



MEMORANDUM OF UNDERSTANDING

between

TRANSPORT DIRECTORATE

and

MOBILITY AND ACCESSIBILITY
COMMITTEE FOR SCOTLAND



June 2009

MOBILITY AND ACCESS COMMITTEE FOR SCOTLAND
MEMORANDUM OF UNDERSTANDING
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MOBILITY AND ACCESS COMMITTEE FOR SCOTLAND (MACS): MEMORANDUM OF UNDERSTANDING

1. INTRODUCTION

1.1. This Document

1.1.1. This Memorandum of Understanding (MOU) has been drawn up by the Scottish Government's Transport Directorate (SG) in consultation with Mobility and Access Committee for Scotland (MACS).

1.1.2. Subject to the legislation noted, the management statement sets out the broad framework within which MACS will operate, in particular:

- MACS' overall aims, objectives and targets in support of the Scottish Ministers' wider strategic aims;
- The rules and guidelines relevant to the exercise of MACS' functions, duties and powers; and
- How MACS is to be held to account for its performance.

1.1.3. However, the MOU does not convey any legal powers or responsibilities.

1.1.4. The MOU shall be reviewed and updated periodically by SG at least every fifth year (see section 6.)

1.2. Changes to this Document

1.2.1. MACS or SG may propose amendments to the MOU at any time. Any such proposals by MACS shall be considered in light of the Scottish Ministers' policy aims, operational factors and the track record of MACS. The guiding principle shall be that the extent of flexibility and freedom given to MACS shall reflect both the quality of its internal controls and its operational needs. SG will determine what changes, if any, are to be incorporated in the MOU. Legislative changes will take precedence over any part of the MOU.

1.3. Conditions and Requirements

1.3.1. MACS shall satisfy the conditions and requirements set out in the MOU, together with all relevant requirements in the Scottish Public Finance Manual (SPFM) and such other conditions as the Scottish Ministers/SG may from time to time impose. SG shall resolve any question regarding the interpretation of the memorandum after consultation with MACS.

1.3.2. Copies of the MOU shall be placed in the Scottish Parliament Information Centre (SPICe) and provided to the Public Services Delivery Group in an electronic format for inclusion in the Scottish Government internet and intranet websites by SG. Copies will also be made available to members of the public on MACS' website (<http://www.scotland.gov.uk/Topics/Transport/macs>).

MANAGEMENT STATEMENT

1. FUNCTIONS, DUTIES AND POWERS

1.1. Founding legislation and status of MACS

1.1.1. MACS is established under Sections 72 and 81(2) of the Transport (Scotland) Act 2001. The constitution of MACS is set out in the Mobility and Access Committee for Scotland Regulations 2002. MACS does not carry out its functions on behalf of the Crown.

1.2. The functions, duties and powers of MACS

1.2.1. The Transport (Scotland) Act 2001 gives the MACS the following functions:

MACS was established to provide advice to Scottish Ministers in relation to disabled persons in connection with transport policy.

1.3. Classification of MACS

1.3.1. For administrative purposes MACS is classified by the Scottish Government as an advisory non-departmental public body (NDPB).

1.3.2. For national accounts purposes MACS is classified to the central government sector.

2. AIM AND OBJECTIVES

2.1. Overall Aim

2.1.1. Within the founding legislation the Scottish Ministers have defined the overall aim for the MACS as follows:

MACS will consider such matters relating to the needs of disabled persons in connection with transport as the committee think appropriate and give advice to Scottish Ministers.

2.2. Objectives and Key Targets

2.2.1. The Scottish Government determines MACS' performance framework in the light of the Scottish Ministers' wider strategic aims. MACS' objectives and key targets shall be agreed within MACS' planning process (see section [4.1](#) below).

3. RESPONSIBILITIES AND ACCOUNTABILITIES

3.1. The Scottish Ministers

3.1.1. The Scottish Ministers are ultimately accountable to the Scottish Parliament for the activities and performance of MACS. Their responsibilities include:

- being aware of MACS' work programme;
- keeping the Scottish Parliament informed about MACS' performance;
- carrying out responsibilities specified in the Transport (Scotland) Act 2001 including membership of the committee, appointments to MACS and payment of expenses.

