



Cabinet Office

Public Bodies Handbook – Part 3

Executive Agencies: A Guide for Departments



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Introduction

The Government is committed to the delivery of first class and efficient public services and providing value for money to the taxpayer. Executive agencies, along with other arm's-length bodies, play a key role in providing quality services for the public.

The purpose of this guidance is to set out for government departments the principal characteristics of Executive Agencies and their structures, together with guidance on the processes for the creation, review, and potential abolition or merger of agencies.

This document sets out the characteristics of a model Executive Agency. The model template forms the basis for a 'comply or explain' approach to ensuring good corporate governance is in place across central government public bodies. In practice, the specific circumstances surrounding the delivery of the function for which the Executive Agency is being established may warrant a variation from the standard template set out here. However, it is important to note that any proposal for a new Executive Agency to depart from the characteristics set out in this document should be clearly flagged and explained in preliminary discussions with HM Treasury and Cabinet Office and will need to be explicitly agreed before the agency can be established.

This document replaces the previous publication of the same name dating from 2006.

Executive Agencies were established following a recommendation made in 1988 to allow the delivery of executive functions of government to be carried out separately from – but within a policy and resources framework set by – a primarily policy-focused department¹. Delivery might include:

- delivery of a service fundamental to the policy of their department;
- carrying out statutory and/or regulatory functions on behalf of ministers;
- delivery of a service to other parts of central government using specialist skills; or
- delivery of specialised functions separate to the core role of the sponsor department.

A clear focus on the most efficient and effective frontline delivery of executive functions therefore lies at the heart of why an Executive Agency exists. An Executive Agency may have some role in the development of policy, not least because good policy development should always be closely informed by frontline delivery experience. However, this will generally be in highly specialist and/or technical areas of work and should never be to such an extent that it begins to overshadow the operational delivery role that should be the focus of the agency model.

Structurally, Executive Agencies are clearly designated units of a central government department, administratively distinct, but remaining legally part of it. They are created as Executive Agencies by administrative action rather than legal instrument. So, for example, staff of an Executive Agency remain civil servants employed by the department. This differs from non-departmental public bodies (NDPBs), entities which are legally separate from the department, and whose staff are public servants rather than civil servants.

Accordingly, a distinctive feature of Executive Agencies is that, even though they may have a non-executive Chair of their Management Board, the agency is led by a Chief Executive, who is accountable directly to the relevant departmental minister for delivery and day to day activities, and to the sponsor department's Permanent Secretary for responsible use of public funds (via formal designation as Accounting Officer for the agency).

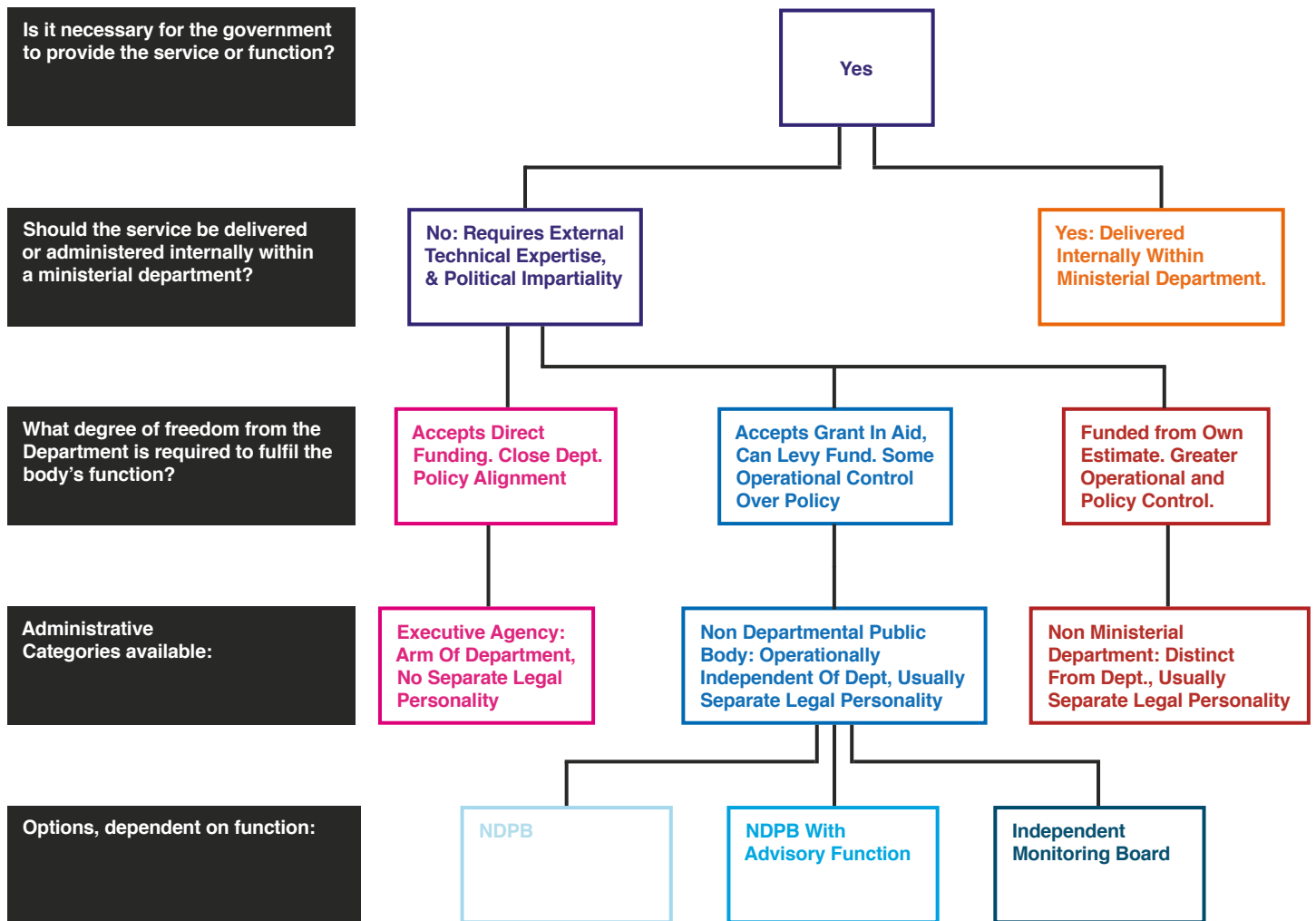
Agencies are also typically of a size, in terms of staff, where it would be proportionate for them to exist as separate organisations within a department. Any function delivered by a department that requires significant transactional work may therefore be a suitable candidate for consideration as an Executive Agency.

¹ *Improving Management in Government: The Next Steps (1988)* http://www.civilservant.org.uk/library/1988_improving_management_in_government_the%20next_steps.pdf

Chapter 2 | When is an Executive Agency the appropriate model?

The decision tree below sets out the questions to consider when arriving at the administrative classification of a public body².

Chart 1 Choices to determine category of public entity



Comparable Characteristics

Oversight/Accountability:

Dept. sets policy, minister accountable to Parliament

Sources of Income:

Included in home dept. estimate

Setup & Position in Government:

Part of home dept, established by home dept, sometimes under legislation but without separate legal personality

Duration:

Permanent

Appointments:

Minister appoints Chief Executive via a Civil Service Commissioners appointment, and appoints non-executive Chair

Staffing:

Civil servants

Accounting:

Produce their own annual report and accounts but consolidate with home dept.

