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Finance glossary

Note: This glossary focuses in particular on financial terms relevant to the UK Government.

Accounting Officer

The senior official ultimately responsible for all spending of a government department or arm's length body. The Accounting Officer for a government department is usually the Permanent Secretary. The Accounting Officer must personally sign off the Annual Report and Accounts of the body s/he has responsibility for, and may be called to appear before a select committee to answer questions on financial management.

Accounts Direction

A written document instructing officials how to prepare accounts.

Accruals Accounting

A method of recording expenditure as it is incurred (i.e. when the activity which generates the costs arises), and income as it is earned, rather than when cash is paid or received. This method of accounting is now used in the UK throughout the public and private sectors (with the exception of very small charities and businesses). In the public sector context it is also sometimes known as 'Resource' accounting.UK Government Budgets (the DEL and AME limits) are also set in accruals rather than cash terms, and although departments still have to forecast cash movements, they are free to seek as high a cash requirement in their Estimates as is necessary to support the accruals budgets allocated.

The principal advantage of accruals accounting over cash accounting (where cash movements are all that is recorded) is that accruals accounting allows better financial management and scrutiny by:

• matching expenditure in any period to revenues earned and obligations incurred in that period; and

• matching the cost of assets to the period in which they are used or consumed, by charging depreciation on them.

Administration budget

Budget limits controlling the resources set aside for the running costs (largely staff and associated costs) of a government department, and which form part of its Resource Departmental Expenditure Budget (DEL). Administration budgets are ring-fenced budgets, set at the time of a Spending Review. The other part of the Resource DEL, outside of the Administration Budget is referred to as programme expenditure. If the department's administration budget is breached, the department's accounts will be qualified by the auditor (see qualified accounts).

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**OGL**

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Foreword

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.

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Chapter 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 fairness integrity openness

Transparency accountability accuracy 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 Code1applying 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

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

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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.

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. They:

* 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 they may answer in parliament, including the department's arms length bodies (ALBs).

1.2.3 The Ministerial Code2 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 their 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.

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

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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 Manual3 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.

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:

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* 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 system4 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 (FReM). 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, for example functional standards5.

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

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

5 See Functional Standards - GOV.UK ([www.gov.uk](http://www.gov.uk))

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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 and ultimately ministers about what is being achieved, to what standards and with what effect. These arrangements 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?).

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 websites and in annex 1.1.

* + 1. 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 misstatements9; 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

6 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.

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

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

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

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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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Chapter 2

Use of Public Funds

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.

* 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.

* 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

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* budget cover in the collectively agreed multi-year budgets
* with a few exceptions1, 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

2.1.1 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).

1 See section 5.3

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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:

2.2.2 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

2.2.3 use of resources is within the ambit of the vote and consistent with the Estimate(s)-

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 business2 (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.

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

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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.3 In 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 principles4 - 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 and wider legal principles such as subsidy control and procurement law, 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 their department appreciate:

* the importance of operating with regularity and propriety; and

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

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

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the need for efficiency, economy, effectiveness and prudence in the administration of public resources, to secure value for public money5.

2.4.3 Should a minister seek a course of action which the accounting officer cannot reconcile with any aspect of these requirements, they 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 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);

2.5.4 Projects or services which are modest or temporary (see box 2.6). This exception cannot be used to plug a gap in spending authority before specific legislation for an ongoing service is passed. The temporary services derogation only applies to initiatives lasting no more than two years in total, and it is therefore important to note that this does not provide a two-year grace period for spending on a new, ongoing service before specific legislation is required.

5 A more detailed description of value for money is at annex 4.4

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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

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.

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 2.4)

* 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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Chapter 3

Accounting Officers

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.

3.1.1. 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 their discretion, additional accounting officers for defined part(s) of the department's business.

3.2.4. In the case of appointment of principal accounting officers of departments and accounting officers of trading funds, the relevant department should send a draft letter of appointment directly to the Treasury Office of Accounts team via.

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TOAEnquiries@hmtreasury.gov.uk for the signature of the Treasury Permanent Secretary. This should be done at least fourteen calendar days before the accounting officer is due to take up their role.

3.2.5. In the case of appointment of an accounting officer for an arm's length body, the body should liaise with its sponsoring department to arrange a letter of appointment from the principal accounting officer. Again, this should be done at least fourteen calendar days before the accounting officer is due to take up their role. The private office of the principal accounting officer should then promptly notify the TOA team.

3.2.6. These actions ensure that the register of accounting officers is kept up to date and that appropriate training can be arranged.

3.2.7. If the timeframes above cannot be met, or in the event of a temporary gap between the standing down of an accounting officer and the appointment of a new accounting officer, the department should contact the TOA team to discuss the appropriate mechanism to ensure accountability arrangements are maintained.

3.2.8. Template letters of appointment can be found on gov.uk. The TOA team is happy to assist in the preparation of these letters.

3.3 Special responsibilities of accounting officers

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

Acting within the authority of the minister(s) to whom they are 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

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* 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.

3.3.1. It is important that each accounting officer takes personal responsibility for ensuring that the organisation they manage 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.

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) they are not a member of the board.

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

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* *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.*

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* 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 Book1 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.
* 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 Accounting officer assessments

3.4.1. 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 3.2.

Box 3.2: the standards expected for projects and proposals

* Regularity: the proposal has sufficient legal basis, parliamentary authority, and Treasury authorisation; and is compatible with the agreed spending budgets.
* Propriety: the proposal meets the high standards of public conduct and relevant Parliamentary control procedures and expectations.
* Value for money: in comparison to alternative proposals or doing nothing, the proposal delivers value for the Exchequer as a whole.
* Feasibility: the proposal can be implemented accurately, sustainably, and to the intended timetable.

3.4.2. A systematic written accounting officer assessment helps to ensure good decision making and provides positive assurance that the four standards have been properly considered.

1 <https://www.gov.uk/government/collections/the-green-book-and-accompanying-guidance-and-documents>

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3.4.3. An accounting officer assessment should be produced for projects or programmes which form part of the Government Major Projects Portfolio (GMPP):

alongside the request for the accounting officer's approval of the Outline Business Case (or at the point when it enters the GMPP if this is later)

* at subsequent stages of the project if it departs from the four standards or the agreed plan - including any contingency - in terms of costs, benefits, timescales, or level of risk, which informed the accounting officer's previous approval
* if the Senior Responsible Owner (SRO) of the project decides one is merited at any other stage of the project

3.4.4. In addition, it is good practice to prepare an accounting officer assessment for each novel and contentious transaction or proposal involving the use of public funds. This may be particularly useful where it is not possible to produce a fully developed business case, for example due to lack of time and/or data, or the risk environment is higher than usual. The Treasury often asks spending departments and organisations for such analyses before clearing them to proceed, as will the National Audit Office (NAO) when conducting any review of the issue.

3.4.5. Beyond that, in many cases, the normal governance procedures, such as production and approval of business cases, should provide sufficient assurance against the accounting officer standards, without need for a bespoke accounting officer assessment.

3.4.6. All draft accounting officer assessments must be signed off by the organisation's senior officer for finance (usually Finance Director, Chief Financial Officer or Director General for Finance) or alternate senior member of the finance function within the department before being submitted to the Accounting Officer for final sign off.

3.4.7. Whenever an accounting officer assessment is produced for a GMPP project, a summary of the key points should also be prepared and published. Accounting officers may also choose to publish similar information from assessments made in other circumstances at their discretion.

3.4.8. Further guidance on producing and publishing accounting officer assessments can be found in Accounting Officer Assessments: guidance.2

3.5 Working with other organisations

3.5.1. It often makes sense for two or more departments to work together to deliver public services. In such circumstances, each accounting officer remains personally responsible for the resources of their own organisation. It is good practice for participating bodies to document their respective responsibilities, for example by way of a memorandum of understanding.

3.5.2. It may also be the case that, in assessing a project or proposal, the accounting officer will want to draw on expertise from another department or public body. Where this happens, the accounting officer may ask the organisation to provide written assurances of the robustness of the analysis and any underlying

2 [www.gov.uk/government/publications/accounting-officer-assessments](http://www.gov.uk/government/publications/accounting-officer-assessments)

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methodology. However, the ultimate judgement in each case lies with the accounting officer personally.

3.6 Directions

3.6.1. The accounting officer cannot simply accept the minister's aims or policy without examination. Each departmental accounting officer should take care to bring to the attention of their minister(s) any conflict between the minister's instructions and the standards set out in box 3.2.

3.6.2. Where a departmental accounting officer determines that a proposal does not meet one or more of these standards, the best next step is to consider whether the policy or proposed course of action can be modified to make it fit. If not, and the minister decides it is nevertheless appropriate to continue with the proposal, the accounting officer should ask their senior minister for a formal written direction to proceed. An oral direction should be confirmed promptly in writing.

3.6.3. Before finalising a direction request, it is good practice for accounting officers to discuss the matter with the Treasury. Often, by their nature, issues that might call for a ministerial direction are novel, contentious, or repercussive, and therefore require explicit Treasury consent. Where this is the case, Treasury consent should be obtained before the direction request is finalised.

3.6.4. As always, the ultimate judgement in each case must lie with the accounting officer personally. The acid test is whether the accounting officer could justify the proposed activity if asked to defend it.

3.6.5. There is no set form for requesting a direction, though the accounting officer should be specific about their nature and the standard or standards that is/are not satisfied.

3.6.6. When a direction is made, the Accounting Officer should:

* follow the minster's direction without further ado
* promptly copy the direction request, the direction and other papers the accounting officer considers relevant to the Comptroller and Auditor General and the Treasury Officer of Accounts
* unless it is in the public interest that the matter is kept confidential, arrange for the direction request and direction itself to be published on the GOV.UK website promptly, notifying the chairs of the PAC and the relevant departmental select committee as soon as this occurs
* where confidentiality is required, in addition to copying to the Comptroller and Auditor General and the Treasury Officer of Accounts as usual, share the direction request and the direction with the chairs of the PAC and the relevant departmental select committee, along with an explanation of when they expect the need for confidentiality to fall away and publication to take place
* if asked, explain the minister's course of action - this respects ministers' rights to frank advice, while protecting the quality of internal debate.

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3.6.7. A direction on regularity or propriety ground does not change that position

- that is it does not make the action regular or proper. It is important to note that a direction does not permit unlawful action and does not protect against a court finding unlawfulness.

3.7 Public Accounts Committee

3.7.1. 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. The 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.

3.7.2. 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.

3.7.3. 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 they were 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 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.

3.7.4. 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.

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

3.7.6. The evidence given by accounting officers at public hearings often feeds into reports published by the PAC. These reports detail its findings, conclusions and recommendations.

3.7.7. For each PAC report, the government responds to recommendations by means of Treasury Minutes presented to Parliament by a Treasury minister, indicating those the government accepts and those it does not accept. For those it accepts, Treasury Minutes will include target implementation dates. For those it does not accept, they will set out reasons for non-acceptance.

3.7.8. In addition, government departments and organisations are required to report twice annually to Parliament on progress in implementing Committee recommendations accepted by government. Treasury Minute Progress Reports are used for this purpose.

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3.7.9. The PAC expects the government to respond promptly and transparently through both the initial Treasury Minute and subsequent Progress Reports. Accounting officers should ensure the internal clearance processes within their organisation are arranged to fit with deadlines for responses.

