by the Department of Finance
32. Oversight of compliance by the Council with its legal and financial compliance requirements
33. Approval of initiation of Legal Proceedings
34. Response to 3rd Party Legal Proceedings/Settlement of Legal Action to be brought to the attention of Council but should not necessarily require advance Council approval as such responses may be required urgently
35. Appointment and removal of Secretary to Council

Note

Decisions of the Council will be recorded in the minutes of the Council meeting. Where appropriate the Council may provide more detailed directions to the Executive in writing.

3. Delegated Functions to the CEO

The following list of delegations functions to the NCSE CEO was agreed by Council following review at the Council meeting on 24th February 2022.

1. Sanctioning of proposals for purchases of services, equipment and materials up to €250,000 exclusive of VAT (subject to further delegation not exceeding €100,000 exclusive of VAT).
2. Approval of disposal of assets (valued at €100 or more) where the cost of retrieval or disposal exceeds the cost of the asset; the approval may be delegated to a PO.
3. Approval to adjust sub- heads within non-pay budget lines.
4. Appointment of employees other than those listed in the reserved functions of the Council.
5. Performance Management of staff.
6. Operational policy, guidelines and decision-making subject to limits prescribed by the Council's reserved functions.
7. Day to day communications within the agreed communications strategy.
8. Appointment of staff reporting directly to the CEO.
9. Approval to update the list of bank payment authorisers along with one of the following members- the Council Chairperson, Deputy Chairperson or Chair of the Finance Committee.

Appendix B Employee Set up Form

Please

- confirm/amend (if necessary) your details which are pre-entered on this form on page 1
- provide the additional details requested on this form on page 3 (i.e. part 2)
- return immediately the completed form to name address

We need your timely and accurate details to ensure your salary is paid to you after you commence duty

PLEASE WRITE CLEARLY USING BLOCK CAPITALS

AMENDMENTS MAY BE MADE BY MARKING CLEARLY IN PEN AND INITIALLING CHANGES TO THE PRE ENTERED DETAILS ON THIS FORM

1.

Employee Name	
Employee's home postal address (for delivery of payslip)	
PPS number (formerly RSI no.)	

2. Salary (1/1/04 rate)

(As stated in your contract) _____

3. Secondment Status (i.e. not seconded or seconded from) _____

4. PRSI class (As stated in your contract) _____

5. Pension Scheme to which you will contribute as a SENO _____

6. Your contributions to above pension scheme

- Main
- Lump Sum
- Spouses/Childrens:
- These details are subject to confirmation by the NCSE with your employer in the case of seconded SENOs.

7. Voluntary Deductions;

In the event that I wish to have deductions made from my salary and paid to the following agencies e.g. Health Insurance, Union, etc., (**NB See note regarding voluntary deductions below**), I will forward my signed mandate to the NCSE authorising it to make a specified deduction from salary and to pay over the deductions to the specified account.

10.3.1 Note re voluntary deductions from salary

If you require any voluntary deductions to be made from your salary please:

- a) Complete an appropriate mandate form for each deduction, (available from the relevant institution, **not** the the NCSE), authorising deduction from your salary at the NCSE to cover a period no earlier than 1st September 2004.
- b) Return completed form to the relevant institution as soon as possible for onward transmission to the NCSE. Any delay could result in a break in your contribution. **The NCSE will accept no responsibility for the consequences of any such break.**

NOTE: *The* NCSE will facilitate voluntary deductions in so far as possible. It must be recognised that these deductions are made solely as a measure of convenience to the employee and where facilitated may be terminated at any time. It should be recognised that the ultimate responsibility for ensuring that the deductions have in fact been made rests with each individual employee and that beyond making remittance to the relevant institutions the NCSE accepts no responsibility of any kind in this matter.

8. Tax Requirements

A. If you are currently employed or employed during the current tax year

I confirm that I will arrange for my former/current employer to forward a p45 (or other approved form which conveys that information) statement to the NCSE immediately on termination of that employment.

B. If you are not currently employed or have not been employed during the current tax year.

I confirm that I will contact the relevant tax office and arrange to have my tax certificate issued to the NCSE as soon as possible.

NB: Failure to promptly comply with the appropriate course of action required above, (A or B), will result in you being placed on emergency tax until such time as the issue has been adequately addressed. This is a requirement of the Revenue Commissioners and the NCSE have no discretion in the matter.

9. Authorisation to be given by seconded staff

I authorise my current employer to provide information to the NCSE regarding my pension contributions and pensionable salary

Employee signature: _____ Date: ___/___/_____

Part Two:

10.

BANK DETAILS

Please send my NCSE payments directly to my account as set out below:

Your Name:	
Bank Name	
Bank Address	
Account Name <i>(full name in which account is held)</i>	
Account Number	
Sort Code	
Type of account	
IBAN	

Employee signature: _____ Date: ___/___/_____

11. For office use only:

Salary Details	
Annual salary	
Grade and Scale Point	
Pensionable salary:	
Employee contribution rate	
Employment status Please tick box	Permanent
	Temporary un-established (Contract)
	Seconded Staff
Start Date	
Adjustment to salary - (details of any anticipated adjustments/increments)	
PRSI Class	
Spouses and children contribution	
Job Title/Location e.g. SENO Limerick	
If seconded employee give details of pensionable salary	

Approved by: _____ **Date:** ____ / ____ / ____

Authorised by: _____ **Date:** ____ / ____ / ____

Appendix C Payment Authorisation Memo

To Finance Unit

MEMO: AUTHORISATION TO ARRANGE PAYMENT FROM PURCHASING SECTION

Please arrange payment to					
At Address					
In respect of (description of item/s)					
Payment Details	Amount:		Method (EFT/ Cheque/ other*)		
Bank Account Details (required for EFT)	A/C Number		Sort Code No.		
Cheque payable to	Interlink Ireland				
Purchase Section File Reference					

* Please consult with Finance Unit prior to requesting other method of payment.

Detailed Payment Procedure Checklist:			YES	NO
1.	Procurement Procedures (see M:\NCSE FPPM) followed and recorded on file			
2.	Approval for purchase at appropriate level obtained (see M:\FUON 1 2005 Procurement Process.doc)			
	Name of Authoriser	Date of Approval		
3.	Budget Line Code: 6 -	Job Code:		
4.	Direction to raise Purchase Order on SAGE notified to Finance - PO Reference			
5.	Purchase Order raised and notified to supplier	Date		
6.	Delivery Docket/Service Receipt correspond with Purchase Order Details:			
7.	Fixed Assets Register updated and asset tagged (where applicable see M:\NCSE FPPM)			
8.	Invoice stamped and checked against 5 & 6 above			
9.	Tax Clearance Certificate and Professional Services Withholding Tax procedures followed Details:			
10	Relevant supporting documentation attached in accordance with current NCSE FPPM List of Documents Attached:			
	1) _____	4) _____		
	2) _____	5) _____		
	3) _____	6) _____		

I certify that I have checked the documents supporting this purchase. The purchase has been properly approved, the approved procedures have been followed and the payment is in order.

Prepared/ Checked
CO/SO/EO/HEO

Authorised HEO/AP Signature

Date

Purchasing Section:

Appendix D Filing System

The file register and procedures are maintained on the document and records management system, eDocs. The NCSE Finance Unit can provide details on request.

Appendix E NCSE Procurement to Payment – a step-by-step guide

1. Initiate Procurement

- A procurement process (including a specification of business and technical needs) is followed to identify the item/ service to be purchased¹⁰.
- Before starting procurement process, confirm no relevant contracts are available within or across sections of the NCSE.
- Draw up a specification of business/technical needs – this can include estimated costs, requirement for good/service etc. (can be 1 line request from manager or 2-3 paragraphs setting out details)
- Review and decide on the appropriate procurement process – e.g., OGP framework / by quotation / by tender through eTenders / sole supplier.
 - OGP Frameworks have been developed to assist in securing value for money and should be used in the first instance. These can be reviewed on <https://buyerzone.gov.ie/>.
 - Login and check the OGP Buyer Zone website, and check if frameworks are available for good/service. If unsure, contact support@ogp.gov.ie
 - Check the business/technical need against the Framework details in the User Guide for the Framework – they may not match.
 - Check the timeline required to put the Framework in place.
 - Requests for quotation are commonly used for procurement under €5,000
 - Review the cumulative spend tracker.
 - Requests for Tender (RfT) must be used for procurement above €25,000, and are advised for procurement with a value between €5-25,000.
 - Specification details are required and use of OGP RfT template for publishing on eTenders platform
 - Plan the timeline, set award criteria and invite evaluation committee.
 - Evaluate against award criteria, make note of meeting with comment on each criteria for all proposals. Notify suppliers of the outcome and publish the award notice on eTenders.
 - Sole supplier is for use in exceptional circumstances. It requires the staff review and investigate available suppliers for services and goods. An explanation of exploring supplier options must be noted in the Sole Supplier Form (in Appendix Q of FPPM). Obtain sign off from the PO in section **before** engaging the supplier.
 - For any queries that require advice or support in setting up your procurement process, please contact the NCSE Procurement Officer.

¹⁰ The Government publication *Public Procurement Guidelines for Goods and Services (January 2019)* sets out the steps to be followed in conducting an appropriate competitive process under EU and national rules.

2. Review procurement processes

- Review procurement processes and decide on procurement approach
- Review delegated sanction levels (HEO/AO, AP, PO etc.). NCSE procurement procedures include specific approval limits and procurement awarding criteria (see Section 3.7 of FPPM). In summary:

Specific Limits	Procurement Process	Selection / Evaluation	Approval levels ¹¹
< €5,000	Review procurement options Check if OGP Framework available If RfQ - Seek quotes from a minimum of 3 competitive suppliers, ideally in written format	Check user guide if relevant framework applies Selection based on lowest price or most suitable	NA
€5,000 - €25,000	Review procurement process Check if OGP Framework available RfT through eTenders advised (ahead of RfQ) If RfQ - Seek written quotes from a minimum of 3 competitive suppliers	Check user guide if relevant framework applies Follow eTenders procedures. Selection based on lowest price or most suitable	HEO/AO or above in section
€25,000 - €214,999	Undergo formal tendering process with RFT advertised on www.etenders.gov.ie and/or in national newspapers.	Follow eTenders procedures.	AP/SL in section up to €75,000 PO in section up to €150,000 CEO where expenditure is up to €250,000.
> €215,000	Advertise RFT on www.etenders.gov.ie Tender review and selection in accordance with EU regulations – publish in EU Journal (OJEU).	Follow eTenders procedures	CEO where expenditure is up to €250,000 Over €250,000 – subject to sanction from Council

¹¹Executive Approval / Council Sanction - see Section 3.7, Table 3.2 of FPPM.

3. Procurement to Payment documentation in Section

- Each stage of the procurement process should be appropriately documented in section, with copies in electronic format provided to the Finance Unit.
 - E.g. A folder for each procurement process to be retained in shared folder, log all email requests for quotations and quotes received, note/email on outcome of procurement – which quote was selected etc., PO requisition form, PO received from Finance, PAM documents.