3.2. The Sponsoring Division in the Directorate

3.2.1. Within SG, Transport Strategy Division is responsible for setting the framework under which MACS operates and for monitoring performance (commonly known as the 'sponsorship' role). SG is the primary source of advice to Scottish Ministers on the discharge of their responsibilities in respect of MACS, and the primary point of contact for MACS in dealing with SG. The sponsor division shall carry out its duties under a senior officer who shall have primary responsibility for overseeing the activities of MACS.

3.2.2. The sponsor division shall advise the Scottish Ministers on:

- an appropriate framework of objectives and targets for MACS in the light of the Scottish Ministers' wider strategic aim(s); and
- how well MACS is achieving its work programme.

3.2.3. The sponsor division shall:

On performance and risk management:

- monitor MACS' activities on a continuing basis through an adequate and timely flow of information from MACS on performance;
- address in a timely manner any significant problems arising in MACS making such interventions in the affairs of MACS as SG judges necessary;
- ensure that the activities of MACS and the risks associated with them are properly and appropriately taken into account in the Scottish Government's risk assessment and management systems;
- ensure that appointments to the Committee are made timeously and in accordance with the Commissioner for Public Appointments Code of Conduct.

On communication with MACS:

- inform MACS of relevant Scottish Government policy in a timely manner; advise on the interpretation of that policy; and issue specific guidance to MACS as necessary.
- Bring concerns about the activities of MACS to the attention of the full Committee, and require explanations and assurances from the Committee that appropriate action has been taken.

3.3. The Convener of MACS

3.3.1. The Convener is appointed by Scottish Ministers. The Convener is appointed in the first instance for a period of 3 years. Thereafter the Convener may be eligible for re-appointment for a second term in the same role without open competition subject to effective performance. This is a paid appointment of £150 per meeting with travelling and other allowances being paid where agreed with SG.

3.3.2. The Convener is responsible to the Scottish Ministers. The Convener shall aim to ensure that MACS' policies and actions support the wider strategic policies of the Scottish Ministers; and that the MACS' affairs are conducted with probity. The Convener shares with other Committee members the corporate responsibilities set out in section 3.4 and in particular for ensuring that MACS fulfils the aims and objectives set by the Scottish Ministers.

3.3.3. The Convener has a particular responsibility for providing effective strategic leadership on the following matters:

- Formulating the Committee's strategy;
- encouraging high standards of propriety;
- ensuring that MACS, in reaching decisions, takes proper account of guidance provided by the responsible Scottish Ministers and/or SG; and
- representing the views of the Committee to the general public.

3.3.4. The Convener shall also:

- ensure that all members of the Committee, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities and receive appropriate induction training, including on any differences which may exist between private and public sector practice;
- advise the Scottish Ministers of the needs of MACS when Committee vacancies arise, with a view to ensuring a proper balance of professional expertise; and
- assess the performance of individual Committee members on an annual basis.

3.3.5. The Convener shall ensure that Committee Members are fully aware of MACS' Code of Conduct as approved by the Scottish Ministers.

3.3.6. Communications between the Committee and the Scottish Ministers shall normally be through the Convener. The Convener shall ensure that the other Committee members are kept informed of such communications.

3.4. MACS' Committee

3.4.1. Members of MACS are appointed by Scottish Ministers. Members will be appointed in the first instance for a period of 3 years. Thereafter, they may be eligible for re-appointment for a second term in the same role without open competition subject to effective performance. Members will be paid £100 per meeting with travelling and other allowances being paid where agreed with SG.

3.4.2. Members have corporate responsibility for ensuring that MACS fulfils the aims and objectives set by the Scottish Ministers. To this end, and in pursuit of its wider corporate responsibilities, the Committee shall:

- demonstrate high standards of corporate governance at all times,
- establishing the overall strategic direction of MACS within the policy, planning and resources framework determined by the Scottish Ministers;
- ensure that the Scottish Ministers are kept informed of any changes which are likely to impact on the strategic direction of MACS or on the attainability of its targets, and determine the steps needed to deal with such changes;
- ensure that the Committee takes into account relevant guidance issued by the Scottish Ministers/sponsor division; and
- ensure that the Committee is informed in a timely manner about any concerns about the activities of MACS; and provides positive assurance to SG that appropriate action has been taken on such concerns.

