



HM Treasury

# Managing public money

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July 2013  
with annexes revised as at March 2018





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# Foreword

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Every government needs credibility. Without it, no government can raise the funds it needs for its policies – from taxpayers, from charge payers, or from borrowers. Recent international events have provided object lessons in how fragile sovereign credibility can be.

This handbook helps the UK government maintain public trust. It explains how to handle public funds with probity and in the public interest. There is a lot of common sense, with a little protocol about how to respect parliament's requirements.

The origins of this document trace back through the Bill of Rights to Magna Carta. These events brought the monarchs of their day up against the demands of those they governed that the funds they provided should be used wisely. The principles which emerged also underpin the rule of law, for which the UK gains international respect and trust.

In modern times it is the elected government that must account to parliament; but the theory is the same. Integrity is the common thread. Transparency and value for public money are the essential results.

Since I joined the Treasury three years ago I have come to realise how often the basic principles in this handbook provide the answers to old and new problems in government. The Treasury has long regarded upholding standards of public administration as one of its fundamental responsibilities.

I urge everyone who works with public money to read, and to use, this handbook. My staff are ready to help anyone who needs help in thinking through the issues.



**Danny Alexander**  
Chief Secretary to the Treasury

## about this document

- i. This document updates the version published in 2007. Like the original, it sets out the main principles for dealing with resources in UK public sector organisations. Some of the specifics, especially those in the annexes, relate to England rather than the devolved administrations, which have their own detailed rulebooks. But the same basic principles generally apply in all parts of the UK public sector, with adjustments for context.*
- ii. The key themes also remain. They are the fiduciary duties of those handling public resources to work to high standards of probity; and the need for the public sector to work in harmony with parliament.*
- iii. While these principles are invariant, the advice in this document cannot stand forever. The law, business practices, and public expectations all change. So public sector organisations can and should innovate in carrying out their responsibilities, using new technology and adopting good business practice. Throughout parliament always expects the government and its public servants to meet the ethical standards in this document and to operate transparently.*
- iv. As before, the main text of the document is intended to be timeless. The Treasury will revise the annexes from time to time as the need arises. All the text is available freely on the gov.uk website.*
- v. Above all, nothing in this document should discourage the application of sheer common sense.*

# 1

## Responsibilities

The relationship between the government, acting on behalf of the Crown, and parliament, representing the public, is central to how public resources are managed. Ministers implement government policies, and deliver public services, through public servants; but are able to do so only where parliament grants the right to raise, commit and spend resources. It falls to the Treasury to respect and secure the rights of both government and parliament in this process.

### 1.1 Managing public money: principles

**1.1.1** The principles for managing public resources run through many diverse organisations delivering public services in the UK. The requirements for the different kinds of body reflect their duties, responsibilities and public expectations. The demanding standards expected of public services are set out in box 1.1.

#### Box 1.1: standards expected of all public services

|          |              |              |                |             |
|----------|--------------|--------------|----------------|-------------|
| honesty  | impartiality | openness     | accountability | accuracy    |
| fairness | integrity    | transparency | objectivity    | reliability |

#### carried out

in the spirit of, as well as to the letter of, the law  
in the public interest  
to high ethical standards  
achieving value for money

**1.1.2** The principles in this handbook complement the guidance on good governance in the *Corporate Governance Code*<sup>1</sup> applying to central government departments. Some of the detail applies to England only, or just to departments of state. There is separate guidance for the devolved administrations. Where restrictions apply, they are identified.

**1.1.3** Much of this document is about meeting the expectations of parliament. These disciplines also deliver accountability to the general public, on whose behalf parliament operates. The methods of delivery used should evolve as technology permits. Public services should carry on their businesses and account for their stewardship of public resources in ways appropriate to their duties and context and conducive to efficiency.

### 1.2 Ministers

**1.2.1** In the absence of a written constitution, the powers used to deploy public resources are a blend of common law, primary and secondary legislation, parliamentary procedure, the duties of ministers, and other long-standing practices. This mix may of course change from time to time.

<sup>1</sup> The Corporate Governance Code – see <https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments>

**1.2.2** As the *Corporate Governance Code* makes clear, the minister in charge of a department is responsible for its policy and business as part of the broad sweep of government policy determined in Cabinet. He or she:

- determines the policies of the departmental group;
- chairs the departmental board;
- allocates responsibilities among the ministers in the department;
- chooses which areas of business to delegate to officials, and on what conditions;
- looks to the department's accounting officer (see chapter 3) to delegate within the department to deliver the minister's decisions and to support the minister in making policy decisions and handling public funds; and
- also has general oversight of other bodies on whose behalf he or she may answer in parliament, including the department's arms length bodies (ALBs).

**1.2.3** The *Ministerial Code*<sup>2</sup> requires ministers to heed the advice of their accounting officers about the proper conduct of public business. See section 3.4 for how the minister may direct the accounting officer to proceed with a policy if a point of this kind cannot be resolved.

**1.2.4** The minister in charge of a department may delegate defined areas of its business, or of its parliamentary work, to his or her junior ministers. Ministers have wide powers to make policies and to instruct officials.

**1.2.5** Only ministers can propose legislation to parliament to raise public revenue through taxation, or to use public funds to pursue their policy objectives. Specific primary legislation is normally required to spend public funds (see section 2.1). Similarly, taxes may be collected, and public funds may be drawn, only with parliamentary authority; and only as parliament has authorised.

**1.2.6** It is not normally acceptable for a private sector organisation to be granted powers to raise taxes, nor to distribute their proceeds. Parliament expects these responsibilities to fall to ministers, using public sector organisations.

**1.2.7** The House of Commons (and not the House of Lords) enjoys the financial privilege to make decisions on these matters.

## 1.3 Parliament

**1.3.1** Parliament approves the legislation which empowers ministers to carry out their policies. It also allows finance for services when it approves each year's Estimates. See the *Estimates Manual*<sup>3</sup> for more.

**1.3.2** From time to time parliament may examine government activity. Select committees examine policies, expenditure, administration and service delivery in defined areas. The Committee of Public Accounts (PAC - see section 3.5) examines financial accounts, scrutinises value for money and generally holds the government and its public servants to account for the quality of their past administration.

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<sup>2</sup> <https://www.gov.uk/government/publications/ministerial-code>

<sup>3</sup> <https://www.gov.uk/government/publications/supply-estimates-guidance-manual>

## 1.4 The Treasury

**1.4.1** Parliament looks to the Treasury to make sure that:

- departments use their powers only as it has intended; and
- revenue is raised, and the resources so raised spent, only within the agreed limits.

**1.4.2** Hence it falls to the Treasury to:

- set the ground rules for the administration of public money; and
- account to parliament for doing so.

**1.4.3** This document sets out how the Treasury seeks to meet these parliamentary expectations. The key requirements are regularity, propriety, value for money and feasibility (see box 3.2). The Treasury:

- designs and runs the financial planning system<sup>4</sup> and oversees the operation of the agreed multiyear budgets to meet ministers' fiscal policy objectives;
- oversees the operation of the Estimates through which departments obtain authority to spend year by year;
- sets the standards to which central government organisations publish annual reports and accounts in the *Financial Reporting Manual (FRM)*. This adapts International Financial Reporting Standards (IFRS) to take account of the public sector context;
- sets Accounts Directions for the different kinds of central government organisations whose accounts are laid in parliament; and
- may also work through the Cabinet Office to set certain standards applicable across central government<sup>5</sup>.

## 1.5 Departments

**1.5.1** Within the standards expected by parliament, and subject to the overall control and direction of their ministers, departments have considerable freedom about how they organise, direct and manage the resources at their disposal. It is for the accounting officer in each department, acting within ministers' instructions, and supported by their boards, to control and account for the department's business.

**1.5.2** A departmental board, chaired by the senior minister, leads each department. Boards can bring to bear skills and experiences from elsewhere in, and outside of, the public sector (see section 4.1).

**1.5.3** Within each department, there should be adequate delegations, controls and reporting arrangements to provide assurance to the board, the accounting officer<sup>6</sup> and ultimately ministers about what is being achieved, to what standards and with what effect. These arrangements

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<sup>4</sup> See the Consolidated Budgeting Guidance for more - <https://www.gov.uk/government/publications/consolidated-budgeting-guidance>

<sup>5</sup> See <https://www.gov.uk/government/publications/cabinet-office-controls-guidance-version-3-1>

<sup>6</sup> If there is a change of Accounting Officer in the course of the year, the Accounting Officer in place at the year end takes responsibility for the whole year's accounts, using assurances as necessary.

should provide timely and prompt management information to enable plans to be adjusted as necessary. Similarly ministers should have enough evidence about the impact of their policies to decide whether to continue, modify or end them. This is discussed further in chapter 4.

**1.5.4** In supporting ministers, civil servants should provide politically impartial advice. Should they be asked to carry out duties which appear incompatible with this obligation, the accounting officer should take the matter up with the minister concerned (see also the *Civil Service Code*<sup>7</sup>).

**1.5.5** Departments often operate with and through a variety of partners to deliver their ministers' policies. It is important that these relationships operate in the public interest: see chapter 7.

## 1.6 The Comptroller and Auditor General

**1.6.1** Supported by the National Audit Office (NAO), the Comptroller and Auditor General (C&AG) operates independently to help parliament scrutinise how public funds have been used in practice. Further information about the role of the NAO is available on their website<sup>8</sup> and in annex 1.1.

**1.6.2** The C&AG provides parliament with two sorts of audit:

- financial audit of the accounts of departments and ALBs, covering:
  - assurance that accounts have been properly prepared and are free of material misstatements<sup>9</sup>; and
  - confirmation that the underlying transactions have appropriate parliamentary authority;
- value for money reports assessing the economy, efficiency and effectiveness with which public money has been deployed in selected areas of public business. A programme of these reviews covers a variety of subjects over a period, taking account of the risks to value for money and parliament's interests.

**1.6.3** The C&AG has a general right to inspect the books of a wide variety of public organisations to further these investigations. When the NAO investigates any public sector organisation, it should get full cooperation in provision of papers and other oversight. It is good practice to draw the NAO's attention to the confidentiality of any sensitive documents provided in this process. It is then for the independent C&AG to judge what material can be published in the public interest.

**1.6.4** In addition, the C&AG publishes other independent reports to parliament. The PAC (see section 3.5) may hold hearings to examine evidence on any of these reports and on other related matters.

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### Annex 1.1 The Comptroller and Auditor General

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<sup>7</sup> <http://www.civilservice.gov.uk/about/values>

<sup>8</sup> The NAO website address is <http://www.nao.org.uk>

<sup>9</sup> See Audit Practice Note 10 of the Audit Practices Board on the FRC website at [Http://www.frc.org.uk](http://www.frc.org.uk)

# 2

## Use of Public Funds

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This chapter explains the process for parliamentary authorisation of public resources. Parliament consents in principle to the use of public funds through legislation to enable specified policies. It then approves use of public resources to carry out those policies year by year by approving Estimates. Only rarely can lesser authority suffice. At the close of each financial year, parliament expects a clear account of the use of the public funds it has authorised. Parliament expects the Treasury to oversee the operation of these controls. The PAC may investigate specific issues further.

### 2.1 Conditions for use of public funds

**2.1.1** Ministers have very broad powers to control and direct their departments. In general, they may do anything that legislation does not prohibit or limit, including using common law powers to administer their operations or continue business as usual.

**2.1.2** Ministers also need parliamentary authority for use of public funds before each year's expenditure can take place. The full list of requirements is set out in box 2.1.

#### **Box 2.1: requirements for use of public funds**

- budget cover in the collectively agreed multi-year budgets
- with a few exceptions<sup>1</sup>, parliamentary authorisation for each year's drawdown of funds through an Estimate, which is then approved as a Supply and Appropriation Act (see section 2.2)
- adequate Treasury consents (see section 2.3)
- assurance that the proposed expenditure is regular and proper (section 2.4)
- sufficient specific legal powers - though see section 2.5 for some limited exceptions

**2.1.3** The Treasury runs the control process because parliament expects the Treasury to control public expenditure as part of fiscal policy. The primary means through which the Treasury controls public expenditure is multi-year budgets, agreed collectively at spending reviews. The *Consolidated Budgeting Guidance* sets out the rules for their use. (See also chapter 4).

### 2.2 Using the Estimate

**2.2.1** The requirements in box 2.1 are to some extent interrelated. The accounting officer of a department (see also chapter 3) is responsible for ensuring that:

- the Estimate(s) presented to parliament for the department's annual expenditure (consolidating its ALBs) are within the statutory powers and within the government's expenditure plans; and
- use of resources is within the ambit of the vote and consistent with the Estimate(s)-

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<sup>1</sup> See section 5.3

and must answer to parliament for stewardship of these responsibilities.

## 2.3 Treasury consents

**2.3.1** Departments also need Treasury consent before undertaking expenditure or making commitments which could lead to expenditure (see annex 2.1). Usually the Treasury agrees some general approvals for each department subject to delegated limits and/or exclusions.