3.7.10. In addition, if a department determines it is necessary to revise the target date for implementing an agreed recommendation, the accounting officer should write immediately to the PAC, copied to the Treasury Officer of Accounts, and provide a detailed explanation for the deferral. Departments should not leave notification of the delay in implementation until the publication of the next Treasury Minutes Progress Report.

3.8 When the accounting officer is not available

3.8.1. Each public sector organisation must have an accounting officer available for advice or decision as necessary at short notice. When the accounting officer is absent and cannot readily be contacted, another senior official should deputise.

3.8.2. If a significant absence is planned, the principal accounting officer may invite the Treasury to appoint a temporary acting accounting officer.

3.8.3. In these circumstances, a temporary acting accounting officer stands in the shoes of the principal accounting officer. They are not acting on behalf of the Principal Accounting Officer but are personally responsible to Parliament in their own right. Their decisions are not subject to ratification by the principal accounting officer and their role should only be activated if the principal accounting officer is unable to fulfil their obligations. To all intents and purposes the temporary acting accounting officer replaces the principal accounting officer.

3.8.4. A similar logic can also apply for an accounting officer in an arm's length body (ALB), whereby the arrangement must be agreed and formalised between the department and the ALB.

3.9 Conflicts of interest

3.9.1. 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
* for serious and lasting conflicts, resignation.

3.10 Arm's length bodies

3.10.1. The responsibilities of accounting officers in departments and in arm's length bodies (ALBs) are essentially similar. Accounting officers in ALBs must also

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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.

3.10.2. 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.

3.10.3. Overall, the accounting officer of a sponsor department should make arrangements to satisfy himself or herself that 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.

3.10.4. 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.

3.10.5. There are sensitivities about the role of the accounting officer in an ALB which is governed by an independent fiduciary board, eg a charity or company. The ALB's accounting officer, who will normally be a member of the board, must take care that their personal legal responsibilities do not conflict with their 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.

3.10.6. Moreover, if the chair or board of such an ALB is contemplating a course of action that is inconsistent with the standards in box 3.1, then the accounting officer should follow the procedure set out in the organisation's framework document. This process is similar to what happens in departments (see section 3.6), but will be tailored to reflect the position of the organisation's board, which is often appointed under statute.

3.11 In the round

3.11.1. 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.

3.11.2. In addition, there may be occasions where it is necessary to respond urgently to events, reducing the time available for analysis and requiring the accounting officer to make an assessment. In such circumstances, all available options may carry more uncertainty and more risk than would be acceptable in more normal times.

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Here, in assessing value for money and feasibility, the accounting officer must assess the relative merits and costs of alternatives (including doing nothing).

3.11.3. Sometimes, it is possible to do no more than identify the scale of the problem to be tackled and then examine why the proposed action should both be effective and have tolerable cost. Wherever proposals or projects are taken forward, accounting officer should identify and assess risks, and design and operate the most effective risk treatment activities (including controls) possible in the time available.

3.11.4. The Treasury stands ready to help accounting officers think such issues through.

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Chapter 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.

4.1.1 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 Code3. 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.

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

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exhaustive. Once agreed, the working rules should be reviewed from time to time to keep them relevant. Boards should 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 they leads. The administrative standards expected are set out in the Civil Service Code4 and the Ombudsman's Principles of Public Administration5. 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

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

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

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* 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).

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

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* 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.

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.

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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, and occasions

6 Eg ALBs should insure vehicles where the Road Traffic Act requires it

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where commercial insurance would provide value for money. 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.

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.

7 Eg where private sector contractors take out single-site insurance policies because they are cheaper than each individual party

insuring themselves separately.

8 See annex 4.5.

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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;

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* 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.

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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

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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 PHSO9, whose Principles of Good Complaints Handling10 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.

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 rights11, 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).

9 <http://www.ombudsman.org.uk/>

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

11 Eg Freedom of information act 2000, Data protection act 1998, Environment information regulations 2004 and the Re-use of public sector information regulations 2005.

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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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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?
* 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?
* Has the risk of fraud been assessed to help inform policy or project design?
* 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?

accountability

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Chapter 5 Funding

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.

5.1.1 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.

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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 of 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:

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* 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 intentions12 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 13 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.

12 le has breached the Concordat - see annex 2.3

13 Under the Concordat

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Box 5.1: contingent liabilities: notifying parliament

* Parliament should be notified of uncertain liabilities in a meaningful way without spurious accuracy. This should be done by Ministerial Statement and departmental Minutes to the House of Commons, drawn directly to the attention of the chairs of the PAC and relevant departmental committee.
* 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.

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 HMRC14 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 decisions.

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

14 HMRC customer relationship manager or customer co-ordinator

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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 can be found in Consolidated Budgeting guidance.15

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 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

15 <https://www.gov.uk/government/publications/consolidated-budgeting-guidance-2021-to-2022>

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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 normally16 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.

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,

16 The Concordat applies here in just the same way as to spending - see annex 2.3

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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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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.

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 $56 of the Finance Act 1973;
* 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.

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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.

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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

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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.

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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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Chapter 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.

other.

The cultural fit of the partners should be close enough to give each confidence to trust the

* 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.

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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 parliament2. 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.

2 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.

Img 00967

Box 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)

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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.

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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 Charter3). 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.

1. This route is no longer used - see Section 2.5.

Img 0100

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 apply. UKGI, 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).

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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 established under the Trading Funds Act 1973. 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.

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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.

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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. 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

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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.

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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 Compact4.

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 in 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.

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

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Annex 1.1

The Comptroller and Auditor General

Supported by staff of the National Audit Office (NAO), the Comptroller and Auditor General (C&AG) is the independent auditor of nearly all central government institutions. Using extensive statutory rights of access to records, the C&AG provides direct advice and assurance to Parliament.

A1.1.1 The C&AG is an officer of the House of Commons appointed by The Queen. They are responsible for the audit of most central government institutions. This work is carried out under his or her direction by NAO staff (see www.nao.org.uk) or by contracting out. NAO is in the public sector but independent of central government.

A1.1.2 The C&AG is appointed for a single non-renewable term of ten years; and can only be removed from office by The Queen on an address of both Houses of Parliament. The NAO's statutory board advises and supports the C&AG - for example, on the NAO's strategic direction and the associated resource requirements. Audit related decisions such as which examinations to perform and the specific audit and reporting approach, are matters solely for the independent C&AG to decide.

A1.1.3 The NAO is financed by an Estimate submitted jointly by the C&AG and the NAO chair to the Public Accounts Commission (TPAC), a committee of the House of Commons. NAO's expenditure may include discretionary activities permitted under statute if approved by NAO's board and subsequently by TPAC through its scrutiny of the NAO's Estimate.

Audit

A1.1.4 In order to carry out financial audit work, the C&AG has extensive statutory rights of access to information held by a wide range of public sector organisations. This material is also required to compile Whole of Government Accounts, and extends to the records of many contractors and recipients of grants. The C&AG also has a right to obtain information about, and explanations of, any of this evidence.

A1.1.5 The C&AG is responsible for the financial audit of virtually all central government organisations, providing an audit opinion on their annual financial and reporting to Parliament. The C&AG may be appointed the auditor of government companies as a requirement of statute or on an 'agreement' basis with an individual entity as necessary. Financial audits are carried out in accordance with International Standards on Auditing (UK and Ireland).

A1.1.6 In addition, the C&AG may carry out audits of particular areas of central government expenditure to establish whether public funds have been used economically, efficiently and effectively. Selection of these value for money (vfm) examinations - having taken account of any proposals made by the Committee of

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Public Accounts - is entirely at the C&AG's discretion, as is the manner in which they are carried out and reported. The C&AG has the same level of access for vfm examinations as for financial audit. Central government bodies must ensure that such access is provided for within the terms and conditions of contracts and agreements with third party contractors, sub-contractors and grant recipients.

A1.1.7 In the event of the C&AG requiring access to sensitive documents to inform his work - for example, policy papers such as Cabinet, or Cabinet Committee, papers - then public sector organisations should cooperate with NAO requests for access to such information, irrespective of its classification or other sensitivity. It is important to work closely with NAO to explain fully any publication sensitivities that may exist. While the final decision about the contents of his or her reports must rest with the C&AG, such close working ensures sensitivities can be properly taken into account as the report content is finalised.

A1.1.8 The Public Accounts Committee (PAC) may decide to invite witnesses to discuss the findings of-both financial audits and vfm examinations. The PAC may also initiate other hearings on related matters.

The Comptroller function

A1.1.9 An important part of the C&AG's responsibilities is oversight of payments from the Consolidated Fund and the National Loans Fund. In response to requests from the Treasury, NAO staff establish that the sums paid out of these funds each business day are made in accordance with legislation. Once the authorisations (credits) are given, the Treasury may make drawings from these funds to finance the Exchequer's commitments

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Money resolutions

A2.1.5 A money resolution is required1 for legislation which creates a charge upon public funds, either by way of new resource expenditure or by remission of debt. Further advice on money resolutions should be sought from Parliamentary Clerks. A2.1.6 The responsible department should clear the draft with the Treasury at official level. When agreed, the Treasury will arrange for a copy initialled by the Financial Secretary to be returned to Counsel.

Box A2.1A: examples of legislation matters which require explicit Treasury approval

* as a direct charge (a Consolidated Fund standing service), or
* indirectly, ie "out of monies to be provided by Parliament" (through Estimates):

- expenditure proposals affecting public expenditure as defined in the current public expenditure planning total, eg rates of grant

- contingent liabilities, including powers to issue indemnities or to give guarantees

- loans taken from the National Loans Fund (NLF)- provisions for writing off NLF debt

- use of public dividend capital (PDC)- provisions involving the assets and liabilities of the CF and NLF- borrowing powers

- fees and charges, including changes in coverage

- the form of government accounts and associated audit requirements

- public service manpower

- pay and conditions (eg superannuation and early severance terms) of civil servants pay and conditions of board members of statutory organisations

- creation of (or alteration to) new statutory bodies and related financial arrangements

- provisions affecting grant recipients, including grants in aid

- provisions on audit usually giving the C&AG right of access

Ways and Means resolutions

A2.1.7 A ways and means resolution is required in the House of Commons where legislation directs the payment of money raised from the public to the Consolidated Fund (this technically constitutes the raising of money for the Crown to spend). Some legislation may require both a money resolution and a ways and means resolution.

A2.1.8 Departments should clear ways and means resolutions with the Treasury. Further advice should be sought from parliamentary clerks.

Explanatory Notes

A2.1.9 Except for finance, consolidation and tax law rewrite bills, departments should prepare explanatory notes for all government bills. The main items to be covered are set out in box A2.1B. Guidance on preparation is on the Cabinet Office website2.

1 By virtue of Standing Order 49 of the House of Commons

2 <https://www.gov.uk/government/publications/guide-to-making-legislation>

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Box A2.1B: Legislation authorising expenditure: explanatory notes

1. Financial effects of the legislation:

* Estimates of expenditure expected to fall on

the Consolidated Fund (CF), distinguishing between Consolidated Fund standing services and

charges to be met from Supply Estimates; or the National Loans Fund (NLF)

* Estimates of any other financial consequences for total public expenditure (i.e. in addition to costs which would fall on the CF or NLF) as defined in the current public- expenditure planning total;
* Estimates of any effects on local government expenditure

2. Effects of the legislation on public service manpower:

* Forecasts of any changes (or postponement of changes) to staff numbers in

government departments expected to result from the legislation;

* Forecasts of the likely effects to other public service manpower levels, for example in non-departmental public bodies and local authorities.

