

**From:** O'Brien, Una <una.o'brien@dh.gsi.gov.uk>  
**Sent:** 23 November 2015 16:18  
**To:** Jim Mackey  
**Subject:** Accounting Officer letter - Una O'Brien to Jim Mackey  
**Attachments:** Code of Conduct for Board Members of Public Bodies - CO June 2011.pdf; DH Accounting Officer system statement (Oct 2014).pdf; Managing\_Public\_Money 2015.pdf; Reg\_Prop\_and\_VfM-November04.pdf; 151123 Jim Mackey.pdf

Dear Jim,

Please find attached a letter from Una, designating you as the Accounting Officer for Monitor and NHS Trust Development Authority (operating as NHS Improvement). Also attached are the following for reference:

- The DH Accounting Officer system statement.
- *Managing Public Money*, Chapter 3 (the annexes have recently been updated, but not the relevant section for the AO information).
- The Treasury handbook *Regularity, Propriety and Value for Money* (Nov 2004).
- The Code of Conduct for Board Members of Public Bodies.

Thanks,

Adam



Department  
of Health

**Adam Pickford**

Senior Private Secretary to the Permanent Secretary

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23 November 2015

Dear Jim,

**Accounting Officer for Monitor and NHS Trust Development Authority  
(operating as NHS Improvement)**

I am writing in my capacity as Principal Accounting Officer to designate you as Accounting Officer for Monitor and NHS Trust Development Authority, operating jointly under the name of NHS Improvement, in succession to David Bennett and Bob Alexander with effect from 2 November 2015. I appreciate that you have acted as an Accounting Officer for many years, but I thought it important to set out in full your Accounting Officer responsibilities in this new role.

Your role as Accounting Officer for NHS Improvement relates to mine as the Principal Accounting Officer. I am accountable in respect of the whole of the Department's Resource Estimate. This means that I have to satisfy myself that the funds authorised by Parliament are used for the purposes intended, that every effort is made to achieve value for money, and that these funds and any income are properly accounted for. I have written an Accounting Officer Statement describing my role, a copy of which is enclosed.<sup>1</sup> This will give you an overview as to how my responsibilities relate to those of the DH arm's length bodies, such as NHS Improvement. There is more detail on how our accountabilities interconnect in the framework agreements between the Department and Monitor/the NHS Trust Development Authority.

I enclose a copy of Chapter 3 of *Managing Public Money*<sup>2</sup> which sets out the responsibilities of an Accounting Officer. As Accounting Officer, you are personally responsible for safeguarding the public funds for which you have charge; for ensuring propriety and regularity in the handling of public funds; and for the day-to-day operations and management of NHS Improvement. In addition, you should ensure that NHS Improvement as a whole is run on the basis of the standards, in terms of governance, decision-making and financial management that are set out in Box 3.1 of *Managing Public Money*.

You will wish to note the circumstances set out in sections 3.8.4 – 3.8.5 of Chapter 3 in the event that you were to be overruled by your Board on a matter of propriety,

<sup>1</sup> DH Accounting Officer: responsibilities statement - Publications - GOV.UK

<sup>2</sup> [https://www.gov.uk/government/Managing\\_Public\\_Money.pdf](https://www.gov.uk/government/Managing_Public_Money.pdf)

regularity or value for money. You should inform me of any such issues in the first instance. In the event of a written direction from the Board however, you will of course need to inform the Comptroller & Auditor General.

As an Accounting Officer, you must be able to assure Parliament and the public of high standards of probity in the management of public funds. This will include your organisation's governance, decision-making and financial management assurances when considering, promoting and safeguarding regularity, propriety, affordability, sustainability, risk, and value for money across the public sector; and accounting accurately and transparently for your organisation's financial position and transactions.

I should also explain that your designation as Accounting Officer for NHS Improvement may be withdrawn were circumstances to arise that would lead me to conclude that you are no longer a fit person to carry out the responsibilities of an Accounting Officer, or that it is otherwise in the public interest that your designation be withdrawn. I would not take such a decision without full and careful examination of the facts which you would have a suitable opportunity to contribute to and to add your viewpoint. Nor would I take such a decision without giving your Chair a full account of my reasons as well as a chance to make representations. Your Chair has a note detailing the procedures I would follow in these circumstances. Withdrawal of Accounting Officer status would obviously bring into question your ability to fulfil the role of Chief Executive generally.

We are liable to be summoned to attend as witnesses to a hearing of the Public Accounts Committee (PAC) to give evidence on the discharge of our responsibilities as Accounting Officers. Appearing as a witness before the PAC is not optional. It is only with specific PAC agreement that an Accounting Officer may defer their appearance or send a substitute.

If you ever have any concerns about the course of action you should follow, please do not hesitate to contact me or my colleagues here.

Please also refer to the Treasury handbook *Regularity, Propriety and Value for Money (Nov 2004)*.<sup>3</sup> This is designed primarily for Accounting Officers and explains the high standards of propriety expected of those involved in the stewardship of public funds, and the importance of public accountability. As you will appreciate, in order to carry out your responsibilities as an Accounting Officer, you will need a thorough understanding of propriety and regularity issues, as they affect those in public service.

These themes are further developed in the Civil Service Learning training course: *Introduction to Accounting Officer Responsibilities*. It is essential that you consider what, if any, further advice or training you may need to fulfil the Accounting Officer role. You should initially contact Graham Davies at Civil Service Learning ([graham.davies8@cslearning.gsi.gov.uk](mailto:graham.davies8@cslearning.gsi.gov.uk)).

*From the Permanent Secretary  
Dame Una O'Brien DCB*

If you would like to discuss your role as Accounting Officer or you have any specific concerns or queries please contact David Williams, the Department's Director General of Finance (tel: 020 7210 5685).

A copy of this letter (without enclosures) goes: to your Chair; to Amyas Morse, the Comptroller & Auditor General; to the Clerk of the Public Accounts Committee; to Hilary Spencer, Civil Service Learning; and to the Treasury Officer of Accounts.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Una O'Brien', written in a cursive style.

**Signed electronically after approval by Una O'Brien**

**UNA O'BRIEN  
PERMANENT SECRETARY**





**CABINET OFFICE**

**CODE OF CONDUCT FOR BOARD MEMBERS OF PUBLIC  
BODIES**

**JUNE 2011**





## FOREWORD

The Government expects all holders of public office to work to the highest personal and professional standards. In support of this, all non-executive board members of UK public bodies<sup>1</sup> must abide by the principles set out in this Code of Conduct. The Code sets out, clearly and openly, the standards expected from those who serve on the boards of UK public bodies and should form part of individual members' terms and conditions of appointment. Any breach of the Code should be viewed as a breach of those terms and conditions of appointment.

This *Code* replaces *Guidance on Codes of Practice for Board Members of Public Bodies* issued by the Cabinet Office in 2004.

Any questions on the *Code* should be directed to:

Propriety and Ethics Team  
Cabinet Office  
70 Whitehall  
LONDON  
SW1A 2AS

Tel: 020 7276 0269/0387

Copies of the *Code* can be downloaded from:

[www.cabinetoffice.gov.uk/content/public-bodies-and-appointments](http://www.cabinetoffice.gov.uk/content/public-bodies-and-appointments)

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<sup>1</sup> The principles set out in this Code should apply to all non-executive members on the boards of Government Departments, non-Ministerial Departments, Executive Agencies, Executive and Advisory non-department public bodies (NDPBs) and national public corporations.



**CODE OF CONDUCT FOR BOARD MEMBERS OF  
PUBLIC BODIES**

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# CODE OF CONDUCT FOR BOARD MEMBERS OF PUBLIC BODIES

## 1. INTRODUCTION

- 1.1 As a public office-holder, your behaviour and actions must be governed by the principles set out in this Code of Conduct. It is your responsibility to ensure that you are familiar with, and comply with, all the relevant provisions of the Code.

## 2. KEY PRINCIPLES OF PUBLIC LIFE

- 2.1 The key principles upon which this Code of Conduct is based are the Seven Principle of Public Life<sup>2</sup>. These are:

### **Selflessness**

You should take decisions solely in terms of the public interest. You should not do so in order to gain financial or other material benefits for yourself, your family or your friends.

### **Integrity**

You should not place yourself under any financial or other obligation to outside individuals or organisations that might, or might be perceived to, influence you in the performance of your official duties.

### **Objectivity**

In carrying out public business, including awarding contracts and recommending individuals for rewards and benefits, you should make choices on merit.

### **Accountability**

You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate for your office.

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<sup>2</sup> *Standards in Public Life: First Report of the Committee on Standards in Public Life*. Volume 1: Report. CM 2850-I.

### **Openness**

You should be as open as possible about the decisions and actions that you take. You should give reasons for your decisions and restrict information only when the wider public interest clearly demands.

### **Honesty**

You have a duty to declare any private interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

### **Leadership**

You should promote and support these principles by leadership and example.

- 2.2 These principles should inform your actions and decisions as a board member.

## **3. GENERAL CONDUCT**

### **Use of Public Funds**

- 3.1 You have a duty to ensure the safeguarding of public funds<sup>3</sup> and the proper custody of assets which have been publicly funded.
- 3.2 You must carry out your fiduciary obligations responsibly – that is, take appropriate measures to ensure that the body uses resources efficiently, economically and effectively, avoiding waste and extravagance. It will always be an improper use of public funds for public bodies to employ consultants or other companies to lobby Parliament, Government or political parties.

### **Allowances**

- 3.3 You must comply with the rules set by the board and the public body regarding remuneration, allowances and expenses. It is your responsibility to ensure compliance with all relevant HM Revenue and Customs' requirements concerning payments, including expenses.

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<sup>3</sup> This should be taken to include all forms of receipts from fees, charges and other sources.

### **Gifts and Hospitality**

- 3.4 You must not accept any gifts or hospitality which might, or might reasonably appear to, compromise your personal judgement or integrity or place you under an improper obligation.
- 3.5 You must never canvass or seek gifts or hospitality.
- 3.6 You must comply with the rules set by the body on the acceptance of gifts and hospitality. You should inform the Chief Executive (or equivalent) of any offer of gifts or hospitality and ensure that, where a gift or hospitality is accepted, this is recorded in a public register in line with the rules set by the body.
- 3.7 You are responsible for your decisions on the acceptance of gifts or hospitality and for ensuring that any gifts or hospitality accepted can stand up to public scrutiny and do not bring the public body into disrepute.

### **Use of Official Resources**

- 3.8 You must not misuse official resources<sup>4</sup> for personal gain or for political purposes. Use of such resources must be in line with the body's rules on their usage.

### **Use of Official Information**

- 3.9 You must not misuse information gained in the course of your public service for personal gain or for political purpose.<sup>5</sup>
- 3.10 You must not disclose any information which is confidential in nature or which is provided in confidence without authority. This duty continues to apply after you have left the board.

### **Political Activity**<sup>6</sup>

- 3.11 In your public role, you should be, and be seen to be, politically impartial. You should not occupy a paid party political post or hold a particularly sensitive or high-profile role in a political party. You should

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<sup>4</sup> This includes facilities, equipment, stationery, telephony and other services.

<sup>5</sup> Board members who misuse information gained by virtue of their position may be liable for breach of confidence under common law or may commit a criminal offence under insider dealing legislation

<sup>6</sup> If you are an MP, Member of the House of Lords, Member of a Devolved Administration or Local Councillor, you are exempt from these requirements - although you should still exercise proper discretion on matters directly related to the work of the body and recognise that certain political activities may be incompatible with your role as a board member.

abstain from all controversial political activity and comply with Cabinet Office rules on attendance at Party Conferences<sup>7</sup>.

- 3.12 On matters directly related to the work of the body, you should not make political statements or engage in any other political activity.
- 3.13 In your official capacity, you should be even-handed in all dealings with political parties.
- 3.14 Subject to the above, you may engage in political activity but should, at all times, remain conscious of your responsibilities as a board member and exercise proper discretion. You should inform the Chair and/or the parent Department before undertaking any significant political activity.

### **Employment and Appointments**

- 3.15 If you wish to take up new employment or appointments during your term of office, you must inform the Chair and/or the relevant parent Department.
- 3.16 On leaving office, you must comply with the rules of the body on the acceptance of future employment or appointments.

## **4. MEMBERS' INTERESTS**

- 4.1 You must ensure that no conflict arises, or could reasonably be perceived to arise, between your public duties and your private interests – financial or otherwise.
- 4.2 You must comply with the rules of the body on handling conflicts of interests. As a minimum, these will require you to declare publicly any private interests which may, or may be perceived to, conflict with your public duties<sup>8</sup>. The rules will also require you to remove yourself from the discussion or determination of matters in which you have a financial interest. In matters in which you have a non-financial interest, you should not participate in the discussion or determination of a matter where the interest might suggest a danger of bias.<sup>9</sup>

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<sup>7</sup> [www.cabinetoffice.gov.uk/content/public-bodies-and-appointments](http://www.cabinetoffice.gov.uk/content/public-bodies-and-appointments)

<sup>8</sup> In general, all financial interests should be declared. When considering what non-financial interests should be declared, you should ask yourself whether a member of the public, acting reasonably, would consider that the interest in question might influence your words, actions or decisions.

<sup>9</sup> These are common law provisions.

- 4.3 It is your responsibility to ensure that you are familiar with the body's rules on handling conflicts of interests, that you comply with these rules and that your entry in the body's register of members' interests is accurate and up-to-date.

## **5 RESPONSIBILITIES AS A BOARD MEMBER**

- 5.1 You should play a full and active role in the work of the body. You should fulfil your duties and responsibilities responsibly and, at all times, act in good faith and in the best interests of the body.
- 5.2 You should deal with the public and their affairs fairly, efficiently, promptly, effectively and sensitively, to the best of your ability. You must not act in a way that unjustifiably favours or discriminates against particular individuals or interests.
- 5.3 You must comply with any statutory or administrative requirements relating to your post<sup>10</sup>.
- 5.4 You should respect the principle of collective decision-making and corporate responsibility. This means that, once the board has made a decision, you should support that decision.
- 5.5 You must not use, or attempt to use, the opportunity of public service to promote your personal interests or those of any connected person, firm, business or other organisation.

## **6 RESPONSIBILITIES TOWARDS EMPLOYEES**

- 6.1 You will treat any staff employed by the body with courtesy and respect. It is expected that employees will show you the same consideration in return.
- 6.2 You will not ask or encourage employees to act in any way which would conflict with their own Code of Conduct.

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<sup>10</sup> In the case of a body incorporated under the Companies Act or the Companies (Northern Ireland) Order, you will also be subject to the duties of directors under company law. In the case of a body that has charitable status, you will also be subject to the duties of trustees under charities law.









Department  
of Health

# Accounting Officer system statement

October 2014

October 2014

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**October 2014**

**Author:**  
Finance & NHS Directorate. Cost Centre 17560

**Document Purpose:**  
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Accounting and Accountable Officers. Arm's length bodies and executive agencies.

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October 2014

# Accounting Officer system statement

October 2014

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# Introduction

The Permanent Secretary, as the Principal Accounting Officer of the Department of Health (DH), is accountable to Parliament for the proper stewardship of the resources allocated to the Department. The Government's reforms to the NHS and public health significantly affected the way accountability worked from April 2013. This statement updates the previous version published in September 2012.

The responsibilities of the Accounting Officer are set out in the Treasury guidance *Managing Public Money*. In summary, as applied to the health system, the responsibilities are:

- to ensure that all the expenditure of DH, its arm's-length bodies and the NHS (including NHS trusts and NHS foundation trusts) is contained within the overall budget – the Departmental Expenditure Limit (DEL);
- to provide assurance that the individual organisations within the system are performing their functions and duties effectively and have the necessary governance and controls to ensure regularity, propriety and value for money; and
- to ensure that Ministers are appropriately advised on all matters of financial propriety and regularity, and value for money, across the systems for which the Department is responsible.

