



10 DOWNING STREET

*you had  
pt 3*

From the Private Secretary

29 June, 1981.

*Dear Adrian*

Non-Departmental Public Bodies: A Guide for Departments

The Prime Minister was grateful for your Minister of State's minute of 21 June forwarding a revised draft of the guide and for the attention which has been given to the points set out in Mike Pattison's letter to you of 6 April.

The Prime Minister is now content for the revised text to be published, with a few changes as follows. She has in particular considered the specific points to which Mr. Hayhoe drew her attention in his helpful list of "main amendments", and these comments follow the order of your list of new paragraphs.

The Prime Minister attaches importance to a clear definition of the relationship between Departments and NDPBs. She thinks that the phrase "in broad terms" (line 2, of para. 131) weakens the reference to the need for clarity in stating objectives and how they are to be achieved. She thinks that it could be deleted without loss. She also feels that the same paragraph of the guide should require Departments to draw up a "formal statement" of an NDPB's objectives rather than simply suggest such statements are "useful". Similarly, she feels it should be a requirement that departmental Accounting Officers see new chief officers on appointment (para. 83). And she does not consider that the phrase "suitable powers of Ministerial direction" (para. 30) need be qualified by "at least of a general character".

The Prime Minister is generally content with the guidance given on reviewing the NDPBs (paras. 109-115). Her only comment is that the references to the frequency of review (paras. 109-114) should be made more specific. She thinks that a review every 3-5 years would not be unreasonable. She has noted with approval that financial affairs are in any case to be reviewed every 3 years in the case of bodies substantially funded by Government and every 5 years in other cases (para. 41) and thinks that the two types of review are so closely associated as to suggest that their timing should be associated.

The financial management and accountability of NDPBs is another crucial area, and the Prime Minister thinks it is important that the guide should include the point that, in considering the

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quality of a NDPB's management, a sponsor Department's Accounting Officer should enquire into its capacity to secure value for money (last sentence of para. 79).

I am copying this letter to the Private Secretaries of Cabinet Members, David Wright (Cabinet Office) and Clive Priestley (Sir Derek Rayner's Office).

*yours sincerely  
William Rickett*

A.A. Carter, Esq.,  
Civil Service Department.

PRIME MINISTER

Back in April, Barney Hayhoe circulated a draft guide for Departments on the management of non-departmental public bodies. You agreed there was a need for such a central guidance. There has been some variation in departmental practice, and Governments have slipped into some damaging situations because of this (eg the Crown Agents).

However, you agreed with Derek Rayner's Office that Mr. Hayhoe's draft needed changing in a number of respects. The most important were that the paper placed too much emphasis on the problems of setting up new bodies rather than those of managing existing ones; that it was too tentative in describing the control exercised by Ministers over these bodies; and that the description of the objectives ~~of~~ accountability of these bodies, especially financial, was not sufficiently specific.

Mr. Hayhoe has now revised the draft (at A). I have consulted Derek Rayner's office. They are content subject to some small but not unimportant amendments. I have set these out in a Private Secretary letter at B. Go

Content to approve the draft subject to these comments?


*CW*

*Yes no*

25 June 1981

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PRIME MINISTER

NON-DEPARTMENTAL PUBLIC BODIES: A GUIDE FOR DEPARTMENTS

The Guide has been re-drafted to reflect your comments on the version I sent you on 25 March. The result (attached) is, I believe, a much firmer and crisper statement of our policy and of our control systems.

2. The most important changes are:

- a. the new Introduction, which sets the keynote for the whole Guide by quoting from your statements of 16 January and 3 December last year;
- b. the amalgamation and tightening up of the two previous chapters about proposals for new bodies, and the removal of this material to the end of the Guide;
- c. the re-writing of the chapter on periodic reviews to make it firmer and more positive;
- d. the introduction of statements of principle at the beginning of chapters (eg paragraphs 31, 47 and 117).

3. The other main changes are noted in the attached list. The entire text has been edited to make it more incisive.

4. I was encouraged by the letters from colleagues welcoming the earlier version. I hope that you and they will agree that the latest version is a further step forward and should now be published.

5. I am sending copies of this minute and the revised draft to members of the Cabinet and to Sir Robert Armstrong and Sir Derek Rayner.

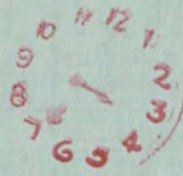
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BARNEY HAYHOE

21<sup>st</sup> June 1981

22 JUN 1981



MAIN AMENDMENTS TO THE DRAFT GUIDE

<u>Old Paras</u>	<u>New Paras</u>	<u>Amendment</u>
1-17	1-18	Introduction re-written to set out clearly the Government's general policy and the principles underlying the Guide. (item 1)
45, 62 & 149	131, 21 & 83	Modified to reflect the PM's comment about the relationship between departments and bodies (item 5)
60-61	19-20	Revised to describe Ministerial answerability more clearly (item 6)
71	30	Re-ordered to strike a more positive note (item 7)
76-77	32-34	Recast to give greater precision (item 7)
84	41	Frequency of financial reviews adjusted (item 8)
90-91	31	Moved forward to provide a bolder opening to the section on Finance (item 9)
98	47	Strengthened
121 & 126	62 & 67	Revised to avoid any impression that bodies not subject to detailed control are therefore out of control (item 7)
206-212	109-115	Extensively revised to reflect the PM's comments and to avoid any impression that the review process is anything less than rigorous (items 2, 3 and 8)
232-242	Appendix 7	Transferred to form an Appendix
234	-	Deleted (item 3)
App 1 para 2	App 1 para 2	Shortened and sharpened up
App 6	App 3	Revised and widened (item 9)
		Note: bracketed references are to the annotated list of points made in the letter of 6 April from No 10.

NON DEPARTMENTAL PUBLIC BODIES: A GUIDE FOR DEPARTMENTS

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SECTION 1: INTRODUCTION

The Government's Policy Towards Non-Departmental Public Bodies

1. The Prime Minister's statements of 16 January and 3 December 1980 set out the principles on which the Government's policy towards non-departmental public bodies is based.
2. Announcing the publication of Sir Leo Pliatzky's Report on Non-Departmental Public Bodies (Cmd 7797) on 16 January, the Prime Minister said that her objective was "to encourage the good management of public bodies which continue to serve the country, while dispensing with those for which there is no further need". She emphasised that the Government would look critically at all fresh proposals for new bodies and would be opposed to a policy of further hiving off of functions to non-departmental public bodies. The Prime Minister also endorsed the suggestions made in the Report about arrangements for control and accountability as regards new and existing bodies.
3. In her statement of 3 December 1980, the Prime Minister told the House of Commons that:

"We shall keep all existing bodies under regular scrutiny. Those which continue to undertake valuable work and remain appropriate will be retained but we shall keep under close control the money which the Government spends on them. Whenever bodies are no longer needed they will be wound up. There are always pressures for the creation of new bodies. We shall be robust in resisting them. But we shall approve proposals for new bodies if we can be convinced that the function is essential and that a non-departmental body is the most appropriate way to do the job...."
4. Ministers will, therefore, look to the bodies they sponsor to be effective, efficient and economical in the conduct of their affairs so that the taxpayer gets good value for money.

## Purpose and Approach of the Guide

5. The purpose of this Guide is to help departments to put these principles into practice. Its main concern is with the framework of control and accountability for existing bodies and with arrangements for reviewing their work. It also gives guidance on how departments should deal with proposals for new bodies, in the light of the Government's firm resolve that the creation of such bodies should be minimised. The Guide builds on the recommendations in the Report on Non-Departmental Public Bodies, but also brings together for easy reference relevant material contained elsewhere.

6. For the most part, the Guide provides advice on good practice which should be followed as a general rule. But in some instances the Guide sets out practices and procedures which are binding on departments unless it is specifically agreed with the Central Departments that they are inappropriate in a particular case.

7. Non-departmental public bodies vary widely in size, function and background. So general statements may not apply precisely to every individual body. In applying the Guide, departments will need, therefore, to take the particular circumstances of each body into account and, if necessary, to seek further guidance. Where the existing arrangements work well and accord with the principles of the Government's policy, there is no need to change them merely for the sake of achieving uniformity.

## Categories of Non-Departmental Public Bodies

8. The public sector contains a wide range of bodies apart from Government departments and local authorities. The precise degree of Ministerial control and answerability varies considerably, and there are few legal or commonly accepted classifications. Sir Leo Pliatzky's Report adopted the following classification:

- a. Nationalised industries, other public corporations and companies in which the Government has a major shareholding.
- b. Agricultural Marketing Boards.
- c. The National Health Service and associated public bodies.

- d. Other non-departmental public bodies, which are of 3 kinds:
- i. bodies with executive, administrative, regulatory or commercial-type functions;
  - ii. bodies whose role is solely to advise Ministers and their Departments;
  - iii. tribunals and other judicial bodies.

Appendix 1 describes all these groupings in more detail.

9. This Guide is concerned with bodies in Group (d) and mainly with those in Group (d) (i).

#### Usage in the Guide

10. The language of the Guide does not reflect the special legal or constitutional factors which may apply in Scotland and Northern Ireland. Allowance for these should be made where appropriate.

11. For the sake of brevity, non-departmental public bodies are often referred to as 'public bodies', 'non-departmental bodies', or simply 'bodies'. For the same reason, the Guide refers to action by 'departments' and does not spell out in each case that the action is taken on behalf of the Minister.

12. The Guide does not use the term 'quango'. There is no general agreement about what constitutes a quango, and the term is subject to many different interpretations.

#### Other Guidance

13. The Guide does not attempt to cover every eventuality and should be used in conjunction with any internal guidance issued by departments (which should itself be consistent with the Guide). Nor does the Guide replace the need for consultation between Departments.

14. 'Government Accounting', issued by the Treasury, contains guidance on a range of financial issues.

15. This Guide replaces the 'Guide to Setting up New Public Bodies', issued by the Treasury in 1968.

Unit

16. The Public Appointments <sup>Unit</sup> of CSD advises on the procedures governing appointments made by Ministers to public bodies and (if required) on candidates.

General Enquiries

17. General enquiries about the Guide should be addressed to the Machinery of Government Division, Civil Service Department.

18. The Guide applies to Northern Ireland, where the Department of the Civil Service has overall responsibility for matters concerning non-departmental bodies. All enquiries concerning bodies in Northern Ireland should be addressed initially to the Management Services Division, Department of the Civil Service, Rosepark House, Upper Newtownards Road, Belfast BT4 3NR.

## SECTION 2 : OPERATIONAL FRAMEWORK

### General

19. The decision that a function should be discharged by a non departmental public body involves the recognition that the body should enjoy a degree of independence from Government in performing those functions. But at the same time the activities of the body form part of the process of Government, for which Ministers are answerable to Parliament. So in each case a balance must be struck between enabling the Minister to fulfil his responsibilities to Parliament and giving the body the degree of independence which is appropriate. This balance will depend largely on the nature of the functions, which vary widely from body to body. In some cases a body may essentially be an instrument of Government policy and may therefore need to operate under close Ministerial supervision. In other cases, the functions may need to be exercised with a greater degree of independence from Ministers.
20. Whatever the precise degree of independence, the Minister is answerable to Parliament for whether the body is doing its work effectively, efficiently and with economy and that it continues to fulfil a useful purpose. The Minister is also responsible for ensuring that the body establishes and maintains proper systems of financial management. The legislation or other founding instrument should therefore give the Minister sufficient powers:
- a. to discharge his overall answerability for the body and its work;
  - and
  - b. to exercise specific controls where necessary.