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Annex 2.2

Delegated authorities

This annex expands on the requirement for departments to obtain Treasury consent to their public expenditure and the process of delegated authorities.

A2.2.1 Treasury approval for expenditure is one aspect of the convention that Parliament expects the Treasury to control all other departments in matters of finance and public expenditure. Accounting officers are responsible (see first bullet of paragraph 3.3.3) for ensuring that prior Treasury approval is obtained in all cases where it is needed.

A2.2.2 The need for Treasury approval embraces all the ways in which departments might make public commitments to expenditure, not just Estimates or legislation, important as they are. Box A2.2A identifies the main ways in which the need can arise. It may not be exhaustive.

A2.2.3 Treasury approval:

* must be confirmed in writing, even where initially given orally;
* cannot be implied in the absence of a reply;
* must be sought in good time to allow reasonable consideration before decisions are required.

A2.2.4 Departmental ministers should be made aware when Treasury consent is required in addition to their own.

Box A2.2A: where Treasury approval is required

* public statements or other commitments to use of public resources beyond the agreed budget plans
* guarantees, indemnities or letters of comfort creating contingent liabilities
* any proposals outside the department's delegated limits
* all expenditure which is novel, contentious or repercussive, irrespective of size, even if it appears to offer value for money taken in isolation
* where legislation requires it
* fees and charges

Where Treasury approval has been overlooked, the case should immediately be brought to the Treasury's attention.

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Delegation

A2.2.5 Formally, Treasury consent is required for all expenditure or resource commitments. In practice, the Treasury delegates to departments' authority to enter into commitments and to spend within predefined limits without specific prior approval from the Treasury (but see A.2.2.12 for exceptions). Delegated authorities may also allow departments to enter into commitments to spend (eg contingent liabilities) and to deal with special transactions (such as some write-offs) without prior approval.

A2.2.6 Such delegated authorities strike a balance between the Treasury's need for control in order to fulfil its responsibilities to Parliament and the department's freedom to manage within its agreed budget limits and Parliamentary provision. A2.2.7 Departments should not take general Treasury approval of an Estimate as approval for specific proposals outside delegated limits even if provision for them is included in the Estimate.

A2.2.8 The Treasury may also work through the Cabinet Office to set certain expenditure controls applicable across central government1.

Setting delegated authorities

A2.2.9 While the standard terms for inclusion in delegated authorities are set out in box A2.2B, HMT has produced a single template delegation letter which must be used to set delegated limits for central government departments and ALBs. Departments should appreciate that delegated authorities for certain kinds of expenditure can be modified or removed entirely if the Treasury is not satisfied that the department is using them responsibly.

A2.2.10 In establishing delegated authorities, the Treasury will:

* agree with the department how it will take spending decisions (e.g. criteria and/or techniques for investment appraisal, project management and later evaluation);
* establish a mechanism for checking the quality of the department's decision-taking (e.g. by reviewing cases above a specified limit, or giving full delegation but requiring a schedule of completed cases of which a sample may be examined subsequently); and
* encourage delegation of authority within the department to promote effective financial management. In general, authority should be delegated to the point where decisions can be taken most efficiently. It is for the accounting officer to determine how authority should be delegated to individual managers.

Box A2.2B: standard terms for delegated authorities

* a clear description of each item delegated

1 <https://www.gov.uk/government/collections/cabinet-office-controls>

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* the extent of each delegation, usually in financial terms, but potentially also in qualitative terms, eg all items of a certain kind to require approval
* any relevant authorities, eg the enabling legislation or letter from a Treasury minister
* the relevant budget provision
* the relevant section of the department's Estimate
* any effective dates
* arrangements for review. HMT requires that delegated authority limits be reviewed annually.

A2.2.11 In turn departments should agree delegated authorities with their arm's length bodies, making use of the template delegated authority letter. Delegations to ALBs should be no greater than departments' own delegated authorities.

Departments must seek HMT approval for the delegated authorities they agree with their ALBs.

A2.2.12 There are some areas of expenditure and resource commitments which the Treasury cannot delegate: see box A.2.2C.

Box A2.2C: where authority is never delegated

* items which are novel, contentious or repercussive, even if within delegated limits items which could exceed the agreed budget and Estimate limits
* contractual commitments to significant spending in future years for which plans have not been set
* items requiring primary legislation (eg to write off NLF debt or PDC)
* any item which could set a potentially expensive precedent
* where Treasury consent is a specific requirement of legislation

A2.2.13 Strictly, the Treasury cannot delegate its power of approval where there is a statutory requirement for Treasury approval. But in practice it can be acceptable to set detailed and objective criteria where Treasury approval can be deemed without specific examination of each case. This may be appropriate to avoid a great deal of detailed case-by-case assessment. The Treasury may ask for intermittent sampling to check that this arrangement is operating satisfactorily.

Failure to obtain Treasury authority

A2.2.14 All expenditure which falls outside a department's delegated authority and has not been approved by the Treasury, is irregular. It cannot be charged to departmental Estimates. Similarly, any resources committed or expenditure incurred in breach of a condition attached to Treasury approval is irregular.

A2.2.15 Where resource consumption or expenditure is irregular, the Treasury may be prepared to give retrospective approval if it is satisfied that:

* it would have granted approval had it been approached properly in the first place; and
* the department is taking steps to ensure that there is no recurrence.

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Requests for retrospective approval should follow the same format as requests submitted on time.

A2.2.16 If the Treasury does not give retrospective approval or authorise write-off of irregular expenditure, the department must inform the NAO. The Treasury may also draw the matter to the attention of the responsible accounting officer. The C&AG may then qualify his or her opinion on the account and the PAC may decide to hold an oral hearing. In the case of voted expenditure, the Treasury will present an excess vote to Parliament to regularise the situation.

A2.2.17 It is unlawful to commit resources or incur expenditure without Treasury consent, where such consent is required by statute. In such cases retrospective consent cannot confer legality. Such consumption cannot, therefore, be regularised.

A2.2.18 In cases of unlawful expenditure, the responsible accounting officer must note the department's accounts accordingly and notify the NAO. It will then be for the C&AG to decide whether to report on the matter to Parliament with the relevant accounts and whether to draw it to the attention of the PAC.

A2.2.19 The C&AG and the Treasury cooperate closely on questions of authority for expenditure. The C&AG may bring a department's attention to any cases where the department:

* has ignored or wrongly interpreted a Treasury ruling;
* is attempting to rely on a mistaken delegated authority, eg where the delegation has been changed or where consent was given orally only;
* has committed resources or incurred expenditure which the Treasury might not have approved had it been consulted.

A2.2.20 Departments should bring such cases to the attention of the Treasury, indicating clearly the NAO interest. The Treasury and NAO keep each other in touch with such cases.

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Annex 2.3

PAC Concordat of 1932

A2.3.1 The PAC has had long standing concerns about how the government gains authority from Parliament for each area of spending.

A2.3.2 In the mid 19th century it became customary for governments to gain Parliamentary authority for some areas of expenditure simply by use of the Contingencies Fund, without troubling to obtain specific powers for them. Shortly after its formation in 1862, the PAC protested about this practice, partly because it involved less stringent audit. It urged that the Contingencies Fund should be used only for in-year funding of pressing needs, and that all continuing and other substantive spending should be submitted to the Estimates process with due itemisation.

A2.3.3 By 1885 the PAC had become concerned that the authority of the Estimate and its successor Appropriation Act was not really sufficient either:

"... cannot accept the view in a legal, still less in a financial, sense that the distinct terms of an Act of Parliament may be properly overridden by a Supplementary Estimate supported by the Appropriation Act... this matter ... is one of great importance from a constitutional point of view ..."

A2.3.4 While the Treasury agreed in principle, the practice did not die out because in 1908 the PAC again complained:

"... while it is undoubtedly within the discretion of Parliament to override the provisions of an existing statute by a vote in Supply confirmed by the Appropriation Act, it is desirable in the interests of financial regularity and constitutional consistency that such a procedure should be resorted to as rarely as possible, and only to meet a temporary emergency".

A2.3.5 The PAC reverted to the issue in 1930 and again in 1932, citing a number of cases involving various departments. It was concerned to specify how far an annual Appropriation Act could be regarded as sufficient authority for the exercise of functions by a government department in cases where no other specific statutory authority exists. It took the view that:

"... where it is desired that continuing functions should be exercised by a government department, particularly where such functions may involve financial liabilities extending beyond a given financial year, it is proper, subject to certain recognised exceptions, that the powers and duties to be exercised should be defined by specific statute".

A2.3.6 In reply, the Treasury Minute said:

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"... while it is competent to Parliament, by means of an annual vote embodied in the Appropriation Acts, in effect to extend powers specifically limited by statute, constitutional propriety requires that such extensions should be regularised at the earliest possible date by amending legislation, unless they are of a purely emergency or non-continuing character”.

"... while... the Executive Government must continue to be allowed a certain measure of discretion in asking Parliament to exercise a power which undoubtedly belongs to it, they agree that practice should normally accord with the view expressed by the Committee that, where it is desired that continuing functions should be exercised by a government department (particularly where such functions involve financial liabilities extending beyond a given year) it is proper that the powers and duties to be exercised should be defined by specific statute. The Treasury will, for their part, continue to aim at the observance of this principle".

A2.3.7 With this Concordat, the matter still lies.

A2.3.8 Use of the Supply and Appropriation Acts as authority for expenditure is discussed in annex 2.4.

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Annex 2.4

New services

A2.4.1 Chapter 2 (box 2.1) sets out the essential conditions for authorisation of public spending. New services are exceptions, ie services for which parliament would normally expect to provide authorising legislation but has not yet done so. They can include altering the way in which an existing service is delivered as well as services not previously delivered.

When the Supply and Appropriation Act suffices

A2.4.2 Notwithstanding the general rules ion box 2.1, in some circumstances it is not necessary to have specific enabling legislation in place. Parliament accepts that agreement to the Estimate1 is sufficient authority for the kinds of expenditure listed in boxes 2.5 or 2.6. The content of these boxes is reproduced in box A2.4A. They can all be considered part of business as usual.

Box A2.4A: Expenditure parliament accepts may rest on a Supply and Appropriations Act

* routine administration costs: employment costs, rent, cleaning etc;
* lease agreements, eg for photocopiers;
* expenditure using prerogative powers, notably defence of the realm and international treaty obligations;
* temporary services or continuing services of low cost, provided that there is no specific legislation covering these matters before parliament and existing statutory restrictions are respected, specifically
* initiatives lasting no more than two years, eg a pilot study or one off intervention;
* expenditure of no more than £1.75m a year (amount adjusted from time to time).

A2.4.3 It is important not to exceed these limits. The Treasury has agreed in the Concordat (see annex 2.3) to seek to make sure they are respected. So departments should consult the Treasury before relying upon them.

Anticipating a bill

A2.4.4 In addition, parliament is prepared to accept that departments may undertake certain preparatory work while a bill is under consideration and before royal assent. Examples are listed in box A2.4B.