In line with the code of good practice on corporate governance in central government departments<sup>1</sup>, DH has constituted an enhanced Departmental Board chaired by the Secretary of State, including non-executives from outside government. The Board provides advice and support to Ministers, and to the DH Accounting Officer, across all of DH's responsibilities. The Board scrutinises reports on performance, and challenges DH on how well it is achieving its objectives.

The three parts of this statement describe, in turn, the DH Accounting Officer's responsibilities for the three services that DH oversees in England: the NHS, public health, and adult care and support.

This division has been the case since the mid-twentieth century. For the NHS, accountability is further sub-divided between commissioning and provision, a split that began in the 1990s and has been made more explicit following the 2012 Health and Social Care Act.

In practice, much accountability is held locally. Typically, a local authority will have accountabilities for public health and adult social care. Hospitals, mental health trusts and community health trusts will be held to account through their boards, and the local clinical commissioning group will have an accountable officer and a board.

At the national level, working with and through new national bodies (NHS England, the NHS Trust Development Authority, Health Education England, Public Health England) and others whose role has changed significantly (Monitor and CQC), the Department is able to hold the national system to account. The Department has prioritised building strong governance and boards in each of these organisations, and, where necessary, acts as a national co-ordinating mechanism.

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<sup>1</sup> HM Treasury and Cabinet Office, Corporate governance code for central government departments, 2011

While the NHS, public health and adult care and support are funded and structured differently, and have different mechanisms for accountability, they are all now covered by a consistent set of outcome frameworks, describing the outcomes that need to be achieved. Collectively, these outcome frameworks provide a way of holding the Secretary of State and the Department to account for the results DH is achieving with its resources, working with and through the health and care delivery system.

### **The Department of Health as ‘System Steward’**

The Department of Health, on behalf of the Secretary of State, acts as ‘system steward.’ The Department is the only body with oversight of the whole health and care system and is responsible for creating and updating the policy and legislative frameworks within which the health and care system operates.

As system steward, the Department has developed its approach to oversight of the health and care system building on research by the World Health Organisation on the role of health departments. Stewardship is “the careful and responsible management of the well-being of the population,”<sup>2</sup> and in the most general terms “the very essence of good government”. The following actions are categorised under the Department’s functions of stewardship:

- the generation of intelligence and formation of strategic policy so the effectiveness of the health and care system and current and future needs of patients and service users, are understood and can be responded to;
- the securing and allocating of money and resources so that the right services can be made available and priorities met;
- ensuring tools for implementation and building coalitions and partnerships so that the system works together effectively, remaining focused on patients and service users;
- ensuring alignment between objectives, structures and culture and ensuring accountability so that there is assurance that the needs of patients and service users are being met effectively and that both the architecture of the system, and the culture displayed by the people within it, work to this end.

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<sup>2</sup> The World Health Report 2000



# PART ONE: THE NHS

1. NHS services in England are delivered locally against a range of national standards. They are funded with Parliament's authority by taxpayers' money and are available to all based on clinical need.

## **Accountability for the NHS**

1.2. The DH Accounting Officer, as Principal Accounting Officer, has overall responsibility in Government for the proper and effective use of resources as voted by Parliament for the health and care system, including the NHS. The majority of resources are allocated annually to NHS England and its Chief Executive, as Accounting Officer, is responsible for the effective use of these resources.<sup>3</sup>

1.3. Under the reformed system, while the Secretary of State retains ministerial responsibility to Parliament for the provision of the health service in England and DH remains responsible for the health and care legislative framework, most day-to-day operational management in the NHS takes place at arm's length from the Department. With the exception of the remaining special health authorities, all organisations in the NHS have their own statutory functions conferred by legislation, rather than by delegation from the Secretary of State.

1.4. However, the Secretary of State (and thereby the Department) does have an explicit duty to keep under review the performance of NHS England and all of DH's other arm's length bodies (ALBs) and executive agencies (EAs). In the event of a significant failure by any ALB to perform its functions properly or in a manner that the Secretary of State considers to be consistent with the interests of the health service, the Secretary of State has powers to intervene by issuing a direction. If the body fails to comply with that direction, the Secretary of State may discharge that function directly or arrange for another organisation to do so.

1.5. The reformed system empowers front-line professionals whilst maintaining Ministerial accountability, and reduces the Department's involvement in operational decision-making. Nevertheless, as the rest of this part of the Statement explains, there is a robust system in place to allow the Accounting Officer to discharge her responsibilities, by providing assurance about:

- a) the commissioning of NHS care; and
- b) the provision and regulation of services.

## **Commissioning**

1.6 The Department allocates the budget for commissioning of NHS services to NHS England: NHS England in turn decides upon the formula and the approach for allocating funds to clinical commissioning groups (CCGs). The Chief Executive of NHS England is the Accounting Officer for all NHS funds and these are usually deployed in three ways: firstly, contracting for primary care; second, to CCGs for purchase of healthcare and third, retained in NHS England for some specialised services.

1.7. The principal line of accountability for the NHS is through the commissioning line, following the flow of money from DH to NHS England to CCGs. This is underpinned by an annually agreed Mandate

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<sup>3</sup> Annex F describes the accountability system prior to April 2013

in which the Government sets outcome-based objectives for the NHS that NHS England must, as set out in legislation, seek to achieve. The NHS Outcomes Framework is contained within the Mandate.

1.8. The Department of Health's Accounting Officer is able to gain assurance about the performance of commissioners through a range of mechanisms, including:

- i) compliance with the framework agreement between DH and NHS England;
- ii) evidence of performance against the Government's Mandate to NHS England;
- iii) the relationship with NHS England's Accounting Officer, and his relationships with the Accountable Officers of CCGs; and
- iv) the governance and accountability arrangements put in place for CCGs.

### **The framework agreement and assurance process**

1.9. As with DH's other ALBs and EAs, and in line with standard practice across government, a framework agreement is in place between DH and NHS England setting out the relationship between NHS England and the Department, lines of accountability, how NHS England provides assurance on its performance to the Department, and the core financial requirements with which NHS England must comply.

1.10. The Department holds its ALBs and EAs to account through regular performance reporting throughout the year. For example, DH monitors in-year financial performance data and year-end forecasts for all its ALBs and EAs, and also looks at how much each ALB or EA is delivering against its objectives. DH holds regular accountability meetings with each of its ALBs and conducts formal capability reviews at least once every three years. (Over 60 ALB/EA accountability meetings took place between April 2013 and January 2014.)

1.11. The assurance regime for NHS England is broadly the same as for other ALBs and EAs. The main difference is in how it is applied, given the scale and importance of NHS England in the system.

### **The Mandate for NHS England**

1.12. The Secretary of State is required to publish the Mandate, setting out what the Government expects from NHS England on behalf of the public. Whereas the framework agreement deals with the ongoing way in which NHS England and the Department will work together, the Mandate sets outcome-based objectives for NHS England to seek to achieve within a specified time period.

1.13. The current Mandate between the Government and NHS England was published on 12 November 2013 and sets out objectives for NHS England, and the associated resources, over the period April 2014 – March 2015.

1.14. The Mandate (and reporting against it) is one of the main ways in which the Secretary of State discharges his accountability to Parliament, and in which NHS England demonstrates its accountability to the Secretary of State and the Department's Accounting Officer for the funding it receives. Because this mechanism requires greater transparency about what is being achieved in return for the resources that are allocated to NHS England, the Mandate is a key instrument for driving value for money.

1.15. The Mandate is part of a wider accountability cycle and the Health and Social Care Act also requires that:

- NHS England publish a business plan each year, stating how it intends to carry out its functions and deliver the objectives and requirements set out in the Mandate;
- the Secretary of State keep NHS England's performance under review, including how it is performing against the Mandate;
- NHS England publish a report at the end of each year saying how it performed against the Mandate;
- the Secretary of State publishes an assessment of NHS England's performance;
- the Mandate be refreshed annually. The Mandate may only be changed in-year if NHS England agrees, or in exceptional circumstances (or after a General Election), and the Secretary of State must report and explain any changes to Parliament.

### **A line of sight between Accounting and Accountable Officers**

1.16. Unlike other ALBs or EAs, whose Accounting Officers are appointed by the Department's Accounting Officer, the Health and Social Care Act explicitly designates the Chief Executive of NHS England as its Accounting Officer. The formal relationship between NHS England's Accounting Officer and the DH Accounting Officer is clearly set out in the framework agreement.

1.17. The Accounting Officer of NHS England is accountable both for the direct actions of NHS England itself (for example the commissioning of specialised services) and for the proper functioning of the whole commissioning system. NHS England in turn appoints and holds to account the Accountable Officer of each CCG. Accountable Officers are responsible for the stewardship of resources within each CCG, ensuring that the organisation complies with its duty to exercise its functions effectively, efficiently and economically.

1.18. This framework of Accounting Officers and Accountable Officers provides a line of sight from DH to the commissioning system, for example, enabling the Department to gain assurance that financial risks are being managed effectively across the sector.

1.19. As NHS England's Accounting Officer is accountable for the entire NHS commissioning budget, he prepares a set of annual accounts that consolidates the individual accounts of all CCGs with the accounts of NHS England. This is accompanied by a governance statement. Both the accounts and the governance statement are consolidated into the Department's annual report and accounts, which are signed off by the DH Accounting Officer. NHS England is audited by the National Audit Office, as are the Department and other ALBs.

### **Governance and accountability arrangements for CCGs**

1.20. Just as there is a clear line of accountability and accompanying assurance from the Department to NHS England, so there is a similar line from NHS England to CCGs. NHS England has a number of ways to satisfy itself (and hence the Department) as to how CCGs discharge their responsibilities, and to ensure that they are acting with regularity and propriety and providing value for money in the services they commission from providers. NHS England's levers include those described below.

- A Clinical Commissioning Group Outcomes indicator set, which provides a direct line of accountability back to the expectations set out in the Mandate and reinforces each CCG's duty to exercise its functions consistently with the Mandate. This indicator set has been developed by NHS England to provide transparency and accountability about the quality of services that CCGs commission for their patients and about their role in reducing health inequalities.

- Ongoing assurance of CCGs through an annual performance assessment which, in addition to reviewing progress against the CCG outcomes indicator set, assesses how well the CCG has met its financial duties and other statutory duties. NHS England publishes a report annually summarising the results of all its performance assessments of CCGs.
- Other controls and reporting arrangements. For example, legislation enables NHS England to require all CCGs to provide it with financial reports and information. The Secretary of State is also able to require NHS England to provide such additional information to the Department as he considers necessary, and to oblige CCGs collectively to provide information to NHS England in relation to such a request. This enables DH to gain the assurance it needs about financial management and value for money across the commissioning sector.
- A requirement for CCGs to account to NHS England every year for their performance and use of resources. This includes the publication of an annual report as to how they have discharged their functions, and producing annual audited accounts. In line with the requirements set out in HMT guidance on *Managing Public Money*, the accounts must include a governance statement encompassing both corporate governance and risk management.
- Powers to require a CCG to provide information or give an explanation, if NHS England believes it is failing, or might fail, to discharge its functions.
- Powers of intervention, in the event that a CCG is unable to fulfil its duties effectively (for example, where it is failing to secure services to meet the needs of its population or is failing in its financial performance) or where there is a significant risk of failure. Grounds for intervention include instances where a CCG is failing or might fail to act consistently with the interests of the health service. NHS England's powers to intervene will range from directing a CCG as to how it discharges its functions, to replacing an Accountable Officer, varying the CCG's constitution, exercising some functions of the CCG on its behalf, arranging for another CCG to exercise functions on its behalf and, in the absence of improvement, the power to dissolve a failing CCG.

1.21. The mechanisms described here illustrate that there is clear accountability from CCGs to NHS England, and from NHS England to DH, giving both NHS England's Chief Executive and the DH Permanent Secretary assurance about the use of resources across the commissioning system.

### **Provision and regulation of NHS services**

1.22. NHS commissioners use their budgets to commission services from providers, which may be public sector bodies (NHS trusts or NHS foundation trusts), independent contractors (such as GP and dental practices), or private or voluntary sector organisations.

### **Accountability for all providers**

1.23. All providers are primarily accountable to their patients. Patients now have the opportunities to give feedback on their care or that of their friends and family. The NHS friends and family test was introduced in 2013 and asks patients whether they would recommend hospital wards, A&E departments and maternity services to their friends and family if they needed similar care or treatment. This means

every patient in these wards and departments is able to give quick feedback on the quality of the care they receive, giving hospitals a better understanding of the needs of their patients and enabling improvements.

1.24 Providers must also fulfil the contractual expectations of their commissioners, who hold them to account for the services they deliver. This ensures that providers are delivering high-quality services that provide value for public money.

1.25. In addition, there is a system of independent regulation of providers, which has been further extended by the Health and Social Care Act:

- All providers of health and social care (whether they provide publicly or privately funded services) are regulated by the Care Quality Commission (CQC). The CQC ensures that providers meet essential requirements for safety and quality and has the power to take enforcement action where they do not. Enforcement actions include fines, suspension, special measures or even closure of services. The CQC conducts regular inspections, publishes reports on providers, and will in future rate their overall performance.
- Monitor has become a sector-wide regulator whose main duty is to protect and promote the interests of people who use health care services by promoting value for money in the provision of healthcare services, while maintaining or improving quality.

1.26. Monitor does this by exercising three specific functions, underpinned by a power to license providers. Firstly, Monitor has regulatory powers to tackle anti-competitive behaviour that may act against the interests of patients. Secondly, it works jointly with NHS England to construct pricing systems for paying providers and to set prices. This is a powerful way of driving greater value for money, by ensuring that payment follows patients' choices and that providers face incentives to provide high quality care efficiently (for example, by setting prices that reflect the costs of excellent care rather than average price). Thirdly, Monitor oversees a "continuity of services" regime, to help commissioners secure continued access to essential NHS services and protect patients' interests where a provider is at risk or is unsustainable in its current form. This builds on the current arrangements for dealing with unsustainable NHS trusts and foundation trusts, and is intended to strengthen the incentives for efficiency and good financial management.

1.27. Accountability to DH therefore comes through commissioners (as described in the previous section) and through the combination of regulation by CQC and Monitor, which are arm's-length bodies of the Department that are held to account by DH for their performance. The DH Accounting Officer appoints the Accounting Officers of these bodies. The Department already had powers to intervene in the event of failure by CQC. The 2012 Act, provided equivalent powers allowing the Secretary of State to direct Monitor in the event of significant failure to perform its functions"

### **Accountability for public sector providers**

1.28. In addition to these assurance mechanisms for providers, DH retains specific responsibilities for public sector providers – NHS trusts and foundation trusts. As public bodies, their expenditure counts

against and must be contained within the Department's budget. Under the Government's "Clear Line of Sight policy,"<sup>4</sup> their accounts, like those of DH's ALBs, are consolidated into DH's annual accounts.

1.29. The Department has no power of direction or intervention in foundation trusts (other than in an emergency, where the 2012 Act gave the Secretary of State powers of direction over all providers of NHS services). Although DH does have powers to direct NHS trusts, the Government's policy is that the Department should not intervene in day-to-day operational management.

1.30. This means that the DH Accounting Officer is not accountable for trusts' individual decisions or for the clinical care they provide. These matters are for trusts, their boards and their Accounting Officers or Accountable Officers and the regulators. DH's role is to ensure that there is a system of regulation and oversight that promotes quality, regularity, propriety and value for money, and provides assurance that the care provided by trusts in aggregate can be managed within the Department's budget. The following sections explain in turn the system for NHS trusts and for NHS foundation trusts.

### **NHS trusts**

1.31. The Government's policy is that all NHS trusts should become NIIS foundation trusts. Not all NHS trusts will be able to achieve foundation status in their current configuration. These trusts may merge with or be acquired by a foundation trust, or they may change to a different organisational form. There is a "pipeline" process that supports aspirant foundation trusts with strict financial governance and quality standards that must be met.