21. The main Ministerial powers (such as appointment and direction) and external safeguards (eg concerning external audit) should normally be covered in the enabling legislation. It may, however, be preferable either as a short term measure or on a longer term basis to provide for certain controls and safeguards in some other way, for example, through conditions attached to the issue of grant in aid, or in a formal document of agreement between the department and the body. This is the normal course for detailed financial conditions and is also appropriate where it is intended that the detailed control arrangements should change over time; such changes can be made more easily if they are not embodied in legislation.

#### Powers and Obligations of the Body

22. The detailed powers of the body will depend on its functions and should be defined clearly. Certain general powers are frequently provided, including the following:

- a. power to employ and dismiss staff;
- b. power to pay salaries, allowances and pensions;
- c. power to receive and spend money (including, in certain cases, power to borrow and lend);
- d. power to acquire property to accommodate the body's staff and activities. (In the case of a Crown body this question will not

normally arise; unless there are special reasons to the contrary, Crown bodies should use property vested in the Secretary of State for the Environment);

- e. power to create subsidiary organisations

The legislation may also need to provide certain limitations on how these powers should be exercised, for example through Ministerial approval for capital expenditure.

23. Legal incorporation of a body ensures its separate legal personality and its perpetual succession. It is strongly desirable for a new executive body to be legally incorporated, especially if it is to employ its own staff. This will avoid any personal liability in respect of contracts made by the body, whether with employees, trade suppliers or otherwise. In the absence of incorporation this legal liability might well fall on the persons appointed to manage the body. See also Appendix 5.

#### Ministerial Powers

24. Ideally Ministerial powers over a body (whether constituted by statute or otherwise) should be placed in the hands of one sponsoring Minister. If two or more Ministers are involved there can be a danger of uncertainty about the precise division of responsibilities and about who should answer in Parliament. In certain cases, however, shared Ministerial responsibility may be appropriate. In the agricultural field, for example, some of the responsibilities of the Minister of Agriculture, Fisheries and Food apply only in England, and legislation applying to the whole of the UK would need to provide for responsibilities to be exercised also by the Secretaries of State for Scotland, Wales and Northern Ireland.

25. Except where the Minister is not a Secretary of State, statutory powers are normally vested in the Secretary of State at large; it will not usually be appropriate to name individual Secretaries of State in statute. The precise allocation of responsibilities should, however, be decided at an early stage and be made clear during the passage of legislation if there is any room for doubt.

26. It is customary for certain arrangements to require the consent of Ministers in Central Departments - eg the Minister for the Civil Service for staff pay and pensions (as described in para 61) and the Treasury for borrowing.

27. Ministers should normally take powers of appointment and dismissal over the Chairman and at least the majority of Board members. It may be appropriate to provide for appointments to be made after consultation with specified organisations or for nominations to be submitted by them; in these cases the sponsoring Minister is responsible for the required consultation and for making the final appointment. Exceptionally the nature of a body or its activities may make it inappropriate for Ministers to appoint some or even any members. But lack of this power weakens the Minister's position and his ability to exercise the degree of supervision which Parliament would normally think appropriate.

28. Appointments should be made for a limited and specified period, not exceeding 5 years. But if it is clear that the body itself will have completed its work within a limited timescale, say after 2-3 years, period appointment would be unnecessary. Guidance on appointments may be obtained from the Public Appointments Unit in the Civil Service Department.



29. Ministers should also normally take formal power to require

production of information. Basic information about a body's affairs can generally be obtained from annual reports and other published material. Additionally, a good deal of information may be available through informal liaison between the Department and the body. But as a rule it is prudent for Ministers to hold in reserve a power to require the production of information which they need in order to discharge their answerability for a body's affairs. Certain categories of information, however, such as personal information or commercial confidences given in trust, may need protection in order not to inhibit the body's activities. Where it is appropriate such protection should be written into legislation.

30 Ministers generally require powers of formal control over a body in addition to their powers of appointment and dismissal. These powers may be needed to ensure compliance by the body with some essential aspect of Government policy or to remedy some aspect of its performance. In some cases, these objectives can be achieved through conditions attached to the issue of funds; but this method is not available where bodies are not in receipt of Government funds and is not appropriate in any event for non-financial conditions. Suitable powers of Ministerial direction, at least of a general character, are therefore desirable as a safeguard. At the same time it should be remembered that use of such Ministerial powers is no substitute for an effective financial regime or a sensible working relationship between bodies and sponsoring Ministers.

## SECTION 3 : FINANCE

### General Standards

31. Public bodies are required to maintain high standards of financial management in order to control spending, to use resources efficiently, to evaluate what they are achieving, and to provide reliable and timely information to sponsor departments. Sponsor departments should therefore ensure that proper systems of financial management are devised and effectively operated. Those systems should cover financial organisation, financial planning/budgeting, accounting and information and arrangements for internal audit; see Appendix 3.

### Control of Expenditure

32. Where a public body is to rely on Government to finance all or part of its expenditure, it is necessary to decide the controls and safeguards to be exercised by the sponsoring Minister over the body's use of Government funds. In broad terms these will depend on the purpose for which the body has been set up, and the degree of independence from Government it is intended to have. The public body must have the freedom necessary to meet its objectives; but in all other respects the presumption is that the body will comply with the procedures and standards in finance and accounting matters which apply to Government departments. Subject to that, the greater the reliance on Government funds, the greater will be the need for controls over the body's expenditure.

33. The following bodies should normally be subjected to detailed financial control:

- (a) bodies which rely on Government funds for 50% or more of their gross expenditure (excluding payments made on a customer/supplier basis);
- (b) bodies which rely on Government funds for 50% or more of their administrative expenditure (pay, pensions, allowances, etc);

Control in these cases includes scrutiny and monitoring of financial performance, checks on staff numbers and gradings, and the approval of rates of pay, pensions and other conditions of service.

34. Where Government funding is below these limits, detailed control is less likely to be required. The limits in para 33 should be used as general indicators, with due regard to the circumstances of each case.

## Method of Funding

35. The Treasury have assured the Public Accounts Committee (PAC) that, as a matter of general principle, where it is desired that a continuing function 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 (see Appendix 2). Legislation should therefore be the norm when a new public body is to be set up which will rely in whole or in part on Government funds, or when a department gives financial support to an existing body. However, specific legislation is not normally necessary if the level of Government support is small or of short duration, in which case departmental authority for the issue of a grant may rest on the Appropriation Act.

36. Government finance is provided from Votes, and where it is intended to bestow a degree of financial independence on a body which relies wholly or mainly on Government funding the provision is normally made as a grant in aid\*. In other cases, for example where the activities of a body include a service provided to a department more or less on an agency basis, it may be appropriate for finance to be provided by way of a grant. In cases of doubt the Treasury will advise as to the most appropriate description of the form of finance.

37. In some instances it will be appropriate for a body to raise money by borrowing on its own credit, either from a bank or other private sources. In such cases the sponsoring departments should consider in consultation with the Treasury how far the Government should stand behind such borrowing, and whether Government guarantees are needed. Only in exceptional cases should borrowing from the National Loans Fund be contemplated. These are matters that must be settled before the body is set up; and, if agreed, the necessary powers would almost certainly require specific statutory authority.

38. Some bodies may be financed in whole or in part by levy, normally where the services will benefit a particular group of people and the

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\*See Government Accounting, Section B51, for a definition, but note that the term is not used in legislation.

raising of funds can be concentrated on that group. In other cases it may be appropriate for the body to charge a fee for its services. In these cases enabling legislation should be considered and should normally provide for the amount of the levy or fee to be either determined by, or subject to the consent of, the sponsor department with the agreement of the Treasury.

#### Interim Financial Arrangements

39. When a new public body is being created, transitional arrangements for finance may be necessary. Costs incurred on planning may normally be borne on Departmental Votes, but if certain staff of the new body are to be engaged or office accommodation hired before the body is legally in operation, there may be a need for specific provision in Departmental Votes. Circumstances will differ from case to case and the advice of the Treasury should be sought before any expenditure is incurred.

#### Scrutiny of Expenditure

40. The sponsor department must ensure that procedures exist to enable the Minister to discharge his responsibilities to Parliament for the body. To this end the department should ensure that it receives sufficient information for scrutiny and monitoring, that the conditions attaching to the grant in aid are duly observed, that the administrative and financial controls applied by the body are appropriate and sufficient to safeguard public funds, and that the body is efficient, effective, and economical in the conduct of its affairs.

41. The financial support a body receives from Government will, of course, be reviewed each year in the context of the Estimates. In the case of bodies covered by para 33 the department should carry out a detailed examination of the body's financial affairs at least once every three years; in other cases this financial scrutiny should normally take place once every five years. The main focus of the scrutiny should be on the body's financial systems, its internal financial controls, and its arrangements for forecasting and monitoring expenditure. It should have regard not only to immediate commitments to expenditure but also to any contingent liability that may have been entered into by the body which could ultimately have implications for the future level of Government support. The wider relationship between objectives, finance and performance will normally be examined under the procedures for periodic reviews (see paragraphs 112-116),

although particular financial issues of concern can of course be examined whenever necessary.

42. Generally, the controls exercised by a sponsoring department should reflect <sup>the</sup> powers of each body and its method of financing. This applies particularly to bodies which hold a monopoly position or are financed by compulsory levy. Thus where a body is financed partly or wholly by levy, fees or charges, there must be an agreed financial target which it is expected to achieve. Where the level of such income is to be settled by the department, or the body is required to be fully self-financing each year, the financial outturn and prospects should be monitored annually.

#### Disposal of Government-financed Assets

43 Where assets of the body have been acquired or improved with Government funds and are then sold, the proceeds of sale (or the appropriate proportion if Government funds met less than the whole cost of acquisition or improvement) should be surrendered to the Consolidated Fund, unless the conditions of grant specify otherwise or specific Treasury approval to an alternative arrangement has been obtained. There should be similar recovery, based on current asset values, if the property is used for purposes other than those for which Government funds were made available.

44. Arrangements to ensure the objectives in paragraph 43 should be made when it is agreed to provide Government funds; they may not be easy to devise and enforce but they are nevertheless important, particularly when property values are rising. There may be a need for legal advice and a requirement that any disposal or change of use should be deemed to be a sale at a price agreed with the District Valuer. Whatever the legal or other difficulties, the principle is that the recipient of Government funds should not gain an uncovenanted cash benefit from the investment and every effort should be made to ensure and enforce that principle. It applies not only to a body in receipt of Government funds but also to grants paid by such a body to others.

#### Conditions Attaching to a Grant in Aid

45. Before making a grant in aid, the sponsor department should set out in writing the conditions to be attached to its issue. These should normally include:

- (a) the general purposes for which the grant is issued, and the need to seek the sponsor department's prior consent before embarking on new commitments;
- (b) the headings under which the body is to account to the sponsor department, and the limits within which money may be transferred from one heading to another without departmental approval. (In some cases the grant under these headings will be published as an Appendix to the sponsor department's Estimate);
- (c) where appropriate, any delegated authority that may be agreed, and the degree of control to be exercised by the sponsor department over capital expenditure;
- (d) the arrangements for submitting estimates before each financial year, and for the preparation, audit and publication of accounts after the end of each financial year. These arrangements will include the need to keep proper books and records, the form of accounts, and the nature of the audit, whether public or private;
- (e) conditions governing the treatment of receipts and the level of cash balances and reserves;
- (f) control over borrowing, lending, the giving of guarantees, indemnities, letters of comfort, etc. Normally such powers will require specific legislation, unless the need for them will rarely arise or the powers are to be used only for insignificant amounts;
- (g) powers to write off losses and to make special payments;
- (h) the need to comply with accepted recommendations of the PAC or other Parliamentary authorities, whether in relation to the body concerned or of general application;
- (i) an appropriate financial management system (see Appendix 3);
- (j) an appropriate system of manpower control;
- (k) conditions of <sup>an</sup> administrative or accounting nature, relating

for example to contract procedures, banking procedures, property transactions, insurance or non-insurance etc, such as are set out in 'Government Accounting', and other Treasury and CSD instructions;

(1) the principles applicable to the disposal of assets.

