



10 DOWNING STREET

*From the Private Secretary*

5 August 1985

**NON-DEPARTMENTAL BODIES:  
A GUIDE FOR DEPARTMENTS**

The Prime Minister has seen Lord Gowrie's minute of 30 July and is content that a revised version of the 1981 guide should be published in September.

I am copying this letter to Rachel Lomax (H.M. Treasury), Sir Robin Ibbs and Richard Hatfield (Cabinet Office).

(Andrew Turnbull)

Paul Thomas, Esq.,  
Chancellor of the Duchy of Lancaster's Office.

STW



Chancellor of the Duchy of Lancaster

Prime Minister ①

This came forward your initiative  
of last November. Agree to publication  
in September.

AT 1/8

Yes not

PRIME MINISTER

You announced last November an important initiative designed to get better value for money from non-departmental public bodies. We followed up your announcement with interim guidance to Departments. But we have now rewritten the main guide on NDPB management to incorporate the changes you announced and to present our policy more clearly. A copy of the new guidance is attached. If you agree, it will replace the guidance you approved in 1981 ('Non-Departmental Bodies: A Guide for Departments) following Sir Leo Pliatzky's review.

Much of the basic advice, except that on financial management and the review arrangements, is the same. The emphasis and presentation are new. We have tried to draft the guidance in a way that underlines the key importance of getting real improvements in value for money through good financial management, without losing the old guide's emphasis on regular scrutiny of the case for keeping such bodies in existence. The changes in structure and presentation reflect many useful comments and suggestions made by departments who have been using the 1981 guide. The guide is quite long - but comprehensive; bearing in mind the wide range of NDPBs, I am sure this is the right approach. We are preparing a full index.

I hope that you and other colleagues will agree to the publication of the new guide. We should like to aim for September. Attention might then be drawn to the existence of the new guide by means of a PQ in the October overspill.

I am sending copies of this minute and of the draft guidance to members of Cabinet, the Lord Advocate, Sir Robin Ibbs and Sir Robert Armstrong. We should be grateful for your clearance by 8 August to help us meet the printing timetable.

9,

GOWRIE  
30 July 1985

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## CHAPTER 1: INTRODUCTION

### THE PURPOSE OF THE GUIDE

1.1 The Guide describes the framework of control, accountability and review which should apply to non-departmental public bodies (NDPBs), and sets out criteria for considering proposals for new bodies. It reflects developments in policy and practice since the 1981 edition, particularly the Government's drive to strengthen financial management.

1.2 Government policy towards NDPBs reflects two main concerns. First, a major aim of economic policy is to contain the share of the nation's income spent by the public sector. This implies that the justification for all public functions, and the resources committed to them, should be reviewed from time to time. Secondly, there is a need to ensure that non-departmental bodies are adequately accountable (via Ministers) to Parliament for their use of public funds and for their activities generally.

1.3 Policy towards NDPBs is governed by three main principles:

- a. **The continuing justification for each NDPB, and the appropriateness of its current role and functions, should be re-examined at regular intervals.**
- b. **Departments should encourage good standards of management, to ensure that NDPBs operate efficiently, effectively and economically, giving the taxpayer good value for money.**
- c. **All proposals for new NDPBs should be rigorously examined.** A new body should be set up only where this is the most appropriate and cost-effective way to do a particular task.

### THE DEFINITION OF AN NDPB

1.4 For the purpose of this Guide, **an NDPB is a body which has a role in the processes of national government, but is not a government department, and accordingly operates to a greater or lesser extent at arm's length from Ministers.** This definition excludes a number of bodies in the public sector to which separate accountability and review arrangements apply. Appendix A lists the main excluded categories. There are three categories of NDPB:

- a. **bodies with executive, administrative, regulatory or commercial functions.** NDPBs in this group are engaged in a wide variety of activities and are constituted in a variety of ways. Typically they carry out prescribed functions within government guidelines, but the degree of their operational independence varies.
- b. **advisory committees and commissions.** This group consists mainly of bodies (other than committees of officials) set up by Ministers to advise them and their departments on particular matters. Most Royal Commissions are also advisory and are included in this group.
- c. **tribunals and other judicial bodies.** These are bodies whose functions, like those of courts of law, are essentially judicial. Independently of the executive, they decide the rights and obligations of private citizens towards each other or towards a government department or other public authority.

1.5 The current list of NDPBs, following this classification, is published annually in the Cabinet Office booklet "Public Bodies": latest edition: "Public Bodies 1984" (HMSO price £10.50, ISBN 0 11 630714 5). When a new body is to be set up, it is for the sponsor department to agree with the Cabinet Office (Machinery of Government Division) whether it should be treated as an NDPB and, if so, in which of the three categories it should be placed. Temporary bodies with a life of less than 12 months are excluded from "Public Bodies". Indications, but not necessarily conclusive indications, of whether a proposed body is an NDPB are:

a **is it a "body" rather than an informal ad hoc group?** Does it have characteristics normally associated with a body, such as terms of reference, defined membership, a chairman, records of its proceedings, and so on?

b. **are some or all of its members appointed by Ministers?** The higher the proportion of ministerial appointments, the more likely it is that the body is an NDPB.

c. **is a Minister answerable ultimately for the performance of the body and its continued existence?** Does he have the power, if necessary with parliamentary approval, to wind it up?

1.6 For PES and national accounting purposes, most NDPBs are classified to the public sector (either as general government or public corporations) but there are exceptions. For example, NDPBs include some educational bodies classified to the personal sector, and one or two are classified as industrial and commercial companies.

#### USE OF THE GUIDE, AND FURTHER ENQUIRIES

1.7 The Guide mostly provides advice on good practice which should be followed as a general rule. But in some instances it sets out rules or procedures which are binding unless it is specifically agreed with the Cabinet Office or Treasury that they are inappropriate in a particular case.

1.8 Given the variety of NDPBs, the advice needs to be interpreted for the circumstances of each body. Some departments may find it helpful to issue supplementary guidance to sponsor divisions. If necessary, they should seek further guidance, either from the specialist division concerned in Cabinet Office or Treasury or, on general questions, from:

Machinery of Government Division  
Cabinet Office  
Government Offices  
Great George Street  
LONDON SW1P 3AL.

1.9 Although the Guide is primarily intended for departments, it is hoped that NDPBs will also find it useful. They should direct any questions arising to sponsor departments in the first instance.

#### SCOTLAND AND NORTHERN IRELAND

1.10. The Guide does not reflect special legal or constitutional factors which may apply in Scotland or Northern Ireland. Allowances should be made where appropriate.

1.11. In Northern Ireland, any enquiries arising from the Guide should be addressed initially to:

Department of Finance and Personnel  
Management and Manpower Review Division  
The Arches Centre  
13 Bloomfield Avenue  
BELFAST BT5 5AD

#### SUMMARY OF KEY POINTS IN CHAPTER 1

##### Paragraphs

- 1.1-1.3            The justification for each NDPB should be re-examined regularly.  
  
                    Departments should encourage good standards of management in NDPBs.  
  
                    All proposals for new NDPBs should be rigorously examined.
- 1.4-1.6            An NDPB is a body with a role in national government which is not a government department and operates at arm's length from Ministers.  
  
                    NDPBs are classified as:
- bodies with executive, administrative, regulatory or commercial functions;
  - advisory committees and commissions;
  - tribunals and other judicial bodies.
- 1.7-1.11          The Guide provides advice on good practice and in some instances sets out rules or procedures. It needs to be interpreted for the circumstances of each body.



## CHAPTER 2: POLICY ON THE CREATION OF NEW NDPBs

2.1 It is government policy to transfer work out of departments to the private sector - by contracting out or privatisation - whenever this is practicable and cost-effective. **New NDPBs should be set up only if the functions they are to carry out are essential and need to be in the public sector, and if it is clear that an NDPB is the most suitable and cost-effective machinery.** Proposals for new bodies therefore need rigorous scrutiny.

### CRITERIA FOR EXAMINING PROPOSALS FOR NEW BODIES

2.2 A proposal for a new advisory body with small running costs will merit less extensive analysis than one for a statutory executive NDPB with significant functions and expenditure. But certain general principles apply to every proposal. Departments should:

- a. define the functions of the proposed body and their contribution to government policy objectives;
- b. consider how the body would be constituted, organised and managed; and
- c. assess its likely cost-effectiveness, compared with other options.

### Executive etc Bodies

2.3 For NDPBs with executive, administrative, commercial or regulatory functions, questions to be considered are likely to include the following:

- a. are the proposed tasks essential; does the benefit from them justify the cost of carrying them out?
- b. if so, do they need to be carried out in the public sector, or could they be carried out by the private or voluntary sector?
- c. if they need to be carried out in the public sector, why is a new NDPB needed; could they be carried out as economically and effectively by a government department or an existing NDPB?
- d. if a new NDPB is justified, what arrangements for ministerial responsibility are needed to strike the right balance between accountability and independence?

2.4 Opportunities for transferring functions to the private or voluntary sector (2.3b) should not be overlooked. An executive function which can be managed within relatively clear-cut pricing and quality guidelines may be very suitable for contracting out to the private sector. Self-regulation by responsible persons, if necessary with government encouragement and some initial funding, may be a viable alternative to a new regulatory NDPB.

2.5 Reasons for conferring functions on an NDPB in preference to a government department (2.3c) include:

- a. **distancing activities from direct ministerial responsibility** in order to demonstrate the independence of judgements - eg investigative/regulatory functions of bodies such as the Audit Commission for Local Authorities in

England and Wales, the Monopolies and Mergers Commission and the Data Protection Registrar, whose remit extends either to government itself or to other parts of the public sector;

b. **involving outside interests** in a representative capacity, or others with relevant expertise, in executive responsibility for decisions - eg functions as diverse as those of the Manpower Services Commission, the Research Councils, the Sports Council and the Trustee Museums;

c. **freeing quasi-commercial/entrepreneurial decisions** from the traditional Civil Service framework - eg functions such as those of the Scottish and Welsh Development Agencies.

2.6 A desire to improve managerial accountability and expertise will seldom in itself be sufficient reason for hiving off a function from government to an NDPB. Appendix B describes ways in which this may be achieved within a departmental/Civil Service framework.

2.7 Legislation (see Chapter 3) is normally required to establish any new executive NDPB which will require continuing government funding. It may also be needed to provide for particular powers or obligations. Before deciding to set up an NDPB, departments should consider possible legislative vehicles and timing. Legislation will be hard to justify where tasks are of a kind which could be completed within a limited timescale, or are likely to change; a government department is a more flexible instrument for responding to policy and organisational changes.

2.8 An assessment of the cost-effectiveness of a new NDPB relative to using a government department or an existing NDPB should cover:

a. comparable running costs of the NDPB, including manpower costs, superannuation, accommodation and other overheads;

b. offsetting savings in central government or other public bodies - eg reduced demand on common services;

c. extra costs in central government or other public bodies arising from setting up the NDPB - eg new requirements for policy or financial advice to Ministers, new appeals machinery to safeguard the rights of those affected by the NDPB's decisions;

d. transitional costs - eg costs of legislation, once-for-all extra overheads, redundancy payments or detriment compensation.

Guidance on investment appraisal is published by the Treasury: "Investment Appraisal in the Public Sector: a Technical Guide for Government Departments" (HMT 1984, price £2.00 to non-Exchequer bodies. ISBN 0 947819 02 9. Available from Treasury Committee Section). Advice on costing redundancy or detriment payments is available from Treasury Superannuation Division.

2.9 Conferring functions on an NDPB involves recognition that a degree of independence of Ministers in carrying out those functions is appropriate (2.3d); otherwise the functions should be carried out by a government department. Nevertheless, the responsible Minister is answerable to Parliament for the degree of independence which an NDPB enjoys, for its usefulness as an instrument of government policy, and so ultimately for the overall effectiveness and efficiency with which it carries out its functions. Ministers also remain answerable to

Parliament for public money spent by an NDPB as much as for money spent by departments; Chapter 8 deals with means of supporting this answerability.

2.10 Departments will need to identify whether in the circumstances of a particular NDPB Ministers will need to retain control over, and so answerability to Parliament for, certain aspects of the NDPB's activities, whether for instance:

- questions of policy can be left to the NDPB acting in accordance with the functions and responsibilities conferred by the instrument establishing it, or whether Ministers will need to direct or modify policy;
- decisions in individual cases can be left to the NDPB, subject only to appeal to the courts or a tribunal, or whether appeal to Ministers is needed on some matters;
- where income will derive substantially from levies, fees or charges, whether their level needs to be approved by Ministers or Parliament or whether this can be left to the NDPB, subject to a financial framework (statutory or otherwise) agreed with the sponsor department.

Appendix C indicates the form that ministerial powers might take. The more extensive the responsibility which Ministers need to retain, the more difficult it will be to justify conferring functions on an NDPB.

### **Tribunals**

2.11 The development of tribunals has reflected the growth of legislation affecting individuals' rights and obligations, and the view that administrative tribunals may be best adapted to resolve matters requiring expert knowledge of particular administrative schemes. The Franks Report, "Committee on Administrative Tribunals and Enquiries" (Cmnd 218, 1957), noted that tribunals often had advantages over the courts, namely "cheapness, accessibility, freedom from technicality, expedition and expert knowledge of their particular subject".

2.12 In deciding whether or not a new tribunal should be set up, departments should consider:

- a. whether the issue to be adjudicated upon is a justiciable issue (that is, whether the issue is one that can be determined by the application of set rules to facts about which evidence can be given and tested);
- b. whether, even if the issue is justiciable, it would nevertheless be better for the Minister to make the decision (in accordance with natural justice) bearing in mind that adjudication by a court or tribunal (whether existing or to be created) means that the responsible department will not have administrative control of the outcome of the adjudication;
- c. if it is not appropriate for the Minister to make the decision (and the issue is justiciable), which of the following judicial bodies could most appropriately adjudicate upon the issue:
  - i. the existing courts;
  - ii. an existing tribunal;
  - iii. a new judicial body (whether it be a court or tribunal).

Where possible, jurisdiction should be given to the existing courts or to an existing tribunal unless a clear case can be made for undertaking the expense of a new, separate system.

2.13 If it is proposed that work be given to the existing courts or a new judicial body, departments should consult the Lord Chancellor's Department (and, for Scotland, the Scottish Courts Administration) at an early stage. Such consultation would also be helpful if the judicial workload of an existing tribunal is likely to be affected.

2.14 Before a new tribunal is created, the Lord Chancellor and the Lord Advocate should be invited to consider whether it should be placed under the supervision of the Council on Tribunals. Such supervision may be effected either by primary legislation or by a Statutory Instrument (made by the Lord Chancellor and the Lord Advocate) to bring the tribunal within the provisions of the Tribunals and Inquiries Act 1971. The Council on Tribunals should be notified of the proposed creation of a new tribunal as soon as possible after its constitution and functions are decided upon. The Council's address is St Dunstan's House, 133-7 Fetter Lane, London EC4A 1HD.

#### **Advisory bodies**

2.15 Before setting up a new advisory NDPB, a department should be satisfied that:

- a. there is a continuing need for advice in the field covered by the body;
- b. the need cannot be met satisfactorily in any other way (eg by ad hoc consultation with appropriate experts or interests, or by expanding the remit of an existing body); and
- c. the proposed constitution and operating methods are likely to be economical and effective.

2.16 There should be a clear understanding with the chairman and other members about their remit (which should be set out in formal terms of reference), and about the broad timescale for their work. Where an advisory body is given a finite remit, it will be dissolved automatically once the work is done. Otherwise, when setting up a body, a provisional date should be set for formal review under the arrangements described in Chapter 10.

#### **CONSULTATION WITH THE CENTRAL DEPARTMENTS**

2.17 The Machinery of Government Division, Cabinet Office should be consulted about **all** proposals to set up new NDPBs. The Division is responsible for monitoring the effectiveness of government policies to control NDPBs, and for maintaining a record of NDPBs. The Treasury should be consulted about proposals for new NDPBs which are expected to spend £5,000 or more per year; and in other cases where there are other implications for government expenditure, or it is proposed that the body should be financed other than by direct government spending (eg by levy or fees), or a new sub-head may be required in the Supply Estimates.

2.18 Departments are also required to consult the Cabinet Office and Treasury about proposals to transfer functions to existing NDPBs or to reconstitute them (other than by a straightforward change of membership).

2.19 Departments should contact the Machinery of Government Division at the earliest possible stage and before any commitment to set up an NDPB, or reconstitute an existing one, is made. The Treasury contact point should be the Division concerned with control of the related expenditure. Of interest to the central departments will be the justification for the body, in terms of the criteria referred to earlier in this chapter, and also, where relevant:

- how it will be resourced, including the broad level of any government funding likely to be required, and the approach to staffing;
- any wider implications for policy or the machinery of government; and
- any legislative intentions.

### CONSULTATION WITH THE TRADES UNIONS

2.20 Following agreement with the Council of Civil Service Unions, Treasury guidance has been issued to departments about consultation with the unions over proposals for transferring work out of departments. The guidance is mainly concerned with transfers to the private sector - through privatisation or contracting out - but is also relevant to hiving-off within the public sector. The guidance identifies two key items for consultation with the unions.

2.21 The first stage is normally when - following preliminary costings and evaluation of non-cost arguments - the department has decided that an activity is a candidate for transfer. (It would be wrong to raise possibly needless anxieties among staff by informing them at any earlier stage that a transfer was under consideration.) The staff and the unions should then be told the reasons for the proposal and the prospective benefits to the public and the economy. They should be given as much information as possible, within the limits of commercial confidentiality, to ensure that they are fully informed and have the opportunity to make their case. Every effort should be made to provide details of the likely implications of the proposed transfer for the staff as soon as they are known.

2.22 The staff and/or their representatives may wish to present alternative proposals for keeping the work in-house. These should be considered at the appropriate stage and sufficient time should be allowed for this within the necessary constraints of maintaining an acceptable timetable.

2.23 The second stage for consultation is when the transfer has been planned in detail and Ministers have decided, following further assessment of cost-effectiveness and of relevant non-cost arguments, that it should go ahead. Management should then inform staff and the unions of the decision, setting out in as much detail as possible the implications for staff. Arrangements and the timetable for implementation should be set out clearly and allow adequately for representations on those matters which have a direct impact on the staff.

### GUIDANCE TO COMMITTEES OF ENQUIRY

2.24 Proposals for new government functions or for new NDPBs frequently occur in the recommendations of committees of enquiry, scrutiny teams, and other ad hoc studies. In briefing such bodies, departments should draw attention to the general guidance contained in this chapter.

## SUMMARY OF KEY POINTS IN CHAPTER 2

### Paragraphs

- 2.1-2.2 A new NDPB should be set up only if:
- its functions, clearly defined, are essential,
  - its functions need to be in the public sector,
  - an NDPB is the most cost-effective machinery.
- 2.3-2.10 Alternatives to creating an executive etc NDPB to be considered are:
- transferring functions to the private or voluntary sector,
  - conferring functions on a government department,
  - conferring functions on an existing NDPB.
- 2.11-2.12 The case for a new tribunal should demonstrate that an issue is:
- justiciable,
  - unsuitable for ministerial decision,
  - not appropriate to an existing court or tribunal.
- 2.13 Departments should consult the Lord Chancellor's Department (for Scotland, the Scottish Courts Administration) if work is to be given to the courts or to a new judicial body.
- 2.14 Supervision of a tribunal by the Council on Tribunals should be considered.
- 2.15-2.16 A new advisory NDPB should be justified by a continuing need for advice which cannot be met satisfactorily in any other way.
- 2.17-2.19 The Cabinet Office and Treasury should be consulted about proposals to set up new NDPBs, to transfer functions to NDPBs, or to reconstitute them.
- 2.20-2.24 Staff and unions should be consulted when a department has decided that an activity may be hived-off and again when it is decided that a transfer should go ahead.
- 2.24 Committees of Enquiry should be shown this guidance by sponsor departments.

## CHAPTER 3: THE CONSTITUTIONAL FRAMEWORK

3.1 The constitutional arrangements appropriate for a new NDPB will depend on its purposes and on the intended degree of autonomy from ministerial and parliamentary control. Departments considering establishing a new NDPB should discuss these aspects with their legal advisers at an early stage. They should also discuss their proposed approach with the Cabinet Office (Machinery of Government Division) and Treasury.

### MEANS OF ESTABLISHING NDPBs

#### Advisory bodies and Royal Commissions

3.2 **Advisory bodies** are normally set up by administrative action, their staff support and accommodation being provided by the department whose Minister they advise and their expenses and other support costs being carried on the Vote for the relevant departmental function. The Minister concerned should inform Parliament of his action in establishing an advisory body; a Written Answer to a Parliamentary Question is usually sufficient. Where, exceptionally, an advisory body needs to enter into legal relations with a third person (eg if it is to appoint staff or own property) it will be advisable to give it a legal personality. Legislation will be required if its activities will involve significant continuing government funding for which parliamentary authority is needed.

3.3 **Royal Commissions** are set up under the Royal Prerogative and are more formal and prestigious than advisory bodies set up by ministerial administrative action. They are set up by issue to the Commissioners of a Royal Warrant by the Sovereign through the relevant Secretary of State. Royal Commission reports are published as Command Papers and laid before Parliament. Royal Commissions are generally financed by monies voted by Parliament.

3.4 There are instances of standing Royal Commissions with executive functions, such as the Royal Commission on Historical Monuments (England), but the Royal Commission approach to establishing a permanent, executive body can give rise to difficulty in establishing, for instance, clear financial relationships between the Commission and its "sponsor" department. New executive bodies should in general be established other than as Royal Commissions.

#### Tribunals

3.5 The tribunal system is a comparatively recent development; the majority have been set up since 1946. Tribunals are statutory bodies, usually set up in the context of a wider legal framework establishing citizens' rights and obligations. Since 1958 it has been general for tribunals to have legally qualified chairmen.

3.6 Although tribunals exercise their functions entirely independently, a government department is normally responsible for providing administrative support from its civil servants. The composition and procedure of tribunals vary greatly. Where a tribunal is subject to supervision by the Council on Tribunals, the Council advises on draft rules of procedure submitted by departments, and monitors the tribunal's practice and procedure.

#### NDPBs with executive, administrative, regulatory or commercial functions

3.7 Most executive bodies are legally incorporated, thus ensuring a separate legal personality and perpetual succession. Corporate status ensures that those appointed

to manage an NDPB do not, while acting intra vires, become personally liable for its financial commitments.

3.8 Legislation may be used to incorporate an NDPB (in which case it will state specifically that it is to be a body corporate). It may also be used to make specific provision in the case of a body incorporated by other means. An example of the latter is section 1 of the Science and Technology Act 1965, which made further provision with respect to the Research Councils (incorporated by Royal Charter).

3.9 New and continuing functions involving the expenditure of public funds should not be left to rest on the Annual Appropriation Act, but should, as far as possible, be covered by specific legislation. The Public Accounts Committee (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."

3.10 In reply, the Treasury Minute said:

"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 agree that practice should normally accord with the view expressed by the Committee that, where it is desired that continuing functions should be exercised by a government department (particularly where such functions involve financial liabilities extending beyond a given year) it is proper that the powers and duties to be exercised should be defined by specific statute. Their Lordships will, for their part, continue to aim at the observance of this principle."