4. Procurement Approval

- Outcome of procurement process is sent to HEO/AO or above for approval.
- The approving officer (HEO/AO or above) should ensure that the contract amount is within the confines of the Budget allocation and that current tax clearance cert (Section 3.14.3 of FPPM) has been received.
- Email approval from HEO/AO or above sent to staff member.
- Procurement approval may be implicit in certain limited circumstances, for example where a series of training seminars are arranged, collective approval is obtained.

5. Purchase Order¹² Requisition

- Fill in Purchase Order (PO) requisition form, and email to Finance (finance@ncse.ie)
- Include notification of approval (where required)
- Include the Approving Officer (HEO/AO or above) on copy of PO requisition email to Finance.
- In the PO requisition form:
 - i. Include the key details of good/service to be purchased on PO requisition form / first line details are important (e.g., date, meeting title – shortened info on first line).
 - ii. Note the procurement guidelines followed, and procurement process used in relevant column.
 - iii. Note the quantity (e.g., ‘1’ equals 1 payment against the PO), e.g., 3 instalments = quantity of 3.
 - iv. The totals to include VAT (where relevant)
 - v. **PO should be raised at the time of approval (in advance of confirmation of order with the supplier).**
- Finance raise a PO on system and emails PO to Section.
- Section to place order with the supplier
 - Include the PO number in the email, along with the estimated/quoted amount.

¹² See Section 3.8 FPPM

- **Tell supplier that invoices are to be submitted to finance@ncse.ie (section staff can be on copy).**
- 'Please submit invoice to finance@ncse.ie, along with the PO number XXXXX, with SECTION STAFF EMAIL on copy'.
- If using suppliers from the UK or outside the EU, please let them know the NCSE has registered with Revenue for Postponed VAT Account: 'The NCSE has been registered with Revenue for Postponed VAT Accounting; the duties will be paid by the NCSE at a later stage'.

6. Delivery of services/goods

- When Goods/Services are received make sure delivery documents agrees with the P.O.
 - Checking the quantity of goods/services
 - Review type / make and model of goods/services align with order
 - Review itemised and overall costs.
- Save delivery documents with P.O. in shared folder, and update the Assets Register as appropriate.

7. Receipt and checking of the invoice

a) Invoices are received in Finance Unit, tracked (dated) and circulated to Section.

- Please review the invoice immediately upon receipt, and raise any dispute on invoice at the earliest opportunity.
- 30 days to process payment from the date the invoice is received (by the NCSE – any staff) – this includes time to process payment in Finance.
- Late payment fees may be incurred after 30 days
- **Any invoices received in section must be forwarded to Finance immediately – finance@ncse.ie.**
- Section staff to remind suppliers to send invoices directly to Finance.

b) Section checks the details of invoice to ensure correspondence with PO and delivery documentation.

- a. Quantity of services/goods
- b. All itemised costs and overall cost add up
- c. Matched with the info at time of order and any changes made
- d. The invoice has not been received and paid at an earlier date.
- e. VAT is applied by supplier (where relevant/if registered)
- f. If buying goods in non-EU country (e.g. UK), VAT not to be included on invoice. VAT is payable at the rate applicable in Ireland from NCSE to Revenue.

8. Preparing the Payment Authorisation Memo (PAM)

- a) Section prepares the PAM
- PAM document (word)
 - i. Ensure PAM template is updated each time in ALL FIELDS
 - ii. Procurement process to be included
 - Tracked invoice
 - Purchase Order (pdf) and Purchase Order Request Form (excel)
 - Initial authorisation of expenditure (email)
 - Backing papers (relevant to invoice and payment only)
 - Provide a schedule if more than one invoice, purchase order or budget code is applicable (in excel)
 - Memo (additional information on procurement or payment, if required)
 - Sole Supplier Form (if required)
 - Deduction of PSWT in PAM (where appropriate) - PSWT is a tax that applies to payments by accountable persons for certain professional services – Deduction of PSWT is at the rate of 20%.
- b) When PAM is sent by email to the HEO/AO in Section for payments below €25,000 (AP/SL for all payments above €25,000), note the checks completed on the invoice.
- a. Email subject title to include '**PAM / Supplier name / total amount on invoice**'
 - b. Email body to note: 'I have undertaken the relevant checks on the attached PAM, for AMOUNT to SUPPLIER for SERVICE/GOOD.'
- c) The manager of the Section (HEO/AO, or AP/SL for payments over €25,000) should review the PAM documentation, per the following:
- a. Relevant backing documents are included
 - b. Procurement approval (where relevant) is included (email)
 - c. Budget code, job code in line with PO request
 - d. Overall amount on PAM to match invoice and PO (memo required if variance between PO and invoice is over 10%)
 - e. Any anomalies, including late payments, MEMO in PAM outlining further details.
 - Once checks completed and approved by HEO/AO (or AP/SL), **FORWARD** the full email thread and PAM attachment to Finance (finance@ncse.ie),
 - HEO/AO (or AP/SL) to note in email they have undertaken the relevant checks and authorise payment, example: 'I have undertaken the relevant checks and authorise this payment of AMOUNT to SUPPLIER for SERVICE/GOOD.'
- d) The 30 day limit on invoice payments should be adhered unless a dispute arises (this stops the clock).
- a. Disputes to be raised on invoices as soon as possible.
 - b. Section to include relevant additional information on disputes/late invoice in PAM (Detail to be summarised in MEMO and include email thread, where relevant).

9. Review of PAM and payment processed

- Finance Unit will review PAM and undertake appropriate checks and arrange payment once all is in order.
 - Payments are processed in batches, on a weekly basis.
 - Section to call Finance if there is a time sensitive PAM, as soon as possible, noting the timeline and request for prioritisation.
 - Where queries arise from checking PAMs in Finance, Section staff to respond as soon as possible.

Appendix F Foreign Travel Requisition and Booking Form
FOREIGN TRAVEL REQUISITION AND BOOKING FORM (see notes)

Staff and Travel Details		
Name: (as per passport)	Grade:	Date of request:
Purpose of Travel:		Line Section File Reference:
Section:	Contact Number	
Departure Point:	Destination:	
Departure Date(s) required:	Return Date(s) required:	
Approximate Departure time:	Approximate Return time:	
Accommodation Required: Yes <input type="checkbox"/> No <input type="checkbox"/>	Details of hotel (if applicable):	
Special travel requirements (if any):		
Payment Details		
Is cost of travel and/or subsistence refundable?		
If relevant, name of organisation refunding costs and contact details:		
Approvals		
Officer Travelling Signature:		Date:
Authorised by line manager Signature:		Date:
Authorised by the CEO Signature:		Date:
Finance Unit		
Received in Finance Unit: Signature:		Date:

NOTES

NOTE 1: All foreign travel on official business must be authorised by the CEO and this form fully completed by each officer travelling in accordance with NCSE Foreign Travel Policy. The completed travel requisition form must be forwarded to the Finance Unit, NCSE, 1-2 Mill Street, Trim, Co. Meath. Sufficient notice must be given to enable the Section secure appropriate and cost effective arrangements.

NOTE 2: Travel and subsistence claims relating to the travel should be submitted on Core Expense System immediately on return.

Contact Details in the Finance Unit

Email: finance@ncse.ie

Tel: 046 948 6413 Fax: 046 948 6404

Appendix G EFT Payments Requisition

EFT PAYMENTS REQUISITION – GENERAL

Finance Unit has been directed to arrange payments by EFT to the following:

	Transaction No.	Account No.	Payee	Description	Authoriser	Amount €
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

- The attached Payment Authorisation Forms notified to Finance Unit were completed and certified by the appropriate officers.
- The payments have been set up on Business on Line for authorisation.

Checked & Set up on BOL

Reviewed

EO Finance Unit
Date_____

HEO/ AP Finance Unit
Date_____

BOL Authoriser 1

BOL Authoriser 2

Date_____

Date_____

Appendix H NCSE Fixed Assets Disposal Form

NCSE – Fixed Assets Disposal Form ¹

1.	Asset Type:	Tick (√) one	Asset Description (e.g. Hard drive, 3 X Monitors etc)
	Furniture		
	IT Hardware		
	Office Equipment		
	Other		
2.	Identification		Details (or attach schedule)
	Make/Model		
	Serial Number		
	Fixed Asset Number		
	Current Location		
3.	Value		Details (or attach schedule)
	Date of Purchase:		
	Purchase Value:	€	
	Current Value	€	
	Profit on Disposal (If applicable)	€	
4.	Method of Disposal	Tick (√) one	Description
	Destroyed		
	Recycled		
	Sold		

	Other		
5.	Reason for Disposal:		
6.	Request for Disposal of the above item(s):		
Signed : _____ Date: _____ Name : _____ Section : _____			
7.	Disposal of item(s) Authorised:		
Signed : _____ Date: _____ Name : _____ Section : _____			

¹ To be completed in accordance with FPPM

Appendix I Budget Plan Template

(Available from NCSE Finance Unit – template included with the MER)

Appendix J Staff Update/Transfer Form

(Available from PeoplePoint/ NCSE HR Unit)

Appendix K List of Voluntary Deductions

(List available from the PSSC)

Appendix L Month End and Quarterly Procedures

The following steps will form part of month-end procedures:

1. Update the FMS with expenditure transactions
2. Post payroll and T&S journals
3. Bank Reconciliations
4. Debtors & Creditors Reconciliations
5. Revenue Requirements
6. Monthly Expenditure against Budget Reports
7. Late Payment Reporting

1. Record Expenditure Transactions

- EO ensure all transactions for month have been updated on SAGE.

2. Post Payroll Journals

- PSSC provide payroll and T&S reports.
- EO Finance post nominal journal entries for Payroll and T&S to– expenditure accounts, and control accounts.
- EO arranges payover of superannuation and voluntary deductions.
- Copies of gross to net reports for month retained on file.

3. Bank Accounts Reconciliation

- HEO prepares current account reconciliation on SAGE each month.
- Reconciliation reports are signed off by HEO and approved by AP Finance.
- Reconciliation reports retained on file.

4. Debtors & Creditors

- Prepayments Report – detail of prepaid element of charges e.g. insurance, computer maintenance contracts etc.
- Accruals Report – detail of accrued elements of charges updated each month.

5. Revenue Requirements

- Post PSWT return and payment - monthly
- Post VAT return and payment – tri-monthly

- Post P30 return and payment – monthly (arranged by PSSC)
- Report to Revenue on suppliers receiving over €10,000 in payments annually

Monthly Expenditure Reports

- Download the profit & loss account into excel Monthly Expenditure Report which provides details of budgets, forecast profiles and expenditure for each month.
- Variances should be expressed in both monetary and percentage terms.
- Budget managers conduct an analytical review of actual performance to budgeted performance. Any large variances should be investigated and explained.
- The Controller and Auditor General require an analytical review of the year's actual results compared to the budgeted figures. The monthly budget performance reviews will form the basis of this requirement at year-end.