² Can be found on Page 11 of Classification of Public Bodies: Guidance for Departments: <https://www.gov.uk/government/publications/classification-of-public-bodies-information-and-guidance>

There are two potential models for the governance structure of an Executive Agency, which are described below. The decision on which structure is adopted will be informed by the level of independence required between the agency and the home department.

The two options set out the essential governance structures for an Executive Agency. The particular circumstances of a specific agency may warrant the core arrangements described below to be supplemented by additional governance. It will be for an individual sponsor department to determine whether any such additional structures may be appropriate, and, if so, what their roles and responsibilities are.

Departments should consult Cabinet Office and Treasury officials when changing or varying the structural and governance arrangements for an Executive Agency from these models.

Model 1 – Executive Agency operates closer to home department, assurance provided by home department’s internal systems

If an Executive Agency operates either close to its home department or is considered by its home department to be too small to warrant a full Management Board with non-executive directors, then the home department’s audit and risk committee should provide the assurance function for the agency.

In this situation, the Executive Agency does not require non-executive board members on its Management Board. Instead it would be led by an executive board, headed by the Chief Executive.

Model 2 – Executive Agency has greater level of independence from home department, assurance provided by non-executive board members

Where an Executive Agency needs a greater level of independence from its home department in order to carry out its functions effectively, or is considered by its home department to be of a sufficient size and importance to require independent assurance, the agency should be led by a Management Board, headed up by a non-executive Chair, and with executive and non-executive board members.

Ministers

The sponsoring minister is accountable to Parliament on all matters concerning the Executive Agency. The minister:

- is responsible for the policy framework within which the agency operates;
- determines its strategic objectives and ensures that it achieves them and delivers value for money;
- approves the agency’s corporate plan and (where proportionate) business plan; and
- appoints the agency’s Chief Executive and Chair, and approves the appointment of non-executives.

Permanent Secretary/Principal Accounting Officer

The Permanent Secretary, usually the Principal Accounting Officer (PAO) of the sponsor department, designates the Chief Executive as the Executive Agency’s Accounting Officer³.

The PAO is accountable to Parliament for the allocation and spending of any funding or income that the Executive Agency receives. The PAO is also responsible for advising the responsible minister:

- on an appropriate framework of objectives and performance measures for the Executive Agency in the light of the department’s wider strategic aims and priorities;
- on an appropriate budget for the agency in the light of the sponsor department’s overall public expenditure priorities; and
- on how well the agency is achieving its strategic objectives and whether it is delivering value for money.

Overall, the PAO of a sponsor department should make arrangements to satisfy himself or herself that the ALB has systems adequate to meet the standards of governance, decision-making and financial management set out in *Managing Public Money*⁴. The PAO is also responsible for ensuring arrangements are in place in order to:

- monitor the agency’s activities;
- address significant problems in the agency, making such interventions as are judged necessary⁵;
- periodically carry out an assessment of the risks both to the department and the agency’s objectives and activities;
- inform the agency of relevant government policy in a timely manner; and
- bring concerns about the activities of the agency to the departmental board as well as requiring explanations and assurances from the agency that appropriate action has been taken.

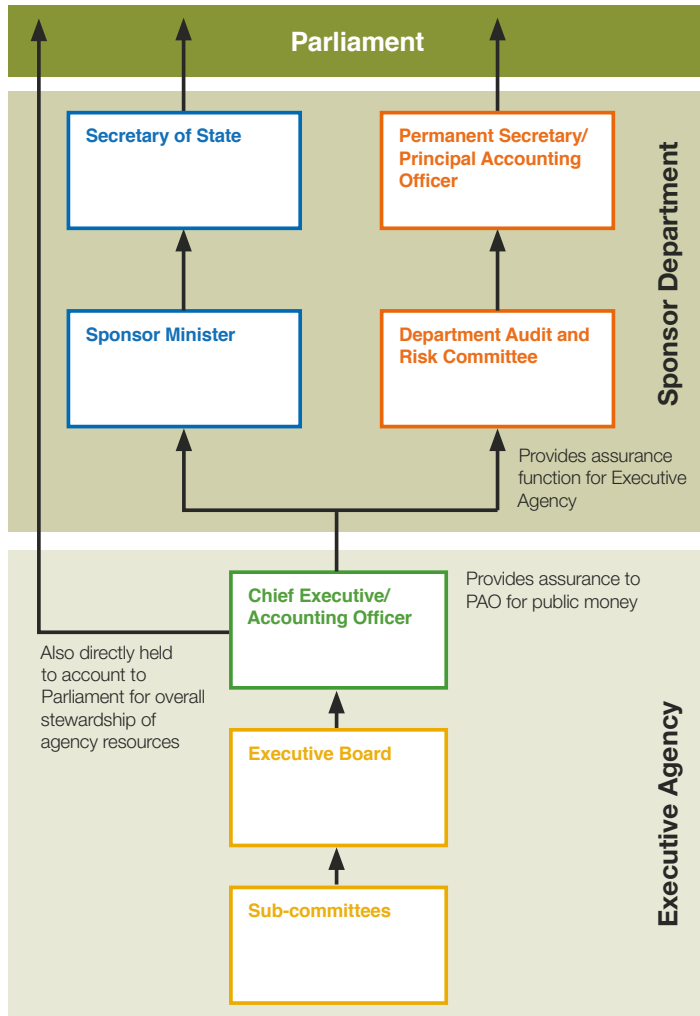
³ The respective responsibilities of the PAO and Accounting Officers for ALBs are set out in Chapter 3 of *Managing Public Money*

⁴ *Managing Public Money* www.gov.uk/government/publications/managing-public-money

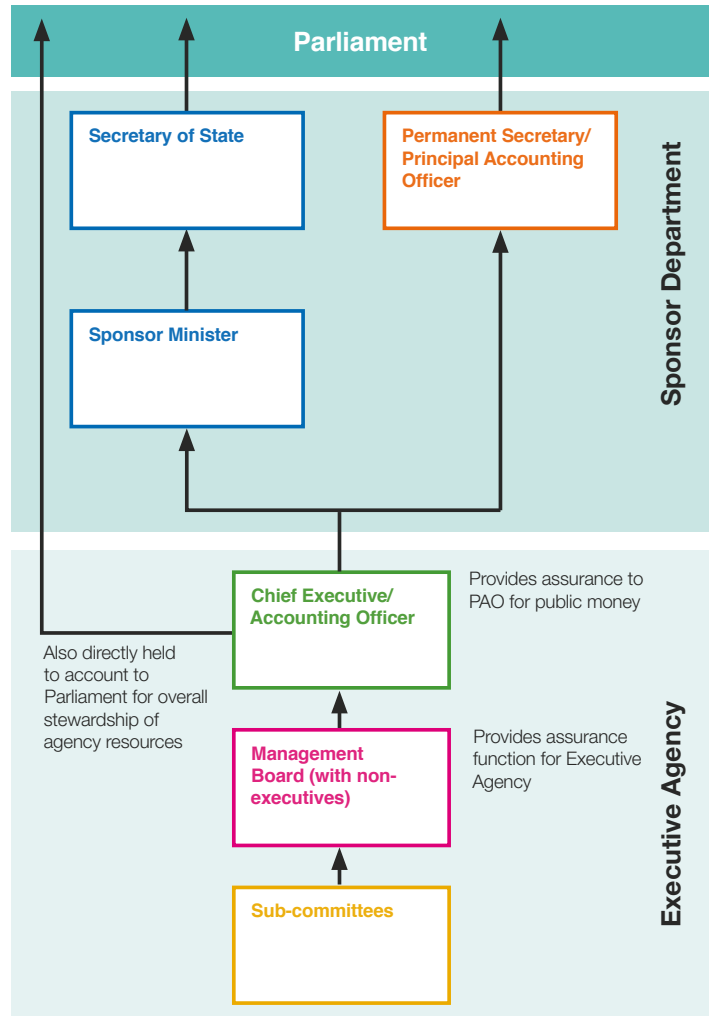
⁵ Set out in Section 3.8.4 of *Managing Public Money*

The following diagram sets out the two potential governance structures for an Executive Agency:

Model 1 – Operates closer to home department, assurance provided by home department’s internal systems



Model 2 – Greater level of independence from home department, assurance provided by non-executive board members



Chief Executive

As is set out above, the agency should be headed by a Chief Executive, who will be directly accountable to the sponsor minister for the operation of the agency. He or she would usually be appointed by the minister in accordance with the Civil Service Commission's *Recruitment Principles*⁶.