4b The points above are not exhaustive but indicate some of the conditions which are normally included in the formal terms and conditions attaching to a grant in aid. Certain cases may justify a more public statement about the relationship between the department and the body, including the framework of policy within which it is to operate.

## SECTION 4 : CONTROLLING THE COSTS OF BOARD MEMBERS AND STAFF

### The General Approach

47. Staff costs account for much of the spending of non-departmental public bodies. In some cases they account for nearly all of it. Tight control is therefore needed over all components of staff expenditure - notably numbers, grading, pay and superannuation. Internal control should always be rigorous; and in many cases, as explained below, it should be supplemented by external control.

48. The level of detail in which the budget is to be controlled will affect the complementing controls to be exercised. The latter are for the sponsor department to determine, taking account of such factors as the number of staff, the size of administrative costs and the proportion they represent of the body's gross expenditure. It should be a basic requirement that the body has an appropriate manpower control system, and this should be made a condition attached to the issue of grant. Such a system should include staff inspection arrangements within the body (or by the sponsor department if the body is too small), with access by the Staff Inspection and Evaluation Division of the CSD. The approval of the sponsor department should be required for the creation of posts above an agreed level. The approval of the CSD should also be sought for all proposed posts above the level delegated to the sponsor department for its own staff.

49. Where, exceptionally, it has been agreed that a public body should have Crown status and that its staff should be members of the Home Civil Service, staff numbers and costs should be separately identified in Estimates and the expenditure on staff made subject to normal Civil Service complementing control and levels of delegated authority.



Chairman and Board Members: Remuneration.

50. . If the chairman and members of a non-departmental public body (whether executive, advisory or a tribunal) are appointed by a Minister and if it is decided that they should be paid, then the level of their remuneration must be determined by the Minister concerned, with the approval of the Minister for the Civil Service. Provision for this control should be included in any legislation setting up the new body.

51 . In all cases the sponsor department should put proposals to the appropriate CSD Pay Division on the level of salaries for the chairman and members, whether they are to work full-time or part-time. If the work is irregular and intermittent, a daily fee should be paid and CSD need only be consulted if the amount proposed is above the delegated limit. For most bodies, the levels of members' remuneration will be reviewed following reviews of the pay of the Higher Civil Service. CSD will issue guidance to departments at the appropriate time. However, for bodies of a clearly commercial character, salaries may be determined with the agreement of CSD, under arrangements which take greater account of market factors.

52. Where a board member is or will be entitled to draw pension from a former public office or employment during the currency of his appointment, it is necessary to consider whether his overall income from pension and board remuneration should be abated so that it does not exceed the salary of the previous office, or the board salary if higher. Such abatement is regarded as necessary for board members in order to avoid **any danger that Ministerial** appointments are leading to excessive overall remuneration from public funds.

Chairman and Board Members: Superannuation, injury benefits and compensation

53. . It is essential that the Superannuation Division of CSD is consulted at the earliest possible stage on all the issues discussed in this section and before any undertakings are given to prospective Board Members. The Occupational

Pensions Board will also need to be consulted about contracting Board Members on 'by analogy' or continuation terms out of the State Scheme under the Social Security Pensions Act 1975 (c.60).

54. Superannuation: Board Members promoted from the staff of a body are regarded as taking a step in normal career progression and may remain members of the staff pension scheme. This needs to be provided for specifically in the enabling legislation; an example is sections 49(2) and (3) of the Aircraft and Shipbuilding Act 1977 (c.3).

55. Members appointed from outside who are paid for at least 2 days a week and who have executive responsibilities are also eligible for pensionability. They have an option between being pensioned by analogy with the staff scheme or in continuation of the pension arrangements of their preceding employment (in the latter event subject to the cost being acceptable). The option may be changed at any time during membership of the Board unless irrevocable action has been taken. The enabling powers need to provide for the Board to pay or make provision for the payment of pensions, allowances and gratuities for Members and their dependants; an example is paragraph 6 of Schedule 1 to the Employment and Training Act 1973 (c.50).

56. For those pensioned by analogy with the staff scheme, the terms are subject to some modifications to reflect the circumstances of Board appointments, the need for prior Ministerial approval of discretionary enhancements and any other conditions prescribed in the letters of appointment. Benefits are paid from Board revenue, which is credited with the Members' contributions. Transfer values may be brought in from previous pension schemes with credit being given on the basis of actuarial equivalence.

57. In continuation cases the normal approach is for the Board to pay "topping up" benefits from revenue equivalent to the difference between the benefits preserved by the previous employer and what they would have been had the Member remained in that employment. There are arrangements for increasing the pensionable salary of the previous employment but this must not exceed the current Board salary. Boards should not take over premium payments on previous insurance policies because of the extra cost involved.

58. Injury Benefits Board Members who suffer injury or contract a disease which is directly attributable to membership of a Board and leads to an impairment of earning capacity may be eligible for special injury compensation benefits. Such benefits may also be payable to his dependants in cases of death. The benefits are normally by analogy with those for the staff but a Member pensioned on continuation terms may have the benefits which related to such terms (the normal policy is, however, to pay from Board revenue rather than continue previous insurance policies). The normal pension-enabling powers should cover such payments but departments should consult their lawyers if there is any doubt. Where no suitable provision is available on the forgoing basis, the CSD will consider the award of benefits by analogy with Part 2 of Section 11 of the Principal Civil Service Pension Scheme (PCSPS). The latter is, however, a fall-back not an alternative arrangement.

59. Compensation: The enabling powers should include a power to pay compensation in the event of a Member's fixed term appointment coming to a premature end in circumstances where the sponsoring Minister with the consent of the Minister for the Civil Service considers that compensation is justified. An example is paragraphs 7 and 17 of Schedule 1 to the Employment and Training Act 1973 (c.50). The Superannuation Division of CSD should be consulted about the assessment of the compensation.

Staff: General Rules on Remuneration and Pensions

60. Bodies employing civil servants. If it is agreed that the staff of a body are to be members of the Home Civil Service then pay and grading, superannuation and allowances will be subject to full central control in the same way as that of civil servants in Government departments.

61. "Controlled public bodies". Where the staff are not civil servants, the general rule is that central control of pay, superannuation, and allowances, is applied in those cases where Government funds 50% or more of a body's gross expenditure or of its administrative expenditure (see also paragraphs 33-34). The maintenance of central control in these cases buttresses the more general financial controls applied to bodies which depend on Government for the larger proportion of their income. It also ensures equity between different groups of staff within the body, between the staff of bodies in a similar financial relationship with Government, and between them and other parts of the Public Service. Notes on the application of central controls in these cases are given in paragraphs 63 et seq.

62. Public bodies not subject to central controls. In the case of those bodies where Government finance falls short of the limits described in paragraph 33, detailed control by departments is not applied over pay, superannuation etc. Departments should nevertheless ensure that public funds are not used wastefully. Public funds must not, for example, be used to underwrite inequitable or over-generous conditions of service. When determining the level of grant in aid departments should take full account of current factors of public expenditure control. If necessary, departments should stipulate as a general condition to the payment of funds that the body is expected to correct apparent anomalies. General advice on public service practices can be obtained from the appropriate CSD Division.

Staff: Central Controls over Pay etc

63. When the pay and allowances of staff in a body are to be controlled centrally, sponsor and central departments will need to decide whether the power to control should be statutory and therefore included in the founding legislation; generally this will be desirable. Where central control is statutory, staff pay and conditions are usually made subject to the approval of the sponsor department's Secretary of State given with the consent of the Minister for the Civil Service. This means that primary responsibility for control, and accountability for questions concerning staff pay and conditions, rests with the sponsor department. CSD's role arises from its wider responsibilities for public service pay and conditions. Similar considerations arise where power to exercise central control rests on "purse strings" rather than legislation.

64. In the interests of the economical and effective administration of pay, it is desirable for the pay, allowances and grading structure for staff of controlled public bodies to be linked firmly to the Civil Service or some other public service model (whichever may be more appropriate). Variations from the parent model can, however, be agreed with the CSD, either to reflect the particular needs of the body or to take account of differences in conditions of service between the parent model and the public body. It is axiomatic that sponsor and Central Departments cannot purport to be controlling staff pay in public bodies unless they also control and monitor the grading standards in those bodies in relation to those of the parent model. Therefore, sponsor departments should ensure that there are adequate arrangements for inspection of public body grading standards by departmental staff inspectors. Where controlled public bodies are satisfactorily and firmly linked for pay purposes to the Civil

Service or some other public service body it follows that changes in the parent model will be passed on so long as the link itself remains intact. Guidance notes are available from the appropriate CSD

Pay Division on procedures for the review of detailed pay linkages based on a Civil Service model.

65. Where the controlled body cannot be linked to the Civil Service or any other public service model for pay purposes, pay rates in the body must still be based, as far as possible, on rates for functionally comparable work, with appropriate adjustments for differences in conditions of service. Where a controlled public body is not linked to the Civil Service or any other public service model, all changes in pay and conditions will generally require the specific approval of sponsor departments and the CSD.

66. Where the pay and related allowances of the staff of a public body are subject to CSD's approval, central control is normally applied also to allowances not related to pay, such as travelling, subsistence, "home-as-office" allowances, etc. In most cases these allowances follow the rules applying to civil servants. Where it is proposed that a different analogue should be used or that different allowances should be awarded the department should consult the Home and Overseas Allowances Division of the CSD with full justification for different treatment, before any commitment is made.

67. Even in the case of those bodies where such staff allowances are not subject to full central control, departments should still satisfy themselves that the allowances are not unacceptably out of line with the general standards appropriate to a public body for which the Government is answerable.

Staff: Superannuation, Injury Benefits and Compensation

68. Where the superannuation arrangements of the staff of a public body are to be subject to central control, the necessary control powers should be included in any founding legislation or other Instrument or in the terms attaching to the grant in aid. Powers of Ministerial direction (paragraph 30) are not appropriate for such detailed matters. Whatever the extent of prior planning, firm decisions cannot be taken until after a body is set up. The enabling powers therefore need to be drawn widely and should enable the body to:

- a. pay pensions, allowances or gratuities to or in respect of its staff and compensation in excess of the requirements of the Employment Protection (Consolidation) Act 1978;
- b. make payments towards the provision of such benefits; and
- c. maintain pension schemes (whether contributory or not).

The powers should make the arrangements subject to the approval of the sponsoring Minister given with the consent of the Minister for the Civil Service. An example is paragraph 14 of Schedule 1 to the Development of Rural Wales Act 1976 (c.75), but departmental lawyers sometimes judge the circumstances to require additional wording to cover compensation.

69. The Superannuation Division of CSD should be consulted about the powers and the arrangements proposed in this field at the earliest possible stage. The body should also be alerted to the need to obtain the approval of the Superannuation Funds Office, Inland Revenue, of the arrangements and to consult the Occupational Pensions Board about contracting its staff out of the State Scheme under the Social Security Pensions Act 1975; it is the normal policy for such schemes to be contracted out .

70. Superannuation: The need to maintain a consistent pensions policy throughout the field for which Ministers have answerability means that there is relatively little scope to diverge from the normal terms for the major public services. Important factors in determining an appropriate model are the analogue used for other conditions of service, the working affinities of the body and the management's views on the normal retiring age.