1.32. Formerly, Strategic Health Authorities (SHAs) were responsible for overseeing NHS trusts. From April 2013, when SHAs were abolished, this became the responsibility of the NHS Trust Development Authority (NTDA), which was established as a special health authority, accountable to the Department and exercising the Secretary of State's functions in relation to NHS trusts.

1.33. The NTDA is responsible for leading, supporting and developing the remaining NHS Trusts. It has one single purpose: to support NHS trusts to deliver high-quality, sustainable services in the communities they serve. As NHS trusts become well managed, financially robust organisations that are delivering high-quality, safe clinical services, they will be able to apply to Monitor to become foundation trusts.

1.34. The DH Accounting Officer appoints the Chief Executive as the Accounting Officer of the NTDA. The NTDA Accounting Officer is responsible for the appointment of Accountable Officers for each remaining NHS trust. Acting on behalf of the DH Accounting Officer, the Chief Executive of the NTDA must assure himself about the performance of individual NHS trusts through a combination of annual plans, performance agreements, ongoing monitoring and performance management, annual reports and accounts. NHS trusts continue to account in a format determined by the Department and are subject to public audit arrangements.

### **NHS foundation trusts**

1.35. Under the legislation enacted by Parliament in 2003, NHS foundation trusts are not directly accountable to DH. However, there is a series of mechanisms that provide assurance about the foundation trust sector:

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<sup>4</sup> Constitutional Reform and Governance Act 2010.

- Each foundation trust has an Accounting Officer, who has responsibilities for ensuring regularity, propriety and value for money, including signing the trust's accounts, governance statement and annual report. As with NHS England, foundation trusts' chief executives are designated as Accounting Officers by legislation.
- NHS foundation trusts are held to account by their governors, who represent the interests of their membership and the communities they serve. The 2012 Act defines the general duties of the council of governors as holding the non-executive directors to account for the performance of the board of directors, and representing the interests of members and of the public. It also extends the powers of governors (for example, to decide upon proposed mergers, acquisitions or "significant transactions" by the trust), in order to improve trusts' accountability to their patients and the public.
- The Chair and board of directors of an NHS foundation trust are responsible for all aspects of the care and performance of the organisation. A foundation trust's constitution must provide for all the powers of the trust to be exercisable by the board of directors on its behalf. The 2012 Act places a duty on the directors to promote the success of the organisation in order to maximise the benefits for the membership and the public. It also requires meetings of the board of directors to be open to members of the public.

1.36. The 2012 Act gives DH powers to require NHS foundation trusts to provide it with information: a power that did not exist previously. This enables DH to ask NHS foundation trusts to report their planned and actual spending, to help the Department manage the overall budget.

1.37. Monitor is responsible for authorising trusts as NHS foundation trusts. It has powers of oversight to ensure they continue to comply with the terms of their authorisation.

1.38. NHS foundation trusts have been required to apply to be licensed from 1 April 2013. As the sector regulator, Monitor has enduring powers that include powers to set and enforce requirements specifically on NHS foundation trusts to ensure they are well governed. Monitor also has enduring powers to set and enforce requirements on NHS foundation trusts to ensure they remain financially viable and protect NHS assets, as necessary conditions of their continued ability to provide NHS services.

1.39. Monitor's powers as the sector regulator reflect the unique role and legal status of NHS foundation trusts as public benefit corporations, financed by the taxpayer, with a principal purpose defined in statute "to provide goods and services for the purpose of the NHS." The Government has stated that NHS foundation trusts will continue to be the principal providers of NHS services. Monitor's task is to set and enforce requirements on NHS foundation trusts to mitigate and manage risk, proactively and consistently with foundation trusts' duty to exercise their functions effectively, efficiently and economically.

1.40. The Secretary of State has powers to attach terms to an NHS foundation trust's public debt to protect the value of the taxpayers' investment. These terms could include limits on an NHS foundation trust's borrowing, or its ability to acquire and dispose of property.

1.41. Further assurance comes from the policies that the Department has put in place to promote quality and efficiency in NHS services. In line with Parliament's intention that the Government should not control foundation trusts directly, these policies do not relate to foundation trusts in particular, but apply across all types of provider. Policies and reforms that are designed to drive better value for money include:

- clinically-led commissioning, to align the financial decisions about commissioning with the clinical decisions that commit most NHS resources;
- a stronger regulator of safety and quality with a new Chief Inspector of Hospitals, of General Practice and of Social Care at the CQC;
- greater choice for patients, providing a stronger incentive for providers to respond to the preferences of the patients they serve;
- improved information and transparency about the quality of services, to help patients exercise choice and to put pressure on providers to improve - for example the Government has consulted on proposals for a step change in the quality and availability of information;
- a national tariff payment system, where providers are paid a fixed price for their services and money follows patients' choices, creating an incentive for greater efficiency;
- a stronger voice for the public and service users through a new consumer champion, HealthWatch England; and
- greater power for local authorities to influence NHS commissioning decisions and help join up local services around the needs of individuals.

1.42. The Government considers that the combination of these policies, backed by a system of independent regulation, provides more powerful incentives for value for money in providers than could be achieved through direct management of hospitals by the Department. The Department considers that the measures described here are providing the DH Accounting Officer with the assurance needed and that Ministers need to discharge their ultimate accountability to Parliament for NIIS services. The Department is monitoring the effectiveness of the system overall and will advise Ministers if and where any further measures are needed to ensure quality, financial sustainability and accountability.



## PART TWO: PUBLIC HEALTH

2. The Department's second major area of responsibility is public health: action to protect and improve the health of the population of England.

2.1. The Government has increased the priority given to the public's health by creating a ring-fenced public health budget; transferring responsibility for local health improvement from the NHS to local authorities; and establishing an integrated public health service, Public Health England (PHE). PHE is an executive agency of DH and incorporates the functions of a range of previous public health organisations, including the Health Protection Agency, the National Treatment Agency and the Public Health Observatories.

2.2. The Department is responsible for setting national strategy and designing legislation. In the same way as for the NHS, the foundation of accountability arrangements is an Outcomes Framework published by DH, which sets out what needs to be achieved to improve and protect the nation's health and reduce health inequalities. In other words, DH articulates what the public health system as a whole, working with a range of other partners in the statutory sectors and beyond, is aiming to achieve.

2.3. The public health Outcomes Framework sets out what needs to be done to improve outcomes across the public health system. Data published on an annual basis shows national and local progress and performance against these outcomes. This supports greater transparency and accountability by ensuring that people and Parliament can assess local and national performance and hold local authorities and national government to account as appropriate.

### **Local authorities' role in public health**

2.4. From 1 April 2013, upper tier and unitary local authorities took on their new responsibilities for public health, funded by a ring-fenced grant from the Department under s31 of the Local Government Act 2003. Local authorities are expected to take such steps as they consider appropriate for improving the health of the population in their area. The Government has given local authorities new functions through regulations for taking steps to protect the local population's health, working closely with Public Health England, for providing NHS commissioners with population health advice, and for providing certain mandatory services. Each local authority, acting jointly with PHE, draws on advice from a Director of Public Health.

2.5. Local councils are funded from 2013-14 to carry out their specific new public health responsibilities through a ring-fenced grant on which DH placed a limited number of conditions. Under the Health and Social Care Act, councils are required to have regard to the public health outcomes framework. The Director of Public Health is also required to produce an annual report on the health of the local population, which the local authority is required to publish, and which provides an accountability mechanism both locally and to DH.

2.6. As with other local services, councils are primarily accountable to their electorates, within a system of accountability that is overseen at national level by the Department for Communities and Local Government (DCLG). Beyond this, there are additional accountability arrangements for the money that DH allocates to local authorities for public health, and the Chief Executive of Public Health England has been designated as the Accounting Officer overall for the public health ring-fenced grant to local authorities.

2.7. The main ways in which DH gains assurance are described below.

- Transparency: PHE publishes data on national and local performance against the public health Outcomes Framework. This enables democratic accountability for performance against those outcomes, makes it possible for local areas to compare themselves with others across the country, allows local people to assess the performance of their local authority, and increases the incentives for local authorities to improve their performance.
- Requirements relating to the proper use of the ring-fenced grant: the chief financial officer (section 151 officer) of each receiving local authority provides a statement of grant usage setting out how the authority has spent its grant, and councils are clearly accountable for ensuring that grant conditions have been met.
- Delegated functions: the Health and Social Care Act gives the Secretary of State the power to delegate particular functions to local authorities, and councils are accountable to the Department for exercising them.
- Health premium incentives: the Department of Health incentivises progress against health improvement indicators through the use of a 'health premium' a financial incentive paid to local authorities who improve the health of the local population.

2.8. A Health and Wellbeing Board in each local authority provides a forum where councillors, directors of public health, children's services and adult social services, CCGs, local HealthWatch and other relevant local organisations can come together jointly, to assess the needs of the local population, to use this as a basis for a joint health and wellbeing strategy, and to assess performance against that strategy.

2.9. Although the Department sets the public health outcomes framework and incentivises the achievement of certain national priorities through the health premium, there are no centrally-imposed targets, and no performance management of local authorities. It is for local authorities to determine their priorities, according to the needs of their population.

2.10. In the event of poor performance by a local authority, PHE provides advice and support as necessary. If a failure should occur related to delegated public health functions, the Secretary of State can make regulations to require local authorities to take certain steps, and he can require the local authority to review the performance of the Director of Public Health. More generally, as described below in Part Three, and in the system statement for local government by DCLG's Accounting Officer, there is an established system of checks and intervention powers in place if a council fails to fulfil its functions.

### **Public Health England**

2.11. PHE is a dedicated public health organisation, providing national leadership, advice and support across the three domains of public health: health improvement, health protection and the public health input into commissioning of health services.

2.12. In particular, PHE is responsible for ensuring that there are effective arrangements in place at the national level for preparing, planning and responding to emergencies and health protection incidents. It is responsible for supporting public health delivery through information, evidence, surveillance and professional leadership. Establishing PHE as an executive agency provides a line of sight from the Secretary of State to the front line in health protection matters, whilst also providing sufficient operational independence for the public health service.

2.13. Like DH's other arm's-length bodies, PHE has a framework agreement that sets out its relationship with the Department, and the Department holds it to account for its performance. The agency's chief executive is its Accounting Officer; the Accounting Officer is accountable to DH and to the Secretary of State for the proper use of public funds allocated to PHE, and for producing an annual report and accounts, which are consolidated into DH's accounts.

#### **The contribution of the NHS to public health**

2.14. While the Government's reforms create greater clarity and accountability for public health, the NHS continues to have a critical part to play in securing good population health outcomes, including through:

providing accessible care to meet the needs of the local population;

taking opportunities to have a positive impact on public health; and

contributing to health protection and emergency response.

To support this, NHS commissioners have a legal duty to obtain advice from public health experts.

2.15. At the national level, the Secretary of State, on the advice of the Chief Medical Officer and the Department, includes public health objectives in the Mandate to NHS England. NHS England and its Accounting Officer are held to account for any objectives relating to public health contained in the Mandate.

2.16. There will be some public health programmes, such as immunisations and screening, that are best commissioned by NHS England, because they are delivered by GPs under existing NHS contracts or because they need to be integrated with wider NHS services. To enable this, the Health and Social Care Act provides power for the Secretary of State to agree with NHS England that it should exercise aspects of his public health functions. Funding for the exercise of these functions would be included in NHS England's resource limit, but the terms of the agreement could include specific conditions or controls in order to provide further accountability.

# PART THREE: ADULT CARE AND SUPPORT

3. The third part of this statement explains DH's accountability for adult care and support. The Government published its White Paper, *Caring for our future: reforming care and support* in July 2012, which set out its reform agenda for adult social care. Alongside the White paper, the draft Care and Support Bill was also published and intended to reform and modernise the legal framework for care and support. Following Parliamentary scrutiny the Bill received Royal assent on 14 May 2014.

3.1. The Department's core responsibilities for care and support for adults are to:

- a) set national policy and the legal framework, and provide leadership;
- b) secure funding and set the mechanisms for public reporting on the social care performance of local authorities within an overall system for local government funding overseen by DCLG; and
- c) account to Parliament and the public for the performance of the system as a whole, and assure the approach to regulation, inspection and intervention in care and support services (by holding the CQC to account, and retaining intervention powers as a matter of last resort).

## The legislative and policy framework

3.2. The legal framework for care and support comprises numerous statutes, dating back to the National Assistance Act 1948. The legislation gave local authorities prime responsibility for care and support, through statutory duties to carry out assessments, arrange services and ensure that the needs of individuals are met. In May 2014, the Care and Support Act made a number of far reaching reforms to the system these include:-

- Enables the new Chief Inspector of Hospitals, appointed by the Care Quality Commission, to trigger a process to deal with unresolved problems with the quality of care more effectively; and
- makes it a criminal offence for health and care providers to supply or publish false or misleading information.
- Introduced stronger regulatory powers including allowing the Chief inspector of Social Care to hold providers to account.

3.3. The Department of Health sets the strategic policy framework for care and support, working with local government as partners, to provide overall direction and set national objectives. But delivery is the responsibility of local authorities, in line with their own locally-determined priorities.

3.4. Similar to the NHS and public health, an outcomes framework published by DH (and agreed with the local government sector) provides a consistent basis for local accountability, to enable comparison. The first adult social care Outcomes Framework was published in March 2011 and has since been updated on an annual basis.

## Financial accountability

3.5. While the Department of Health is responsible for securing funds for adult social care through the Spending Review settlement, DCLG is accountable for the allocation of those funds to local authorities. From April 2013, DCLG introduced a new method of funding local Government – a Business Rates

Retention Scheme. Local authorities retain 50% of the business rates they collect. Local authorities are able to increase their income by growing their local economies and collecting more business rates. In addition, local authorities receive revenue support grants through DCLG and they raise funds via the Council Tax. Together, locally retained business rates and revenue support grants, council tax and other forms of income provide funding for a number of services, including care and support. The central government funds allocated to adult social care services take account of local need but are un-hypothecated and so not specifically ring-fenced for care and support.

3.6. DCLG's Accounting Officer is accountable for the core system that provides the necessary assurances that local authorities will spend their resources with regularity, propriety and value for money. This system is relied on by the DH Accounting Officer and other Departmental Accounting Officers that provide funding for local authorities.

3.7. The Department of Health's direct accountability for the allocation of resources to local government through specific grants is small by comparison. The main specific grants are the Local Reform and Community Voices Grant, and the Community Capacity Grant, of around £42 million and £129 million respectively (2013/14 and 2014/15). These are not ring-fenced, although specific guidance is given on the intended focus of the funds. The Department accounts for the outcomes achieved through this grant as part of its overall approach to monitoring performance and safeguarding quality in care and support, as set out below.

### **Performance monitoring**

3.8. Local authorities are primarily accountable to their own populations for the performance of services and the outcomes achieved for local people through local elections and democracy. There is no national performance management of local authorities in relation to care and support. However, DH is responsible for defining what information councils are required to provide, and this provides a basis for monitoring outcomes.

3.9. The adult social care Outcomes Framework, together with related local authority data collections, is the key mechanism for measuring the outcomes and experience of people who use services, and of carers, and demonstrating what local authorities have achieved. The publication of this information allows for assessments and comparison of the performance of individual local authorities, encourages sector-led improvement initiatives, and supports greater local accountability.

### **Inspection and intervention**

3.10. The Care Quality Commission (CQC) is the independent regulator for health and adult social care. Under the Health and Social Care Act 2008, all providers of regulated adult social care activities are required to register with CQC. In order to be registered, providers have to meet and continue to meet a set of 16 essential standards of safety and quality.

3.11. The CQC can take independent enforcement action against providers to bring about compliance with the registration requirements. CQC has a wide range of enforcement powers, which include the ability to issue a warning notice or a penalty notice, prosecute for specified offences, and suspend or cancel a provider's registration. The 2008 Act requires the CQC to ensure that any action it takes is proportionate to the risks, and is targeted only where it is needed.