The Chief Executive will be designated by the department's Permanent Secretary as Accounting Officer for the agency, and in that capacity will have a direct line of accountability to the Permanent Secretary as Principal Accounting Officer. As provided for in the Accounting Officer designation letter, the Chief Executive will be responsible for ensuring that the requirements of *Managing Public Money*⁷ are met, and that proper procedures are followed for securing the regularity and propriety of the public funds administered by the agency. More information about the role of Accounting Officers is set out in *Managing Public Money*. The Chief Executive is also directly responsible to Parliament.

Under Model 1, the Chief Executive will also chair the Executive Board.

The Chief Executive is:

- responsible for the day to day operation of the agency and is accountable directly to the PAO as Accounting Officer and to the minister for the agency's performance against agreed targets. The Chief Executive must be allowed to approach the minister directly when circumstances require, and it will usually be appropriate for there to be at least one pre-arranged face-to-face meeting between the Chief Executive and the minister each year;
- line-managed by a senior civil servant of appropriate seniority within the department; and
- also responsible for observing any general guidance issued by the Treasury and the Cabinet Office, as well as implementing recommendations of the Public Accounts Committee (PAC), or other Parliamentary select committees, if they are accepted by government.

Management Board (under Model 2)

Where appropriate, the Chief Executive who leads the agency will be supported by a Management Board. The Management Board's role is to provide leadership, advise on strategy and the deliverability of policies, maintain high standards of corporate governance, ensure that controls are in place to manage risk, scrutinise performance, and be the forum for self-challenge on how well the agency is achieving its objectives. However, in the Executive Agency model, as distinct from, for example, an NDPB, final decisions (and the responsibility and accountability for those) rest with the Chief Executive.

In order to be best equipped to perform this support and challenge role, a Management Board should comprise both senior executive managers of the agency and non-executive members. The non-executives of an agency board will generally be distinct from those that sit on the departmental board, but their role is similar, in that it is their primary function to provide independent, expert advice and challenge to the Chief Executive on the performance and management of the agency. It will therefore usually be appropriate for the Management Board to be chaired by a non-executive member: that individual's role is not to lead the agency (which remains the responsibility of the Chief Executive), but to ensure the Management Board provides appropriate advice, support and constructive challenge to the Chief Executive. Where the agency's independence is of particular importance, departments should consider whether it is appropriate for a Model 2 agency Management Board to have a majority of non-executive board members.

The Chief Executive will appoint the executive members of the Management Board. The sponsor minister will appoint the non-executive Chair of the agency board. Ministers may decide that they should appoint the other non-executive members as well; alternatively, depending on the size and scope of the agency it may be felt more appropriate for the agency Chair to appoint the other non-executives (perhaps with ministerial approval). It will generally not be appropriate for the Chief Executive to appoint non-executive board members, due to their core independent challenge function, but the Chief Executive should be consulted on a proposed non-executive appointment. There is no centrally controlled process for appointing non-executive members of agency boards, but it is recommended and best practice that such appointments follow the principles of public appointments laid out in the *Governance Code on Public Appointments*, in as far as these are proportionate and applicable⁸.

6 Civil Service Recruitment Principles (April 2015) civilservicecommission.independent.gov.uk/civil-service-recruitment-2/

7 *Managing Public Money* is available at www.gov.uk/government/publications/managing-public-money

8 Governance Code for Public Appointments (December 2016) is available at <https://www.gov.uk/government/publications/governance-code-for-public-appointments>

Audit and Risk Management

Under Model 2 the agency's leadership should establish an audit and risk committee, which should be chaired by a non-executive member. It is important that this individual holds relevant qualifications and/or has appropriate experience and knowledge of corporate audit procedures and risk management.

In all cases, the Chief Executive must put in place appropriate arrangements for internal audit of the agency. External audit will be undertaken by the National Audit Office. More detail on the audit requirements for Executive Agencies, together with more general requirements on the financial regime, accounting, and business/corporate planning can be found in *Managing Public Money*, the *Government Financial Reporting Manual*⁹ and the *Audit and Risk Assurance Committee Handbook*¹⁰.

Departmental sponsor

The Permanent Secretary of the department will usually appoint a senior official in the department to act as sponsor for the Executive Agency, following appropriate internal consultation, including with the responsible minister. The seniority of the sponsor should be proportionate to the size and sensitivity of the agency. In some cases where the agency is of significant size and importance, it may be most appropriate for the Permanent Secretary to act as the senior sponsor within the department. The relationship between the senior sponsor and the agency Chief Executive is key to ensuring that the department and the agency have a clear understanding of each other's objectives and methods of working, and how these fit together to secure effective and efficient delivery. The day-to-day responsibilities of the departmental sponsor, usually delivered through a sponsor team within the department will be to:

- lead on the creation and periodic review of an agreed framework document, in collaboration with the agency, updating it as needed to reflect current arrangements;
- ensure that the agency has the delegations and authorities necessary for effective delivery and continuous improvement;
- advise ministers on the strategic direction and performance of the agency in the context of wider departmental or cross-governmental policy objectives;
- agree a framework for strategic performance management, actively monitor the performance of the agency (for example through formal quarterly performance review meetings between the sponsor team and the agency), and advise ministers on their response to strategic performance information;
- advise the Chief Executive of central policy developments that might impact on the agency, and steer the agency's activities to ensure that they most effectively support the delivery of departmental objectives; and

- assist the Chief Executive in the handling of complex relationships across government, and in working through the implications of any recommendations emerging from formal reviews that cover the agency.

Other corporate requirements

Framework documents

The department must put in place a framework document with the agency, based on the model template in *Managing Public Money*. This must be agreed with the agency, and should set out:

- the key elements of the policy and resources framework for the agency; the detailed sponsor relationship between the agency and the department;
- the respective responsibilities of the Chief Executive, (where relevant) the Chair and Management Board, the relevant minister, and the departmental Permanent Secretary, senior sponsor and ALB Accounting Officer.
- the financial controls and delegations in place, audit and risk arrangements, and processes for reviewing and if necessary dissolving the agency; and
- where the agency has significant relationships with other bodies, the details of these should also be noted.

More information on what the framework document should cover can be found in Annex 7.2 of *Managing Public Money*, together with a template.

Accordingly, when drafting or substantively amending a framework document from the standard model, it is important that departments consult the Treasury. Cabinet Office officials can provide advice and comments on drafts of framework documents if desired.