3.11 This view has been taken to mean that there should be specific legislation in all cases involving significant annual government 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 government support is likely to continue. Appendix C gives guidance on the approach to legislation.

3.12 **A Royal Charter** is a charter of incorporation which recognises and preserves a body's independence from government, and defines its objects, constitution and powers to govern its own affairs. Incorporation by Royal Charter has usually been confined to universities and colleges, professional and regulatory bodies, and bodies like the BBC, the British Council and the Research and Sports Councils. The Privy Council Office can advise on policy and procedure.

3.13 **Incorporation under the Companies Acts.** An NDPB may also be incorporated by registering it as a company under the Companies Acts. Companies may be limited by shares (being either private or public companies) limited by guarantee or unlimited. The Companies Acts require registration of a Memorandum and Articles of Association with the Registrar of Companies, and the making of an annual return. Statutory requirements also govern the form of accounts, the holding of an annual general meeting, and other matters. Supervision is the responsibility of the Department of Trade and Industry, who can advise departments on the features and requirements of alternative forms of incorporation.



3.14 NDPBs constituted as companies limited by shares are unusual. Companies limited by guarantee are normally formed for charitable or for other non-trading purposes, but may also be used for trading activities. NDPBs constituted in this way include the Further Education Unit and the National Seed Development Organisation Ltd.

3.15 Departments intending to use the Companies Acts as a means of establishing an NDPB should bear in mind the PAC's view that parliamentary approval should normally be obtained before hiving-off departmental functions in this way. (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.) They should discuss their proposals with the Treasury and with their legal advisers. The Companies Act approach is most likely to be appropriate where:

- a. an NDPB requires corporate status to give it legal personality but its expenditure is insufficient to justify legislation;
- b. a corporate body is needed temporarily (eg for a short-term task such as a collaborative promotional venture which would not warrant legislation) or provisionally pending a decision whether it should continue on a statutory basis; or
- c. a body is being established as a limited company prior to privatisation, with assets transferred to it by legislation (eg the Royal Ordnance Factories).

3.16 Departments will need - in the absence of legislation - to devise suitable formal arrangements to ensure that Ministers have sufficient information about, and control over, the company's activities. Suitable methods are: agreement on the terms of the Memorandum and Articles; ministerial appointments to the board of directors; departmental representation in company membership; and conditions attached to a grant-in-aid. In addition it may well be helpful to draw up a formal agreement setting out the respective responsibilities, rights and obligations of the Minister and the company.

#### CROWN STATUS

3.17 For the purpose of determining whether a body enjoys Crown immunities or whether its staff are civil servants, it will often be important to know whether the body is part of, or acting on behalf of, the Crown. Advice on this should be sought from departmental legal advisers.

3.18 Whether an existing body acts on behalf of the Crown can be difficult to assess in the absence of a statutory declaration or court ruling. A body which owes its existence and functions solely to administrative action will be acting in any legal relations as, or on behalf of, the Crown. In the case of a body which has its own legal personality the status of a body will depend first on its constitution. Its functions and to a lesser extent its degree of subjection to ministerial control and other circumstances will also be relevant indicators of Crown status.

3.19 Legislation to establish a new NDPB should include a declaratory provision on Crown status, one way or the other, unless there are other means by which status can reliably be inferred. New NDPBs should not be designated "Crown" unless there are special reasons for doing so.

## CHARITABLE STATUS

3.20 Charitable status carries considerable fiscal and other advantages. Registration as a charity is not a means of establishing a body although for organisations established in England and Wales, it is conclusive evidence in law of charitable status. Registration merely recognises that the purposes of the organisation are charitable in law. A charitable NDPB may be registered with the Charity Commissioners or excepted by statute from the duty to register. NDPBs with charitable status include the Trustee Museums, which are so excepted. All charities, whether registered or not, are subject to the High Court's jurisdiction in relation to charities. This will, in general, rule out any form of ministerial control which would prevent the charity trustees, including directors where the charity is incorporated, from discharging their duties in the best interests of the charity.

3.21 A power for Ministers to appoint trustees would not be ruled out, but consideration should be given to restricting the duration of a power of appointment, eg by providing that it shall only be exercisable while the body is in receipt of government finance. Where additional controls are wanted, these should be incorporated in the financial arrangements attaching to funding - though care should be taken to avoid conditions which would prevent trustees carrying out the purposes of a charitable trust. Departments should seek legal advice on what payments may be made to charity trustees, including directors.

3.22 The relevant statutory requirements are highly technical, and departments should seek legal advice.

## DISSOLUTION OF PUBLIC BODIES

3.23 Guidance is at Appendix D.

## SUMMARY OF KEY POINTS IN CHAPTER 3

### Paragraphs

- 3.1 The constitutional arrangements appropriate for an NDPB will depend on its purposes and degree of autonomy; legal advice should be sought.
- 3.2-3.4 Advisory bodies are normally set up by administrative action, Royal Commissions by the issue of a Royal Warrant.
- 3.5-3.6 Tribunals are set up by statute, usually in the context of a wider legal framework establishing citizens' rights and obligations.
- 3.7-3.16 Executive, etc bodies are usually legally incorporated, by:
- legislation,
  - Royal Charter,

- registration under the Companies Acts.

- 3.17-3.19 Legislation to establish a new NDPB should make clear whether the body is acting on behalf of the Crown.
- 3.20-3.22 Charitable status has fiscal and other advantages but registration as a charity is not a means of establishing a body. Charitable status rules out any form of ministerial control over the trustees in discharging their charitable duties.
- 3.23 For guidance on dissolution of NDPBs see Appendix D.

## CHAPTER 4: APPOINTMENT AND CONDITIONS OF SERVICE OF BOARD ETC MEMBERS

4.1 This chapter gives advice on arrangements for making all types of ministerial (or Crown) appointment to NDPBs - whether to advisory bodies, tribunals or the managing bodies of executive-type NDPBs.

### SELECTION AND RECRUITMENT

4.2 The performance of an NDPB will largely depend on the calibre of its members. It is therefore important to allow sufficient time for the procedures for identifying and recruiting suitable appointees.

4.3 Members of most executive etc and advisory NDPBs are appointed by departmental Ministers - often after consultation with outside organisations and/or other Ministers. Advice on appointments procedures should be sought from the appropriate departmental sources or, where necessary, from the Public Appointments Unit (PAU) of the Cabinet Office. The PAU can provide names of suitable candidates, and also cross-check names already known to departments or recommended from other sources. Consultations should begin early, particularly where the NDPB is a new one and/or there are extensive consultation requirements. Completion of the various stages leading up to appointments may take several months.

4.4 The use of "head-hunters" (that is, recruitment firms whose primary method of working is by direct approach to candidates) should be considered only for full-time executive appointments. Even in such cases, head-hunters should not, given the cost, be used until the government's own sources of suitable names - departmental and central - have been fully tried. The PAU and the Department of Trade and Industry can advise on the choice of firms; the final choice rests with the department, but at least two quotes must be obtained. A proposal to engage a head-hunter requires Treasury expenditure division approval - unless authority has specifically been delegated to departments.

4.5 Advice on procedures for appointments to tribunals should be sought from the Lord Chancellor's Department, or (for Scottish tribunals) from the Scottish Courts Administration. The Lord Chancellor or the Lord Advocate usually appoints the legally qualified chairman and some members of statutory tribunals. They may do so either directly, or indirectly, by appointing panels from which departmental Ministers select members.

### TENURE AND DISMISSAL

4.6 The ability to appoint and if necessary dismiss some or all board members is the ultimate safeguard of a Minister's ability to supervise an NDPB effectively. Accordingly, legislation setting up executive etc NDPBs should include suitable powers of dismissal. Statutory provisions will be supplemented by more detailed provisions in the instrument of appointment (and provision will be made entirely in this instrument for paid appointments to non-statutory NDPBs). Appointments should normally be made for a limited and specific period, not exceeding five years.

4.7 Different considerations apply to tribunals, whose members cannot generally be removed except by or with the concurrence of the Lord Chancellor (or the Lord Advocate). Advice should be sought from those departments.

## REMUNERATION, SUPERANNUATION ETC

4.8 Advice should be sought from the Treasury on questions about remuneration, superannuation and other financial aspects of appointments to all types of NDPB. They should be consulted at an early stage about proposed legislation; and as necessary in relation to individual appointments. More detailed guidance is given below.

### Remuneration

4.9 If the chairman and members of an NDPB appointed by a Minister are to be paid, the level of their remuneration must be determined by the Minister concerned, with Treasury approval, whether or not they are to be full time. Provision for this control should be included in any legislation setting up an NDPB.

4.10 Where an appointment requires less than full-time commitment, a salary pro rata to a full-time rate is often calculated but, especially where the commitment is less than one day per week, an annual salary not strictly proportional to time input may be agreed. A daily fee is likely to be more suitable than a salary where work is irregular and intermittent (and the Treasury need only be consulted if it is proposed to pay an amount above the delegated limit). The criteria for determining daily fees are different from those for salaries and take account of the tradition of voluntary public service, particularly by members of advisory committees and Royal Commissions.

4.11 For most NDPBs, members' remuneration will be reviewed following pay reviews of the Higher Civil Service. The Treasury 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 the Treasury, under arrangements which take greater account of market factors.

4.12 Where a member is or will be entitled to draw a pension from a former public office or employment during the period of his or her appointment, it is necessary to consider whether the 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 to avoid any danger of criticism that ministerial appointments are leading to excessive overall remuneration from public funds. Candidates for membership of NDPBs should be advised of the implications of abatement before they accept appointment.

### Travel, subsistence and loss of earnings allowances

4.13 The relevant Treasury pay division can advise on travelling and subsistence allowances, and on loss of earnings allowances, where appropriate, for members of committees who are unpaid.

### Superannuation, injury benefits and compensation

4.14 Superannuation Division, Treasury should be 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.

4.15 **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. (Some schemes may, however, include discretionary features to be applied only with the consent of the Minister.) Specific provision is needed in the enabling legislation; an example is section 49(2) and (3) of the Aircraft and Shipbuilding Act 1977.

4.16 Pension arrangements can also be made for members appointed from outside who are paid for at least two days a week and who have executive responsibilities. They have a choice between being pensioned by analogy with the staff scheme or (provided the cost is acceptable) in continuation of the pension arrangements of their previous employment. The option may be changed at any time during their appointment unless irrevocable action has been taken. The enabling powers need to provide for the NDPB 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.

4.17 For those pensioned by analogy with the staff scheme, the terms may be modified to reflect the circumstances of board appointments, the need for prior ministerial approval of discretionary enhancements and any other conditions prescribed in the letter of appointment. Benefits are paid from the NDPB's revenue, which is credited with the members' contributions. Transfer values may be bought in from previous pension schemes with credit being given on the basis of actuarial equivalence.

4.18 In continuation cases the normal approach is for the body 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. NDPBs should not take over premium payments on previous insurance policies because of the extra cost involved.

4.19 **Injury benefits.** Board members who suffer injury or contract a disease which is directly attributable to their appointment and leads to impairment of earning capacity may be eligible for special compensation benefits. Such benefits may also be payable to 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 the NDPB's 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 this basis, the Treasury 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 a fall-back, not an alternative, arrangement.

4.20 **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 Treasury, considers that compensation is justified. An example is paragraphs 7 and 17 of Schedule 1 to the Employment and Training Act 1973. The Superannuation Division, Treasury should be consulted about the assessment of compensation.

#### CONDUCT AND RELATED MATTERS

4.21 In order to avoid suspicion of or actual conflict of interest, corruption or impropriety by NDPBs, departments have a responsibility to see that appropriate

rules of conduct, which take account of the nature of an NDPB's functions, its relationship to other persons and organisations, and the sources of recruitment to it, apply to board, members etc of NDPBs and are brought to the attention of candidates for membership.

4.22 Such rules of conduct should cover inter alia the acceptance of hospitality and gifts, members' financial and other interests which may conflict with the requirements of public service, and political activities. Rules concerning the acceptance of appointments after resignation or retirement from the body may also be warranted.

#### **Members' financial interests**

4.23 For major NDPBs with trading or other financial objectives, safeguards should generally be included in the founding legislation against the risk of conflicts with members' private financial interests. These might require:

- a. the sponsoring Minister to be satisfied that, when making an appointment and from time to time thereafter, any financial or other interests of persons appointed are not likely to prejudice the performance of their duties;
- b. appointees to give the Minister any information needed for this purpose; and
- c. members to disclose any private interest they have in a contract to be considered by the body, and to refrain from participating in the relevant discussion.

#### **Business appointments**

4.24 Uniform rules restricting the acceptance of business appointments by board members of NDPBs would not be feasible. NDPB board members may be qualified for membership precisely because they have expertise in a particular area of activity to which they would expect to return after a period of board membership, or, in the case of part-time appointments, to continue with while serving as board members. A restriction on the acceptance of business appointments following retirement or resignation, or in parallel with part-time appointments to NDPBs, could make it difficult to recruit suitable members and might in certain circumstances be unenforceable as an unreasonable restraint of trade; departments considering restrictions should seek legal advice on the latter point.

4.25 Nevertheless there is a need to safeguard against conflicts of interest and impropriety. In deciding whether restrictions are needed in any particular case, departments should take into account such factors as:

- a. the extent to which the NDPB funds the activities of other organisations through loans, grants etc;
- b. the extent of the NDPB's contractual relationships with other organisations; and
- c. its regulatory responsibilities.

4.26 In relation to full-time appointments departments should consider when a NDPB is first set up - and where appropriate should review periodically thereafter - whether formal rules (similar to the Civil Service ones) restricting acceptance of

business appointments after retirement or resignation should apply to the body in question.

4.27 In relation to part-time appointments departments should be guided by the following principles, both in selecting candidates, and in deciding whether conditions of appointment should restrict the acceptance of outside appointments:

a. A member of a public board should not hold any outside appointment which would be incompatible with devoting due time and attention to public duties.

b. The risk of conflict between a member's private interests and the requirements of the public service must be minimised, and seen to be so. Particular care may be needed, for example, in considering for appointment to one NDPB a candidate who is a member of another body in a contractual relationship with the first; or where a retired civil servant is a candidate.

### **Political activities**

4.28 Government has drawn up rules on participation in political activities which, generally speaking, members of public boards are expected to observe. A copy is at Appendix E. Departments should draw attention to the rules when making an appointment, and should give the appointee a copy.

4.29 The Cabinet Office will be glad to discuss any problems arising in connection with the matters discussed in paragraphs 4.24-4.28. On business appointments the point of contact is Security Division; on political activities Conduct, Code and Guide Division.

### **Disqualification from membership of the House of Commons etc**

4.30 Whenever offices are created in a new NDPB, or the terms and conditions of existing offices are altered substantially, the case for disqualifying the office-holders from membership of the House of Commons should be carefully considered.

4.31 Disqualification is effected by an entry in Schedule 1 to the House of Commons Disqualification Act 1975. Offices generally attract disqualification if one or more of the following criteria are met:

a. the office is an office of profit in the gift of the Crown or Ministers. This includes salaried, pensionable and certain fee-paid posts, but excludes posts attracting expenses alone. There is a de minimis limit (£4,000 in 1984);

b. certain positions of control in companies in receipt of government grants and funds to which Ministers usually, though not necessarily, make nominations;

c. offices whose holders are required to be, or to be seen to be, politically impartial;

d. offices imposing duties which with regard to time or place would prevent their holders from fulfilling parliamentary duties satisfactorily.

Where c and/or d above is the only reason for disqualification, consideration should be given to effecting the disqualification through the terms and conditions of appointment, that is, by including a requirement that the office holder should resign either when his or her candidature or prospective candidature for Parliament is publicly announced or on election to the House of Commons.



4.32 If the NDPB is being set up by legislation, this should make provision for the offices concerned to be added to the relevant part of Schedule 1 to the House of Commons Disqualification Act. Where a body is set up other than by legislation, or where an existing office needs to be disqualified, the amendment can be made by means of an Order in Council under section 5(1) of the Act. Departments winding up, merging or re-naming NDPBs listed in Schedule 1 to the Act should bear in mind the need to amend the Schedule accordingly. In all cases where disqualification or removal of disqualification is or may be appropriate, the Machinery of Government Division, Cabinet Office should be consulted.

4.33 Departments should take care to ensure that no sitting Member of Parliament or of the European Assembly is appointed to an office which is listed or is to be listed in Schedule 1 to the House of Commons Disqualification Act. Disqualifications effected under the House of Commons Disqualification Act 1975 also apply to membership of the European Assembly (unless a special order is made under the European Assembly Elections Act 1978). Disqualification for the Northern Ireland Assembly is made under the Northern Ireland Assembly Disqualification Act 1975. The Northern Ireland Office should be consulted as necessary. In general, disqualifications for the Northern Ireland Assembly follow the criteria for disqualification for the House of Commons.

#### ANNOUNCEMENTS AND LETTERS OF APPOINTMENT

4.34 Full agreement should be reached with appointees on remuneration and other main terms and conditions of appointment before the department is committed to the appointment. In no circumstances should an appointment be announced until agreed terms and conditions have been confirmed in writing.

#### SUMMARY OF KEY POINTS

##### Paragraphs

- |             |   |
|-------------|---|
| 4.3 and 4.6 | Members of most NDPBs are appointed by departmental ministers: appointments should normally be for a limited and specific period not exceeding five years.      |
| 4.3, 4.4    | The Public Appointments Unit (PAU) of the Cabinet Office can provide advice on appointment procedures, on possible candidates and on the use of "head-hunters". |
| 4.8-4.20    | The Treasury should be consulted on remuneration superannuation and other financial aspects of appointments.  |
| 4.21, 4.22  | Departments are responsible for ensuring that appropriate rules of conduct are brought to the attention of candidates for membership.                           |

- 4.23 Founding legislation should include safeguards against conflicts of financial interest.
- 4.24-4.27 Departments should consider whether formal rules relating to business appointments should apply to members of individual NDPBs.
- 4.28 Members of NDPBs are expected to observe the rules on participation in political activities.
- 4.30-4.33 Whenever offices are created in a NDPB, the case for disqualifying the office-holders from membership of the House of Commons should be carefully considered. Machinery of Government Division, Cabinet Office can advise.
- 4.34 No appointment should be announced until terms and conditions have been agreed in writing.

## CHAPTER 5: CONDITIONS OF SERVICE OF NDPB STAFF

### STATUS OF STAFF

#### Advisory bodies

5.1 These do not generally have powers to employ staff. They are usually supported by civil servants employed by their sponsor departments. Staff supporting advisory NDPBs in this way remain civil servants (or employees of their parent organisation if this is not the Civil Service) while assigned to support the NDPB. If advisory bodies are, exceptionally, given powers to engage staff, these staff will be Crown servants, but not necessarily civil servants.

#### Tribunals

5.2 Tribunals too do not generally have powers to employ staff. They are supported in most cases by civil servants provided by the department with policy responsibility for the matters under adjudication. In some cases, such as the Social Security Commissioners, tribunals are supported by staff of the Lord Chancellor's Department.

#### Executive etc NDPBs

5.3 NDPBs set up to perform executive, regulatory or commercial functions should normally be given powers to employ their own staff. This is consistent with the intention that their functions should be carried out with a degree of independence of Ministers. Most executive etc NDPBs which employ staff are not Crown bodies and their staff are not, therefore, civil servants. The main exceptions are the Manpower Services Commission, Health and Safety Commission and Executive, and Advisory Conciliation and Arbitration Service; these are Crown bodies, and their staff are civil servants.

5.4 Occasionally, where a small body would find it difficult to attract staff of the right quality or could not do so economically, it may be suggested that it should be staffed wholly or partly by civil servants on attachment. Such proposals need to be considered on their merits, but due weight should be given to the need to safeguard the NDPB's independence. Fewer problems are likely to arise from using a nucleus of staff attached for a limited period to assist with setting up a new body. The Personnel Management Division, Cabinet Office should be consulted about any proposal to staff a new NDPB either initially or permanently with civil servants on attachment. Officers on attachment do not cease to be civil servants; they remain on their parent department's books and are still part of its staff. At the end of the period of attachment an officer will normally return to his or her department. The attachment of staff to an NDPB should be regarded as a service for which repayment of full costs is expected, including salary, ERNIC and a superannuation charge; VAT may also be payable.

### PERSONNEL IMPLICATIONS OF HIVING OFF

5.5 Where the functions of a new NDPB are to be transferred from a government department and it is proposed to transfer civil servants with the work out of the Civil Service, the department concerned should consult the Cabinet Office (Personnel Management Division) and Treasury (Pay and Superannuation Divisions) about the necessary arrangements, including the possible need for legislative provisions. If staff are to be transferred with their work to an NDPB on terms and conditions which are no less favourable taken as a whole than those they currently

enjoy, or on terms and conditions which are less favourable but where compensation is paid for the (net) worsening, then it is not considered that the payment of redundancy compensation is justified.

5.6 Where it is intended to transfer staff with their work permanently to an NDPB, secondment should not normally be used as a preliminary measure leading up to transfer. The sponsor department may, however, exceptionally staff the new body for a limited period by attaching to it staff who will return in due course to the department.

5.7 Once civil servants have been transferred to a new body as employees they have no right of return, although it may be open to them 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 the Cabinet Office (Personnel Management Division).

5.8 Paragraphs 17-19 of Schedule 13 to the Employment Protection (Consolidation) Act 1978 make provision for preserving continuity of employment for the purpose of various rights, including those relating to unfair dismissal, periods of notice, and redundancy payments under the Act, when staff (including Crown servants) move with their work to a new employer. Where, however, individual staff move between employers (that is, without their work), they will fall outside the scope of these provisions and suffer a break in the continuity of their employment for the purposes of the 1978 Act. The exceptions are where both the old and the new employers are bodies carrying out functions on behalf of the Crown, or are "associated employers" as defined by section 153(4) of the Act, this does not involve a change of employer and there is therefore no break in the continuity of employment. Departments should seek advice on these matters from Personnel Management Division, Cabinet Office.

#### REMUNERATION: "CONTROLLED" AND "NON-CONTROLLED" NDPBs

5.9 Where, exceptionally, the staff of an NDPB are members of the Home Civil Service, pay and grading, superannuation and allowances will be subject to central control just as for staff in government departments.

5.10 Where staff are not civil servants, the general rule is that central control of pay, superannuation and allowances is applied where an NDPB relies on government funding (excluding payments made on a customer/supplier basis):

- a. for 50 per cent or more of its gross expenditure; or
- b. for 50 per cent or more of its administrative expenditure.

Where government funding falls short of these limits, there is generally no detailed departmental control 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 overgenerous conditions of service. When determining the level of grant-in-aid departments should take full account of current features of public expenditure control; if necessary, they should stipulate as a condition of the payment of funds that the body should correct apparent anomalies. Advice on public service practices can be obtained from the appropriate Treasury divisions.