71. Where the body is expected to have a close and continuing affinity with the Civil Service it may be possible to simplify the superannuation arrangements by admitting the staff to the PCSPS. It is particularly important that the Superannuation Division of CSD is consulted about any such proposals at the earliest possible stage and before the founding legislation is passed. Admission can be achieved by adding the body to Schedule 1 of the Superannuation Act 1972 by a provision in the founding legislation or by an Order made by the Minister for the Civil Service under the powers contained in sections 1(5)-(8) of the 1972 Act; the second course is only possible where the staff are paid directly from a Vote, the Consolidated Fund or a specified Fund. Benefits will then be paid from the PCSPS and the employer will only have to collect employees' contributions and pay appropriate contributions to the Civil Superannuation Vote; power to pay these will need to be taken in the founding legislation. Adding to Schedule 1 does not make the staff civil servants but they will need to satisfy the Civil Service Commission as to their health (see also paragraph 108 ).

72. Where the body has an affinity with local government it may again prove possible to relieve it of the need to administer superannuation by negotiating the admission of the staff to a local government scheme. The scheme will then pay the benefits and the body will collect the employees' contributions and pay these plus the contributions required from the employer to the scheme. Another



possibility is to negotiate admission to some other existing controlled scheme run by employers with whom the body has close connections.

73. In cases where Civil Service terms provide the analogue but it is not appropriate to admit the staff to the PCSPS, the body can sometimes avoid drawing up a comprehensive scheme by introducing one which provides simply for the provisions to be by analogy with those of the PCSPS as amended from time to time. Since, however, the scheme will be unfunded with benefits paid out of revenue as they arise, this is not appropriate to partly grant-aided bodies with an uncertain future since there is a risk of public funds being asked to meet the full cost of residual superannuation liabilities if the body is wound up (see also Appendix 7, paragraph 9).

74. Where the above simplifications are not possible, there is no alternative to the body introducing a comprehensive scheme of its own which will need to be contracted-out with the Occupational Pensions Board and approved by Inland Revenue. Large bodies will probably wish to run funded schemes administered by Trustees while small bodies may prefer to insure the arrangements to avoid disproportionate additions to their administrative staff. Others may prefer to pay benefits as they emerge but the point in paragraph 73 about avoiding this method for partly grant-aided bodies with an uncertain future is again relevant.

75. Injury Benefits: It will be necessary to provide injury benefits for staff who suffer injury or contract a disease which is directly attributable to employment by the body and which leads to an impairment of earning capacity or death; in the latter event benefits may be payable to dependants. Where staff are pensioned in or by analogy with an existing controlled scheme they will enjoy the injury cover provided in that scheme or in association with it.

In other cases it will be necessary to devise separate injury benefit arrangements which should be consistent with the normal public service policy as reflected in Section 11 of the PCSPS. The benefits are paid out of revenue as they arise. Insurance-type cover should not be taken for this contingency.

76. Compensation: It is normal for the pension scheme to provide for the immediate payment of pension and lump sum accrued on actual service to those who have attained age 50 who are compulsorily retired with at least 5 years' service. Where it is desired to follow the public service practice of enhancing such benefits by added years and providing special lump sum compensation payments to these and other staff in excess of the requirements of the Employment Protection (Consolidation) Act 1978, such benefits should be provided from a separate compensation scheme.

## SECTION 5 : ACCOUNTABILITY, ACCOUNTS, AUDIT AND ANNUAL REPORTS

### Accountability

77. Parliament grants supply to the Crown and holds Ministers of the Crown accountable for the use they make of it, including the payment of any moneys to public bodies. Such bodies are accountable in the first instance to their sponsor Minister and through him to Parliament. Parliament will hold the Minister making a grant in aid responsible inter alia, for the amount of Government funds made available to the public body, and the terms and conditions attached to its issue.
78. The Treasury appoints Accounting Officers for some non-departmental public bodies which receive substantial assistance from public funds. Appointments of this kind are made by analogy with appointments of Accounting Officers in departments. The normal practice is to appoint the senior full-time officer of the body. Those so appointed have broadly the same duties as departmental Accounting Officers and exercise them on behalf of the officer holder or holders in charge of the body.
79. Whether or not a public body has its own Accounting Officer, the responsibility of the Accounting Officer in the sponsor department is to ensure that the conditions attached to the grant in aid conform with the terms of the Vote; to monitor compliance with these conditions by the body; and to satisfy himself that the financial and other controls applied by the sponsor department are appropriate and sufficient to safeguard public funds. Among other things he will need to satisfy himself about the quality of the body's management.
80. The Accounting Officer of the body in receipt of the grant in aid has a special responsibility to see that the rules and conditions laid down by the department issuing the grant in aid are observed.

81. An Accounting Officer in a grant-aided body will normally appear before the PAC alongside the departmental Accounting Officer responsible for payment of the grant in aid.

82. The absence of an Accounting Officer appointment in a non-departmental body does not lessen the nature and scope of its accountability to Ministers and through them to Parliament, or the right of the PAC to take evidence direct from the body if it wishes. The approved signatory of the accounts, normally the Chairman or Chief Executive, will, as in the case of a departmental Accounting Officer, automatically assume a primary responsibility to answer for that body in any examination by the PAC and may be summoned to appear before the Committee for that purpose.

83. The precise division of responsibility between the sponsor department, on the one hand, and the public body, on the other, will depend on the circumstances of each case. It is important, however, that the arrangements should be clear and agreed at the outset. The arrangements should reflect the need for dual involvement in the development of policy and in the oversight of performance, but should not involve duplication of effort in detailed management, execution of policy and control. To avoid confusion or misunderstanding, it is good practice for the Accounting Officer of the department to meet a new chief officer on his appointment to a body in order to explain their respective responsibilities.

#### Accounts

84. The Treasury has an interest in the form of accounts of all non-departmental public bodies, and in certain cases is required by statute to prescribe or approve their form, in consultation with the sponsor department. The Treasury will consult the Exchequer and Audit Department (E&AD) when audit by the Comptroller and Auditor General (C&AG) is involved or preferred. The Treasury must, therefore, be consulted at a formative stage

in the setting up of a new body, or where it is proposed to alter the form of accounts of an existing body. Generally, the body's annual estimating and accounting system should be geared to produce estimates and accounts in the form and by the dates required, to provide the detailed information required by the sponsor department so that it may exercise its scrutiny and monitoring responsibilities, and to provide the information which the body itself requires to meet its internal financial management needs.

#### Audit

85. The Treasury must be consulted at the earliest opportunity, and certainly before legislation is drafted, so that careful consideration can be given to the arrangements for audit of the accounts of a public body.

86. The broad principle applied in considering audit arrangements for a non-departmental public body is that where the body's major source of income is Government money, the C&AG should be appointed its formal auditor or be granted a right of access to inspect its books and records. In this connection, no distinction should be made between bodies directly financed from Government funds and bodies which, while not of a commercial character or subject to the pressures of competition, are able to use their Government-backed status to raise money, for example by levy or loan. Where a body is to receive only a minor part of its income from Government sources, the Treasury should be consulted about whether special arrangements are required for purposes of Parliamentary accountability and hence whether provision should be made for the C&AG to have rights of access to inspect the books and records of the body.

87. In relation to bodies for which Ministers are not directly responsible, an important objective of the C&AG's examination is to review the effectiveness of the arrangements under which Ministers monitor and control

the payment of Government funds; examination is therefore not restricted to the financial transactions of the bodies in isolation.

88. Giving the C&AG the right of access to books and records, rather than formal audit responsibility, does not imply any relaxation in Parliamentary accountability. Representatives of bodies in this category may still be summoned to attend meetings of the PAC; the scope of enquiry there would not be limited to the way in which the body itself had conducted its financial activities but would also extend to the sponsoring department's scrutiny of the body's expenditure and <sup>of</sup> the body's systems of financial control.

89. Legislation should normally provide for a public body's accounts to be submitted for audit by a specified date, and for the audited accounts to be laid annually before Parliament and published within a specified time after the end of the body's financial year. Even in the absence of such a provision in legislation, public bodies should publish audited accounts with their annual reports unless there are good reasons for not doing so.

#### Annual Reports

90. Annual reports and accounts are the main vehicles by which a body regularly informs Parliament and the public at large about its activities and its expenditure. They should therefore be as informative as possible, without being lavish, and should provide sufficient material for the reader to form a judgment on the cost-effectiveness of the organisation's activities and on the costs and benefits involved. If necessary the sponsor department should advise the body on the content of the report and accounts in order to achieve this.

Information about Remuneration and Expenses of Members and Staff

91. The following paragraphs set out requirements concerning the disclosure of information about the remuneration and expenses paid to members and staff of non-departmental public bodies. They apply to all such bodies which spend money and publish accounts.

92. For this purpose 'remuneration' includes all salaries, fees and taxable benefits in **kind**, and is synonymous with 'emoluments' as conventionally interpreted. 'Expenses' covers payments of a compensatory nature made to individuals, including payments for travelling, subsistence and entertainment.

93. Remuneration of Chairmen and Board Members. Information should be published in annual accounts in at least as much detail as required by the Companies Acts. Thus the total remuneration should be disclosed together with the remuneration of the Chairman (and that of the highest paid member if paid more than the Chairman). Particulars of Members' remuneration should show the number (if any) who receive nothing or whose payments amount to not more than £5000 per person, and then the numbers whose remuneration falls in bands of succeeding multiples of £5000. See also paragraph 95

94. Remuneration of Staff. Accounts should show the number of staff (if any) who received £20-25,000 and then upwards in succeeding bands of £5000. If the average number of employees exceeds 100 the accounts should show the average number employed during a typical week and the aggregate remuneration of staff during the year.

95. Expenses. Accounts should preferably show the total figure of expenses paid to a. the Chairman and Board Members and b. staff. If expenses are not recorded separately for these categories, a total figure may be shown for Chairman, Members and staff.

96. Where, exceptionally, the staff of the body are civil servants, standard rules will apply for remuneration and expenses. In these cases sponsoring departments should use their discretion in publishing additional information, unavailable from other sources, which will allay any reasonable grounds for concern on this score.



## SECTION 6 : RECRUITMENT OF STAFF AND PERSONNEL MANAGEMENT

### General

97. Effective recruitment and personnel management are important for the administrative efficiency of any organisation. Formal control in this area by the sponsor department would, however, be incompatible with the degree of managerial independence appropriate for a public body set up to operate at arm's length from Government. Equally, formal control in certain areas such as the application of employment legislation would be inappropriate for bodies which have a separate legal status as employers. Sponsoring Ministers nevertheless need to satisfy themselves that the practices of bodies in recruitment and personnel management meet certain minimum standards expected of employers in the public service. Once the body has been set up, the department should maintain contact with it on these matters and respond to requests for advice but without interfering in personnel matters unless there is evidence - eg from its annual report, or an audit query - that a serious staffing problem may have arisen.

### Staffing Arrangements

98. The sponsoring department has a general responsibility for ensuring that a body it has set up gets off on the right foot. The sponsor department should, therefore, give the new body general guidance on its recruitment and personnel management practices. In particular it should offer advice and assistance on the appointment of its Personnel Officer, on the development of the main features of an appropriate personnel management system, on the scope for co-operation with other organisations (for example by sharing staff and establishing common management of staff), and on the arrangements for industrial or staff relations. The new body should be encouraged to establish a satisfactory industrial relations system at the

outset - taking into account the Industrial Relations Codes of Practice issued by the Department of Employment and by the Advisory, Conciliation and Arbitration Service.

99. National agreements (eg Civil Service, National Whitley Council Agreements) will not apply unless separate agreements to this effect are concluded within the particular body.