1 Which becomes a Supply and Appropriation Act once it has been through its parliamentary stages

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Box A2.4B: expenditure that can be incurred before royal assent

* pilot studies informing the choice of the policy option (because this process is part of designing, modifying or even deciding to abandon the policy);
* scoping studies designed to identify in detail the implications of a proposal in terms of staff numbers, accommodation costs and other expenditure to inform the legislative process;
* in-house project teams and/or project management boards;
* use of private sector consultants to help identify the chosen policy option, assist with scoping studies or other work informing the legislative process;
* work on the legislative process associated with the new service.

A2.4.5 Departments may be able to finance activities such as those in box A2.4B out of their existing resources. When this happens, departments should make sure that the ambit2 of the relevant Estimate covers the planned expenditure.

A2.4.6 It is also important to understand in which areas of new business parliament does expect the normal rigour for authorisation (box 2.1) to apply. For the avoidance of doubt, some examples are shown in box A2.4C.

Box A2.4C: expenditure which may not normally incurred before royal assent

* significant work associated with preparing for or implementing the new task enabled by a bill, eg renting offices hiring expert consultants or designing or purchasing significant IT equipment;
* recruitment of chief executives and board members of a new public sector organisation;
* recruitment of staff for a new public sector organisation.

Providing for a new service

A2.4.7 Some new services go well beyond the examples in box A2.4B. They include such things as paying a new grant, providing a new registration service, transforming the delivery of existing service or setting up a new public sector organisation. Even if a bill providing for a new service is before parliament, the activity the bill provides for cannot normally go ahead before royal assent. It is therefore good practice to plan the timetable for achieving the new service so that it is compatible with the bill timetable.

A2.4.8 Sometimes it is convenient to use a paving bill to provide the necessary powers to get a new service under way quickly. A paving bill can provide powers to allow expenditure which would be nugatory if the subsequent detailed legislation for the new service does not proceed, eg employing consultants to design a significant IT or regulatory system. Paving bills are usually short, though they may be contentious (and time consuming) as they can prompt parliamentary discussion of the underlying substance of the measure.

2 See paragraph 3.9 of the Estimates' Manual

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A2.4.9 Departments which do not use paving bills may want to make an early start on legislation contained in a bill during its passage through parliament. Usually the spending in question lacks both adequate statutory underpinning and authorisation in Estimates.

A2.4.10 In these circumstances there is a risk that allowing the spending to proceed might be wasteful if royal assent is not achieve as expected. So it is good practice to try to find other ways of making progress with the policy without anticipating royal assent.

A2.4.11 If, nevertheless. a department wants to spend early on matters to be empowered by a bill before parliament, it may make a claim for an advance from the Contingencies Fund with a plan to repay it out of the next Estimate when agreed3. The spending must meet the conditions in box A2.4D.

Box A2.4D: Criteria for drawings on the Contingencies Fund

* the bill in question must have reached second reading in the Commons; and
* the bill must be virtually certain to achieve royal assent with minimal change, preferably within a year; and
* genuine urgency in the public interest, ie where postponing expenditure until after royal assent would:
* cause additional wasteful expenditure or
* lose (not just defer) efficiency savings; or
* cause other damage or public detriment.

A2.4.12 The Treasury judges applications for access to the Contingencies Fund cautiously and on their merits. It is important to note that neither political imperative nor ministerial preference is relevant to making this assessment.

A2.4.13 In rare circumstances a Contingencies Fund advance may be awarded to make senior appointments to a new public sector body being set up under a bill. When this is allowed, the people appointed must be clear that if for any reason the legislation fails, the provisional appointments would have to be cancelled.

Notifying parliament

A2.4.14 The instances described in this annex all mean that parliament has less control over certain items of public expenditure than it would normally expect. Departments should therefore take great care to keep parliament informed of what is happening and why.

A2.4.15 A timely written ministerial statement giving the amounts involved and their timing is the essential minimum before Contingencies Fund resources can be released. If possible an oral explanation at second reading, or a separate oral statement, is desirable. In addition there should be:

* notes in the explanatory memorandum and impact assessment to the relevant bill; and

1. See section 5.8 of the Estimates Manual

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* notes in the relevant Estimate - especially important if a department

wants to anticipate secondary legislation which a bill will empower.

A2.4.16 If the effect of the measure changes significantly, parliament should be given timely information to keep it abreast of developments.

A2.4.17 It is good practice to keep the Treasury informed of the disclosure intended. The Treasury pulls all information about anticipation of parliamentary agreement together and publishes it annually at the close of each session.

Directions

A2.4.18 The exceptions in this annex to the requirements of box 2.1 provide a lot of scope for pragmatic progress of essential government business. The advice in this annex may be regarded as judicious extensions of the requirements of propriety, and acceptable only if parliament is not misled.

A2.4.19 But sometimes even these easements are not enough. If the Accounting Officer is unable to design the minister's policy to fit within the standards in this annex, he or she will need to seek a ministerial direction (see section 3.4). The usual rules about disclosure of course apply.

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Annex 3.1

The Governance Statement

It is fundamental to each accounting officer's responsibilities to manage and control the resources used in his or her organisation. The governance statement, a key feature of the organisation's annual report and accounts, manifests how these duties have been carried out in the course of the year. It has three components: corporate governance, risk management and, in the case of some departments, oversight of certain local responsibilities.

Purpose

A3.1.1 Each accounting officer (AO) delegates responsibilities within his or her organisation so as to control its business and meet the standards set out in box 3.1 (see chapter 3). The systems used to do this should give adequate insight into the business of the organisation and its use of resources to allow the AO to make informed decisions about progress against business plans and if necessary steer performance back on track. In doing this the AO is usually supported by a board.

A3.1.2 These responsibilities are central to the AO's duties. To carry them out the AO needs to develop a keen sense of the risks and opportunities the organisation faces. In the light of the board's assessment of the organisation's appetite for risk, the AO needs to decide how to respond to the evolving perceived risks. A3.1.3 The governance statement, for which the AO takes personal responsibility, brings together all these judgements about use of public resources as part of the annual report and accounts. It should give the reader a clear understanding of the dynamics and control structure of the business. Essentially, it records the stewardship of the organisation. Supplementing the accounts, it should provide a sense of the organisation's vulnerabilities and resilience to challenges.

Preparing the governance statement

A3.1.4 The governance statement is published in each organisation's annual report and accounts. It should be assembled from work through the year to gain assurance about performance and insight into the organisation's risk profile, its responses to the identified and emerging risks and its success in tackling them.

A3.1.5 There is no set template for the governance statement.

A3.1.6 The AO and the board have a number of inputs into this process:

the board's annual review of its own processes and practices, informed by the views of its audit committee on the organisation's assurance arrangements;

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* insight into the organisation's performance from internal audit, including an audit opinion on the quality of the systems of governance, management and risk control;
* feedback from the delegation chain(s) within the organisation about its business, its use of resources, its responses to risks, the extent to which in year budgets and other targets have been met, and any other internal accountability mechanisms; including:
* bottom-up information and assessments to generate a full appreciation of performance and risks as they are perceived from within the organisation;
* end-to-end assessments of processes, since it is possible to neglect interdependent and compounded risks if only the components are considered;
* a high level overview of the organisation's business so that systemic risks can be considered in the round;
* any evidence from internal control failures or poor risk management;
* potentially, information from whistleblowers;
* material from any arm's length bodies (ALBS) connected with the organisation which may shed light on the performance of the organisation or its board.

A3.1.7 It is important that the governance statement covers the material factors affecting the organisation in the round, not neglecting the more serious (if remote) risks1, emerging technology and other cutting edge developments. It should also mention any protective security concerns in suitably careful terms2, with details reported to the external auditor.

Content of governance statement

A3.1.8 With the board's support, it is for the AO to decide how to:

* organise the governance statement;
* take account of input from within the organisation and from the board and its committees;
* where relevant, integrate information about the organisation's ALBs, some of which may be material to the consolidated organisation;
* provide an explanation of how the department ensures that use of any resources granted to certain locally governed organisations (including the NHS) is satisfactory. See A3.1.12.

A3.1.9 Box A3.1A summarises subjects that should always be covered.

1 Including the external risks identified in the National Risk Assessment

2 As set out in the Security Policy Framework

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A3.1.10 All the items in this box are important. The risk assessment is critical. This is where the AO, supported by the board, should discuss how the organisation's risk management and internal control mechanism work, and why they were chosen to deliver reasonable assurance about prevention, deterrent or other appropriate action to manage the actual and potential problems or opportunities facing the organisation. Avoiding lengthy description of process, it should assess the evidence about the effectiveness in practice of the risk management processes in place. In doing so it should face frankly up to any revealed deficiencies as risks have materialised.

Box A3.1A: essential features of the governance statement

* the governance framework of the organisation, including information about the board's committee structure, its attendance records, and the coverage of its work;
* the board's performance, including its assessment of its own effectiveness; highlights of board committee reports, notably by the audit and nomination committees;
* an account of corporate governance, including the board's assessment of its compliance with the Corporate Governance Code, with explanations of any departures; information about the quality of the data used by the board, and why the board finds it acceptable;
* where relevant (for certain central government departments), an account of how resources made available to certain locally governed organisations are distributed and how the department gains assurance about their satisfactory use;
* a risk assessment (see annex 4.3), including the organisation's risk profile, and how it is managed, including, subject to a public interest test:
  + any newly identified risk
  + a record of any ministerial directions given
  + a summary of any significant lapses of protective security (eg data losses).

A3.1.11 In putting together the governance statement, the AO needs to take a view on the extent to which items are significant enough to the welfare of the organisation as a whole to be worth recording. There are no hard and fast rules about this. Some factors to take into account are suggested in box A3.1B.

Box A3.1B: deciding what to include in the governance statement

* might the issue prejudice achievement of the business plan? – or other priorities?
* could the issue undermine the integrity or reputation of the organisation?
* what view does the board's audit committee take on the point?
* what advice or opinions have internal audit and/or external audit given?
* could delivery of the standards expected of the AO (box3.1) be at risk?
* might the issue increase the risk of fraud or other misuse of resources?
* does the issue put a significant programme or project at risk?
* could the issue divert resources from another significant aspect of the business?

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* could the issue have a material impact on the accounts?
* might national security or data integrity be put at risk?

Accounting Officer System Statements

A3.1.12 Government departments should include in their governance statements a summary account of how they achieve accountability for the grants they distribute to local government, schools, similar local government organisations and/or the NHS. It should cover:

* an account of how resources are distributed, eg in response to needs or desired change;
* how the AO gains assurance about probity in the use of public funds;
* how the AO achieves or encourages value for money in the local use of grants, eg through local arrangements which provide incentives to achieve good value;
* the use the AO makes of disaggregated information about

performance, including investigating apparent outliers and/or requiring those responsible locally to explain their results.

A3.1.13 This part of the governance statement should usually be backed by an accounting officer systems statement, which are published on gov.uk.3 Guidance on accounting officer system statements can be found online. The system statement must be clear on the core data and information flows that the system will rely on. An understanding of these core data requirements should be developed collaboratively with the entities to be included within the system statement and with users to meet the need for effective accountability locally and nationally.

A3.1.14 Accounting officer system statements should evolve to reflect improving practice. Where a Department proposes making major changes, it should contact Treasury and also consider consulting the relevant Parliamentary committees by providing them with a draft and the opportunity to comment.