## PAY AND CONDITIONS OF SERVICE IN "CONTROLLED" NDPBs

5.11 When the pay and allowances of NDPB staff are to be controlled centrally, generally the power to control should be included in any founding legislation. Where there is no founding legislation, such power should be included in the terms attaching to the body's grant-in-aid. Where central control is statutory, staff pay and conditions are usually made subject to the approval of the Secretary of State with the consent of the Treasury. Primary responsibility for control, and accountability for questions concerning staff pay and conditions, thus rests with the sponsor department. The Treasury's role arises from its wider responsibility for public service pay and conditions. A similar relationship exists where central power rests on conditions attaching to funding rather than legislation.

5.12 In the interests of economical and effective administration of pay, it is desirable generally for the pay, allowances and grading structure for staff of controlled NDPBs to have a clearly-defined relationship with 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 Treasury, 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 NDPB. The sponsor department and central departments cannot effectively control staff pay in public bodies unless they also monitor grading standards in those bodies to ensure that they are effectively controlled. Sponsor departments should therefore ensure that there are adequate arrangements for NDPB posts to be graded in relation to the parent model and for grading standards to be inspected on behalf of NDPB senior management. (Appendix H deals fully with manpower control requirements.) While controlled public bodies are satisfactorily related for pay purposes to the Civil Service or some other public body, changes in the parent model may be passed on so long as sufficient finance is available.

5.13 Where a controlled NDPB cannot satisfactorily be related to the Civil Service or any other public service model for pay purposes, pay rates must still be based, as far as possible, on rates for functionally comparable work, with appropriate adjustments for differences in conditions of service. All changes in pay and conditions will then generally require the specific approval of the sponsor department and the Treasury.

5.14 Where pay and related allowances of the staff of an NDPB are subject to Treasury approval, central control is normally applied also to allowances not related to pay, such as travelling and subsistence allowances. 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 sponsor department should consult the relevant Treasury pay division, with full justification for different treatment, before any commitment is made.

## SUPERANNUATION, INJURY BENEFITS AND COMPENSATION

5.15 Where the superannuation arrangements of the staff of an NDPB are to be subject to central control, the necessary control powers should be included in any founding legislation or in the terms attaching to a grant-in-aid. Powers of ministerial direction are not appropriate for such detailed matters. Whatever the extent of prior planning, firm decisions cannot be taken until after an NDPB is set up. The enabling powers should therefore 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 Treasury. An example is paragraph 14 of Schedule 1 to the Development of Rural Wales Act 1976, but departmental lawyers sometimes judge the circumstances to require additional wording to cover compensation.

5.16 The Superannuation Division, Treasury should be consulted about the powers and the arrangements proposed in this field at the earliest possible stage. The NDPB should also be alerted to the need to obtain approval of the arrangements by the Superannuation Funds Office, Inland Revenue, 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.

### **Superannuation**

5.17 The need to maintain a consistent pensions policy throughout the field for which Ministers are answerable 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 NDPB and management's views on the normal retiring age.

5.18 Where the NDPB 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. The Treasury Superannuation Division must be consulted about any such proposal at the earliest possible stage and before the founding legislation is drafted. Admission can most satisfactorily be achieved by adding the body to Schedule 1 to the Superannuation Act 1972 by a provision in the founding legislation. Where there is no legislation it may be possible to do so by an Order made by the Treasury under the powers contained in section 1(5)-(8) of the 1972 Act, although this 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 employee's contributions and pay appropriate contributions to the Civil Superannuation Vote; an obligation to pay contributions to the Treasury should be included 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 para 5.27).

5.19 Where the NDPB has an affinity with local government it may be possible to relieve it of the need to administer superannuation by negotiating the admission of the staff to the local government superannuation scheme. The scheme would then pay the benefits and the body would collect the employees' contributions and pay these plus the contributions required from the employer and the cost of pensions increase to the administering authority. Another possibility is to negotiate admission to some other existing controlled scheme run by employers with whom the body has close connections.

5.20 In cases where civil service terms provide the analogue but it is not appropriate to admit the staff to PCSPS, the NDPB 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 for 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 (Appendix D).

5.21 Where the above simplifications are not possible, there is no alternative to the NDPB 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 smaller ones may prefer to make arrangements with an insurance company to avoid disproportionate additions to their administrative staff. Others may prefer to pay benefits as they emerge, but the point in paragraph 5.20 about avoiding this method for partly grant-aided bodies with an uncertain future is again relevant.

### **Injury benefits**

5.22 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.

### **Compensation**

5.23 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 five 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.

## **RECRUITMENT AND PERSONNEL MANAGEMENT**

### **Responsibilities on sponsor departments**

5.24 Effective recruitment and personnel management are important for administrative efficiency. Formal control in this area by sponsor departments would be incompatible with the degree of managerial independence appropriate to an NDPB set up to operate at arm's length from government. NDPBs which employ staff are themselves responsible for observing the requirements of employment legislation. Nevertheless, while the relationship between sponsor department and NDPB will need to take account of the degree of the latter's managerial discretion, in accordance with overall ministerial accountability for the NDPB, sponsor departments should encourage NDPBs to adopt recruitment and personnel management practices which meet certain minimum standards expected of public service employers. Sponsor departments should for instance draw to NDPB's attention Codes of Practice issued by the Commission for Racial Equality and the Equal Opportunities Commission, and those of the Manpower Services Commission and Cabinet Office on the employment of disabled people. In the case of controlled NDPBs, pay relationships may be based on the equivalence of recruitment and grading standards and personnel management policies to an agreed public service model.

5.25 Sponsor departments have a particular responsibility to assist new NDPBs to make a sound start. They should therefore offer advice and assistance on recruitment and personnel management practices, in particular on the appointment of a Personnel Officer; the development of a personnel management system; the scope for co-operation with other organisations (for example by sharing staff and establishing common management of staff); and 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 Industrial Relations Codes of Practice issued by the Department of Employment and by the Advisory, Conciliation and Arbitration Service (ACAS). Further guidance on industrial relations matters is available from ACAS. National agreements (eg Civil Service National Whitley Council Agreements) will not apply unless separate agreements to this effect are concluded within the NDPB.

5.26 Once an NDPB is soundly established, its sponsor department should maintain contact with it on personnel matters and respond to requests for advice. It is the responsibility of the sponsor department to keep an NDPB informed of changes in Civil Service terms and conditions which may affect the NDPB. The NDPB should otherwise be left to conduct its own personnel affairs unless there is evidence (eg from its annual report, audit or a review of the NDPB) of a serious staffing problem which is impairing the body's efficiency. In such circumstances the sponsor department may need to intervene to assist with resolution of the problem.

#### **Recruitment assistance from the Civil Service Commission**

5.27 Where, exceptionally, the staff of an NDPB are members of the Home Civil Service (or Diplomatic Service), recruitment is governed by the Civil Service Order in Council 1982. This means that the Civil Service Commission (CSC) is responsible for recruiting to posts at, broadly, Executive Officer (or equivalent) level and above; and the body undertakes recruitment to more junior levels in accordance with guidance and instructions issued centrally by the Cabinet Office. When an NDPB is not staffed by members of the Home Civil Service (or Diplomatic Service) recruitment is not governed by the Civil Service Order in Council and can be undertaken in whatever way the body considers appropriate. In practice, several NDPBs recruit by analogy with the Civil Service, asking the CSC to recruit to the more senior grades (usually on a repayment basis), and undertaking junior recruitment themselves in accordance with Cabinet Office guidance. While NDPB staff have no right to transfer into government departments, staff of NDPBs which recruit through the Civil Service Commission (or for more junior grades in accordance with Cabinet Office guidance) are eligible to respond to Civil Service trawls. Advice on suitable recruitment arrangements for any type of NDPB may be sought from the CSC Secretariat.

5.28 One of the rules of the Principal Civil Service Pension Scheme (PCSPS) (see paragraph 5.17) is that a retirement on medical grounds will be regarded as a resignation unless the person concerned satisfied the civil service health standard on appointment. Therefore, if a non-Crown body is added to the Schedule of bodies covered by the PCSPS, it should follow the civil service health check procedure even if it is not following civil service recruitment procedure in other respects. The CSC is prepared to undertake, on repayment, the health vetting of staff to be appointed to the more senior grades even where it has not otherwise been involved in recruitment and selection. The CSC Secretariat can advise further about these arrangements.



## CONDUCT AND RELATED MATTERS

### Nationality rules

5.29 It may be necessary to consider whether a new NDPB should be added to the list of prescribed public bodies which may lawfully operate nationality rules under the provisions of Section 75(5) of the Race Relations Act 1976. Amendment of the list is by regulations made by the Minister for the Civil Service, subject to Home Office advice (in view of that department's responsibility for the Act). The general policy is to keep the number of bodies prescribed to an essential minimum. The main reason previously accepted has been that the nature of the work requires the imposition of such rules as a basic indicator of loyalty to the State. Where a department intends to seek prescription for a particular NDPB, it should discuss the circumstances with the CSC Secretariat in the first instance.

### Security

5.30 Advice on security matters should be sought from the departmental security officer who may, in turn, wish to consult the Security Division of the Cabinet Office.

5.31 Where an NDPB is to deal with or have access to classified information, adequate personnel and physical security measures should be taken. If the access makes it necessary for the body to be covered by government security regulations, this may be done either by explicit provision in the enabling legislation or, where that legislation provides for ministerial directions, by such a direction.

### Conduct rules

5.32 Departments should encourage NDPBs for which they are responsible to adopt staff rules which are appropriate to their functions and which recognise the ultimate accountability of Ministers to Parliament for their activities (see paragraph 2.9). These rules should, inter alia, require staff to declare any interest in contractual or regulatory matters, and give guidance on the acceptance of hospitality and gifts. Departments should consider, at the time when an NDPB is set up and periodically thereafter, whether the NDPB should be asked to adopt staff rules about the acceptance of appointments after resignation or retirement from the body. In particular, departments should draw to the attention of NDPBs with executive responsibilities the current rules governing the acceptance of such appointments by Crown servants, together with the observations of the Treasury and Civil Service Committee (Eighth Report, Session 1983-84, HC 302) and the Government's reply (Cmnd 9465). The need for rules on acceptance of appointments should be considered in relation to the functions of the NDPB concerned and any potential for conflict of interest which may give rise to public concern. In those NDPBs which carry out functions on behalf of the Crown (eg the Manpower Services Commission) staff will of course be Crown servants and therefore covered by the rules governing Crown servants. The Security Division, Cabinet Office can advise sponsor departments on the arrangements in such cases. Departments may also find useful the "Report of the Royal Commission on Standards of Conduct in Public Life" 1976 (Cmnd 6524).

### Disqualification from membership of the House of Commons

5.33 Where, exceptionally, an NDPB is staffed by civil servants, they will automatically be disqualified from membership of the House of Commons. Otherwise it is not the normal practice to disqualify staff employed in NDPBs. Any proposal to do so should be discussed with the Machinery of Government Division, Cabinet Office.

## Responsibilities of NDPB nominee directors

5.34 Where an NDPB nominates directors to the boards of assisted companies in circumstances in which the NDPB is not the majority shareholder - perhaps by the use of special rights embodied in the Articles of Association, or by contractual agreement with the company in return for financial support - the NDPB should give the directors on appointment a guidance note on the proper role and responsibilities of the appointment. This guidance note should be cleared in advance with the sponsor department and should take into account Annexes C and D of the memorandum submitted by HM Treasury as evidence for the PAC hearing on the appointment of nominee directors on 12 December 1984.

## SUMMARY OF KEY POINTS IN CHAPTER 5

### Paragraphs

- 5.1, 5.2 Advisory bodies and tribunals are usually supported by civil servants. They do not generally have powers to employ staff.
- 5.3 Executive etc NDPBs should normally be given powers to employ staff.
- 5.5-5.8 When functions and associated staff are hived off from a government department to a new NDPB, personnel matters need careful consideration. Personnel Management Division, Cabinet Office and Pay and Superannuation Division, Treasury can advise.
- 5.10-5.16 Where government funding accounts for 50 per cent or more of an NDPB's gross expenditure or 50 per cent or more of its administrative expenditure, then pay, superannuation and allowances are subject to central control by the Treasury. The terms of control should generally be included in the founding legislation or in the conditions attaching to the body's grant-in-aid.
- 5.18-5.21 Options for superannuation of NDPB staff may include admission to the PCSPS, a local government scheme, a scheme similar to the PCSPS, or a contracted-out scheme administered by the body.
- 5.24-5.27 The sponsor department is responsible for encouraging NDPBs to adopt good practices in recruitment and personnel management. Advice on recruitment may be sought from the Civil Service Commission.
- 5.29-5.34 Advice relating to nationality rules, security, rules of conduct, House of Commons disqualification and responsibility of nominee directors may be obtained from the Cabinet Office or Treasury.

## **CHAPTER 6: HOUSEKEEPING BY NDPBs**

### **PROVISION OF COMMON SERVICES**

#### **General**

6.1 NDPBs funded by grant-in-aid (even if 100 per cent funded) are expected to pay the full cost (including overheads and VAT) of any services provided by government departments, including the sponsor department. This ensures that the total cost of a body is visible. "Full cost" in this context means in accordance with guidance issued by the Treasury (Appendix J, item J.10). "Common services" include such services as the calculation and payment of the salaries of the NDPB's staff.

#### **Accommodation, furniture, stationery**

6.2 When a new NDPB is set up, the sponsor department may provide it with temporary accommodation in buildings it occupies itself and provide other services, such as furniture and stationery, from its own resources. But longer-term arrangements should be introduced as quickly as possible. Departments should consult the Property Services Agency (PSA) and Her Majesty's Stationery Office (HMSO) as to whether they should provide services.

6.3 The PSA should be consulted at the earliest possible stage, if possible during the drafting of legislation to establish the body, about the likely accommodation requirements of a new NDPB. If the PSA agrees to provide accommodation or related services these will normally be provided under the Property Repayment Services (PRS) system, or on repayment terms to be agreed between PSA and the NDPB. Where the PSA agrees to provide services in advance of a body being formally established the cost will normally be recovered from the sponsor department.

6.4 The services of the Crown Suppliers (TCS) are available to NDPBs for the supply of standard and non-standard items of furniture and equipment. Departments should consult TCS as early as possible about likely requirements for furniture and equipment. Products and services provided by TCS will be arranged on the PRS system or on repayment terms as agreed with the customer.

6.5 Supplies from HMSO will be on repayment terms.

#### **Information technology (IT)**

6.6 The role of the Central Computer and Telecommunications Agency (CCTA) is to provide assistance to departments in the development and exploitation of information technology; such assistance includes specific technical and management advice and support, and procurement services, as well as general guidance on procedures etc, as described in the "Information Technology Guide" published by CCTA. CCTA's involvement with NDPBs is specifically limited. Apart from a small number of named bodies (where CCTA provides support as though they were government departments) the Agency does not support NDPBs directly, but may exceptionally be called in on an agreed basis by the sponsor departments for control purposes (strategic, efficiency and effectiveness issues etc). NDPBs should, like departments, have full control over questions of choice of information technology projects, and should be answerable for their spending.

6.7 The degree of departmental supervision and control over a body's IT expenditure should depend on the extent to which the body relies on government

funding. Specific controls should be agreed with the body and set out in writing. The memorandum of conditions attached to issue of the grant-in-aid will normally be a convenient place to do this. The agreement should specify any delegated levels for expenditure on the purchase of hardware, software and bureau facilities. If a body has exceptional expertise in a particular area the delegated level may, with Treasury's agreement, exceed the delegated authority for the department's own computing expenditure. (The general approach to setting delegated authorities is discussed in Chapter 8 and Appendices F and G.)

6.8 Sponsor departments will be responsible, within the financial limit delegated to them by Treasury Expenditure Divisions (or within the level of control set by a department for an NDPB if, exceptionally, this is higher), for the authorisation of computer projects proposed by their bodies. Any advice exceptionally provided by CCTA (in accordance with paragraph 6.6 above) will be on an agency basis.

6.9 The relevant Treasury Expenditure Division will be responsible for approval of computer projects proposed by bodies above the financial limits delegated to sponsor departments (or above the levels set by departments for their bodies if, exceptionally, these are higher). CCTA may be expected to advise Treasury Expenditure Divisions in such cases. If the Agency has doubts about the planning or management of projects, it will advise the sponsor department accordingly.

#### LOCATION POLICY

6.10 When NDPBs are being set up or if their work is to be expanded or re-located in a different area, early consideration must be given to current regional and inner city policies. Economy, efficiency and public expenditure implications have also to be taken into account.

6.11 In most cases, except broadly, where changes to existing bodies involve less than 25 staff, a consultative document should be submitted centrally to the Treasury (Industry and Agriculture Division 01-233 7920) and copied to the Cabinet Office (MPO - Management and Efficiency Division 01-233 4224). Their address is Government Offices, Great George Street, London SW1P 3AL. The document should outline the proposals and include details of the preferred location option, if any, with relevant costs and arguments in its favour. For a new body this should be submitted before any senior appointments are made. The Treasury will then involve interested departments: Trade and Industry, Environment, Energy and the Scottish, Welsh and Northern Ireland Offices. PSA must also be kept informed as location options emerge (in accordance with paragraphs 6.2 and 6.3).

#### PUBLIC RECORDS

6.12 When an NDPB is being established and will be financed wholly or mainly by the government, (other than one concerned with Scottish or Northern Ireland affairs - for which see paragraphs 6.17-6.18), it is necessary to decide whether its records should be public records and therefore subject to the provisions of the Public Records Acts 1958 and 1967.

6.13 Where it is intended that the Public Records Acts should apply, and the NDPB is a statutory body, this would normally be by amendment to Schedule 1 to the Public Records Act 1958. If no legislation is involved, the constitution of a new body should make it clear whether or not its records are public records. Any cases of doubt should be referred to the Lord Chancellor's Department (LCD).

6.14 Records of new bodies should usually be made subject to the Public Records Acts. This has 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 of records worthy of permanent preservation and the disposal, as early as possible, of the remainder. Those selected for permanent preservation will be transferred to the Public Record Office (PRO) where they will be made available to public inspection, normally when they are 30 years old. The intention is to ensure that records worthy of permanent preservation are indeed preserved. In addition, criticism of mis-handling records and of undue secrecy is forestalled, and worthless papers are not retained in expensive accommodation. Making a body subject to the Acts also facilitates the transfer to it, and subsequent recovery of, departmental records required for administrative purposes.

6.15 If the sponsor department considers that the new body should not be subject to the Acts it should consult LCD. When such a body takes over functions from a government department, or from some other body whose records were public records, it is usual for the new body to be lent relevant current papers for a finite period. The records remain public records, and the Departmental Record Officer of the sponsor department must be consulted on such loans.

6.16 The arrangements to be made for disposing of records when a body is disbanded are described in Appendix D.

6.17 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 (Schedule 4, paragraph 2(2)(a)). The records of public bodies in Scotland are normally treated as records belonging to Her Majesty for the purpose of the Public Records (Scotland) Act 1937. Advice concerning such records should be sought from the Keeper of the Records of Scotland.

6.18 Similarly, it is desirable that the records of public bodies sponsored by the United Kingdom government and having functions which relate wholly or mainly to Northern Ireland should be treated as "Imperial" public records under the Public Records Act (NI) 1923. Advice concerning such records should be sought from the Deputy Keeper of the Records of Northern Ireland.

6.19 General advice on public records is available from:

Records Administration Division  
Public Record Office  
Kew  
Richmond  
Surrey TW9 4DU

The Keeper of the Records of Scotland  
Scottish Record Office  
HM General Register House  
Edinburgh EH1 3YY

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

## SUMMARY OF KEY POINTS IN CHAPTER 6

### Paragraphs

- 6.1 NDPBs funded by grant-in-aid are expected to pay the full cost of services provided by any government department.
- 6.6-6.9 In general CCTA does not support NDPBs directly but may occasionally be called in by a sponsor department.
- 6.10-6.11 Proposals for new NDPBs must take account of location policy.
- 6.12-6.19 It is necessary to decide whether the records of any new NDPB should be subject to the provisions of the Public Records Acts.

## CHAPTER 7: FINANCIAL MANAGEMENT, PART I: INTRODUCTION

### STANDARDS

7.1 NDPBs are required to maintain high standards of management and financial control. Fundamental requirements are that resources are used and money spent only for the purposes authorised. But regularity and propriety are not enough by themselves. NDPBs should also seek constantly to get better value for money by planning and managing their staff and other resources and their spending properly. This means starting with clear aims, pursuing them in the most efficient way, and keeping track of what is achieved.

7.2 Good financial management is needed to support Ministers' control and management of both administrative and programme expenditure. Ministers must be confident that they are able to discharge their responsibilities to Parliament for NDPBs. This can only be achieved by clear and specific responsibilities at all levels - from permanent heads of departments and the boards of NDPBs to the managers of individual units and activities. At each level individuals need to know their targets, their resources and how they will account for their achievements.

### OVERALL APPROACH

7.3 The arrangements for planning and controlling an NDPB's activities will depend on the purpose for which it has been set up and the degree of independence of government it is intended to have. In general, however, the NDPB and its sponsor department each needs to be clear about its role and to recognise the other's needs for information. When a body is set up and when it is reviewed (see Chapter 10) particular attention should be given to the processes which ensure that:

- a. aims and priorities are agreed and defined clearly;
- b. authorities and responsibilities are set out so that the NDPB and the department know what is and is not delegated;
- c. the NDPB has a sound internal management system including arrangements for planning its resources, managing them so as to get best value for money, and measuring or assessing the results (including outputs, achievements and the wider consequences of its activities);
- d. information flows to and from the NDPB to help it decide its plans and assess the results achieved, and to meet the department's responsibilities; and
- e. appraisals are carried out to satisfy the NDPB, its sponsor department and Parliament that the management arrangements are adequate and working effectively.

7.4. The next two chapters summarise the responsibilities of departments and NDPBs for these arrangements. Chapter 8 concentrates on points for the sponsoring department. Chapter 9 considers how these principles can be applied in practice by NDPBs. Further guidance on important aspects of their relationship is brought together in:

Appendix F - delegation of authority and conditions attached to grants-in-aid;

Appendix G - major expenditure decisions;

Appendix H - manpower control, which will be important for the many NDPBs, whose expenditure is primarily on staff and associated costs;

Appendix I - accountability in NDPBs.

A bibliography of guidance on aspects of financial management is at Appendix J.

7.5 Chapters 7 to 9 are written with executive etc bodies in mind. The detailed guidance may need to be interpreted differently for other NDPBs. But the principles apply to all NDPBs. Even where a body's resources do not require detailed planning processes and controls the periodic reviews described in Chapter 10 will be important in the search for better value for money.



## CHAPTER 8: FINANCIAL MANAGEMENT, PART II: THE DEPARTMENT'S RESPONSIBILITIES

### PLANNING

#### Deciding aims, objectives and priorities

8.1 Each NDPB needs strategic aims and priorities consistent with government policies, and with the resources likely to be available to the body. Sponsor departments should satisfy themselves that there are means to arrive at these.

8.2 Aims can be communicated formally on setting up an NDPB through:

- a. legislation for the NDPB's specific functions;
- b. Royal Charter;
- c. Memorandum and Articles of Association (for a Companies Act company).