**2.3.2** Some common approaches to setting delegations are shown in box 2.2 and are discussed further in annex 2.2. It is good practice to review delegations from time to time to make sure that they remain up to date and appropriate. Delegations can be tightened or loosened at reviews, depending on experience.

### Box 2.2: examples of approaches to delegated authorities

- objective criteria for exceptions requiring specific Treasury scrutiny or approval
- a sampling mechanism to allow specimen cases to be examined
- a lower limit above which certain kinds of projects must achieve specific consent

**2.3.3** In turn departments should agree with each of their arm's length bodies (ALBs - the public sector organisations they sponsor or finance) a similar set of delegations appropriate to their business<sup>2</sup> (see also chapter 7).

**2.3.4** There is an important category of expenditure commitments for which the Treasury cannot delegate responsibility. It is transactions which set precedents, are novel, contentious or could cause repercussions elsewhere in the public sector. Box 2.3 gives examples. Treasury consent to such transactions should always be obtained before proceeding, even if the amounts in question lie within the delegated limits.

### Box 2.3: examples of transactions requiring explicit Treasury consent

- extra statutory payments similar to but outside statutory schemes
- ephemeral ex gratia payment schemes, eg payments to compensate for official errors
- special severance payments, eg compromise agreements in excess of contractual commitments
- non-standard payments in kind
- unusual financial transactions, eg imposing lasting commitments or using tax avoidance
- unusual schemes or policies using novel techniques

**2.3.5** It is improper for a public sector organisation to spend or make commitments outside the agreed delegations. The Treasury may subsequently agree to give retrospective consent, but only if the expenditure in question would have been agreed if permission had been sought at the right time.

**2.3.6** Sometimes legislation calls for explicit Treasury consent, eg for large or critical projects. There are also Whitehall wide controls on key progress points for the very largest projects.<sup>3</sup> In

<sup>2</sup> Delegations to ALBs should never be greater than the delegated limits agreed between the Treasury and the sponsor department.

<sup>3</sup> Through the Major Projects Authority, [<http://www.cabinetoffice.gov.uk/content/major-projects-authority>], using powers delegated by the Treasury

such cases it is unlawful to proceed without Treasury consent - and Treasury consent cannot be given retrospectively.

## 2.4 Regularity and propriety

**2.4.1** The concepts of regularity and propriety, fundamental to the right use of public funds, are set out in box 2.4. The term *regularity and propriety* is often used to convey the idea of probity and ethics in the use of public funds – that is, delivering public sector values in the round, encompassing the qualities summarised in box 1.1. Supporting this concept are the Seven Principles of Public Life - the *Nolan principles*<sup>4</sup> - which apply to the public sector at large. In striving to meet these standards, central government departments should give a lead to the partners with which they work.

### Box 2.4: regularity and propriety

**Regularity:** compliant with the relevant legislation (including EU legislation), delegated authorities and following the guidance in this document.

**Propriety:** meeting high standards of public conduct, including robust governance and the relevant parliamentary expectations, especially transparency.

**2.4.2** Each departmental accounting officer should make sure that ministers in his or her department appreciate:

- the importance of operating with regularity and propriety; and
- the need for efficiency, economy, effectiveness and prudence in the administration of public resources, to secure value for public money<sup>5</sup>.

**2.4.3** Should a minister seek a course of action which the accounting officer cannot reconcile with any aspect of these requirements, he or she should seek instructions in writing from the minister before proceeding (see chapter 3).

**2.4.4** Should departments need to resolve an issue about regularity or propriety, they should consult the relevant Treasury spending team. Similarly, ALBs should consult their sponsor departments about such issues, and the department concerned may in turn consult the Treasury.

**2.4.5** Neither improper nor irregular expenditure achieves the standards that parliament expects. So any such expenditure must be noted in the department's annual report and accounts. If the discrepancy is material it can result in a qualification to the accounts. When any expenditure of this kind comes to light, it should be drawn to the attention of both the NAO and the Treasury. The immediate follow up action is to identify the source of any systematic problems so that there is no recurrence. The PAC may also call the accounting officer to explain the matter at a public hearing.

## 2.5 Securing adequate legal authority

**2.5.1** Parliament usually authorises spending on a specific policy or service by approving bespoke legislation setting out in some detail how it should work. It is not normally acceptable to use a royal charter as an alternative to primary legislation, for this approach robs parliament

<sup>4</sup> <http://www.public-standards.gov.uk/>

<sup>5</sup> A more detailed description of value for money is at annex 4.4

of its expectations for control and accountability. Departments should ensure that both they and their ALBs have adequate legal cover for any specific actions they undertake.

**2.5.2** The Treasury takes this requirement seriously. It is fundamental to the trust and understanding between the government and parliament on which management of the public finances is founded. In the Concordat of 1932 (see annex 2.3), the Treasury undertook that departments would not spend without adequate legal authority.

**2.5.3** There are some general exceptions. These kinds of expenditure do not require specific legislation in order to avoid burdening parliamentary time:

- routine matters covered by common law (the main examples are in box 2.5);
- a very limited range of Consolidated Fund Standing Services (see section 5.3);
- projects or services which are modest or temporary (see box 2.6)

#### **Box 2.5: expenditure which may rely on a Supply and Appropriation Act**

- routine administration costs: employment costs, rent, cleaning etc
- lease agreements, eg for photocopiers, lifts
- contractual obligations to purchase goods or services (eg where single year contracts might be bad value)
- expenditure using prerogative powers such as defence of the realm and international treaty obligations

**2.5.4** In all the three cases in paragraph 2.5.3, departments may rely on the sole authority of a Supply and Appropriation Act (the culmination of the Estimates process) without the need for specific legal authority, provided that the other conditions in box 2.1 are met.

#### **Box 2.6: modest or temporary expenditure which may rely on a Supply and Appropriation Act**

either services or initiatives lasting no more than two years, eg a pilot study or one off intervention  
or expenditure of no more than £1.75m a year (amount adjusted from time to time)  
provided that there is no specific legislation covering these matters before parliament and existing statutory restrictions are respected.

These conditions are demanding. Treasury consent is required before they may be relied on.

## **2.6 New services**

**2.6.1** When ministers decide on a new activity, all the conditions in box 2.1 must be met before it can begin. In practical terms this means that most significant new policies which are intended to persist require specific primary legislation.

**2.6.2** Sometimes ministers want to start early on a new policy which is intended to continue but whose enabling legislation has not yet secured royal assent. It may be possible to make limited preparation for delivery of the new service before royal assent, but to do so it will usually be necessary to consider borrowing from the Contingencies Fund (see annex 2.4). Access to this Fund is controlled by the Treasury, subject to the conditions in box 2.7. Specific Treasury consent is always required.

**Box 2.7: conditions for access to the contingencies fund (see also annex 2.5)**

- the proposed expenditure must be urgent and in the public interest, ie with wider benefits to outweigh the convention of awaiting parliamentary authority (political imperative is not enough)
- the relevant bill must have successfully passed second reading in the House of Commons
- the legislation must be certain, or virtually certain, to pass into law with no substantive change in the near future, and usually within the financial year
- the department responsible must explain clearly to parliament what is to take place, why, and by when matters should be placed on a normal footing.

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Annex 2.1 Treasury approval of legislation

Annex 2.2 Delegated authorities

Annex 2.3 The PAC concordat of 1932

Annex 2.4 New services



# 3

## Accounting Officers

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This chapter sets out the personal responsibilities of all accounting officers in central government. Essentially accounting officers must be able to assure parliament and the public of high standards of probity in the management of public funds. This chapter is drawn to the attention of all accounting officers when they are appointed.

### 3.1 Role of the accounting officer

**3.1.1** Each organisation in central government – department, agency, trading fund, NHS body, NDPB or arm’s length body – must have an accounting officer. This person is usually its senior official. The accounting officer in an organisation should be supported by a board structured in line with the *Corporate Governance Code*.

**3.1.2** Formally the accounting officer in a public sector organisation is the person who parliament calls to account for stewardship of its resources. The standards the accounting officer is expected to deliver are summarised in box 3.1. The equivalent senior business managers of other public sector organisations are expected to deliver equivalent standards.

### 3.2 Appointment of accounting officers

**3.2.1** The Treasury appoints the permanent head of each central government department to be its accounting officer. Where there are several accounting officers in a department, the permanent head is the principal accounting officer.

**3.2.2** Within departments, the Treasury also appoints the chief executive of each trading fund as its accounting officer.

**3.2.3** In turn the principal accounting officer of each department normally appoints the permanent heads:

- of its executive agencies, as agency accounting officers for their agencies; and
- of other ALBs (including all NDPBs), as accounting officers for these bodies; and
- at his or her discretion, additional accounting officers for defined part(s) of the department’s business.

### 3.3 Special responsibilities of accounting officers

**3.3.1** It is important that each accounting officer takes personal responsibility for ensuring that the organisation he or she manages delivers the standards in box 3.1. In particular, the accounting officer must personally sign:

- the accounts
- the annual report
- the governance statement (see annex 3.1);

and having been satisfied that they have been properly prepared to reflect the business of the organisation, must personally approve:

- voted budget limits; and
- the associated Estimates Memorandum.

### **Box 3.1: standards expected of the accounting officer's organisation**

Acting within the authority of the minister(s) to whom he or she is responsible, the accounting officer should ensure that the organisation, and any ALBs it sponsors, operates effectively and to a high standard of probity. The organisation should:

#### **governance**

- have a governance structure which transmits, delegates, implements and enforces decisions
- have trustworthy internal controls to safeguard, channel and record resources as intended
- work cooperatively with partners in the public interest
- operate with propriety and regularity in all its transactions
- treat its customers and business counterparties fairly, honestly and with integrity
- offer appropriate redress for failure to meet agreed customer standards
- give timely, transparent and realistic accounts of its business and decisions, underpinning public confidence;

#### **decision-making**

- support its ministers with clear, well reasoned, timely and impartial advice
- make all its decisions in line with the strategy, aims and objectives of the organisation set by ministers and/or in legislation
- take a balanced view of the organisation's approach to managing opportunity and risk
- impose no more than proportionate and defensible burdens on business;

#### **financial management**

- use its resources efficiently, economically and effectively, avoiding waste and extravagance
- plan to use its resources on an affordable and sustainable path, within agreed limits
- carry out procurement and project appraisal objectively and fairly, using cost benefit analysis and generally seeking good value for the Exchequer as a whole
- use management information systems to gain assurance about value for money and the quality of delivery and so make timely adjustments
- avoid over defining detail and imposing undue compliance costs, either internally or on its customers and stakeholders
- have practical documented arrangements for controlling or working in partnership with other organisations, as appropriate
- use internal and external audit to improve its internal controls and performance.

**3.3.2** The accounting officer of a corporate arm's length body should arrange for a board member to sign the accounts as well as signing them himself or herself, if (unusually) he or she is not a member of the board.

**3.3.3** There are several other areas where accounting officers should take personal responsibility:

- *regularity and propriety* (see box 2.4), including securing Treasury approval for any expenditure outside the normal delegations or outside the subheads of Estimates;

- *affordability and sustainability*: respecting agreed budgets and avoiding unaffordable longer term commitments, taking a proportionate view about other demands for resources;
- *value for money*: ensuring that the organisation's procurement, projects and processes are systematically evaluated to provide confidence about suitability, effectiveness, prudence, quality, good value judged for the Exchequer as a whole, not just for the accounting officer's organisation (eg using the Green Book<sup>1</sup> to evaluate alternatives);
- *control*: the accounting officer should personally approve and confirm their agreement to all Cabinet Committee papers and major project or policy initiatives before they proceed;
- management of *opportunity and risk* to achieve the right balance commensurate with the institution's business and risk appetite;
- *learning from experience*, both using internal feedback (eg through managing projects and programmes using techniques such as PRINCE2), and from right across the public sector; and
- accounting accurately for the organisation's *financial position* and *transactions*: to ensure that its published financial information is transparent and up to date; and that the organisation's efficiency in the use of resources is tracked and recorded.

**3.3.4** In the case of principal accounting officers, these responsibilities apply to the business of the whole departmental group.

## 3.4 Advice to ministers

**3.4.1** Each departmental accounting officer should take care to bring to the attention of the minister(s) to whom he or she is responsible any conflict between the minister's instructions and his or her duties. The accounting officer cannot simply accept the minister's aims or policy without examination. There is no set form for registering objections, though the accounting officer should be specific about their nature. The acid test is whether the accounting officer could justify the proposed activity if asked to defend it.

**3.4.2** Accounting officers should routinely scrutinise significant policy proposals or plans to start or vary major projects and then assess whether they measure up to the standards in box 3.1 so that they can identify any discrepancy<sup>2</sup>. The accounting officer should draw any such problems to the attention of the responsible minister to see whether they can be resolved.

**3.4.3** If the minister decides to continue with a course the accounting officer has advised against, the accounting officer should ask for a formal written direction to proceed. An oral direction should be confirmed in writing quickly. Examples of where this procedure is appropriate are in box 3.2.