3.12. The Care Act 2014 established the posts of Chief Inspector of Hospitals, Chief Inspector of Adult Social Care and Chief Inspector of General Practice as executive members of the CQC Board in statute to ensure their longevity. The Care Act also made a number of amendments to the Health and Social Care Act 2008, which are designed to increase the operational independence of CQC.

3.13. Over and above the CQC's regulatory powers to ensure safety and quality in adult social care, the Secretary of State has powers to intervene in local authorities in situations where he judges that the authority has failed to comply with its statutory duties. There are two principal powers:

- Section 7D of the Local Authority Social Services Act 1970, which allows for directions to be given to the local authority where the Secretary of State judges it to have failed to comply with its social services duties; and
- Section 15 of the Local Government Act 1999, which provides a broader set of powers, including intervention, in the event that an authority is failing to comply with its statutory obligations. These powers allow direction to produce a performance plan, cause an inquiry to be held, or otherwise direct the actions of the authority. The Secretary of State may also direct that a nominated individual exercise the authority's functions on his behalf.

3.14. In practice, formal intervention is likely to be triggered by an inspection by CQC with a recommendation of further action. These powers have never been used in relation to adult social care, although they have been exercised in relation to other local government services, such as children's services.

## CONCLUSION

4. This Statement provides the most up-to-date summary of how the DH Accounting Officer responsibilities work now. As the Statement shows, while the precise accountability mechanisms vary between the NHS, public health and adult social care, there is and will continue to be a robust system of oversight, incentives and intervention powers, on which the DH Accounting Officer can rely to provide assurance that resources will be spent with regularity, propriety and value for money. DH continues to monitor effectiveness of the system as a whole and advises Ministers if and where any further measures are needed to ensure accountability.



Una O'Brien  
Permanent Secretary  
Department of Health

6 October 2014

## Annex A : How DH oversees its arm's length bodies and executive agencies.

- A1. The Department has a number of arm's-length bodies (ALBs) and executive agencies (EAs), which share in managing or overseeing or overseeing the use of resources across the NHS, public health and social care. This annex describes the generic relationship between DH and its ALBs and EAs. Clearly, where an ALB or EA has specific legislative powers, the relationship will be tailored to take account of these, but the general principles set out below apply to all.
- A2. Annex B lists DH's current ALBs and EAs. We use the term ALB to refer to the DH's non-departmental public bodies and special health authorities which, together with EAs, comprise the three main categories of our sponsored bodies:
- Executive agencies, which are legally part of the Department but have greater operational independence than a division within DH itself.
  - Special health authorities, which are NHS bodies that can be created by order and are subject to the direction of the Secretary of State. The Health and Social Care Act states that any new special health authority must have a time-limited life of three years or less (though this period may be extended further with the active approval of Parliament).
  - Executive non-departmental public bodies (NDPBs), which are established by primary legislation and have their own statutory functions. Their precise relationship with the Department is defined in legislation and some NDPBs (particularly the regulators) have greater independence than others.
- A3. Irrespective of their legal status, the Department has a consistent approach through its sponsorship arrangements for holding ALBs and EAs to account and gaining assurance that they are carrying out their functions properly. This is underpinned by the new duty to keep ALBs' and EAs performance under review. A Senior Departmental Sponsor (SDS) is appointed for each of the ALBs and EAs and is supported by a dedicated sponsor team which provides the principal day-to-day liaison. The SDS is responsible for ensuring that each organisation is sponsored effectively and in line with the Department's sponsor standards. DH's levers include:
- power for the Secretary of State to appoint and remove ALBs' and EAs' chairs and non-executive board members;
  - accountability from the Accounting Officer of each ALB and EA, who holds the primary responsibility for ensuring that the organisation discharges its responsibilities properly and uses its resources in accordance with the requirements of *Managing Public Money*. This includes preparing the governance statement, which forms part of the organisation's annual accounts. As Departmental Accounting Officer, I am responsible for assuring myself that ALB and EA Accounting Officers are discharging their responsibilities; and I shall appoint all ALB and EA Accounting Officers (except the Accounting Officer of NHS England, who is appointed directly by legislation and the Accounting Officer of MHRA who is appointed by HM treasury because of its Trading Fund status).
  - framework agreements between the Department and each ALB or EA, setting out the relationship between the sponsored body and the Department, lines of accountability, the way in which the ALB or EA will provide assurance to the Department on its performance, core financial requirements that the ALB or EA must comply with, and the relationships between the ALB and other bodies in the system. The framework agreements set out how the



Department holds the ALB or EA to account for the delivery of its objectives and outcomes and for the use of public money.

- annual business plans and performance reporting against these plans. Each ALB and EA must produce an annual business plan, which has to be agreed with the Department, demonstrating how its objectives will be achieved and forecasting financial performance. As a minimum, a quarterly accountability review is conducted with each ALB or EA by the senior sponsor in the Department, to provide assurance that the ALB or EA is delivering against its objectives, managing its finances, identifying and managing risks and working well with partner organisations. A formal accountability review takes place each year to review the past year's performance against objectives and look forward to the next year. Each ALB's and EA's annual report and accounts must be laid before Parliament.
  - a formal triennial review of each ALB or EA at least every three years. The Department will carry out a review of each organisation's function and form, performance and capability, and efficiency and governance as part of its assurance that the wider health and care system is fit for purpose.
- A4. The Secretary of State retains formal powers to intervene in the event of significant failure, including where an ALB is not acting consistently with what the Secretary of State considers to be the interests of the health service. These failure powers apply to non-departmental public bodies (they are not needed for executive agencies or special health authorities, where Ministers are able to exert direct control). As a first step, the Secretary of State can issue a direction to the body. If the organisation fails to comply with the direction, then the Department may discharge the functions that the direction relates to, or make arrangements for another organisation to do so. In all cases, the Secretary of State must publish the reasons for his intervention.
- A5. In order to safeguard the independence of the regulators, and avoid any perception of political interference, Ministers' intervention powers will not allow them to intervene in Monitor or CQC in relation to a particular case.

## Annex B : DH's arm's-length bodies and executive agencies.

<b>ALB</b>	<b>Function</b>
NHS England (ENDPB)	National leadership for commissioning, and support to clinical commissioning groups.
NHS Trust Development Authority (SpHA)	Oversight of remaining NIIS trusts
Monitor ("Office of the Independent Regulator for NHS foundation trusts") (ENDPB)	Role widened from specifically regulating foundation trusts to being a health sector regulator
Care Quality Commission (ENDPB)	Core CQC function unchanged (to regulate safety and quality), but HealthWatch England added as a national consumer champion
Public Health England (DH Executive Agency)	National public health service and support to local government
Health Education England (SpHA)	National leadership for education and training
NICE (National Institute for Health and Care Excellence) (ENDPB)	Formally established as an NDPB, with its role extended to social care
Health & Social Care Information Centre (ENDPB)	Formally established as an NDPB, but unchanged core function as a national repository of information
Medicines and Healthcare products Regulatory Agency (DH Executive Agency)	Regulation of medicines and medical products and devices
NHS Blood and Transplant (SpHA)	Ensure the provision of a safe supply of blood to hospitals in England and North Wales
NHS Litigation Authority (SpHA)	Administer indemnity schemes on behalf of the Secretary of State, to allow NHS bodies to pool some of their clinical and non-clinical liabilities
NHS Business Services Authority (SpHA)	Carry out a range of transactional functions, including administering the NHS Pensions Scheme and the remuneration of community pharmacists and dentists
Human Fertilisation and Embryology Authority (ENDPB)	License and monitor in vitro fertilisation, donor insemination and human embryo research
Human Tissue Authority (ENDPB)	Regulate use and storage of human tissue
Health Research Authority (SpHA)	Oversee approvals for health research

### Explanatory Note:

- ENDPB – an executive non-departmental public body, created in statute with its own powers and unitary board.
- SpHA – a Special Health Authority; a non-statutory organisation established by the Secretary of State for Health.
- Executive Agency – an agency of the Department of Health, employing civil servants with an implied closer relationship to the Department than an ENDPB.

# Annex C : Audit

## Internal audit

- C1. Internal audit arrangements ensure organisations are able to identify problems proactively, and act on lessons immediately, in order to improve value for money.
- C2. The Department's Audit and Risk Committee is committed to developing a group assurance model for DH and its ALBs; it aims to create:
- a mechanism that delivers a clearer line of sight over the whole health system, to minimise surprises and instil confidence that system-wide risks are visible and being dealt with at the right level; and
  - an assurance system that, through its consistency with the newly revised Corporate Governance Code for central government departments, sets high benchmarks for quality and ensures they are met across the group through appropriate systems, processes and resourcing structures.
- C3. As further assurance, the non-executive chair of DH's Audit and Risk Committee has periodic meetings with his equivalents in DH's ALBs.

## Audit of accounts

- C4. The National Audit Office (NAO) is responsible for auditing the accounts of all government departments and agencies and reporting the results to Parliament. It audits the accounts of the Department of Health and its ALBs and EAs, including NHS England.
- C5. The Health and Social Care Act provides that CCG accounts, and the NHS Act 2006 provides that NHS Trust accounts will be audited by auditors appointed in accordance with the Audit Commission Act 1998. However these parts of the Audit Commission Act are being replaced by the Local Audit and Accountability (LAA) Act 2014, which includes the abolition of the Audit Commission in April 2015. The LAA Act sets out transitional arrangements so that the current audit appointments will continue to at least 2016-17. Then from 2017-18 the current centralised audit system will be replaced with local audit appointments by an accredited provider. In developing new arrangements, the Government have regard for the principles of public audit, including that there should be a "wide scope of public audit, covering the audit of financial arrangements, regularity, propriety and value for money". Under both arrangements the Comptroller and Auditor General may examine the annual accounts and any records relating to them, and any report on them by the auditor/s.
- C6. In the case of foundation trusts, each trust's council of governors may choose to appoint an auditor who is not an officer of the Audit Commission. It is for the governors to appoint the auditor at a general meeting, and the auditor may be a member of any body of accountants approved by the Secretary of State. This will ensure a clear line of sight for Parliament following the enactment of the Constitutional Reform and Governance Act 2010.

## Value for money reports

- C7. Under the National Audit Act 1983, the NAO can examine and report on the economy, efficiency and effectiveness of public spending. The NAO's value for money study programme examines health related issues and outputs, and provides assurances to Parliament on the extent to which the NHS and the Department of Health deliver economically, efficiently and effectively across the

health care sector. These reports are generally subject to consideration, scrutiny and report by the Public Accounts Committee. For the purpose of carrying out value-for-money studies, section 8 of the Act provides the Comptroller and Auditor General with a statutory right of access to information held by the Department, its ALBs and all NHS bodies.

## Annex D: Governance of Informatics

Informatics is an area where the stewardship role of the Department is particularly important. The newly designated role of the Informatics Accountable Officer (IAO), on behalf of the Permanent Secretary, has responsibility for DH funded national IT programmes and services. Additionally, the IAO has a pivotal role to assure that both DH-funded informatics programmes and those funded by ALBs collectively deliver the outcomes required by the Health and Care system. Those outcomes are articulated through an information strategy, developed by the National Information Board (NIB) on behalf of the system as a whole. Specific responsibilities of the IAO include responsibility for:

- alignment of the informatics portfolio (ensuring that it reflects an alignment between the informatics strategy and ministerial priorities);
- control and oversight of the portfolio of national programmes, funded by DH and its ALBs, that collectively deliver the outcomes required by the Information Strategy;
- suitable assurance of DH and ALB sponsored IT Enabled Business Change programmes which, whilst not directly controlled by the IAO, must be aligned to the strategy;
- ensuring that information governance and information security is effective across the health and care system;
- ensuring the informatics spend of DH and its ALBs is used effectively and efficiently and delivers value for money, agreed benefits, and best outcomes for patients, users and the public.

The IAO is also responsible for ensuring delivery of the Government's information and technology priorities through an effective informatics governance structure. A revised operating model has recently been implemented to strengthen governance arrangements. The operating model makes a clear distinction between the core informatics business processes of: determining system-wide strategy and direction (the responsibility of the National Information Board - on behalf of the whole system); system delivery and expertise (Health & Social Care Information Centre); and securing system-wide assurance and portfolio management (achieved through an Informatics Assurance Group and an Informatics Portfolio Management Board).

The strategic component of the operating model is the responsibility of a National Informatics Director, who is appointed from within the health and care system by the Permanent Secretary. This National Informatics Director chairs the National Information Board and he has a duty to ensure alignment of strategy across the system. The Director also accounts for the Board's activity to the IAO - who in turn is accountable to the DH Permanent Secretary. The IAO/National Informatics Director is the main route through which government policy is articulated to the National Information Board; consequently, one of responsibilities of the IAO is to set objectives for the National Informatics Director.

Membership of the National Information Board comprises participants from the following organisations:

Department of Health	National Institute for Health and Care Excellence
NHS England	NHS Blood and Transplant
Cabinet Office	NHS Business Services Authority
Care Quality Commission	NHS Litigation Authority
Health & Social Care Information Centre	NHS Trust Development Authority
Health Education England	Public Health England
Health Research Authority	Association of Directors of Adult Social Services
Human Fertilisation and Embryology Authority	Clinical Reference Advisory Group
Human Tissue Authority	Independent IG Oversight Panel
Medicines and Healthcare products Regulatory Agency	Local CIO Council
Monitor	Local Authority Southend on Sea

## Annex E : Case Studies

### ACCOUNTABILITIES AND RESPONSIBILITIES EXAMPLES OF HOW THESE WORK

In this Annex we set out two short case studies to illustrate how aspects of accountability work in practice. The first describes the accountabilities for keeping elective waiting times within national standards. The second takes a different perspective, and shows overall responsibility for a specific service, in this case maternity services.