100. Exceptionally, it may be appropriate that a non-Crown body with executive functions should be supported permanently by civil servants (see paragraph 138). The agreement of CSD should be obtained and the staff should be assigned on secondment, whether from the sponsoring department or other departments (see paragraph 139). Such secondments should not normally exceed three years.

101. Where the functions of a new body are to be transferred from a Government department and it is proposed to invite civil servants to transfer with the work, the department concerned should consult CSD (Personnel Management, Home and Overseas Allowances, and Superannuation Divisions) about the necessary arrangements.

102. The sponsor department may staff the new body for a limited specified period by existing civil servants on secondment. Officers on secondment do not cease to be civil servants. They remain on their parent department's books and are still part of its staff. At the expiry of the period, it may be possible for seconded staff to transfer permanently to the new body.

103. At the end of a period of secondment an officer will normally return to his department, or to another department. Where there are no suitable posts available in the Civil Service, he may be invited to transfer permanently to the new body. If he is unwilling to do so, the department may apply redundancy terms. No hard and fast rule can, however be laid down and each case would need to be decided on its individual merits. Once a civil servant has been transferred to a new body as an employee, he has no right of return although it may be open to him to seek reinstatement within the terms of the normal reinstatement rules; no general undertaking to find Civil Service posts (eg in the event of redundancy in the new body) may be given without consulting CSD's Personnel Management and Home and Overseas Allowances Divisions .

104. If, by virtue of a statutory provision, civil servants are to be transferred with their work to a non-Crown non-departmental public body, and are not to be eligible for redundancy payments , then the legislation should require that their new terms, taken as a whole, are not less favourable than the old. These conditions of service will be subject to negotiation between the sponsoring department and the Departmental Staff Side. The CSD's Personnel Management and Superannuation Divisions should be consulted when staffing arrangements are being worked out.

105. Employment protection legislation provides that if an employee is transferred from his employment with one employer to an associated employer the continuity of employment will be preserved for the purposes of unfair dismissal, period of notice and redundancy payments. If an officer transfers from one Crown employment to another the continuity of employment will be preserved. This does not normally apply, however, to transfers between Government departments and non-Crown bodies, and in such circumstances continuity can be

maintained by allowing the "hived-off" staff to go out on secondment terms, thus remaining civil servants, until the new body can offer them permanent appointments. Where appropriate, departments should seek the advice of their legal advisers on these matters.

#### Recruitment of Staff by the Civil Service Commission

106. Where, exceptionally, the staff of a non-departmental body are civil servants, the Civil Service Commission (CSC) will be responsible for approving and certificating all appointments of more than 12 months' duration. In practice, the recruitment arrangements for staff below Executive Officer level would be delegated by CSC to the body.

107. The CSC is not responsible for recruitment of staff who are not civil servants and will not normally undertake such recruitment. Advice on suitable arrangements for the recruitment of staff for any type of public body may, however, be sought from the CSC Secretariat .

108. If a non-Crown body is added to the schedule of bodies covered by the PCSPS (see paragraph 71), CSC is prepared, on a repayment basis, to conduct health checks on staff of that body on initial appointment, so that they would be covered for ill health enhancement in the event of retirement on medical grounds. The CSC Secretariat should be consulted about the administrative arrangements as early as possible.

## SECTION 7 : REVIEW OF NON-DEPARTMENTAL PUBLIC BODIES

### General

109. All non-departmental bodies are expected to do their work effectively, efficiently and economically. Departments are responsible for helping their bodies to achieve these standards, <sup>for</sup> monitoring their performance and <sup>for</sup> exercising control as appropriate. In addition to these day-to-day responsibilities (described earlier in the Guide), departments are required to conduct overall reviews of the bodies they sponsor from time to time. The objectives of these reviews are as follows.

### Reviews of Advisory Bodies

110. The objectives of reviews of all advisory bodies are to enable the sponsoring Minister to reach decisions on the following questions:

- a. is there a continuing need for outside advice in the field covered by the body?
- b. if so, is it necessary to maintain a special and formal body for this purpose, or could the need be met equally well by informal, ad hoc methods?
- c. is the body doing a good job, judged by its terms of reference and the practical usefulness of its advice?
- d. should changes be made in the composition and operation of the body (eg frequency of meetings) which would streamline its work and/or reduce departmental support costs?
- e. is there scope for amalgamating the body with another one or, in the case of a network of bodies, for reducing the size of the network?

In addition, the Minister will wish to satisfy himself on other questions relating to the particular circumstances or work of the body under review.

111. It is for the sponsoring Minister to decide the method by which each body should be reviewed and the depth of the review. In all cases, the review should be kept as simple and unelaborate as possible.

#### Reviews of Executive Bodies and Tribunals

112. The general objectives of the reviews of executive bodies and tribunals are:

- a. to ensure that the continued need for the body is questioned on a regular and systematic basis;
- b. to identify areas for savings in the expenditure of both the department and the body;
- c. to identify areas for savings in public service manpower;
- d. to examine and, if necessary, clarify and adjust the relationship between a body and its sponsoring Minister.

The pursuit of these objectives will involve an assessment of each body's effectiveness together with a view on its form or organisation, internal structure and method of operation.

113. Departments will need, therefore, to address inter alia the following questions:

- a. is the function essential? Does it fully justify the cost of carrying it out?
- b. if the answer is that the function is essential and sufficiently valuable, is it best carried out by the body in question rather than by another means?
- c. is it being carried out well and economically?

d. conversely, would there be any substantial loss or disadvantage if the body were wound up?

114. Sponsoring Ministers will decide which bodies should be reviewed, and at which time. In drawing up proposals, departments should:

a. take account of any special factors or commitments relating to particular bodies;

b. keep the procedure cost-effective and economical in the use of departmental manpower;

c. consult CSD and the Treasury, who may want a specific aspect of a body's work to be covered in the review (eg systems for the control of manpower);

115. The sponsoring Minister will also decide how the review is to be conducted - for example, by means of:

a. a desk study;

b. a specially appointed project officer;

c. an inter-departmental group;

d. a review by one or more people from outside the department.

116. In some cases, CSD and the Treasury may wish to contribute to reviews. They should also be given an opportunity to comment on the proposals arising from reviews before final decisions are taken.

## SECTION 8: GUIDANCE CONCERNING NEW BODIES

### General

117. New bodies should only be set up if there is a copper-bottomed case for doing so. Accordingly, the approach to proposals for new bodies should reflect the principles of the Government's policy, set out in paras 1 - 4.

118. The use of public bodies operating at arm's length from Ministers has a long history, but their number has grown rapidly since 1945. In many cases the arrangements have worked well. But experience has been mixed. For example, the 'arm's length' approach can involve problems of control and accountability because it is not always easy for departments to strike the right balance between disengaging from detailed administration while exercising proper supervision. More generally, the scale, range and cost of the functions now carried out by non-departmental bodies means that they are the subject of close attention by Ministers, Parliament and the public. This attention is directed not only to accountability but also to arrangements for control over the overall number of non-departmental bodies and over their expenditure.



## Scrutiny of proposals for New Bodies

119 Proposals to create new public bodies require rigorous scrutiny. Before it is decided to create a new public body - or to place in or transfer functions to an existing body - the department should already have:

- a. established clear and explicit policy objectives;
- b. satisfied itself that the tasks to be undertaken are essential and that the expenditure and other resource costs are justified;
- c. satisfied itself that the tasks cannot be undertaken equally or more satisfactorily by the department and are not of a kind which are appropriate to local government or to the private sector, with or without Government initiative or funding;
- d. considered the wider implications for the machinery of government and for resources; and
- e. in the case of an advisory body, established that the need for advice cannot be satisfactorily met through ad hoc consultation with appropriate experts or external interests.

120 Particular questions to which the department should address itself are as follows:

- a. are the tasks involved essential and will they fully justify the cost of carrying them out?
- b. why is it inappropriate for the department itself (or some other department) to undertake (or continue to undertake) the tasks involved?
- c. what will be the relationship between the body and the Minister? Would it be appropriate for Ministers to distance themselves from the day to day execution of the tasks proposed for the non-departmental body?
- d. could the tasks be undertaken by an existing non-departmental body, either in its present form or adapted for the purpose, rather than by a new body?
- e. (in the case of executive bodies) would the rights of those affected by the body's decision need to be safeguarded, eg by provision for appeal, and if so could satisfactory procedures can be devised?
- f. are the tasks involved of a finite kind which could be completed within a limited timescale?

g. what are the estimated total costs (including accommodation, superannuation etc) and what are the manpower requirements, both short and long-term? What would be the comparable costs if the tasks were undertaken by the Government itself? Would there be any offsetting savings in the department, in other departments or in other public bodies, if a new body were set up?

h. even if the answers to the above questions support the idea of setting up a new body, does the purpose justify the immediate and long-term expense involved in the creation of a non-department body? (In most circumstances, a department, covering a wider range of functions, can adapt itself more easily to accommodate changes in organisation and policy than can a single-purpose body).

111 Detailed analysis of this kind will help to establish the strength of the case. But even where the case has been established in principle there may be practical objections. These might, for example, concern the status of staff or the method of funding. These difficulties should be identified and considered at an early stage.

112 The department should also consider the question of appeals from the decisions of the body. No fundamental problems arise if recourse to the courts or to some existing tribunal would be appropriate. But proposals to set up any new tribunal would need to be scrutinised just as closely as the proposal to set up the body itself. And if appeal could lie only to Ministers this might call into question the reasons for setting up a non-departmental body in the first place.

#### Inter-departmental consultations

113 There is an important and binding requirement on departments to consult the Central Departments about proposals concerning certain types of non-departmental body. The requirement applies to:

- a. proposals to establish new bodies whose functions are executive, administrative, regulatory, commercial or judicial (ie in groups (d) i. and (d) iii. in para 2);
- b. proposals to reconstitute or to transfer functions to bodies of the sort described in (a) (other than through a change of membership);

c. proposals to establish, reconstitute or transfer functions to advisory bodies, but only where there are implications for the machinery of government or for public expenditure.

Within the above categories, the requirement applies to proposed new bodies within an existing network or family of bodies.

124 The requirement does not apply to:

a. proposals for advisory bodies where there are no implications for the machinery of government or for public expenditure;

b. departmental or inter-departmental committees consisting mainly of civil servants, which are essential to the internal management or co-ordination of Government business and which would still be needed for this purpose even if no non-civil servant were appointed to the body; and

c. groups within the wider public service which have no independent role, which comprise officials representing Government departments and representatives of local government, the National Health Service, the Police or the Fire Service, and where there is an essential working relationship between the participants.

125 In addition the Treasury need not be consulted about a proposal for a new body which is expected to spend less than £5000 per year. The Treasury should, however, be consulted where there are indirect expenditure implications or where it is proposed that the body should be financed other than by direct Government spending.

126 Even where prior consultation with the Central Departments is not required, CSD should nevertheless be notified of decisions to set up a new non-departmental public body. This is necessary in view of CSD's responsibility to monitor the implementation of Government policies on non-departmental public bodies and to maintain a record of bodies which it is decided should be established.

127. Where consultation is required, departments should write to the Machinery of Government Division in CSD at the earliest possible stage and before any commitment to set up a body, or reconstitute an existing body, is made.

The letter should be copied to the Head of the Treasury Division concerned with the control of the related public expenditure programme.

128. The precise terms in which proposals should be put to the Central Departments will vary from case to case but should cover the relevant points in paras 121-124. In particular, when departmental functions are being hived off it will be necessary to demonstrate that the change would be commensurate with sound management and good value for money for the taxpayer.