6. Late Payment Reporting (Quarterly)

- The NCSE is required to record the number of days taken to pay suppliers.
- Invoices should be received in the Finance Unit, date stamped and recorded on SAGE
- Purchasing Sections are obliged to prepare PAMs within the prescribed dates
- The NCSE report to DES on implementation.
- Stats provided on the DES website.

Appendix M – Financial Management System (SAGE)

The Financial Management System in use by the NCSE is SAGE 50 Accounts Professional.

Access and Data Storage

Members of the Finance Unit, have full access to SAGE. Access is also provided to HEO Facilities and HEO IT in a view only mode. The programme is installed locally on the PC of those granted access. SAGE data files are saved on the document and records management system, eDocs.

Back-ups

A back-up of SAGE data is included in nightly back-ups of the NCSE IT network (supervised by the IT Unit). The EO of the Finance Unit backs up Sage to the [H:\Sage\Backups](#) folder each week. A back-up of SAGE data shall be initiated by members of the Finance Unit before the Annual Accounts are completed, after the Annual Accounts are completed and prior to any major changes on the system.

Appendix N Budget & Funding Procedure

A budget and funding procedure is agreed annually with the DE. A copy of the document is available from the NCSE Finance Unit/ Special Education Grants Section

Appendix O SAGE Journal Entry Template

SAGE JOURNAL ENTRY TEMPLATE										
Date	Section	Nominal Code	Nominal Code Name	Job Code	Details	T/C	Debit (Transfer in)	Credit (Transfer out)	Date SAGE journal completed	SAGE Transaction No.
18/06/2021	ISTP	7273	Miscellaneous SIM	1	BP Training cost to transfer to Training budget code	9		72	29/07/2021	109603
25/06/2021	ISTP	7273	Miscellaneous SIM	1	BP Training cost to transfer to Training budget code	9		72	29/07/2021	109064
18/06/2021	ISTP	7202	Training SIM	1	BP Training cost to transfer to Training budget code	9	72		29/07/2021	109065
25/06/2021	ISTP	7202	Training SIM	1	BP Training cost to transfer to Training budget code	9	72		29/07/2021	109066

Appendix P: Receipt and Opening of Tenders

NCSE Receipt and Opening of Tenders

RFT COMPETITION: NAME OF RFT

The RFT indicated that the closing date and time for receipt of tenders was [TIME AND DATE]

Tenders were date stamped and the time recorded on each envelope/eTenders as they were received.

Electronic or paper format Tenders:

	Tender Information	Date & Time Received	Proceed to next stage (Y/N)
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			

Outcome:

[Note the outcome of the initial review of the tenders

- Were tenders received after the deadline / deemed invalid?
- Did all tenderers to provide relevant and interpretable information on award criteria, if not, they may be rejected and not proceed to the next stage.
- Note how many/which tenders will proceed to the next stage.

The Tenders were opened by

[NAME and signature]

[NAME and signature]

Name 1

Name 2

DATE: [Date of report on tender opening]

Appendix Q: Sole Supplier Form

This form must be completed where the intention is to procure goods/services via a single quotation, in advance of a PO being issued to a supplier.

Full description of goods/services required:

Value (or estimated value) of purchase excl. VAT: _____

Suggested supplier: _____

Reason(s) for not following a competitive procurement process:

NB. Sole supplier should normally be avoided. Please give full details of why you believe there is only one supplier for the item described and that no alternative is available. Efforts to identify alternative suppliers, such as listing numbers and names of suppliers requested to quote, and information on any quotes received (and their suitability) should also be included.

Requester name & position: _____ **Date:**

Reviewer – Principal Officer: _____ **Date:**

NB. Please attach a copy of all relevant supporting documentation for Finance Section.

[Business case rationale for specific goods/services & emails of quotes sought & quotes received]

Version Control (Revision History)

Date	Version	Scope of Activity	Updated By	Approved By
February 2023	1.2023	Procurement and general updates	Caroline McKeown and Gerry Robbins	Council / Head of Finance, Governance and Research
March 2022	2.2022	Updates to Schedule of Reserved Council Functions following Council meeting.	Gerry Robbins	Head of Finance, Governance and Research
January 2022	1.2022	Updates for recent developments and improvement of processes.	Gerry Robbins	Head of Finance, Governance and Research
September 2021	1.2021	Updates for recent developments and improvement of processes.	Alan Flattery	Head of Finance, Governance and Research
February	2020.1	Updates for recent developments and improvement of processes.	Alan Flattery	Council

March 2019	1.2019	Expansion of the NCSE, BOL Authorisers, Procurement Updates, Reserved and Delegated Function Updates	Alan Flattery	Head of Finance, Governance and Research
June 2017	1.2017	Expansion of the NCSE, New Code of Practices, BOL Authorisers, T&S Updates, Revised Procurement Procedures	Niall Feeney	Council
June 2016	1.2016	Checked Authorisers. Updated chapters 1 (reference to Section 43 of EPSEN), Appendices including "A" - schedule of Council functions as amended by Council and Chapter 9 – Ref FRS 102.	Niall Feeney	Head of Operations & Support Services

April 2015	1.2015	Update chapters 3,4,5,6 to bring in line with current responsibilities and service agreements with PeoplePoint and Payroll Shared Services Centre.	Niall Feeney	Head of Operations & Support Services
December 2013	2.2013	Update chapters 3,4, 6 and Appendices F and O to reflect changes in ILP, Vat 3, invoice recording, bank authorisers, deposit card and back up procedures for SAGE.	Niall Feeney	Head of Operations & Support Services
January 2013	1.2013	Update Contents and chapters 1,2,4,5,8,7,9. and Appendices A, O and P. Incorporated chapter on Miscellaneous Expenses into Expenses Chapter and added Chapter on Accruals.	Niall Feeney	Head of Operations & Support Services
September 2012	2.2012	Update to chapters 1,2,3,4,5,6,7,10 and Appendices	Niall Feeney	Head of Operations & Support Services
June 2012	1.2012	Update to authorisations/ insert budget plan	Niall Feeney	Head of Operations & Support

				Services
December 2010	1.2011	Updates to Chapters 3, 6, 7, 8 and 10 Update Appendices – update Procurement Checklist and Remove Miscellaneous Expense Claim Form	Niall Feeney	Head of Corporate Services
January 2010	1.2010	Updates to Chapter 8	Niall Feeney	Head of Corporate Services

APPENDIX 13: NCSE Corporate Procurement Plan 2019-2022

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 - 2. Aim and Objectives of the Corporate Procurement Plan**
 - 3. NCSE Procurement Structure and Policy**
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 - 4.2 Analysis of suppliers**
 - 5. Actions for Corporate Procurement Plan 2019-2022**
 - 6. Conclusion**
- Appendix: Extract from Accounts 2018**

1 Introduction

The National Public Policy Procurement Framework requires that all non-commercial state bodies produce a Corporate Procurement Plan (CPP). A CPP guides procurement activity in an organisation for a set period, including procurement planning, identification of priorities and key actions, and monitoring and compliance of practice. The ultimate aim of a CPP is to achieve improved procurement outcomes: value for money; efficient, fair and equitable use of resources; better informed decision making.

Having a CPP is also an indicator of good governance. The Code of Practice for the Governance of State Bodies requires all non-commercial state bodies to have a CPP. The Public Spending Code emphasises the need for procurement planning – a key benefit of a CPP. Goal five in the NCSE Statement of Strategy 2017 -2021 notes the importance of maintaining an effective organisation that complies with all legal and corporate requirements. The development of a CPP contributes to this goal through its function as a tool for informing decision making, identifying areas of good practice and where improvement is needed.

2 Aim and Objectives of the Corporate Procurement Plan

The aim of the NCSE CPP 2019-2022 is to achieve greater value for money through improved delivery of the procurement function in the organisation. A number of objectives follow this aim:

1. Ensure goods and services are procured in accordance with best practice as set out by the Office of Government Procurement (OGP).
2. Enhance staff awareness and capacity to undertake procurement activities in a compliant manner.
3. Improve monitoring, compliance and reporting of procurement activity in the NCSE.

3 NCSE Procurement Structure and Policy

Procurement in the NCSE is every staff member's business. The organisation operates a devolved procurement structure, meaning business units are responsible for their own procurement activities and ensuring they are compliant with procurement policy and practice guidelines. The procurement officer and other staff in the finance unit are responsible for supporting and guiding procurement activities, where requested, through the sourcing and provision of advice and information, for monitoring compliance across the organisation and reporting on procurement issues to the NCSE Council.

The organisation's procurement policy is influenced by the results of internal and external audits which have directly or indirectly examined the procurement function. The findings of recent audits have been taken into account in producing this

Corporate Procurement Plan.

NCSE procurement policy is underpinned by the key strands of the National Public Policy Procurement Framework. These are:

- Legislation
- Government policy as set down in circulars
- General Procurement Guidelines for Goods and Services
- Technical guidance, templates and advice issued by the Office of Government Procurement.

Together, these influence the day-to-day procurement guidance contained in the NCSE's Financial Policies and Procedures Manual.

4 Expenditure Analysis

The OGP recommends that the development of any CPP should be informed by an analysis of expenditure in an organisation over a selected preceding period. This analysis should identify

- how much was spent
- by what sections
- on what goods and services, and
- the main suppliers used

The non-pay expenditure from the 2018 accounts was examined for this purpose. Specifically, the expenditure analysed only includes that related to goods and services of non-pay activity. This amounts to €3,054,550 or 23.5% of all expenditure. Other expenditure areas are excluded (e.g. wages, salaries, PRSI (including for therapists as part of the therapy demonstration project); staff costs in the education centres; travel and subsistence for staff and for CPD participants; and depreciation). These excluded areas amount to €9,923,905 or 76.5% of all expenditure.

4.1 Analysis by spend, section responsibility and area of activity

The table below presents information on the analysis of expenditure by amount, section responsible and the types of goods and services involved.

Table 1: Expenditure analysis by spend, section responsibility and area of activity

Section	Area of activity	Amount € (% of total spend analysed)
Operations	CPD provision for participants (inc. venue costs, trainer costs and course fees)	647,112 (21.2%)
Business Support	Rent and rates	561,265 (18.4%)
Business Support	IT	370,926 (12.1%)
Business Support	Printing, postage and stationery	365,490 (12%)
Business Support	Telephone	233,719 (7.7%)
Operations	Professional interventions (SLT, OT, behaviour improvement interventions, literacy and numeracy interventions)	199,158 (6.5%)
Finance, Business Support, Research	Consultancy fees	126,104 (4.1%)
Operations	Therapy demonstration project (exc. Salaries and T&S of assigned therapists)	88,836 (2.9%)
Research	Research	72,326 (2.4%)
Business Support	Repairs and maintenance	84,420 (2.8%)
Business Support	HR – Training and Development	68,795 (2.3%)
Business Support	Meeting expenses	60,194 (2%)
Business Support	Light and heat	54,617 (1.8%)
Finance	External audit and accountancy services	52,153 (1.7%)

Business support	Internal audit	37,828 (1.2%)
------------------	----------------	---------------

Source: 2018 accounts. See appendix 1 for further detail.