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<sup>1</sup> to <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

<sup>2</sup> The Treasury or the chair of the relevant Cabinet Committee may also ask for the accounting officer's assessment of any novel proposal.

**Box 3.2: when accounting officers should seek a direction**

- **Regularity:** if a proposal is outside the legal powers, parliamentary authority, or Treasury delegations; or incompatible with the agreed spending budgets.
- **Propriety:** if a proposal would breach parliamentary control procedures or expectations.
- **Value for money:** if an alternative proposal, or doing nothing, would deliver better value, eg a cheaper, higher quality or more effective outcome for the Exchequer as a whole.
- **Feasibility:** where there is a significant doubt about whether the proposal can be implemented accurately, sustainably, or to the intended timetable.

**3.4.4** Directions of this kind are rare. It is good practice for accounting officers to discuss the matter with the Treasury if time permits. The ultimate judgement in each case must lie with the accounting officer personally.

**3.4.5** When a direction is made, the accounting officer should:

- copy the relevant papers to the C&AG and the TOA promptly. The C&AG will normally draw the matter to the attention of the PAC, who will attach no blame to the accounting officer;
- follow the minister's direction without further ado;
- if asked, explain the minister's course of action. This respects ministers' rights to frank advice, while protecting the quality of internal debate;
- arrange for the existence of the direction to be published, no later than in the next report and accounts, unless the matter must be kept confidential.

## 3.5 Public Accounts Committee

**3.5.1** The PAC may hold public hearings on the accounts of central government organisations laid in parliament (see section 1.6). In practice most PAC hearings focus on NAO value for money studies. NAO seeks to agree the text of these reports with the accounting officer(s) concerned so there is a clear undisputed evidence base for PAC scrutiny.

**3.5.2** When a hearing is scheduled, the PAC normally invites the accounting officer(s) of the relevant institution(s) to attend as witness(es). An accounting officer may be accompanied by appropriate officials. Where it is appropriate, and the PAC agrees, an accounting officer may send a substitute. The PAC may also invite other witnesses who may not be public servants to give insight into the background of the subject in hand.

**3.5.3** In answering questions, the accounting officer should take responsibility for the organisation's business, even if it was delegated or if the events in question happened before he or she was appointed accounting officer. In response to specific PAC or Select Committee requests, previous accounting officers may also attend relevant PAC hearings. Recalls of this kind should be assessed case by case, depending on the circumstances. They are acceptable if the business in issue was fairly recent, and where the former accounting officer has had an opportunity to comment before publication on any NAO report which the PAC is to investigate.

**3.5.4** The PAC expects witnesses to give clear, accurate and complete evidence. If evidence is sensitive, witnesses may ask to give it in private. Witnesses may offer supplementary notes if the information sought is not to hand at the meeting. Any such notes should be provided within one week unless the PAC is willing to grant an extension. They should do so without delay.

**3.5.5** The TOA (or an alternate) attends all PAC hearings. This enables the PAC to explore any more general issues arising out of the hearing.

## **3.6 When the accounting officer is not available**

**3.6.1** Each public sector organisation must have an accounting officer available for advice or decision as necessary at short notice.

**3.6.2** When the accounting officer is absent and cannot readily be contacted, another senior official should deputise. If a significant absence is planned, the accounting officer may invite the Treasury (or the sponsor department, as the case may be) to appoint a temporary acting accounting officer.

## **3.7 Conflicts of interest**

**3.7.1** Sometimes an accounting officer faces an actual or potential conflict of interest. There must be no doubt that the accounting officer meets the standards described in box 3.1 without divided loyalties. Possible ways of managing this issue include:

- for a minor conflict, declaring the conflict and arranging for someone other than the accounting officer to make a decision on the issue(s) in question;
- for a significant but temporary conflict, inviting the Treasury (or the sponsor department, as the case may be) to appoint an interim accounting officer for the period of the conflict of interest; or
- for serious and lasting conflicts, resignation.

## **3.8 Arm's length bodies**

**3.8.1** The responsibilities of accounting officers in departments and in arm's length bodies (ALBs) are essentially similar. Accounting officers in ALBs must also take account of their special responsibilities and powers. In particular, they must respect the legislation (or equivalent) establishing the organisation and terms of the framework document agreed with the sponsor department. See chapter 7 for more.

**3.8.2** The framework document (or equivalent) agreed between an ALB and its sponsor always provides for the sponsor department to exercise meaningful oversight of the ALB's strategy and performance, pay arrangements and/or major financial transactions, eg by monthly returns, standard delegations and exception reporting. The sponsor department's accounts consolidate those of its ALBs so its accounting officer must be satisfied that the consolidated accounts are accurate and not misleading.

**3.8.3** Overall, the accounting officer of a sponsor department should make arrangements to satisfy himself or herself that the ALB has systems adequate to meet the standards in box 3.1. Similarly, the accounting officer of an ALB with a subsidiary should have meaningful oversight of the subsidiary. It is not acceptable to establish ALBs, or subsidiaries to ALBs, in order to avoid or weaken parliamentary scrutiny.

**3.8.4** Exceptionally, the accounting officer of a sponsor department may need to intervene if an ALB drifts significantly off track, eg if its budget is threatened, its systems are badly defective or it falls into disrepute. This may include replacing some or all of the leaders of the ALB, possibly even its accounting officer.

**3.8.5** There are sensitivities about the role of the accounting officer in an ALB which is governed by an independent board, eg a charity or company. The ALB's accounting officer, who will normally be a member of the board, must take care that his or her personal legal responsibilities do not conflict with his or her duties as a board member. In particular, the accounting officer should vote against any proposal which appears to cause such a conflict; it is not sufficient to abstain.

**3.8.6** Moreover, if the chair or board of such an ALB is minded to instruct its accounting officer to carry out a course inconsistent with the standards in box 3.1, then the accounting officer should make his or her reservations clear, preferably in writing. If the board is still minded to proceed, the ALB accounting officer should then:

- ask the accounting officer of the sponsor department to consider intervening to resolve the difference of view, preferably in writing;
- if the board's decision stands, seek its written direction to carry it out, asking the sponsor department to inform the Treasury;
- proceed to implement without delay; and
- follow the routine in paragraph 3.4.5.

**3.8.7** This process is similar to what happens in departments (see section 3.4), allowing for the special position of the organisation's board, which is often appointed under statute.

## **3.9 In the round**

**3.9.1** It is not realistic to set firm rules for every aspect of the business with which an accounting officer may deal. Sometimes the accounting officer may need to take a principled decision on the facts in circumstances with no precedents. Should that happen, the accounting officer should be guided by the standards in box 3.1 in assessing whether there is a case for seeking a direction for any of the factors in box 3.2. It is essential that accounting officers seek good outcomes for the Exchequer as a whole, respecting the key principles of transparency and parliamentary approval for management of public resources.

**3.9.2** Where time permits, the Treasury stands ready to help accounting officers think such issues through. It is good practice to document decisions where the accounting officer has had to strike difficult judgements, especially where they break new ground.

# 4

## Governance and Management

Public sector organisations should have good quality internal governance and sound financial management. Appropriate delegation of responsibilities and effective mechanisms for internal reporting should ensure that performance can be kept on track. Good practice should be followed in procuring and managing resources and assets; hiring and managing staff; and deterring waste, fraud and other malpractice. Central government departments have some specific responsibilities for reporting, including to parliament.

### 4.1 Governance structure

**4.1.1** Each public sector organisation should establish governance arrangements appropriate to its business, scale and culture. The structure should combine efficient decision making with accountability and transparency.

**4.1.2** In doing so, central government departments should be guided by the *Corporate Governance Code*<sup>1</sup>. Each public sector organisation needs clear leadership, normally provided by a board. Box 4.1 sets out best practice for departmental boards.

#### **Box 4.1: best practice for boards in central government departments**

- chaired by the department's most senior minister, with junior ministers as members
- comparable numbers of official and non-executive members, including a lead non-executive and a professionally qualified finance director (see annex 4.1)
- meeting at least quarterly
- sets the department's strategy to implement ministers' policy decisions
- leads the department's business and determines its culture
- ensures good management of the department's resources – financial, assets, people
- decides risk appetite and monitors emerging threats and opportunities
- steers performance to keep it on track using regularly updated information about progress
- keeps an overview of its ALBs' activities

**4.1.3** It is good practice for ALBs to use similar principles. In many ALBs some structural features, such as board composition, derive from statute but considerable discretion may remain. In some organisations it is usual, or found valuable, for the board to include members with designated responsibility or expertise, eg for regional affairs or for specialist professional skills.

**4.1.4** In order to carry out its responsibilities each board needs to decide, and document, how it will operate. Box 4.2 outlines the key decisions. It is not exhaustive. Once agreed, the working rules should be reviewed from time to time to keep them relevant. Boards should

<sup>1</sup> <https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments> for both the code and the good practice guidance

challenge themselves to improve their working methods, so that their processes can achieve and maintain good modern business practice.

#### **Box 4.2: key decisions for boards**

- mission and objectives
- delegations and arrangements for reporting performance
- procedures and processes for business decision making
- scrutiny, challenge and control of significant policies, initiatives and projects
- risk appetite and risk control procedures, eg maintaining and reviewing a risk register
- control and management of associated ALBs and other partnerships
- arrangements for refreshing the board
- arrangements for reviewing the board's own performance
- accountability – to the general public, to staff and other stakeholders (see section 4.13)
- how the insights of non-executives can be harnessed
- how often the board's working rules will be reviewed

## **4.2 Working methods**

**4.2.1** The accounting officer of each organisation is accountable to parliament for the quality of the administration that he or she leads. The administrative standards expected are set out in the *Civil Service Code*<sup>2</sup> and the Ombudsman's *Principles of Public Administration*<sup>3</sup>. They allow considerable flexibility to fit with each organisation's obligations and culture. It is against these standards that failure to deliver is assessed.

**4.2.2** Another fundamental concept is the Treasury's leadership position in managing public expenditure, and setting the rules under which departments and their ALBs should deploy the assets, people and other resources under their control. In turn each public sector organisation should have robust and effective systems for their internal management. Box 4.3 outlines the key decisions each organisation needs to make.

**4.2.3** To help the Treasury carry out this task properly:

- departments should provide the Treasury with accurate and timely information about in-year developments - their expenditure, performance against objectives and evolution of risk (eg serious unforeseen events or discovery of fraud);
- ALBs should provide their sponsor departments with similar information; and
- the established mechanisms for controlling and reporting public expenditure, including Treasury support or approval where necessary, should be respected.

**4.2.4** In particular, departments should consult the Treasury (and ALBs their sponsor departments) at an early stage about proposals to undertake unusual transactions or financing techniques. This applies especially to any transactions which may have wider implications elsewhere in the public sector (see paragraph 2.3.4 and box 2.3).

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<sup>2</sup> <http://www.civilservice.gov.uk/about/values>

<sup>3</sup> <http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples>

**4.2.5** Working with the accounting officer, the finance director of each public sector organisation has special responsibility for seeing that the standards described in this chapter are respected. Annex 4.1 sets this out in more detail.

### **Box 4.3: essentials of effective internal decision making**

#### **choice**

- active management of the portfolio of risks and opportunities
- appraisal of alternative courses of action using the techniques in the *Green Book*, and including assessment of feasibility to achieve value for money
- where appropriate, use of models (see annex 4.2) or pilot studies to provide evidence on which to make decisions among policy or project choices
- active steering of initiatives, eg reviews to take stock at critical points of projects

#### **operation**

- appropriate internal delegations, with a single senior responsible officer (SRO) for each significant project or initiative, and a single senior person leading each end to end process
- prompt, regular and meaningful management information on costs (including unit costs), efficiency, quality and performance against targets to track progress and value for money
- proportionate administration and enforcement mechanisms, without unnecessary complexity
- use of feedback from internal and external audit and elsewhere to improve performance
- regular risk monitoring, to track performance and experience and make adjustments in response

#### **afterwards**

- mechanisms to evaluate policy, project and programme outputs and outcomes, including whether to continue, adjust or end any continuing activities
- arrangements to draw out and propagate lessons from experience

## **4.3 Opportunity and risk**

**4.3.1** Embedded in each public sector organisation's internal systems there should be arrangements for recognising, tracking and managing its opportunities and risks. Each organisation's governing body should make a considered choice about its desired risk appetite, taking account of its legal obligations, ministers' policy decisions, its business objectives, and public expectations of what it should deliver. This can mean that different organisations take different approaches to the same opportunities or risks.

**4.3.2** There should be a regular discipline of reappraising the opportunities and risks facing the organisation since both alter with time and circumstances, as indeed may the chosen responses. This process should avoid excessive caution, since it can be as damaging as unsuitable risk taking. The assessment should normally include:

- maintaining a risk register, covering identified risks and contingent risks from horizon scanning;
- reputational risks, since poor performance could undermine the credibility, and ultimately the creditworthiness, of the Exchequer as a whole;
- consideration of the dangers of maintaining the status quo;
- plans for disaster recovery;

- appraisal of end to end risks in critical processes and other significant activities.