8.3 While important, these instruments will often define only the broad activities in which the NDPB may engage and the general purpose it is to serve. Its aims, objectives and priorities will need to be defined more precisely. Decisions about what an NDPB should do will be aided by a systematic evaluation of the options open to it, and of the costs and results of current or comparable activities. These decisions should then help to define more precise objectives which are especially important if the NDPB is to be free to take day-to-day decisions on resource allocation and expenditure. This is what is meant by "the planning process".

#### The planning process

8.4 In successive White Papers (*Cmnd 8616, September 1982; Cmnd 9058, September 1983; Cmnd 9297, July 1984*) the government has stressed the importance of good planning and management year-by-year, including critical scrutiny of performance against objectives, to make the best use of resources. The principles set out in those White Papers apply to NDPBs as much as to central government departments.

8.5 NDPBs will normally be set up with the intention of distancing the sponsor department from day-to-day decisions. They may have been given responsibility for policy formulation and for setting priorities within a policy framework laid down in legislation or by Ministers. In all cases, however, there is a minimum requirement for departments to ensure that the NDPB has adequate arrangements to formulate policies and priorities; that its plans are consistent with ministerial policies and with the resources available; that the managers concerned are aware of their responsibilities; and that each has the information, particularly about costs, to carry out those responsibilities.

8.6 There are a number of opportunities to review and redefine aims and priorities. Some of the more important which can be used singly or in combination to give the NDPB an effective basis for its operations are:

- a. Letters of appointment may be used to set out for senior managers of the NDPB the sponsoring Ministers' policy aims and the managers' responsibilities in relation to them.

b. The NDPB may be asked to produce a formal plan such as an annual corporate plan. Such plans typically include an outline of the present aims and objectives and those proposed for the future. An annual report may serve a similar purpose.

c. NDPBs can be included in the top management systems that departments have set up to help Ministers decide objectives and priorities. In the course of these systems Ministers typically review a report of past performance and plans for the future, and may discuss this with those responsible for the activity (in the department and in the NDPB).

d. A review of the NDPB may be commissioned if its aims are felt to be in need of revision (eg to take account of new ministerial policies). Further guidance on reviews is in Chapter 10.

### **Advice on setting strategic aims and policies**

8.7 Departments are responsible for ensuring that each NDPB they sponsor has effective arrangements for planning its future programme of work. Chapter 9 describes the key elements of such systems. Chapter 10 describes how periodic reviews of arrangements should be used to ensure they exist and are working.

8.8 Sponsor departments should:

a. communicate information about ministerial priorities and policies, and departmental social or economic data and forecasts, which are relevant to the NDPB's forward planning;

b. receive costed proposals for its future programme of work and allocation of resources (manpower and money) in sufficient detail, appropriate to the body's circumstances, for the sponsor department (and the Treasury) to appraise its viability and efficiency;

c. examine any suggestions the sponsor department or the body may have for changes in aims and priorities for improving performance, or for reviewing its activities;

d. appraise any spending proposals which are not within the body's delegated authorities.

### **Planning timetable and horizon**

8.9 The sponsor department should agree a timetable for each NDPB's plans which allows adequate time for discussion, including discussion with Ministers where appropriate, before the Public Expenditure Survey (PES) and submission of the department's Supply Estimates.

8.10 Departments should not rely upon the PES and Estimates as the sole planning mechanism. Effective planning will often require:

a. examination of past performance, planned resources and results (in rather fuller detail than may be possible during the PES Estimates); and

b. a longer time horizon than the three-year PES planning period. In some instances it may be helpful for bodies to produce provisional plans for the later years, based on alternative working assumptions agreed with the department.

8.11 Departments may wish to use their top management systems to review proposals from NDPBs alongside departmental proposals; and to enable Ministers to review all spending, decide priorities, and allocate resources accordingly.

### **PES and Estimates**

8.12 The plans of the NDPB should allow it to provide the sponsor department with projections for the periods covered by the PES and Estimates, and with the information to explain and justify them to the department and the Treasury. The department's responsibilities are principally:

- a. to ensure the PES and Estimates reflect the priorities attached to the NDPB's activities and its planned programme of work;
- b. to examine a range of possible changes in the NDPB's plans and challenge its assumptions where appropriate; and
- c. to agree with the NDPB how any changes in the final allocation of resources affect its programme.

### **Organisation**

8.13 In order to carry out these responsibilities the sponsor department will need to communicate to the NDPB developments in different areas (policy, finance, social data, etc). Many different people may then be involved in appraising the NDPB's plan.

8.14 Co-ordinating these different inputs is the department's responsibility. It should decide the steps necessary to bring expertise to bear, and to make sure that each person knows his or her responsibilities. For this purpose it should identify one person (usually in the policy branch most closely associated with the NDPB) to draw together the inputs from all concerned and to take day-to-day responsibility for the relationship between the department and the NDPB.

### **DELEGATED AUTHORITIES AND RESPONSIBILITIES FOR CONTROL**

8.15 Particularly where an NDPB is to rely on government to finance all or part of its expenditure it is necessary to decide what controls and safeguards are to be exercised by the sponsoring Minister. These will depend on the purpose for which the NDPB has been set up. The NDPB must have the freedom necessary to meet its objectives. It will have been set up to have a degree of independence. This independence requires good management at all levels. Authority should not be delegated to an NDPB unless it is able to comply with the standards expected of those dealing with public funds, can satisfy the department and the Treasury of the strength of its management, and can provide information to account for the use it makes of those funds.

### **Extent of delegated authorities**

8.16 The extent to which authority can be delegated to an NDPB depends on:

- a. **the degree to which it relies on government funds.** The greater the extent of government funding, the greater is the need for detailed control and monitoring of the NDPB's use of resources, current and prospective;
- b. **the strength of the NDPB's management and the difficulty of the circumstances in which it is operating.** A large NDPB with effective internal

controls is likely to need fewer external controls than a small one which is short on expertise in resource management. The more difficult and volatile the environment in which an NDPB is operating, the greater is the need for close control and monitoring;

c. **the powers of the NDPB and its method of financing.** An NDPB financed by compulsory levy or one which has a monopoly position is likely to need closer control over the amount of levy or fee (which should be determined by, or subject to, the approval of the sponsor department with the agreement of the Treasury) than an NDPB operating in circumstances where market forces exercise a discipline.

8.17 The extent of control and monitoring needs be considered in the circumstances of each case. Different levels of monitoring may be appropriate for different types of expenditure. For example, the criteria and limits delegated to a body for major capital projects need not be the same as those for running costs including manpower. Appendix F gives more detailed guidance about criteria and how they can be set within the terms of government funding. Appendix H deals with running costs including manpower and authorities for creating posts.

#### **Methods of funding**

8.18 The primary means of control are the terms and conditions attached to the funding of NDPBs.

8.19 Where a body's sole purpose is to carry out duties confirmed by Parliament or by Ministers and it relies wholly or mainly on government funds the normal method of funding is a grant-in-aid. Before making a grant-in-aid the sponsor department should set out in writing the conditions attached to its issue. Appendix F includes a checklist of the points that should normally be covered.

8.20 Some NDPBs may be financed in whole or in part by a levy, normally where its services will benefit a particular group of people and can be financed by that group. Others may charge for services. In addition to arrangements for fixing the levy or charge there should then be:

- a. agreed financial targets covering the level of such income;
- b. provision for dealing with any surplus (other than a temporary surplus) in excess of the NDPB's agreed requirements. The surplus should normally be used first to accelerate repayment of government debt and secondly to reduce any requirements for grant-in-aid. Failing that consideration should be given to surrendering all or part of the surplus to the Consolidated Fund. The amount to be surrendered will need to be decided each year in relation to:
  - i. the future financial needs of the NDPB; and
  - ii. the degree of financial assistance it has previously received from government.

Any government finance to set up an NDPB which is expected to become self-financing through levies and charges should normally be out of voted money so that Parliament may be aware of the support.

8.21 In some instances loan finance may be appropriate. This raises important points which need to be considered when the NDPB is set up:

- a. Loans from the National Loans Fund (NLF) will generally not be appropriate for NDPBs which may be candidates for privatisation.
- b. Statutory powers are needed to borrow from the NLF, but should not be taken on the off-chance they might be used.
- c. Where neither voted funds nor the NLF is appropriate loans should preferably be guaranteed by the department to put the liability on the record and to secure a better rate of interest.

As these and other matters (such as limits on total liability) are likely to require legislation, departments should consult the Treasury before finalising plans for any body which will require loan finance. In cases of doubt the Treasury will advise on the most appropriate description of the form of finance.

### **Disposals of assets**

8.22 It is an important principle of public expenditure control that the recipients of government funds should not gain an uncovenanted cash benefit from the investment. Sponsoring departments should therefore give particular attention to the arrangements for use of receipts following sales of assets by an NDPB which has been funded by government and by others who have had grants from such a NDPB. The general rule is that where assets have been acquired or improved with government funds the proceeds of the sale (or the appropriate proportion if government funds met less than the whole cost) should be surrendered to the Consolidated Fund, or sponsor department (depending on the circumstances), if appropriate by taking the receipts into account when setting the level of government funding for the NDPB. There should be similar recoveries if the property is used for purposes other than those for which the funds were made available. However, in particular circumstances, other arrangements may be made, eg to encourage the disposal of surplus assets, which include (partial) retention of receipts. Such cases need to be approved by the Treasury. In some cases, such as when a body is being wound up, receipts surrendered to the Consolidated Fund may form part of the Government's privatisation programme and be classified as special sales of assets.

8.23 Arrangements to meet the general rule may not be easy to devise and enforce. **Appendix F** indicates some of the conditions that may need to be applied and the advice departments may need to seek.

### **Transitional arrangements**

8.24 When a new NDPB is being created transitional arrangements may be necessary. Costs incurred by the sponsoring department will be borne on the departmental Vote and dealt with under the department's procedures. If staff of the new NDPB are to be engaged or accommodation hired before it is legally operating, they will be hired in the name of the department. There may need to be specific provision in the departmental Vote. The possibility of the NDPB refunding costs when it is set up may also need to be considered. In these cases the Treasury's advice should be sought before expenditure is incurred.

### **MONITORING AND SCRUTINY OF EXPENDITURE**

8.25 Sponsor departments should receive from NDPBs information consistent with the Treasury's Financial Information System (FIS), and expenditure returns based on expected and actual calls on funds. Generally these figures should be supplemented by information about how the NDPB is using its resources and its progress measured against agreed objectives. Where appropriate the department should receive and

examine disaggregated information, such as activity costs and management accounts for operations within the NDPB, in order to compare plans with outturn, and in order to contribute to discussions about revisions to plans.

### **Accountability**

8.26 The senior full-time official of an NDPB which receives a grant-in-aid always carries responsibilities similar to those of an Accounting Officer in a department. Appendix I outlines the normal practice.

8.27 The sponsoring department of a body in receipt of grant-in-aid should consider whether formal designation of an "accounting officer" is appropriate. One criterion will be the size of the grant-in-aid. It should, however, bear in mind that a clear definition of the respective responsibilities of the department's and the NDPB's Accounting Officers is in any case necessary for good management; and that a formal appointment usefully emphasises the possibility of appearances (jointly or individually) before the Public Accounts Committee.

### **Accounting systems**

8.28 The accounting system should meet internal needs, and provide estimates and accounts in the form and by the dates required to enable the sponsor department to carry out its scrutiny and monitoring responsibilities. To meet internal needs, accounting systems must be capable of providing information necessary to secure efficiency, effectiveness and economy. The accounting system stipulated for the private sector, set out in the Companies Acts, requires:

- a. the disclosure with responsible accuracy, at any time, of the financial position of the entity;
- b. the accounts to show a true and fair view;
- c. a day-to-day record of monies received and expended;
- d. a record of all assets and liabilities.

These requirements should be regarded by NDPBs as best practice and followed as appropriate.

### **Accounts**

8.29 The Treasury has an interest in the form of accounts of all NDPBs. In certain cases it is required by statute to prescribe or approve their form, in consultation with the sponsor department. The Treasury will also need to consider the arrangements for audit of the accounts. Sponsor departments should, where appropriate, issue an "accounts direction" specifying the form and content of a statement of account. Such a direction should be reconsidered annually. Guidance on the preparation of accounts is provided to departments in "Government Accounting" (see Appendix J, J.1). Departments must consult the Treasury at an early stage when considering the setting up of a new NDPB or when it is proposed to alter the form of accounts of an existing NDPB.

### **Information about remuneration and expenses of members and staff**

8.30 Chapter 11 describes the arrangements for a body and its sponsoring department to disclose information about remuneration and expenses paid to members. They apply to all NDPBs which spend money and publish accounts.

## Reports

8.31 Chapter 11 also deals with the department's responsibility to advise a body on the contents of annual reports and accounts.

## AUDIT AND REVIEW

8.32 The Treasury must be consulted at the earliest opportunity about the audit arrangements of new public bodies, and certainly before any legislation is drafted.

### Internal audit

8.33 The sponsoring department should ensure that an NDPB makes adequate and effective arrangements for internal audit. These arrangements should be in accordance with the objectives, standards and practices outlined in the Treasury's "Government Internal Audit Manual" (see Appendix J) which also gives further guidance on a department's internal auditor's role in relation to NDPBs.

8.34 Where practicable an NDPB should have its own internal audit unit but it may request its sponsoring department to provide a service. In deciding whether to provide this service the department's Accounting Officer should have regard to possible conflicts of interest arising from the dual reporting responsibilities of the departmental Head of Internal Audit.

### External audit

8.35 The expenses of most advisory and judicial bodies will be audited by the Comptroller and Auditor General as they are borne on the Votes of their sponsoring departments.

8.36 Other NDPBs - generally those which exercise executive functions - spend money on their own account. For these, the general principle to be applied when considering audit arrangements is that the Comptroller and Auditor General (C&AG) should either be appointed formal auditor or granted a right of access to inspect their books and records. In many cases it will be appropriate to provide access without requiring a full certification audit. The right of access should be provided for in legislation wherever possible.

8.37 A decision to give the C&AG right of access to an NDPB's books and records, rather than formal audit responsibility, does not imply any relaxation in parliamentary accountability. Representatives of such bodies may still be summoned to attend meetings of the PAC; and the scope of enquiry there would not be limited to the way the body itself had conducted its activities. It would also extend to the sponsoring department's scrutiny of the body's expenditure and the body's financial management systems.

8.38 NDPBs in which the C&AG may, subject to certain conditions and restrictions, carry out economy, efficiency and effectiveness examinations under the National Audit Act 1983 include:

- a. those where the C&AG is the statutory auditor or has statutory rights of inspection;
- b. those whose accounts the C&AG audits, or to which C&AG has right of access, by agreement between the body and its sponsor department;

c. those which are appointed, or whose members are required to be appointed, by or on behalf of the Crown, but only in years in which they receive more than half their income from public funds.

8.39 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. Even if not required to do so by legislation NDPBs should include audited accounts in their annual reports. Normally, such reports should not appear before the audited accounts are presented to Parliament and published as a White Paper, when this is a statutory requirement. If, exceptionally, a sponsor department agrees to the publication of an annual report without the audited accounts being presented to Parliament an explanation should be given of the reason for not publishing them in the report, together with an indication of when they will be available and where they may be obtained. In these circumstances, any financial information given in the report should be described as a "statement" rather than an "account", and the fact that they are un-audited should be made clear.

#### REVIEW BY SPONSOR DEPARTMENT

8.40 Considerable authority can and should be delegated to an NDPB, which has the primary responsibility for maintaining high standards of management. The sponsor department should seek to rely on the NDPB's internal management system and the information it provides, subject to occasional reviews.

8.41 Chapter 10 describes a programme of reviews of NDPBs announced by the Prime Minister in November 1984. Departments and NDPBs will need from time to time to initiate further general reviews of that kind. Such major reviews apart, departments and NDPBs will wish to examine problem areas of wide significance and to sample selectively the effectiveness of their planning and management in particular activities or areas of the organisation.

#### Rights of access for departments

8.42 Rights of access for the department's staff to carry out such reviews should be set out in the conditions attached to grants-in-aid.

#### SUMMARY OF KEY POINTS IN CHAPTER 8

##### Paragraphs

- 8.1-8.3 Aims and objectives should be defined and kept up to date by:
- legislation, Royal Charter, Memorandum and Articles of Association,
  - letters of appointment, corporate plan, top management system, reviews.



- 8.4-8.11 Planning processes in the NDPB should be effective and reviewed periodically.
- 8.10-8.12 PES and Estimates should show the NDPB's expenditure plans with sufficient information to justify them to the sponsor department and the Treasury.
- 8.13-8.14 The department's organisation should give the NDPB a single clear point for day-to-day contacts.
- 8.15-8.17 Authorities delegated to NDPB will depend on:
- the extent of government funding
  - the strength of its management system
  - its powers and method of financing.
- 8.18-8.21 Methods of funding:
- Grant in aid should include written conditions.
  - Levy or charge requires targets and provision for any surpluses.
  - Loans are likely to require legislation.
- 8.22-8.23 The application of receipts from disposals of assets need particular attention.
- 8.24 Transitional costs will usually be borne on the department's Vote.
- 8.25-8.31 Accountability requires:
- FIS returns and supplementary information,
  - consideration of designating an "accounting officer" in the NDPB,
  - early consultation with Treasury about the form of accounts,
  - disclosure of information about members and staff,
  - annual reports.
- 8.32-8.39 Audit arrangements for a new NDPB and any changes should be discussed with the Treasury at the earliest opportunity.
- 8.40-8.42 Reviews of or by the NDPB should appraise the value for money it is achieving.

## CHAPTER 9: FINANCIAL MANAGEMENT, PART III: THE NDPB's RESPONSIBILITIES

### GOOD FINANCIAL MANAGEMENT

9.1 An NDPB which receives government funding will usually be required, as a condition of financial support, to have an appropriate financial management system. On 19 November 1984 the Prime Minister announced a programme of reviews to improve financial management in NDPBs so that they give better value for money. Chapter 10 describes the objectives of these reviews.

9.2 What is appropriate will depend on the size and function of the NDPB. In principle, however, it should have the means to:

- a. review regularly its activities, priorities and targets;
- b. allocate resources and responsibilities for achieving those targets;
- c. plan its activities and resources;
- d. monitor and control its resources; and
- e. monitor the efficiency and value for money of its activities and to seek improvements.

9.3 The following paragraphs indicate how these principles can be applied. The annexes give further information. For example, Appendix H considers arrangements for allocating and reviewing running costs and manpower, an aspect of management in NDPBs which the Public Accounts Committee has felt needs particular attention. Further guidance is available in the publications listed in Appendix J, or from sponsor departments or the Treasury.

### AIMS AND PRIORITIES

9.4 The NDPB should be clear about the aims and strategic priorities given to it, and how they are to be reviewed and revised. If necessary it should ask for clarification about the mechanisms and its role in them.

9.5 The main points which will need to be considered are:

- a. development of policy: how the NDPB contributes to the formulation of new policies, and whether it has a specific remit to initiate proposals for change;
- b. definition of aims: whether or not these will be set out formally in letters of appointment, in a corporate plan agreed with the department, within the department's top management system, or in other ways;
- c. reviews: what arrangements exist for reviewing the aims of the NDPB, and how its achievements will then be judged;
- d. advice: what advice is available from where in the sponsor department to help review and develop aims, objectives and priorities.

## PLANNING

### Coverage

9.6 If financial management is to be effective the NDPB must look forward and plan a programme of action. Unless there are exceptional circumstances (such as great uncertainty about the future) plans should start with each manager drawing up a budget in line with his or her own targets. These budgets will be reviewed and aggregated to give senior management proposals for the NDPB's total resources, how they will be allocated and what they will achieve. In the light of these budgets senior management can review objectives, priorities and the resources available, and if appropriate discuss possible changes with the department.

### Period

9.7 Each NDPB will need to decide how far ahead it should plan. It will need to consider the Public Expenditure Survey which has a rolling three-year planning cycle. But where necessary plans should cover a longer period, so as to show all the stages of longer-term projects.

9.8 The NDPB should agree with its sponsor department its planning horizon, the degree of detail needed beyond the PES period, and the public expenditure assumptions on which it should prepare the plan.

### Timetable

9.9 The plans of NDPBs should be prepared in time to be taken into account in the annual public expenditure planning cycle. They may also be linked to the department's arrangements to help Ministers and senior managers review objectives, decide priorities and allocate resources. As the latter have various timetables, each NDPB should agree with its sponsor department when its overall spending plans will be required. It is likely to be well in advance of the first year of the planning period.

9.10 More detailed plans based on more firm assumptions will be required nearer the start of the financial year for the Supply Estimates, and for the Treasury's Financial Information System (FIS). FIS monitoring forms which require profiles of expenditure by, and payments to, the NDPB will be issued to it by the sponsor department if appropriate.

### Techniques

9.11 Decisions on expenditures should be competently appraised. NDPBs will normally be expected to follow the practice of investment appraisal in central government (see Appendix G).

9.12 Uncertainties about resources, priorities or performance which might have a major effect on plans should be tested. It may be necessary to offer two or more different plans based on different assumptions.

9.13 NDPBs with commercial interests should assess their pricing strategy and set their budgets in accordance with financial objectives agreed with the sponsor department. They will usually be required to earn at a specific rate of return on capital which will be indicated by the Treasury.

## ALLOCATING RESOURCES AND RESPONSIBILITY

### Individual accountability

9.14 The NDPB as a whole will be accountable for how it uses its resources and the results it achieves. In NDPBs which have substantial numbers of staff or spend large amounts of the taxpayer's money this accountability will be facilitated if it is underpinned by arrangements to make individual managers accountable to the senior management. A test of the need for these arrangements is whether or not individual managers can take decisions which use or commit manpower or money.

9.15 The essentials of individual accountability are clear targets (quantified where possible) for managers, well-defined responsibilities for making the best use of resources, and the means to assess their results.

### Targets

9.16 Targets for managers should be consistent with the overall objectives and priorities of the body, and with the results the individual manager can be expected reasonably to achieve with his/her resources.

9.17 Targets for administrative activities can often be defined in terms of the quantity and quality of work carried out. Targets for grants and other programme spending may be harder to define precisely. But an evaluation of the best ways of making progress towards general aims will often lead to simple intermediate targets: for example, the number of individuals or businesses who are helped to achieve a specified goal.

9.18 Measures of performance and output of this kind should be used as part of the overall planning process - to seek improvements in efficiency and progress towards objectives - and in appraising past performance.

### Responsibility for resources

9.19 The incentive for managers to get better value for money may be sharper if they have budgets and responsibility for managing their resources within them. Management accounting systems can be used to set and monitor such budgets, track performance, and compare actual results with plans.

9.20 When setting up budgeting arrangements an NDPB's senior management will generally wish to consider the following questions:

- a. what responsibilities for administrative costs and for programme spending are appropriate for the managers at successive levels. This is essential to clarify the roles of the line and the central organisation, and to assign budgets to the right levels;
- b. what it is feasible to decentralise. In particular whether all costs - including manpower - can be subject to budgets;
- c. what authorities managers should have to switch resources between different types of spending;
- d. how capital spending and revenues will be dealt with.