The remaining 1% of expenditure (amounting to €31,607) not itemised in the table relates to general expenses, recruitment fees and legal fees.

Consultancy fees related to communications services, IT, research, legal advice, financial and actuarial advice.

As can be noted from the table above, the vast majority of expenditure analysed is concentrated in two sections: operations; and business support.

- Operations accounts for €935,106 (30.6%) of analysed spend.
- Business Support accounts for €1.837m (60.3%) of analysed spend.

4.2 Analysis of suppliers

The table below presents information on the analysis of expenditure by amount, section responsible and the types of goods and services involved.

A breakdown of the 109 suppliers analysed where expenditure was in excess of €5,000 is outlined in the table below.

Table 2: Analysis of supplier expenditure by section and number

Section	No. of suppliers	Example of suppliers
Operations	49	Venue for CPD e.g. education centres, hotels; educational resources companies; demonstration project-related companies (therapist training).
Business support	47	Utilities (e.g. Eir, An Post), Accommodation (e.g. OPW), Codex (office supplies), security, IT (e.g. laptops).
Finance	7	Accountancy companies (e.g. Mazars), printing and publishing related activity (e.g. Publication design).
Research	6	Research companies/institutions (e.g. RSM Ireland), research conference suppliers (e.g. Croke Park Conference Centre).

As with the previous analysis, the majority of suppliers to the NCSE in 2018 where payments exceeded €5,000 were engaged by the operations and business support sections.

5 Actions for Corporate Procurement Plan 2019-2022

Based on the preceding analysis of expenditure in the NCSE, the review of the National Public Policy Procurement Framework, and the recommendations in internal and external audit reports, a number of actions are outlined below. These actions relate to the objectives outlined in section 2 and have timelines attached to them. Many actions outlined below are already underway. Timelines here relate to the date of the plan and future implementation.

The development and implementation of a CPP is the responsibility of the NCSE Procurement Officer. The Procurement Officer reports to the Head of Finance.

Table 3: Corporate Procurement Plan 2019-2022 Actions

Objective	Actions	Timelines
Ensure goods and services are procured in accordance with best practice as set out by the OGP.	Update the procurement section of the NCSE FPPM to ensure that it reflects the latest guidance from the OGP.	Q4 2019 and ongoing
	Continue to ensure all sections are informed of the latest OGP publications and guidance.	Q4 2019 and ongoing
	Encourage greater use of OGP templates for procurement and contract management.	Q4 2019 and ongoing
	Review the CPP on an annual basis to ensure that it is fit for purpose.	Q3 2020, 2021, 2022.
	Continue to encourage greater use of OGP Framework Agreements, where appropriate for NCSE needs.	Q4 2019 and ongoing
Enhance staff awareness and capacity to undertake procurement activities in a compliant manner	Develop and deliver information sessions on procurement designed to support staff in complying with FPPM guidance	Q4 2019

	Engage with HR to commission procurement training to be delivered to purchasing staff across the organisation.	Q4 2019 – Q1 2020.
	Continue to update staff on publications (guidance, templates, information notes) issued by OGP and other relevant bodies, seeking clarification where necessary from publishers	Ongoing
	Continue to provide ongoing support to staff where required on procurement activities.	Ongoing
Improve monitoring, compliance and reporting of procurement activity in the NCSE	Engage with finance unit to ensure that payments are processed in line with FPPM requirements.	Q4 2019
	Maintain and publish (quarterly) the Procurement and Contracts Register for all procurement over €25,000	Q4 and ongoing
	Develop and implement compliance monitoring mechanisms (e.g. random spot check of procurement activity at any threshold, reviewing e-tenders website for timely publication of material) and report quarterly on outcomes to Council.	Q4 2019 and ongoing
	Undertake quarterly expenditure reviews and report to Council on activity.	Q3 2019 and ongoing.
	Undertake a quarterly random spot-check of all purchase orders over €25,000 and associated procurement documentation for compliance.	Q4 2019

6 Conclusion

The aim of this Corporate Procurement Plan, which informs procurement activity in the NCSE to the end of 2022, is to deliver greater value for money and improve compliance with procurement law, policy and practice. It outlines a set of objectives and related actions to contribute to this aim.

The implementation of the actions in this plan will be the central role of the Procurement Officer, supported by colleagues in the finance unit. The implementation of good procurement practice is the role of everyone in the organisation. The actions outlined here will, when implemented, lead to improved practice across the organisation. This in turn will ultimately result in greater compliance and a more confident and knowledgeable staff comfortable in their purchasing roles.

Appendix: Extract from Accounts 2018

EXPENDITURE	2018 €
Printing, postage and stationery	365,490
Rent and rates	561,265
Telephone	233,719
Light and heat	54,617
Repairs and maintenance	84,420
Training and development	68,795
Training participants (CPD)[1]	647,112
Travel and subsistence expenses[2]	1,385,541
Travel and subsistence participants[3]	407,482
Meeting expenses[4]	60,194
General expenses	8,233
Recruitment fees	5,146
Research expenditure	72,326
IT expenses	370,926
Consultancy fees[5]	126,104
Outsourced services[6]	468,345
Professional services & intervention[7]	199,158

Internal audit fee	37,828
External audit fee	28,918
Accountancy fees	23,235
Legal fees	18,228
In School Therapy Project contract	694,847
Debtors historic write off	722
Wages & salaries (Note 5)	6,368,102
Employers PRSI	544,975
Loss on disposal of assets	-
Depreciation	<u>142,727</u>
Total Expenditure	<u>12,978,455</u>

[1] This reflects the training costs associated with providing CPD for participants such as venue costs, lecturer costs and course fees.

[2] Travel and subsistence expenses increased in 2018 due to additional staff and extensive travel costs, based on the peripatetic nature of work involved. Foreign travel and subsistence expenses in the year amounted to €4,410 (2017: €1,460). All other travel and subsistence expenses were domestic.

[3] This reflects the travel and subsistence costs incurred by participants attending CPD courses.

[4] The NCSE did not incur any entertainment expenditure in the year (2017: nil).

[5] Consultancy fees were incurred in relation to communication services, IT, research, legal advice, financial and actuarial advice.

[6] This reflects the administration costs associated with the provision of services and salaries through the Education Centres.

[7] This reflects costs incurred by the provision of services such as occupational therapy, speech and language therapy, literacy and numeracy interventions, behaviour improvement interventions and professional assessments.

APPENDIX 14: NCSE Charter for Internal Audit

Internal Audit Charter

Charter for Internal Audit in National Council for Special Education

A Charter for the Internal Audit function in National Council for Special Education (NCSE) was approved by the Council at its meeting of 30th October 2019.

1. Introduction

1.1 The Internal Audit function (“Internal Audit”) provides assurance to the Council and the Chief Executive on the entire system of controls, financial and otherwise. Internal Audit assists management by evaluating and reporting on the effectiveness of the controls for which management are responsible.

1.2. The Internal Audit function consists of the Head of Internal Audit and the Internal Auditor.

1.3. The Internal Auditor is currently provided on an outsourced basis and reports to the Head of Internal Audit.

1.4. The Head of Internal Audit is accountable to the Audit and Risk Committee (ARC) for the performance of the Internal Audit function.

2. Mission of Internal Audit

2.1 Internal Audit provides independent and objective assurance and advice designed to add value and improve the operations of the Council. It assists the Council in accomplishing its objectives by conducting a systematic and disciplined review of the effectiveness of controls, risk and governance processes designed by management to meet the strategic, financial, and operational objectives of the Council.

2.2 In order to achieve this aim, Internal Audit carries out independent assessments and reports thereon to the ARC and management. Each assignment undertaken by Internal Audit is intended to provide independent, objective assurance as well as recommendations designed to add value and improve the operations of the Council.

3. Scope

3.1 All the Council’s activities, funded from whatever source, fall within the remit of Internal Audit, the scope of which is not confined solely to financial matters.

3.2 Internal Audit may also conduct any special reviews requested by the Council, the Chief Executive or the ARC.

4. Authority and Access

4.1 Internal Audit derives its authority from the Council through the Audit and Risk Committee and the Chief Executive. Internal Audit shall have direct access to the Chief Executive and the Chairperson of the Audit Committee in the performance of professional duties.

4.2 Internal Audit has the right of access to all the Council's information, records, assets and personnel which it considers necessary to fulfil its responsibilities. Internal Audit may review other bodies or undertakings controlled or funded by the Council as agreed by the Council.

4.3 Internal Audit shall be afforded the full co-operation of all employees and agents of the Council in carrying out its professional duties.

5. Role and Responsibilities

5.1 Internal Audit is required to give an opinion to the Audit Committee, based on the areas reviewed by Internal Audit on the adequacy and effectiveness of the system of internal controls within the Council, and the extent to which the Council may rely on it.

5.2 Internal Audit shall develop an overall audit strategy taking account, *inter alia*, of the Council's risk assessment process, available resources, knowledge of the Council, the work of external auditors and internal assurance providers.

5.3 Based on the overall audit strategy, Internal Audit will undertake medium term and annual programmes of work to provide the required assurance. These will be drawn up by Internal Audit in consultation with the Chief Executive and the approval of the ARC.

The programme will be designed to:

- Appraise progressively the soundness, adequacy and application of the internal control systems;
- Ascertain the extent to which the system of internal control ensures compliance with the Council's policies and procedures and State laws and regulations;
- Ascertain that the system of internal control promotes the efficient and effective use of resources;
- Ascertain that the system of internal control operates to ensure that the assets of the Council are properly controlled and safeguarded from losses arising from fraud, irregularity or corruption;
- Ascertain that there are adequate controls to ensure reliability of accounting and other information as a basis for producing accounts and for financial, statistical and other returns;
- Ascertain that there is an adequate internal control system to ensure the integrity and reliability of financial and other information provided to the Council; and
- Confirm compliance with laws, regulations and Government Guidelines for Irish State Bodies.

5.4 In achieving its objectives Internal Audit should:

- Identify all aspects of control systems on which it intends to rely and develop a review cycle;
- Evaluate those systems, identify inappropriate and inadequate controls and recommend improvements in procedures and practices based on best practice;
- Recommend and advise on value for money and efficiency improvements as evident from reviews performed, and
- Liaise with the Comptroller and Auditor General (C&AG).

6. Independence and Objectivity

6.1 The internal auditor is required to deliver impartial and unbiased judgements. In order to enhance this objectivity, the Internal Auditor has no operating responsibilities and will remain independent of the activities being examined. The Internal Auditor is not part of the systems of governance, internal control, risk management or compliance but, rather is an independent appraisal function, which seeks to objectively and impartially review and report on those areas.

6.2 Without prejudice to this objective and if deemed appropriate by the ARC and Chief Executive, its remit may extend to systems being developed and it may provide advice on control and related matters.

7. Fraud

7.1 The responsibility for the prevention, detection and resolution of fraud lies with management. This responsibility is addressed through the implementation and continued operation of an effective system of internal control.