3.4.3. Individual Committee members shall act in accordance with their wider responsibility as Members of the Committee – namely to:

- comply at all times with the Code of Conduct (para 3.3.5 above) that is adopted by MACS and with the rules relating to conflicts of interest and confidentiality;
- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
- comply with the Code of Conduct on the acceptance of gifts and hospitality, and of business appointments; and
- act in good faith and in the best interests of MACS.

3.4.4. Members of MACS (including the Convener) must not give the Secretary instructions which conflict with the SPFM.

3.5. MACS' Secretariat

3.5.1. The Secretariat shall be staffed by the sponsoring division. SG is responsible for determining the number of staff required. SG shall decide on the most appropriate organisational structure to support MACS.

3.5.2. The Secretariat shall exercise the following specific responsibilities:

On planning and performance -

- establish MACS' work programme in the light of the Scottish Ministers' wider strategic aim(s); and inform SG of MACS' progress in helping to achieve the Scottish Ministers' policy.; and

On advising MACS -

- advise MACS on the discharge of its responsibilities as set out in this document and in any other relevant instructions and guidance issued by the Scottish Ministers/SG.

4. PLANNING AND CONTROL

4.1. The Work Programme

- 4.1.1. Consistent with the timetable for public spending reviews, MACS shall submit to SG a draft of MACS' work programme for each financial year. MACS shall have agreed with SG the issues to be addressed in the plan and the timetable for its preparation. The plan, or elements thereof, shall be updated as and when considered necessary.
- 4.1.2. The plan will reflect MACS' statutory duties and, within those duties, the priorities set from time to time by Scottish Ministers.
- 4.1.3. The work programme shall set out:
- MACS' key objectives and associated key performance targets for the forward year, and its strategy for achieving those objectives; and
 - Other matters as agreed between SG and MACS.
- 4.1.4. A copy of the work programme shall be submitted to SG for comment and subsequently for information, prior to the beginning of the financial year in question.

4.2. Reporting Performance to the Directorate

- 4.2.1. MACS shall review in a timely and effective manner its financial and non-financial performance against the targets set out in its work programmes.
- 4.2.2. MACS shall take the initiative in informing SG of changes in external conditions which make the achievement of objectives more or less difficult, or which may require a change to the objectives set out in the work programme.
- 4.2.3. MACS' performance in helping to deliver Scottish Ministers' policies, including the achievement of agreed key objectives, shall be reported to SG in MACS' annual report. Performance will be formally reviewed by officials of SG.

4.3. Remuneration, allowances and expenses

- 4.3.1. Remuneration, allowances and expenses paid to Committee Members must comply with specific guidance on such matters issued by the Scottish Ministers and be in line with those laid down in the member's Code of Conduct.

5. EXTERNAL ACCOUNTABILITY

5.1. The Annual Report

5.1.1. After the end of each financial year MACS shall publish an annual report.

5.1.2. The report shall outline MACS' main activities and performance during the previous financial year and set out in summary form MACS' forward plans.

5.1.3. The report shall be submitted in draft to SG for comment and the final version shall be published on the MACS website before **30 September**. MACS shall be responsible for the publication of the report.

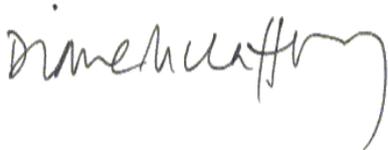
6. REVIEWING THE ROLE OF MACS

6.1. Reviewing Document

6.1.1. SE will conduct a Financial Management and Policy Review of MACS at least every five years or at such other intervals as SG may determine.

Signed on behalf of MACS

Signed on behalf of SG

A handwritten signature in black ink, appearing to read "Dimech", with a large, sweeping flourish extending to the right.