

## **Appendix 2**

### **Terms & Conditions of Appointment (Scotland)**

The following is based on the cross government template for appointments to the boards of non-departmental public bodies

#### **a. Duties**

The duties of Passenger Focus are principally set out in the Railways Act 2005 together with the Railways Act 1993, the Transport Act 2000 and the Transport Act 1962. Copies of the most relevant legislation can be obtained from Passenger Focus or viewed via the Internet on the HMSO website:

Railways Act 1993

<http://www.legislation.gov.uk/ukpga/1993/43/contents>

Transport Act 2000

<http://www.legislation.gov.uk/ukpga/2000/38/contents>

Railways Act 2005

<http://www.legislation.gov.uk/ukpga/2005/14/contents>

#### **b. The Passenger Focus Board**

As a member of the Passenger Focus Board, you have corporate responsibility for ensuring that Passenger Focus fulfils the aims and objectives agreed with the Secretary of State for Transport and for promoting the efficient and effective use of staff and other resources by Passenger Focus. To this end, and in pursuit of its wider corporate responsibilities, the Board shall:

- establish the overall strategic direction of Passenger Focus within the policy and resources framework agreed with the Secretary of State;
- ensure that the Secretary of State is kept informed of any changes which are likely to impact on the strategic direction of Passenger Focus or on the attainability of its targets, and determine the steps needed to deal with such changes;
- ensure that any statutory or administrative requirements for the use of public funds are complied with; that the Board operates within the limits of its statutory authority, its financial framework and in accordance with any other conditions relating to the use of public funds; and that, in reaching decisions, the Board takes into account guidance issued by the sponsor Department (the Department for Transport);
- ensure that the Board receives and reviews regular financial information concerning the management of Passenger Focus; is informed in a timely manner about any concerns about the activities of Passenger Focus; and provides

positive assurance to the Department that appropriate action has been taken on such concerns;

- demonstrate high standards of corporate governance at all times, including by using the independent audit committee to help the Board to address the key financial and other risks facing Passenger Focus;
- appoint with the Secretary of State's approval a Chief Executive to the NDPB and, in consultation with the Department, set performance objectives and remuneration terms linked to these objectives for the Chief Executive which give due weight to the proper management and use of public monies.

Individual Board members shall act in accordance with their wider responsibility as Members of the Board - namely to;

- comply at all times with the Code of Conduct that is adopted by Passenger Focus and with the rules relating to the use of public funds and to conflicts of interest;
- 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.

### **c. Period of Appointment**

This appointment is made under provisions contained in the Railways Act 2005 Section 19(2) (b). It will run for a term of up to four years.

At the end of the first term, the post holder may be reappointed for a second term of *up to* a further four years, subject to satisfactory performance assessments as set out in Paragraph g below.

### **d. Ending the Appointment**

In order to maintain the Executive's high standards of public life, any appointments made by Scottish Ministers may be terminated where they believe that the appointee's conduct means that he or she is no longer a suitable person for the office of board member of Passenger Focus. The Secretary of State for Transport may also recommend to Scottish Ministers that they consider terminating the appointment on the same grounds. In particular, but without limitation, this appointment is also subject to termination by Scottish Ministers where an appointee:

- a) is made bankrupt or makes an arrangement with his or her creditors
- b) is incapacitated by mental or physical illness to the extent that his or her participation is adversely affected

- c) has begun formal procedural steps to stand for election to the House of Commons, the Scottish Parliament, the National Assembly for Wales, the Greater London Authority or the European Parliament
- d) has been absent from meetings for a period of six months otherwise than for reasons approved by Scottish Ministers
- e) is, in the opinion of Scottish Ministers, otherwise unfit or unable to discharge the functions of his or her appointed office
- f) has by their actions, in the opinion of Scottish Ministers, brought, or is likely to bring, the Council into disrepute
- g) is convicted of a criminal offence
- h) has, following the annual appraisal of their contribution by the Chairman, received an unsatisfactory outcome.

Scottish Ministers also reserve the right to terminate an appointment on three months' notice in writing. You may also terminate your appointment on three months' notice in writing. There is no right to a pension or gratuity upon termination but you are entitled to claim reimbursement for any outstanding travelling and out of pocket expenses at the current rate.

#### **e. Remuneration**

The remuneration of a member of Passenger Focus will be £12,000 per annum based on four days contribution a month taking one month with another, which must be agreed with the Chairman, and will be paid monthly. The appointment will not be pensionable. Any change in remuneration on an annual basis will be linked to the annual SCS pay award which is effective from 1 April each year. All of it is taxable and it is the responsibility of Passenger Focus to apply PAYE deductions in respect of income tax and National Insurance, unless instructed to the contrary by the Inland Revenue or the Contribution Agency. If appropriate, it will be for you to arrange authorisation of the non-application of PAYE or National Insurance.

#### **f. Attendance**

Each member of Passenger Focus is expected to attend the board meetings regularly. The appointment may be terminated, without notice, if an attendance warning from the Chairman is ignored and attendance becomes so erratic as to interfere with the good running of Passenger Focus.

#### **g. Annual Appraisal**

Scottish Ministers will need to be assured that the duties of their appointed Board Member are being satisfactorily carried out. To that end, you are required to take part in an annual appraisal of your contribution to the Passenger Focus Board which

will be carried out by the Passenger Focus Chairman, who will make recommendations to Scottish Ministers concerning your continued appointment or re-appointment, which will depend on a satisfactory outcome. You are also expected to take part in training and board development exercises, working with any appointed trainers as necessary. Sufficient notice of such training and development exercises will be given to members and participation levels will be assessed as part of an individual member's annual appraisal.