7.2 Internal Audit has responsibility to ensure that the audit programme and methodology takes due account of the possibility of fraud and will fully investigate any fraud or suspected fraud uncovered.

8. Standards and Approach

.1 The Internal Auditor shall carry out its work with due professional care having regard to appropriate professional auditing practice as adopted by the Irish Auditing & Accounting Supervisory Authority

8.2 The Internal Auditor will, where possible, and taking account of the control environment, adopt a risk-based approach to its audits supplemented, as appropriate, by the use of a systems-based approach with traditional transaction testing and verification methods on a sample basis.

8.3 Internal Audit shall prepare periodic audit plans proposing areas for audit work, which shall be submitted to the ARC for approval.

9. Reporting

9.1 On completion of an audit, findings will be reported to management and the Chief Executive. Management responses will be incorporated in audit reports as appropriate.

9.2 There will be periodic follow-up action by Internal Audit to ascertain if findings and recommendations have been implemented.

9.3 Internal Audit will report to the ARC at regular intervals during the year on the results of audit work undertaken in line with the audit plan.

9.4 Internal Audit shall liaise with the Comptroller and Auditor General (C&AG) engaged on audits of the Council's financial statements. While internal and external auditors have their own distinct objectives, there are areas of common interest and co-operation which will be promoted through regular meetings and co-ordination of activities to ensure that maximum audit coverage is achieved.

APPENDIX 15: Protected Disclosure Reporting in the Workplace NCSE Guidance and Procedures

December 2021

This Guidance has been produced for information purposes only. It does not impose any legal obligations in itself, nor is it a legal interpretation of the Protected Disclosures Act 2014.

1. Introduction

The purpose of this document is to set out the NCSE's guidance for the management of Protected Disclosures in the workplace and to outline the procedures provided for reporting concerns. Making a protected disclosure refers to a situation where a worker discloses information in relation to an alleged wrongdoing in connection with the workers employment, sometimes referred to as "whistleblowing".

The Protected Disclosures Act 2014 enables workers to disclose information in relation to wrongdoing in the workplace by ensuring that safeguards exist should reprisals be taken against them.

The Protected Disclosures Act 2014 requires every public body to establish and maintain procedures for dealing with protected disclosures and to provide written information relating to these procedures to workers. This guidance document is informed by Department of Public Expenditure and Reform guidance titled "Guidance under section 21(1) of the Protected Disclosures Act 2014 for the purpose of assisting public bodies in the performance of their functions under the Act" and the Department of Education document 'Guidance on Protected Disclosure Reporting in the Workplace' (March 2016, revised April 2021). This document should be read in conjunction with the Protected Disclosures Act 2014 to which it relates.

Overall responsibility for this guidance document rests with the Council. Day-to-day responsibility for this guidance document is delegated to the Head of Internal Audit. The Head of Corporate Governance and the Head of Human Resources also have roles in relation to the operation of this guidance as set out below.

To whom does this Guidance apply?

This guidance is applicable to all current and former workers at or on behalf of the NCSE and provides protections also for contractors, consultants, agency staff, trainees and interns as per the definition of workers in section 3 of the 2014 Act.

A volunteer may make a disclosure if they wish to do so. Such disclosures will be appropriately assessed and / or investigated. However, volunteers are not included in the definition of a "worker" and therefore are not afforded the protections under the Act.

If a barrister or solicitor subsequently discloses information which was the subject matter of a protected disclosure to him/her, he/she will not be protected by the 2014 Act. A trade union official or an official of an excepted body will however be able to avail of the protections of the 2014 Act.

Please note that while this guidance is not applicable to Council members, the Council Code of Business Conduct specifically states that Council members should:

Bring immediately to the attention of Council members, evidence or concerns that there is non-compliance with any statutory obligations, suspected wrongdoing, malpractice, improper or unethical practice that apply to the Council with a view to having the matter rectified. The matter should also be brought to the attention of the Minister for Education/Minister for Special Education & Inclusion by the Chairperson indicating (i) the consequences of such non-compliance and (ii) the steps that have been or will be taken to rectify the position.

2. Key principles underlying this guidance

- The NCSE is committed to creating a workplace culture that encourages the making of protected disclosures and provides protection for Disclosers. An appropriate environment for addressing concerns relating to potential wrongdoing in the workplace is provided for along with the necessary support for workers who raise genuine concerns.
- A worker who has a reasonable belief¹ that the information contained in his/her disclosure shows or tends to show that wrongdoing covered by the Act has occurred, is occurring or is likely to occur, will be protected against reprisals even if the worker's concern is ultimately misguided or mistaken.
- The worker can be assured that the concern will be treated seriously and investigated where it is considered appropriate. Where an investigation takes place, the identity of the worker raising the concern will be safeguarded insofar as it is practicable. The worker raising the concern will be advised on how the issue has been addressed, and will not be disadvantaged, in any way, for having made the disclosure, even if no wrongdoing is identified, providing the concern was based on a reasonable belief.
- The NCSE will take all reasonable steps to treat disclosures made under this guidance in a confidential and sensitive manner. The NCSE will not disclose the worker's identity without their consent, unless it is required by law or necessary for the effective investigation of the relevant wrongdoing.

¹“reasonable belief” means that the belief is based on reasonable grounds. This does not mean that the belief has to be correct. A worker has the right to be wrong in their reasonable belief. The test applied to “reasonable belief” will be an objective test i.e. the disclosure will be assessed based on how a reasonable person would respond to the information available to him or her at the time that the disclosure was made.

- The NCSE will not tolerate any penalisation² of workers who make a report of possible wrongdoing based on a reasonable belief. Any acts of penalisation or attempted penalisation will be treated as a disciplinary matter and disciplinary sanctions will be imposed against a person who carries out any act of penalisation. Workers who experience any act of penalisation should notify their line manager or Head of Human Resources in the first instance and the notification will be assessed and examined and appropriate action taken where necessary. The Act provides significant forms of redress for penalisation and other loss.

3. What type of disclosure is NOT covered by the Guidance?

The 2014 Act is intended to deal with disclosures of wrongdoing as defined in the Act and set out below. It is not intended to deal with personal employment complaints, failure to comply with a worker’s contract of employment/work/services, general day-to-day operational reporting or other internal employment procedures.

Personal employment complaints should generally be dealt with under the internal grievance or dignity at work procedures. For example, a worker may complain that there is a breach of the worker’s own terms and conditions. That type of complaint should generally be dealt with under the grievance procedure. Alternatively, a worker may claim that they are being bullied or harassed by a colleague. That type of complaint should generally be dealt with under the dignity at work procedure.

Accordingly, this guidance document should also be read in conjunction with the following procedures to ensure that the issue being reported on does not fall within an existing code of practice or that it should be dealt with under another process:

- Grievance procedure
- Civil Service Disciplinary Code
- Civil Service Code of Standards and Behaviour
- Dignity at Work and anti-bullying, harassment and sexual harassment policy
- Ethics in Public Office Acts

²“penalisation” means any act or omission that affects a worker to the worker’s detriment, and in particular includes—

- (a) suspension, lay-off or dismissal,
- (b) demotion or loss of opportunity for promotion,
- (c) transfer of duties, change of location of place of work, reduction in wages or change in working hours,
- (d) the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty),
- (e) unfair treatment,
- (f) coercion, intimidation or harassment,
- (g) discrimination, disadvantage or unfair treatment,
- (h) injury, damage or loss, and
- (i) threat of reprisal;

In addition, it should be noted that this Guidance does not cover the following:

- Disclosures of wrongdoing if the matter is one which is the function of the worker to detect, investigate or prosecute.
- A disclosure of information obtained by unlawful or improper means, e.g. unlawful or improper access to computer systems or databases.
- Existing mandatory reporting schemes.
- A disclosure where the worker knowingly conveys false, misleading, frivolous or vexatious information. If it transpires that a worker makes a disclosure, which they know to be false or do not believe to be true, the NCSE will take disciplinary or other appropriate action.

4. What type of protected disclosure is covered by the Guidance?

A disclosure of relevant information made by a worker in the reasonable belief that one or more of the following types of wrongdoing has occurred, is occurring or is likely to occur, is covered by Section 5 (3) in the Act and includes:

- An offence has been, is being or is likely to be committed.
- A person has failed, is failing or is likely to fail to comply with any legal obligation, other than one arising under the worker's contract of employment or other contract whereby the worker undertakes to do or perform personally any work or services.
- A miscarriage of justice has occurred, is occurring or is likely to occur.
- The health or safety of any individual has been, is being or is likely to be endangered.
- The environment has been, is being or is likely to be damaged.
- An unlawful or otherwise improper use of funds or resources of a public body, or of other public money, has occurred, is occurring or is likely to occur.
- An act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement.
- Information tending to show any matter falling within any of the preceding wrongdoings has been, is being or is likely to be concealed or destroyed.

The motivation of the worker for making a protected disclosure is irrelevant when determining whether or not it is a disclosure protected by the 2014 Act. All disclosures will be dealt with regardless of the worker's motivation for making the disclosure, and

the worker will be protected so long as the worker reasonably believes that the information disclosed tended to show a wrongdoing.

Reasonable belief

A worker must have a reasonable belief that the information disclosed shows, or tends to show, wrongdoing. The term “reasonable belief” does not mean that the belief has to be correct. Workers are entitled to be mistaken in their belief, so long as their belief was based on reasonable grounds.

It may be quite reasonable for a worker to believe that a wrongdoing is occurring on the basis of what he or she observes. A worker may not know all the facts of the case and is not obliged to find proof of his / her suspicion. In such a case the worker may have reasonable grounds for believing that some form of wrongdoing is occurring, but it may subsequently turn out that the worker was mistaken.

No worker will be penalised simply for getting it wrong, so long as the worker had a reasonable belief that the information disclosed showed, or tended to show, wrongdoing.

Workers should be informed in the Procedures that they are not required or entitled to investigate matters themselves to find proof of their suspicion and should not endeavour to do so. All workers need to do, and should do, is disclose the information that they have, based on a reasonable belief that it discloses a wrongdoing and, where the information relates to individuals, that it is necessary to disclose that information.

However, a disclosure made in the absence of a reasonable belief will not attract the protection of the 2014 Act and, may result in disciplinary action against the Discloser. In addition, disclosure of a wrongdoing does not necessarily confer any protection or immunity on a worker in relation to any involvement they may have had in that wrongdoing.

5. Making a protected disclosure internally within the NCSE

A worker should make a disclosure at the earliest possible time if in their reasonable belief, any of the wrongdoings outlined above has occurred, is occurring or is likely to occur or there has been a breach of Civil Service policy such that harm may be arising to the public or to the NCSE. A worker should not delay making a protected disclosure in order to investigate their suspicion and gather evidence to support it. This information must:

- have come to the worker’s attention in connection with the worker's employment; and
- the worker must have a reasonable belief that the information disclosed shows a relevant wrongdoing.