## **Assessing results**

9.21 In many areas of the public sector it is not easy to measure all aspects of output. Nevertheless efforts should be made to assess systematically:

- a. how efficient managers and activities have been: indicators of efficiency compare costs and outputs. It is often useful to compare them with results in other areas or with previous years' figures;
- b. how effective managers and activities have been in making progress towards the overall objectives.

## **INTERNAL MANAGEMENT ARRANGEMENTS**

### **Financial organisation**

9.22 The senior full-time official of an NDPB which receives grant-in-aid carries responsibilities similar to those of a departmental Accounting Officer. The chief executive or equivalent should be aware of these responsibilities and how they relate to those of the Accounting Officer in the department. Appendix I summarises the main points.

9.23 Larger NDPBs and those spending large sums may wish to appoint a finance officer or finance director. The duties of this officer will generally be outside the management line which has responsibility for budgeted money and manpower. The duties will more probably be to advise senior managers on financial policy and management, and to run the financial management systems.

9.24 Where budgets are used to give managers authorities to allocate resources the lines of responsibility should be clearly defined. For instance, it may be desirable to set up a management board or resource management group which brings together the chief executive, senior line managers, finance officer and other senior officials.

### **Training and staffing**

9.25 Staff with financial responsibility need the skills and experience to carry out their duties effectively. It may be particularly important to consider a training programme to equip managers with these skills, which may include managing people and effecting change as well as techniques of financial management, if they will be given budgets for programme spending or running costs. The NDPB should consult its sponsor department if it has doubts about the levels of skills and training required or how to obtain them. (Guidance needed by NDPB nominated directors to the boards of assisted companies is referred to in Chapter 5.)

### **Internal audit**

9.26 Internal audit:

- a. gives assurance to the NDPB's senior manager that the internal control system is satisfactory and operating effectively;
- b. serves individual managers by reporting to them on elements of the internal control system for which they are responsible.

NDPBs should make arrangements for internal audit in accordance with the objectives, standards and practices outlined in the Treasury's "Government Internal

Audit Manual". There should also be specific arrangements to report to the internal auditors and the sponsor department any cases of actual or suspected fraud.

### Reviews

9.27 The authorities for expenditure and manpower given to an NDPB need to be looked at from time to time along with the division of responsibility for making sure that satisfactory controls are applied.

9.28 Where an NDPB relies on government funding for a substantial part of its gross expenditure or running costs it will normally be subject to arrangements to assess the efficiency and value for money of its activities. This does not mean that it will not be given a great deal of delegated authority. It does mean that the department will wish to assure itself that there are arrangements to use resources efficiently, and to approve its organisation and plans.

## ANNUAL ACCOUNTS AND AUDIT

### Accounts

9.29 The Treasury will prescribe or approve the form of accounts in consultation with the sponsor department and National Audit Office. The sponsor department will issue an "accounts direction" specifying the form and content of a statement of accounts. The NDPB is responsible (subject to the department's authority) for running an estimating and accounting system which is geared to produce the estimates and accounts in that form by the dates required.

### Annual reports

9.30 Chapter 11 gives guidance on annual reports.

9.31 Arrangements for external audit will normally be decided before a body is established.

## NEW APPOINTMENTS

9.32 To avoid misunderstanding, Departmental Accounting Officers or their representatives should meet new chief executives on appointment to explain their respective roles. Points which may need to be discussed include:

- a. any restrictions or conditions on, for example, major capital spending;
- b. the NDPB's arrangements for manpower control - this is, ensuring that only essential work is done, that the organisation is sound and economical, and that numbers and grades of staff are adequate but not excessive (Appendix H gives more detail);
- c. the monitoring and forecasting of expenditure;
- d. the treatment of disposals, surpluses and receipts;
- e. the form of accounts, as directed in the Accounts Direction;
- f. reports to Parliament, department and public;
- e. internal and external audit.

## SUMMARY OF KEY POINTS IN CHAPTER 9

### Paragraphs

- 9.4-9.5            Priorities and objectives should be clearly defined, as should the mechanisms for keeping them up to date.
- 9.6-9.13          Planning horizons, techniques and timetables should be agreed with the department.
- 9.14-9.18        Targets for managers and performance measures should be used to seek better value for money.
- 9.19-9.20        Budgets can be used to sharpen responsibility and accountability.
- 9.22-9.25        The chief executive or equivalent of an NDPB receiving grant-in-aid should be aware of his responsibilities as "accounting officer" and make arrangements for advice and support.
- 9.26-9.28        Internal audit and other review arrangements should be agreed with the sponsor department.
- 9.29-9.30        Accounts and reports must be submitted: the form of accounts will be prescribed.
- 9.31              External audit of accounts will be required.
- 9.32              Newly appointed chief executives should ensure they are clear about their role and that of the department.

## CHAPTER 10: REVIEWS OF FINANCIAL MANAGEMENT AND POLICY

### INTRODUCTION

10.1 Most organisations need from time to time comprehensive reviews which question the need for their activities, the way they are managed and controlled, and their objectives and performance. This chapter is concerned with implementing the arrangements for such reviews announced by the Prime Minister on 19 November 1984 (see Appendix K).

### PROGRAMME OF FINANCIAL MANAGEMENT AND POLICY REVIEWS

10.2 The programme of work announced by the Prime Minister has two elements:

a. **Financial management surveys.** These are mainly aimed at executive, etc NDPBs. Their purpose is to examine the scope for improvements in the way NDPBs plan and control what they do, so as to produce better performance year by year. They should be carried out in partnership by sponsor departments and NDPBs, whoever is in the lead. The aim is to make tangible improvements in value for money from 1985-86 onwards, with the programme as a whole being substantially completed by April 1987.

b. **Policy reviews.** These are periodic reviews by sponsor departments of the basic justification, role and functions of each NDPB, and their relationship with departmental objectives. While it is sensible to allow some flexibility in timing, broadly executive bodies and tribunals should be covered every five years, and advisory bodies every three years.

### FINANCIAL MANAGEMENT SURVEYS

10.3 The aim of financial management surveys is to examine existing arrangements in sponsor departments and NDPBs, leading where necessary to effective plans for action on improvements.

10.4 Chapters 7-9 of this guide indicate the various aspects of organisation and management which may need attention. Also relevant is the report by the joint Financial Management Unit of the Cabinet Office and Treasury, "Financial Management Initiative: Non-Departmental Public Bodies" (November 1984, price £2.50 from Treasury and Cabinet Office Library) which contains a checklist of ground to be covered, including the effectiveness of both the arrangements and mechanisms by which departments influence their NDPBs and NDPBs' internal management systems. The checklist is reproduced at Appendix L.

10.5 Each survey should result in a plan for action to strengthen management and secure better value for money. In many cases, changes may be needed in systems, but systems are not an end in themselves. It is vital that departments and NDPBs use systems to assess performance, and to set objectives for improving it year by year. Sponsor departments should reinforce this where possible by setting value for money targets in key areas for their major NDPBs.

10.6 The timing and form of individual surveys will need to take account of relevant work already planned or in hand, and of the size and nature of the NDPB. In general, however, sponsor departments should:

- a. involve the NDPB fully in planning and carrying out a survey, and in the subsequent implementation;



b. use the checklists in the Financial Management Unit's report to identify priority areas and to develop plans for improvement.

10.7 A survey may be carried out by:

a. the departmental policy division responsible for the NDPB - in which case it may be important to draw on the services of departmental consultancy, inspection and review staff (management services, internal audit, staff inspection, and so on);

b. a nominated review officer, not normally responsible for the NDPB (again, supported as necessary by departmental consultancy, inspection and review staff). (It may sometimes be useful to undertake a survey as an efficiency scrutiny, with the help of the Efficiency Unit);

c. NDPB staff working to terms of reference, timescale and reporting arrangements agreed with the departmental policy division responsible for the NDPB. The implementation plan would need to be similarly agreed;

d. external advisers - eg management consultants or external auditors - commissioned by the sponsor departments or by the NDPB. Where it is proposed to use consultants, reference should be made to the Cabinet Office guidance, "Seeking help from management consultants" (£2.00 from Treasury and Cabinet Office Library). Sources of advice on consultancy firms (including the Cabinet Office Index of management consultants) are described in Appendix M;

e. a combination of these methods.

10.8 The preferred method will depend on various factors, notably the nature of the work, availability of necessary skills in the sponsor department or NDPB, and the sponsor department's relationship to the NDPB. Approach b. might be preferred for larger surveys where it is particularly important to ask fundamental questions whose answers might, with familiarity, be taken for granted. Departments may find it valuable to select one or more priority areas for early survey on these lines, as a model for future work.

10.9 Although it may be necessary to draw upon many sources of advice and expertise, one person should be responsible for each review, and should be given clear terms of reference. Equally, it is important that one person (not necessarily the person who carried out the review) has overall responsibility for drawing up and carrying through an implementation plan.

10.10 The aim should be an integrated approach, and one which avoids unnecessary proliferation of reviews in related areas. Most departments find it helpful to co-ordinate NDPB financial management work within departmental arrangements for top management to commission reviews and scrutinise performance. Whatever the arrangements adopted, there should be clear responsibility for:

a. ensuring that review timetables are set to meet central reporting requirements and that satisfactory progress is maintained;

b. checking that there are effective arrangements for consulting on, and clearing, reports, and that realistic implementation timetables are set;

c. drawing out general lessons from reviews, and disseminating best practice throughout the department; and

- d. co-ordinating contacts with the Treasury and the Cabinet Office.

10.11 Treasury expenditure divisions should be the initial point of contact for sponsor departments' questions about financial management surveys. They will be supported by the central staffs responsible for accountancy advice, management services, staff inspection, internal audit and so on. Departments are, of course, also free to use their working contacts with these specialists to seek views or advice. The paper "A Framework for Management Services" (details in Appendix J) outlines how management services divisions and other assignment forces can support managers seeking improvements in effectiveness and efficiency.

10.12 The Treasury and the Cabinet Office will disseminate any general lessons which emerge from the programme of surveys.

#### POLICY REVIEWS

10.13 The programme of policy reviews broadly continues that adopted in 1980. But there are changes in the detailed scope and timetable to reflect the introduction of financial management surveys.

10.14 Policy reviews are concerned with the justification for each NDPB; its structure and constitution, functions and policy objectives; and its relationship to its sponsor department. Appendix N sets out questions which policy reviews should address for executive bodies, tribunals and advisory bodies. These questions need to be interpreted flexibly; they may not all be relevant to a particular NDPB.

#### EXECUTIVE BODIES AND TRIBUNALS

10.15 Reviews of these bodies have been largely self-contained exercises, carried out on a five-year rolling programme. Increasingly, however, departments may find it convenient to address policy review issues for such bodies in the course of wider reviews. Where a financial management survey is planned it will normally be sensible to combine it with the policy review, or to conduct the two consecutively. In other instances, scrutinies of particular departmental policies or programmes, commissioned under departmental top management systems, will provide a convenient opportunity to examine the role of NDPBs in relation to those policies or programmes. A more flexible approach to planning a programme of reviews is therefore envisaged in future, though a five-yearly programme of review still seems broadly right. Responsibility for detailed timetabling - and for ensuring that each body is reviewed when its particular circumstances require - lies with sponsor departments.

#### ADVISORY BODIES

10.16 Advisory bodies should normally be reviewed every three years. It is for each sponsor department to decide whether to tackle one-third of advisory NDPBs each year, all of them every three years, or to follow some other pattern.

10.17 The Machinery of Government Division, Cabinet Office, is the main point of contact in the central departments for questions about policy reviews. It will liaise with Treasury expenditure divisions as necessary, in particular where policy and financial management reviews are combined, to monitor the overall progress of reviews.

## REPORTS

10.18 Guidance on reporting the results of surveys and reviews will be circulated by the central departments from time to time. In general, departments should inform Treasury expenditure divisions and the Machinery of Government Division, Cabinet Office of the conclusions of surveys and reviews and action to be taken as soon as feasible after the completion of each review.

## SUMMARY OF KEY POINTS IN CHAPTER 10

### Paragraphs

- 10.3-10.5 The aim of financial management surveys is to examine existing arrangements in sponsor departments and NDPBs, leading to a plan of action to strengthen management and secure better value for money.
- 10.6 The timing and form of surveys should take account of relevant work already planned or in hand, and the size and nature of each NDPB.
- 10.9 One person should be responsible for each review, and one person responsible for implementation.
- 10.11 Treasury expenditure divisions should be the initial point of contact for sponsor departments' questions about financial management surveys.
- 10.14 Policy reviews are concerned with the justification for each NDPB: its structure and constitution; functions and policy objectives; and its relationship to its sponsor department.
- 10.15-10.16 Responsibility for timetabling policy reviews is that of sponsor departments, with executive etc bodies and tribunals being reviewed at broadly five-yearly intervals and advisory bodies at three-yearly intervals.
- 10.17 Machinery of Government Division, Cabinet Office is the point of contact for sponsor departments in relation to policy reviews.
- 10.18 Conclusions of surveys and reviews and the action to be taken on them should be reported to the central departments as soon as feasible after the completion of each review.

## CHAPTER 11: PUBLIC DISCLOSURE OF INFORMATION

### ANNUAL REPORTS AND ACCOUNTS: GENERAL

11.1 Annual reports and accounts are the main vehicles by which NDPBs regularly inform Parliament and the public about their activities and expenditure. They should be as informative as possible, without being lavish, and should provide sufficient material for the reader to form a judgement on the costs and benefits of an NDPB's activities. If necessary the sponsor department should advise its NDPBs on the content of the report and accounts in order to achieve this, and considering the "accounts direction" to ensure that items of public interest are disclosed in the accounts.

### REMUNERATION AND EXPENSES OF MEMBERS AND STAFF

11.2 The following paragraphs set out requirements for disclosure of information about remuneration and expenses paid to members and staff of NDPBs. They apply to all NDPBs which spend money and publish accounts.

11.3 **Remuneration (chairmen and board members).** Information should be published in annual accounts in at least as much detail as required by the Companies Acts. The total amount of salaries, fees and taxable benefits should be shown, with the remuneration of the chairman (and that of the highest paid member if paid more than the chairman) shown separately. Particulars of members' remuneration should show the number (if any) who receive nothing or whose payments amount to not more than £5,000 per person, and then the numbers whose remuneration falls in bands of succeeding multiples of £5,000.

11.4 **Remuneration (staff).** Accounts should show the number of staff (if any) who receive £30,000 - £35,000 and then upwards in succeeding bands of £5,000. The average number of persons employed during the financial year, and employees' aggregate remuneration during the year, should also be given.

11.5 **Expenses.** Accounts should if possible show separately the total expenses paid to a. chairman and board members, and b. staff. If separate records are not maintained, a total figure may be given.

### "PUBLIC BODIES"

11.6 Since 1982, information about NDPBs has been brought together and included in the annual publication, "Public Bodies" (see paragraph 1.5). This lists bodies in existence at 1 April, and gives the following information about them:

**Advisory bodies and tribunals.** Relevant spending by the sponsor department; appointments and remuneration of chairman and members (men and women separately); availability of an annual report; any plans to merge or abolish the body; and (tribunals only) cases heard.

**Executive etc NDPBs.** As above, together with staffing and gross expenditure of the body; government grants; and audit arrangements.

"Public Bodies" is produced by the Machinery of Government Division, Cabinet Office to the following timetable:

- end April: commissioning letter to departments,
- end August: departments submit their chapters;

- end October: final clearance of printer's proofs;
- early December: publication.

The deadline for submission of chapters is quite tight for those departments with many NDPBs and sponsoring divisions. Co-operation in striving to meet it is much appreciated: importance is attached to publishing "Public Bodies" during the calendar year of its title.

#### INFORMATION FOR PARLIAMENTARY SELECT COMMITTEES

11.7 Departmental select committees are entitled to examine the expenditure, administration and policy of the "associated public bodies" of the departments concerned (see House of Commons Standing Order 99 [1983]). The term "associated public bodies" is not defined in Standing Orders, but the Chancellor of the Duchy of Lancaster said on 25 June 1979 (Commons Hansard, Column 44):

"The test in every case will be whether there is a significant degree of ministerial responsibility for the body concerned."

NDPBs which fall within the remit of a departmental select committee may find it helpful to see the "Memorandum of Guidance for Officials Appearing Before Select Committees" (issued to departments as CSD General Notice 80/38 on 16 May 1980). This gives general advice on the powers of select committees and the procedures and conventions relating to the release of official and classified information. The Machinery of Government Division, Cabinet Office can advise on any points arising.

#### SUMMARY OF KEY POINTS IN CHAPTER 11

##### Paragraphs

- |           |   |
|-----------|---|
| 11.1-11.5 | Annual reports and accounts should provide sufficient material for the reader to form a judgement on the costs and benefits of an NDPB's activities. This should include information on the remuneration and expenses of board members and staff. |
| 11.6      | "Public Bodies" brings together information about NDPB costs, staffing, etc.  |
| 11.7      | Parliamentary Select Committees are entitled to examine the expenditure, administration and policy of bodies for which there is a significant degree of ministerial responsibility.   |

**BODIES EXCLUDED FROM THE DEFINITION OF AN NDPB FOR THE PURPOSES OF THIS GUIDE**

ORGANISATION	REASONS FOR EXCLUSION
<b>a. Executive etc. type bodies</b>	
*Nationalised industries and other public corporations of a trading nature and companies in which the government has a majority shareholding	These should be looked at as industrial or commercial enterprises, not as adjuncts to government. Other arrangements exist for financial control and to ensure accountability for the use of public funds.
Universities ) *Broadcasting authorities )	These bodies too are not properly seen as adjuncts to government. Their operations must be seen to be largely independent of government policy influence. Methods of financial control must reflect this; the NDPB regime would not be appropriate.
*NHS Authorities	This group includes health authorities (including special health authorities) and certain other public bodies, the position of each 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 overseen by the health departments.
Agricultural Marketing Boards ) Port and Harbour Commissions )	These are essentially self-regulating bodies. Ministers appoint a minority of their members and have only limited influence over their activities. The NDPB regime would not be appropriate.
Parliamentary Commissioner for Administration ) National Audit Office )	These are "servants of Parliament"; special provisions have been made for their financial control and accountability.
<b>b. Advisory bodies</b>	
Departmental or inter-departmental committees consisting mainly of civil servants, concerned with the internal management or co-ordination of government business ) ) ) ) ) )	Special accountability arrangements are unnecessary, and would be inappropriate given that members serve ex-officio and are accountable to their employing organisations.
Working groups with membership drawn from the wider public service - eg comprising civil servants and representatives of local government, the NHS or the fire or police services ) ) ) ) )	

\* Information is published annually in the Cabinet Office booklet "Public Bodies" (HMSO).

**STRENGTHENING ACCOUNTABLE MANAGEMENT WITHIN A GOVERNMENT/CIVIL SERVICE FRAMEWORK**

GENERAL

B.1 An argument commonly advanced for hiving off executive functions to new NDPBs is that increased efficiency would result from giving managers greater freedom to manage their activities and resources within a defined policy framework, and holding them accountable for results. There is considerable scope for reorganising functions within government to achieve a substantial measure of "accountable management" in this sense. This Appendix describes the main approaches that have been used. Departments should consider the relevance of these approaches (which are not all mutually exclusive) as an alternative to establishing a new NDPB.

ORGANISATIONAL TYPES

**Non-ministerial department**

B.2 A non-ministerial (NMD) department is headed by a board or single office-holder, for whose appointment by Ministers special statutory provision has been made. Examples include

a. **NMDs headed by a board**

HM Customs and Excise  
Inland Revenue  
Charity Commission  
Intervention Board for Agricultural Produce

b. **NMDs headed by a single Office-holder**

Certification Office for Trade Unions and Employers' Associations  
Office of Fair Trading  
Office of Telecommunications  
Public Trustee  
Registrar of Friendly Societies

B.3 The board or office-holder(s) exercise statutory powers of their own which are not those of their Ministers. Where the body has its own Vote, the senior full-time officer is the Accounting Officer. An NMD will come under the wing of a departmental Minister, who may also have specific powers in the field in which it operates. The Minister is answerable to Parliament for the NMD's general role and functions, and for its resourcing and cost-effectiveness. Most commonly, NMDs have been set up to administer taxes, licences, or other schemes affecting the interests of the private citizen, where detailed ministerial involvement has been considered unnecessary and/or inappropriate.

**Subordinate department**

B.4 This term is sometimes used to describe certain small departments which are in effect "satellites" of a main department, whose Ministers answer in Parliament

for it. (Unlike an NMD, its senior officers have no independent statutory powers.)  
Examples are:

Export Credits Guarantee Department  
Government Actuary's Department  
Royal Mint  
Central Office of Information  
Scottish Courts Administration  
Office of Population Censuses and Surveys  
Department for National Savings

As the list indicates, subordinate departments are typically responsible for a self-contained area of work which does not have a high policy content.

### **Departmental agency**

B.5 A number of departmental agencies were established during the 1970s, in part prompted by the Fulton Report's recommendation that much executive work would benefit from being off into accountable management units ("The Civil Service" - report by Committee under Lord Fulton, 1968 Cmnd 3638). There is no unique definition of what constitutes an agency, but organisations with this nomenclature have shared the following characteristics

- a. responsibility for a large, largely self-contained block of executive-type work
- b. no specific statutory backing
- c. where the agency has its own Vote, the senior full-time official (normally designated Chief Executive) is the Accounting Officer

Existing agencies are the Property Services Agency and the Procurement Executive of the Ministry of Defence.

### **Management board**

B.6 The term "board" may be used to describe a variety of different kinds of body, ranging from directing boards with full decision-making powers (similar to those of commercial companies), through informal groupings of senior executives, to bodies of an essentially advisory nature which happen to have the word "board" in their title. Paragraphs B.7-B.9 consider the use of "boards" in the first of these senses: more specifically, as a body which has formal decision-making powers conferred on it either by delegation or by statute.

B.7 Historically boards of this kind have played an important part in British administration. Some, like the boards of Admiralty and Treasury, were single great offices in commission, and the Senior Commissioner became in effect a Minister *ex officio*. Others, like the Board of Trade, were Committees of the Privy Council. The only existing such boards are those heading non-ministerial departments (see paragraphs B.2-B.3), and the Manpower Services Commission and Health and Safety Commission.

B.8 Any proposal to establish a new board raises potential problems of accountability, which need to be considered. There are two key principles. First, a board's responsibilities should be clearly defined so that disputes do not arise between it and the sponsoring Minister. Either the statute should create the board and give it precise powers, or it should provide that the Minister concerned should



be able to delegate (preferably in some public manner) certain powers to the board. Second, the concept of corporate responsibility must not be allowed to blur clear lines of managerial accountability to Ministers on which effective financial management depend. This needs to be taken into account in defining the respective roles of Chairman, Chief Executive if any, and board members. Detailed reporting arrangements - notably whether a board should report to a Minister directly, or via the Permanent Secretary - would need to be decided in the particular case.

B.9 One argument for a corporate decision-making structure - relevant in setting up the Manpower Services and Health and Safety Commissions - has been to allow for the representation of outside interests. This method will, however, only be appropriate if the Secretary of State appoints the board's members, and has the power to dismiss them if they cannot accept his decisions. (Other statutory control powers will also be needed - see Chapter 3 and Appendix C).