**4.3.3** In making decisions about how to manage and control opportunity and risk, audit evidence and other assurance processes can usefully inform choice. Audit, including internal audit, can provide specific, objective and well-informed assurance and insight to help an organisation evaluate its effectiveness in achieving its objectives. It is good practice for the audit committee to advise the governing board of a public sector organisation on its key decisions on governance and managing opportunities and risks. It is also a good discipline for this process to include evaluating progress in implementing PAC recommendations, where they have been accepted.

**4.3.4** In turn the board should support the accounting officer in drawing up the governance statement, which forms part of each organisation's annual accounts. See annex 3.1. Further guidance about managing risks is in annex 4.3 and the Orange Book.

## 4.4 Insurance

**4.4.1** In the private sector risk is often managed by taking out insurance. In central government it is generally not good value for money to do so. This is because the public sector has a wide and diverse asset portfolio; a reliable income through its ability to raise revenue through taxation; and access to borrowed funds more cheaply than any in the private sector. In addition commercial providers of insurance also have to meet their own costs and profit margins. Hence the public purse is uniquely able to finance restitution of damaged assets or deal with other risks, even very large ones. If the government insured risk, public services would cost more.

**4.4.2** However, there are some limited circumstances in which it is appropriate for public sector organisations to insure. They include legal obligations<sup>4</sup>, and occasions where commercial insurance would provide value for money<sup>5</sup>. Further information about insurance generally is in annex 4.4.

## 4.5 Control of public expenditure

**4.5.1** The Treasury coordinates a system through which departments are allocated budget control totals for their public expenditure. Each department's allocation covers its own spending and that of its associated ALBs. Within the agreed totals, it has considerable discretion over setting priorities to deliver the public services for which it is responsible.

**4.5.2** Each public sector organisation should run efficient systems for managing payments (see box 4.4). It should also keep its use of public resources within the agreed budgets, take the limits into account when entering into commitments, and generally ensure that its spending profile is sustainable.

**4.5.3** Any major project, programme or initiative should be led by a senior responsible owner (SRO). It is good practice to aim for continuity in such appointments<sup>6</sup>.

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<sup>4</sup> eg ALBs should insure vehicles where the Road Traffic Act requires it

<sup>5</sup> eg where private sector contractors take out single-site insurance policies because they are cheaper than each individual party insuring themselves separately.

<sup>6</sup> See annex 4.5.

#### **Box 4.4: essentials of systems for committing and paying funds**

- Selection of projects after appraisal of the alternatives (see the *Green Book*), including the central clearance processes for larger commitments.
- Open competition to select suppliers from a diverse range, preferably specifying outcomes rather than specific products, to achieve value for money (see annexes 4.6 and 4.7).
- Where feasible, procurement through multi-purchaser arrangements, shared services and/or standard contracts to drive down prices.
- Effective internal controls to authorise acquisition of goods or services (including vetting new suppliers), within any legal constraints.
- Separation of authorisation and payment, with appropriate controls, including validation and recording, at each step to provide a clear audit trail.
- Checks that the goods or services acquired have been supplied in accordance with the relevant contract(s) or agreement(s) before paying for them.
- Payment terms chosen or negotiated to provide good value.
- Accurate payment of invoices: once and on time, avoiding lateness penalties (see annex 4.8).
- A balance of preventive and detective controls to tackle and deter fraud, corruption and other malpractice (see annex 4.9).
- Integrated systems to generate automatic audit trails which can be used to generate accounts and which both internal and external auditors can readily check.
- Periodic reviews to benefit from experience, improve value for money or to implement developments in good practice.

## **4.6 Receipts**

**4.6.1** Public sector organisations should have arrangements for identifying, collecting and recording all amounts due to them promptly and in full. Outstanding amounts should be followed up diligently. Key features of internal systems of control are suggested in box 4.5.

**4.6.2** Public sector organisations should take care to track and enforce debts promptly. The presumption should be in favour of recovery unless it is uneconomic to do so.

#### **Box 4.5: essential features of systems for collecting sums due**

- Adequate records to enable claims to be made and pursued in full.
- Routines to prevent unauthorised deletions and amendments to claims.
- Credit management systems to manage and pursue amounts outstanding.
- Controls to prevent diversion of funds and other frauds.
- Clear lines of responsibility for making decisions about pressing claims increasingly more firmly, and for deciding on any abatement or abandonment of claims which may be merited.
- Arrangements for deciding upon and reporting any write-offs (see annex 4.10). Audit trails which can readily be checked and reported upon both internally and externally.

## **4.7 Non-standard financial transactions**

**4.7.1** From time to time public sector organisations may find it makes sense to carry out transactions outside the usual planned range, eg:

- **write-offs** of unrecoverable debts or overpayments;

- recognising **losses** of stocks or other assets;
- **long term loans** or **gifts** of assets.

**4.7.2** In each case it is important to deal with the issue in the public interest, with due regard for probity and value for money. Annexes 4.10 to 4.12 set out what is expected when such transactions take place in central government, including notifying parliament.

**4.7.3** Where an organisation discovers an underpayment, the deficit should be made good as soon as is practicable and in full. If there has been a lapse of time, for example caused by legal action to establish the correct position, it may be appropriate to consider paying interest, depending on the nature of the commitment to the payee and taking into account the reputation of the organisation and value for money for the Exchequer as a whole (see also section 4.11).

**4.7.4** Similarly, public sector organisations may have reason to carry out current transactions which would not normally be planned for. These might be:

- extra contractual payments to service providers;
- extra-statutory payments to claimants (where a similar statutory scheme exists);
- ex gratia payments to customers (where no established scheme exists); or
- severance payments to employees leaving before retirement or before the end of their contract and involving payments above what the relevant pension scheme allows.

**4.7.5** Again it is important that these payments are made in the public interest, objectively and without favouritism. The disciplines parliament expects of central government entities are set out in annex 4.13, which explains the notification procedure to be followed for larger one-off transactions of this kind. The steps to be considered when setting up statutory or extra-statutory compensation schemes are discussed in annex 4.14.

## **4.8 Unusual circumstances**

**4.8.1** Sometimes public sector organisations face dilemmas in meeting their commitments. They may have a legal or business obligation which would be uneconomic or inappropriate to carry out assiduously to the letter. In such cases it can be justifiable to seek a pragmatic, just and transparent alternative approach, appropriately reported to parliament in the organisation's annual accounts. One-off schemes of this kind are always novel and so require Treasury approval, not least because they may also require legislation or have to rest on the authority of a Supply and Appropriation Act (see section 2.5). Box 4.6 suggests precedented examples.

**Box 4.6: examples of one-off pragmatic schemes**

- A court ruling could mean that a public sector organisation owed each of a large number of people a very small sum of money. The cost of setting up and operating an accurate payment scheme might exceed the total amount due. The organisation could instead make a one-off payment of equivalent value to a charity representing the recipient group.
- A dispute with a contractor might conclude that the contractor owed a public sector organisation an amount too big for it to meet in a single year while staying solvent. The customer might instead agree more favourable payment terms, with appropriate safeguards, if this arrangement provides better value for money.

## 4.9 Staff

**4.9.1** Each public sector organisation should have sufficient staff with the skills and expertise to manage its business efficiently and effectively. The span of skills required should match the organisation's objectives, responsibilities and resources, balancing professional, practical or operational skills and policy makers, and recognising the value of each discipline. Succession and disaster planning should ensure that the organisation can cope robustly with changes in the resources available, including unforeseen disruption.

**4.9.2** Public sector organisations should seek to be fair, honest and considerate employers. Some desirable characteristics are suggested in box 4.7.

**Box 4.7: public sector organisations as good employers**

- selection designed to value and make good use of talent and potential of all kinds
- fairness, integrity, honesty, impartiality and objectivity
- professionalism in the relevant disciplines, always including finance
- arrangements to make sure that staff are loaded cost effectively
- management techniques balancing incentives to improve and disciplines for poor performance
- diversity valued and personal privacy respected
- mechanisms to support efficient working practices, both normally and under pressure
- arrangements for whistleblowers to identify problems privately without repercussions.

**4.9.3** Similarly public sector employers have a right to expect good standards of conduct from their employees. The qualities and standards expected of civil servants are set out in the *Civil Service Code*. Other public sector employees should strive for similar standards, appropriate to their context.

## 4.10 Assets

**4.10.1** All public sector organisations own or use a range of assets. Each organisation needs to devise an appropriate asset management strategy to define how it acquires, maintains, tracks, deploys and disposes of the various kinds of assets it uses. Annex 4.15 discusses how to set up and use such a strategy.

**4.10.2** It is good practice for public sector organisations to take stock of their assets from time to time and consider afresh whether they are being used efficiently and deliver value for public funds. If there is irreducible spare capacity there may be scope to use part of it for other government activities, or to exploit it commercially for non-statutory business.

## 4.11 Standards of service

**4.11.1** Poor quality public services are not acceptable. Public sector organisations should define what their customers, business counterparties and other stakeholders can expect of them.

**4.11.2** Standards can be expressed in a number of ways. Examples include guidelines (eg response times), targets (eg take-up rates) or a collection of customer rights in a charter. Even where standards are not set explicitly, they may sometimes be inferred from the way the provider organisation carries out its responsibilities; so it is normally better to express them directly.

**4.11.3** Whatever standards are set, they should be defined in a measurable way, with plans for recording performance, so that delivery can be readily gauged. It is good practice to use customer feedback, including from complaints, to reassess from time to time whether standards or their proxies (milestones, targets, outcomes) remain appropriate and meaningful.

**4.11.4** Where public sector organisations fail to meet their standards, or where they fall short of reasonable behaviour, it may be appropriate to consider offering remedies. These can take a variety of forms, including apologies, restitution (eg supplying a missing licence) or, in more serious cases, financial payments. Decisions about financial remedies – which should not be offered routinely - should include taking account of the legal rights of the other party or parties and the impact on the organisation's future business.

**4.11.5** Any such payments, whether statutory or ex gratia, should follow good practice (see section 4.13). Since schemes of financial redress often set precedents or have implications elsewhere, they should be cleared with the Treasury before commitments are made, just as with any other public expenditure out of the normal pattern (see sections 2.1 to 2.4).

## 4.12 Complaints

**4.12.1** Those public sector organisations which deal with customers directly should strive to achieve clear, accurate and reliable standards for the products and services they provide. It is good practice to arrange for complaints about performance to be reviewed by an independent organisation such as an ombudsman.

**4.12.2** Often such review processes are statutory. The activities of central government departments and the NHS are open to review by the PHSO<sup>7</sup>, whose *Principles of Good Complaints Handling*<sup>8</sup> sets out generic advice on complaints handling and administration of redress (see also annex 4.14). After investigation of cases of specific complaint, the PHSO can rule on whether injustice or hardship can be attributed to maladministration or service failure, and may recommend remedies, either for individual cases or for groups of similar cases. If departments decline to follow the PHSO's advice, they should lay a memorandum in parliament explaining why.

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<sup>7</sup> <http://www.ombudsman.org.uk/>

<sup>8</sup> <http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples>

## 4.13 Transparency

**4.13.1** All public sector organisations should operate as openly as is compatible with the requirements of their business. In line with the statutory public rights<sup>9</sup>, they should make available timely information about their services, standards and performance. This material should strike a careful balance between protecting confidentiality and open disclosure in the public interest.

**4.13.2** All public sector organisations should adopt a publication scheme routinely offering information about the organisation's activities. They should also publish regular information about their plans, performance and use of public resources.

**4.13.3** The published information should be in sufficient detail, and be sufficiently regular, to enable users and other stakeholders to hold the organisation and its ministers to account. Benchmarks can help local users to evaluate local performance more easily.

**4.13.4** The primary document of record for central government departments is the report and accounts, which should consolidate information about the relevant ALBs. It should include a governance statement (see annex 3.1).

**4.13.5** In addition, the Treasury is responsible for publishing certain aggregate information about use of public resources, for example Whole of Government Accounts (WGA) consolidating all central and local government organisations' accounts and comparisons of outturn with budgets. The Office for National Statistics (ONS) also uses input from data gathered by the Treasury to publish the national accounts.

**4.13.6** In certain areas of public business it is also important or desirable to provide adequate public access to physical assets. Unnecessary or disproportionate restrictions should be avoided. Managed properly, this can be a valuable mechanism to promote inclusion and enhance public accountability.

## 4.14 Dealing with initiatives

**4.14.1** Public sector organisations need to integrate all the advice in this handbook when introducing new policies or planning projects. Each is unique and will need bespoke treatment. The checklist in box 4.8 brings the different factors together. It applies directly to central government organisations but the principles will be of value elsewhere.

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<sup>9</sup> Eg Freedom of information act 2000, Data protection act 1998, Environment information regulations 2004 and the Re-use of public sector information regulations 2005.