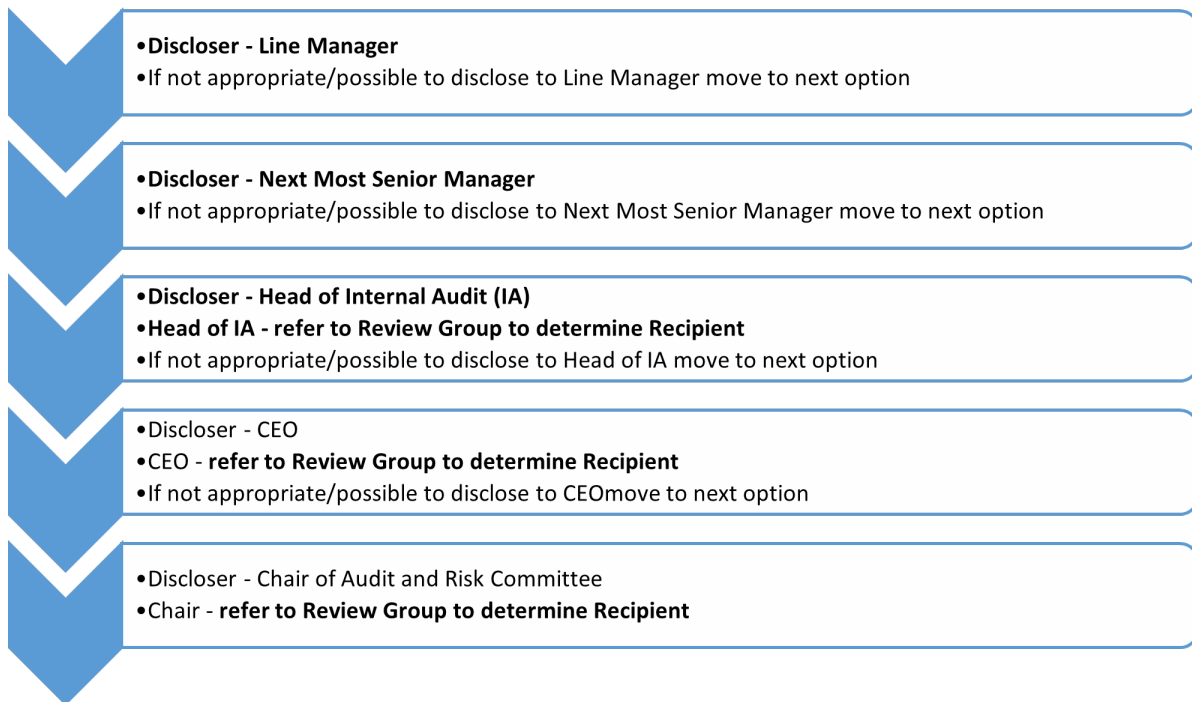
A worker should disclose the relevant information as soon as possible to their line manager first if appropriate (known as the ‘Recipient’).

If he/she is unable or unwilling to disclose through their line management, they may raise the matter with the next most senior responsible manager as appropriate or make a disclosure to the Head of Internal Audit. In this instance, the Head of Internal Audit will provide information on the disclosure to the Review Group who will assign an official/other to act as the Recipient (see details of the Review Group’s role below).

If he/she is unable or unwilling to disclose through the options above, the matter should be raised with the CEO. Should the matter relate to the CEO, the matter should be raised with the Chairperson of the Audit and Risk Committee³. In such instances, the CEO or the Chairperson of the Audit and Risk Committee will consider the matter raised and may consult with the Council Chairperson and/or Committee members. The Committee Chairperson or CEO will also provide information on the disclosure to the Review Group who will assign an official/other to act as the Recipient.

In all cases, the Head of Internal Audit will be notified of all protected disclosures, the contents of the disclosure, and the outcome of any screening/investigation or review. In addition, the CEO will be notified of the commencement of an investigation and of the outcome.

Steps in making a disclosure internally



³ The Chairperson of the Audit and Risk Committee is Lisa Campbell. A Discloser may address their letter confidentially to her, C/O Internal Audit NCSE, 1-2 Mill Street, Trim, Co. Meath.

Following the disclosure, an initial screening process is undertaken to determine whether or not it should be treated as a protected disclosure and the nature and type of investigation that may follow. Full details on these processes are set out in Appendix 1.

Role of the Review Group

The Act provides for the establishment of a Review Group. The Review Group will comprise the Head of Corporate Governance and another senior manager in the NCSE and a senior legal representative as required. Any review should be undertaken by a person who has not been involved in the initial assessment, investigation or decision relating to a protected disclosure. Where this may have involved the Head of Corporate Governance or other senior manager, an alternative person will be appointed to the Review Group. The Review Group shall:

- Assign an alternative official/other to investigate the disclosure if appropriate.
- Review, on request, a screening decision not to proceed with a disclosure to investigation.
- Examine on request, the investigation process in the event that the Discloser is not satisfied with the decision of the investigation.
- Review on request, the outcome of any assessment or investigation in respect of a complaint of penalisation.
- Review a decision to disclose the identity of a Discloser (except in exceptional circumstances).
- Note recommendations of report findings (if any), agree a timeframe for the implementation of same and to nominate an official to carry out the implementation.

The review process does not provide an entitlement to two reviews in respect of the same issue.

Role of the Head of Internal Audit

- Maintain records of all disclosures.
- Notify the CEO on receipt of disclosures which are the subject of an investigation and on the outcome including report recommendations (if any).
- Report to the CEO and the Audit and Risk Committee, details of all disclosures brought to his/her attention and their findings.
- Monitor the implementation of the recommendations that have been formulated as a consequence of a report.
- Liaise with the Review Group to arrange for the nomination of a Recipient as required.

- Monitor the operation and management of protected disclosures procedures and report to Audit and Risk Committee.
- Provide a summary report on all protected disclosures which will be included in the NCSE's Annual Report as required under Section 22 of the Protected Disclosures Act 2014.

Role of Corporate Governance

- Lead and support the work of the Review Group as outlined above.
- Conduct periodic reviews and evaluate the protected disclosures procedures, where appropriate, and report to senior management and the Audit and Risk Committee.

Role of Head of Human Resources

- Investigate any instances of penalisation reported by a worker.
- Decide on the disciplinary action required where it is established that a worker knowingly made a false, misleading, frivolous or vexatious disclosure.
- Provide information on investigation procedures.

6. Making a protected disclosure outside of the NCSE

The Act allows workers to make a protected disclosure to persons other than their employer in certain circumstances. There are five possible avenues of disclosure (full details as per the Act are provided in Appendix 2).

(a) Employer or other responsible person

Where the worker reasonably believes that the wrongdoing relates to the conduct of a person other than the worker's employer, or to something for which that other person has legal responsibility, then the worker can disclose to that other person.

(b) A prescribed person

Certain persons are prescribed by Act to receive protected disclosures ("prescribed persons"). This includes the heads or senior officials of a range of statutory bodies.

A worker may make a protected disclosure to a prescribed person if the worker reasonably believes that the relevant wrongdoing falls within the description of matters in respect of which the person is prescribed under the Act. There is an additional requirement in this case- the worker must believe that the information disclosed, and any allegation contained in it, are substantially true.

(c) A Minister of the Government

A worker may make a protected disclosure to the Minister on whom any function related to the public body is conferred or imposed by or under any enactment. The Minister for Education/Minister for Special Education & Inclusion is the Minister with primary statutory functions in relation to NCSE business.

(d) A legal adviser

A protected disclosure can be made by a worker in the course of obtaining legal advice from a barrister, solicitor, trade union official or official of an excepted body (an excepted body is a body which negotiates pay and conditions with an employer but is not a trade union as defined in section 6 of the Trade Union Act 1941).

(e) Alternative external disclosures (in very limited circumstances)

If it is not appropriate to disclosure to the employer or one of the options at (a) to (d) above, the Discloser may use an alternative external third party. There are stringent requirements for alternative external disclosures to qualify as protected disclosures under the Act, which are outlined in the Appendix 2 (section 10).

7. Anonymous disclosures

A worker may make an anonymous disclosure if they wish to do so. A disclosure is considered anonymous if the identity of the Discloser is not revealed and if no contact details are provided or if the Discloser does not disclose their name but does provide contact details. Anonymous disclosures will be acted upon to the extent that this is possible given the constraints in obtaining further information and investigating the matter in the absence of the knowledge and identity of the Discloser.

While affording full and proper consideration to an anonymous disclosure, it should be noted that the protections available under the Act and important elements of this protected disclosure guidance document (e.g. keeping the Discloser informed), may be difficult or impossible to apply unless the worker's anonymity lifts. In addition, it should be noted that a worker cannot obtain redress under the 2014 Act without identifying themselves.

8. Confidentiality/protection of identity.

The 2014 Act provides that a Recipient must not disclose to another person any information that might identify the Discloser. The Discloser's identity must be protected at all times. However, there are exceptions where:

- The Recipient shows that he/she took all reasonable steps to avoid such disclosure.
- The Recipient has a reasonable belief that the Discloser did not object to their identity being disclosed.
- The Recipient had a reasonable belief that it was necessary:
 - for the investigation of the wrongdoing concerned,

- to prevent serious risk to the security of the State, public health, public safety or the environment, or
- for the prevention of crime or prosecution of a criminal offence; or
- That the disclosure is otherwise necessary in the public interest or is required by law.

Where a decision is taken that it is necessary to disclose information that may or will disclose the identity of the Discloser, the Discloser will be consulted. Where possible, the recipient will gain the informed consent of the Discloser, prior to any action being taken that could identify them. In any event, the Discloser will be informed of any decision to disclose in advance, except in exceptional cases. The Discloser may seek a review of this decision by the Review Group.

If a worker is concerned that their identity is not being protected, they should notify their employer and the matter will be investigated and appropriate action taken where necessary.

Records of protected disclosures raised, including the outcome, should be maintained for the minimum required document retention period after the closure of the case by the Head of Internal Audit. These records should be maintained in a confidential and secure form that does not endanger the confidentiality of the person making the disclosure or damage reputations.

As it is not possible to know at the time of disclosure whether the disclosure will subsequently be deemed protected under the 2014 Act, written records, including timelines, in relation to any assessment and/or investigation undertaken should be maintained and treated in the same confidential manner.

9. What Protections are offered to those who make protected disclosures?

The Act sets out protections and prohibits penalisation of workers who make a protected disclosure.

A worker could be awarded compensation of up to five years remuneration if unfairly dismissed. However, a worker who knowingly makes a false or misleading disclosure will not receive protections under the Protected Disclosures Act 2014.

The NCSE will protect workers who raise concerns against penalisation by investigating all claims of such penalisation and taking appropriate action against those who perpetrate them. The NCSE will investigate and take appropriate disciplinary action against any worker:

- Who penalises or seeks to penalise a worker who has made what is being treated as a protected disclosure.
- Who is found to be unnecessarily or inappropriately endeavouring to identify a worker who makes a disclosure under the legislation.