E1: Elective Waiting Times - the following organisations hold responsibility for the system and performance:

Organisation	Referral to treatment measurement responsibilities	Referral to treatment performance responsibilities
Department of Health	<ul style="list-style-type: none"> <li>Determine the national waiting time standards and tolerances.</li> <li>Set national waiting times rules.</li> <li>Determine NHS England mandate.</li> </ul>	<ul style="list-style-type: none"> <li>Obtain assurance from NHS England, Clinical Commissioning Groups and the NHS more widely that national waiting time standards and rules are adhered to.</li> <li>Obtain assurance from the system that the delivery of national waiting time standards represent value for money.</li> </ul>
NHS England	<ul style="list-style-type: none"> <li>Develop national guidance on waiting time standards.</li> <li>Provide ongoing support to trusts over recording waiting times, responding to individual queries.</li> <li>Collect and publish monthly national waiting times data.</li> <li>Carry out validation checks on aggregate waiting times data.</li> <li>Work with providers to resolve data quality issues identified at an aggregate level.</li> <li>Determine NHS Standard Contract requirements and sanctions.</li> </ul>	<ul style="list-style-type: none"> <li>Provide assurance that CCGs are working with commissioners to ensure they deliver the best outcomes for patients with the financial resources available to them.</li> <li>Determine NHS Standard Contract requirements and sanctions.</li> </ul>
Monitor	<ul style="list-style-type: none"> <li>Provide assurance on the accuracy of provider-level data</li> </ul>	<ul style="list-style-type: none"> <li>Assess the performance of individual NHS Foundation trusts to ensure they continue to be well run and able to deliver high-quality care on a sustainable basis.</li> </ul>
NHS TDA	<ul style="list-style-type: none"> <li>Provide assurance on the accuracy of provider-level data</li> </ul>	<ul style="list-style-type: none"> <li>Monitor the performance of NHS Trusts.</li> <li>Provide assurance of clinical quality, governance and risk in NHS Trusts.</li> </ul>
Individual providers/hospitals	<ul style="list-style-type: none"> <li>Submit waiting times data monthly to NHS England</li> <li>Ensure that any information provided is accurate.</li> </ul>	<ul style="list-style-type: none"> <li>Meet waiting time standards (as per Standard Contract terms)</li> </ul>
CCGs	<ul style="list-style-type: none"> <li>Sign-off monthly provider data as accurate.</li> </ul>	<ul style="list-style-type: none"> <li>Work with commissioners and providers to ensure they deliver the best outcomes for patients with the financial resources available to them.</li> </ul>

E2 : Maternity Services - for maternity services the Accounting and Accountable Officers are responsible as follows:

Department of Health	NHS England	Health Education England
<ul style="list-style-type: none"> <li>• Setting the policy framework for the delivery of high quality maternity services by the NHS.</li> <li>• Obtaining assurance from NHS England, CCGs and the NHS more widely that maternity services are appropriately commissioned funded and delivered.</li> <li>• Seeking assurance from the CQC that NHS maternity services deliver high-quality care.</li> <li>• Obtaining assurance from the system that maternity services represent value for money.</li> </ul>	<ul style="list-style-type: none"> <li>• Commissioning specialist maternity services, including foetal medicine and perinatal mental health.</li> <li>• Providing guidance to CCGs on the commissioning of high quality maternity services in line with the policy framework set by DH.</li> <li>• Obtaining assurance from CCG Accounting Officers that maternity services are appropriately commissioned, funded and delivered in line with local needs and choices.</li> <li>• Providing assurances to the DH Accounting Officer that high-quality maternity services are being commissioned to deliver improved outcomes and represent value for money.</li> </ul>	<p>The probity and efficient operation of HEE in delivering the government's mandate to HEE 2013 - March 2015, which includes, in respect of maternity services:</p> <ul style="list-style-type: none"> <li>• Commissioning a secure supply of the workforce associated with maternity services, ensuring the right numbers, skills, values and behaviours needed of this workforce, now and in the future are educated and trained to a high quality.</li> <li>• Providing guidance to LETBs and the Nursing &amp; Midwifery HEE Advisory Group (HEEAG) on the high-quality education commissioning and supply of the maternity workforce in line with the policy framework set by DH.</li> <li>• Obtaining assurance from LETBs and the Nursing &amp; Midwifery HEEAG that the education and training of a high-quality maternity workforce is sufficiently commissioned and funded in line with service demand and local priorities;</li> <li>• Providing assurances to the DH Accounting Officer that high-quality education and supply of the maternity workforce are being commissioned to deliver improved outcomes and represent value for money.</li> </ul>

# Annex F: System of Accountability September 2006 to April 2013.

## The NHS

Between September 2006 and April 2013, Sir David Nicholson, the NHS chief executive and a senior civil servant within DH, was appointed by the Treasury as an Additional Accounting Officer for the NHS. He was accountable for the Department's own programme expenditure on the NHS and for overseeing the spending of all NHS bodies that are subject to direction by DH (that is, primary care trusts, strategic health authorities, special health authorities, and NHS trusts). The DH Permanent Secretary was responsible for the rest of DH's budget. This included being accountable for the expenditure of DH's non-departmental public bodies (NDPBs) and for ensuring that the net expenditure of NHS foundation trusts, which are not subject to direction by DH, were contained within the Department's budget. A published memorandum of understanding set out our respective roles. This arrangement continued until the end of March 2013, in order to provide stable accountability during the transition period.

## Public Health

Prior to April 2013, responsibility for public health was largely split between:

- Primary care trusts in the NHS, which were responsible for population health improvement at a local level. They were accountable, through strategic health authorities, to Sir David Nicholson as NHS Chief Executive and as Additional Accounting Officer;
- DH's arm's-length bodies. In particular, the Health Protection Agency lead on protecting the population against infectious diseases and other dangers to health. The National Treatment Agency for Substance Misuse aimed to improve drug treatment across England; and the Department itself, which was responsible for policy development, for leading national public health campaigns (such as Change4Life), and for responding to national emergencies.

## Adult Social Care

- Prior to the introduction of the Care and Support Act 2014, the legal framework for adult social care comprises numerous statutes, dating back to the National Assistance Act 1948. The legislation gives local authorities prime responsibility for social care, through statutory duties to carry out assessments, arrange services and ensure that the needs of communities are met.
- The Department of Health sets the strategic policy framework for adult social care, working with local government as partners, to provide overall direction and national objectives for adult social care. But delivery is the responsibility of local authorities, in line with their own locally-determined priorities.



# **Regularity, Propriety and Value for Money**

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Treasury officer of accounts

November 2004



HM TREASURY





HM TREASURY

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# Regularity, Propriety and Value for Money

Treasury officer of accounts

November 2004

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## ABOUT THIS HANDBOOK

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This handbook is designed primarily for Accounting Officers in government departments, Next Steps Executive Agencies and Non-Departmental Public Bodies (NDPBs), together with their equivalents in the National Health Service. But it will also be of interest to NDPB board members, who also have an important role in ensuring that these bodies operate with propriety and regularity. Indeed, given the extensive delegation of financial authority in public sector organisations, and the fact that Accounting Officers and board members will often look to their staff for advice on these matters, the handbook should be of value to public servants at many levels.

Written guidance cannot be a substitute for experience or for training, particularly for people whose previous experience has not been in the public sector, and who may not be familiar with the standards expected of public servants. Relevant induction training is available at the Centre for Management and Policy Studies (formerly the Civil Service College).

The handbook, which was last issued July 1997, has been revised by the Treasury Officer of Accounts (TOA) team in the Treasury. The Treasury Officer of Accounts team also produces "Government Accounting" which incorporates "The Responsibilities of an Accounting Officer" and "The Responsibilities of a NDPB Accounting Officer".

If you have any questions about the handbook, call 020 7270 5361 or 5365.





## INTRODUCTION

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**2.1** All public servants are expected to observe the highest standards of conduct. Public servants must act with propriety, particularly in the care and management of public funds. This handbook explores what propriety means in a financial context. It is a concept with many facets, and experience has shown how important it is to understand the concept fully and to keep it at the forefront of the mind when making decisions.

**2.2** Parliament's concern for regularity and propriety in the stewardship of public funds is particularly reflected in the work of the Public Accounts Committee (PAC), and hence the Committee's work features heavily in this handbook. The Committee is invariably very critical of any breaches of propriety or regularity, and their comments are reported widely in the media. At the close we suggest there is one final test to apply if there is any question mark over whether a proposed course of action meets the requirements of propriety:

**Could this be satisfactorily defended before the Public Accounts Committee?**

The Public Accounts Committee is only one element of accountability, which is ultimately to the public. On that basis, the test could simply be worded:

**Could this course of action be satisfactorily defended in public?**

**2.3** The fact that what is involved is responsibility for public funds means that the standards of behaviour expected of public servants in financial matters are different, and in some respects more demanding, than those which may be accepted for equivalent activities in a private context. Achieving good results is important, but these results must not be achieved by cutting corners.

**2.4** The aim of this handbook is to illustrate what is and is not "proper" behaviour in the stewardship of public funds. There are some basic "dos and don'ts":

- Don't bend or break the rules
- Don't deceive or knowingly mislead
- Don't allow a conflict of interest to affect, or appear to affect, decisions
- Don't use public money for private benefit or for others
- Do comply with the law, including international law and treaty obligations and uphold administration of justice
- Do put in place and follow clear and up to date procedures
- Do seek approval, if needed, first from the right person
- Do record the reasons for decisions
- Be honest, impartial and even-handed

**2.5** If in your stewardship of public funds you have any doubts as to whether a proposed course of action meets the requirements of propriety, you should think again and seek advice from the sponsoring department, the Treasury or NHS Executive (or the equivalent department in Wales or Scotland).



## ACCOUNTING OFFICER RESPONSIBILITIES

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**3.1** There are repeated references to regularity and propriety in “The Responsibilities of an Accounting Officer<sup>1</sup>”, the memorandum directed by the Treasury at Accounting Officers in government departments and agencies. To quote a couple of the most important references (emphasis added in bold):

“The essence of an Accounting Officer’s role is a **personal responsibility** for the propriety and regularity of the public finances for which he or she is answerable...”

“The Accounting Officer must... ensure that in considering proposals relating to the expenditure or income for which he or she has responsibilities as Accounting Officer, **all relevant financial considerations are taken into account... and full regard is had to any issues of propriety or regularity...**”

**3.2** Note the fact that this responsibility for propriety is personal. There is similar wording in the Treasury memorandum on the “Responsibilities of an NDPB Accounting Officer<sup>2</sup>” and in the guidance to accountable officers in the National Health Service. And to avoid misunderstanding here, a NDPB Accounting Officer’s responsibilities extend to all the resources in his or her care, irrespective of the source of funding.

**3.3** The Treasury memorandum goes on to say that an Accounting Officer “has particular responsibility to see that appropriate advice is tendered to Ministers on all matters of financial propriety and regularity...”. If a Minister in charge of the department is contemplating a course of action which the Accounting Officer considers would infringe the requirements of regularity or propriety (including where applicable the need for Treasury authority), the Accounting Officer should set out in writing his or her objections to the proposal, the reasons for those objections and his or her duty to inform the Comptroller and Auditor General should the advice be overruled. If the Minister decides, nonetheless, to proceed, the Accounting Officer should seek a written instruction to take the action in question.

**3.4** The NDPB Accounting Officer has the same responsibility:

“The Board of a NDPB should act in accordance with the requirements of propriety or regularity... if the Board or the Chairperson is contemplating a course of action involving a transaction which you as Accounting Officer consider would infringe these requirements, however, you should set out in writing your objection to the proposal, the reasons for this objection, and your duty to notify the Comptroller and Auditor General should your advice be overruled. If the Board decides nonetheless to proceed, you should seek a written instruction to take the action in question. You should also inform your sponsoring department’s Accounting Officer... so that the department, if it considers it appropriate, can intervene with the Board and inform the Treasury...”

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<sup>1</sup> [www.government-accounting.gov.uk/current/content/ga\\_04\\_4.htm](http://www.government-accounting.gov.uk/current/content/ga_04_4.htm)

<sup>2</sup> [www.government-accounting.gov.uk/current/content/ga\\_08\\_8.htm](http://www.government-accounting.gov.uk/current/content/ga_08_8.htm)

### Accounting Officers

Accounting Officers are normally the senior most official in an organisation – the permanent head of a government department, or chief executive of an executive agency or NDPB. Sometimes, operational or financial management considerations may make it appropriate for other very senior managers, responsible for particular activities, to be appointed as Additional Accounting Officers (AAOs). In some cases a senior official may be appointed an AAO in their parent department, and in one or more other departments, to enable clear accountability arrangements to be put in place for joined-up operations.

The appointment as Accounting Officer reflects the fact that he or she has responsibility for the overall organisation, management and staffing of the body, and for its procedures in financial and other matters. The essence of an Accounting Officer's role is a personal responsibility for the propriety and regularity of the public finances for which he or she is answerable; for the keeping of proper accounts; for prudent and economical administration; for the avoidance of waste and extravagance; and for the efficient and effective use of all the available resources. An Accounting Officer has to ensure that a sound system of internal control, that includes risk management, is maintained in the organisation and regularly reviewed for its effectiveness.

Accounting officers may be called to give evidence before the Public Accounts Committee on the basis of reports by the Comptroller and Auditor General. There is more background on this in a later insert.

**3.5** Alongside these specific responsibilities, the Accounting Officer has a leadership role as regards propriety: his or her actions and behaviour must set a high standard for the organisation, and the Accounting Officer must communicate these standards to the organisation's staff.

## REGULARITY

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4.1 Regularity is defined in “Government Accounting<sup>1</sup>” (see chapter 4 of which, and also the glossary) thus:

*Regularity is the requirement for all items of expenditure and receipts to be dealt with in accordance with the legislation authorising them, any applicable delegated authority and the rules of Government Accounting.*

4.2 Key here is the reference to authorising legislation and delegated authority: regularity is about compliance with appropriate authorities.

### “Authorised by Parliament”

4.3 A central requirement is that expenditure must be properly authorised by Parliament. According to the Accounting Officer memorandum (emphasis added in bold):

“An Accounting Officer has a particular responsibility for ensuring compliance with Parliamentary requirements in the control of expenditure. **A fundamental requirement is that funds should be applied only to the extent and for the purposes authorised by Parliament...**”

4.4 This wording harks back to the Exchequer and Audit Departments Act 1921. The modern equivalent – section 6 of the Government Resources and Accounts Act 2000 – calls for the Comptroller and Auditor General to examine (on behalf of Parliament) any resource accounts, which he receives from a department under section 5(5) of the Act, with a view to satisfying himself:

- That the accounts present a true and fair view;
- That the **money provided by Parliament has been expended for the purposes intended by Parliament;**
- That **resources authorised by Parliament to be used have been used for the purposes in relation to which the use was authorised;**
- That the department’s **financial transactions are in accordance with any relevant authority.**

4.5 There are thus two facets to Parliamentary control. First, expenditure must be consistent with the specific legislation providing for the activity or service. The legislation expresses Parliament’s intentions as to when and how public money should be used. Transactions should also be in accordance with any regulations issued under the governing legislation. Secondly, expenditure must fall within the ambit of the department’s Estimate<sup>2</sup>. The ambit records Parliament’s intentions as to the purposes of the expenditure. Expenditure that is outside the ambit is automatically “illegal”.

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<sup>1</sup> [www.government-accounting.gov.uk](http://www.government-accounting.gov.uk)

<sup>2</sup> Departments’ resource consumption is authorised from amounts voted annually by Parliament through Supply Estimates (Estimates). Each Estimate has one or more Request for Resources (RfRs) and each RfR has a voted net resource requirement. Each Estimate also sets an annual ceiling on the department’s voted net cash requirement (NCR). When approved by the House of Commons, Estimates form the basis of statutory authority for expenditure which is provided annually by means of Consolidated Fund Acts and by an Appropriation Act. These arrangements are known as the “Supply procedure” of the House of Commons.

Expenditure can be “irregular” when the related service does not have a statutory authority.

### **“The authority of the Treasury”**

**4.6** Leading on from this, a second key aspect is the requirement to have the necessary Treasury authority for expenditure.

**4.7** If, during the examination of a resource account, it appears to the Comptroller and Auditor General that a material use of resources required, but did not receive, the authority of the Treasury, the C&AG is statutorily required to inform the Treasury.

**4.8** This is a requirement set out in Government Resources and Accounts Act 2000. As you will see from some of the cases described later in the handbook, the fact that a department has acted outside the authority delegated from the Treasury, or without the necessary Treasury approval, will often result in Public Accounts Committee (PAC) criticism. Again such expenditure is “irregular”. While the PAC regards irregular expenditure as a serious matter, often its deeper concern is with what was done. The failure to seek the required external approval for a course of action is seen as a signal that the course of action was dubious.

**4.9** The Committee takes the same approach in other situations where the necessary approval for expenditure has not been gained – for example, where a NDPB acts outside the authority delegated to it in the financial memorandum, or a NHS Trust ignores the requirement for approval by the NHS Executive. Parliament’s expectation is that public bodies will observe such requirements when spending public money: this too is part of compliance with the appropriate authorities.

## PROPRIETY

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**5.1** The "Government Accounting" definition of propriety is linked to that of regularity, with an emphasis again on Parliamentary control:

*Propriety is the further requirement that expenditure and receipts should be dealt with in accordance with Parliament's intentions and the principles of Parliamentary control, including the conventions agreed with Parliament (and in particular the Public Accounts Committee).*

**5.2** This definition of propriety is obviously not a conventional one. "Fitness; rightness; correctness of behaviour or morals" is one dictionary definition. Behaviour is also included in the definition used in the Nolan Committee's First Report, "Standards in Public Life", published in May 1995 (emphasis added in bold):

**"We take propriety to encompass not only financial rectitude, but a sense of the values and behaviour appropriate to the public sector."**

**5.3** And in practice the Public Accounts Committee takes a very similar approach. Its report in early 1994, "The Proper Conduct of Public Business" (Eighth Report, Session 1993-94), uses phrases such as "the standards of public conduct", "care for the honest handling of public money" and "traditional public sector values".