#### **Box 4.8: factors to consider when planning policies or projects**

##### **design**

- Has the proposal been evaluated against alternative options, including doing nothing?
- Should there be pilot testing before full roll out?
- Are the controls agreed and documented clearly? Have the risks and opportunities been considered systematically? Is the change process resilient to shocks? What contingencies might arise?
- Is the intended intervention proportionate to the identified need?
- What standards should be achieved? How will performance be tracked and assessed? Could the proposal be simplified without loss of function?
- If partner(s) are involved, is the allocation of responsibilities appropriate?
- Will the proposal be efficient, effective and offer good value for money?
- Is the policy sustainable in the broadest sense? Should it have a sunset clause?
- Does the planned activity meet high standards of probity, integrity and honesty?
- Will the proposal deliver the desired outcome to time and cost?
- Does the accounting officer assess the initiative as compatible with the public sector standards?

##### **control**

- What prior agreement is required, if any?
- How will internal governance and delegation work? Will it be effective? Is it transparent? Should there be an SRO?
- Is there adequate legislation? If not, what is needed to make the action lawful?
- Is there any conflict with European law, including limits on state aids?
- How will the proposal be financed? Is there budget and Estimate cover? Is it appropriate to charge to help finance the service? Are charges set within the law?
- Is the proposed action within the department's delegated authorities?
- What financial techniques will be used to manage rollout, implementation and operation?
- Are project and programme management techniques likely to be useful?
- How will the intended new arrangements be monitored and efficiency measured?
- How will feedback be used to improve outcomes?
- Does the design inhibit misuse and counter fraud? What safeguards are needed?
- How will the associated risks be tracked and the responses adjusted?
- What intervention will be possible if things go off track?
- Would it be possible to recover from a disaster promptly?

##### **accountability**

- How should parliament be told of the proposal and kept informed of progress?
- What targets will be used? Are they sufficiently stretching?
- Is public access called for? How?
- Is the policy or service fair and impartial?
- Will its administration be open, transparent and accessible?
- Should there be customer standards? How are complaints used to improve performance?
- Should there be arrangements for redress after poor delivery?
- Is enforcement required? If so, is it proportionate?
- Is an appeal mechanism needed?
- Is regulation called for?

##### **learning lessons**

- What audit arrangements (internal and external) are intended?
- What information about the activity will be published? How and how often?
- When and how will the policy or project be evaluated to assess its cost and benefits and to determine whether it should continue, be adjusted, replaced or ceased?

|            |   |
|------------|---|
| Annex 4.1  | Finance Directors                       |
| Annex 4.2  | Use of models                           |
| Annex 4.3  | Risk                                    |
| Annex 4.4  | Insurance                               |
| Annex 4.5  | Senior Responsible Owner Accountability |
| Annex 4.6  | Procurement                             |
| Annex 4.7  | State aids                              |
| Annex 4.8  | Expenditure and payments                |
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| Annex 4.10 | Losses and write-offs                   |
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| Annex 4.12 | Gifts                                   |
| Annex 4.13 | Special payments                        |
| Annex 4.14 | Remedy                                  |
| Annex 4.15 | Asset management                        |



# 5

## Funding

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This chapter explores the means by which central government organisations may obtain funds in order to finance public expenditure. The Treasury operates disciplines to respect parliament's concern to prevent unauthorised expenditure.

### 5.1 The framework for public expenditure control

**5.1.1** Most public expenditure is financed from centrally agreed multi-year budgets administered by the Treasury, which oversees departments' use of their budget allocations. In the main, departments have considerable discretion about how they distribute these budget allocations, which are expressed net of relevant income. The main source of receipts to be netted off is fees and charges (see chapter 6).

**5.1.2** The Treasury oversees and directs the rules that departments should respect in managing their budgets. Departments are expected to live within their allocations for each financial year, with some limited exceptions, eg for certain demand led services. The budgeting framework is explained in the *Consolidated Budgeting Guidance*, which is refreshed each year.

### 5.2 Grants

**5.2.1** Each central government department decides how much of its budget provision it should cascade to its ALBs in each year of the multi-year agreement. Departments may pay them grants (for specific purposes) and grants-in-aid (unspecific support) to finance their spending; though it is the net spending of the ALB that scores in the departmental budget. Annex 5.1 explains more about grants.

**5.2.2** Budgets and Estimates plan net spending and include all spending of ALBs however it is financed. In general it is sensible to consider arrangements for protecting the Exchequer interest through clawback of specific grants should the purposes for which they are agreed not materialise (annex 5.2).

### 5.3 Estimates

**5.3.1** The multiyear departmental budgets agreed collectively among ministers do not of themselves confer authority to spend or commit resources. Parliamentary agreement, usually through the Supply Estimate process, is also essential (see box 2.1).

**5.3.2** Departmental Estimates are put to parliament covering one financial year at a time, in the spring. Each covers the net expenditure of a department and its ALBs (ie all spending in budgets and any voted spend outside of budgets). For the year ahead, the provision sought should be taut and realistic, without padding. The *Supply and Estimates Guidance Manual* has more detail.

**5.3.3** Before the summer recess, the provision sought in the Estimate is formally authorised in a Supply and Appropriation Act, which sets net expenditure limits for the year. The Act is then the legal authority for public expenditure within the ambit of the Estimate. The ambit itemises a specific range of permitted activities and income streams for the year.

**5.3.4** Within a financial year, there is some scope for transferring (through virement) provision from one section or subhead to another within any of the control limits in the same Estimate. There is scope for adjusting Estimate provision through a Supplementary Estimate late in the year if circumstances change. A Supplementary Estimate should show all movements between sections, even if they would otherwise have been dealt with through virement.

**5.3.5** Departmental Select Committees may examine departmental witnesses on the plans contained in Estimates. Usually such hearings take place after Estimates are laid in parliament but before they are voted into law.

**5.3.6** If there is underspending against Estimate provision in one year, it cannot automatically be carried forward to a later year. If a department wants to spend resources it did not consume in a previous year, it needs Treasury approval and must also obtain fresh parliamentary authority to spend in the year(s) concerned.

**5.3.7** Like budgets, Estimates are set net of income. But parliament needs to be made aware of receipts since Estimates authorise gross expenditure, normally using statutory powers. Annex 5.3 explains more about types of receipt. Chapter 6 contains guidance about setting and adjusting fees and charges.

**5.3.8** Occasionally an Estimate sets a negative limit for permitted resources. This happens if income is expected to exceed the relevant gross expenditure. Similarly a Supplementary Estimate can be negative if provision for spending is to fall within a given year.

**5.3.9** A department's Estimate for a year includes all spending within its agreed budget for that year, as well as any voted non-budget spending. Not all of this amount requires voted parliamentary approval since some items, such as Consolidated Fund Standing Services, are paid direct from the Consolidated Fund. Hence only the voted parts of the Estimate requiring parliamentary approval appear in the Supply and Appropriation Act. Of course the disciplines on public funds (box 3.1) apply to all the activities described in the Estimate and accounts whether within the Act or not.

## 5.4 Excess Votes

**5.4.1** Accounting officers have an important role in overseeing the integrity of the Estimates for which they are responsible. In particular, accounting officers are responsible for ensuring that Estimates are in good order (see section 2.2).

**5.4.2** The Treasury presents parliament each year with a Statement of Excesses to request retrospective authority for any unauthorised resources consumed above the relevant limits or outside the ambit of the Estimate. Parliament takes these excesses seriously. The PAC or departmental select committee may call witnesses to account in person or ask for a written explanation.

**5.4.3** The Statement of Excesses includes two kinds of excess:

- spending above the amount provided in an Estimate; and
- irregular expenditure outside the ambit, eg on an unauthorised service.

**5.4.4** Parliament usually regards the latter as particularly unsatisfactory because it means that the department concerned has flouted parliament's intentions<sup>1</sup> and may have defective systems of control. The auditor may identify such excesses as spending not covered by statutory powers, even if the total amount spent does not exceed the voted limit.

**5.4.5** Expenditure in excess of provision on an activity agreed by parliament is also to be avoided since the authority of a Supply and Appropriation Act is just as essential as specific statutory authority (box 2.1). It is possible, with Treasury agreement, to raise the amount in an Estimate during the course of the year in a Supplementary. But otherwise accounting officers should reduce, reprioritise or postpone use of resources to keep within the provision parliament has agreed for the year.

## 5.5 Commitments

**5.5.1** Parliament is not bound<sup>2</sup> to honour ministers' commitments unless and until there are statutory powers to meet them and it authorises public funds to finance them (through an Estimate) in a given year. This discipline is especially important when ministers plan a new service.

**5.5.2** Because commitments can evolve into spending, they should always be scrutinised and appraised as stringently as proposals for consumption (box 4.8 may help). Some departments may agree with the Treasury blanket authority for defined and limited ranges of non-statutory commitments, eg indemnities for board members and commitments taken on the normal course of business. All other non statutory commitments are novel, contentious or repercussive, so Treasury approval is always essential before they are undertaken.

**5.5.3** Public sector organisations should give parliament prompt and timely notice of any significant new commitments, whether using existing statutory powers or to be honoured through future legislation. Non statutory contingent liabilities (above a specified threshold) should always be notified in this way. The process is set out in annex 5.4.

### Box 5.1: contingent liabilities: notifying parliament

- Parliament should be notified of uncertain liabilities in a meaningful way without spurious accuracy. It is good practice to notify parliament if a previously notified liability changes significantly, or can be clarified, eg if the timing can be firmed up.
- If a contingent liability affects several departments but cannot confidently be allocated among them, the relevant ministers should inform parliament in a pragmatic way. A single statement may well suffice.
- If, exceptionally, a new liability needs to remain confidential, the minister should inform the chairs of the relevant select committee and the PAC; then inform parliament openly when the need for confidentiality lifts.
- Ministers should inform parliament if an ALB assumes a contingent liability which it could not absorb within its own resources, since the risk ultimately lies with the sponsor department's budget.

<sup>1</sup> He has breached the Concordat – see annex 2.3

<sup>2</sup> Under the Concordat

**5.5.4** The general rule is to err on the side of caution in keeping parliament informed of emerging contingent liabilities. It is impossible to generalise about every possible set of circumstances but some guidance is in box 5.1.

## 5.6 Tax

**5.6.1** Public sector organisations should not engage in, or connive at, tax evasion, tax avoidance or tax planning. If a public sector organisation were to obtain financial advantage by moderating the tax paid by a contractor, supplier or other counterparty, it would usually mean that the Exchequer as a whole would be worse off – thus conflicting with the accounting officer’s duties (section 3.3). Thus artificial tax avoidance schemes should normally be rejected. It should be standard practice to consult HMRC<sup>3</sup> about transactions involving non-standard approaches to tax before going ahead.

**5.6.2** There is of course no problem with using tax advisers to help meet normal legitimate requirements of carrying on public business. These include administration of VAT, PAYE and NICs, where expert help can be useful and efficient.

**5.6.3** Proposals to create new taxes in order to assign their proceeds to new spending proposals are rarely acceptable. Decisions on tax are for Treasury ministers, who are reluctant to compromise their future fiscal freedom to make decision.

## 5.7 Public dividend capital

**5.7.1** Certain public sector businesses, notably trading funds and certain Health Trusts, are set up with public dividend capital (PDC) in lieu of equity. Like equity, PDC should be serviced, though not necessarily at a constant rate.

**5.7.2** PDC is not a soft option. In view of the risk it carries, it should deliver a rate of return comparable to commercial equity investments carrying a similar level of risk. There is scope for the return to vary to reflect market conditions and investment patterns; but persistent underperformance against the agreed rate of return should not be tolerated.

**5.7.3** A department needs specific statutory power to issue PDC, together with supply cover to pay it out of the Consolidated Fund. Sometimes instead of a specific issue of PDC, the legislation establishing (or financially reconstructing) a public sector business deems an issue of PDC to the new business. Dividends on PDC, and any repayments of PDC, are paid to the sponsor department of the business.

**5.7.4** Further information about the use of PDC is in section 7.8 (trading funds).

## 5.8 Borrowing by public sector organisations

**5.8.1** Some public sector organisations, eg certain trading funds, are partly financed through loans provided through the sponsor department’s Estimate; or from the National Loans Fund (NLF). In these cases Treasury consent and specific legal powers are always required. Limits and other conditions are common. See annex 5.5 for more.

**5.8.2** NLF and Voted loans can only be made if there is reasonable expectation that the loan will be serviced and repaid promptly. Similarly, when ALBs borrow, their sponsor departments

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<sup>3</sup> HMRC customer relationship manager or customer co-ordinator

explicitly stand behind them and so should scrutinise borrowers' creditworthiness, not just relying on their track records, in order to satisfy themselves that such loans are sound. For NLF loans, if timely repayment could not realistically be expected, the loan would be unlawful.

**5.8.3** Should a department become aware of concerns about the security of outstanding loans (either its own or an ALB's), it should warn the Treasury promptly and consider what action it can take to reduce or otherwise mitigate any potential loss. If a loan becomes irrecoverable, remedial treatment should be agreed with the Treasury and then notified to parliament.