It is also important that framework documents are reviewed on a regular basis and that the document itself sets out the timing and procedures for such reviews. Any formal review that covers the work of the Executive Agency must include a review of its framework document.

9 *Government Financial Reporting Manual* is available at www.gov.uk/government/publications/government-financial-reporting-manual-2017-2018
10 *Audit and Risk Assurance Committee Handbook (March 2016)* is available at www.gov.uk/government/publications/audit-committee-handbook

Business and Corporate Plans

Executive agencies should submit annually to the sponsor department a draft of the corporate plan, covering at least three years ahead. The agency should agree with the department the issues to be addressed in the plan and the timetable for its preparation. The plan should reflect the agency's statutory and/or other duties and, within those duties, the priorities set from time to time by the responsible minister (including decisions taken on policy and resources in the light of wider public expenditure decisions). The plan should demonstrate how the agency contributes to the achievement of the Government's priorities, and link clearly to the overall corporate plan of the sponsor department. The corporate plan should be specifically agreed with the relevant minister.

The first year of the corporate plan, amplified as necessary, should form the business plan. The business plan should be updated to include key targets and milestones for the year immediately ahead and should be linked to budgeting information, so that resources allocated to achieve specific objectives can readily be identified. The business plan for the agency should usually be agreed with the senior sponsor in the department, although the size and sensitivity of some agencies will justify a requirement for the business plan to be agreed specifically by the relevant minister. Subject to any commercial considerations, the corporate and business plans should be published by the agency on its website and separately be made available to staff.

The following should be included in the plans:

- key objectives and associated key performance targets for the forward years, and the strategy for achieving those objectives;
- key financial performance targets;
- a review of performance in the preceding financial year, together with comparable outturns for the previous two years, and an estimate of performance in the current year;
- alternative scenarios and an assessment of the risk factors that may significantly affect the execution of the plan, but that cannot be accurately forecast; and
- other matters as agreed between the department and the agency.

Efficiency considerations such as those set out in Annex B of the *Tailored Review Guidance*¹¹ can be a useful source of meaningful performance measures, particularly when benchmarked against comparable organisations.

Budgeting and accounting

Executive agencies should produce and publish their own annual report and accounts in line with the government's *Financial Reporting Manual*¹². The agency's accounts will also be consolidated into those of the sponsor department.

Top-level financial information about Executive Agencies is also reported annually in the consolidated *Public Bodies dataset*¹³.

Central government-wide formal spending controls on specific aspects will usually apply to Executive Agencies in the same way that they apply to the sponsor department (except where specific exemptions have been agreed by the Cabinet Office)¹⁴. Any proposal to secure exemption from any aspect of these controls should be discussed and agreed in advance with the Controls Team in the Cabinet Office.

Efficiency

Efficiency should be embedded in the behaviour of Executive Agencies, and analysis of how efficient an organisation is should run through all of the agency's own self-monitoring processes, and the regular performance reviews that should take place between the departmental sponsor team and the agency.

Departments should also ensure that questions of whether, how and where efficiencies can be made are fully considered as part of a more formal review of the agency (whether as a stand-alone review of the body, or as part of a wider review of the department as a whole, or a grouped review of multiple bodies). Departments should focus on those areas most appropriate for the agency in question. All types of funding (CDEL, RDEL, AME) should be considered.

The analysis of each of these areas should be based on clear, robust and comparable management information. Departments should also use benchmarks where appropriate to assess agencies' performance against other organisations. Comparisons could be made with other agencies by function and/or with other agencies sponsored by that department.

Where proposals to deliver efficiency savings are identified through a formal review, these should be set out clearly within the report of the review. Progress against these identified savings should be reported on formally in the next review undertaken.

Annex B of the *Tailored Review Guidance* provides¹⁵ a number of issues departments could usefully consider when looking to increase efficiency.

11 Tailored Reviews: Guidance on Review of Public Bodies (March 2016) www.gov.uk/government/publications/tailored-reviews-of-public-bodies-guidance

12 Government Financial Reporting Manual 2017-18 www.gov.uk/government/collections/government-financial-reporting-manual-frem

13 Public Bodies Reports <https://www.gov.uk/government/collections/public-bodies>

14 Cabinet Office Controls Guidance (December 2017) www.gov.uk/government/publications/cabinet-office-controls

15 Tailored Reviews: Guidance on Review of Public Bodies (March 2016) www.gov.uk/government/publications/tailored-reviews-of-public-bodies-guidance

Staff terms and conditions, including pay

Executive Agencies' staff are civil servants and therefore will generally be subject to standard civil service terms and conditions. There will also be a number of core HR policies, such as conduct and discipline, attendance management, equal opportunities and health and safety that are common across the department. However, the right to pay, grade, promote and manage the agency's staff within that overall framework should generally be delegated to the agency's Chief Executive, with the extent of such delegations specified in the framework document. Where agencies need to vary terms and conditions to respond to local employment market conditions, this should be discussed and agreed with sponsor department, before seeking agreement from the Cabinet Office and HM Treasury.

As civil servants, agency staff will also usually be members of the Civil Service Pensions Scheme.

On recruitment of staff into the agency, the arrangements should observe the requirements and processes established by the Civil Service Commissioners. If the Permanent Secretary wishes, the arrangements may also require departmental representation on an agency recruitment board for Senior Civil Service positions.

Complaints Procedures

The agency must have in place procedures for dealing with complaints from members of the public. The agency's complaints policy and procedure must be clear and accessible to all users, referenced in the agency's framework document and published on its website. These procedures and the framework document must also set out the right of Members of Parliament to refer complaints from the public to the Parliamentary and Health Service Ombudsman, where an individual claims to have suffered injustice through maladministration.

Parliamentary accountability

As Accounting Officer, the Chief Executive is directly responsible to Parliament for the stewardship of the agency's resources. Where a select committee wishes to take evidence on matters assigned to an agency, it will normally fall to the Chief Executive to give evidence. Staff within agencies are subject to the Cabinet Office's *Guidance on Giving Evidence to Select Committees*¹⁶.

However, sponsoring ministers remain ultimately accountable to Parliament on all matters concerning their agencies, and the PAOs of departments have responsibility for assuring themselves about the capacity and performance of the agencies whose accounts are consolidated with their own. Accordingly, a select committee may well also invite the responsible minister, the PAO of the department, and/or senior policy officials to give evidence together with representatives of the agency.

Members of Parliament should be encouraged to deal directly with Chief Executives on day-to-day operational matters. The responsible minister may therefore ask a Chief Executive to reply directly to correspondence about issues delegated to the Chief Executive. Parliamentary Questions relating to the operation of the Executive Agency would normally be answered by the relevant minister on the basis of a reply and supporting briefing prepared by the agency Chief Executive and their staff.

Transparency

Executive agencies should operate in an open and transparent manner, which shows clear accountability for the agency's resources and performance. The agency should comply with all central government requirements on transparency, specifically those set out in the Cabinet Office guidance *How to publish central government transparency data*¹⁷.

16 Giving Evidence to Select Committees (October 2014) www.gov.uk/government/publications/departmental-evidence-and-response-to-select-committees-guidance

17 How to publish central government transparency data (December 2017) www.gov.uk/government/collections/how-to-publish-central-government-transparency-data

Central approval

In planning the delivery of new functions or re-organising current delivery, departments should consider innovative, private and third sector solutions, and new public bodies should only be set up as a last resort, when the core department or existing bodies cannot carry out the proposed functions.