B.10 A further argument sometimes used for setting up a board is to involve part-time directors with relevant business experience in management. However, it is not essential, and may be inappropriate, to set up a board with full executive powers (as discussed in paras B.7-B.9) in order to benefit from outside advice. More effective methods may be: using consultants; appointing an advisory committee; or appointing a minority of outside members to a less formal type of "board". Boards whose powers fall short of full corporate executive responsibility have been set up in a number of departments to bring together senior officers for regular meetings about current business. Among boards which include outside members are those of the Royal Mint and the British Overseas Trade Board.

#### DECENTRALISATION OF DECISIONS ON RESOURCE CONTROL

B.11 Where the scale of an activity is insufficient to justify any of the radical re-organisation options discussed above, departments have substantial scope for decentralising to cost or responsibility centres day-to-day decisions on how resources should be used and responsibility for planning future activities and resources. Such arrangements are being used increasingly to clarify the responsibility and accountability of Civil Service managers. Typical features of this kind of approach are:

- a. **an effective management structure:** aiming at the maximum delegation of decision-making commensurate with effective control and accountability;
- b. **more autonomy in resource use:** there may be increased delegation for example in some or all the following areas:
  - authorisation, allocation and grading of posts; authorisation of overtime;
  - career development, training, promotion, recruitment, location of work, leave arrangements;
  - property: subject to PSA agreement, charging and management arrangements which give stronger control over the timing and priority of new works and maintenance, rationalisations, and disposals;
  - plant and equipment purchases;
- c. **a management accounting system** which identifies the costs (and attributable income where appropriate) of each main activity, at each significant management level;

d. **effective arrangements** for planning, objective-setting and performance monitoring.

B.12 Where a particular central department rule or practice is seen as an obstacle to strengthening accountable management in this way, the department concerned should be prepared to make a detailed case for its easement, unless this would obviously be impracticable.

#### **Manpower control**

B.13 Civil Service staff numbers are included in the manpower count and so subject to prevailing government policy on Civil Service manpower numbers. Currently the government's aim is to reduce manpower numbers. It is not, however, government policy to impose manpower reductions where there is a good case for maintaining the status quo, or for increased manpower, though in many cases there will be scope for reduction through higher productivity and more efficient operations.

#### **Pay and grading**

B.14 Civil Service pay and grading arrangements are negotiated centrally and generally apply to the service as a whole. But departments are encouraged to make full use in suitable cases of, for example, fast stream or accelerated promotion; trawling of "opportunity posts"; and the increased opportunities for lateral transfers provided by unified grading. Exceptionally, the establishment of departmental grades to deal with limited numbers of specialist posts can be considered where there is a well-established management case. There is also flexibility in the pay that can be offered on a "market rate" basis where necessary to recruit individuals from outside with particular skills or experience.

#### **Common service agencies**

B.15 Departmental autonomy vis-à-vis the common service agencies (including HMSO, PSA and CCTA) is increasing in various ways. Examples are: untying purchases of office goods and services, and minor maintenance work; greater freedom to choose information technology options; and encouragement of competitive tendering for catering services.

### **COMMERCIAL-STYLE (ACCRUALS-BASED) ACCOUNTING SYSTEMS**

#### **Trading accounts**

B.16 Accounting for public expenditure is normally on an annualised basis. Departments plan and account for their expenditure a year at a time, corresponding with annual votes on Supply Estimates and the Appropriation Acts, and unspent surpluses cannot be carried forward. The Appropriation Accounts do not, however, provide sufficient information for the effective and efficient management of certain activities. Accordingly, the Exchequer and Audit Departments Act 1921 empowered the Treasury to "direct or approve statements of account showing income and expenditure of any shipbuilding, manufacturing, trading or commercial services conducted by a department, together with such balance sheets and statements of profit and loss and particulars of cost as the Treasury may require."

B.17 Trading accounts usually consist of a balance sheet, and a trading and profit and loss account, that is, they are on an accruals basis. They provide the following information which is not available in Appropriation Accounts

- a. the periodic consumption or other loss of value of fixed assets, such as buildings, equipment and machinery;
- b. resources consumed rather than paid for eg cost of stores used in the activity;
- c. any services provided by other departments free of charge;
- d. notional costs: interest on capital employed and insurance;
- e. amounts owed by or to the organisation;
- f. value of stocks of raw materials and finished goods;
- g. value of work in progress; and
- h. the unconsumed value of fixed assets.

B.18 There are several different kinds of trading account

- **White Paper Accounts** are published in a single White Paper, covering inter alia: lands managed and farmed (MAFF and DAFS); offshore petroleum installations facilities (DEN and SDD); and certain ECGD functions;
- **Production Accounts.** These cover certain MOD activities, and are published with the Defence Appropriation Accounts; and
- **Memorandum Trading Accounts (MTA).** These are not an integral part of a department's accounting system, and the information they contain is either extracted from the system, or estimated. There is rarely a balance sheet, the main purpose of MTAs being to ensure that relevant costs are fully recovered. MTAs are never published.

### Trading funds

B.19 Provision is made in the Government Trading Funds Act 1973 for a Minister, with Treasury concurrence, to establish such a fund by Order, for a service whose operations "consist of or include trading operations ...". Instead of relying on the annual authority of Estimates and the Appropriation Acts for its expenditure, an organisation financed by means of a trading fund (sometimes called a revolving fund) is not subject to the constraints of annuality but operates on a continuing commercial basis from year to year. Key elements are:

- On current account, receipts are applied to meet outgoings; the organisation pays, and is paid for, all goods and services received or provided.
- Trading funds have capital in the form of loans from the National Loans Fund and, where appropriate, Public Dividend Capital (PDC), and have to service debts from earnings. Dividends are declared and paid on the PDC. Net requirements for working capital, and short-term financing, are covered by loans from the National Loans Fund.

- Cash balances are carried forward from one year to the next, and retained surpluses ploughed back.
- A fund is statutorily required to break even taking one year with another, and to achieve any further financial objectives determined from time to time by the responsible Minister with Treasury concurrence.
- The annual accounts of the Trading Funds are published individually as White Paper accounts, in similar form to those of commercial companies.

B.20 Trading funds have been set up for the Royal Mint, HMSO and The Crown Suppliers. A move to trading fund finance is usually made as part of wider changes designed to strengthen an organisation's efficiency and effectiveness and to establish it as an accountable management unit. In particular, for a trading fund to operate the organisation must

- have an adequate management accounting system, and means of assessing performance;
- have sufficient management autonomy, including the use of resources; and
- be able to separate its responsibilities clearly from those of its customers.

Assuming these requirements can be met, the switch from Vote to trading fund financing is most likely to be conducive to efficiency where the organisation is engaged in trading activities which may be liable to significant fluctuations in demand; and where the functions of management include the active management of assets, whether fixed assets or working capital.

B.21 The Treasury Office of Accounts can advise further on accounting methods, and on whether trading fund financing might be suitable.

## GUIDANCE ON THE APPROACH TO LEGISLATION

### GENERAL

C.1 Conferring functions on an NDPB involves recognition that a degree of independence of Ministers in carrying out those functions is appropriate. Nevertheless, Ministers may be answerable to Parliament for a failure to take controls that are necessary or advisable especially in the case of an NDPB which is to receive public funds. Ministers may also be answerable if, having taken responsibility by establishing such controls, they fail to use the controls properly. Legislation must strike a balance between enabling the Minister to fulfil his responsibilities to Parliament and giving the NDPB the desired degree of independence. The balance will depend largely on the nature of each NDPB's functions and on the reasons for distancing these from government.

C.2 It may be appropriate to provide for certain controls other than through legislation: 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 detailed arrangements are not embodied in legislation.

C.3 Ideally, ministerial powers over an NDPB (statutory or otherwise) should rest with one sponsoring Minister. If two or more Ministers are involved there is a risk of uncertainty about the precise division of responsibilities and about who should answer in Parliament; an NDPB might also encounter difficulties in serving two or more "masters". In certain cases, however, shared ministerial responsibility may be unavoidable.

C.4 Except where the Minister is not a Secretary of State, statutory powers are normally vested in the Secretary of State at large. It will generally not be appropriate to name individual Secretaries of State in statute unless there is a particular reason for limiting performance to a named Secretary of State. The precise allocation of responsibilities should, however, be decided at an early stage and made clear during the passage of the legislation if there is any room for doubt.

C.5 Typically, legislative provision will cover some or all the matters listed below. More detailed advice on the provision to be made on each aspect is contained in the body of the Guide.

### POWERS AND OBLIGATIONS OF THE BODY

C.7 The statute should define clearly the NDPB's functions, the method of funding, and other specific powers and obligations. Provisions such as the following are frequently included:

- a. power to appoint staff;
- b. power to pay salaries, allowances and pensions;
- c. power to raise money by levies or charges, and/or to borrow and lend;
- d. enforcement powers where appropriate;

e. 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);

f. power to create subsidiary organisations;

g. obligations to make suitable external audit arrangements; to submit accounts by a certain date; and to lay audited accounts before Parliament and to publish them;

h. the obligation to inform Parliament of its activities through an annual report;

i. a declaration of whether the body exercises its functions on behalf of the Crown (unless there are other means by which status can reliably be inferred).

## MINISTERIAL POWERS

C.8 The statute should normally provide suitable powers of appointment and dismissal over the chairman and board members. The following are some examples of additional provisions that may be needed:

a. a requirement that the body exercise particular functions subject to guidance from the Secretary of State, and/or in accordance with plans approved by the Secretary of State;

b. general or specific ministerial powers of direction;

c. exercise of certain financial powers - eg borrowing, or capital expenditure - to be subject to ministerial approval or consent;

d. staff numbers, terms and conditions, and superannuation arrangements to be subject to departmental approval and Treasury consent;

e. powers to require the production of information which Ministers need in order to answer satisfactorily for the body's affairs.

C.8 The nature of the controls will depend both on the NDPB's functions, and on the closeness of supervision which Ministers wish to exercise. In particular, the controls mentioned at d will not generally be appropriate for bodies which receive less than 50 per cent of their funds from government. For all bodies in receipt of government funds, more detailed provisions for financial control and the provision of information are likely to be included in the conditions attached to the grant-in-aid. Further guidance is in Chapter 8.

## "SHADOW" ORGANISATION

C.9 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.

C.10 Shadow arrangements have been subject to some criticism in Parliament, especially where the proposal to set up the NDPB 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.

### Sunset legislation

C.11 Departments should consider whether the legislation setting up a new body should include provision for it to be wound up without fresh primary legislation once its task is completed

## DISSOLUTION OF NDPBs

D.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 an NDPB Ministers may 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. Care should be taken to ensure that such winding down does not conflict with any legal duties of the NDPB or of Ministers to the NDPB.

## STATUTORY BODIES

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

## SURRENDER OF ROYAL CHARTERS

D.3 If a chartered body is to be dissolved, arrangements must be made for the Charter to be surrendered following dissolution. This is done by the body 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.

D.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 COMMISSIONERS

D.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.

D.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 HOUSE OF COMMONS DISQUALIFICATION

D.7 Where an NDPB 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 to the House of Commons Disqualification Act 1975. Where an NDPB is to be dissolved by other means, the Machinery of Government Division, Cabinet Office should be informed by the sponsor department so that the entry can be removed from the Schedule in due course by Order in Council.



## COMPENSATION FOR REDUNDANCY

D.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 4.20. Staff who are made redundant will normally be entitled to the benefits referred to in paragraph 5.23. The sponsor department should check that the statutory powers are adequate to pay compensation; if not, provision should be included in the winding-up legislation. If staff are to be transferred with their work to another body on terms which are no less favourable, taken as a whole, paragraph 5.5 of this Guide is relevant.

## RESIDUAL SUPERANNUATION LIABILITIES

D.9 When an NDPB is abolished, the sponsor department should establish that adequate powers exist to meet residual superannuation liabilities for board members and staff. Inadequacies should be remedied in any legislation to abolish the body. The source of finance to meet the residual liabilities should also be carefully determined, particularly when the NDPB was only partly grant-aided. 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 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.

## PUBLIC RECORDS

D.10 The sponsor department's Departmental Records Officer should be asked to advise about what should happen to the records of an NDPB that is to be abolished. If the body is being superseded by another - and there is to be legislation - it may be appropriate to provide for the transfer of records. When an NDPB is abolished without its functions being transferred elsewhere, arrangements should be made for the disposal of those of its records worthy of permanent preservation. Records of bodies subject to the Public Records Acts should be transferred to the Public Records Office in the normal way (see Chapter 5). Those of other bodies can, with the agreement of the Keeper of Public Records, be accepted by the PRO as a deposit or gift. Arrangements are described in RAD Occasional Paper No 6 (revised 1984) available from the Records Administration Division, Public Record Office, Kew, Richmond, Surrey.

## DISPOSAL OF GOVERNMENT-FINANCED ASSETS

D.11 Guidance is given in Chapter 8.

**POLITICAL ACTIVITIES: RULES FOR THE GUIDANCE OF MEMBERS OF PUBLIC BOARDS**

- E.1 Members of boards, whether whole-time or part-time, should not serve as officers carrying out executive duties in any political party.
- E.2 Whole-time members should abstain from controversial political activity.
- E.3 Subject to E.1 above, part-time members should be free to engage in any political activities, provided that they are conscious of their general public responsibility and exercise a proper discretion, particularly in regard to the work of the boards of which they are members. On matters affecting that work, they should not normally make political speeches or engage in other political activities.
- E.4. Members of boards, whether whole-time or part-time, who are also Members of the House of Lords will no doubt wish to be guided in their conduct in that House by the statement made by Lord Addison in the House on 21 March 1951 (see Annex I).
- E.5 All members of boards should be free to maintain associations with trade unions, co-operative societies, trade associations, etc to the extent that such associations do not conflict directly with the interests of the boards to which they belong.
- E.6 Any member of a board who is doubtful about the application of these rules, or about the propriety of any political activity, should seek guidance from the Minister responsible for the board.
- E.7 The foregoing rules apply equally to political activity on behalf of any of the political parties.

**ANNEX I: PEERS AND PUBLIC BOARDS**

**Extract from House of Lords Official Report 21st March, 1951. Col. 1241-2**

**Lord Hawke:** The Question is

To ask His Majesty's Government whether they have any statement to make on the invitation made by the Leader of the House to the Leaders of the Opposition Parties to discuss the position of Peers of Parliament who are members of the boards of socialised undertakings, including the BBC.

**The Lord President of the Council (Lord Addison):** My Lords I am grateful to the noble Lord for giving me this opportunity of informing the House that these

discussions have taken place and memoranda have been exchanged, and, as a result, I am able on behalf of the Government to make a statement to which the Leaders of the Parties opposite have agreed:

1. In the first place, we are agreed that only the Peer concerned can in the last resort decide whether he shall speak in the House on a particular occasion.
2. Nevertheless, we are agreed there are certain general considerations which it would be right that the House and the Peer should take into account.
3. When questions affecting a particular board or public boards in general arise in Parliament, the parent Minister and the Government of the day generally are alone responsible to Parliament. The duty of reply rests with Ministers only, and cannot devolve upon members of public boards who may also be members of the House of Lords. There can be no question of board members replacing, or usurping the functions of, Ministers and dealing with matters of ministerial responsibility. In the Commons, of course, the possibility could not arise, because a Member of the House must resign his seat on accepting an appointment of this nature.
4. Further, we agree that it is important that, as contemplated by the Statutes and, in the case of the BBC, by the Charter, the boards shall be free to conduct their day-to-day administration without the intervention of Parliament or Ministers, except where otherwise provided. If board members who happen also to be Peers were to give the House information about the day-to-day operations of the board or to answer criticisms respecting it, the House would in fact be exercising a measure of Parliamentary supervision over matters of management. It would also be difficult for the responsible Minister not to give similar information to the House of Commons.
5. We also agree that there is no duty upon the board member to answer questions put to him in debate, and that no criticism should attach to any member of a board who refrains from speaking in a debate. Nor should the fact that a member spoke in a particular debate be regarded in any way as a precedent for him or any other member speaking in any other debate.
6. Finally, I should like to make it clear that what I have said applies only to debates relating to public boards. Experience acquired as a member of a public board will often be relevant to general debates in which the same considerations do not arise, and the contributions of board members who are Peers may be all the more valuable because of that experience.
7. We do not think that this Statement can better be summed up than by words taken from one of the memoranda exchanged:

"The House of Lords is a sensible body; and the latitude to speak or refrain from speaking, inherent in a Peer, is not likely to cause embarrassment. Indeed, any attempt to lay down a hard and fast rule would be more likely to cause embarrassment".

## DELEGATION OF AUTHORITY TO PUBLIC BODIES AND CONDITIONS ATTACHED TO GOVERNMENT FUNDING

F.1 Government finance is provided to NDPBs for the purposes of their activities. The bodies concerned are then subject to controls and safeguards exercised by the sponsoring Minister. These must be set out clearly if the NDPB and the department are to know their respective responsibilities.

F.2 The arrangements between the body and the department should be set out in a Financial Memorandum as conditions to be attached to the issue of any grant-in-aid. It is not possible to give an exhaustive list which meets all circumstances. But the following points will normally need to be considered.

### GENERAL

F.3 There should be:

- a. a clear statement of the main purposes for which the grant is issued and a requirement to seek the sponsor department's consent before embarking on new commitments beyond those covered by the statement;
- b. requirements to comply with accepted recommendations of the Public Accounts Committee or other parliamentary authorities, whether in relation to the body or of more general application;
- c. requirements for the NDPB to plan and manage its resources economically, efficiently and effectively, by means of appropriate systems of financial and manpower control including right of access by the sponsor department's staff to carry out reviews;
- d. a clear statement of any powers which are reserved to the Minister to direct the NDPB, eg in its use or subsequent disposal of assets.

F.4 When making a grant-in-aid available for the first time or for new purposes it may also be appropriate to make a public statement about the relationship between the NDPB and the sponsor department, eg about the policy framework within which it will work.

### FUNDING AND ACCOUNTING

F.5 The conditions attached to grants-in-aid should normally include:

- a. the headings under which the NDPB is to account to the department, and the limits within which it may transfer money from one heading to another without departmental approval. Where the grant involves significant expenditure, a breakdown between these headings should normally be annexed to the department's Supply Estimate;
- b. the conditions governing fees and levies, the treatment of receipts, the surrender of surpluses to the Consolidated Fund and the level of cash balances and reserves;

c. any controls the sponsor department will exercise 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 for only insignificant amounts);

d. any powers the NDPB will have to write off losses and make special payments;

e. the arrangements for the NDPB to submit Estimates and for the preparation, audit and publication of accounts. 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.

#### DELEGATED AUTHORITIES

F.6 Within the limits of their own delegation and where appropriate, the department should set out authorities which it is agreed should be exercised by the NDPB and the degree of control it will reserve. This may include general money limits and criteria and specific provision to be applied to decisions on:

- a. pay, allowances etc;
- b. manpower numbers and grading;
- c. capital spending;
- d. setting fees and charges;
- e. discretionary and ex gratia payments;
- f. payments of a novel or contentious nature.

F.7 Limits should be set on delegated authorities by fixing monetary ceilings or other criteria until the department is wholly confident of the NDPB's internal planning and control systems. It should wish to make arrangements to assure itself of the effectiveness of those systems by receiving regular information from the body, assessing individual cases and, from time to time, reviewing the use made of delegated authorities. Appendix G gives guidance on the exercise of delegated authorities for major items of expenditure.

#### DISPOSAL OF ASSETS

F.8 Conditions of government funding should usually cover the arrangements to be made when assets acquired or improved are sold or used for purposes other than those for which funds were provided. In these circumstances the proceeds of the sale should normally be surrendered to the Consolidated Fund, or sponsor department (depending on the circumstances) if appropriate by taking the receipts into account when determining the level of government funding. If government funds met less than the whole cost of acquisition or improvement then proportion should be surrendered. In some cases, receipts surrendered to the Consolidated Fund may form part of the Government's privatisation programme and be classified as special sales of assets; the Treasury's advice should be sought in cases of doubt.

F.9 The same conditions apply to grants made by an NDPB in receipt of government funds to others.

F.10 In order to meet these requirements it may be necessary to require that:

- a. legal advice is taken before entering into a contract; and
- b. any disposal which is not a sale at arm's length should be deemed to be a sale at a price determined by the District Valuer.

F.11 Other arrangements should be allowed only if provided for in the conditions attached to the grant or if specifically approved by the Treasury. For example, special arrangements allowing (partial) retention of receipts by certain large asset holding bodies, and by other bodies as well where the disposal of surplus land or buildings is involved, have been agreed with the Treasury. The need to encourage disposal of surplus assets, and the subsequent use to which receipts will be put, are important considerations in these cases.

#### **Administrative Practices**

F.12 The conditions attached to funding may include:

- a. accounting requirements;
- b. procedures for contracts (eg. about tendering and competition policy);
- c. banking procedures;
- d. property transactions;
- e. insurance or non-insurance;
- f. personnel management;

and other guidance and instructions specific to the body or department, or taken from general guidance issued by the Treasury or Cabinet Office. Examples of the latter are included in the bibliography at Appendix J.

## PLANNING AND CONTROLLING MAJOR EXPENDITURE

G.1 The following paragraphs give guidance on the arrangements a sponsor department and an NDPB should make for planning and controlling major expenditure decisions. The guidance also illustrates the principles which apply to other resources and types of spending.

### INVESTMENT APPRAISAL

G.2 It should normally be a condition of delegated authorities that departments use appropriate investment appraisal methods. Appropriate appraisal will also be expected to accompany requests for approval of expenditure above delegated limits. Investment appraisal is not a standard drill; it is a sensibly ordered, but very flexible, approach to expenditure decisions. It involves deciding the objectives of an expenditure proposal, considering the ways of meeting them, and working out and presenting the cost and benefits of each option to aid decision-making.

G.3 The Treasury produces technical and management guides on investment appraisal in the public sector (see Appendix J for references). These should be drawn to the attention of those who deal with capital projects and other spending proposals.

### RESOURCE ALLOCATION

G.4 The effects of implementing a project on the resources required by the NDPB must be considered. Funds need to be available in each relevant year's cash limit, taking into account any flexibility that might be available under the arrangements for carry forward of unspent capital provision, to enable the project to proceed according to the planned timetable. If these are not reflected in the current plans for resource allocation (eg the Supply Estimates and Public Expenditure Survey) the body will need to consider the possibilities for reallocating resources or varying the timetable.

### AUTHORITY TO PROCEED

G.5 Proposals for major capital projects with resource implications extending beyond the current year will virtually always be referred to the NDPB's Finance Officer and senior management before final decisions are taken. Where the process leads from there depends on the scale of the project in relation to the authorities delegated to the body and the results of the investment appraisal.

G.6 NDPBs which have proven systems for appraising capital projects may have authority to approve projects subject to certain conditions. These may include a monetary ceiling on the amount of expenditure they may authorise; a timescale for completing the project; and a minimum rate of return. In such instances the body should, however, still inform its sponsor department of the development of the project and its decision. This is essential both to keep the department in touch with the NDPB's developing plans and resource allocation, and to give it an opportunity to use the project as an example of how the body carries out such appraisals. Reviews of such cases are an important means for departments to satisfy themselves that delegated authority is being operated effectively. They provide vital evidence when delegated authorities are reviewed.