External audit

A3.1.15 The organisation's external auditor will review the governance statement for its consistency with the audited financial statement. The external auditor may report on:

* any inconsistency between evidence collected in the course of the audit and the discussion of the governance statement; and/or;
* any failure to meet the requirement to comply with or explain departures from the Corporate Governance Code or any other authoritative guidance.

1. See, <https://www.gov.uk/government/collections/accounting-officer-system-statements>

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Annex 4.1

Finance Directors

It is government policy that all departments should have professional finance directors reporting to the permanent secretary with a seat on the departmental board, at a level equivalent to other board members. It is good practice for all other public sector organisations to do the same, and to operate to the same standards. This annex sets out the main duties and responsibilities of finance directors.

The finance function

A4.1.1 The finance director of a public sector organisation should:

* be professionally qualified1;
* have board status equivalent to other board members;
* report directly to the permanent head of the organisation;
* be a member of the senior leadership team, the management board and the executive committee (and/or equivalent bodies), and of the cross-government Finance Function.

A4.1.2 This demanding leadership role requires a persuasive and confident communicator with the stature and credibility to command respect and influence at all levels through the organisation. Its main features are described in box A4.1A. Many of the day-to-day responsibilities may in practice be delegated, but the finance director should maintain oversight and control. In large part these duties consist of ensuring that the financial aspects of the accounting officer's responsibilities are carried through to the organisation and its arm's length bodies (ALBs) in depth.

Box A4.1A: the role of the finance director

governance

* financial leadership, both within the organisation and to its ALBS, at both a strategic and operational level
* ensuring sound and appropriate financial governance and risk management

1 The term professional finance director in this context means both being a qualified member of

one of the five bodies comprising the Consultative Committee of Accounting Bodies (CCAB) in the UK and Ireland, ie the Chartered Institute of Public Finance and Accountancy, the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants of Scotland, the Institute of Chartered Accountants i Ireland, the Association of Chartered Certified Accountants, or having equivalent professional skills and/or qualifications; and having relevant prior experience of financial management in either the private or the public sector.

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* leading, motivating and developing the finance function, establishing its full commercial contribution to the business
* planning and delivering the financial framework agreed with the Treasury or sponsoring organisation against the defined strategic and operational criteria
* challenging and supporting decision makers, especially on affordability and value for money, by ensuring policy and operational proposals with a significant financial implication are signed-off by the finance function
* internal controls
* co-ordinating the planning and budgeting processes
* applying discipline in financial management, including managing banking, debt and cash flow, with appropriate segregation of duties
* preparation of timely and meaningful management information
* ensuring that delegated financial authorities are respected
* selection, planning and oversight of any capital projects
* ensuring efficiency and value for money in the organisation's activities
* provision of information and advice to the Audit Committee
* leading or promoting change programmes both within the organisation and its ALBS external links
* preparing Estimates, annual accounts and consolidation data for whole of government accounts
* liaison with the external auditor
* liaison with PAC and the relevant Select Committee(s)
* liaison with cross-government Finance Function
* embedding of functional standards

A4.1.3 finance function should maintain a firm grasp of the organisation's financial position and performance. Supporting the accounting officer, the finance director should ensure that there is sufficient expertise in depth, supported by effective systems, to discharge this responsibility and challenge those responsible for the organisation's activities to account for their financial performance. It is important that financial management is taken seriously throughout each public sector organisation.

Financial leadership

A4.1.4 The finance director is responsible for leadership of financial responsibilities within the organisation and its ALBs. He or she should ensure that the information on which decisions about the use of resources are based is reliable. Box A4.2B explains some specific responsibilities of the role.

Box A4.1B: financial management leadership

* providing professional advice and meaningful financial analysis enabling decision makers to take timely and informed business decisions

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* maintaining a long term financial strategy to underpin the organisation's financial viability within the agreed framework
* developing and maintaining an effective resource allocation model to optimise outputs
* ensuring financial probity, regularity and value for money
* developing and maintaining appropriate asset management and procurement strategies
* reporting accurate and meaningful financial information about the organisation's performance to ONS, parliament, the Treasury and the general public
* setting the strategic direction for any commercial activities
* acting as head of profession in the organisation

Internal financial discipline

A4.1.5 The finance director should maintain strong and effective policies to control and manage use of resources in the organisation's activities. This includes improving the financial literacy of budget holders in the organisation. Similarly, he or she should ensure that there are similar disciplines in the organisation's ALBs. These should all draw on best practice in accounting and respect the Treasury's requirements, including, where relevant, accounts directions. These responsibilities are described in box A4.1C.

Box A4.1C: Financial control

* enforcing financial compliance across the organisation while guarding against fraud and delivering continuous improvement in financial control
* applying strong internal controls in all areas of financial management, risk management and asset control
* establishing budgets, financial targets and performance indicators to help assess

delivery

* reporting performance of both the organisation and its ALBS to the board, the Treasury and other parties as required
* value management of long term commercial contracts
* ensuring that the organisation's capital projects are chosen after appropriate value for money analysis and evaluation using the Green Book

A4.1.6 Individual finance director posts will of course have duties specific to their organisations and contexts in addition to those set out in this annex. But all finance director posts should seek to operate to these standards as an essential minimum.

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Annex 4.2

Use of models

In modern government modelling is important. It can guide policy development; help determine implementation plans; and suggest how policies may evolve. Models should be controlled and understood in their proper context, with effective quality assurance, so that they can be used to good effect.

Control and governance

A4.2.1 Supported by the board, the accounting officer of a central government organisation should oversee the use and quality assurance (QA) of models within the organisation. There should be sufficient feedback for the accounting officer to be able to track progress and adjust the process.

A4.2.2 Each business critical model should be managed by a senior responsible officer (SRO) of sufficient seniority and experience, supported by experts and specialists, to understand the use of the model in context. Project and programme management techniques can be useful. It is good practice to avoid changing the SRO frequently.

A4.2.3 Each model is limited by the quality of its input data and founding assumptions. So the results of any model need to be treated with a degree of scepticism. It is vital to build sufficient governance into each model to help its users understand the value and weaknesses of its results. The apparent precision of mathematical models should not mislead uses into putting more weight on them than can be justified. Transparency should be the norm in the development and use of all models.

Quality assurance

A4.2.4 Whatever the complexity of the model, its governance should include an element of structured critical challenge to provide a sense check. It can take a number of forms: for example a steering group, a project board or outside assessment. New or untried models tend to require more QA than those using recognised techniques.

A4.2.5 In an organisation using a great deal of modelling, it is good practice for the accounting officer to appoint a QA champion. Effective QA demands dispassionate scrutiny by people disengaged with the project but with sufficient knowledge and experience to help steer the model into a successful approach. There may be a case for ensuring that different models in different parts of the organisation use consistent approaches.

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A4.2.6 It is always good practice to evaluate the risks associated with any model so that the ultimate users of the model can appreciate what it can and cannot deliver. Sophisticated models may demand specialist expertise and leadership but the vital element of constructive lay oversight should never be skimped. Otherwise there can be a danger that flaws are overlooked because the experts concentrate on the technical complexities.

A4.2.7 In managing a model, the SRO should consciously decide how it can provide good value for money. There is no point, for instance, in data collection to a high degree of accuracy if the assumptions used in the model cannot be exact. Similarly, there is a stronger case for investing in a model if it forms a central part of a decision making process.

A4.2.8 References:

QA of government models: https://www.gov.uk/government/publications/review-of- quality-assurance-of-government-models

Guidance on long term financial modelling:

https://www.gov.uk/government/publications/gad-services/government-actuarys-

department-services #actuarial-modelling

Following the report by Sir Nicholas Macpherson into the quality assurance of analytical models that inform government policy, a cross-departmental working group on analytical quality assurance was established. The Aqua Book (at the following link) is one of their key products, and provides a good practice guide for those working with analysis and analytical models. The landing webpage also links to a number of other associated resources on quality assurance and modelling. https://www.gov.uk/government/publications/the-aqua-book-guidance-on-producing-quality-analysis-for-government:

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Annex 4.3

Risk

Each public sector organisation should have systems for identifying and managing risk - both opportunities and threats - suited to its business, circumstances and risk appetite. The board should lead the assessment and management of risk, and support the accounting officer in drawing up the governance statements (see annex 3.1).

The case for managing risk

A4.3.1 Every public sector organisations faces a variety of uncertainties, both positive and negative, which can affect its success in delivering its objectives, budget and value for money. So the board of each public sector organisation should actively seek to recognise both threats and opportunities, and to decide how to respond to them, including how to set internal controls.

A4.3.2 Managing risk should be integrated into the normal management systems of each public sector organisation so that it can achieve its goals and maintain a reputation of credibility and reliability. It is for each accounting officer (AO), supported by the board, to decide how.

A4.3.3 The board should make a strategic choice about the style, shape and quality of risk management within each organisation. This is risk tolerance, ie the extent to which the organisation is willing to accept loss or detriment either in the performance of its regular services or in order to secure better outcomes. Different risk tolerances will apply to different circumstances, eg mission critical programmes or policies might find service failure scarcely tolerable, whereas investment bodies may care more about achieving financial success even at the price of some failures. Boards should be willing to take a proportionate approach so that less important risks do not crowd out the vital ones.

Risk management in practice

A4.3.4 The board's strategic guidance on risk appetite should permeate each organisation's programmes, policies, processes and projects. It should determine how delegations and reporting arrangements work so that departures from plan can be picked up and dealt with promptly.

A4.3.5 Feedback from working level should also inform each board reassessment of risk. Thus risk management should be a continuous cycle of assessment and feedback, responding to new information and developments. The essentials of the process are summarised in box A4.3A.

A4.3.6 Each organisation should decide how this cycle should work, in line with its circumstances, priorities and working practices. The final word must always be for

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the AO supported by the board, taking a broad and connected view across the whole organisation.

Box A4.3A: Outline of the risk management cycle

1. The board defines the organisation's risk tolerance.
2. The organisation identifies and categorises its risks.
3. The organisation assesses the risks identified: how likely their possible impact, identifying which are beyond tolerance and when.
4. The board scans the horizon for any remote overlooked risks.
5. The board decides which risks matter and what action should be taken, if any.
6. Downward delegation of management, coupled with upward reporting of risks through the organisation enables the board to track performance
7. Using this feedback, the board takes a rounded overview, and may adjust decisions eg on tolerance or on response.
8. Back to step 1 and iterate as the board chooses.

Identifying risks

A4.3.7 It is important to capture all the organisation's risks so that they can be evaluated properly in context.

A4.3.8 There is value in getting each part of the organisation to think through its own risks. At working level operational risks may loom large. It may only be at board level that it is really possible to scan the horizon for emerging trends, problems or opportunities that might change the organisation's working environment. Some of the critical risks that are easily overlooked are shown in box 4.3B.

Box A4.3B: Examples of risk which are easily missed

* Information security risks: unsecured digital information can be misplaced or copied.
* High impact low probability risks: remote risks with serious effect if they happen.
* Opportunity risks: where some choices may close off other alternatives;.
* End to end risks: which emerge when an operational chain fails simultaneously in several places in a linked set of processes.
* Inter-organisational risks; which can cause failure of the organisation's business because of links to partners, suppliers and other stakeholders.
* Cumulative risks: which happen if several risks precipitate at once, eg in response to the same trigger.