- Who, except in circumstances permitted by section 16(2) of the Protected Disclosures Act 2014, discloses details that could establish the identity of a worker who has made what is being treated as a protected disclosure.

Workers can be assured that all reasonable steps will be taken to protect them from penalisation for having made a protected disclosure and any worker having made a report of wrongdoing that experiences any act of penalisation should inform the Head of Human Resources. Incidents of reprisal against a worker making a report under this guidance may be subject to action under the Civil Service Disciplinary Code.

A worker who is considering making a protected disclosure should be aware that making a protected disclosure does not entitle them to protection from the consequences of their own wrongdoing.

10. Protection of the person against whom an allegation of wrongdoing has been made (i.e. the Respondent).

Where an allegation is made against an individual (the “Respondent”), the general principals of natural justice and fair procedures will be complied with as appropriate. This may include a right to challenge the evidence against him/her.

While an investigation is on-going, all reasonable steps should be taken to protect the confidentiality of those who are the subject of allegations in a protected disclosure pending the outcome of the investigation. Where it is necessary to interview the respondent during the course of the investigation, he/she should be advised that they are entitled to be accompanied by a colleague or staff representative etc, should they so wish.

The Respondent should be included in the investigation process and made aware of the details of any allegation against him/her in so far as is possible having regard to the requirements of confidentiality contained in the Act and will be given the opportunity, as part of a full investigation, to put forward their case in response to the allegation(s).

11. Monitoring and communication

The protected disclosures procedures will be reviewed annually and evaluated where appropriate. The outcome will be reported to the senior management team and the Council.

All staff members will be given a copy of this policy and will be required to certify that they have read and noted the contents of the policy. The policy will be given to new recruits and included in induction programmes.

The Protected Disclosures Act 2014 can be downloaded at:
<http://www.irishstatutebook.ie/eli/2014/act/14/enacted/en/html>

Protected Disclosure Reporting in the Workplace Draft Appendices

Appendix 1 How to make a disclosure

1. How to make a disclosure

A worker should make a disclosure at the earliest possible time if in their reasonable belief, any of the wrongdoings⁴ as per the Act has occurred, is occurring or is likely to occur or there has been a breach of Civil Service policy such that harm may be arising to the public or to the NCSE. A worker should not delay making a protected disclosure in order to investigate their suspicion and gather evidence to support it. This information must:

- have come to the worker's attention in connection with the worker's employment; and
- the worker must have a reasonable belief that the information disclosed shows a relevant wrongdoing.

A worker should disclose the relevant information as soon as possible to their line manager first if appropriate (known as the 'Recipient').

If he/she is unable or unwilling to disclose through their line management, they may raise the matter with the next most senior responsible manager as appropriate or make a disclosure to the Head of Internal Audit. In this instance, the Head of Internal Audit will provide information on the disclosure to the Review Group who will assign an official/other to act as the Recipient.

If he/she is unable or unwilling to disclose through the options above, the matter should be raised with the CEO. Should the matter relate to the CEO, the matter should be raised with the Chairperson of the Audit and Risk Committee. In such instances, the CEO or the Chairperson of the Audit and Risk Committee⁵ will consider the matter raised and may consult with the Council Chairperson and/or Committee members. The Committee Chairperson or CEO will also provide information on the disclosure to the Review Group who will assign an official/other to act as the Recipient.

In all cases, the Head of Internal Audit will be notified of all protected disclosures, the contents of the disclosure, and the outcome of any screening/investigation or review. In addition, the CEO will be notified of the commencement of an investigation and of the outcome.

A wrongdoing that has occurred, is occurring or is likely to occur and includes:

An offence.

A failure to comply with any legal obligation.

A miscarriage of justice.

The endangerment of the health or safety of an individual.

Environmental damage.

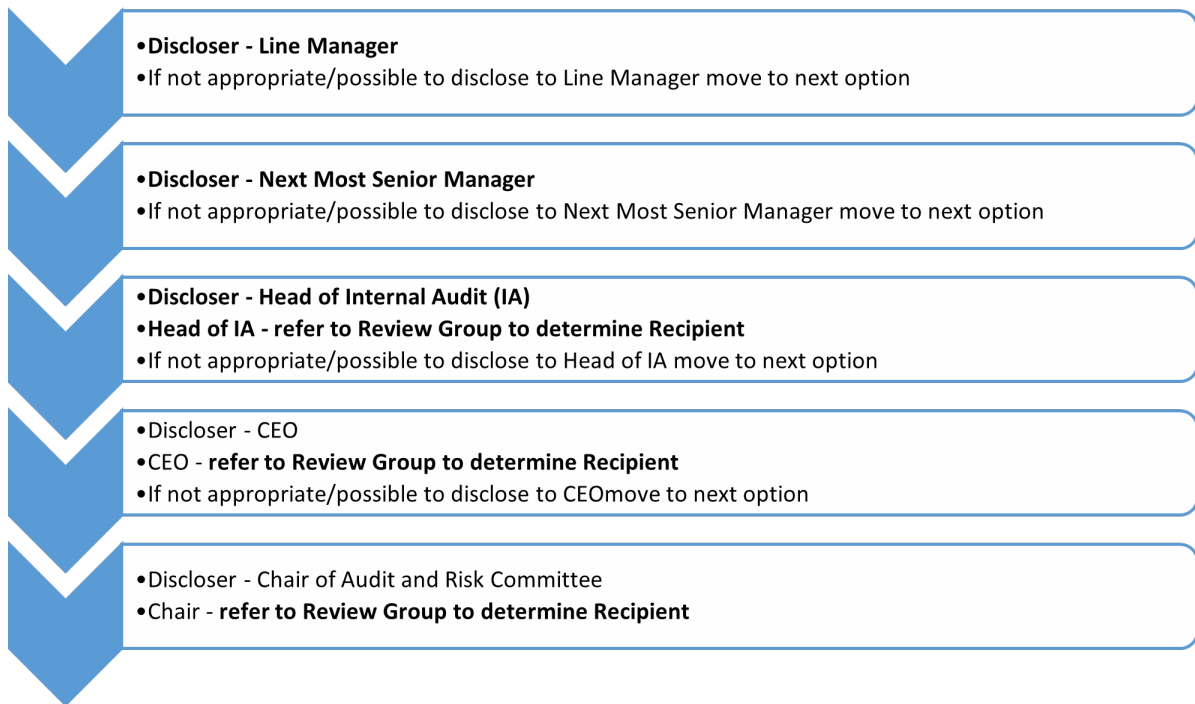
An unlawful or improper use of funds or resources of a public body or public money.

An act or omission that is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement.

The concealment or destruction of information tending to show any matter falling within the above wrongdoings.

⁵The Chairperson of the Audit and Risk Committee is Lisa Campbell. A Discloser may address their letter confidentially to her, C/O Internal Audit NCSE, 1-2 Mill Street, Trim, Co. Meath.

Steps in making a disclosure internally



2. What should a disclosure include?

A disclosure under this guidance should preferably be made in writing to ensure that all the relevant information is made available at the time the disclosure is made. A protected disclosures notification form is included below - **Protected Disclosures Notification Form**. The information contained in the disclosure should be clear and factual, where possible, and avoid speculation, personal attacks and emotive language. It should include:

- A declaration that the disclosure is being made under the procedures set out in the Act and state if you do / do not expect confidentially.
- The discloser's name, position/role, place of work, date of disclosure and your preferred contact details.
- Supporting evidence where it is available and should include:
 - the name of the person(s) (if known or applicable) allegedly involved in the alleged wrongdoing;
 - the date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified;
 - whether or not the alleged wrongdoing is still ongoing;

- whether the alleged wrongdoing has already been disclosed to any member of management or other person and if so, to whom, when, and what action was taken;
- the details of the alleged wrongdoing (what is occurring / has occurred and how) and any supporting information; and
- where possible, identify any witnesses to the disclosed conduct.
- Any other relevant information.

Note: The Act and the Guidance recognise that it may not always be possible to completely protect the identity of the Discloser. The Recipient does however have a responsibility to safeguard your identity insofar as is practically and pragmatically possible.

While it is preferable to make a disclosure in writing, there is no required format. A disclosure can be made:

- anonymously [**Note:** Anonymous disclosures will be acted upon to the extent that this is possible given the constraints in obtaining further information on the alleged wrongdoing.]
- electronically, verbally or in writing [**Note:** When a disclosure is made verbally, it will be documented by the Recipient and agreed by the Discloser.]

Protected Disclosures Notification Form

Before you complete this form, you should read the attached Guidance on protected disclosure reporting in the workplace carefully and ensure that the subject matter of your concern is covered by the Protected Disclosure legislation.

Please note that protected disclosures must be made in good faith and relate to a matter that you have reasonable grounds to be concerned about. It must not be merely intended to undermine the reputation of any colleague or service provider. If you make a protected disclosure which you know or reasonably ought to know to be false, you will be guilty of an offence under the legislation.

The information contained in this form should be clear and factual, where possible, and avoid speculation, personal attacks and emotive language.

1. I, _____ (name of worker making the protected disclosure) wish to make a disclosure under the Protection Disclosures Act 2014.

2. I expect confidentiality

I do not expect confidentiality

(please tick as appropriate)

3. Position/Role _____

4. Grade _____

5. Place or Area/Region of work _____

6. Category of Wrongdoing (please tick as appropriate)

- An offence has been, is being or is likely to be committed.
- A person has failed, is failing or is likely to fail to comply with any legal obligation, other than one arising under the worker's contract of employment or other contract whereby the worker undertakes to do or perform personally any work or services.
- A miscarriage of justice has occurred, is occurring or is likely to occur
- The health or safety of any individual has been, is being or is likely to be endangered
- The environment has been, is being or is likely to be damaged.
- An unlawful or otherwise improper use of funds or resources of a public body, or of other public money, has occurred, is occurring or is likely to occur.
- An act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement.
- Information tending to show any matter falling within any of the above wrongdoings has been, is being or is likely to be concealed or destroyed.

7. Date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified.

8. Is the alleged wrongdoing still ongoing? _____

9. Has this alleged wrongdoing already been disclosed to any member of management or other person, if so, to whom, when and what action was taken.

10. Details of the protected disclosure including the name of the person(s) (if known or applicable) allegedly involved in the alleged wrong doing, (*care should be taken to only include the name(s) of individual(s) directly relevant to the report*), what is occurring/has occurred and how.

11. If there are witnesses to the disclosed conduct, please identify the witness details if possible

12. Please provide any other relevant information

Please provide contact details⁶ at which the Recipient can contact you:

Address

Tel no. _____

Email: _____

Worker's signature _____

Date _____

⁶Anonymous disclosures will be acted upon to the extent that this is possible given the constraints in obtaining further information on the alleged wrongdoing.

3. Screening Process

When a disclosure of alleged wrongdoing is made, an initial screening process is undertaken. The screening process will involve an assessment of the disclosure to seek to determine whether or not it should be treated as a protected disclosure. If it is unclear whether the disclosure qualifies as a protected disclosure, the recipient should treat the disclosure as a protected disclosure (and protect the identity of the Discloser) until satisfied that the information is not a protected disclosure and keep a written record of his/her actions, including timelines in a secure and confidential manner.