**5.8.4** The NLF cannot make a loss. So the interest rates charged on NLF loans, whether fixed or variable, must be higher than the rates at which the NLF could raise funds for a similar period. Early repayment is sometimes possible, eg if the borrower has windfall receipts, but never simply to refinance on terms more favourable to the borrower because a fee is charged to match the Exchequer costs when a loan ends early. This is because the NLF finances the amount outstanding using money market instruments sold at the time the loan was made, and must continue to service those instruments. So the Exchequer as a whole would make a loss if the NLF offered cheaper replacement loans.

**5.8.5** While NLF loans are repaid to the NLF, voted loans are repaid to the Consolidated Fund. The treatment of repayments and interest payments in Estimates and accounts is discussed in the *Consolidated Budgeting Guidance*, the *Estimate Manual* and the FReM. The Treasury accounts for NLF transactions in the NLF's accounts. Any proposed write-offs must be notified to parliament after obtaining Treasury agreement: see annex 5.5

## 5.9 External borrowing

**5.9.1** Public sector organisations may borrow from private sector sources only if the transaction delivers better value for money for the Exchequer as a whole. Because non-government lenders face higher costs, in practice it is usually difficult to satisfy this condition unless efficiency gains arise in the delivery of a project (eg PFI). Treasury agreement to any such borrowing, including by ALBs, is also essential. Nevertheless it can sometimes be expedient for public sector bodies to borrow short term, for example by overdraft.

**5.9.2** When a sponsor department's ALB borrows, the department should normally arrange to guarantee the loan to secure a fine rate. This is not always possible, eg when a guarantee would rank as a state aid (see annex 4.7). A department which guarantees a loan normally<sup>4</sup> needs a specific statutory power as well as Estimate provision. On exceptional occasions temporary non-statutory loans may be possible.

**5.9.3** The case for a guarantee should be scrutinised as thoroughly as if indeed a loan were made. Since guarantees always entail entering into contingent liabilities, parliament must be notified when a loan guarantee is given, using the reporting procedures in annex 5.4.

**5.9.4** Occasionally there is a case for an ALB to borrow in foreign currency in its own name rather than the government's. Because this can affect the credit standing of the government as a sovereign borrower, and may well cost more, it is essential to consult the Treasury beforehand. The same principles apply to the borrowing of any bodies, such as subsidiaries, for which a department's ALBs are responsible.

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<sup>4</sup> The Concordat applies here in just the same way as to spending – see annex 2.3

## 5.10 Multiple sources of funding

**5.10.1** Sometimes public sector organisations derive funding from more than one source. Examples of funding other than voted funds include national insurance contributions (which are dedicated to the National Insurance Fund), lottery funding and charitable funding. All of these alternatives usually come with specific conditions attached.

**5.10.2** Organisations in this position should segregate and account separately for the different streams of funding so that they can apply the relevant terms and conditions to each. In particular, where a source of funding is designated to a particular purpose, it is rarely appropriate to use another instead. In those circumstances switching is novel and contentious and thus requires Treasury approval.

**5.10.3** When there is doubt about how to handle multiple streams of funding, it is good practice to consult the Treasury.

## 5.11 Cash management

**5.11.1** The various organisations in central government together handle very large flows of public funds. At the end of each working day, the Exchequer must either borrow from the money market or place funds on deposit with the money market, depending on the net position reached after balancing outflows to finance expenditure against inflows from taxes and other sources.

**5.11.2** So there is considerable advantage to be gained for the Exchequer as a whole by minimising this net position. In practice this means gathering balances together at the end of each working day. In aggregate all these accounts make up the Exchequer Pyramid, managed by the Treasury. Most funds are held with the Government Banking Service.

**5.11.3** It is essential for central government organisations to minimise the balances in their own accounts with commercial banks. Were each to retain a significant sum in its own account with such banks, the amount of net government borrowing outstanding on any given day would be appreciably higher, adding to interest costs and hence worsening the fiscal balance.

**5.11.4** Each central government organisation should establish a policy for its use of banking services. See annex 5.6 for guidance. Sponsor departments should also make sure that their ALBs are aware of the importance of managing this aspect of their business efficiently and effectively (see box 7.2).

## 5.12 Other financing techniques

**5.12.1** Depending on its circumstances, purposes and risk profile, a public sector organisation may consider using financial instruments provided by the commercial markets. Among these techniques are foreign currency transactions and various hedging instruments designed to control or limit business risks, for example those arising out of known requirements for specific future purchases of market priced commodities. Mundane possibilities are use of credit or debit cards, in order to secure faster settlements.

**5.12.2** As with making decisions about other policies and projects, an organisation considering using unfamiliar financing techniques should evaluate them carefully, especially to assess value for money. The checklists in boxes 4.5 and 4.6 have reminders of factors that may need to be considered. As such transaction(s) are almost always novel, contentious or repercussive, it is essential to consult the Treasury.

**5.12.3** Any organisation using a new or non-standard technique should ensure that it has the competence to manage, control and track its use and any resulting financial exposures, which may vary with time. In particular, departments should consult the Treasury before using derivatives for the first time (and ALBs their sponsoring departments).

**5.12.4** When assessing an unfamiliar financing technique, it is important to remember that providers of finance and complex financial instruments intend to profit from their business. And providers' costs of finance are always inferior to the UK government's cost of borrowing. So it is usually right to be cautious about any novel techniques. The Treasury will always refuse proposals to speculate. Offers which appear too good to be true usually are.

**5.12.5** As with managing other business, parliament may ask accounting officers to justify any decisions about use of financial transactions, especially if with hindsight they have not achieved good value for money.

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| Annex 5.1 | Grants                                       |
| Annex 5.2 | Protecting the Exchequer interest (clawback) |
| Annex 5.3 | Treatment of income and receipts             |
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# 6

## Fees, charges and levies

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Charges for services provided by public sector organisations normally pass on the full cost of providing them. There is scope for charging more or less than this provided that ministers choose to do so, parliament consents and there is full disclosure. Public sector organisations may also supply commercial services on commercial terms designed to work in fair competition with private sector providers. Parliament expects proper controls over how, when and at what level charges may be levied.

### 6.1 Why charges matter

**6.1.1** Certain public goods and services are financed by charges rather than from general taxation. This can be a rational way to allocate resources because it signals to consumers that public services have real economic costs. Charging can thus help prevent waste through badly targeted consumption. It can also make comparisons with private sector services easier, promote competition, develop markets and generally promote financially sound behaviour in the public sector.

**6.1.2** There are unavoidable reasons why policy on charging is important:

- charges substitute for taxation (or, in the short term, borrowing) as a means of government finance. Decisions on charging policy should therefore be made with the same care, and to similar standards, as those on taxation;
- for this reason, parliament expects to consider legislation on whether charges should be levied; how they should be structured; and on charge levels;
- international standards<sup>1</sup> determine how income from charges is classified in the national accounts. Certain charges are treated as taxes.

**6.1.3** As in other areas of managing public funds, parliament expects the Treasury to make sure that its interests are respected, including pursuit of efficiency and avoidance of waste or extravagance. Because Estimates and budgets are shown net of income, special effort is required to give parliament information about both gross and net costs, and about the sources and amounts of income.

### 6.2 Basic principle

**6.2.1** The standard approach is to set charges to recover full costs. Cost should be calculated on an accruals basis, including overheads, depreciation (eg for start up or improvement costs) and the cost of capital. Annex 6.1 sets out how to do this.

**6.2.2** This approach is simply intended to make sure that the government neither profits at the expense of consumers nor makes a loss for taxpayers to subsidise. It requires honesty about the policy objectives and rigorous transparency in the public interest.

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<sup>1</sup> The Treasury and public accounts follow classification decisions taken by the Office for National Statistics, an independent organisation which is guided by the international standards set out in the European System of Accounts

**6.2.3** As elsewhere, organisations supplying public services should always seek to control their costs so that public money is used efficiently and effectively. The impact of lower costs should normally be passed on to consumers in lower charges. Success in reducing costs is no excuse for avoiding the principles in this guidance.

**6.2.4** This chapter applies to all fees and charges set by ministers and by an extensive range of public bodies: departments, trading funds, NDPBs, the NHS, non-devolved services in Scotland, Wales and Northern Ireland, and most public corporations. Departments should be able to satisfy themselves that their ALBs can deliver the financial objectives for the services they charge for. This chapter also applies when one public organisation supplies another with goods or services; and to certain statutory local authority charges set by ministers.

## 6.3 Setting a charge: standard practice

**6.3.1** When a charge for a public service is to be made, it is normally necessary to rely on powers in primary legislation. The legislation should be designed so that ministers decide, or have significant influence over, both the structure of the charge and its level. It is common to frame primary legislation in general terms, using secondary legislation to settle detail.

**6.3.2** Treasury consent is required for all proposals to extend or vary charging schemes. This holds even if the primary legislation does not call for it, or the delegated authorities within which the organisation operates would otherwise allow it.

**6.3.3** It is sometimes possible to rely on secondary legislation rather than primary to determine charges:

- an order under s2(2) of the European Communities Act 1972 can introduce the substantive policy for certain implementing EU legislation. Or if it is possible, an order under s56 of the Finance Act 1973 can be used;
- restructuring of charges can sometimes be achieved by an order under s102 of the Finance (no 2) Act 1987 (see box 6.1).

### Box 6.1: restructuring charges using S.102

- A s102 order can extend or vary powers in existing primary legislation.
- It can permit restructuring by specifying factors to be taken into account when setting fees.
- Explicit prior Treasury consent is always essential.

#### But

- A s102 order cannot create a power for new charges where no primary legislation exists.
- Nor can it lift restrictions in (or in any other way undermine) primary legislation.
- Parliament is usually sceptical because s102 substitutes secondary for primary legislation.

**6.3.4** When deciding the level of a charge, it is important to define:

- the range(s) of services for which a charge is to be made;
- how any categories of service are to be differentiated, if at all, in setting charges.

**6.3.5** The standard approach is that the same charge should apply to all users of a defined category of service, so recovering full costs for that category of service. Different charges may

be set for objectively different categories of service costing different amounts to provide. Box 6.2 shows how this can work.

### **Box 6.2: how different charges can apply to different categories of service**

Different categories could be recognised by:

- distinguishing supply differences, eg in person, by post or online
- priorities, eg where a quicker service costs more
- quality, eg charging more for a premium service with more features
- recognising structural differences, where it costs more to supply some consumers.

**6.3.6** However, different groups of customers should not be charged different amounts for a service costing the same, eg charging firms more than individuals. Similarly, cross subsidies are not standard practice, eg charging large businesses more than small ones where the cost of supply is the same.

**6.3.7** Charges within and among central government organisations should normally also be at full cost, including the standard cost of capital. Any different approach would cause one party to make a profit or loss not planned in budgets agreed by ministers collectively; while the customer organisation(s) would conversely face charges higher or lower than full costs. A number of objectionable consequences might flow from this. For instance, a question of state aid could arise; or private sector consumers of the customer organisation might be charged distorted fees.

**6.3.8** Shared services (box 6.3) are a special case of charging within the public sector.

### **Box 6.3: shared services**

It is often possible to make economies of scale by arranging for several public service organisations to join together to deliver services cheaper, eg by using their joint purchasing power. One organisation supplies the other(s). Since all the parties should lower their costs, the accounting officer of each organisation should have no difficulty in recognising improved value for money for the Exchequer as a whole and so justify going ahead.

Public sector organisations supplying (or improving) shared services should consult the Treasury at an early stage of planning. Typically supplier organisations face the cost of setting up provision on a larger scale than they need for their own use. As with setting up any new service, plans in budgets should amortise initial costs so that they can be recovered over an appropriate period from the start of the service. More detail on shared services is in section 7.5.

It is not acceptable for supplier organisations to plan to profit from, or subsidise, supply to customer organisations in the public sector. Nor is it acceptable for accounting officers to resist shared services just because the impact on their own organisation is not perceived to be favourable.

## **6.4 Setting a charge: non-standard approaches**

**6.4.1** Ministers' policy objectives for a service where a charge is levied may not fit the standard model in section 6.3. In such cases it may be possible to deliver the policy objective in another way. Some ways of doing this are described below. Explicit Treasury consent, and often formal legal authority, is always required for such variations. It is desirable to consult the Treasury at an early stage to make sure that the intended strategy can be delivered.

## Charging below cost

**6.4.2** Where ministers decide to charge less than full cost, there should be an agreed plan to achieve full cost recovery within a reasonable period. Each case needs to be evaluated on its merits and obtain Treasury clearance. If the subsidy is intended to last, this decision should be documented and periodically reconsidered.

## Charging above cost

**6.4.3** ONS normally classifies charges higher than the cost of provision, or not clearly related to a service to the charge payer, as taxes. Such charges always call for explicit ministerial decision as well as specific statutory authority. The Treasury does not automatically allow departments to budget for net expenditure associated with above cost charges. Netting off, or netting off up to full costs, may be agreed in certain instances, considering each case on its merits.

**6.4.4** Sometimes when a change of this kind is classified as a tax, departments also propose to assign its revenue. The Treasury always treat such proposals with caution (see 5.6.3).

## Cross subsidies

**6.4.5** Cross subsidies always involve a mixture of overcharging and undercharging, even if the net effect is to recover full costs for the service as a whole. So cross subsidised charges are normally classified as taxes. They always call for explicit ministerial decision and parliamentary approval through either primary legislation or a s102 order.