A4.3.9 As well as drawing on risk assessment from within the organisation, it may be valuable to use an external source to make sure that nothing important has been overlooked. Sometimes different public sector organisations can help each other out in this way, to their mutual advantage. And it can be useful to get staff to work together to consider the subject, eg in facilitated groups.

A4.3.10 Once the organisation's risks have been identified, it is possible to draw up a risk register. This is a list of recognised risks which can be kept up to date and which the board can review regularly. Each organisation needs to decide how to

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prioritise its total risk exposure so that the board can take an informed strategic approach to risk for the organisation as whole.

Responding to risk

A4.3.11 Each organisation needs to decide whether, and if so how, to respond to its identified risks. Some standard responses are listed in box A4.3C.

Box A4.3C: **Some standard responses to risk**

Treat: a common response. Treatment can mean imposing controls so that the organisation can continue to operate; or setting up prevention techniques. See box 4.3D for possible treatments. Transfer: another organisation might carry out an activity in which it is more expert. Insurance is not usually open to public sector organisations (see annex 4.4) but other forms of transfer are, eg using a payroll bureau. Some risks cannot be transferred, especially reputational risk. So delegating organisations should retain oversight of their agents, with scope for remedial action when necessary. Terminate: it may be best to stop (or not to start) activities which involve intolerable risks or those where no response can bring the residual risk to a tolerable level, eg failing projects where it is cheaper to start again. This option is not always available in the public sector, which sometimes has to shoulder difficult risks - typically remote but potentially serious ones - which the private sector can choose to avoid.

Tolerate: for risks where the downside is containable with appropriate contingency plans; for some where the possible controls cannot be justified (eg because they would be disproportionate); and for unavoidable risks, eg terrorism.

Take the opportunity: boards may embrace some risks, accepting their downside perhaps with controls or preventative action, in the expectation of beneficial outcomes. Avoiding all risk can be as irresponsible as disregarding risk.

A4.3.12 In choosing responses, the acid test is whether the residual risk can be made acceptable after action. All controls should be realistic, proportionate to the intended reduction of risk, and offer good value for money. The more common types are listed in box A4.3D.

Box A4.3D: **Common controls**

Preventive action: measures to eliminate or limit undesirable outcomes, eg improving training or risk awareness; or stopping transfer of digital information using datasticks. Beware of imposing unnecessary costs or damaging innovation.

Corrective controls: measures to deal with damaging aspects of realised risks, eg clauses to recover the cost of failure of a contract. Includes contingency planning.

Directive controls: measures designed to specify the way in which a process is carried out to rule out some obvious potential damage, eg hygiene requirements.

Detective controls: measures to identify damage so that it can be remedied quickly. Especially useful where prevention is not appropriate, but can be a useful cross check elsewhere, eg stock controls.

A4.3.13 However it is treated, it is usually impossible to eliminate all risk. It would often be poor value for money to do so were it possible. So it is good practice to associate application of controls with contingency planning to cope with resolution of damage when risks precipitate. Many organisations find it useful to dry run these plans: first to check that they work, second to make sure they are proportionate and third to boil out any unnecessary features they may have.

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The Board

A4.3.14 Risk management is a key governance task for the board. It should take a strategic view of risk in the organisation in the round, factoring together all the relevant input it can reasonably use. For example, it may consider to what extent risks interact, cumulate or cancel each other out. And consideration of risk should feature in all the board's significant decisions.

A4.3.15 It is good practice for the board to consider risk regularly as part of its normal flow of management information about the organisation's activities. It is good practice for each layer of management to give upward assurance about its performance, so reinforcing responsibility through the structure.

A4.3.16 It is up to each board to decide how frequently it wants to consider risk. Some set regular timetables to consider the whole risk register, while some choose to look at parts of the risk register in a regular sequence. Scrutiny of this kind enables the board to assess developments in context and make confident decisions about their relevance and significance.

A4.3.17 It is good practice for the board to make these assessments on the advice of its Audit Committee, though it should form its own view. Audit committees can also add value by chasing up implementation of the organisation's responses to PAC reports. Each Audit Committee should be chaired by a non-executive board member, drawing on input from the organisation's internal reporting and internal audit functions.

A4.3.18 Having weighed the identified risks, the board should also seek to distinguish unidentified risks, some of which may be remote. Box 4.3B offers some possibilities though it is not exhaustive. This process may lead the board to reconsider its strategy on risk tolerance.

A4.3.19 A useful focus of board risk work is supporting the AO in preparation of the governance statement for publication in its annual report (se annex 3.1). It should include an account of how the organisation has responded to risk and what it is doing both to contain and manage risk; and also to rise to opportunities.

A4.3.20 More generally, the board should make sure that lessons are learned from the organisation's experience. This applies particularly to perceived failures, eg an unforeseen risk or a crystallised risk which turned out more damaging than expected. But it is equally true of successes, especially those where risk was managed well, to see whether there is anything to be gained by repeating effective techniques elsewhere.

A4.3.21 Finally, the board should consider whether the organisation's risks are being treated appropriately. If damage has been prevented, it may be possible to adjust the existing response to risk to achieve equally successful results by less expensive or less invasive techniques, eg replacing physical controls with security

cameras.

Departmental Groups

A4.3.22 Nearly all government departments sponsor one or more arm's length bodies (ALBs) for which they take ultimate responsibility while allowing them a degree of (or sometimes considerable) independence (see chapter 7). The accounts

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of these ALBS are consolidated with their sponsor department's accounts, emphasising that the sponsor stands behind them.

A4.3.23 It follows that each department board should consider the group's risk profile including the businesses of its ALBs. The potential liabilities of some ALBs (eg in the nuclear field) can be so great that they may overshadow the department's own, so this is essential hygiene.

A4.3.24 References:

The Orange Book: <https://www.gov.uk/government/publications/orange-book>

Other Treasury risk guidance:

http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-

treasury.gov.uk/psr\_governance\_risk\_riskguidance.htm

NAO report on Managing risks in government:

<http://www.nao.org.uk/report/managing-risks-in-government/>

GAD's practical guide to strategic risk management: <https://www.gov.uk/government/publications/strategic-risk-management>

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Annex 4.4

 Insurance

Central government organisations should not generally take out commercial insurance because it is better value for money for the taxpayer to cover its own risks. However, there are some circumstances where commercial insurance is appropriate. This annex sets out the issues to be considered. This guidance applies to departments and their arms-length bodies.

A4.4.1 Central government organisations should not normally buy commercial insurance to protect against risk. Since the government can pool and spread its own risks, there is little need to pay the private sector to provide this service. In general it is cheaper for the government to cover its own risks.

A4.4.2 However, in certain circumstances, as part of forming a risk management strategy, the accounting officer in a public sector organisation may choose to purchase commercial insurance to protect certain parts of the organisation's portfolio. Such decisions should always be made after a cost benefit analysis in order to secure value for money for the Exchequer as a whole. Some acceptable reasons for using insurance are set out in box A4.4A.

Box A4.4A: Where commercial insurance may provide value for money

* Building insurance as a condition of the lease and where the lessor will not accept an indemnity: commercial insurance may be taken out where the cost of accommodation, together with the cost of insurance, is more cost effective than other accommodation options.
* Overall site insurance: private sector contractors and developers usually take out a single-site insurance policy because it is cheaper than each individual party insuring themselves separately. So a client organisation may be able to cover its risks at little or no extra cost.
* Insurance of boilers and lifts: which may be a condition of taking out a lease, and typically involves periodic expert inspection designed to reduce the risk of loss or damage.
* Commercial initiatives: because these activities are outside the government's core responsibilities, losses on a department's discretionary commercial activities could reduce resources available for its core activities (see chapter 7). It will usually therefore make sense to insure them. Any goods used for services sold to other parts of central government should not, however, be insured.
* Where commercial insurance is integral to a project: eg, where private contractors insist, it may be appropriate to purchase insurance even if the net benefit is negative. But this may be a sign that the project needs restructuring to avoid any requirement to buy

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commercial insurance, perhaps through letters of comfort or statements of support. The costs and benefits of taking out insurance should be included in the appraisal of the project as a whole.

A4.4.3 Some ALBS may be in a slightly different position to central government departments. Box A4.4B gives examples of some items they may choose to insure commercially.

Box A4.4B: Items ALBs may insure

* items the ALB is required to insure, eg vehicles where the Road Traffic Acts require it.
* physical assets where a cost benefit analysis supports the case for insurance and the sponsor department agrees.
* goods owned by ALBS receiving less than 50% of their income from the Exchequer (through grant-in-aid or fees and charges). Commercial insurance protects the risk to the Exchequer from claims from third parties.
* items used by an ALB for income generation schemes to supplement the approved level of public spending. Commercial insurance is appropriate to cover the risks lest costs or losses could not be met out of receipts.

Appraising the options

A4.4.4 Decisions on whether to buy insurance should be based on objective cost- benefit analysis, using guidance in the Green Book1. Box A4.4C outlines some factors which are often worth considering in such assessments.

Box A4.4C: Costs and benefits which could be included in assessments

Costs:

* the insurance premium which may be paid
* the administrative cost of managing claims with the insurance company

Benefits:

* transfer of risk, valued at the expected compensation for the insured losses
* claims handling, where the insurance company will manage claims against third parties
* the value of guaranteed business recovery: the potential reduction in the time taken to reinstate losses, reducing business interruption

Setting fees and charges

A4.4.5 If a central government organisation insures risks arising in supplying a service for which a fee or charge is levied, the actual premium payments should be included in the calculation of costs when deciding the fee or charge. Similarly, where a central government organisation self-insures, the notional cost of premium payments should be taken into account. See Chapter 6 for further details.

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

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Claims administration

A4.4.6 Managing claims against third parties can be time-consuming and require expert attention. Insurance companies may be better placed than public sector organisations to deal with claims economically and efficiently. So contracting-out claims administration to an insurance company might be more cost-effective than retaining the work in-house.

Reporting

A4.4.7 Departments should inform their Treasury spending team of:

* any decision to use the services of commercial insurance companies
* any reviews of insurance, or alternatives to insurance, that might contain lessons of wider application.

A4.4.8 In turn ALBs should consult their sponsor departments in similar circumstances.

Dealing with losses

**Uninsured losses (except traffic accidents)**

A4.4.9 Where a loss occurs or a third-party claim is received, public sector organisations should initially consider whether the loss should be made good or the claim accepted. Thus:

* loss of or damage to assets: the question of repair or replacement should always be carefully considered, taking account of the need for

the asset and current policies. This decision is, in effect, a new

investment decision and should be appraised accordingly;

* third-party claims: the justification for the claim should be carefully considered with appropriate legal advice.

A4.4.10 If the organisation decides to repair or replace an asset, or meet a third party claim, it should normally expect to meet the cost from within its existing allocations. The Treasury does not routinely entertain bids for additional resources in such cases. If a bid did arise the Treasury would consider it on its merits and in the light of the resources available, in the same way as other bids for increases in provision. Similarly, ALBS should not normally expect their sponsor departments to meet claims for reimbursement of loss.

**Insured losses**

A4.4.11 Public sector organisations should make insurance claims in accordance with the terms of the policy.

A4.4.12 ALBS may retain amounts paid under commercial insurance policies to meet expenditure resulting from losses or third-party claims. If it is decided not to replace or to repair an insured asset, the sponsor department may reduce any grant in aid payable to the ALB.