129. Once it has been decided to set up a new body the Central Departments may also need to be consulted about the arrangements for its creation and the general framework within which it should operate. This further consultation will almost always be required in the case of bodies with executive etc or judicial functions. Central Departments will be glad to advise on such matters as the relationships between the body and its sponsoring departments and arrangements for external controls, eg over pay and conditions of staff.

#### Guidance to committees of enquiry

130. Proposals for new Government functions or for new public bodies frequently occur in the recommendations of committees of enquiry. In giving general guidance to these committees, departments should draw attention to the considerations which should be borne in mind before such proposals are made. It should not be suggested that committees should in no circumstances recommend new bodies. But committees should be made aware of the general lines of Government policy and advised that departments will normally seek to use existing machinery. Appendix 4 consists of a short note of a kind which departments may wish to use for this purpose.

#### Objectives and structure

131. In setting up a new body it is essential to draw up a clear statement of its objectives and how - in broad terms - they are to be achieved. This will provide the basis for formal terms of reference and will also serve as an enduring guideline both for the department and the body. Identifying roles and responsibilities at this stage will help to avoid later misunderstanding about where particular responsibilities have been placed. Before the first Chairman of the body is appointed, it will therefore be useful to draw up and agree with him a formal statement covering these matters.

132. Articulating objectives and how they are to be achieved will also help to define the kind of organisation required. This should in turn help clarify the most appropriate method of establishing the body, the powers and safeguards which are required, and the kind of members and staff most suitable for the job.

133. The appropriate structure for a new body will depend essentially on its functions. Among existing bodies there is considerable variation in legal status, method of establishment and internal organisation. Some of these arrangements have worked better than others and in setting up new bodies departments should draw wherever possible on existing models which have been found to work well and should avoid devising new variants.

#### Methods of establishing new bodies.

134. Advisory bodies normally require no separate administrative machinery, and no special consultation is required before they are set up (subject to para 125 c ). Where appropriate, they should be set up either:

- a. with a finite remit, which will automatically lead to the dissolution of the committee when the remit is discharged; or
- b. with a finite lease of life, after which the committee would be disbanded unless a positive decision were taken to give it a new lease of life.

See also Appendix 5, paras 14-15

135. Most public bodies with executive etc functions are statutory bodies. Although other methods of establishment are not ruled out where appropriate, new bodies in this category should as a general rule be set up by Act of Parliament. The other methods available include incorporation under the Companies Acts, Royal Charter, administrative action and Royal Commission. Appendix 5 contains further information on these other methods.

#### Constitutional status of the body and its staff

136. It should be settled whether a body is to be Crown or non-Crown in status and the founding legislation should normally contain a declaration one way or the other. The lack of such a declaration has sometimes caused legal uncertainty in the absence of a court ruling.

137. Generally speaking, the Crown acts in its executive capacity through the Government of the day, which is bound together by the conventions of collective Ministerial responsibility and Ministerial accountability to Parliament. When a body is given Crown status, its staff will normally be civil servants.

138. By their nature, non-departmental bodies discharge their functions at arm's length from Ministers and fall outside the central core of Government. If the staff are civil servants, this may obscure the fact that their loyalty lies to the Board of the body rather than to the Government. Furthermore, the application of certain civil service rules of conduct, eg on political activities, may be inappropriate for the staff of non-departmental bodies. As a general rule, therefore, new non-departmental bodies should be non-Crown in status and their staff should not be civil servants of the Crown. Only in very exceptional circumstances is Crown status appropriate, and where this is proposed CSD should be consulted at an early stage.

139. This does not mean that a non-Crown body cannot be given staff support by the sponsor department. Where small bodies are unable to attract their own staff of the right quality, or where bodies are not empowered to employ their own staff or could not do so economically, it may be appropriate for the bodies to be supported by civil servants on secondment. Alternatively, it may be appropriate for the body to be supported by civil servants who are not on secondment but who remain in the sponsor department. But this sort of arrangement can cause a conflict of loyalties and should be avoided unless it is clearly confined to secretariat-type functions or other functions where there is no such risk.

140. This does not preclude a sponsor department from providing on a repayment basis certain services which a non-departmental body is unable to provide itself. In such cases the staff of the department remain answerable only to their Minister.

#### Other points for consideration

141. Whatever the method of establishment, the sponsor department should also define clearly the following characteristics of the proposed body, many of which will have already been considered in reaching the decision to set it

up: constitutional status, operational framework and legal powers, Ministerial powers over the body, and financial arrangements. The last point includes the method of funding, the financial relationship with Government, the control of administrative expenditure, arrangements for the presentation and audit of accounts, and the publication of accounts and annual reports. Other points to be considered include accommodation, services and the recruitment of staff, in which the department may need to be involved. Appendix 6 contains a checklist of items to be considered.

## SECTION 9 : MISCELLANEOUS GUIDANCE

### Provision of Common Services

142. When a new body is set up, it may be appropriate for the sponsor department to provide the body with temporary accommodation in buildings it occupies itself and to provide other services, such as furniture, stationery etc, temporarily from its own resources. But arrangements for longer term accommodation and supply of services should be introduced as quickly as possible. Departments should consult the common services departments, including the Property Services Agency (PSA), the Stationery Office and the Central Computer and Telecommunication Agency of CSD as to whether longer term supplies may be obtained through the common service agencies. If possible this should be settled before the body is set up.

143. Bodies funded by grant in aid (even if 100% funded) are normally expected to pay the full cost (including overheads and VAT) of any common services provided by Government departments (including the sponsor department). This should also be the case for other support services, eg calculation and payment of the salaries of the body's staff, all of which should be provided on a repayment basis. This arrangement ensures that the total cost of the body is evident and is not spread over the Votes of the common service departments as well as the parent department.

144. Where the PSA agrees to provide accommodation and/or services in advance of the body being set up, it will require an undertaking from the sponsor department, on behalf of the body, that its costs will be repaid.



### Disqualification from House of Commons

145. Where all members, or particular members, of a body are to be appointed, nominated or approved by Ministers, and there is provision for paying them any form of remuneration (including pensions, though not including expenses), there will be a prima facie case for disqualifying them from membership of the House of Commons. Under present legislation the disqualification would also apply to the European Assembly unless a special order were made. In the case of bodies set up by statute, disqualification should normally be effected in the primary legislation. In all cases where disqualification is or may be appropriate, the Machinery of Government Division of CSD should be consulted.

### Location of Offices

146. Bodies wholly or partly financed by Government funds are expected to reflect, whenever possible, considerations of regional policy so far as the location of their work is concerned. When a new body is being set up, or when existing work is being relocated, it is therefore essential that the location policy aspects should be considered at the earliest opportunity. In the case of new bodies, this should be done before the body is formally set up and before any senior appointments (eg Chairman, Board Members, Directors) are made.

147. The CSD's Personnel Management Division is responsible for providing central guidance to departments and for initiating discussions between those departments (PSA, , Employment, Environment, Industry, Scottish and Welsh Offices, and Treasury) directly concerned with the implementation of location policy as it affects both Government work and that of non-departmental public bodies.

## Public Records

148. When a new non-departmental body is being established and will be financed wholly or mainly by the Government (other than one predominantly concerned with Scottish or Northern Irish affairs, for which see paragraphs 154-155 ), it is necessary to decide whether it should be subject to the provisions of the Public Records Acts 1958 and 1967. Wherever necessary, the issue should be placed beyond doubt by statute.
149. Such bodies should usually be made subject to the Acts, which have no effect on their independence in any other respect. The Acts require that, under the guidance and superintendence of the Keeper of Public Records, arrangements must be made for the selection and preservation of records of permanent value and for the early disposal of the remainder; that records selected for preservation shall be transferred to the Public Record Office than 30 years after their creation and that they shall be made available there for public inspection, normally when they are 30 years old. The intention is to forestall criticism of mishandling of the records and of undue secrecy, while ensuring that worthless papers are not retained in expensive accommodation. In addition, making a body subject to the Acts facilitates the temporary or permanent transfer to the new body of those government department records which it may require for administrative purposes, and also their subsequent recovery.

150. Departments responsible for setting up a new body should determine whether or not the proposed constitution will bring it within the provisions of the Public Records Acts without separate statutory provision, normally a consequential amendment to the First Schedule to the Public Records Acts 1958. Any cases of doubt should be referred to the Lord Chancellor's Department. If the sponsoring department considers that the new body should be exempt from the Acts, it should also consult the Lord Chancellor's Department.
151. When a non-departmental body whose records are not to be regarded as public records takes over the functions previously assigned to a Government department, it is usual for the new body to be loaned for a finite period the current files and papers relevant to those functions. The Departmental Records Officer should be notified of such loans.
152. When a non-departmental body is set up to replace an existing body, it is sometimes necessary to make specific provision for the disposal of certain of the records of the superseded body. If the body is being established by statute, the necessary provisions can be embodied in the Act. Where a body is to be superseded or disbanded, the Departmental Records Officer of the sponsor department should be consulted about records.

153. When a non-~~departmental~~ body is abolished without its functions being transferred elsewhere, arrangements should be made for the disposal of those of its records worthy of permanent preservation. Those of bodies subject to the Acts should be transferred to the PRO in the normal way; those of other bodies can, with the agreement of the Keeper of Public Records, be accepted by the PRO as a deposit or a gift.
154. The records of any Government department or body which is wholly or mainly concerned with Scottish affairs, or which carries on its activities wholly or mainly in Scotland, are excluded from the Public Records Act, 1958 (sch. 4, para 2(2) (a)). The records of public bodies in Scotland are normally treated as records belonging to Her Majesty for the purposes of the Public Records (Scotland) Act, 1937. Advice concerning such records should be sought from the Keeper of the Records of Scotland.
155. Similarly, it is desirable that the records of public bodies sponsored by the UK Government and having functions which relate wholly or mainly to Northern Ireland, should be treated as 'Imperial' public records under the Public Records Act (N.I.), 1923. Advice concerning such records should be sought from the Deputy Keeper of the Records of Northern Ireland.
156. General advice on record matters is available from

The Keeper of Public Records, Public Record Office,  
Chancery Lane  
London WC2A 1LR  
01-405-0741

The Keeper of the Records of Scotland, Scottish Records  
Office,  
HM General Register House  
Edinburgh, EH1 3YY  
031-556-6585

The Deputy Keeper, Public Record Office of Northern  
Ireland,  
66 Balmoral Avenue  
Belfast BT9 6NY  
0232-661621

## Security

157. Advice on security matters should be sought from the sponsoring department's Security Officer who may, in turn, wish to consult CSD.

158. Where a body is to deal with or have access to classified information, adequate personnel and physical security measures should be taken. If the access is such that it is desirable that the body be covered by Government Security Regulations, this may be effected either by explicit provision in the enabling legislation or, where that legislation provides for Ministerial directions, by such a direction.

## Dissolution of Public Bodies

159. Appendix 7 provides guidance on action at the dissolution of public bodies. Paras 43-4 deal with the disposal of Government-financed assets.

NOTE ON CLASSIFICATION OF PUBLIC BODIES

1. There are no legal or commonly accepted classifications of non-departmental public bodies which have a part in the processes of government but which are neither part of the core of central Government nor of local government. They are often referred to as 'Quangos', but this is not a definitive term and it is given widely different meanings by different commentators. The main difficulty in arriving at classifications suitable for all purposes is the heterogeneous nature of the bodies in this area; they embrace a wide range of public functions, constitutions and relationships with Government.

2. CSD classifies non-departmental public bodies into a number of groups, each of which presents sets of characteristics slightly different from the others. These groups are as follows:

a. Nationalised Industries, other Public Corporations and companies in which the Government has a part shareholding.