New Executive Agencies can only be created following approval by Treasury and Cabinet Office ministers of a business case and rationale for the agency, demonstrating that there is a clear benefit for a delivery function to be carried out by a distinct Executive Agency. Departments should engage with the Treasury and Cabinet Office early in the process when developing proposals.

Details of the process for setting up a new Executive Agency can be found in the *Approvals Process for the Creation of New ALBs* guidance¹⁸. The new agency should follow the governance structure and principles of good corporate governance for Executive Agencies set out in Chapter 3 and Annex A of this guidance.

Once the creation of a new agency has been approved, it should be announced to Parliament by the sponsoring minister by means of a Written Ministerial Statement (WMS) in both Houses. It is also good practice for the responsible minister to write to the relevant subject select committee in Parliament, to advise them directly of the establishment of the new agency.

¹⁸ Public Bodies: Information and Guidance <https://www.gov.uk/government/publications/public-bodies-information-and-guidance>

Executive agencies should be reviewed at least once every Parliament in line with the Tailored Review guidance¹⁹. The review should take into account the alternative delivery models set out in Annex A of the Tailored Review guidance, as well as the suggested governance structure and principles of good corporate governance for Executive Agencies set out in Chapter 3 and Annex A respectively of this guidance.

¹⁹ Tailored Reviews: Guidance on Review of Public Bodies (March 2016) www.gov.uk/government/publications/tailored-reviews-of-public-bodies-guidance

Most likely following on from a formal review of an agency, it may be considered appropriate to merge the functions of the agency with another public body, transfer it to another department, or close the agency entirely (either through ending the function altogether, or removing agency status and moving the function to a different delivery model).

The key consideration should be whether the benefits (which ought primarily to be improved service delivery through maximising efficiency and/or savings) outweigh any disruption that the change process will cause.

Departments should also determine whether the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) or the Cabinet Office Statement of Practice (COSoP) will apply where any change is made.²⁰

Merging agencies or merger of an agency with another type of body

Mergers of bodies can be complex. Departments should, therefore, engage with HM Treasury and Cabinet Office when proposals are being formulated to agree the process for approval.

Within the same department

Two agencies: If two agencies sponsored by the same department are to merge this will require approval from the Chief Secretary to the Treasury. The Cabinet Office should be kept informed of the proposal and any progress.

The merger must be announced by WMS from a departmental minister. Sponsor teams are responsible for ensuring that governance arrangements for the body are finalised and a framework document, business and corporate plan and targets are produced in time for the formal start date of the newly merged agency. The new framework document and initial corporate plan for the merged agency should be agreed with HM Treasury.

Agency and ‘another type of body’: Where an agency is to be merged with another type of body sponsored by the same department, and the resultant body is to be an Executive Agency, this will be treated as the creation of a new agency, and the process set out in Chapter 4 of this guidance must be followed.

If the ‘other type of body’ to become part of the new agency is currently a NDPB, the Cabinet Office guidance on the dissolution of NDPBs must be followed.

Where an agency and ‘another type of body’ merge and result in ‘another type of body’, it will be considered as the closure of the agency (see section below) and the creation of a new body.

Across departmental boundaries

If agencies sponsored by different departments are to be merged, this amounts to transferring a function from one department to another, and additional considerations apply, as detailed under ‘Transfer of agencies between sponsor departments’ below.

The same requirements apply where an agency is merging with another type of body (from another department) and the resulting body will continue to be an Executive Agency.

Partial move of functions from an agency into the department

There may be cases where some (but not all) agency functions are moved back into the core department.

Such changes can be carried out with the departmental minister’s agreement. HM Treasury and Cabinet Office officials should be kept informed of the intention and progress of the proposals, but formal agreement to change need not be sought (beyond agreeing a new framework document for the reformed agency).

Consideration should be given as to whether the governance structure for the agency remains appropriate following any changes. For example an agency using governance structures set out in Model 2 might in future be better suited to those set out in Model 1.

Parliament should be informed of changes in the agency’s functions through a WMS.

Converting an agency to another form of public body

If the departmental view is that the agency ought to be converted to another form of public body, then the department must consult early on with Cabinet Office officials and comply with the requirements of the guidance *The Approvals Process for the Creation of New Arm’s-Length Bodies*.²¹

20 Transfer of Undertakings (Protection of Employment) regulations (TUPE) <https://www.gov.uk/transfers-takeovers>; Cabinet Office Statement of Practice on Staff Transfers (COSoP), December 2013 <https://www.gov.uk/government/publications/staff-transfers-in-the-public-sector>

21 Public Bodies: Information and Guidance www.gov.uk/government/publications/public-bodies-information-and-guidance

Transfer of agencies between sponsor departments

Generally, where functions are to be transferred from one government department to another, this constitutes a Machinery of Government change. Cabinet Office guidance must be followed.²² The Prime Minister's approval must be obtained and a formal Transfer of Functions Order may be required. This includes the transfer of an agency between departments. However, this may not be necessary for minor changes.

The sponsor departments proposing the move should consult HM Treasury and the Cabinet Office's Economic and Domestic Affairs Secretariat (who handle liaison with the Prime Minister's Office and can determine whether the transfer is small enough not to require the Prime Minister's approval).

Once approval for the transfer has been secured (or confirmed as unnecessary) ministers from the two departments must agree formally to the transfer, and it should be announced to Parliament by a WMS.

Closing agencies and removing agency status

Identification of agencies for closure is the responsibility of ministers and senior management within departments. When considering whether to dissolve an Executive Agency it is important to base the decision on the outcome of a thorough review. This section applies equally to dissolution without replacement (if the functions of the agency no longer need to be carried out within government), return of the agency and its functions into its sponsor department (removal of agency status), or conversion of an agency to another type of public body.

Once a decision has been made to dissolve an agency, sponsor ministers should seek formal approval from the Chief Secretary to the Treasury and the Minister for the Cabinet Office. This request should be accompanied by:

- details of the processes and outcomes considered in reaching this decision;
- proposals detailing how the department will take this forward i.e. what will happen to the staff, work etc (including confirmation that there have been appropriate consultations with relevant trade unions); and
- whether there are any presentational issues of which they should be aware.

Sponsor departmental officials should alert Treasury and Cabinet Office officials to the impending ministerial approaches.

If Treasury and Cabinet Office Ministers approve the proposal, the department can then formally dissolve the agency with effect from the agreed operative date. The change in the body's status should be announced to Parliament by means of a WMS.

²² Add Machinery of Government Changes: Guidance (October 2015) www.gov.uk/government/publications/machinery-of-government-changes-information

Annex A

**Executive Agencies:
Principles of Good
Corporate Governance**

A guide for assessing good corporate governance

This guidance has been designed to assess good corporate governance in Executive Agencies.

Corporate governance is:

“the way in which organisations are directed, controlled and led. It defines relationships and the distribution of rights and responsibilities among those who work with and in the organisation, determines the rules and procedures through which the organisation’s objectives are set, and provides the means of attaining those objectives and monitoring performance. Importantly, it defines where accountability lies throughout the organisation.”²³

Good Corporate Governance

Good corporate governance is central to the effective operation of all public bodies.

Departments should aim to introduce effective governance arrangements when setting up a new agency, and scrutinise these arrangements when the agency undergoes a review.

The review of governance arrangements should be led by the sponsoring department, working closely with the agency Chair (where appointed), and the Chief Executive, who will both have responsibility for ensuring that strong and robust corporate governance arrangements are in place. As a minimum, the controls, processes and safeguards in place in Executive Agencies should be assessed against the principles and policies set out in this code of good corporate governance. These reflect best practice in the public and private sectors and, in particular, draw from the principles and approach set out in *Corporate Governance in Central Government Departments: Code of Good Practice*. The Executive Agency must also be fully compliant with any relevant statutory and administrative requirements.