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Claims between public sector organisations

A4.4.13 If two uninsured departments are involved in an incident causing loss to one or other, it is immaterial to the Exchequer whether one claims on the other for the damage. For small claims it would not be value for money for the Exchequer to make interdepartmental adjustments in the case of minor damage. Similar waiver arrangements should apply up to mutually agreed limits between other public sector organisations. But waiver arrangements of this kind are not appropriate where there are rights of claim against third parties. It will always be regarded as novel, contentious, or repercussive for one central government organisation to seek legal redress from another central government organisation through the courts, meaning that Treasury consent is always required.

A4.4.14 Box A4.4D shows how to proceed when one central government organisation makes a larger claim against one or more others.

**Box A4.4D: Handling claims between public sector organisations**

Insurance status Settlement of claims

All insured

All uninsured

Insurers settle claims

Organisation(s) at fault negotiate about whether to reimburse the other(s)

Organisation at fault uninsured, other organisation(s) insured

Insured organisation claims on its insurance policy. Uninsured organisation(s) deal with claims from the insurers on the basis of strict legal liability

Organisation at fault insured, other organisation(s) Uninsured organisation(s) seek financial satisfaction uninsured through the insurers of the organisation(s) at

fault

Vehicles

A4.4.15 Most ALBS insure third-party vehicle claims to comply with the Road Traffic Acts. Public sector organisations that are not insured for traffic accidents should refer any third-party claims, either for or against, to the Treasury Solicitor who acts on behalf of the government.

A4.4.16 Many claims between public sector organisations involving damage to, or loss caused by, vehicles, can be handled using the arrangements in paragraph A4.4.13.

A4.4.17 Vehicles travelling in EU countries must comply with Directives. These require vehicles operating in another's territory to be covered by insurance to the extent required by the legislation in territory of the journey, unless there are acceptable alternative arrangements, eg indemnities.

Loans

A4.4.18 When government assets are loaned to a body other than a public sector organisation which does not insure, it is important to protect the interests of the lending organisation. So the borrower should insure against damage or loss of the

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assets from the time of receipt and against claims by third parties including its own employees. An indemnity by the borrower is an acceptable substitute if the lender is satisfied that the borrower could and would meet any damage or other loss.

A4.4.19 Public sector organisations are usually expected to meet the cost of insuring any government assets (eg. equipment or stores) held by a contractor in the normal course of business. The cost of any insurance against risks arising from negligence or wilful misconduct by the contractor's employees should be borne by the contractor. These arrangements should be explicitly set out in the relevant contract.

A4.4.20 Public sector organisations which borrow objects of value from a non- government body should normally offer the owner an indemnity against damage or loss. Such indemnities should leave no doubt as to the extent and duration of the borrowing organisation's liability. And they may need to be reported if they fall within the parliamentary reporting requirements (see annex 5.4).

A4.4.21 Borrowers should only take out commercial insurance for loaned items of value if the owner insists upon it, or if the borrower has reason to believe that commercial insurance would be more cost effective than giving an indemnity.

Employers' liability

A4.4.22 The Crown is not bound by the Employers' Liability (Compulsory Insurance) Act 1969. So departments need not insure the risks outlined in the Act. Decisions on whether to insure should be taken on value for money grounds after an appraisal. Similarly, parliamentary bodies such as the National Audit Office, the Parliamentary Commissioner (Ombudsman) and the Independent Parliamentary Standards Authority need not insure against employers' liability risks as they are exempted under the Employers' Liability (Compulsory Insurance) (Amendment) Regulations 2011 (SI 2011/686).

A4.4.23 A body funded by grant in aid need not insure against employers' liability risks. This is because the Employers' Liability (Compulsory Insurance) Regulations 1998 (SI 1998/2573) provide exemption for any body (or person who may be an employer) holding a certificate issued by a government department. Again, the decision on whether to insure will depend on a value for money assessment. If the organisation chooses not to insure, responsibility for the issue of certificates in accordance with the Act rests with the department responsible for paying grant in aid, provided that it is satisfied that this is the appropriate course.

A4.4.24 The scope of the certificate should be strictly confined to the risks with which the Employers' Liability (Compulsory Insurance) Act 1969 is concerned, and may not be extended to any other risks. It should be in the form set out in Box A4.4E. Departments should ensure that the circumstances in which certificates have been issued are reviewed from time to time, so that certificates may be revoked if circumstances change.

Box: 4.4.E: form of exemption certificate

In accordance with the provisions of paragraph 1 of Schedule 2 of the Employers' Liability (Compulsory Insurance) Regulations 1998 (SI 1998/2573), the Minister of ......./Secretary of State for....... hereby certifies that any claim established against [here specify the body or person] in respect of any liability to [here specify the employees involved] of the kind mentioned in section

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1(1) of the Employers' Liability (Compulsory Insurance) Act 1969 will, to any extent to which it is otherwise incapable of being satisfied by the aforementioned employer, be satisfied out of moneys provided by parliament.

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Annex 4.5

Senior Responsible Owner Accountability

A4.5.1 Senior Responsible Owners (SRO) for Major Projects (as defined in the Government's Major Project Portfolio) are in a special position in that they are expected to account for and explain the decisions and actions they have taken to deliver the projects for which they have personal responsibility. This line of accountability should be made clear to SROs in their appointment letter which is published on GOV.UK.

A4.5.2 The Government publishes on an annual basis a list of the SROs for the Government's Major Project Portfolio (as defined by the Infrastructure and Projects Authority).

A4.5.3 Where a Committee wishes to take evidence from an SRO of one of these major projects it will be on the understanding that the SRO will be expected to account for the implementation and delivery of the project and for their own actions. Appointment letters will make clear the point at which an SRO becomes directly accountable for the implementation of the project in question. The SRO will also be able to disclose to the Committee where a Minister or official has intervened to change the project during the implementation phase in a way which has implications for cost and/or timeline of implementation. In this respect the SRO should also be able to disclose their advice about any such changes.

A4.5.4 Accounting Officers are ultimately accountable for the performance of all the business under their control, including major projects for which an individual SRO has direct accountability and responsibility. And in this respect, if a Select Committee calls for evidence from an SRO, the Accounting Officer of the department may also be called to support the SRO at a hearing.

A4.5.5 This line of direct accountability for SROS does not alter the special position and relationship of Accounting Officers with the PAC.

A4.5.6 The Government Functional Standard GovS 002: Project Delivery sets the expectations for the direction and management of portfolios, programmes and projects for all government departments and arm's length bodies. An SRO should refer to this standard to ensure the breadth of practices required for successful delivery are used.

<https://www.gov.uk/government/publications/project-delivery> - functional-standard

A4.5.7 Further information on the accountability, relationship to other key leadership roles in project delivery and the selection and appointment of an SRO is available in Infrastructure and Project Authority guidance on the role of the senior responsible owner. <https://www.gov.uk/government/publications/the>- role-of-the- senior-responsible-owner

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A4.5.8 Further information is available in Cabinet Office guidance for officials from departments and agencies on giving evidence to Parliamentary Select Committees (the Osmotherly Rules).

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Annex 4.6

Procurement

It is important to secure value for money in asset management through sound procurement. Public sector organisations should normally acquire goods and services through fair and open competition, acting on Cabinet Office advice. This annex provides an overview of the policy framework for public procurement.

A4.6.1 Good procurement practice demands that public sector organisations buy the goods, works and services they need using fair and open procurement processes, guarding against corruption and meeting the standards in MPM. World Trade Organisation (WTO) agreements and many of the UK's trade deals underpin these principles. The specific responsibilities are set out in box A4.6A.

Box A4.6A: checklist of key purchasing responsibilities

General

* value for money, normally through competition;
* compliance with legal obligations including those imposed by international agreements;
* follow Government Procurement Service1 policies and standards on public procurement.

Management approach

* leadership on the importance of procurement in delivering objectives;
* define roles and responsibilities of key staff, with adequate separation of duties;
* promote awareness (including in ALBS) of the importance of procurement policy and the GPS guidance.

Planning and engagement

* clarify objectives of procurement from the start
* consider how the procurement strategy could attract a diverse range of suppliers including SMEs and civil society organisations;
* consider collaborative or shared procurement with other organisations to maximise purchasing power;
* design procurement strategy and engage with the market early and well before competition starts;
* consult GPS on any difficult legal issues.

Skills

* use procurement professionals throughout;

1 <https://www.gov.uk/government/organisations/crown-commercial-service>

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* ensure that there is sufficient skills capacity in undertaking and managing procurements and projects.

Review

* apply the GatewayTM review process;
* draw issues which may have wider implications to the Cabinet Office's attention.

A4.6.2 This guidance is intended to be fully consistent with the UK's international obligations. It does not create any rights or legal obligations.

Value for money

A4.6.3 Value for money is a key concept (see paragraph 3.3.3 and box A4.6B). It means securing the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought. It is not about minimising up front prices. Whether in conventional procurement, market testing, private finance or some other form of public private partnership, finding value for money involves an appropriate allocation of risk.

Box A4.6B: securing value for money

Cost: the key factor is whole life cost, not lowest purchase price. Whole life cost takes into account the cost over time, including capital, maintenance, management, operating and disposal costs. For complex procurements, whole-life cost can be very different from initial price.

Quality: paying more for higher quality may be justified if the whole life cost is better, for example, taking into account maintenance costs, useful life and residual value. The purchaser should determine whether increased benefits justify higher costs.

Perspective: each public sector organisation's procurement strategy should seek to achieve the best value outcome for the Exchequer as a whole, not just for the organisation itself. This should be designed in before the invitation to tender is published.

Collaborative procurement: in the vast majority of cases, standardising and aggregating procurement requirements will deliver better value for money. Public sector organisations, including smaller ones, should therefore collaborate as far as possible on procurement in line with GPS practice.

A4.6.4 Purchasers need to develop clear strategies for continuing improvement in the procedures for acquisition of goods, works and services. Public sector organisations should collaborate with each other, following guidance, in order to secure economies of scale, unless they can achieve better value for the Exchequer as a whole some other way. Smaller suppliers should have fair access to see if they able to deliver better value for money.

Legal framework

A4.6.5 Public sector organisations are responsible for ensuring that they comply with the law on procurement (see box A4.6C) taking account of Cabinet Office guidance2.

The user's requirement

A4.6.6 Procurement should help deliver relevant departmental and government-wide strategies and policies. The procuring organisation should establish that the supply sought is really needed, is likely to be cost effective and affordable. And the published specification should explain clearly what outcomes are required, since this is crucial to obtaining the supply required. Once it is decided that third party procurement appears better value for money than provision in-house, a

2 Cabinet Office guidance: <https://www.gov.uk/government/organisations/crown-commercial-service>

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range of models should be considered, for example employee-led mutuals and joint ventures as well as more traditional outsourcing.

Box A4.6C: **the legal framework for public procurement**

* international obligations, notably WTO agreements
* domestic legislation, including subordinate legislation implementing directives;
* contract and commercial law in general
* domestic case law

The procurement process and suppliers

A4.6.7 Competition promotes economy, efficiency and effectiveness in public expenditure. Works, goods and services should be acquired through competition unless there are convincing reasons to the contrary, and where appropriate should comply with domestic advertising rules and policy as well as relevant obligations imposed on the UK by its international agreements. The form of competition chosen should be appropriate to the value and complexity of the goods or services to be acquired.