This important group is a focus of continuing attention in Government and Parliament. The special relationships between these enterprises and Government reflect their commercial nature, and they are kept under constant review;

b. Agricultural Marketing Boards

These are essentially 'producer' organisations which, although statutory, operate with a large degree of independence of Government; their relationships with Government are kept under continuing review in order to take account of EC agricultural policies;

c. National Health Service Bodies

This group includes Health authorities, special health authorities and certain other public bodies which are integral to the National Health Service, whose functions wholly relate to the management and operation of the NHS and the position of which needs to be considered in the context of the NHS as a whole. In each case there are statutory and other arrangements for regular scrutiny and monitoring;

d. Other non-Departmental Public Bodies, which are of 3 kinds;

i. Bodies with executive, etc functions

This group consists of public bodies which carry out inter alia administrative, executive, regulatory and commercial-type functions. They operate typically within broad policy guidelines set by departmental Ministers but are in varying degrees independent of Government in carrying out their day-to-day responsibilities;

ii. Departmental Advisory Committees and Commissions

This group consists of bodies which are set up by Ministers solely to give advice to them and their departments on matters of interest to them. Generally, they do not employ staff or incur expenditure on their own account.

iii. Tribunals and other Judicial Bodies

This is a specialised group of judicial bodies which are akin to courts of law. The functions, constitutions and the procedures of most tribunals are kept under review by the Council on Tribunals.

3. The placing of a particular body in a particular group depends on the characteristics of the body. This needs to be agreed with CSD since the classification will have implications for the general framework of the body's operations, for the arrangements to be determined for keeping the body and its performance under review and for the degree of Central Department involvement. In the case of existing bodies classifications have already been agreed. CSD should be consulted about the classification of new bodies.

4. The following questions are critical in considering whether a group or body should be described as a non-departmental public body:

a. Is what is being considered a 'body' rather than an ad hoc informal group? Does it have the characteristics normally associated with a body, such as terms of reference, defined membership, a Chairman, records of its proceedings, and so on?

b. Does a Minister appoint some or all of its members? The higher the proportion of Ministerial appointments, the more likely it is that the body is a non-departmental public body.



c. Does the Minister carry a significant degree of answerability for the performance of the body and its continued existence? Does he have the power to wind it up?

EXTRACTS FROM P.A.C. REPORTS AND TREASURY MINUTES ON THE  
NEED FOR SPECIFIC LEGISLATION TO COVER NEW AND CONTINUING FUNCTIONS  
INVOLVING THE EXPENDITURE OF PUBLIC FUNDS

1. The general principle that new and continuing functions involving the expenditure of public funds should not be left to rest on the Annual Appropriation Account, but that they should, as far as possible, be covered by specific legislation derives from the exchanges between the P.A.C. and the Treasury quoted below:
  
2. The PAC, in their Second Report 1932, commented as follows:-  
  
    'Your Committee consider also, as a matter of general principle, 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'.
  
3. The Treasury Minute of 31st December 1932, in reply, referred to long standing services and emergencies in which the Treasury doubted the need for specific legislative authority, but continued:

'Nevertheless while They think that 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 agreed 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 powers and duties to be exercised should be defined by specific statute. Their Lordships will, for their part, continue to aim at the observance of this principle'.

4. This view, which was subsequently confirmed in the Public Accounts Committee Third Report 1948-1949 and Treasury Minute of 27th February 1950, has been taken to mean that specific legislation should be taken in all cases involving significant annual expenditure, either when the body is set up or, if an experimental period is thought necessary, when the working of the experimental arrangement shows that it is likely to be continued on definable lines.

Introduction

1. This Appendix provides general guidance on some basic principles of financial management. Inevitably, it is far from exhaustive. It aims to assist management in ensuring that no major aspect of the finance function is overlooked in considering the requirements of financial management. It is concerned mainly with practice in medium-sized and larger organisations. More detailed guidance is available in other publications, eg in 'Government Accounting'.
2. The principles of control set out below are of general validity. But their application varies according to circumstances, and it is for each body to develop an accounting and financial information system to meet its own needs and obligations. The Treasury will be glad to provide further advice on the application of these principles to particular cases.

Financial Management - Main Features

3. The essentials of sound financial management may be set out under the following main headings:
  - (a) good financial organisation;
  - (b) effective financial planning/budgeting;
  - (c) properly designed and operated accounting and information systems to facilitate a high standard of financial control, and the use of management accounting techniques;
  - (d) appropriate arrangements for internal audit.
4. These topics are briefly considered below.

Financial Organisation

5. In smaller bodies, finance may be merged with administration and establishment work; in larger bodies, however, there should normally be a separate finance function under the direction of a Principal Finance Officer or Finance Director (referred to below as the PFO).
6. The Finance Division reporting to the PFO will have some or all of the following responsibilities:
  - (a) the design, development and operation of financial management and information systems; the interpretation of financial data for planning, control and decision making;
  - (b) the formulation of forecasts, budgets, estimates, PES projections and their justification to the sponsor department/Treasury/CSD;
  - (c) the provision of advice, guidance and assistance on all financial matters;

(d) the preparation and maintenance of Finance Manuals of Procedure and Desk Instructions;

(e) the determination of the scope and content of the training required by finance staff; the implementation of financial training programmes.

7. The Accounts Division, which may be an integral part of the Finance Division, normally has some or all of the following responsibilities;

(a) the maintenance of an adequate system of books and accounts;

(b) the preparation of annual accounts, and of any monthly or other interim statements and accounts required (eg for management, audit, estimates purposes etc);

(c) the calculation and payment of salaries and wages, the making of day-to-day payments authorised by other branches and the bringing to account of receipts;

(d) the operation of controls, financial security arrangements and internal checks related to payments, receipts and balances (whether of cash, securities or stores) in order to prevent fraudulent transactions or physical losses.

#### Financial Planning and Budgeting

8. Planning involves preparing a programme of action. Where the plan relates to the use of resources over a given period and takes into account the cost of such resources, it is termed a budget.

9. Each functional arm should prepare its own budgets in line with the overall policy and objectives of the body and within the total of available resources. Top management should then assess these budgets in summary form for their general suitability and should approve them. It is usual for an organisation to prepare both a long-term forecast and an operating budget for the next 12 months.

10. Bodies with commercial interests should set their budgets and assess their pricing strategy in accordance with financial objectives agreed with their sponsor department. They will normally be required to earn at a specific rate. The Treasury will advise on required rates of return.

11. Budgeted cash flow statements prepared for internal management requirements will enable the body to compile PES and Estimate figures, profiles for the Treasury Financial Information System (FIS), and expenditure returns as required by the sponsor department. FIS profiles and expenditure returns should be based on expected and actual dates that funds are required by the body or paid to it. The sponsor department should issue detailed FIS monitoring forms for completion by the body.

#### Management Control - Techniques and Systems

12. In formulating new policies it is essential to assess their financial consequences and to decide which method of implementation would be most cost-effective. When a project is under consideration it will normally be necessary to evaluate the capital and running costs of various options, using discounted cash flow techniques where the project extends over a period of years. Where existing procedures or facilities can be used to produce additional output, marginal costing techniques should be employed.

13. Once a policy has been implemented it is essential that performance is monitored to maintain financial control. This is achieved through:

- (a) the existence of a budget;
- (b) monitoring of performance and prompt feedback of information on actual results;
- (c) comparison of actual results with the plan and analysis of variances; and
- (d) taking action to rectify divergencies or to revise plans.

Standard costing techniques may be applied to analyse and explain variances from the plan. The use of performance indicators (eg cost per output) can highlight areas worthy of investigation.

14. Managers at all levels should receive reports on matters for which they are specifically responsible and which they can control. The most helpful approach is to practice management by exception and for reports to concentrate on those areas that are diverging significantly from plan. The reports should be produced at a frequency and in a format required by the various levels of management in the light of the decisions to be taken by them.

15. As a general rule, financial accounts record the receipt and payment of moneys, the custody of physical assets, the holding of monetary assets and the obligation of monetary liabilities. They allow the preparation of a profit and loss account (or accounts for trading, manufacturing, production, operating, income and expenditure) and a balance sheet. A system of cost accounting permits the cost and results of areas, departments, functions, services and products to be determined and facilitates the preparation of cost estimates. The term 'management accounting' covers all the services which the finance function can render to management at all levels to assist the operation and control of the undertaking, both in day-to-day control and in making long-term decisions. The different types of accounting system are not mutually exclusive; ideally they should operate as an integrated whole.

16. The Treasury is responsible for deciding the form of audited accounts to be submitted to Parliament and should be consulted at the formative stage of any proposal to set up a new body or to amend the form of accounts of an existing body. The accounting systems of a body should therefore be geared to produce the information appropriate to the form of account laid down by Treasury, the information required by the sponsor department (eg FIS returns, specific expenditure plans) and the information required to meet its own internal management needs.

#### Information for Management

17. A management accounting and information system consists of financial and cost accounting data which, when suitably presented with statistical and physical data, meets the information needs of management at all levels. The system employed should be tailored to the specific requirements of each undertaking.

18. To assist the manager in carrying out his duties effectively, efficiently and economically the information provided for this purpose must be:

- (a) significant - dealing with the vital aspects of the undertaking;
- (b) reliable - obtained from an effective and accurate system based on sound principles;
- (c) clear - readily understood, concise and readable - drawing particular attention to points requiring management action;
- (d) prompt - at the expense, where necessary, of total accuracy. Information received today which is 95% correct is often more useful than 100% correct information provided next week or next month;
- (e) capable of comparison - to be of value, information must be reported against appropriate comparative data eg budgets, standards, historical figures; and
- (f) economical to produce - the cost of the system must not exceed the benefits.

19. The booklet 'Management Accounting in the Civil Service' describes management accounting and outlines its use in Central Government.

Guidance on management accounting techniques are detailed in:

- (a) "The use of discounted cash flow and the test discount rate in the public sector". Published by HM Treasury;
- (b) "Marginal costing" published by the Institute of Cost and Management Accountants; and
- (c) "Standard Costing" by J Batty.

#### Role of the Internal Audit

20. Internal audit is part of the total system of internal control operating in an organisation and may be defined as an independent appraisal activity for the review of accounting, financial and other operations as a basis for service to management. Additional information can be found in the booklet 'Internal Audit in the Civil Service', Section 'C' of Government Accounting and the handbook 'The Audit of Computer Systems in Central Government'.

## CREATION OF NEW PUBLIC BODIES: MODEL NOTE OF GUIDANCE TO COMMITTEES OF ENQUIRY

In considering their recommendations, Committees are asked to take account of the Government's broad approach to the creation of new non-departmental public bodies. Ministers believe that such bodies can play a valuable role in the right circumstances. But, as the Prime Minister told the House of Commons on 3 December 1980:

"There are always pressures for the creation of new bodies. We shall be robust in resisting them. But we shall approve proposals for new bodies if we can be convinced that the function is essential and that a non-departmental body is the most appropriate way to do the job - as in the case of the Urban Development Corporations and other bodies we have set up."

It is not the intention that Committees of Enquiry should feel inhibited from recommending the creation of a new public body where they are convinced that this is the best solution. Committees are nevertheless asked, in the light of the Government's general policy on this issue, to give full consideration to alternatives - such as the performance of the task by a Government department or an existing non-departmental body - before putting forward recommendations of this kind.



General

1. This Appendix gives further guidance on methods of establishing public bodies. Departments should, however, consult their legal advisers in all cases other than proposals for straightforward advisory bodies. Sponsoring departments may also need to consult with the MG Division of CSD (see paragraph 29 in the main text) or with other departments who can provide specialist advice.