Comply or Explain

The “comply or explain” approach is the standard approach to corporate governance in the UK. In keeping with this approach, the department and Executive Agencies will need to identify as part of the review any areas of non-compliance and explain why an alternative approach has been adopted and how this approach contributes to good corporate governance. Reasons for non-compliance might include the need for structures and systems to remain proportionate, commercial considerations or concerns about cost and value for money.

Accountability

Statutory Accountability – Principle

The agency complies with all applicable statutes and regulations, and other relevant statements of best practice.

Supporting provisions

- the agency must comply with all statutory and administrative requirements on the use of public funds. This includes the principles and policies set out in the HM Treasury publication *Managing Public Money*²⁴ and Cabinet Office/HM Treasury spending controls. The agency must operate within the limits of its statutory authority and in accordance with any delegated authorities agreed with the sponsoring department;
- the agency should operate in line with the statutory requirements and spirit of the Freedom of Information Act 2000. It should have a comprehensive publication scheme. It should proactively release information that is of legitimate public interest where this is consistent with the provisions of the Act;
- the agency must be compliant with data protection legislation. As the agency remains part of the department and has no separate legal personality, it is unlikely that it will need to register itself separately as a ‘data controller’ with the Information Commissioner’s Office; and
- the agency should be subject to the Public Records Act 1958.

Accountability for Public Money – Principle

The Accounting Officer of the Executive Agency is personally responsible and accountable to Parliament for the use of public money by the agency and for the stewardship of assets.

Supporting provisions

- there should be a formally designated Accounting Officer for the agency. This is usually the most senior official (normally the Chief Executive);
- the role, responsibilities and accountability of the Accounting Officer should be clearly defined and understood. The Accounting Officer should have received appropriate training and induction. The body should be compliant with the requirements set out in *Managing Public Money*, relevant “Dear Accounting Officer” letters and other directions. In particular, the Accounting Officer of the Executive Agency has a responsibility to provide evidence-based assurances required by the PAO. The PAO requires these to satisfy him or herself that the Accounting Officer responsibilities are being appropriately discharged. This includes, without reservation, appropriate access of the PAO’s internal audit service into the agency; and

²³ Corporate Governance in Central Government Departments: Code of Good Practice, p.9. www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017

²⁴ Managing Public Money is available at www.gov.uk/government/publications/managing-public-money

- the agency should establish appropriate arrangements to ensure that public funds:
 - are properly safeguarded;
 - used economically, efficiently and effectively;
 - used in accordance with the statutory or other authorities that govern their use; and
 - deliver value for money for the Exchequer as a whole.

The agency's annual accounts should be laid before Parliament. The Comptroller and Auditor General should be the external auditor for the agency.

Ministerial Accountability – Principle

The minister is ultimately accountable to Parliament and the public for the overall performance of the agency.

Supporting provisions

- the minister and sponsoring department should exercise appropriate scrutiny and oversight of the agency;
- appointments to the management board should be made in line with the *Governance Code on Public Appointments*²⁵;
- the minister will normally appoint the Chair and all non-executive board members of the agency and be able to remove individuals whose performance or conduct is unsatisfactory;
- the minister will appoint the Chief Executive²⁶;
- the minister should meet the Chair and/or Chief Executive on an appropriately regular basis;
- a range of appropriate controls and safeguards should be in place to ensure that the minister is consulted on key issues and can be properly held to account. These will normally include:
 - a requirement for the agency to consult the minister on the corporate and/or operational business plan;
 - a requirement for the exercise of particular functions to be subject to guidance or approval from the minister;
 - a general or specific power of ministerial direction over the agency;
 - a requirement for the minister to be consulted by the agency on key financial decisions. This should include proposals by the agency to: (i) acquire or dispose of land, property or other assets; (ii) form subsidiary companies or bodies corporate; and (iii) borrow money; and
 - a power to require that the agency produces information which will enable the minister to answer for its affairs;
- and the minister should ensure that Parliament is informed of the activities of the agency through publication of an annual report.

Roles and Responsibilities

Role of the Sponsoring Department – Principles

The departmental board ensures that there are robust governance arrangements with the board of each agency. These arrangements set out the terms of their relationship and explain how they will be put in place to promote high performance and safeguard propriety and regularity.

There is a sponsor within the department that provides appropriate oversight and scrutiny of, and support and assistance to, the agency.

Supporting provisions

- the departmental board's regular agenda should include scrutiny of the performance of the Executive Agency. The frequency and level of scrutiny should be determined by the size and sensitivity of the body. The departmental board should establish appropriate systems and processes to ensure that there are effective arrangements in place for governance, risk management and internal control in the agency;
- there should be a framework document in place which sets out clearly the aims, objectives and functions of the agency and the respective roles and responsibilities of the minister, the sponsoring department and the agency. This should follow the template set out in *Managing Public Money*²⁷. The framework document should be published. It should be accessible and understood by the sponsoring department, all board members and by the senior management team in the agency. It should be regularly reviewed and updated;
- the department should set out its accountability relationship with the agency within the Accounting Officer System Statement;
- the department should ensure that information on what the agency is responsible for delivering, and appropriate performance indicators measuring such delivery, is set out transparently and is publicly available;
- there should be a dedicated sponsor/partner within the agency's home department. The seniority of the sponsor should be proportionate to the size and sensitivity of the agency. The role of the sponsor should be clearly defined; and
- there should be regular and ongoing dialogue between the sponsoring department and the body. Senior officials from the sponsoring department may, as appropriate, attend board and/or committee meetings. There might also be regular meetings between relevant professionals in the sponsoring department and the agency.

25 Governance Code for Public Appointments (December 2016) www.gov.uk/government/publications/governance-code-for-public-appointments

26 As the Chief Executive will also be Accounting Officer for the Executive Agency, the Principal Accounting Officer in the sponsor department, usually the Permanent Secretary, should also be consulted.

27 Annex 7.2 *Managing Public Money*, www.gov.uk/government/publications/managing-public-money

Model 1 – Role of the Chief Executive and Executive Board – Principles

Role of the Chief Executive

The agency is led by the Chief Executive who is accountable to ministers for the operation and management of the organisation and for the delivery of its functions. The Chief Executive is also directly accountable to Parliament as the Accounting Officer for the agency. The Chief Executive chairs and is supported by an executive board in the day-to-day management of the agency.

The department's audit and risk committee should provide the assurance function for the performance and success of the agency.

Supporting provisions

- the Chief Executive should represent the agency in discussions with ministers;
- the duties, role and responsibilities, terms of office and remuneration of the Chief Executive should be set out clearly and formally defined in writing;
- the Chief Executive should be accountable directly to ministers for the ultimate performance of the agency. He or she should be responsible for the day-to-day management of the agency and should have line responsibility for all aspects of executive management;
- as the Accounting Officer for the agency the Chief Executive should also be directly accountable to Parliament for the performance and management of the agency;
- the Chief Executive should be designated by the department's Permanent Secretary as Accounting Officer for the agency. The Chief Executive will be responsible for ensuring that the requirements of *Managing Public Money* are met, and that proper procedures are followed for securing the regularity and propriety of the public funds administered by the agency;
- there should be a formal, rigorous and transparent process for the appointment of the Chief Executive. This should be compliant with the Civil Service Commission's Recruitment Principles²⁸; and
- the Chief Executive should chair the executive board and appoint its members.