G.7 For other NDPBs and other projects the department's (and the Treasury's) prior approval may be needed. The request for approval should be supported by an investment appraisal. This appraisal is likely to be interpreted as an indicator of the strength of the NDPB's management systems.

#### CONTROL

G.8 Before a project is approved detailed cost estimates for each stage should be prepared for control purposes. Then, during implementation, responsibility for controlling the project should be given to an identified manager who will receive:

- a. regular reports of the progress of the project in relation to the programme or contract;
- b. costs compared with the estimates, in total and broken down by major components;
- c. forecasts of costs to completion (including any variations from plan) as compared to the original estimates;
- d. accounts of cash payments made, commitments to make payments for the current year and for future periods, and forecasts of further cash requirements to complete the project.

#### MONITORING

G.9 Once a project is completed:

- a. the total cost (taking account of outstanding contractual claims for expenditure committed) should be compared with the original estimates;
- b. the operating costs should be monitored periodically and compared with those estimated in the original investment appraisal.

Where NDPBs have major capital spending functions and undertake numerous projects, it may be appropriate for sponsor departments to monitor performance on a more selective basis.

G.10 These comparisons are important as indicators, for the NDPB and for the department, of the strength of the original investment appraisal, and as a basis for improving subsequent appraisals.



## RUNNING COSTS CONTROL IN NDPBs

H.1 Since for many NDPBs expenditure will be primarily on staff and associated costs, effective running costs control is particularly important.

H.2 An NDPB should have an effective running costs control system, and this should be made a condition attached to the grant. An effective control system will ensure that only essential work is done, that the organisation is sound and economical, that staff numbers are adequate but not excessive and that appropriate grading standards are being met. Criteria for judging whether an NDPB has an acceptable system are given in paragraph H.7.

H.3 NDPBs vary widely in character, dependence on government funds and extent of independence of sponsor departments. The guidance below gives an indication of which features should normally apply to controlled NDPBs. For other NDPBs control the arrangements should be considered case by case; normally the higher the proportion of government grant and the larger the amount of government grant the closer the arrangements should adhere to the regime for controlled NDPBs. The guidance does not apply to those NDPBs whose staff are included in the Civil Service manpower count. It is assumed that the staff of controlled bodies are brigaded on Civil Service lines; this is true of the great majority. The same principles will apply in other cases; guidance should be sought from central departments where there are difficulties.

## CONTROLS

H.4 The controls on the number and grading of staff and other elements of running costs needed within an NDPB and by the sponsor department are for the sponsor department to decide in consultation with the body, taking account of such factors as the number of staff, size of administration costs and the proportion they represent of the body's gross expenditure.

H.5 There should be a system of staff inspection, or other equivalent review arrangements, as described in the Treasury note on the future role of staff inspection (see Annex I). (Paragraph 16 refers particularly to NDPBs. Staff inspection is a formal check on the planning, allocation and use of manpower resources. Features of an acceptable system are:

- a. managers in the NDPB should have up-to-date and accurate information on matters set out in paragraph H.4 above;
- b. there should be regular and systematic arrangements for line management to review the need for work and whether functions should be dropped as well as taken on;
- c. there should be evidence that productivity gains are being made;
- d. there should be evidence that grade structure is kept under close scrutiny; and there should be no grade drift (that is the proportion of senior staff should not increase without very good reasons).

All these features are appropriate to all NDPBs, not just controlled bodies, but the level of detail with which they can and should be investigated will vary according to

individual circumstances. Systems will need to be kept under review in the light of developments in the financial management systems of both sponsor departments and NDPBs.

H.6 The approval of the sponsor department should be required for the creation of posts above an agreed level. Where authority has been delegated to the sponsor department to create Grade 5 posts the personal approval of the Permanent Secretary of the sponsor department is required for Grade 5 posts created in the NDPB. The approval of the Treasury should be sought for all proposed posts above the level delegated to the sponsor department for its own staff.

#### INFORMATION

H.7 Sponsor departments need to know about the demands for resources in the NDPBs and they need sufficient information to decide how, and to what extent, demands can be met. Information flows should provide details of, inter alia:

- a. tasks where workloads are declining, or where there is no change, and new tasks or those with increasing workloads;
- b. the numbers and grades of staff allocated to the main tasks currently and in forward plans;
- c. the priorities between tasks.

H.8 The frequency of information flows should depend on the circumstances of the NDPB. For most controlled NDPBs once a year will be appropriate. Less detail may be appropriate for other NDPBs, although some details on the lines of paragraph H.7 will always be needed.

H.9 The maintenance of tight financial controls on NDPBs may itself do much to ensure effective control of their running costs although this will depend on the mix of administrative and other expenditure covered by the grant. Treasury Expenditure Divisions will make their agreement to grants to NDPBs conditional on assurances that effective running costs control systems are in operation and that reviews or audits are being done on time; and on a sensible level of implementation of the recommendations of such reviews.

## ANNEX I: THE FUTURE ROLE OF STAFF INSPECTION

### A note by HM Treasury

#### INTRODUCTION

1. In 1949 the Treasury delegated to departments extensive responsibilities for determining numbers and grading of staff. Since then staff inspection has gone hand in hand with delegation and has been an essential ingredient of departments' manpower control arrangements.
2. Although it may be used in other ways, staff inspection is primarily a formal check on the planning, allocation and use of manpower resources. Briefly, it does this by examining:

- a. **Need** - to ensure that only necessary work is done (and that necessary work is not left undone);
  - b. **Organisation** - to ensure that it is sound and economical;
  - c. **Numbers** - to ensure that they are adequate but not excessive;
  - d. **Grading** - to ensure that grading standards are being met.
3. The role of staff inspection has been re-examined by the Treasury in conjunction with departments because:
- a. departments are changing the way they plan, allocate and control their use of manpower. Increasingly, changes in financial management are giving individual managers delegated budgets within which they have much more flexibility in determining the organisation of work and the numbers and grading of staff. This is changing the managerial environment within which staff inspection has to operate;
  - b. of comments and recommendations arising from the 1984 review of consultancy, inspection and review capabilities on how staff inspection and other management support activities might be best organised and used to help new budgeting arrangements to work successfully;
  - c. some departmental Ministers have suggested that staff inspection programming should be more selective and that the performance indicators for staff inspection should be improved;
  - d. the PAC and NAO want staff inspection to be strengthened and the government have given commitments to them on maintaining and improving the inspection process.
4. The view on the future role of staff inspection that has been drawn from this review is set out below. This is seen as part of an evolutionary process linked closely to progress with other developments aimed at securing better control of resources, so the Treasury will continue with departments to keep the role of staff inspection under review.

#### THE FUTURE ROLE OF STAFF INSPECTION

5. As changes in financial management work through, increasingly it should be:
- a. line managers who themselves judge and bid for the manpower and other resources they require in order to achieve their objectives; and
  - b. the process of bidding, allocating budgets, monitoring and reviewing which provides the main central control over manpower (and other) resources.
6. In support of their work under 5a. above, line managers will from time to time need independent advice on the matters listed in paragraph 2. Similarly, top management (who are, of course, also line managers) will need such advice when examining and challenging budgets under 5b., and to satisfy themselves that the department is economically run. Both these aspects provide a continuing role for staff inspection.
7. As the improved arrangements for financial management become effective, and line managers at all levels become more skilled at managing their manpower

budgets, the balance between the staff inspection effort under 5a. and 5b. may vary. The success of the wider changes relies on the judgement and motivation of individual managers. They need to be given reasonable freedom of action to maximise their efficiency within budgetary limits. Nevertheless, there will still be a continuing need for top management to have staff inspection available to it because:

a. the Government wishes to maintain firm control of Civil Service costs, which are largely determined by manpower numbers. This means that decisions on staff numbers cannot be left solely to line managers. Top management of departments will continue to need an independent and objective assessment of manpower utilisation in order to assist with central resource control and allocation;

b. there is a unified Civil Service pay and grading structure, which means that Service-wide grading standards have to be maintained, and grading judgements cannot be left to line managers without check. Top management will continue to need staff inspection to provide assurance that decisions taken by line managers within their delegated powers are sound and consistent with Service-wide and department-wide standards.

8. For similar reasons, top management will need to have access to any reports provided by staff inspection to line managers under its advisory role. This will provide senior line managers with useful evidence of whether budgets are taut enough and the extent to which managers down the line are using resources effectively. It will also avoid reports being commissioned by line managers and top management on the same, or overlapping, topics (see also the comments below on coverage and frequency).

9. Staff inspection should remain a relatively rapid method of work survey, and its accompanying diagnostic role of recommending wider or deeper study by line management or other management support services should be given greater emphasis. Staff inspection should provide a powerful force to stimulate and encourage the wider adoption of the principles for improving financial management.

#### FREQUENCY AND COVERAGE

10. Departments should maintain a rolling programme of staff inspection, normally looking at least six months ahead. Priorities should be set by top management, taking account of requests from line managers (and possibly the Treasury or trade unions), plans for other reviews and their own assessment of areas which most need to be inspected, informed by their top management information system. The difficulties involved in carrying out inspections of areas which are in the process of being reorganised will need to be borne in mind. The Treasury recommends that, as a general guide, all areas should be inspected at least once every five or six years. Staff inspectors should be deployed where they can most effectively help senior management with the monitoring, allocation and control of manpower resources. Priority should be given to the inspection of areas where the greatest contribution to economy and efficiency is expected, though there is also a need to check more widely, for example, that grading standards are being correctly observed.

11. There are some parts of departments where complements are fixed by formulae based on staff inspection and work measurement. These formulae should be reviewed regularly, and questions of need, organisation and grading should be considered. Between major reviews, a limited sample of staff inspection and work measurement reviews need to be carried out. (Departments will need to consider the effects on complementing formulae of delegating manpower controls within

budgets; where formulae are replaced by more flexible arrangements, more frequent staff inspection is likely to be necessary.)

12. As financial control arrangements and performance indicators develop, there may be areas where top management can satisfy itself by these means that the need for work to be done is questioned, that organisational structures are sound and that numbers and grading are correct. In these areas too the Accounting Officer may authorise less frequent staff inspection. And of course if the results of staff inspection itself consistently demonstrate that line managers are maintaining effective control over manpower resources (that is, if few changes of numbers and grading are recommended) then a reduction in the frequency of staff inspection could be considered. The Accounting Officer should first be satisfied, however, that the staff inspection arrangements are themselves effective. The Treasury can advise on this. And some minimum level of staff inspection is likely to be needed to provide the Accounting Officer with assurance that control standards are maintained at the same high level.

13. Another reason for less frequent staff inspection in a particular area could be that it has been subject to some other form of review or scrutiny which can provide assurance to top management as in paragraph 12. As a more multi-disciplinary approach develops, there may be a question of whether some wider reviews can be counted as part of the staff inspection programme itself. This is acceptable provided that the review in question examines critically the need for work to be done and the organisation, numbers and grading of staff required; thus it would provide a fully equivalent assurance about the use of manpower in the area concerned. The agreed minimum arrangements for consultation with the trade unions set out in the Staff Inspection Code of Practice should be applied to any wider reviews carried out instead of staff inspection or as part of the staff inspection programme itself.

14. The Treasury retains its right of access to all parts of the Civil Service to conduct test checks and inspections at any time. This will provide, on occasions, for Treasury participation in, or monitoring of, alternative forms of review in the same way as for departmental staff inspection. Where departments decide, for whatever reason, to leave areas uninspected for more than the recommended frequency of about five to six years, the reasons should be given in the annual report to its Ministers (which is copied to the Treasury). The Treasury reserves the right to question these decisions and to carry out its own test inspections of such areas.

#### IMPLEMENTATION

15. Reports on inspections by departmental inspectors (and on any alternative forms of review carried out instead) should be available both to top management and line management of the area concerned. Staff inspectors' recommendations should not be set aside lightly; the onus should be firmly on local management to be able to provide sound reasons why implementation should not go ahead. The aim should be to reach decisions quickly, normally within three months of the issue of the report. Subsequent implementation should normally take place within a further three months, subject to personnel management considerations. Line managers' budgets should be adjusted accordingly once decisions are reached. Overall, the aim should be to achieve an average implementation rate of at least 75 per cent. Similar expectations should apply to any alternative forms of review.

## NON-DEPARTMENTAL PUBLIC BODIES

16. There should be a system of staff inspection or other equivalent review arrangements for posts in controlled non-departmental public bodies. Sponsor departments have the prime responsibility for determining these arrangements in association with the bodies themselves, although the Treasury will want to be satisfied that the arrangements are effective. As a general guide it is suggested that the frequency, coverage and implementation should as far as is practicable be along the lines described in paragraphs 10 to 15 above and that:

a. where it is economical and practical to do so, the body should have its own staff inspectorate and staff inspection arrangements similar to those in government departments. Sponsor departments should monitor the performance of those inspectorates, and undertake occasional test inspections;

b. non-departmental bodies which do not have their own staff inspectorates should be covered by the sponsor departments' own staff inspection arrangements.

There should be access by the Treasury.

## MANAGEMENT AND PRACTICE

17. Improved performance indicators for staff inspection are being developed under Treasury guidance and should be reflected progressively in departmental annual reports on staff inspection performance, as well as in the day-to-day management of staff inspection units.

18. A closer relationship between staff inspection and other management support services is being fostered under the guidance of the central departments. Inevitably this will be an evolutionary process and may involve changes of an organisational, operational or technical nature. Within any new organisational unit, staff inspection should remain a discrete function so that it can be monitored and controlled effectively.

19. The practice of staff inspection should be modified progressively in the light of Treasury guidance and training to reflect the increasing availability of better information from financial management systems; the increasing emphasis on the scrutiny of line managers' performance and the diagnostic role of staff inspection; closer relationships with other management support services and wider changes in the managerial environment.

## ACCOUNTABILITY IN NDPBs

I.1 Where a department gives a grant-in-aid to an NDPB this should be done on terms which clarify the respective responsibilities of the Accounting Officer of the department and the senior full-time official of the recipient body. 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 those conditions by the body; and to satisfy the Officer that the financial and other management controls applied by the department are appropriate and sufficient to safeguard public funds and, more generally, that those being applied by the body conform with the requirements both of propriety and good financial management.

I.2 The senior full-time official of the recipient body carries a similar responsibility to that of a Departmental Accounting Officer so far as expenditure out of the grant-in-aid is concerned. This includes, in particular, responsibility for ensuring that the accounts of the body are properly presented, and for proper management of the expenditure, including preparation of the material on which decisions are taken; the efficiency with which administrative operations are carried out; the cost-consciousness of staff at all levels; the provision of special skills and services (scientific, statistical, accountancy, O&M etc) for handling particular problems; and the selection and handling of staff. The senior full-time official will normally be expected to be a signatory of the accounts. The Public Accounts Committee has traditionally attached great importance to the responsibilities of the signatories of public accounts prepared by NDPBs, and any of them are liable to be summoned to appear before the Committee, alongside the Departmental Accounting Officer concerned. They should therefore be notified by the sponsor department of that liability.

I.3 The degree of formality attached to such notification is a matter for the Accounting Officer of the department providing the grant-in-aid. In the case of a large grant-in-aid the senior full-time official may be formally designated 'accounting officer'. In the case of a small one such formality may be inappropriate. In general it will be prudent to deal with the matter formally since it cannot be forecast whether a PAC appearance will be required.

I.4 Whenever the formal procedure is followed it should include specific transmission of the Treasury memorandum which sets out the responsibilities of Accounting Officers and the letter of appointment should be copied to the Comptroller and Auditor General, the Clerk to the PAC and the Treasury Officer of Accounts.

I.5 The Treasury appoints Accounting Officers for a few non-departmental bodies (that is, the Vote financed museums and galleries, the Manpower Services Commission and the Health and Safety Commission). Appointments of this kind are made by analogy with appointments of Accounting Officers in departments.

## SELECTED GUIDANCE ON FINANCIAL MANAGEMENT

J.1 **Government Accounting: A Guide on Accounting and Financial Procedures for the Use of Government Departments**, 1974, ISBN 0 11 630668 8 (£6.60). Four supplements have been issued: No 1, 1976, ISBN 0 11 630669 6 (£0.85); No 2, 1977, ISBN 0 11 630670 X (£1.25); No 3, 1979, ISBN 0 11 630671 8 (£1.50); No 4, 1982, ISBN 0 11 630462 6 (£4.15); No 5, 1985, ISBN 0 11 630 4871 (£6.00).

## J.2 GUIDANCE ON INVESTMENT AND GENERAL EXPENDITURE APPRAISAL

**Investment Appraisal in the Public Sector: A Technical Guide for Government Departments**, 1984, ISBN 0 947819 02 9 (£2.00).

**Investment Appraisal in the Public Sector: A Management Guide for Government Departments**, 1983, ISBN 0 9502890 8 6 (£1.00).

**Investment Appraisal in the Public Sector: Supplementary Note 1, The Appraisal of Financing Costs**, 1984, ISBN 0 947819 03 7 (£1.50).

**Investment Appraisal in the Public Sector: Supplementary Note 2, Further Guidance on the Appraisal of Public Purchasing Decisions**, 1984, ISBN 0 9502890 9 4 (£1.00).

## J.3 REPORTS BY THE CABINET OFFICE (MPO)/TREASURY FINANCIAL MANAGEMENT UNIT

**Budgetary Control Systems: Implementation Report**, 1984, ISBN 0 71150059 2 (£3.50)

**Top Management Systems**, 1984, ISBN 0 71150058 4 (£2.50)

**Financial Management Initiative: Non-Departmental Public Bodies**, 1984 ISBN 0 71150063 0 (£2.50).

J.4 **Government Internal Audit Manual**, 1983, in three parts: ISBN 0 11 630293 3 (£3.95); ISBN 0 11 630294 1 (£3.06); ISBN 0 11 630295 X (£4.50); Binder ISBN 0 11 701117 7 (£2.50 plus VAT).

J.5 Explanatory and Technical Notes in Part 6 of **The Government's Expenditure Plans 1985-86 to 1987-88**, Cmnd 9428-II, January 1985, ISBN 0 10 194281 8 (£15.00).

J.6 Guide to the Supply Estimates in **Supply Estimates 1985-86, Summary and Guide**, Cmnd 9450, March 1985, ISBN 0 10 194500 0 (£7.00).

## J.7 STAFF INSPECTION GUIDELINES

**An Introduction to Staff Inspection**, 1983, ISBN 0 947819 00 2 (£1.50)

**Examining the Need for Work**, 1984, ISBN 0 947819 01 0 (£1.50).

All these publications are obtainable from HMSO except items J.2 and J.7, which should be obtained from Committee Section, HM Treasury, Parliament Street, London SW1P 3AG, and items J.3, which should be obtained from the Treasury and Cabinet Office Library, Great George Street, London SW1P 3AL.



## UNPUBLISHED PAPERS

J.8 **Financial Information System Operating Procedures Manual, 1982.** (Revised pages issued when necessary.)

J.9 **Supply and Other Financial Procedures of the House of Commons, 1977** and supplements and revisions.

J.10 **Fees and Charges: A Guide for Government Departments, 1983.**

J.11 **Treasury Ready Reckoner for Staff and Other Costs.** (Revised annually.)

J.12 **Grading guidance for the Open Structure, 1984**

J.13 **A Framework for Management Services.**

All these unpublished papers are obtainable from departmental finance or establishment divisions except items J.12 which should be obtained from Staff Inspection and Evaluation Division, HM Treasury, Parliament Street, London SW1P 3AG, and J.13 which should be obtained from Management and Efficiency 2C Division, Cabinet Office (MPO), Government Offices, Great George Street, London SW1P 3AL.

## NEW REVIEW ARRANGEMENTS FOR NDPBs

K.1 A programme of work to improve performance and value for money in non-departmental public bodies was announced on 19 November 1984 by the Prime Minister. In reply to a Commons written Parliamentary Question, the Prime Minister also confirmed that the Government's policy of regular scrutiny of the need for each NDPB, and of any proposals for new bodies, would continue.

K.2 The full text of the question and reply were as follows:

**Sir Philip Holland** asked the Prime Minister: "whether it remains her policy to keep the numbers and spending of non-departmental public bodies under tight control; and whether she will ensure that the drive for increased efficiency and effectiveness in the Civil Service is followed through by similar action in public bodies."

**The Prime Minister** replied: "Yes. We shall continue to keep all non-departmental public bodies under regular scrutiny to ensure that they and their programmes give value for money. We shall resist pressures for new bodies unless we are convinced that a non-departmental public body is the most appropriate way to do a particular task. Substantial savings have already been made. Since 1979 we have wound up or substantially reduced the expenditure of nearly 700 such bodies saving some £118 million a year. But there is more to be done. A recent report of the Cabinet Office/Treasury Financial Management Unit, copies of which are being placed in the library, shows that some bodies need better systems for defining their objectives, setting targets and assessing achievements. Over the next two years therefore departments will be looking, in collaboration with the management of their sponsored bodies, at the scope for improving management and control systems and practices, with the aim of producing progressive improvements in performance. The main programme of work should be completed by April 1987."

## CHECKLIST OF QUESTIONS TO BE CONSIDERED BY FINANCIAL MANAGEMENT SURVEYS

### INTRODUCTION

L.1 This checklist has been prepared in order to identify and develop the key features of a plan for improving financial management. It is intended for use by departments and bodies in preparing such plans and presents not only questions which focus on the bodies' financial systems and their arrangements for forecasting and monitoring expenditure and performance, but also looks at the relationship and working procedures between the body and the policy and finance responsibilities within the sponsoring department. In line with the requirements of the FMI it also covers the wider links between objectives, finance and performance.

L.2 The list is intended to be a working document and it is recognised that not all the detailed questions will be relevant to all bodies subject to review. It assumes a blank sheet for the purposes of an initial review of this type, during which the areas which have not been covered in an annual or other review by the sponsor department should be identified. In the case of many bodies, answers to a large number of background questions will already be available as the result of recent studies, staff inspections, internal audit scrutinies and other enquiries.

L.3 The list does not include detailed questions on, for example, internal financial control and personnel management.

L.4 We have attached, at Annex I and Annex II respectively, a list of background material that could be relevant to the study and which should be obtained if not already done so, and a list of preparatory questions which should be read through in order for the reviewer to check his or her present knowledge and understanding about the body being reviewed.

## DELEGATION AND INTERNAL CONTROL

Before commencing the detailed scrutiny, refer to Annex I for relevant background material that should be collected.

### 1. Financial arrangements

Refer to Preparatory Questions 7 and 8, Annex II and to Annex IV for bodies with revenue raising activities.

1.1 How is financial authority delegated from the sponsoring department to the body? Are the delegation arrangements separate for capital and revenue items? When were the arrangements for delegation of financial authority last critically reviewed and what recommendations were implemented?

1.2 What limits are fixed for capital and revenue delegation? Are the limits based on fixed monetary or other criteria (and if so, what criteria and for what purposes)?