#### **h. Expenses and Subsistence**

Each member of the Passenger Focus board is entitled to claim the following:

- Travel and subsistence expenses to and from your local station or bus stop to a board and/or board committee meeting venue, including overnight allowances if the meeting requires an overnight stay (maximum thresholds apply)
- Dependent Care costs;
- Particular travelling costs associated to disabled members

Further details are set out in the Membership Code.

#### **i. Abatement**

Abatement rules apply to public board members' remuneration where they are in receipt of other payments from the public sector. If a prospective member is in receipt of a public sector pension, the public appointment rules may require that his or her remuneration as a board member be abated. In practice, remuneration is generally not abated, unless:

a) a member is appointed to the board of an NDPB which operates, or is admitted to, the same public service pension scheme from which the member already draws a pension (board members provided with a pension arrangement by analogy with a public service pension scheme, of which he or she had previously been a member, are considered to be in a different pension scheme post retirement and therefore abatement will not apply); or

b) the member retired early from a public service and is receiving a pension, whether enhanced or otherwise, before the normal pensionable age of the scheme from which the pension is paid, and that pension is not actuarially reduced because of its early payment.

Abatement in the latter circumstance ceases when the appointee reaches the normal pensionable age in the scheme from which the pension is paid. This may not apply to you, but if you are in any doubt you should consult with Passenger Focus.

#### **j. Member's Liability**

If legal proceedings are brought against any Passenger Focus member by a third party, the sponsor Department (the Department for Transport) will meet any civil

liability, including the member's reasonable legal costs, which is incurred in the execution of their functions, unless the member acted recklessly and provided that they have acted honestly and in good faith

#### **k. Injury Benefits**

Should any member suffer injury or contract a disease which is directly attributable to their appointment and which leads to impairment of their earning capacity, they (or, if the injury or disease led to death, their dependents) may be eligible for special compensation benefits. These benefits will be broadly analogous to those in Part 2 of section 11 of the Principal Civil Service Pension Scheme.

#### **l. Conduct**

All Board members must have an understanding of and demonstrate commitment to the principles of public service and have a duty regarding conduct, propriety and confidentiality. You will be required as a condition of your appointment to abide by the Passenger Focus Code of Conduct and any subsequent amendments to it. The Board can discuss and suggest amendments to the Code but any changes must be agreed with the Department for Transport.

#### **m. Gifts and Hospitality**

All members are expected to ensure that acceptance of gifts and hospitality can stand up to public scrutiny including, but not limited to, the provisions of the Bribery Act 2010.

Gifts should be declined wherever possible, and any offers should be reported to the Chief Executive's team. Where it would be ungracious or otherwise difficult not to accept, you should inform the Chief Executive's team of the gift, the estimated value and the donor. Members must take personal responsibility to ensure that a record is placed in the hospitality register of Passenger Focus which will be kept by Passenger Focus. Similarly, care should be taken that no extravagance is involved with working lunches and other social occasions.

#### **n. Conflicts Of Interest**

You must declare any personal or business interests which may, or may be perceived to, influence your judgements in performing your functions.

These interests will be included in a register of interests maintained by Passenger Focus and you must ensure that your entries are kept up to date. You will be required to update your statement on an annual basis. Should a particular matter give rise to a conflict of interest a member is required to inform the Chairman of Passenger Focus in advance and withdraw from discussions or consideration of the matter.

You are encouraged to register your own non-pecuniary interests and interests of close family members and persons living in the same household which are closely related to the activities of Passenger Focus. You must inform the Secretary of State and the Chairman of Passenger Focus in advance of any new appointments which may impinge on your duties as a member of Passenger Focus.

#### **o. Business Appointments**

Scottish Ministers need to be satisfied that you have no financial or other interests which might prejudice your performance as a Board Member. For this reason, if you are considering leaving this appointment to take up another in the rail industry, you are requested to seek Ministerial approval before accepting the appointment. Approval should also be sought for such an appointment taken up within six months of leaving the Passenger Focus Board. The Scottish Ministers shall consider each case on its merits but approval will not be withheld unreasonably. Should the issue arise, you are asked to report the details to the Chief Executive.

#### **p. Political Activity**

The following standard rules about the political activities of members of public boards apply:

- i. Members of boards, whether whole-time or part-time, should not serve as officers carrying out executive duties in any political party.
- ii. Whole-time members should abstain from controversial political activity.
- iii. Subject to i. above, part-time members should be free to engage in any political activity, provided they are conscious of their general public responsibility and exercise a proper discretion, particularly in regard to the work of the boards of which they are members. On matters affecting that work, they should not normally make political speeches or engage in other political activities.
- iv. Members of boards, whether whole-time or part-time, who are also Members of the House of Lords will no doubt wish to be guided in their conduct in the House by the statement made by Lord Addison in the House on 21 March 1951.
- v. All members of boards should be free to maintain associations with trade unions, co-operative societies, trade associations, etc. to the extent that such associations do not conflict directly with the interests of the boards to which they belong.
- vi. The foregoing applies equally to political activity on behalf of any of the political parties.
- vii. Any member of a board or boards who is in doubt about the application of these rules, or about the propriety of any political activity, should seek guidance from the Minister responsible for their board.

## **q. Disqualification**

The provisions of the House of Commons Disqualification Act 1975 will apply disqualifying Passenger Focus board members from membership of the House of Commons and also the provisions of the Scottish Parliament (Disqualification) Order 2003 disqualifying Passenger Focus board members from membership of the Scottish Parliament. Board members will also be disqualified from being members of the European Parliament by virtue of the European Parliamentary Elections Act 2002.