Role of the Executive Board

The executive board should support the Chief Executive in the day to day management and operation of the agency.

Supporting provisions

- the executive board should be chaired by the Chief Executive of the agency, who should also appoint its members; and
- the executive board is collectively responsible for supporting the Chief Executive in effectively running the agency. The executive board should have an appropriate balance of skills, experience, and knowledge to carry out this role.

Risk and assurance

- Oversight of audit and risk functions for the agency will be undertaken by the departmental board and audit and risk committee.

Model 2 – Role of the Chief Executive, Non-executive Chair and Management Board – Principles

Role of the Chief Executive – Principle

The agency is led by the Chief Executive who is directly accountable to ministers for the operation and management of the organisation and for the delivery of its functions. The Chief Executive is also directly accountable to Parliament as the Accounting Officer for the agency. The Chief Executive is supported by a Management Board, which is led by a non-executive Chair as well as executive and non-executive board members.

Supporting provisions

- the Chief Executive, with the Chair as appropriate, should represent the agency in discussions with ministers;
- the duties, role and responsibilities, terms of office and remuneration of the Chief Executive should be set out clearly and formally defined in writing;
- the Chief Executive should be accountable directly to ministers for the ultimate performance of the agency. He or she should be responsible for the day-to-day management of the agency and should have line responsibility for all aspects of executive management;
- as the Accounting Officer for the agency the Chief Executive should also be directly accountable to Parliament for the performance and management of the agency;

28 Civil Service Recruitment Principles (April 2015) <http://civilservice-commission.independent.gov.uk/civil-service-recruitment/>

- the Chief Executive should be designated by the department's Permanent Secretary as Accounting Officer for the agency. The Chief Executive will be responsible for ensuring that the requirements of *Managing Public Money* are met, and that proper procedures are followed for securing the regularity and propriety of the public funds administered by the agency;
- the Chief Executive should follow the advice and direction of the Management Board, except in very exceptional circumstances with a clear cut and transparent rationale for not doing so; and
- there should be a formal, rigorous and transparent process for the appointment of the Chief Executive. This should be compliant with the Civil Service Commission's Recruitment Principles.²⁹

Role of the Management Board – Principle

The Management Board supports the Chief Executive in the effective delivery of services and overall performance by providing leadership, advising on strategy and the deliverability of policies, maintaining high standards of corporate governance, ensuring that controls are in place to manage risk, scrutinising performance, and acting as the forum for self-challenge.

The Management Board and its committees have an appropriate balance of skills, experience, independence and knowledge.

There is a clear division of roles and responsibilities between non-executive and executives.

Supporting provisions

- the Management Board of the agency should:
 - meet regularly;
 - provide effective leadership for the organisation; and
 - effectively scrutinise the performance of the senior management team;
- the size of the board should be appropriate;
- board members should be drawn from a wide range of diverse backgrounds;
- the board should establish a framework of strategic control. This should specify which matters are specifically reserved for the collective decision of the board. This framework must be understood by all board members and by the senior management team. It should be regularly reviewed and refreshed;
- the board should establish formal procedural and financial regulations to govern the conduct of its business;

29 Civil Service Recruitment Principles (April 2015) <http://civilservice-commission.independent.gov.uk/civil-service-recruitment/>

- the board should establish appropriate arrangements to ensure that it has access to all such relevant information, advice and resources as is necessary to enable it to carry out its role effectively;
- the board should make a senior executive responsible for ensuring that appropriate advice is given to it on all financial matters; and
- the board should make a senior executive responsible for ensuring that board procedures are followed and that all applicable statutes and regulations and other relevant statements of best practice are complied with.
- if appropriate, the board should consider establishing a remuneration committee to make recommendations on the remuneration of senior officials. Information on senior salaries should be published. The board should ensure that the body's rules for recruitment and management of staff provide for appointment and advancement on merit in line with the Civil Service Commission's Recruitment Principles³⁰;
- the Chief Executive should be accountable to the board for the performance of the agency and for the implementation of the board's policies. He or she should be responsible for the day-to-day management of the agency and should have line responsibility for all aspects of executive management; and
- there should be an annual evaluation of the performance of the board and its committees, and of the Chair, Chief Executive and individual board members.³¹

Role of the Chair – Principle

The Chair is responsible for leadership of the board and for ensuring its overall effectiveness.

Supporting provisions

- the board should be led by a non-executive Chair;
- there should be a formal, rigorous and transparent process for the appointment of the Chair. This should follow the principles of the Governance Code on Public Appointments in as far as these are proportionate and applicable.³² The Chair should have a clearly defined role in the appointment of non-executive board members;
- the duties, role and responsibilities, terms of office and remuneration of the Chair should be set out clearly and formally defined in writing. Terms and conditions must be in line with Cabinet Office guidance³³ and with any statutory requirements;

30 Civil Service Recruitment Principles (April 2015) <http://civilservice-commission.independent.gov.uk/civil-service-recruitment/>

31 The sponsoring department is responsible for assessing the performance of the Chair. The Chair is responsible for assessing the performance of non-executive board members.

32 Governance Code for Public Appointments (December 2016) www.gov.uk/government/publications/governance-code-for-public-appointments

33 Public Appointments: Guidance to Departments. To be found at <https://www.gov.uk/government/publications/code-of-practice-for-ministerial-appointments-to-public-bodies>

- the responsibilities of the Chair will normally include:
 - representing the agency in discussions with ministers;
 - advising the sponsoring department and ministers about board appointments and the performance of individual non-executive board members;
 - ensuring that non-executive board members have a proper knowledge and understanding of their corporate role and responsibilities. The Chair should ensure that new members undergo a proper induction process and is normally responsible for undertaking an annual assessment of non-executive board members' performance;
 - ensuring that the board, in reaching decisions, takes proper account of guidance provided by the sponsoring department or ministers;
 - ensuring that the board carries out its business efficiently and effectively;
 - representing the views of the board to the general public; and
 - developing an effective working relationship with the Chief Executive and other senior staff;
- and the roles of Chair and Chief Executive should be held by different individuals.

Role of Non-Executive Board Members – Principle

As part of their role, non-executive board members provide independent and constructive challenge.

Supporting provisions

- there should be a formal, rigorous and transparent process for the appointment of non-executive members of the board. This should follow the principles of the *Governance Code on Public Appointments* in as far these are proportionate and applicable;
- the duties, role and responsibilities, terms of office and remuneration of non-executive board members should be set out clearly and formally defined in writing. Terms and conditions must be in line with Cabinet Office guidance³⁴. The responsibilities of non-executive board members (including the Chair) will normally include:
 - establishing the strategic direction of the agency (within a policy and resources framework set by ministers);
 - overseeing the development and implementation of strategies, plans and priorities;
 - overseeing the development and review of key performance targets, including financial targets;
 - ensuring that the agency complies with all statutory and administrative requirements on the use of public funds;

34 Code of Conduct for Board Members of Public Bodies. To be found at <https://www.gov.uk/government/publications/public-bodies-information-and-guidance>

- ensuring that the board operates within the limits of its statutory authority and any delegated authority agreed with the sponsoring department;
- ensuring that high standards of corporate governance are observed at all times. This should include ensuring that the agency operates in an open, accountable and responsive way; and
- representing the board at meetings and events as required;
- all non-executive board members must be properly independent of management³⁵;
- all non-executive board members must allocate sufficient time to the board to discharge their responsibilities effectively. Details of board attendance should be published in the agency's annual report and accounts (with an accompanying narrative as appropriate); and
- there should be a proper induction process for new board members. This should be led by the Chair. There should be regular reviews by the Chair of individual members' training and development needs.