## Information services

**6.4.6** In the public interest, information may be provided free or at low charge. This approach recognises the value of helping the general public obtain the data they require to function in the modern world. There are some exceptions - see annex 6.2.

## 6.5 Levies

**6.5.1** Compulsory levies, eg payments for licences awarded by statutory regulators, or duties to finance industry specific research foundations, are normally classified as taxation. Such levies may be justified in the wider public interest, not because they provide a direct beneficial service to those who pay them. Depending on the circumstances, the Treasury may allow regulators to retain the fees charged if this approach is efficient and in the public interest.

**6.5.2** As with other fees and charges, levies should be designed to recover full costs. If the legislation permits, the charge can cover the costs of the statutory body, eg a regulator could recover the cost of registration to provide a licence and of associated supervision. It may be appropriate to charge different levies to different kinds of licensees, depending on the cost of providing different kinds of licences (see box 6.2).

## 6.6 Commercial services

**6.6.1** Some public sector services are discretionary, ie no statute underpins them. Services of this kind are often supplied into competitive markets, though sometimes the public sector supplier has a monopoly or other natural advantage.

**6.6.2** Charges for these services should be set at a commercial rate. The rate should deliver a commercial return on the use of the public resources deployed in supplying the service. So the financial target should be in line with market practice, using a risk weighted rate of return on

capital relevant to the sector concerned. The rate of return used in pricing calculations for sales into commercial markets should be:

- for sales into commercial markets, in line with competitors' assessment of their business risk, rising to higher rates for more risky activities; or
- where a public sector body supplies another, or operates in a market without competitors, the standard rate for the cost of capital (see annex 6.1).

**6.6.3** If a publicly provided commercial service does not deliver its target rate of return, outstanding deficits should be recovered, eg by adjusting charges. Any objective short of achieving the target rate of return calls for ministerial agreement, and should be cleared with the Treasury. But discretionary services should never undermine the supplier organisation's public duties, including its financial objective(s).

**6.6.4** It is important for public suppliers of commercial services to respect competition law. Otherwise public services using resources acquired with public funds might disturb or distort the fair operation of the market, especially where the public sector provider might be in a dominant position: see annex 6.3.

## 6.7 Disclosure

**6.7.1** It is important that parliament is fully informed about use of charges. Each year the annual report of the charging organisation should give:

- the amounts charged
- full costs and unit costs
- total income received
- the nature and extent of any subsidies and/or overcharging
- the financial objectives and how far they have been met.

**6.7.2** To keep parliament properly informed, Estimates should display details of expected income from charges. The Estimates Manual explains how the controls work.

**6.7.3** The FReM sets out the information public sector organisations should publish in their accounts. It should include analysis of income.

## 6.8 Taking stock

**6.8.1** As with any other use of public resources, it is important to monitor performance so that the undertaking can be adjusted as necessary to stay on track. It is good practice to review the service routinely at least once a year, to check, and if appropriate revise, the charging level. At intervals, a more fundamental review is usually appropriate, eg on a timetable compatible with the dynamics of the service. Box 6.4 suggests some issues to examine.

**Box 6.4: reviewing a public service for which a charge is made**

- Is it still right for a public sector body to use public resources to supply the service?
- Are there any related services for which there might be a case for charging?
- Does the business structure still make sense? Are the assets used for the service adequate?
- How can efficiency and effectiveness be improved so that charges can be lower or offer better value?
- Is the financial objective right?
- For a statutory (or other public sector) service, if full costs are not recovered, why not?
- For a commercial service, does the target rate of return still reflect market rates?
- Is it still appropriate to net off against costs any agreed charges above cost?
- Is there scope to secure economies of scale by developing a shared service?
- What developments might change the business climate?
- Do any discretionary services remain a good fit for the business model and wider objectives?
- Should any underused assets be redeployed, used to make a commercial return, or sold?
- Would another business model (eg licensing, contracting out, privatising) be better?

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| Annex 6.1 | How to calculate charges |
| Annex 6.2 | Charging for information |
| Annex 6.3 | Competition law          |

# 7

## Working with others

It often makes sense for public sector organisations to work with partners to deliver public services. This chapter outlines how sponsor departments should keep track of their ALBs, and where necessary control their activities. It is important that the public interest and the need to keep parliament informed are given priority in setting up and operating these relationships.

### 7.1 The case for working in partnership

**7.1.1** Public sector organisations may be able to deliver public services more successfully if they work with another body. Central government departments may find it advantageous to delegate certain functions to ALBs that can be free to concentrate on them without conflict of interest. Or it may be helpful to harness the expertise of a commercial or civil society sector organisation with skills and leverage not available to the public sector.

**7.1.2** Any such relationship inevitably entails tensions as well as opportunities. The autonomy of each organisation needs to be buttressed by sufficient accountability to give parliament and the public confidence that public resources are used wisely.

**7.1.3** It can be important that an ALB is demonstrably independent. This in itself does not determine the ALB's form or structure. Independence is achieved by specifying how the ALB is to operate. Functional independence is compatible with financial oversight by the ALB's parent department and with accountability.

**7.1.4** It is generally helpful to deal with any potential conflicts head on by deciding at the outset how the relationship(s) between the parties should work. The key issues to tackle are set out in box 7.1.

#### Box 7.1: Issues for partnerships with public sector members

- The decision to engage with a partner should rest on evaluation of a business case assessed against a number of alternatives, including doing nothing.
- Conflicts of interest should be identified so that handling strategies can be agreed, eg by establishing early warning processes or safeguards.
- The cultural fit of the partners should be close enough to give each confidence to trust the other.
- Accountability for use of public funds should not be weakened.

The terms of engagement, including governance, should be documented in a **framework agreement** or equivalent (see box 7.2).

### 7.2 Setting up new arm's length bodies

**7.2.1** When a sponsor department sets up a new ALB, the nature of the new body should be decided early in the process. It is sensible for the functions of the new body to help determine this choice. Annex 7.1 offers advice and sources of guidance on setting up a new ALB and

compares the characteristics of agencies, non-departmental public bodies (NDPBs) and non-ministerial departments (NMDs). Departments should consult the Treasury and the Cabinet Office about making the choice.

**7.2.2** In general, each new ALB should have a specific purpose, distinct from its parent department. There should be clear perceived advantage in establishing a new organisation, such as separating implementation from policy making; demonstrating the integrity of independent assessment; establishing a specialist identity for a professional skill; or introducing a measure of commercial discipline. It is sensible to be sceptical about setting up a new ALB, since it will often add to costs.

**7.2.3** ALBs cannot be given authority to make decisions proper to ministers, nor to perform functions proper to sponsor departments. Only rarely is a non-ministerial department the right choice as NMDs have limited accountability to parliament<sup>1</sup>. Nor is it acceptable to use a royal charter to establish a public sector body since such arrangements deny parliament control and accountability.

**7.2.4** A sponsor department cannot relinquish all responsibility for the business of its ALBs by delegation. It should have oversight arrangements appropriate to the importance, quality and range of the ALB's business. Normally new, large, experimental or innovative ALBs need more attention from the sponsor than established or small ALBs doing familiar or low risk business. And the sponsor department always needs sufficient reserve powers to reconstitute the management of each ALB should events require it (see section 3.8).

**7.2.5** The sponsor department should plan carefully to make sure that its oversight arrangements and the internal governance of any new ALB are designed to work together harmoniously without unnecessary intrusion. The ALB also needs effective internal controls and budgetary discipline so that it can live within its budget allocation and deliver its objectives. And the sponsor department must have sufficient assurance to be able to consolidate its ALBs' accounts with its own.

**7.2.6** There is a good deal of flexibility about form and structure. It may be expedient, for example, to set up an organisation which is eventually to be sold as a Companies Act company. Or certain NDPBs may operate most effectively when constituted as charities. Mutual structures can also be attractive. Innovation often makes sense. The standard models are all capable of a good deal of customisation.

**7.2.7** If the PAC decides to investigate an ALB, the accounting officers of both the ALB and its sponsor department should expect to be called as witnesses. The PAC will seek to be satisfied that the sponsor's oversight is adequate.

## **7.3 What to clarify**

**7.3.1** When documenting an agreement with a partner, public sector organisations should analyse the relationship and consider how it might evolve. The framework document (or equivalent) should then be kept up to date as the partnership develops. Box 7.2 contains terms which should always be considered for inclusion. The list is not exhaustive.

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<sup>1</sup> The sponsor department also has less control as each NMD has its own budget, Estimate and annual accounts. So if a ministerial department transfers work to an NMD, there is a greater risk of excess votes in each.

## **7.2: framework terms for partnership agreements**

### **purpose**

- The aims of the relationship and its working remit.
- Its standards, key objectives and targets.

### **governance and accountability**

- The legal relationship, including any financial or other limits.
- Any statutory requirements relating to the functions of the partnership.
- The governance of any ALB: its board structure, how its members are appointed (and disappointed). How the partnership should work, eg regular meetings of senior people.
- The extent to which any department is responsible to parliament for the conduct of a partner (essential for partnerships between departments and ALBs).
- Any other important features of the sponsorship role of the public sector partner, eg acting as intelligent shareholder or consulting third parties.
- How any relationships with departments other than the sponsor should operate.
- Any arrangements for regular reporting on performance to the public and/or parliament.
- Plans for any evolution (eg into a mutual) after a period of ALB status.
- Any arrangements for successor activity, eg establishing similar partnerships elsewhere.

### **decision making**

- How strategic decisions about the future of the partnership will be made, with timetable, terms for intervention, break points, dispute resolution procedures, termination process.
- How the chain of responsibility should work, eg stewardship reporting, keeping track of efficiency, risk assessment, project appraisal, management of interdependencies.
- How the partnership will identify, manage and track opportunities and risks.
- The status of the staff; and how they are to be hired, managed and remunerated.
- How any professional input (eg medical, scientific) is to be managed and quality assured.
- Arrangements for taking stock of performance and learning lessons from it.
- Arrangements for intervention when necessary.

### **financial management**

- The financial relationship of the partners, eg:
  - any founding capital (including assets, goods, financial sums or other valuables)
  - any periodic grants and their terms
  - how the partnership's corporate plan and annual target(s) are to be agreed
  - how asset management and capital projects are to be decided and managed
  - how cashflow is to be managed, and current expenditure financed
  - the distribution of income and profit flows
  - any financial targets, eg return on capital employed (ROCE)
  - how any charges to customers or users are to be set
  - any agreed limits on the partnership's business.
- Monitoring, financial reporting, regular liaison and any other tracking arrangements.
- Internal and external audit arrangements, with any relevant accounts directions.
- Arrangements for consolidation of accounts (essential for ALBs)

**7.3.2** In framing founding documentation, the partners should adopt a proportionate approach. Parliament expects that public funds will be used in a way that gives reasonable assurance that public resources will be used to deliver the intended objectives.

**7.3.3** In this process the aim should be to put the accounting officers of the parties in a position to take a well informed view on the current status of the relationship, enabling timely adjustments to be made as necessary. It is good practice to develop structured arrangements for regular dialogue between the parties to avoid misunderstandings and surprises.

**7.3.4** Further advice about framework documents is in annex 7.2. It is important that such documents fit the business to which they relate (rather than following precedent or copying a standard model).

## 7.4 Agencies

**7.4.1** Each agency is either part of a central government department or a department in its own right. Agencies are intended to bring professionalism and customer focus to the management and delivery of central government services, operating with a degree of independence from the centre of their home departments. Some are also trading funds (see section 7.8).

**7.4.2** Each agency is established with a framework document on the lines sketched out in box 7.2. With the exception of those agencies which are trading funds (see section 7.8), they are normally funded through public expenditure supplied by Estimates. Departments should consult the Treasury and Cabinet Office about the preparation of their framework documents.

## 7.5 Departments working together

**7.5.1** To promote better delivery and enhance efficiency, departments often find it useful to work with other government departments (or ALBs). This can make sense where responsibilities overlap, or both operate in the same geographical areas or with the same client groups - arrangements loosely categorised as joined up government. Such arrangements can offer opportunities for departments to reduce costs overall while each partner plays to its strengths.

**7.5.2** Such relationships can be constituted in a number of different ways. Some models are sketched in box 7.3. The list is not exhaustive.

### Box 7.3: examples of joined up activities in central government

- one partner can act as lead provider selling services (such as IT, HR, finance functions) to other(s) as customers, operating under service level agreement(s)
- cost sharing arrangements for common services (eg in a single building), allocated in line with an indicator such as numbers of staff employed or areas of office space occupied
- joint procurement using a collaborative protocol
- a joint venture project with its own governance, eg an agency or wholly owned company, selling services to a number of organisations, some or all of which may be public sector
- an outsourced service, delivering to several public sector customers

**7.5.3** Shared services often need funding to set up infrastructure, eg to procure IT. This could be agreed in a spending review, or customers could buy in to the partnership by transferring budget provision to the lead provider. Each of the accounting officers involved should be

satisfied that the project offers value for money for the Exchequer as a whole. The provider's charges should be at cost, following the standard fees and charges rules (see chapter 6).