Acts of Parliament

2. There are various reasons why legislation may be necessary or desirable in establishing new executive bodies and tribunals, eg

- a. if the body is to be financed by loans from the National Loans Fund;
- b. if the body is given powers to raise funds by levy;
- c. more generally, if the body involves continuing functions requiring the expenditure of public funds beyond one year (see para 35 and Appendix 2);
- d. if statutory functions are to be transferred from the Department or from another statutory body, or if the new body is to exercise authority over other statutory bodies; or
- e. if it is to be legally incorporated; incorporation as a statutory body confers a clear and defined legal authority.

Incorporation under the Companies Acts

3. A body corporate may be established under the Companies Acts as well as by or under an Act of Parliament. The registration of a body as a company does not necessarily remove the body from Government control; nor does it follow that such a company is not a non-departmental public body.

4. The Public Accounts Committee has expressed its view on the question of creating a company under the Companies Acts to undertake public functions. In broad terms this is that Ministers should establish a company only where it can be demonstrated that there is no better way of arranging for the task to be done, but that even so Parliament should be given an opportunity to approve the Government's proposal (see Third Report from the PAC Session 1967-68, paras 76-83, National Seed Development Organisation; also Third Report from the PAC, Session 1974, paras 165-169, British Museum Publications Department).

5. The Department of Trade can provide general advice about incorporation under the Companies Acts.

6. Companies limited by shares. When a non-departmental organisation is to carry out trading functions it may be appropriate for it to be set up on the same basis as a company in the private sector. In such cases the body may be established under the Companies Acts as a Company limited by shares. It will then be subject to statutory controls by the Department of Trade just like any company in the private sector. In some instances, the trading activities and financial arrangements of a company set up by the Government under the Companies Acts may be further controlled by specific legislation. Each case should be considered on its merits in consultation with the appropriate Treasury Division. A company limited by shares may be either a private company or a public company with a Stock Exchange quotation whose shares may be purchased in the market. The Memorandum and Articles of Association defining the objects of the company and the regulations for the management and conduct of its affairs must be registered by the Registrar of Companies in conformity with the Companies Act. It may be appropriate for these Articles to contain special provision, eg for Government directors.

7. The Government may also acquire all or part of the share capital of a company originally established in the private sector under the Companies Act; or it may take a debenture on the assets of such a company, sometimes as part of a scheme of financial assistance. In these cases a reconstruction of the company is not always needed, so that no new body is created in a legal sense.

8. Companies limited by guarantee and unlimited companies. Companies need not be limited by shares but may be limited by guarantee or may be unlimited. Companies limited by guarantee are normally formed for charitable or for other non-trading purposes, but may also be used for trading activities. Establishment as a company limited by guarantee does not dictate a particular relationship between the body and a Minister. This will depend inter alia on arrangements for appointing the Chairmen and Directors and on other controls which may or may not be given to the Minister. Whether a body is to be classified as a non-departmental public body will depend on the precise arrangements that are made.

#### Royal Charter

9. Bodies incorporated under Royal Charter have their independence from the Government recognised and preserved by the Charter, which defines the objects of the body, its constitution and its powers to govern its own affairs.

10. Incorporation by Royal Charter is not often used and has usually been confined to certain universities, professional regulatory bodies, and bodies like the BBC, the British Council, and the Research and Sports Councils. Departments considering establishing a public body by this means should consult the Privy Council Office for advice on policy and procedure.

#### Treasury Minutes

11. A body can be set up by Treasury Minute when there is no need for specific legislative authority for expenditure and when the body to be established does not require a legal personality. A minute, which records a resolution of the Lords Commissioners of the Treasury, is a formal document and may authorise the submission of an Estimate on which Parliament can vote the necessary funds for the body so created. In these cases, legislative approval of the expenditure rests on the Appropriation Act. In view of the understanding between the Treasury and the Public Accounts Committee described in Appendix 2, the use of Treasury Minutes for this purpose is now rare.

## Shadow Organisations

12. By definition statutory bodies cannot have a corporate legal existence until Royal Assent to the enabling Bill has been obtained. From time to time, however, Ministers may decide to designate prospective members of the proposed board and to bring them together on an informal basis, for example as an organising committee, in advance of legislation. Past practice has been that the decision to set up a "shadow" organisation has been announced during or after the Second Reading of the relevant Bill.

13. It is a question of judgement for Ministers whether to establish a shadow organisation in this way. However, it should be noted that shadow arrangements have been subject to some criticism in Parliament, especially where the proposal to set up the new body is controversial, on the grounds that such action can be interpreted as prejudging Parliament's intention. It will be for Ministers, therefore, to balance considerations of Parliamentary propriety and public controversy against the benefits from creating a shadow organisation or appointing members designate before legislation has been passed.

## Ministerial Advisory Bodies

14. A Minister is entitled to take advice from whomever he wishes. Consequently, no special machinery is required to bring advisory bodies into being; they are normally set up by administrative action by Ministers. The costs, if any, of advisory bodies, are borne on Votes for which the department itself is accountable.

15. Unless there are special reasons to the contrary, advisory bodies should not be entrenched in statute. Among other considerations, this tends to make the process of establishment and dissolution more cumbersome than is usually necessary. It is nevertheless common for the Minister concerned to inform Parliament of his action in establishing an advisory body, even though the approval of Parliament may not be required.

## Royal Commission

16. A Royal Commission set up under the Royal Prerogative is a more formal and prestigious type of advisory body than one set up by Ministerial administrative action. This normally involves the issue to the Commissioners of a Royal Warrant by the Sovereign on the advice of a Secretary of State, frequently the Home Secretary. Royal Commissions are generally established to consider a specific matter which has become the subject of public concern but on which the Government is not committed to a particular policy. The Commissioners report to the Sovereign through the relevant Secretary of State and their report is published as a Command Paper and laid before Parliament.

17. In preparing their report the Commissioners are not carrying out functions on behalf of the Crown and are not themselves Crown servants. They may be assisted by civil servants seconded from departments. The Commission may itself appoint staff but they will not be civil servants.

18. Royal Commissions are generally financed by monies voted by Parliament.

## SETTING UP A PUBLIC BODY: CHECKLIST

1. When a decision is taken to set up a new executive body, the department itself usually has the task of taking the necessary steps to bring the body into being. The practical matters to be resolved will vary with the type of body and the way it is intended to operate. The following checklist is essentially a list of headings and sub-headings for the various steps to be considered and does not attempt to establish orders **either of timing or priority**. The list may be found helpful at the stage of drafting legislation since many of the matters covered will need to be covered in the Bill; there are also many items not covered which will require provision in legislation. The sequence of events will also vary and in some cases those appointed to take charge of the body may take up their positions sufficiently early to handle much of the preparatory work themselves.

2. Where Ministers decide that a shadow organisation (Appendix 5, paragraphs 12-13) will precede the permanent body, departments will find it necessary to consider the procedures for shadow organisations. There may be difficulties in determining remuneration and allowances since if these are fixed at levels appropriate to the shadow organisation, they may be inappropriate to the permanent body which is to follow it: and it may be necessary to employ staff as temporary Civil Servants for the life of the shadow organisation. In these circumstances, departments may also find it is necessary to consult their Staff Side.

3. Departments may find it helpful to prepare their own more detailed checklist and those involved will need clear guidance on **where to turn within the department** for expertise on such subjects as financial provision, pay allowances and conditions of service. It will also be important to establish clearly at the outset where responsibility will lie within the department for monitoring the activities of the body (including its use of resources) after it has been established.

4. Against the items in this checklist there are references to the relevant parts of the Guide where it gives general guidance on them. Not all the items are covered specifically in the body of the Guide.

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Note: General advice on Ministerial appointments is available from the Public Appointments Unit, CSD.

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DISSOLUTION OF NON DEPARTMENTAL PUBLIC BODIES

Legislative Action

1. A public body continues to exist so long as the founding instrument remains in force. But when a decision has been taken to dissolve a body Ministers may also decide to wind down its affairs in anticipation of its dissolution in law. It is customary to inform Parliament of such proposed action and this should always be done where the body has been set up by or under an Act of Parliament.

2. The abolition of a body established by or under statute will generally require primary or secondary legislation.

Surrender of Royal Charters

3. If a superseded body was incorporated by Royal Charter, arrangements must be made for the Charter to be surrendered. This is done by the body concerned petitioning the Queen in Council to accept the surrender of their Charter. The Petition is accompanied by an appropriate Deed of Surrender together with the original Charter bearing the Great Seal (and any Supplemental Charters). All these documents should be sent to the Privy Council Office. Acceptance of the surrender is signified by an Order in Council which usually recites the terms of the Deed of Surrender. The chartered body ceases to exist from the date on which such Order in Council is made.

4. The procedure, and the form of the Petition and Deed of Surrender, may vary according to the body's constitution and the circumstances of its dissolution, and the Privy Council Office should be consulted in every case.

#### Termination of Royal Commissions

5. Royal Commissions normally cease to have any existence once they have completed their task. But in some instances a Commission may be superseded by a new Commission. In such cases the superseded Commission needs to be formally wound up, by the issue of a further Royal Warrant.

6. Where a Royal Commission is not superseded by another body but where no appointments are made to fill vacancies which arise in the course of extended researches, the Commission may be considered defunct if no report is made after a lapse of months.

#### Removal of Commons Disqualification

7. Where a body whose members were disqualified from membership of the House of Commons is to be dissolved by statute, the legislation should provide for the removal of the relevant entry from Schedule 1 of the House of Commons Disqualification Act 1975. Where such a body is to be dissolved by other means, the CSD's Machinery of Government Division should be informed so that the entry can be removed from the Schedule in due course by Order in Council.

#### Compensation for redundancy

8. When a body is wound up, Board Members who are not found alternative appointments may be due for the compensation referred to in paragraph 59. Staff who are made redundant will normally be entitled to the benefits referred to in paragraph 76. It is important to check that the statutory powers are adequate to pay compensation; if not, provision should be included in the



winding-up legislation. If, by virtue of a statutory provision, the staff of a body which is to be abolished are to be transferred compulsorily to another body with their work then it is essential (in order to help to avoid claims for redundancy payments) that the legislation should require that their new terms, taken as a whole, are not less favourable than the old. Where staff are given the opportunity to transfer voluntarily to other work in the public sector as the alternative to being declared redundant, there is also a need to ensure that the new terms are no less favourable.

#### Residual Superannuation Liabilities

9. When a non-departmental public body is abolished, it is important to establish that adequate powers exist to meet the residual superannuation liabilities for Board Members and staff. Inadequacies in statutory powers should be remedied in any new legislation which is needed to abolish the body. The source of finance to meet the residual liabilities should also be carefully determined, particularly when the body was only partly grant-aided (see also the comments in paragraphs 73-74 about setting up superannuation arrangements for such bodies). For wholly grant-aided bodies the financial source may well be the Vote from which the grant was paid, but each case needs to be considered with the Treasury and CSD Divisions concerned. In some cases, a major part of the residual liabilities may be covered in alienated Funds which will fall to be dealt with in accordance with the provisions in the Trust Deeds; and some other schemes may be insured. But extra costs are still likely to arise, eg for future pensions increases which formed part of contractual commitments. In all cases, it will be necessary to clarify who will have the responsibility for paying the benefits in the future. Some of these problems will be avoided where there is a successor body to take over the residual liabilities or where it is possible for the staff to transfer their accrued superannuation rights to another scheme. But the question of powers will still be important, and when reliance is placed upon adequate existing powers it is important that these are not repealed too soon.

#### Other

11. Paragraphs 43-44 deal with the disposal of Government financed assets.