Risk and assurance

- the board should establish an audit (or audit and risk) committee with responsibility for the independent review of the systems of internal control and of the external audit process. The audit committee should be led by a non-executive Chair.

35 "Independence" on private sector boards is determined according to criteria set out in the UK Corporate Governance Code (Paragraph B.1.1). www.frc.org.uk/directors/corporate-governance-and-stewardship/uk-corporate-governance-code

Effective financial management – Principle

The agency has taken appropriate steps to ensure that effective systems of financial management and internal control are in place.

Supporting provisions

Annual Reporting

- the agency must publish on a timely basis an objective, balanced and understandable annual report. The report must comply with HM Treasury guidance.

Internal Controls

- the agency must have taken steps to ensure that effective systems of risk management are established as part of the systems of internal control;
- the body must ensure that an effective internal audit function is established as part of the systems of internal control. This should operate to government internal audit standards and in accordance with the Public Sector Internal Audit Standards³⁶. The effective internal audit function could be provided by a cross-government supplier e.g. Government Internal Audit Agency;
- there must be appropriate financial delegations in place. These should be understood by the sponsoring department, by board members, by the senior management team and by relevant staff across the organisation. Effective systems should be in place to ensure compliance with these delegations. These should be regularly reviewed;
- there must be effective anti-fraud and anti-corruption measures in place;
- there must be clear rules in place governing the claiming of expenses. These should be published. Effective systems should be in place to ensure compliance with these rules. The agency should proactively publish information on expenses claimed by board members and senior staff; and
- the annual report should include a statement on the effectiveness of the agency's systems of internal control.

External Auditors

- the agency should have taken steps to ensure that an objective and professional relationship is maintained with the external auditors.

Transparency – Principle

The agency operates in an open, accountable and transparent manner, providing clarity about service provision and expenditure, as well as how it conducts its business.

It regularly publishes such information and by opening its books for public scrutiny, the agency demonstrates its commitment to openness and transparency and to making itself more accountable to the public.

Supporting provisions

- the agency should comply with the transparency requirements set out in the Cabinet Office guidance *How to publish central government transparency data*³⁷, and with any other best practice principles and standards of transparency for public bodies issued by the Cabinet Office;
- it should publish details of senior staff and board members together with appropriate contact details;
- the agency should consider holding open board meetings or an annual open meeting;
- the agency should proactively publish agendas and minutes of board meetings; and
- the agency should proactively publish performance data.

Communications – Principle

The agency maintains open and effective communications with its stakeholders and the public.

Supporting provisions

Communications with Stakeholders

- the agency should have identified its key stakeholders. It should establish clear and effective channels of communication with these stakeholders.

Communications with the Public

- the agency should make an explicit commitment to openness in all its activities. It should engage and consult with the public on issues of real public interest or concern; and
- the agency should establish effective correspondence handling and complaint procedures. These should be published online and make it simple for members of the public to contact the agency and to make complaints. Complaints should be taken seriously. Where appropriate, complaints should be subject to investigation by the Parliamentary Ombudsman³⁸. The agency should monitor and report on its performance in handling correspondence. Agencies which follow Model 1, may choose to use their home department's procedures in this area.

³⁶ Public Sector Internal Audit Standards 2017 can be found at: <https://www.gov.uk/government/publications/public-sector-internal-audit-standards>

³⁷ *How to publish central government transparency data* (December 2017) www.gov.uk/government/collections/how-to-publish-central-government-transparency-data

³⁸ Parliamentary and Health Service Ombudsman www.ombudsman.org.uk

Marketing and PR

- the agency must comply with the Government's conventions on publicity and advertising³⁹. These conventions must be understood by board members, senior managers and all staff in press, communication and marketing teams;
- appropriate rules and restrictions must be in place limiting the use of marketing and PR consultants; and
- the agency should put robust and effective systems in place to ensure that it is not, and is not perceived to be, engaging in political lobbying. This includes restrictions on board members and staff attending party conferences in a professional capacity.

Conduct and Behaviour – Principle

The board and staff of the agency work to the highest personal and professional standards. They promote the values of the body and of good governance through their conduct and behaviour.

Supporting provisions

Conduct

- a code of conduct must be in place setting out the standards of personal and professional behaviour expected of all board members. This should follow the Cabinet Office *Code of Conduct for Board Members*. All members should be aware of the code. The code should form part of the terms and conditions of appointment;
- the Civil Service Code⁴⁰ and the Civil Service Management Code⁴¹ apply to civil servants who work for the agency. All staff should be aware of the provisions of the Civil Service Code, which forms part of their terms and conditions of employment;
- there are clear rules and procedures in place for managing conflicts of interest, as required under the Code of Conduct for Board Members of Public Bodies;
- there are clear rules and guidelines in place on political activity for staff. There are effective systems in place to ensure compliance with any restrictions;

- this requires the agency to be listed in the Parliamentary Commissioner Act 1967;
- there are rules in place for board members and senior staff on the acceptance of appointments or employment after resignation or retirement. These are effectively enforced; and
- whistle-blowing procedures consistent with the Public Interest Disclosure Act⁴² are in place.

Leadership

- Board members and senior staff should show leadership by conducting themselves in accordance with the highest standards of personal and professional behaviour and in line with the principles set out in respective codes of conduct.

39 Government Communication Propriety Guidance: <https://gcs.civilservice.gov.uk/guidance/propriety>

40 The Civil Service Code (March 2015) www.gov.uk/government/publications/civil-service-code/the-civil-service-code#standards-of-behaviour

41 Civil Service Management Code (November 2016) www.gov.uk/government/publications/civil-servants-terms-and-conditions

42 The Public Interest Disclosure Act May 2013 www.gov.uk/government/publications/the-public-interest-disclosure-act

Annex B

Trading Funds

Trading funds are a means of financing the revenue-generating operations of a government department, which takes them outside the supply process. They are established in statute, and classified outside central government (as public corporations). For this reason, although they share many features with Executive Agencies (or in some cases, non-ministerial departments), and in many cases describe themselves as such, they hold a specific status as a Trading Fund.

The Government Trading Funds Act 1973 (as amended) places particular requirements on trading funds, principally around the handling of their finances, the appointment of their Accounting Officer by HM Treasury, the publication of their accounts (which are not consolidated with those of their sponsor department), and accountability to Parliament. These requirements will depart in specific ways from the guidance laid out in this document for 'standard' Executive Agencies, particularly in the areas of:

- setting up and closing the body (legislation is required to establish or remove trading fund status);
- the role of the Chief Executive;
- the governance arrangements;
- budgeting and accounting; and
- parliamentary accountability.

Where there is such a difference in approach between the requirements for a trading fund and the expectations for an Executive Agency, a body that holds both statuses should comply primarily with the statutory and legal requirements placed upon a trading fund. Having done so, it should then look to comply with the guidance on Executive Agencies, in so far as there is no conflict with the requirements for trading fund status.

Further detailed advice and guidance on trading funds is available in Section 7.8 and Annex 7.3 of *Managing Public Money*⁴³.

Departments considering establishment of new trading funds should also consider alternative options including an NDPB with trading activities.

43 Managing Public Money www.gov.uk/government/publications/managing-public-money

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