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Dear Accounting Officer

BREXIT SPENDING AND DIRECTIONS

This letter circulates recent guidance issued by the HMT/DEXEU Permanent Secretaries on the circumstances in which Accounting Officers should seek a Direction to cover certain types of Brexit-related spending in advance of specific statutory cover. It also sets out the process for involving the relevant Minister when Directions are required in Non-Ministerial Government Departments and independent Arms-Length Bodies.

Action

All Accounting Officers

Context

Tom Scholar and Philip Rycroft recently wrote jointly to Permanent Secretaries, setting out the circumstances in which urgent expenditure relating to the implementation of new services, following the UK's departure from the EU, would require a Direction to proceed.

I attach a copy of that letter to ensure that it has been seen by all designated Accounting Officers. I also attach a template to inform submissions to Ministers on this issue, setting out what such advice needs to cover.

Three further points are worth noting:

- Departments can cover multiple areas of Brexit-related urgent spend with a single direction, so long as they can provide an appropriate level of detail justifying the inclusion of each area. As a minimum, the submission should set out what the spending is for, the planned timing of the spending and why it is urgent and cannot wait for legislation to be enacted. However, uncertainty on details may mean that more than one direction is required in practice.
- In principle, the latest departments can publish a direction is at the next departmental annual report and accounts. However, for transparency, departments should publish the direction as soon as possible after it has been issued.

- Draft versions of both the Accounting Officer's advice to their Secretary of State and their Secretary of State's response should be shared in draft with Treasury spending team contacts before they are submitted to Ministers.

In parallel, we have been considering the procedure for issuing Directions where urgent expenditure on a new service is required by a Non-Ministerial Government Department (NMGD) and independent Arms-Length Bodies (ALBs).

The basic process is set out at paragraph 3.8.6 of *Managing Public Money*. There is usually no formal role for the Secretary of State of the sponsor department when the Board of an ALB issues a Direction to its Accounting Officer, usually the body's Chief Executive.

However, given the potential interest in Brexit spending, the role of Ministers in sponsor departments should be greater than normally envisaged in *Managing Public Money*.

The Chair of the Board should formally consult with the Secretary of State in the sponsor or parent department and request written advice on how to proceed in the event their AO has felt unable to proceed with essential spending in advance of full specific statutory cover for that spending. That advice from the relevant Secretary of State should then be drawn to the attention of the board and the board should take it into account when deciding whether to issue a Direction to proceed to their AO.

Such an approach respects the independence of NMGDs and ALBs whilst not asking their boards to take responsibility for what are effectively judgements relating to Brexit.

In setting out their views for the board, Secretaries of State may find it useful to use the following standard form of words where they judge the case for urgency is well made.

- This is a decision for the Board, not for me given that [name of body] is statutorily independent of Ministers and [for NMGDs only:] operates its own departmental Vote separately from [sponsor department];
- But you have asked me for a view on whether [area of preparatory spending on new service] should begin in advance of legislation to deliver cover for this spending, in breach of the new services rules and therefore *Managing Public Money* requirements;
- In my view this is essential spending to prepare for EU exit;
- I can confirm that it falls within the category of spending for which I would issue a Direction, in areas where I have the authority to do so.

Contact

If you want to discuss this letter, please contact Richard Crabtree on 020 7270 6124.



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Treasury Officer of Accounts