A4.6.8 Public sector organisations should aim to treat suppliers responsibly to maintain good reputations as purchasers (see box A4.6D), taking account of the government's Procurement pledge to help stimulate economic growth3.

Box A4.6D: **relationships with suppliers**

* high professional standards in the award of contracts
* clear procurement contact points
* adequate information for suppliers to respond to the bidding process
* the outcome of bids announced promptly
* feedback to winners and losers on request on the outcome of the bidding process
* high professional standards in the management of contracts
* prompt, courteous and efficient responses to suggestions, enquiries and complaints

A4.6.9 In carrying out efficient sourcing projects, central government should follow best practice.

A4.6.10 One such approach is LEAN approach4 whose principles are designed to make doing business with government more efficient and cost-effective (for both buyers and suppliers) to support economic growth.

A4.6.11 During the evaluation stage of sourcing, it is important to for public sector procuring organisations to:

establish the propriety of candidate suppliers - taking account of the requirement to exclude those convicted of, for example, fraud, theft, fraudulent trading or cheating HMRC;

3 Procurement Pledge (<http://www.cabinetoffice.gov.uk/resource-library/our-procurement-pledge>)

4 <https://www.gov.uk/government/publications/lean-sourcing-guidance-for-public-sector-buyers>

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assess suppliers' economic and financial standing to gain confidence of their capacity to carry out fully what the buyer requires within the pre-determined timescale and deliver value for money;

secure value for money (see box A.4.6B), using relevant and consistent criteria for evaluating the key factors (cost, size, sustainability, design etc).

Contracts

A4.6.12 In drawing up contracts, purchasers should, where possible:

* use model terms and conditions developed in the light of collective experience and which may help avoid prejudicing the position of others using the same supplier;
* avoid variation of price clauses in contracts of less than two years' duration; and
* Include prompt payment clauses.

A4.6.13 Purchasers cannot enter into contracts with other parts of the legal entity to which they belong, so different parts of the Crown cannot contract with each other. Instead internal agreements which fall short of being contracts are used (typically service level agreements). These may have all the hallmarks of contracts other than scope for legal enforcement.

Central purchasing bodies and agencies

A4.6.14 Central government organisations are required to use the services and collaborative procurement deals managed by the Government Procurement Service on behalf of government5. A4.6.15 If public sector purchasers employ private sector agents to undertake procurement on their behalf they should:

* require compliance with the law (see box A4.6C);
* ensure clear allocation of responsibilities; and
* where appropriate, obtain the agent's indemnity against any costs incurred as a result of its failure to comply with the legal framework on its behalf.

Taxation

A4.6.16 Central government bodies should:

* base procurement decisions independent of any tax advantages that may arise from a particular bid;
* avoid contractors using offshore jurisdictions, consistent with international obligations and the government's stated objectives on tax transparency and openness;
* be vigilant in not facilitating tax arrangements with suppliers or their agents that are detrimental or disadvantageous to the Exchequer. Public sector organisations need to take special care in relation to the tax arrangements of public appointees (see Cabinet Office guidance);

5 Cabinet Office guidance: [https://www.gov.uk/government/organisations/crown-commercial- service](https://www.gov.uk/government/organisations/crown-commercial-%20service)

1. Cabinet Office guidance: Procurement Policy Note - Tax arrangements of Public Appointees

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employ internal management processes to ensure that transactions that give rise to questions of propriety of tax arrangements are brought to the accounting officer's or, if necessary, ministers' attention.

A4.6.17 In the case of bids under the Private Finance (PF2), it is particularly important to ensure that comparisons of competing bids take account of any tax planning by bidders. The Treasury's Green Book provides for a tax adjusted Public Sector Comparator to allow for the (usually) material tax difference between a PF2 option and the wholly public sector alternative. It would be inappropriate to apply this to bids where tax planning has cancelled out this effect.

A4.6.18 Public procurement projects involving the transfer of real estate or assets that are likely to appreciate in value can often give rise to specific tax issues, in particular liability to capital gains tax. If public sector organisations are negotiating with bodies that wish to structure procurement proposals in this way, they should consult the Treasury and HMRC at an early stage to identify the likely tax implications and assess the proposal for propriety generally.

Further guidance

A4.6.19 Central sources of guidance on procurement and related issues include:

* the Government Commercial Function

(<https://www.gov.uk/government/organisations/government-commercial-function>)

* the Treasury's Green Book on project appraisal and evaluation in central government

(https://www.gov.uk/government/uploads/system/uploads/attachment\_ data/file/179

349/green book\_complete.pdf.pdf ) ;

* Department for Business, Energy and Industrial Strategy guidance on compliance with the subsidy obligations arising from the UK's international agreements (https://www.gov.uk/government/publications/complying-with-the-uks- international-obligations-on-subsidy-control-guidance-for-public-authorities )
* Procurement Policy Notes

(<https://www.gov.uk/government/collections/procurement-policy-notes> );

* The Crown Commercial Service (<https://www.crowncommercial.gov.uk> /);
* Cartels and bid-rigging

(https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/284

413/oft435.pdf ); and

* HM Revenue and Customs on tax avoidance issues

(<http://www.hmrc.gov.uk/avoidance/> ).

Img 0147

Annex 4.7

Subsidies

A4.7.1 The transition period which followed the UK's departure from the European Union ended on 31 December 2020, and EU law ceased to have any force in the UK (save in those areas provided for by the Withdrawal Agreement).1 UK public bodies must continue ensure compliance with all relevant domestic and international subsidies rules, including World Trade Organisation commitments and commitments the UK has entered into under bilateral Trade Agreements.

A4.7.2 In certain areas the government has published updated guidance, which can be found on gov.uk. Accounting Officers should be aware that obligations arising from domestic and international law are binding for the whole public sector and assist their partner organisations in complying where new obligations have arisen.

Box A4.7A: **further guidance**

BEIS guidance on complying with international obligations on subsidy control - <https://www.gov.uk/government/publications/complying-with-the-uks-international-obligations-on-subsidy-control-guidance-for-public-authorities>

1 This annex has been retitled 'Subsidies' from 'State aids' to reflect this.

Img 0148

Annex 4.8

Expenditure and payments

As part of the process of authorising and controlling commitments and expenditure of public funds, public sector organisations should time their expenditure and payments to provide good value for public money.

A4.8.1 Public sector organisations should use good commercial practice in managing the flows of expenditure and commitments they deal with. Box 4.3 has some sound high level principles. These need to be interpreted in the context of each organisation's business, in line with current legislation and using modern

commercial practice. The actual techniques used may thus change from time to time and from place to place.

A4.8.2 In particular, public sector organisations should;

* explain payment procedures to suppliers;
* agree payment terms at the outset and stick to them;
* pay bills in accordance with agreed terms, or as required by law;
* tell suppliers without delay when an invoice is contested; and
* settle quickly when a contested invoice gets a satisfactory response.

A4.8.3 Public sector organisations are also bound by legislation1 aiming to ensure that in commercial transactions, the payment period does not exceed 30 calendar days after the debtor receives an invoice. Further advice is available from the Cabinet Office and BEIS.

A4.8.4 However, the Government recognises that the public sector should set a strong example by paying promptly. Central government departments should aim to pay 80% of undisputed invoices within 5 days. They should also include a clause in their contracts requiring prime contractors to pay their suppliers within 30 days. The principles in Box 4.4 must still be applied to all payments. Further guidance is available2.

1 The Late Payment of Commercial Debts (Interest) Act 1998 (as amended by The Late Payment of Commercial Debt Regulations

2002 (SI 1674) and the Late Payment of Commercial Debt Regulations 2013).

2 The Prompt Payment Code <http://www.promptpaymentcode.org.uk./>

Img 0149

Payments outside the normal pattern

A4.8.5 Payments in advance of need should be exceptional, and should only be considered if a good value for money case for the Exchequer can be made. Even then, as advance payments lead to higher Exchequer financing costs, such payments are novel and contentious and require specific Treasury approval. Advance payment should never be used to circumvent expenditure controls or budgetary limits.

A4.8.6 In particular, it is not good value for money for public sector organisations to act as a source of finance to contractors who have access to other forms of loan finance. So advance payments to contractors (ie payments made before equivalent value is received in return) should only be considered if, for example, a price discount commensurate with the time value of the funds in question can provide a good value for money case. Exceptions to these guidelines, which would not normally require specific Treasury approval, include:

* service and maintenance contracts which require payment when the contract commences, provided that the service is available and can be called on from the date of payment;
* grants to small voluntary or community bodies where the recipient needs working capital to carry out the commitment for which the grant is paid and private sector finance would reduce value for money;
* minor services such as training courses, conference bookings or magazine subscriptions, where local discretion is acceptable; and
* prepayments up to a modest limit agreed with the Treasury, where a value for money assessment demonstrates clear advantage in early payment.

A4.8.7 Interim payments may have an element of prepayment and so public sector organisations should consider them carefully before agreeing to them. However, if they are genuinely linked to work completed or physical progress satisfactorily achieved, preferably as defined under a contract, they may represent acceptable value for public funds. Taking legal advice as necessary, organisations should, however, consider whether:

* the contractor's reduced need for working capital should be reflected in reduced prices;
* the contractor should provide a performance bond in the form of a bank guarantee to deal with possible breach of contract.

A4.8.8 Public sector organisations should not, however, use interim payments to circumvent public spending controls. For example, it is not acceptable to make payments where value has not been received, simply to avoid underspending.

A4.8.9 Deferred payments are generally not good practice. They normally mean paying more to compensate the contractor for higher financing costs and are thus poor value for money (at the margin the Exchequer can always borrow more cheaply than the private sector). So any proposal for deliberate late payment is potentially novel and contentious. Any central government organisation considering deferred payments must thus seek Treasury approval before proceeding.

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Annex 4.9

Fraud

Governance in public sector organisations includes arrangements for preventing, countering and dealing with fraud. This annex provides further detail.

A4.9.1 Accounting officers are responsible for managing public sector organisations' risks, including fraud. Each organisation faces a range of fraud risks specific to its business, from internal and external sources. The Fraud Act 2006 recognises that a criminal offence of fraud arises from causing a loss to an individual or legal entity through the intentional misdeclaration of information; knowingly withholding information; or through an abuse of position. The risk of a given fraud is usually measured by the probability of its occurring and its impact in monetary and reputational terms should it occur. Fraud can also have other impacts including undermining the delivery of government policy objectives and outcomes and physical or societal harm.

A4.9.2 In broad terms, managing the risk of fraud involves:

* assessing the organisation's overall vulnerability to fraud;
* identifying the areas most vulnerable to fraud risk;
* evaluating the scale of fraud risk;
* responding to fraud risk;
* detecting fraud;
* measuring the effectiveness of the fraud risk strategy; and
* reporting fraud.

A4.9.3 The most effective way to manage the risk of fraud is to prevent it from happening by developing an effective anti-fraud culture.

For guidance on all these areas, see Tackling Internal Fraud' and Tackling External Fraud2.

1 [http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/psr managing risk of fraud.htm](http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/psr%20managing%20risk%20of%20fraud.htm)

2 <http://www.nao.org.uk/report/good-practice-in-tackling-external-fraud-2/>