**5.4** What this implies is that the reference to "Parliament's intentions", in the "Government Accounting" definition of propriety, needs to be interpreted in a wide sense. As the Auditing Practices Board puts it (emphasis added in bold):

**"Propriety is concerned with Parliament's intentions as to the way in which public business should be conducted, including the conventions agreed with Parliament, and in particular, the Committee of Public Accounts.**

"Whereas regularity is concerned with compliance with appropriate authorities, propriety is concerned more with standards of conduct, behaviour and corporate governance. It includes matters such as fairness, integrity, the avoidance of personal profit from public business, even-handedness in the appointment of staff, open competition in the letting of contracts and the avoidance of waste and extravagance." (Practice Note 10, "Audit of Central Government Financial Statements in the United Kingdom", April 2001)

**5.5** A consultation paper "Propriety and Audit in the Public sector" for the Public Audit Forum in May 2000 said:

"...While the concept of propriety is underpinned by compliance with authorities [for which read regularity], and in particular with legislation, it goes wider than this and covers conduct and behaviour unconnected with authorities. Non-compliance with authorities may not always be improper. Where it is inadvertent it may or may not be improper, depending on the circumstances. Impropriety more usually carries an assumption of a deliberate act of or a willfully careless one".

**5.6** All of these "proper" behaviours are of course reflected in "Government Accounting" or other guidance documents.

5.7 For example, the NHS Code of Conduct for Primary Care Trust Boards<sup>1</sup> refers to “... three crucial public service values ...”

<b>Accountability</b>	Everything done by those who work in the NHS must be able to stand the test of parliamentary scrutiny, public judgements on propriety and professional codes of conduct.
<b>Probity</b>	There should be an absolute standard of honesty in dealing with the assets of the NHS: integrity should be the hallmark of all personal conduct in decisions affecting patients, staff and suppliers, and in the use of information acquired in the course of NHS duties.
<b>Openness</b>	There should be sufficient transparency about NHS activities to promote confidence between the NHS authority or trust and its staff, patients and the public.

5.8 Similar expectations about behaviour are expressed in the Civil Service Code<sup>2</sup>:

“Civil servants should conduct themselves with integrity, impartiality and honesty... [they] should not misuse their official position... to further their private interests of those of others...”

5.9 And the Model Code (of conduct) for Staff of Executive NDPBs<sup>3</sup> says:

“Key members of staff, such as the Chief Executive, Finance Director... should ensure that any possible conflicts of interest are identified at an early stage and that appropriate action is taken to resolve them...”

5.10 When it authorises expenditure Parliament expects the public servants responsible for its care to behave in these ways: Parliament’s intention when authorising expenditure is that the funds should be managed with impartiality, honesty, the avoidance of personal gain, waste, and extravagance. In short, propriety in a financial context embraces a wide range of proper behaviours.

5.11 The way in which our Public Service goes about its business, including the way in which individual public servants go about theirs, is of prime importance to every head of department, chief executive, and public servant. The public expects official decisions to be made fairly and impartially, public money to be spent wisely, and public assets to be used and cared for responsibly. They expect the conduct of officials to be above reasonable reproach, and official duties to be performed conscientiously and competently at all times. We therefore need to be careful about the way we go about our business.

<sup>1</sup> On page 30 of the Primary Care Trusts (PCTs) Corporate Governance Framework, which can be downloaded from: [www.dh.gov.uk/PolicyAndGuidance/OrganisationPolicy/PrimaryCare/PrimaryCareTrusts/PrimaryCareTrustsArticle/fs/en?CONTENT\\_ID=4000579&chk=NAzQg6](http://www.dh.gov.uk/PolicyAndGuidance/OrganisationPolicy/PrimaryCare/PrimaryCareTrusts/PrimaryCareTrustsArticle/fs/en?CONTENT_ID=4000579&chk=NAzQg6)

<sup>2</sup> [www.cabinetoffice.gov.uk/propriety\\_and\\_ethics/civil\\_service/civil\\_service\\_code.asp](http://www.cabinetoffice.gov.uk/propriety_and_ethics/civil_service/civil_service_code.asp)

<sup>3</sup> Annex A to part G of 'NDPB's: A Guide for Departments', which can be downloaded from: [www.civilservice.gov.uk/improving\\_services/agencies\\_and\\_public\\_bodies/guidance\\_for\\_departments/non\\_departmental\\_public\\_body\\_guidance/index.asp](http://www.civilservice.gov.uk/improving_services/agencies_and_public_bodies/guidance_for_departments/non_departmental_public_body_guidance/index.asp)



## 5.12 To summarise then...

We are concerned with regularity and propriety in a financial context. A key element is conformity with the requirements of Parliamentary control and Parliament's intentions as regards the use of public funds. In respect of propriety, "Parliament's intentions" has a broader meaning – its expectations about the way in which public business should be conducted, or should not be conducted; its expectations about the way public servants should and should not behave when managing public funds.

### **The Public Accounts Committee and the National Audit Office**

The **Public Accounts Committee** was set up in 1861 as one of the measures to give Parliament a better control over the expenditure of public funds. Under House of Commons Standing Order No.148 the Committee examines and reports on "...the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure and... such other accounts laid before Parliament as the Committee may think fit." The Committee is nominated by Members of the House of Commons for the duration of each Parliament. It consists of 16 members, drawn from all parties. Traditionally the Chairman is provided by the Opposition and is usually a former Treasury Minister. It works on the basis of reports by the Comptroller and Auditor General, either as a result of his certification (financial) audit or value for money examinations. It takes evidence in public on the basis of these reports, with the main witnesses being Accounting Officers: the Comptroller and Auditor General and the Treasury are also witnesses at each hearing. After deliberating on the evidence, the Committee reports to Parliament, with the Government responding in the Treasury Minutes.

The **Comptroller and Auditor General (C&AG)** is appointed by the Crown and is responsible to Parliament rather than the Government. As auditor his statutory duties are to certify the accounts of all government departments and a wide range of other public bodies such as NDPBs; to examine revenue and store accounts; and to report the results of his examinations to Parliament. These duties are set out in the Government Resources and Accounts Act 2000, and the earlier Exchequer and Audit Departments Acts of 1866 and 1921. Under the National Audit Act 1983 – which created the National Audit Office to replace the Exchequer and Audit Department – he has wide powers to carry out examinations of the economy, efficiency and effectiveness of the use of resources by those bodies he audits or to which he has access – value for money examinations. In these examinations the C&AG may not question policy objectives.

The staff of the **National Audit Office (NAO)** are appointed by the Comptroller and Auditor General and are not civil servants. Each year the NAO audits over 550 accounts and publishes around 60 value-for-money reports. Its primary concern is helping to deliver accountability to Parliament, and ultimately to taxpayers – to assure them that public funds and resources are used properly and to good effect.

The audit arrangements in Wales have changed with the creation of a "Wales Audit Office" headed by the Auditor General for Wales with responsibility for the work currently undertaken by the National Audit Office and the Audit Commission in Wales. The Comptroller and Auditor General for Northern Ireland and the Northern Ireland Audit Office do a similar job in respect of the Northern Ireland Assembly. If the NI Assembly is not in operation, reports go directly to the Westminster Parliament. Scotland has its own Audit arrangements.

Reports by the Audit Commission – which is responsible for the audit of local authorities in England and Wales – are not presented to Parliament.

**5.13** Later on, the handbook attempts to illustrate how this works in practice by looking at situations which have led to criticism by the Public Accounts Committee. Some of these examples featured in the Committee's Eighth Report, Session 1993-94, "The Proper Conduct of Public Business". At the end of this handbook we have included the checklist that forms part of the report, but the whole of the report is recommended reading. It is true to say that the report, together with the work of the Nolan Committee, has given issues of regularity and propriety a much higher profile.

# FIRST REPORT OF THE COMMITTEE ON STANDARDS IN PUBLIC LIFE - SEVEN PRINCIPALS OF PUBLIC LIFE

**6.1** Below is a section from the First Report<sup>1</sup> of the Committee on Standards in Public Life<sup>2</sup>. These “Seven Principles of Public Life” capture the key characteristics of propriety and is a reminder that issues of propriety and corporate governance are closely linked.

<b>The Seven Principles of Public Life</b>	
<b>Selflessness</b>	Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
<b>Integrity</b>	Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
<b>Objectivity</b>	In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
<b>Accountability</b>	Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
<b>Openness</b>	Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
<b>Honesty</b>	Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
<b>Leadership</b>	Holders of public office should promote and support these principles by leadership and example.

The Seven Principles of Public Life were endorsed in “Spending Public Money: Governance and Audit Issues”, Cm3179, March 1996.

<sup>1</sup> [www.archive.official-documents.co.uk/document/parlment/nolan/nolan.htm](http://www.archive.official-documents.co.uk/document/parlment/nolan/nolan.htm)

<sup>2</sup> [www.public-standards.gov.uk](http://www.public-standards.gov.uk)



## VALUE FOR MONEY

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**7.1** In addition to regularity and propriety there are repeated references to value for money in “The Responsibilities of an Accounting Officer<sup>1</sup>” and in Government Accounting<sup>2</sup>. The Public Accounts Committee (PAC) explores matters related to economy, efficiency and effectiveness that are set out in National Audit Office (NAO) value-for-money reports. The Committee has on a number of occasions criticised departments for failing to obtain value for money in major procurement projects.

**7.2** All public procurement of goods and services, including works, must be based on value for money, having due regard to propriety and regularity. Value for money is not about achieving the lowest initial price: it is defined as the optimum combination of whole life costs and quality. This policy is set out in guidance issued by Office of Government Commerce (OGC) to departments and is reproduced in Chapter 22 of Government Accounting. Further guidance is available on OGC website ([www.ogc.gov.uk](http://www.ogc.gov.uk)).

**7.3** Goods and services should be acquired by competition unless there are convincing reasons to the contrary. The form of competition should be appropriate to the value and complexity of the procurement and barriers to the participation of suppliers should be removed.

**7.4** In relation to the balance between propriety and regularity, and value for money, you should seek to satisfy yourself that existing controls, and their cost, are appropriate in relation to the potential for achieving value for money benefits.

**7.5** There are a number of ways of achieving value for money in procurement, such as by:

- Reducing the cost of purchasing and the time it takes – the processing overheads;
- Getting better value for money for goods and services purchased and improved quality of services;
- Improving project, contract and asset management;
- Making procurement decisions on the basis of a long term view of value for money so that the focus is not on the lowest price;
- Combining competition with innovative ways of procurement while managing the risks effectively;
- Drawing on latest advances in electronic commerce and good procurement practice; and
- Using a range of tools available which promote and can measure value for money gains.

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<sup>1</sup> [www.government-accounting.gov.uk/current/content/ga\\_04\\_4.htm](http://www.government-accounting.gov.uk/current/content/ga_04_4.htm)

<sup>2</sup> [www.government-accounting.gov.uk](http://www.government-accounting.gov.uk)



# LEARNING FROM OTHERS' MISTAKES

## Case 1 **MPS CALL £1.2 MILLION JUNKETS ARRANGED BY CIVIL SERVANTS 'INEXCUSABLE'**

**8.1** This was one headline for the PAC report on a relatively straightforward case. The case illustrates the links between regularity and propriety and how all embracing is the Committee's view of propriety. The incident is described in the Public Accounts Committee's 28th Report, Session 1992-93 – "**Ministry of Defence: Irregular Expenditure under an Efficiency Incentive Scheme**".

**8.2** As part of a strategy to achieve efficiency savings, in the late 1980s the Ministry of Defence introduced a trial efficiency incentive award scheme. It was designed to reward groups of staff for their part in contributing to efficiency. But some members of staff went beyond the department's guidelines for the scheme, spending money on go-carts, bicycles, cameras, golf-club furnishings, televisions and the like. There was also expenditure on what the PAC Chairman described as "jollifications". Here are some of the things the Committee said in its report (emphasis added in bold):

"We are concerned that **expenditure was incurred by the Department outside the ambit of the Votes concerned and that some was incurred on gifts and donations for which specific Supply Estimates provision had not been made.** This expenditure cannot be regarded as having been authorised by Parliament and should not have occurred."

"We are also concerned that the Department incurred expenditure on novel and contentious items which fell outside their delegated authority and required specific prior Treasury approval. **We are dismayed that they did not seek Treasury approval before making these payments.**"

"We remain critical of the lavish scale of unauthorised expenditure to mark the 25th Anniversary celebrations of the Royal Naval Supply and Transport Service **and find the cost of up to £70 a head incurred in holding these events to be completely unjustified. In future we expect the Department to act in line with the Accounting Officer's duty to avoid waste and extravagance...**"

"We endorse the Accounting Officer's acknowledgement that he is ultimately responsible, and we regard such personal accountability as a cardinal principle of Parliamentary control over public expenditure."

**8.3** So the starting point for the Committee's concern was that the expenditure was irregular: it was outside the ambit of the relevant Vote and the department's delegated authority, and the department failed to get the necessary Treasury approval.

**8.4** But clearly the Committee's concerns went wider than this. The people involved went beyond the rules of the scheme – as we will see in other examples, acting outside the rules is an immediate trigger for the Committee's concern. Some of the expenditure was, in the Committee's view, excessive: it went beyond Parliament's expectations of how much public money it is reasonable to spend on entertainment for public servants. And there was an underlying concern that public money had been spent for what might be regarded as private benefit.

**8.5** Each year there is a Parliamentary debate on the past year's reports by the Public Accounts Committee. Speaking in the 1993 debate, the Committee's Chairman commented:

"Public money should not be spent in such a way. We were uneasy about the way in which the spending of it had been authorised, which we thought was a most serious matter..."

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**Case 2 "WE ARE DISQUIETED TO LEARN OF THE REAL CONFLICTS OF INTEREST THAT AROSE..."**

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**8.6** The next example concerns the 2nd Report in the 1994-95 Session, "The Sports Council: Initiatives to Improve Financial Management and Control and Value for Money".

**8.7** The Sports Council was an executive NDPB whose principal source of income was grant aid (it has now been superseded by UK Sport, and the Home Country Sports Councils). From 1989 the Council took a number of steps designed to strengthen its commercial activities. These included the creation of a charitable company to replace the Council's charitable trust; the acquisition of a company wholly owned by the charitable company; and the formation, jointly by the acquired company and a private sector company, of a joint venture. The Council and these three companies formed the Sports Council Group. The Council's Accounting Officer and its Director of Finance held positions on, or worked on behalf of, the Sports Council while simultaneously holding positions on one or another of the three companies in the Sports Council Group: for example, the Finance Director became the chief executive of one of the companies. The result was what the Committee's report described as "conflicts of duty and interest", which had financially disadvantaged the Council in various transactions with the companies: for example, the contracts between the Council and one of the companies required the Council to pay in advance, whereas payments by the company to the Council under the contract terms were considerably in arrears. Here is a selection of the Committee's comments in its report:

**"Responsibility for public funds... entails maintaining the expected standards of propriety. This includes not only avoiding actual or potential conflicts of interest but also any doubt that such conflicts might exist. We are therefore disquieted to learn of the real conflicts of interest that arose, which disadvantaged the Council financially in contractual arrangements with [the company] and which did not conform with Treasury guidance or with government best practice..."**

**"We are particularly concerned that the former Director General and Accounting Officer, and the former Finance Director had conflicts of interest, despite numerous reports by this Committee drawing attention to such dangers..."**

**"We are very concerned that the Council and the Trust Company took actions on several occasions which they knew were opposed by the sponsoring department..."**

**"We note that on his retirement the Trust Company appointed the former Director General of the Council as their part-time Chief Executive without the post being advertised..."**



"We are very concerned that the Council awarded a contract... for twenty years to manage the Council's annual exhibition and seminar as this does not allow the Council regularly to test the market..."