1.3 Are major capital projects subject to separate arrangements? (See Annex III for specific questions on capital project control.)

1.4 Who is the Accounting Officer within the body, that is, is it the chairman, and to what extent is this responsibility exercised through executive officers for day-to-day management purposes? How is the financial authority delegated from the body's governing board to its committees?

1.5 Has the present system of internal financial control operated by the body been reviewed recently and, if so, what recommendations were implemented? Refer to Annex V for specific questions on internal audit arrangements.

### 2. Manpower arrangements

Refer also to Preparatory Questions 9 and 10, Annex II.

2.1 To what extent is responsibility for manpower numbers and complementing delegated from the sponsoring department to the body? What are the formal arrangements for operating the delegation? To what extent can the body create positions and appoint staff? What constraints are there on the grading of staff and throughout the organisation?

2.2 Is a manpower ceiling applied to the body in order to control its total complement? Is the control operated through cash limits? What has happened to manpower numbers in the last (three) years?

2.3 How are gradings and staff complements decided and tested out? Is the body subject to either internal or departmental staff inspection and complementing reviews - if not, why not? When was the last staff inspection held? Have all the recommendations been acted upon?

## PLANNING

### 3. Present arrangements

3.1 What are the arrangements within the body for planning its future programme of work? What timescale is adopted for the planning period? What

time in the year does it start, how long does it take, does it allow enough time for the department and Treasury to adequately consider the submission from the body and does it contain sufficient detail for the department and Treasury to be able to challenge the assumptions on which it is based (without having to do the job again)?

3.2 Are any guidelines or constraints given by the department in the planning process? Who is responsible for issuing such guidelines? Does the department get involved in discussions at the time of the preparation of the body's plans? Are departmental specialist resources consulted by the body when plans are being prepared? From what alternative sources does the body seek advice and information?

3.3 Is there a letter of appointment to the chairman and does it include:

- a. formal terms of reference with written objectives and targets?
- b. arrangements for the regular review of progress against a. above and when being considered for re-appointment (when the term of office expires)?

Is it issued on appointment only? (Obtain explanation why such letters are not issued.)

#### 4. Evaluating future options

4.1 What information is used by the body in reaching conclusions on how policy should be developed and work activities planned? Does it use:

- a. statutory objectives?
- b. ministerial guidelines and statements of policy objectives?
- c. social and economic data and other statistical material?
- d. reviews of past performance and scrutiny of variance from target objectives?
- e. other material?

4.2 Does the body consider a range of possible changes in the financial situation (eg no growth, reduction or increases in costs) when preparing plans? To what extent does the body use systematic appraisal procedures - that is, setting out formally and, so far as possible, quantifying the costs and benefits of alternative courses of action? What criteria does it use for assessing costs and benefits? Are they the same as should be used by a central government department?

4.3 Who decides within the body on what the major priorities for future policy and work are and who is responsible for the development of policy options?

#### 5. Presentation

5.1 Are the plans and background considerations written up (eg as in a corporate plan)? Are they published/made available to the sponsoring department and other interested parties?

5.2 Once the plans/future workload have been agreed at board level, how is this information passed on to relevant managers?

## RESOURCE ALLOCATION AND BUDGETING

### 6. Present arrangements

6.1 How does the annual budgeting process work within the body and how does this process fit into the PES/Estimates cycle of the sponsoring department including:

a. how does the body relate its allocation of capital and staff to its agreed work programme plan?-

b. what is the level of detail for individual activities, and how does this relate to individual management objectives?

c. who is responsible for preparing the budgets for individual areas and who co-ordinates contributions from the various parts of the organisation?

d. what discussion takes place on the individual budget areas?

6.2 What discussion and approval process is used to agree the total budget at both executive and committee levels? What key questions are asked by senior management?

6.3 Are both programme and administrative resources allocated using information from the output measures as described in questions 8.1-8.5 below? Are there well-defined and systematic procedures for using this information, for the comparison of alternative allocations of staff and other resources? Does management have clear statements of what staff and other resources are devoted to particular activities (see also 9.4)?

6.4 Are improvements in performance, that is, increase in efficiency and productivity, always built into the allocation of staff resources?

6.5 When does the body next intend to review its process of allocating staff and other resources?

### 7. Dealing with uncertainty

7.1 Does the body regularly consider ways of increasing funding from external, that is, non-governmental, sources?

7.2 What flexibility is built into the allocation of resources to allow for sudden changes in the course of the budget year due to, for example:

a. major exogenous shocks such as the effects of the exchange rate fluctuations on international transactions, withdrawal of major source of funding?

b. allowance for new activities and operations still to be developed?

7.3 How does the body deal with cuts or changes in PES and Estimates; do the ensuing changes relate to the priorities that may have been attached to the body's existing activities and the proposed programme of work?

7.4 Does the final PES allocation result in a detailed reworking of the body's plan?

## MONITORING

### 8. Output measurement

8.1 What information does the body's management have to decide whether there has been achievement of:

- a. the overall objectives of the organisation?
- b. the targets and aims relating to individual activities and responsibilities?

Does it bring together both financial and non-financial data as appropriate, and are these integrated in order to assess the overall performance of particular activities and staff? Who is responsible for developing and refining the measures used for output and performance?

8.2 Is the above information used by management at all levels in making decisions about the value for money obtained from different programmes or activities? What are considered to be the critical measures of performance? If reported, do these show an improving trend?

8.3 Does the information include measures of effectiveness ("is the right job being done?") as well as efficiency ("is the job being done as well as possible")? What targets are management setting themselves for improving both effectiveness and efficiency? Are these realistic?

8.4 What scope is there for comparison of the unit costs of individual activities with each other internally? What steps is the body taking to review information on unit costs by reference to other bodies and organisations, both in the public and private sector, here and abroad, carrying out the same or similar activities?

8.5 Does the information cover the management of assets and liabilities, as well as operational performance?

### 9. Use of resources

**(Refer also to Preparatory Questions 14 and 15, Annex II).**

9.1 What information is used to measure how effective managers have been in achieving their work programme? Is line management regularly informed about actual performance to date and forecast out-turn in plan/budget? How are individuals held responsible for variances in performance? What action can be taken on the results (favourable or unfavourable)?

9.2 Are results fed back into the allocation of staff and other resources? How quickly is such action taken?

9.3 Can the financial records adequately identify the income and expenditure (including manpower and related resources) in respect of:

- a. the body as a whole?
- b. each separate functional division and/or activity group?
- c. each individual activity or responsibility?

9.4 Does the system separately identify the resources used in supporting activities (that is, administration expenditure) and the use of resources directly for its operations (that is, programme expenditure)?

#### 10. Review of information requirements

10.1 When did the body last, and when is it next planned to, carry out or commission its own internal reviews of its systems for recording information, reporting and monitoring performance? Were the above reviews carried out by persons or organisations suitably qualified and experienced to do so?

10.2 What action has been taken and is proposed to be taken on the results of previous reviews and what recommendations have not been implemented (and why not)?

#### 11. Annual report

11.1 Does the body publish regularly an annual report? If not, why not?

11.2 Does the annual report contain:

a. the annual accounts with a statement of income and expenditure balance sheet and source and application of funds statement?

b. both qualitative material as well as quantitative information on the body's performance? Are measures of output and administrative performance related to financial information in the report (eg unit cost per activity and average cost per person employed)?

11.3 Does the information in the annual report enable the readers (sponsoring department, Ministers, MPs, general public) to make their own judgements on the cost-effectiveness or the "value for money" spent by the body on behalf of the taxpayer? Are both the costs and the benefits of the body's activities explained?

#### DEPARTMENTAL RESPONSIBILITIES

#### 12. Overall responsibility

12.1 Who, within the sponsoring department, has responsibility for the following:

a. formulation of and advice on setting strategic aims and policy?

b. delegated financial authority matters?

c. use and control of manpower and other resources?

d. PES/Estimates procedures?

12.2 What expert advice is available on each item from within the department or elsewhere? Are there gaps in the provision of "expert" material and what action is being taken to improve the situation?

12.3 How is each person made aware of the full responsibilities and how is judgement made on the efficiency with which the function is carried out by the body?



12.4 How are the different strands of departmental interests and responsibilities (Question 12.1 a.-d.) pulled together and integrated? What effect will the full operation of the FMI have on such arrangements?

12.5 Who is the Accounting Officer within the sponsor department? What arrangements are made by the departmental Accounting Officer to ensure compliance with grant-in-aid conditions and to ensure adequacy of financial and other controls?

### 13. Policy setting and strategy

13.1 Does the department take an active lead in the development of policy or does it just respond to the body's suggestions?

13.2 How does the department feed in new initiatives or follow-up ministerial directives with the body?

### 14. Monitoring and control

14.1 Does the sponsor department receive timely, adequate and sufficient information, both for exercising the above responsibilities in relation to the body and for reviewing and monitoring the body's responsibilities to the department? In particular:

- a. is the department satisfied by the amount of detail supplied by the body on completion of its planning process?
- b. how does it respond to ad hoc information submitted by the body?
- c. how does it monitor the operation of delegated authority for finance and manpower?
- d. how does it monitor and control actual and forecast out-turn expenditure against estimates and profiles (eg FIS forms)?
- e. does it regularly receive a sufficiently detailed set of management accounts from the body in order to monitor operations and expenditure within the financial year (eg monthly cost statements, quarterly review of out-turn compared with forecast)?

14.2 Does the department receive a full set of board and management committee minutes and papers in order to keep fully aware and informed about the body's activities and future plans? What action follows on receipt of such papers?

### 15. Reviews

15.1 When did the sponsor department last, and when is it next planning to, carry out or commission a review of the body's activities in relation to the department's own responsibilities and, if so:

- a. on what basis does it judge performance (including "value for money")?
- b. what methods and information does it use to carry out the reviews and analyse results?
- c. what action does it take on completion of the review:
  - i. within the department itself?

- ii. in feeding back the results of the body?

15.2 When did the department last review its own internal arrangements and activities for managing its relationship with the body? What action followed?

## **ANNEX I: BACKGROUND MATERIAL**

Before commencing the scrutiny, it is recommended that the reviewer(s) collate all the relevant basic reference material to provide the necessary background for the enquiry. The type of documents which will be useful include:

- a. recent series of annual reports and accounts;
- b. copy of document which sets out the details of method under which the body was established (Statutory Instrument, Act of Parliament, Royal Charter, incorporation under the Companies Acts, Royal Commission, administrative action, other);
- c. letters of appointment/contract of service for:
  - i. Chairman and (possibly) individual members of the governing committee;
  - ii. Chief Executive and other senior officials;
- d. recent internal audit reports, either from the body's own internal audit facilities or from departmental visits;
- e. external audit reports, either from the National Audit Office or a commercial firm;
- f. staff inspection and complementing, O & M reports (if the body is subject to these arrangements);
- g. recent sets of minutes, papers etc from the governing committee of the NDPB and any other major sub-committee(s);
- h. published planning and strategic documents;
- i. chart of body's organisation and committee structure.

## **ANNEX II: PREPARATORY QUESTIONS**

### **POWERS AND FUNCTIONS OF THE BODY**

1. What are the principal functions of the body? For example, grant-giving, research activities, advisory, executive action, and why are these being carried out outside a government department?
2. Do these functions match the objectives as set out in the arrangements under which the body was established? Explain reasons for any divergence between original objectives and current functions of the body; at what level was the change in direction agreed between the department and body?

3. What are the statutory powers of the body in carrying out its activities, and how are they exercised? Are there any statutory constraints on the body's activities?

#### RELATIONS WITH THE SPONSORING DEPARTMENT AND OTHER ORGANISATIONS

4. What are the statutory relations between the Secretary of State of the sponsoring department and the body? Does it include appointment to the governing committee of the body?

5. Does the department have a formal assessorship role vis-a-vis the body? Is a member of the department appointed ex officio to the governing body and/or major committee of the NDPB? Are there other formal relationships and links between the body and the department and how are they implemented?

6. What relationships does the body have with other organisations such as:

- a. other bodies of a similar type or in the same field?
- b. bodies and authorities outside government and public sector, eg private industry, charitable trusts?
- c. EC or other international organisations?

How do these relations affect the way in which the body operates, eg are the relations statutory, advisory or consultative? How does the body relate to pressure groups and the public in general?

#### FINANCIAL ARRANGEMENTS

7. How is the body funded and what proportion of the total comes from each source:

- a. through grant-in-aid from the sponsoring department?
- b. through a grant from the sponsoring department?
- c. revenue from other bodies or industry via levies or fees?
- d. own income generation?
- e. borrowing, e.g. the National Loans Fund, banks and other private sources?
- f. other?

What conditions are attached to the funding arrangements?

8. Are there written financial instructions for the staff operating the finance function? If not, are these in preparation?

#### MANPOWER ARRANGEMENTS

9. Where the body employs staff, are they members of the Home Civil Service? Where they are not civil servants, are they subject to departmental control of pay, superannuation etc or not?

10. What qualifications does the body seek when recruiting staff to the finance function? What is the system of staff training for finance work? How are relevant finance staff made aware of the government accounting system and the broad outline of the operation of the PES/Estimates cycle?

#### INTERNAL ORGANISATION

11. When was the present organisation structure of the body established and has it been recently reviewed? Have the recommendations been implemented?

12. Is there a senior management group or executive committee? Is the Finance Officer a member of that group? To what extent does the group carry out day-to-day management control of the body; are there defined management lines to the staff at lower levels?

13. Do decisions from external organisations or independent peer groups affect the way in which the body can organise itself and its activities?

#### INFORMATION AND REPORTING

14. Do the present financial reporting arrangements cover both government (Vote) and management accounting requirements? Is it a comprehensive and integrated system in order to ensure, for example, that Treasury and the sponsoring department are able to receive information on the same basis as that for the body's own management?

15. Does the present information system(s) distinguish adequately between "commitment" and "spend" at all levels of the body's activities? In what form and how frequently is it presented to the senior management groups and to the board?

### ANNEX III: PLANNING AND CONTROL OF MAJOR CAPITAL PROJECTS

Reference should also be made to Treasury and other available guidance on methods of investment appraisal that are specified generally in central government.

#### PLANNING

1. Has the body (either itself or through use of outside agents) carried out a full investment appraisal for each project? Does it include the following and are they adequately documented:

- a. the purpose for and forecast use to be made of the intended facility?
- b. its relation to other projects and similar facilities which are or will be available elsewhere?
- c. the full costs of both construction and operation of the intended facility, including due allowance for the effects of price changes and any likely time delays?
- d. any revenue that can be expected to accrue from the use of the facility by outside bodies and individuals?

2. Has the body fully considered alternative ways of meeting its requirements by other means?

3. To what extent has the decision to include the project in the planning and resource allocation processes been based upon factors which cannot be explicitly valued? Is the weight given to these factors consistent with the overall aims of the body?

#### RESOURCE ALLOCATION

4. Have the effects of the implementation of the project on the resources required by the body been fully reflected in the current resource allocation process eg are sufficient funds available within each relevant period's cash limit to be able to progress the project through according to the planned timescale?

5. Have detailed cost estimates for the completion of each stage in the project been prepared for (subsequent) control purposes?

#### CONTROL

6. Once the project has been implemented, is the relevant manager responsible for its control regularly (eg at least quarterly) supplied with the following information:

a. physical progress to date, by major component or stage, as appropriate, in order to recognise the exact state reached (per the contract or project programme)?

b. total costs to date compared to detailed estimated costs, by major component and/or stage?

c. a forecast of costs to complete (including agreed contractual variations and claims) as compared to total estimated to complete?

d. actual cash paid to date and forecast cash requirements for both current year and for each period to completion?

7. Once completed, is full account taken of all outstanding contractual claims or accrued expenditure?

8. Is the use of the facility, once commissioned, and its operating costs monitored periodically against those estimated in the original investment appraisal, and the results fed into current work on future projects being examined?

#### ANNEX IV: COMMERCIAL, PROMOTIONAL AND ENTERPRISE BODIES

1. If a major activity of the body is the selling and/or marketing of either goods or services, does it have adequate market research information upon which to base decisions concerning the development of this activity, eg current market share? How is this information fed into the planning process?

2. What marketing strategy is adopted? If the body is dependent on one or two key customers how does it safeguard its position?

3. Are there declared commercial objectives and are these subject to review? How widely are these objectives discussed, eg do they include Treasury and (possibly) other organisations?

4. Where the body sells any of its output, what pricing strategy is adopted? Does the strategy vary according to the type of output, eg publications where administrative costs only are covered, or services where there is a full cost charge plus mark-up etc? Is Treasury guidance on fees and charges referred to?

5. At what level in the body is the pricing strategy agreed and how frequently is it reviewed? Does variation in revenue from expected profile result in consideration of change in pricing policy within the current financial year or at a subsequent date? Is there scope for higher revenue receipts without a loss of market? Are there constraints on the organisation maximising and/or retaining its revenue?

## **ANNEX V: AUDIT ARRANGEMENTS**

### **INTERNAL AUDIT**

1. What are the body's arrangements for internal audit and have these been reviewed recently? If so what were the results and have the recommendations been implemented?

2. If the body has its own internal audit function how does this relate to that of the sponsoring department?

3. What areas or subjects does the body see as priorities for attention by the internal audit function and why?

4. When did the internal auditors last report on, for example:

a. arrangements for planning?

b. the resource allocation process budget cycle?

c. monitoring and systems?

d. internal control of accounting practices/policies and what arrangements are made to discuss the findings?

5. What recommendations were implemented in each case (and if not implemented, why not)?

6. How does the department pursue points raised in any internal audit report?

### **EXTERNAL AUDIT**

7. What are the arrangements for external audit? Are the accounts subject to full audit by Comptroller and Auditor General (C&AG) or do C&AG have access to the books and records only or are commercial auditors appointed? Have the arrangements been reviewed recently?

8. At what level of staff is the audit carried out? Is the audit report the minimum required by legislation or is a fuller management letter supplied? What subsequent contact is there with the appointed auditors to discuss audit findings?

9. Does the external audit exercise consider/recommend options for revision to the present financial systems, or confine itself to examination of effectiveness of the present arrangements?

10. Are the activities of the following sufficiently well-integrated in order to ensure that together they form a comprehensive, efficient and effective audit function:

- a. the body's own internal audit?
- b. the department's internal audit?
- c. the body's external auditors?
- d. the National Audit Office?

**SOURCES OF ADVICE ON CONSULTANCY FIRMS**

M.1 The Cabinet Office (MPO) maintains an Index of management consultants willing to undertake government work. Its purpose is to help departments considering using management consultants by providing details of firms who specialise in the subject(s) with which the department wants help. The Index shows:

- an alphabetical list of all the specialisms in the Index to help identify possible alternative descriptions;
- contact details of firms, with a list of specialisms;
- government departments in which the firms have worked during the last four to five years and the departmental contact at the time
- a list of contacts in the central departments for advice/guidance/information on other specialist consultancies.

M.2 The Index is maintained on British Telecom's "Telecom Gold" system under CONSULTANTS (in capitals, no quotation marks). NDPBs with direct access to the Telecom Gold system can obtain authorisation to use the Index by telephoning Cabinet Office (MPO) Management and Efficiency (Consultancy) Division on (01) 233 4002. Those without direct access to Telecom Gold should contact the sponsor department, where the Management Services Unit, or the departmental link with management consultants, will either have access to Telecom Gold, or a printout of the Index.

M.3 The Management Consultants Association which maintains a professional register with the Institute of Management Consultants (IMC) can also provide information on suitable firms of consultants. The IMC can similarly help in the case of individuals in practice as consultants. These organisations are not comprehensively representative.

M.4 More specialist advice on consultancy firms is available as follows:

<b>SPECIALISM</b>	<b>DEPARTMENT</b>
Accountancy advice	HM Treasury (Government Accountancy Service Management Unit)
Operational research	HM Treasury (Operational Research Division)
Statistical surveys	Central Statistical Office (Survey Control Unit)
Social surveys	Office of Population Censuses and Surveys (Social Survey Divisions)
Economic studies	Committee of Economic Research and Training Secretariat (HM Treasury, Economist Group Management Unit [EGMU])



Sponsor divisions should, of course, address such enquiries to their corresponding departmental specialists in the first instance.

M.5 Reference should be made to the "Code of Practice for the Use of Computer Consultants and Software Houses by Government Departments" (issued by CCTA) where it is proposed to engage consultants on work which has mainly computer implications.

## QUESTIONS FOR CONSIDERATION DURING POLICY REVIEWS

### EXECUTIVE, REGULATORY, COMMERCIAL ETC BODIES

N.1 What is the body for? Why are these functions vested in a public sector body? What is the balance of argument for dispensing with or reducing them, or for contracting out or privatisation?

N.2 If all or some of the body's functions are considered to be of a kind which is most cost-effectively and efficiently provided by the public sector, is a separate body still justified or would it be more cost effective for the department or another existing body to take them over?

N.3 Does the body have adequate arrangements for setting and reviewing corporate objectives annually? Apart from planning arrangements, what other formal or informal means are used by the department to achieve compatibility with departmental plans? Do the arrangements, taken together, achieve the right balance between independence for the body and ministerial accountability?

N.4 Are any changes desirable in the composition of the management body, or in any other aspects of its constitution?

N.5 Does the basic organisational structure appear satisfactory? Should the body be subject to a financial survey in the near future?

N.6 Would the body benefit from specialist advice on management services or other aspects of its work?

### TRIBUNALS

#### N.7 The continuing need for the tribunal

- a. Is there a continuing need for all the jurisdiction which is exercised by the tribunal?
- b. Could that jurisdiction, or part of it, be satisfactorily exercised:
  - i. by another tribunal?
  - ii. by a Minister?
  - iii. by the ordinary courts?
  - iv. by some other means?

#### N.8 The effectiveness of the arrangements for managing the work of the tribunal

- a. Are the arrangements for appointing members of the tribunal such as to ensure the appointment of suitably qualified and competent members? Are the appointment procedures cost effective?
- b. Do regional arrangements for hearings by the tribunal adequately reflect the distribution of work? Would different arrangements lead to greater efficiency and cost effectiveness?

c. Are the administrative arrangements (including staffing and management chain) such as to ensure the efficient and cost-effective running of the tribunal?

d. Do the primary legislation and rules of procedure for the tribunal encourage the just and expeditious disposal of work? Should the procedures be modernised? Are they cost effective?

**N.9 The relationship between the tribunal and other relevant bodies**

a. What benefits or disadvantages flow from the Tribunal's relationship with:

- i. the sponsoring department?
- ii. the Lord Chancellor's Department?
- iii. the Council of Tribunals?
- iv. any other relevant bodies?

b. Should these relationships be altered?

**ADVISORY BODIES**

N.10 Is there a continuing need for outside advice in the field covered by the body?

N.11 If so, is it cost effective to maintain a special and formal body for the purpose, or could the need be met equally well by informal, ad hoc methods?

N.12 Is the body giving value for money, judged by its terms of reference and the practical usefulness of its advice?

N.13 Should changes be made in the composition or operation of the body (eg frequency of meetings) which would streamline its work and/or reduce departmental support costs?

N.14 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?

N.15 Would the body benefit from specialist advice on management services or on other aspects of its work?