It may be necessary to differentiate between protected disclosures and personal employment complaints. In some cases the information provided may involve both a personal employment complaint and a protected disclosure. The disclosure should be assessed to determine the nature of the information disclosed and the procedure(s) that is / are most appropriate to be used to investigate the matter.

The assessment should consider whether the alleged wrongdoing is serious or minor and whether it is something that can be investigated or not. If it can be investigated, the nature and extent of the investigation should be determined and the steps to be taken as part of such an investigation. This could consist of an informal approach for less serious wrongdoings, a detailed and extensive investigation of serious wrongdoings, or an external investigation by another body.

It is important to note that some matters may be of such seriousness that the investigation will more appropriately be carried out externally or by professional experts in a particular area. In some cases the matter may need to be reported to, and investigated by, An Garda Síochána or another body with the statutory power and function of investigation of particular matters.

The Discloser will be provided with feedback in relation to the matters disclosed and be advised when consideration of the disclosure is complete, except in exceptional cases. This will usually be within 10 working days⁷. Information and feedback will be provided in confidence. However, the Recipient is not obliged to inform the Discloser of the progress, or outcome, of any disciplinary process involving another worker. In general, such information is confidential between the employer and the worker disciplined.

A worker who has made a disclosure of wrongdoing and requires additional support or advice may wish to contact the Civil Service Employee Assistance Service (CSEAS).

⁷Timeframes are not mandatory and are dependent on the content and complexity of the disclosure.

4. Decision not to proceed to investigation

The Discloser will be advised by the Recipient of the basis for this decision. If the Discloser is dissatisfied with a decision of the Recipient not to pursue the matter further, the Discloser may request a review of the initial screening decision by the Review Group (via the Recipient) within 10 working days of having received the decision.

A review of the initial screening decision will be undertaken by the Review Group who will notify the Head of Internal Audit of the review request and the outcome of that review.

The Discloser will be advised generally within 10 to 15 working days⁸ by the Recipient of the outcome of the review which will be either (a) or (b) below.

(a) Agreeing with the decision of the Recipient not to proceed to investigation.

(b) Disagreeing with the decision of the Recipient and, either referring the disclosure back to the Recipient to carry out an investigation or, if appropriate, nominate a new investigating officer.

A decision of the Review Group not to pursue the matter will represent a final internal decision on the matter.

5. Decision to proceed to investigation

The initiation of an investigation must be reported to the Head of Internal Audit and the Review Group. The Head of Internal Audit will inform the CEO of a decision to investigate.

The Discloser will be advised by the Recipient of the basis for his/her decision in respect of the screening and will be advised of his/her role in the investigation. The Discloser will be updated on the progress and outcome of the investigation as appropriate having regard to the nature of the matters investigated. It is not possible to lay down precise timescales or steps required for investigations, as this will depend on the nature of the issues raised. However, the Recipient will advise of progress and the investigation will be brought to a conclusion as speedily as possible.

The Discloser, the Head of Internal Audit Unit and the Review Group will be advised of the outcome of the investigation.

In the event that the Discloser is dissatisfied with the decision following the investigation, it is open to them to request the Recipient to have the investigation process examined by the Review Group within 10 working days of having received that decision. Please note that this will not be a reinvestigation of the disclosure but an examination of the investigation process. The outcome of this investigation will represent a final internal decision on the matter.

⁸ Timeframes are not mandatory and are dependent on the content and complexity of the disclosure.

A review of the investigation decision will be undertaken by the Review Group who will notify the Head of Internal Audit of the review request and the outcome of that review. The Discloser will be advised generally within 10 to 15 working days⁹ by the Recipient of the outcome of the review. A decision of the Review Group not to pursue the matter will represent a final internal decision on the matter.

Where it is concluded that the Discloser was not fully aware of all the facts or was genuinely mistaken in their belief of the occurrence or likely occurrence of wrongdoing it is especially important to explain the basis of this finding to the Discloser.

In a case where the Recipient has arrived at a conclusion that the Discloser did not make his/her disclosure based on a reasonable belief – in other words the disclosure was made for frivolous or vexatious reasons, they should advise the Review Group who may consult with the Head of Human Resources to consider whether disciplinary proceedings ought to be pursued against the person concerned.

Outcome of the investigation

The report of findings should be sent to the Review Group containing the following information:

- A description of the disclosure and the findings of the investigation.
- The effect the disclosure had on the NCSE, if any.
- The means of perpetrating the malpractice or impropriety and if appropriate, recommendation of necessary measures to prevent a recurrence.
- An action plan to implement these recommendations.
- The action required to strengthen future responses under this guidance.
- A conclusion as to the way forward.
- Any other relevant material.

The Recipient in consultation with the Review Group will agree the final report.

The Review Group will consider the appropriate means by which the report's findings/recommendations are to be implemented. The report including the implementation plan (if any) will be sent to the Head of the Internal Audit Unit who will monitor implementation as appropriate. The Head of Internal Audit Unit will forward a copy of the final report including an implementation plan, if any, to the CEO.

⁹Timeframes are not mandatory and are dependent on the content and complexity of the disclosure.

Appendix 2 Making a Protected Disclosure outside of the employer

See Section 6 – 10 – Protected Disclosures Act 2014

Disclosure to employer or other responsible person

6. (1) A disclosure is made in the manner specified in this section if the worker makes it—

- a) to the worker’s employer, or
- b) where the worker reasonably believes that the relevant wrongdoing which the disclosure tends to show relates solely or mainly—
 - i) to the conduct of a person other than the worker’s employer, or
 - ii) to something for which a person other than the worker’s employer has legal responsibility, to that other person.

(2) A worker who, in accordance with a procedure the use of which by the worker is authorised by the worker’s employer, makes a disclosure to a person other than the employer is to be treated for the purposes of this Act as making the disclosure to the employer.

Disclosure to prescribed person

7. (1) A disclosure is made in the manner specified in this section if the worker—

- a) makes the disclosure to a person prescribed under *subsection (2) (a)*, and
- b) reasonably believes—
 - i) that the relevant wrongdoing falls within the description of matters in
 - ii) respect of which the person is prescribed under *subsection (2) (b)*, and
 - iii) that the information disclosed, and any allegation contained in it, are
 - iv) substantially true.

(2) The Minister may by order—

- a) prescribe such persons as, by reason of the nature of their responsibilities or functions, appear appropriate to be recipients of disclosures of relevant wrongdoings falling within the description of matters in respect of which they are prescribed, and
- b) prescribe in respect of each prescribed person such description of matters as appears appropriate by reason of the nature of the responsibilities or functions of the person.

(3) Every order under *subsection (2)* shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall

be annulled accordingly, but without prejudice to the validity of anything previously done under the order.

Disclosure to Minister

8. A disclosure is made in the manner specified in this section if—
- (a) the worker is or was employed in a public body, and
 - (b) the disclosure is made to a Minister of the Government on whom any function relating to the public body is conferred or imposed by or under any enactment

Disclosure to legal adviser

9. A disclosure is made in the manner specified in this section if it is made by the worker in the course of obtaining legal advice (including advice relating to the operation of this Act) from a barrister, solicitor, trade union official or official of an excepted body (within the meaning of section 6 of the Trade Union Act 1941).

Disclosure in other cases

10. (1) A disclosure is made in the manner specified in this section if it is made otherwise than in the manner specified in *sections 6 to 9* and
- a) the worker reasonably believes that the information disclosed, and any allegation contained in it, are substantially true,
 - b) the disclosure is not made for personal gain,
 - c) any one or more of the conditions in *subsection (2)* is met, and
 - d) in all the circumstances of the case, it is reasonable for the worker to make the disclosure.
- (2) The conditions referred to in *subsection (1)(c)* are
- a) that, at the time the worker makes the disclosure, the worker reasonably believes that the worker will be subjected to penalisation by the worker's employer if the worker makes a disclosure in the manner specified in *section 6, 7 or 8*,
 - b) that, in a case where no relevant person is prescribed for the purposes of *section 7* in relation to the relevant wrongdoing, the worker reasonably believes that it is likely that evidence relating to the relevant wrongdoing will be concealed or destroyed if the worker makes a disclosure in the manner specified in *section 6*,
 - c) that the worker has previously made a disclosure of substantially the same Information -
 - i) in the manner specified in *section 6*, or
 - ii) in the manner specified in *section 7 or 8*, and
 - (d) that the relevant wrongdoing is of an exceptionally serious nature.

(3) In determining for the purposes of *subsection (1)(d)* whether it is reasonable for the worker to make the disclosure regard shall be had, in particular, to-

- a) the identity of the person to whom the disclosure is made,
- b) in a case falling within *subsection (2) (a), (b) or (c)*, the seriousness of the relevant Wrongdoing,
- c) in a case falling within *subsection (2)(a), (b) or (c)*, whether the relevant wrongdoing is continuing or is likely to occur in the future,
- d) in a case falling within *subsection (2)(c)*, any action which the employer of the worker or the person to whom the previous disclosure was made has taken or might reasonably be expected to have taken as a result of the previous disclosure, and
- e) in a case falling within *subsection (2)(c)(i)*, whether in making the disclosure to the employer the worker complied with any procedure the use of which by the worker was authorised by the employer.

(4) For the purposes of this section a subsequent disclosure may be regarded as a disclosure of substantially the same information as that disclosed by a previous disclosure as mentioned in *subsection (2)(c)* even though the subsequent disclosure extends to information about action taken or not taken by any person as a result of the previous disclosure.

5) In *subsection (1)(b)* “personal gain” excludes any reward payable under or by virtue of any enactment.

**APPENDIX 16: Ethics in Public Office requirements
Notices to NCSE Council members and staff 2019**

From: Caroline McKeown (NCSE)**Sent:** Friday 6 January 2023 16:00
To:
Subject: NCSE Council - Ethics in Public Office - annual return
Importance: High

Dear Council members,

Happy New Year to you all. I hope you had a good break over the Christmas period.

At the beginning of each year, Council members are required to make a return for the previous year, regarding any interests to declare.

This is in accordance with the Ethics in Public Office Acts, which are overseen by the Standards in Public Office Commission or SIPO.

Your annual return in respect of the year 2022 is now due.

We ask that you complete and return one of the two forms in the attached **at your earliest convenience / by 27th January 2023**:

1. Where you have **no relevant interests to declare**, you make a “Nil return” on the form in **Appendix 2** as per the attached - you don't need to fill anything else but Appendix 2. Please send this form directly to Jennifer.
2. Where you are making a declaration, you will need to fill out the form in **Appendix 1** as per the attached and this must be returned to Jennifer **and you must also forward a copy also to SIPO** at sipo@sipo.ie or to SIPO, 6 Earlsfort Terrace, Dublin 2, D02 W773.

The general procedures and requirements for Council members along with the forms are set out in the attached document. Please let us know if you have any questions or queries concerning this matter.

Best wishes
Caroline

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