**7.5.4** In any joint activity, there must be a single accounting officer so that the lines of responsibility are clear. If the PAC decides to investigate, the accounting officers of each of the participants should expect to be summoned as witnesses.

## 7.6 Non-departmental public bodies

**7.6.1** Non-departmental public bodies (NDPBs) may take a number of legal forms, including corporates and charities. Most executive NDPBs have a bespoke structure set out in legislation or its equivalent (eg a Royal Charter<sup>2</sup>). This may specify in some detail what task(s) the NDPB is to perform, what its powers are, and how it should be financed. Sometimes primary legislation contains powers for secondary legislation to set or vary the detail of the NDPB's structure. Annex 7.1 has links to more about NDPBs.

**7.6.2** Each NDPB is a special purpose body charged with responsibility for part of the process of government. Each has a sponsor department with general oversight of its activity. The sponsor department's report and accounts consolidates its NDPBs' financial performance.

**7.6.3** NDPBs show considerable variety of structures and working methods, with scope for innovation and customisation. Some NDPBs may also need to work with other organisations as well as with their sponsor. All this should be documented in the framework document (see annex 7.2).

**7.6.4** NDPBs' sources of finance vary according to their constitution and function. Box 7.4 shows the main options available.

### Box 7.4: sources of finance for NDPBs

- specific conditional grant(s) from the sponsor department (and/or other departments)
- general (less conditional) grant-in-aid from the sponsor department
- income from charges for any goods or services the NDPB may sell
- income from other dedicated sources, eg lottery funding
- public dividend capital

**7.6.5** In practice NDPBs always operate with some independence and are not under day-to-day ministerial control. Nevertheless, ministers are ultimately accountable to parliament for NDPBs' efficiency and effectiveness. This is because ministers: are responsible for NDPBs' founding legislation; have influence over NDPBs' strategic direction; (usually) appoint their boards; and retain the ultimate sanction of winding up unsatisfactory NDPBs.

## 7.7 Public corporations

**7.7.1** Some departments own controlling shareholdings in public corporations or Companies Act companies, perhaps (but not necessarily) as a step toward disposal. Public corporations' powers are usually defined in statute; but otherwise all the disciplines of corporate legislation

<sup>2</sup> This route is no longer used - see Section 2.5.

apply. The Shareholder Executive, which specialises in strategic management of corporates, may be a good way of managing departments' responsibilities as shareholders.

**7.7.2** Sponsor departments should define any contractual relationship with a corporate in a framework document adapted to suit the corporate context while delivering public sector disciplines. The financial performance expected should give the shareholder department a fair return on the public funds invested in the business. Box 7.5 offers suggestions. This approach may also be appropriate for a trading fund, especially if it is to become a Companies Act company in time.

**7.7.3** A shareholder department may also use a company it owns as a contractor or supplier of goods or services. It is a good discipline to separate decisions about the company's commercial performance from its contractual commitments, so avoiding confusion about objectives. So there should be clear arm's length contracts between the company and its customer departments defining the customer-supplier relationship(s).

#### **Box 7.5: outline terms for a relationship with a public corporation**

- the shareholder's strategic vision for the business, including the rationale for public ownership and the public sector remit of the business
- the capital structure of the business and the agreed dividend regime, with suitable incentives for business performance
- the business objectives the enterprise is expected to meet, balancing policy, customer, shareholder and any regulatory interests
- the department's rights and duties as shareholder, including:
  - governance of the business
  - procedure for appointments (and disappointments)
  - financial and performance monitoring
  - any necessary approvals processes
  - the circumstances of, and rights upon, intervention
- details of any other relationships with any other parts of government

## **7.8 Trading funds**

**7.8.1** All trading funds are public corporations. Their activities are not consolidated with their sponsor departments' business. They must finance their operations from trading activity.

**7.8.2** Each trading fund is set up through an order subject to affirmative resolution. Before an order can be laid in parliament, the Treasury needs to be satisfied that a proposed trading fund can satisfy the statutory requirement that its business plan is sustainable without additional funding in the medium term. A period of shadow operation as a pilot trading fund may help inform this assessment.

**7.8.3** Each trading fund must be financed primarily from its trading income. In particular, each trading fund is expected to generate a financial return commensurate with the risk of the business in which it is engaged. In practice this means the target rate of return should be no lower than its cost of capital. The actual return achieved may vary a little from one year to the next, reflecting the market in which the trading fund operates.

**7.8.4** The possible sources of capital for trading funds are shown in box 7.6. They are designed to give trading funds freedom from the discipline of annual Estimate funding. The actual mix

for a given trading fund must be agreed with the sponsor department (if there is one) and with the Treasury, subject to any agreed limits, eg on borrowing.

**7.8.5** Further detail about trading funds is in annex 7.3. Guidance on setting charges for the goods and services trading funds sell is in chapter 6.

#### **Box 7.6: sources of capital for trading funds**

- public dividend capital (equivalent to equity, bearing dividends - see annex 7.4)
- reserves built up from trading surpluses
- long or short term borrowing (either voted from a sponsor department or borrowed from the National Loans Fund if the trading fund is a department in its own right)
- temporary subsidy from a sponsor department, voted in Estimates
- finance leases

## **7.9 Non-ministerial departments**

**7.9.1** A very few central government organisations are non-ministerial departments (NMDs). It is important that there is some clear rationale for this status in each case.

**7.9.2** NMDs do not answer directly to any government minister. They have their own accounting officers, their own Estimates and annual reports, and settle their budgets directly with the Treasury. However, some ministerial department must maintain a watching brief over each NMD so that a minister of that department can answer for the NMD's business in parliament; and if necessary take action to adjust the legislation under which it operates. A framework document should define such a relationship.

**7.9.3** This limited degree of parliamentary accountability must be carefully justified. It can be suitable for a public sector organisation with professional duties where ministerial input would be inappropriate or detrimental to its integrity. But the need for independence is rarely enough to justify NMD status. It is possible to craft arrangements for NDPBs which confer robust independence. Where this is possible it provides better parliamentary accountability, and so is to be preferred.

## **7.10 Local government**

**7.10.1** A number of central government departments make significant grants to local authorities. Some of these are specific (ring fenced). Most are not, allowing local authorities to set out their own priorities.

**7.10.2** Nevertheless parliament expects assurances that such decentralised funds are used appropriately, ie that they are spent with economy, efficiency and effectiveness, and not wasted nor misused. The quality of the assurance available differs from that expected of central government organisations because local authorities' prime accountability is to their electorates.

**7.10.3** For these relationships a framework document is not usually the most fruitful approach. Instead. Central government departments should draw up an annual account of how their accounting officers assure themselves that grants to local government are distributed and spent appropriately; and how underperformance can be dealt with. This account forms part of the governance statement in the report and accounts of each department affected (see annex 3.1).

**7.10.4** Similar considerations apply to the NHS and centrally funded schools.

## 7.11 Innovative structures

**7.11.1** Sometimes central government departments have objectives which more easily fit into bespoke structures suited to the business in hand, or to longer range plans for the future of the business. Such structures might, for example, include various types of mutual or partnership.

**7.11.2** Proposals of this kind are by definition novel and thus require explicit Treasury consent. In each case, proposals are judged on their merits against the standard public sector principles after examining the alternatives, taking account of any relevant experience. The Treasury will always need to understand why one of the existing structures will not serve: eg the NDPB format has considerable elasticity in practice. Boxes 4.8 and 7.2 may help with this analysis.

## 7.12 Outsourcing

**7.12.1** Public sector organisations often find it satisfactory and cost effective to outsource some services or functions rather than provide them internally. Candidates have included cleaning, security, catering and IT support. A wider range of services is potentially suitable for this treatment. Innovative approaches should be explored constructively.

**7.12.2** The first step in setting up any outsourcing agreement should be to specify the service(s) to be provided and the length of contract to be sought. At that stage it is usually desirable to draw up an outline business case to help evaluate whether outsourcing makes financial and operational sense. Any decision to outsource should then be made to achieve value for money for the Exchequer as a whole.

**7.12.3** It is good practice to arrange some form of competition for all outsourcing, as for other kinds of procurement. In most cases, it is legally essential to open the competition to all firms in the EU (see annex 4.7). If services are likely to be required at short notice - for example legal services for advice on opportunities, threats or other business pressures which emerge with little warning - it is good practice to arrange a competition to establish a standing panel of providers whose members can be called upon to deal with rapidly emerging needs.

**7.12.4** Contracting out does not dissolve responsibility. Public sector organisations using a contractor should set in place systems to track and manage performance under the contract. It may be appropriate to plan for penalties for disruption and/or failure if the contractor cannot deliver. The PAC may need to be satisfied that the arrangements for contracting out entail sufficient accountability for the use of public funds.

## 7.13 Private finance

**7.13.1** Where properly constructed and managed, public sector organisations can use private finance arrangements to construct assets and/or deliver services with good value for money. Structured arrangements where the private sector puts its own funds at risk can help deliver projects on time and within budget.

**7.13.2** It is important to carry out a rigorous value for money analysis to determine whether these benefits are likely to exceed the additional cost of using private finance. Contracting organisations should also make sure that they are able to afford such arrangements over their working lifetimes, taking account, as far as possible, of the risk of difficult future financial environments. It is not good practice to embark on a private finance arrangement if it is dependent on other separate financial transactions taking place during the project's lifetime

**7.13.3** Procurement using private finance is a flexible, versatile and often effective technique, so it should be considered carefully as a procurement option. Contracts should normally be built up using standard terms and guidance published by the Treasury (see Annex 7.4). Departure from standard guidance needs to be approved by the Treasury.

## 7.14 Commercial activity

**7.14.1** When public bodies have assets which are not fully used but are to be retained, it is good practice to consider exploiting the spare capacity to generate a commercial return in the public interest. This is essentially part of good asset management.

**7.14.2** Any kind of public sector asset can and should be considered. Candidates include both physical and intangible assets, for example land, buildings, equipment, software and intellectual property (see annex 4.15). A great variety of business models is possible.

**7.14.3** Such commercial services always go beyond the public sector supplier's core duties. Because these assets concerned have been acquired with public funds, it is important that services are priced fairly: see chapter 6. It is also important to respect the rules on state aids: see annex 4.7. Central government organisations should work through the checklist at box 7.7.

### Box 7.7: planning commercial exploitation of existing assets

- define the service to be provided
- establish that any necessary vires and (if necessary) Estimate provision exist
- identify any prospective business partners and run a selection process
- if the proposed activity is novel, contentious, or likely to set a precedent elsewhere, obtain Treasury approval
- take account of the normal requirements for propriety, regularity and value for money

**7.14.4** While it makes sense to make full use of assets acquired with public resources, such activity should not squeeze out, or risk damaging, a public sector organisation's main objectives and activities. Similarly, it is not acceptable to acquire assets just for the purpose of engaging in, or extending, commercial activity. If a public sector supplier's commercial activity demands further investment to keep it viable, reappraisal is usually appropriate. This should consider alternatives such as selling the business, licensing it, bringing in private sector capital, or seeking other way(s) of exploiting the underused potential in the assets or business.

**7.14.5** It is a matter of judgement when departments should inform parliament of the existence, or growth, of significant commercial ventures. It is good practice to consult the Treasury in good time on this point so that parliament can be kept properly informed and not misled.

## 7.15 Working with civil society bodies

**7.15.1** Central government organisations may find they can deliver their objectives effectively through relationships with civil society bodies: ie charities, social, voluntary or community institutions, mutual organisation, social enterprises or other not-for-profit organisations. Such partnerships can achieve more than either the public or the civil society sector can deliver alone. For example, using a civil society sector organisation can provide better insight into demand for, and suitable means of delivery of public services.

**7.15.2** It is good practice to plan relationships with civil society partners through a framework document, as with other partnerships. Some guidelines on how these relationships can work well in harmony with policy and spending decisions are in the Civil Society Compact<sup>3</sup>.

**7.15.3** In this kind of relationship a public sector organisation may fund activities, make grants, lend assets, or arrange other transfers to a civil society sector body performing or facilitating delivery of services. It is desirable to build in safeguards to ensure that resources are used as intended (see annex 5.2). This gives parliament confidence that voted resources are used for the purposes it has approved.

**7.15.4** The safeguards to be applied should be agreed at the start of the relationship. Customisation is nearly always essential. It is often right to require clawback, ie to agree terms in which public sector donors reclaim the proceeds if former publicly owned assets are sold.

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| Annex 7.1 | Forming and reforming ALBs     |
| Annex 7.2 | Drawing up framework documents |
| Annex 7.3 | Trading funds                  |
| Annex 7.4 | Using private finance          |

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<sup>3</sup> <https://www.gov.uk/government/publications/compact-the-agreement-between-government-and-the-voluntary-community-sector>

### **HM Treasury contacts**

This document can be downloaded from  
[www.gov.uk/government/publications](http://www.gov.uk/government/publications)

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