"We consider that it was clearly unsatisfactory for the Council to award the contract... to a management buy-out company which had not submitted a tender. **We note that the Council and the Department have accepted that this was an improper procedure...**"

**8.8** Avoidance of conflicts of interest is a fundamental principle. A comment by the PAC Chairman during the Committee's hearing is of particular interest here:

"Potential conflicts of interest are very serious matters indeed. We do not have to prove that something wrong has happened as long as the potentiality for that wrongdoing exists..."

**8.9** The underlying concern here was that public officials had taken actions that appeared to benefit private interests at a cost to public funds. The quotes also illustrate the point that the various rules about how public business should be conducted – for example, that posts should be filled by open competition, that contracts should be periodically re-tendered and should be let using even-handed tendering procedures – are safeguards against impropriety.

### Case 3 **"...THE STANDARDS REQUIRED FOR THE EXPENDITURE OF THE TAXPAYER'S MONEY ARE RATHER DIFFERENT..."**

**8.10** In its 47th Report, Session 1992-93 – "Welsh Development Agency: Accounts 1991-92" – the Committee found a number of causes for concern. Here are some quotes from the report's conclusions:

"...It seems self-evident to us, however, that the redundancy arrangements adopted by a public sector body should relate to its own pension scheme. **It is clearly not acceptable that a public sector body should pick and choose the best terms on offer from superannuation schemes they do not belong to...**"

"**We consider it unacceptable that the Agency should have provided cars to their Board members and senior executives without requiring them to pay for private motoring...** We criticise the Agency for the breakdown in financial controls which led to their incurring... irregular expenditure on their car scheme..."

"We are deeply concerned at the artificiality of the arrangements made for his retirement settlement, and at the total cost of the package which the Agency put at over £228,000..."

"We recognise the need for the Agency to seek confidentiality undertakings on certain operational matters from staff who leave their employment. However, we consider the agreement which they had required [the International Director] to sign is **excessively restrictive and potentially damaging to public accountability in its application of confidentiality undertakings to the circumstances and terms of his retirement.** We are therefore concerned at the steps the Agency took to ensure [his] silence and regard this as an unacceptable development in personnel management in the public sector."

**"We note the explanations by... the Agency's Chairman... It is clearly important that persons in high public office should ensure that circumstances do not arise which can give cause to any allegations of abuse of position..."**

**"We note that neither approval nor progress of Operation WIZARD [a study of policy options for the future of the Agency] was formally minuted by the Agency's Board and that its existence was not publicly revealed, even after it was shelved..."**

**"We... note the degree of freedom which non-departmental public bodies enjoy to manage their own affairs, but we stress that it is the responsibility of the Agency's Chairman and other Board members to act in a way which conforms with the high standards expected of those who handle public finance..."**

**8.11** Some of these concerns are familiar from the earlier cases: some are new or differently expressed. In both the redundancy payments and the car scheme the agency had acted outside the relevant rules, without seeking the necessary authority to do so. As regards the car scheme, there had been expenditure of public funds for private benefit. Additionally there is the concern about "confidentiality undertakings" – what the Committee sometimes refers to as "gagging clauses" – where these are designed to limit public scrutiny and accountability. Likewise, there is the concern that the proper procedures to record decisions had not been followed. And returning again to the issue of conflict of interest, there is the concern about possible "abuse of position".

**8.12** One quotation from the PAC Chairman during the hearing is also worth noting:

**"The standards required for the expenditure of the taxpayer's money are rather different from the standards required when one is dealing with one's own money".**

#### **Case 4 "DETAILED REASONS SHOULD ALWAYS BE RECORDED..."**

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**8.13** The importance of keeping records also featured in the 6th Report of the 1994-95 Session, "Wolds Remand Prison". Wolds Remand Prison was the first to be contracted out, and the NAO report examined that process. The Committee's report commented:

**"To avoid any question of impropriety, detailed reasons should always be recorded whenever a contract is not awarded to a tenderer who submits the lowest bid and is judged capable of meeting the key performance criteria..."**

**8.14** Failure to record the reasons for decisions, establishing a clear audit trail, may lead to the suspicion that there is something to hide. The Treasury Minute in response to the report agreed with the Committee's conclusion and said that the Prison Service did record such information.

Case 5 **“I DO NOT THINK THAT ENTHUSIASM TO BE  
ENTREPRENEURIAL SHOULD LEAD TO A FAILURE  
TO CARRY OUT ESSENTIAL CONTROLS”**

**8.15** Another short entry, from the 48th Report, Session 1992-93, “Irregularities in the 1991-92 Accounts of Forward Civil Service Catering”. The irregularities were primarily in purchasing. Forward has since been privatised, but at the time was part of the Treasury. The Committee commented as follows:

**“We consider that this case, involving poor control, mismanagement, irregularity, malpractice and fraud, represents a serious failure in the proper conduct of public business in what is – or should have been – a straightforward trading operation. We regard it as particularly unsatisfactory that this situation was allowed to develop in a body which is the direct responsibility of the Treasury and should have been the subject of more effective oversight...”**

“The main weaknesses and irregularities disclosed [included]... failures to comply with laid-down purchasing procedures. There was a general lack of competitive tendering, substantial contracts were rolled forward without tender or any search for alternative suppliers... European Community directives were breached; requirements were poorly specified; and there were weaknesses in local purchasing arrangements, in the receipt, storage and issue of goods, and in invoice certification; certain records had been destroyed at four locations...”

“One element of the deterioration of control in Forward caused us particular concern... In the course of re-letting contracts without competition – including a contract with an individual value of £4.25 million – a senior member in Forward apparently entered into discussions with some of the contractors to seek their financial support for a management buy-out for Forward. He had also established, without informing the Accounting Officer, a company... which was apparently intended to be the vehicle for such a buy-out...”

The heading quotation is from the Accounting Officer during the PAC hearing.

Case 6 **“THERE WERE SERIOUS FAILINGS HERE OF AN  
ASTONISHING KIND...”**

**8.16** To return to rather longer extracts, this example is from the 63rd Report in the 1992-93 Session, “Wessex Regional Health Authority: Regional Information Systems Plan”.

**8.17** In May 1984 the Wessex Regional Health Authority launched its regional information systems plan to provide systems which would optimise the use of information in clinical and other health services. By April 1990, when the plan was abandoned, the RHA had spent some £43 million. But it was not simply the poor value for money on which the Committee commented:

**“We note with dismay that not only did the Regional Health Authority’s management strenuously contest the auditors’ criticisms, they were also able to conceal vital information from the Members of the Authority and from the Management Executive...”**

“...The evidence presented to us depicted [the Regional General Manager] as a man with strong vision, and such a determination not to be deflected off course,

that he presided over a series of actions incompatible with the proper handling of public money and without regard to clear evidence that the project was going badly wrong.”

“We note that Anderson Consulting do not believe there to have been a conflict of interest. However, it is essential for the proper conduct of business that public bodies should be free, and be seen to be free, from any relationships which could materially interfere with their ability to take open and fair decisions aimed at securing value for money in the public interest, and we endorse the Regional Health Authority’s view that it is clearly wrong for somebody who is tendering for National Health Service business also to be advising the National Health Service as their consultant.”

“We are concerned that the Regional Health Authority allowed [an individual], while on secondment from IBM, at the request of the Chairman of the Regional Health Authority to advise them on the purchase of an IBM computer for £3.3 million, at which time it could have been purchased for £0.5 million to £1 million less than the price paid.”

“We are also disturbed that the contract for the computer was signed by..., [the] Regional Treasurer, on the instructions of... [the] Regional General Manger, without reference to the Chairman or to the Authority and without competitive tendering, contrary to the Authority’s standing orders... As we have pointed out in previous reports, competition... is a key element in demonstrating that public business has been conducted properly.”

“It is also important in our view to ensure that all health service staff respect the fundamental principles of public business in this country, and are judged, in their own performance, by the standards of honesty, openness and fair dealing that are expected in public life.”

**8.18** The PAC report referred to “...a series of actions incompatible with the proper handling of public money...” and, indeed, the list of concerns is a long one. Again there is the concern as regards conflict of interest, with officials in a public body acting in ways which led to private benefit, at a cost to the public purse. Again there is the emphasis on procedures such as competitive tendering as a safeguard against impropriety. There are also concerns that the proper procedures for taking decisions in the body were not followed, and that information was concealed. The quotation opening this section is from the PAC Chairman during the hearing. The case is also a good illustration of the close relationship between propriety and good governance. Indeed, the Treasury Minute in response to the PAC report featured a number of steps to improve governance in the NHS, including the work on the NHS Codes of Conduct and Accountability.

Case 7 **“THERE WERE FAILURES OF GOVERNANCE OF THE MOST SERIOUS KIND...”**

**8.19** In its 19th Report, Session 1996-97 – “Inquiry commissioned by the NHS Chief Executive into matters concerning the former Yorkshire Regional Health Authority” – the Committee commented on what it described as “the catalogue of breaches of process, internal controls and national regulations” discovered in the inquiry commissioned by the NHS Chief Executive. There are, in all, 21 conclusions in the report. These are a selection:

**“The Committee consider it unacceptable that the former Yorkshire Regional Health Authority made irregular payments of relocation expenses totaling £447,847 to its employees... We criticise the former Authority, in particular, for three payments to its senior officials under a scheme agreed in 1994...”**

**“We also think it unacceptable, that the former Authority made severance payments to two of its senior staff without the necessary approval, and improperly employed three senior staff on general manager contracts. We are appalled that, in one of these cases, the Director of Personnel... had in 1994 been switched from a General Manager’s to a Senior Manager’s contract, simply to enhance her redundancy terms; and that, in another case, a District General Manager had, in 1993, been paid, although he had no job to do and no requirement to attend the Office...”**

**“We are concerned that, in 1994, the former authority agreed to provide the Chairman of the successor Authority with a Range Rover at their expense with a loss of £10,000 to public funds when the car was subsequently withdrawn and sold, and that they also provided a second car to the Assistant Regional General Manager...”**

**“We consider it unacceptable that in the two years up to April 1994 a division led by the Personnel Director of the former Authority... awarded contracts valued at £43,000 to a company owned by her husband; and that [the Personnel Director] failed to declare an interest...”**

**“We are appalled that the former Authority spent some £695,000 on functions and dinners at hotels between April 1992 and March 1994. These included events which clearly should not have been paid from public funds, such as two “Super Sleuth” weekends at a cost of £10,000, and excessive hospitality in top quality hotels including expensive wine. We are extremely concerned that a lack of proper certification and coding procedures concealed much of what had been going on...”**

**“While we recognise that this was a period of unprecedented change in the NHS and managers were being encouraged to adopt a more business-like approach, we cannot accept that this entitled senior managers to anticipate changes in the rules or to put the former Authority’s and public funds at risk...”**

**“There were failures of governance of the most serious kind which have resulted in the loss of public funds of millions of pounds which should have been spent on treating patients.”**

**8.20** There is no need to add a commentary here. But one point worth noting, from the Committee’s reference to “proper certification and coding procedures”, is the contribution of basic financial procedures in meeting the requirements of propriety.

Case 8 **“WE EXPECT EACH ACCOUNTING OFFICER FULLY TO UPHOLD THE PRINCIPLES AND PRACTICES OF PROPER CONDUCT AND TO DEMONSTRATE GOOD STEWARDSHIP OF PUBLIC FUNDS.”**

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**8.21** This next case concerns the authorisation of travel expenses. It is described in the 25th Report, Session 1996-97, “**Plymouth Development Corporation: Regularity, Propriety and Control of Expenditure**”.

**8.22** The Corporation was an Executive NDPB sponsored by the then Department of the Environment. In 1995 the Department’s Government Office for the South West raised a number of concerns about the way the Corporation was being run. These were investigated by the Department’s internal audit service, Management Audit Services. In May 1995, the Corporation’s external auditors discovered, during their audit of the 1994-95 financial statements, two invoices for travel costs that appeared irregular. Further investigation by the DoE’s Management Audit Services found other examples of personal expenses incurred by the Chief Executive on international visits and paid for by the Corporation. The Chief Executive was suspended and his designation as Accounting Officer withdrawn in June 1995; he resigned in September 1995. The auditors estimated that he had authorised the charging to the Corporation of £9,210 of his own private expenditure, which was subsequently repaid.

**8.23** These are among the conclusions in the Committee’s report:

“The Committee considers that [the Chief Executive’s] conduct... **did not meet the standards expected of those entrusted with the use of public funds, notably in his handling of travel and personal expenditure...**”

“We consider it unacceptable that there were deficiencies in key financial controls at the Corporation, though these have since been remedied. **There was a lack of proper budgetary control; a lack of basic checks on invoices and supporting documentation; acceptance of inadequately specific invoices; a high level of duplicate payments; and inadequate management information for the Board...**”

“It is now three years since the Committee reported on the need to maintain the principles and standards required to ensure the proper conduct of public business. **We continue to attach the highest importance to these standards at all levels in the public services. We expect each Accounting Officer fully to uphold the principles and practices of proper conduct, and to demonstrate good stewardship of public funds.**”

**8.24** Again there is a reminder here of the importance of basic financial controls. As the Accounting Officer memorandum records, the Accounting Officer must “ensure that proper financial procedures are followed and that accounting records are maintained in a form suited to the requirements of management as well as in the form prescribed for published accounts.”

Case 9 **“THE CENTRAL REASON FOR THE REMOVAL OF ACCOUNTING OFFICER STATUS WAS THAT THE CONFLICT OF INTERESTS WHICH HAD OCCURRED... WAS THEN PERSISTED IN...”**

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**8.25** Conflicts of interest is at the heart of this example, which is from the Committee's 23rd Report, Session 1995-96, “National Heritage Memorial Fund Account 1994-95: Replacement of the Accounting Officer”. The National Heritage Memorial Fund is an Executive NDPB that gives assistance towards the cost of acquiring, maintaining and preserving items of national heritage. It is grant-aided, the sponsoring department at that time being the Department of National Heritage (DNH). In June 1995 the Department's Accounting Officer concluded, after investigation, that the Accounting Officer of the Fund had allowed a conflict of interest to arise in breach of her basic responsibilities as an Accounting Officer. After informing the Chairman of Trustees, he therefore revoked her designation as Accounting Officer. The Trustees of the Fund then terminated her appointment as Director. One quotation from the Committee's report is central:

**“We view the responsibility of Accounting Officers for ensuring that the highest standards of propriety are maintained in the conduct of public business as being of fundamental importance. We therefore regard it as unacceptable that... the Accounting Officer of the National Heritage Memorial Fund... allowed a clear conflict of interest to arise by permitting her partner's firm... to tender for a contract to be let by the Fund... This compromised her role as the Fund's Accounting Officer...”**

**8.26** The Treasury Minute in response to the report said, amongst other things, “It is a key responsibility of Accounting Officers to safeguard the financial propriety and regularity of an organisation...”. The heading quotation is from the DNH Accounting Officer at the PAC hearing.

Case 10 **“A CLEAR FAILURE IN THE PROPER CONDUCT OF PUBLIC BUSINESS”**

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**8.27** Breach of standards of integrity and trust for public accountability are at the heart of this example, which is from the Committee's 7th Report, Session 1997-98, “Resignation of the Chief Executive of English Heritage”. English Heritage is an Executive NDPB sponsored by the Department for Culture, Media and Sports (DCMS) and is the leading body in England for the preservation of the built environment that includes ancient monuments and historic properties. The incumbent Chief Executive and Accounting Officer of English Heritage in 1996 resigned in July of that year, and the Committee looked into the events that led to his resignation. The Committee's main conclusions were:

**“We are seriously concerned that the Chief Executive submitted inaccurate expense claims and that as a result he was overpaid... We note the view of English Heritage external auditors that these claims were mistakes and that there was no suspicion of fraud. We emphasise, however, that senior public servants should lead by example and should be particularly careful to avoid the sort of mistakes which could lead to their benefiting personally out of public funds.”**

"We are also concerned that the Chief Executive negotiated with his own staff at English Heritage on the sale of his own furniture brought with him from his previous occupation. We agree with the Department that his action in relation to the purchase of furniture **was a case of unacceptable conflict of interest which should properly have been avoided.**"

"We consider that the Chief Executive's deception of the Chairman of English Heritage over an advertising contract let under his instruction, contrary to a decision agreed by the Commissioners of English Heritage, breached the standards of integrity and trust essential for public accountability and amounted to a breach of his fundamental duty. We consider that, overall, **the Chief Executive's actions represented a clear failure in the proper conduct of public business.**"

"We consider that this case at English Heritage **raises important issues relating to internal control and corporate governance at the most senior levels within a publicly funded body.** We consider it unsatisfactory that the Director of Finance recognised that things were clearly wrong but did not inform the Chairman."

**8.28** The Committee also emphasized the need for Accounting officers to have timely training and advice on what was proper, right and sensible. It noted that the Departmental Accounting Officer had met the Chief Executive and had suggested that he should attend the Civil Service College course for new Accounting Officers, and that he had received other briefings and advice. The Committee was surprised that the Chief Executive told the National Audit Office that it was not until he had attended the course, over 14 months after his appointment, that he fully appreciated the more stringent interpretation of standards of public accountability expected in the non-departmental public body environment. The Treasury now, as a matter of routine, informs the Civil Service College of all new Accounting Officer appointments that it makes.

**Case 11 "IT IS A MATTER OF SHAME FOR THE DEPARTMENT THAT PREVIOUS EFFORTS TO ENSURE THE EFFECTIVENESS OF FINANCIAL CONTROLS AND CHECKING PROCEDURES SHOULD HAVE FAILED AGAIN..."**

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**8.29** This is what the Accounting Officer for the Foreign and Commonwealth Office said to the Committee when giving evidence at a hearing on the 34th Report, Session (1997-98) "**Foreign and Commonwealth Office: Irregular Payments at the British Embassy in Amman, Jordan**". The Foreign and Commonwealth Office Account for 1996-97 recorded a cash loss estimated at £109,000. This loss resulted from irregularities, allegedly committed by an accountant at the British Embassy in Amman, Jordan, involving duplicate payments of bills and the presentation of false invoices. This was the second loss at this Embassy to come to the attention of this Committee and its predecessors within twelve months. On 19 February 1997 the predecessors heard evidence of how the post's previous accountant had forged life certificates, and en-cashed £333,000 payable orders, in respect of dead pensioners of the former Overseas Development Administration (now the Department for International Development). The Committee concluded:

"This turn of events is particularly unacceptable, since the Department told the previous Committee of Public Accounts that the improvement of financial



controls and financial awareness throughout the Diplomatic Service had been made a top priority... it is clear that the Service has some way to go in achieving this important objective.”

“We regret that the full extent of these irregularities remains unknown and that it could be twice the amount established or more. Moreover, we are disturbed that the irregularities should have persisted for at least five years.”

“The Senior Management Officer should have challenged any expenditure that reflected an unreasonable level of consumption or which exceeded the relevant budgets.”

“We emphasise that it is the Department's responsibility to operate financial control systems and internal inspection systems that are sufficiently effective to detect fraud. It is fundamental to such arrangements that **any irregularities that do take place should be detected and dealt with quickly.**”

“This situation would not have come about had staff at the Embassy, the Senior Management Officer in particular, done their jobs properly. We consider it entirely unsatisfactory that, as a consequence of his compulsory early retirement, the Senior Management Officer received up to £31,600 more in lump sum payments than if he had remained in the service until normal retirement age. In view of the seriousness of the shortcomings attributable to the Senior Management Officer, we consider this outcome as totally unacceptable.”

**8.30** One point worth noting here is the need for good financial control systems for meeting the need of propriety. There should be robust monitoring arrangements to ensure instructions are carried out.

## Case 12 **“WE ARE DEEPLY CONCERNED AT THE EXTRAVAGANT SPENDING...”**

**8.31** This case relates to irregularities at Halton Further Education College. It is described in the 36th report, Session 1998-99, “**Investigation of Alleged Irregularities at Halton College**”. Halton College based in Widnes, near Liverpool, is one of the largest of England's further education colleges. Following correspondence from a member of the public, copied to the Comptroller and Auditor General, the Funding Council investigated fourteen allegations about extravagant and irresponsible use of public funds at Halton College. Although the majority of the allegations were unsubstantiated, the Funding Council found inadequacies in the stewardship of public funds and in the governors' supervision of the College's activities. Some of the Committee's conclusions were:

“Halton College was able to claim almost £14 million more in grant from the Funding Council than was justified, despite a range of controls for ensuring the accuracy of funding claims including audit by the College's external auditors.”

“One particular area of concern was the extent and cost of travel by the Principal and Deputy Principal. Investigations had found that over a period of five years, they had spent between them nine days short of a whole year out of the College on College business and £210,000 on travel and subsistence. The Principal and Deputy Principal had accompanied each other on almost all trips abroad, so that at these times the two most senior managers had both been absent from the College. The Committee were astonished at the proposition that trips by seven

governors to Kansas and Miami were necessary to allow them to get to know staff, when this enabled them to meet only 24 of the college's staff."

"The Principal and Deputy Principal were suspended in May 1998, but it took almost a year before any further disciplinary action was taken against them. During that time, they continued to receive full pay totaling £200,000."

"We view with serious concern the fact that the Funding Council and the College misled the Committee by agreeing in evidence that the Board of the College had made no contribution to the Principal's and Deputy Principal's legal costs, when in fact they had agreed to pay £12,000."

"The Funding Council accepted that the Principal had misled everybody, not just the internal and external auditors but also the Board."

"Another area of concern was the purchase, by the Principal, of etchings at a cost of £31,000. **The Funding Council concluded that the procedures that led to it fell short of acceptable minimum standards.** The Chairman of the Board told us it had been completely and utterly a surprise to any of the Board, that etchings of this value had been bought. The Board learnt of the cost of the purchase from consultants it had appointed to help investigate the allegations. It came as a total shock, and they could not defend it in any way whatsoever. At the time purchases of this level were within the Principal's delegated spending limit without reference to the Board."

"Internal and external audit services to Halton College were provided by the same firm. We queried the acceptability of auditors carrying out both for any one college. The Funding Council explained that from inception they had taken the view that this was an appropriate practice in accordance with Government guidance. In future, however, it would not be allowed, and the two audits would be done by separate organisations."

**8.32** The key message here is that Departments have a duty, to ensure that the organisations they fund have sufficient and appropriate management and financial controls, to safeguard public money. This entails a need for adequate monitoring procedures, including suitable arrangements for internal audit, to provide timely and regular assurances on compliance.

### Case 13 **"VERY WORRYING LAPSE OF NORMAL ADMINISTRATION STANDARDS"**

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**8.33** Government departments have a legal responsibility to ensure that any information they provide to citizens, on their activities and services, is accurate and complete. However, for nearly 10 years from 1986, the then Department of Social Security (now Department for Work and Pensions) did not adequately publicise a very significant change to the arrangements for the inheritance of the State Earnings-Related Pension (the change was introduced in 1986, but was not due to come into force until April 2000). Nor did they ensure that staff provided the public with correct information on this change between 1986 and 1999. As a result, many thousands of people are likely to have made decisions about their future pension provision, based on an incorrect understanding about the pension that would be inherited by their spouse after their own death. The details of the case are in the 34th Report, Session 1999-2000, "State Earnings-related Pension Scheme: The Failure to inform the Public about Reduced Pension Rights for Widows and Widowers".

**8.34** The Committee's main conclusions were:

"The failure... was an appalling administrative blunder. It has caused confusion and distress to many thousands of people and will cost the taxpayer billions of pounds."

"The problem arose, mainly, from a lack of end-to-end responsibility within the Department for the whole process from Ministerial policy decision to official implementation, a lack of customer focus, and fundamental weaknesses in systems and processes. As a result, the systems were not robust enough to withstand the incidence of a simple error."

**8.35** This example goes to the heart of public service ethos. Public servants are expected to perform their duties conscientiously and competently at all times and to have regard to public interest.

**Case 14 "THE CORRUPTION WAS MADE POSSIBLE BY WEAK INTERNAL CONTROLS..."**

**8.36** In April 2000 two former employees of Focus Housing Association, and a property dealer, were sentenced at Birmingham Crown Court to prison terms ranging from 9 months to 18 months, for corruption relating to the purchase by Focus of homes from the property dealer. Between 1991 and 1995 Focus had bought at least 47 houses from the property dealer for £1.8 million, in many cases at prices above market value. Some of these homes also required substantial repair, despite having been certified as "satisfactory" prior to purchase by an architect engaged by Focus. The Focus employees received money for the favourable treatment shown to the property dealer.

**8.37** The details are in the 11th Report of the Committee, Session 2000-01, "**The Housing Corporation: Overseeing Focus Housing Association**". The Committee concluded that:

"Suspected impropriety or irregularity should be investigated promptly and thoroughly to protect public funds. This corruption was discovered as a result of an investigation prompted by allegations received by Focus, but only after Focus and the Housing Corporation had between them received no fewer than six earlier indications of possible impropriety. The corruption might have been discovered earlier, and the losses arising reduced, if Focus and the Corporation had investigated allegations properly."

"The Corporation's action in delaying the National Audit Office enquiry is unacceptable. The Corporation took six months before agreeing that the National Audit Office should have access to Focus, thus impeding Parliamentary scrutiny of corruption involving public funds."

"Acknowledged weaknesses in the Housing Corporation's oversight of Focus... allowed the corruption to go undetected. Regulatory procedures failed to recognise the lax management culture and poor standards of internal control at Focus, nor did the Corporation ascertain whether corrective action had been taken by Focus to address the procedural weaknesses which regulatory supervision had identified. The Corporation took appropriate action to supervise Focus closely once the corruption was discovered, but too late, leaving Focus's tenants to bear the losses."

"The Corporation's actions fell below the standards expected of a regulator in other respects. It handled allegations of impropriety received in 1993 and 1994 in an unsystematic and informal way."

"The Corporation should provide its staff with clear guidance on the action to be taken when allegations of impropriety are received, and ensure that all allegations are properly investigated."

**8.38** The key message here is that the corruption was made possible by weak internal controls, poor supervision by management, a general disregard in parts for proper standards of conduct and control.

### Case 15 **"THE CHIEF EXECUTIVE DID NOT DISCHARGE HIS RESPONSIBILITIES AS ACCOUNTING OFFICER IN AN ADEQUATE MANNER"**

**8.39** So concluded the Committee in its 57th Report, Session 2001-02, "**The Operation and Wind-up of Teesside Development Corporation**". Teesside Development Corporation was the largest of the twelve Urban Development Corporations, set up in England between 1981 and 1993 to achieve sustainable physical, environmental and economic regeneration of urban areas experiencing long-term industrial and economic decline. It was established in September 1987, and wound up on 31 March 1998.

**8.40** However, in November 2000, three Members of Parliament representing constituencies in the North East of England, and a former contractor, passed concerns to the National Audit Office about the operation and wind-up of the Corporation and possible impropriety and mismanagement of public funds. The Comptroller and Auditor General examined the issues raised, and on the basis of his Report the Committee took evidence from the former Department for Transport, Local Government and the Regions (DTLR) and the Corporation's former Chief Executive. The following main conclusions emerged:

"The Corporation did much of lasting benefit for the Teesside area, but the same benefits could still have been achieved with greater regard to the principles of the proper conduct of public business and sound corporate governance. Instead, the business approach adopted by the corporation resulted in additional cost for the taxpayer... through transactions **representing poor value for money**, and transactions outside the authority of the Corporation, leaving a substantial deficit."

"**The Chief Executive did not discharge his responsibilities as Accounting Officer in an adequate manner.** Explanations for some of the more unconventional transactions entered into by the Corporation were not convincing, and there was evidence of poor risk taking, for example entering into leases for Corporation premises at above market rates, and for periods well beyond the expected life of the Corporation. The Chief Executive appeared to disregard guidance issued by the Treasury and the Department, for example granting a mortgage even though the making of loans was not allowed."

“The Department failed to take rigorous and timely action to ensure the Corporation’s regeneration activities were brought into line, despite warning signals from a number of sources including the Corporation’s external auditors, and creditors of the Corporation. The Department put the emphasis on the need to maintain confidence in the Corporation, rather than on ensuring that the Corporation operated within a sound corporate governance framework.”

“Departments should take a close interest in the governance framework of their sponsored bodies, and satisfy themselves that Boards represent an effective check on Chief Executives, with an appropriate balance between executive and non-executive representatives on the Board. In establishing public bodies Departments should consider whether the financial and regulatory framework is appropriate to the bodies’ aims, objectives and activities, and adapt it if necessary, but they should not allow the framework to be ignored once in place.”

“As Accounting Officer for the Corporation, **the former Chief Executive was responsible for the propriety and regularity of the public finances for which he was answerable.** His performance objectives, however, did not cover the discharge of these responsibilities.”

“The Department delegated to Corporations’ Boards the authority to pay Chief Executives a bonus depending on their performance, subject to consultation on the bonus but without power to reduce the amount of an award if performance made this appropriate. Departments should retain the ability to influence the bonus paid to an Accounting Officer of a sponsored body where the Accounting Officer has not satisfactorily discharged his or her responsibilities to the Department.”

“There are important lessons to be learned from this case. Departments should review the effectiveness of their oversight of other sponsored bodies, and strengthen it where necessary. More generally, departments should target oversight on those sponsored bodies that pose the greatest risk, based on a periodic risk assessment. These assessments should reflect, for example, the nature of the body’s activities; the public monies at stake; the body’s corporate governance arrangements; its financial performance; internal and external auditors’ reports; and the openness of communications between them.”

## Case 16 “INAPPROPRIATE ADJUSTMENT TO DATA AND STATISTICS TO HIDE FACTS...”

**8.41** In January 2002, the Committee took further evidence on the basis of its preceding 44th Report, to produce its 46th Report, Session 2001-02 “Inappropriate Adjustments to NHS Waiting Lists”. It looked at the extent and causes of inappropriate adjustments made by some NHS Trusts, how investigations into the adjustments were handled and what action was taken, the impact on patients and the steps being taken to prevent a recurrence.

**8.42** In the light of this examination, the Committee drew four overall conclusions:

In at least 10 hospitals, managers and staff made **inappropriate adjustments** to their waiting list data and statistics to hide the fact that they were missing government targets. In some cases, the actions will have prolonged the suffering of patients during which their condition may have worsened.

The arrangements for identifying those involved and for taking disciplinary action fell well short of good practice. In some cases the inquiries were not rigorous or complete and some of those allegedly responsible were allowed or encouraged to resign during the process. Some trusts breached NHS guidelines on agreeing confidentiality deals as part of severance packages, which cost the NHS some £260,000, and in some cases they did not include clawback arrangements when those involved went on to work elsewhere in the NHS.

NHS trusts took steps to develop action plans covering the 6,000 or so patients affected... [but] still do not know the extent to which patients' health suffered as a result of delays in treatment or whether compensation will have to be paid.

It is unacceptable that NHS employers should reach confidentiality agreements that prevent full disclosure of the circumstances to another employer, particularly in the NHS. The Department should act quickly to outlaw the use of confidentiality agreements, and the Treasury should remind other public bodies that such agreements are **inconsistent with proper accountability for public money**.

**8.43** This case illustrates lack of probity – an absolute standard of honesty and integrity in all dealings. In response to the Comptroller and Auditor General's Report, the Department of Health took initiatives to ensure that any inappropriate adjustments to waiting lists are identified and that effective action is taken against individuals and within organisations where similar cases occur in future. In April 2002, in 'Delivering the NHS Plan', the Government announced the creation of a new Commission for Healthcare Audit and Inspection (CHAI). The new body's role includes validating published performance assessment statistics on the NHS, including waiting list information.

**Case 17 “CIVIL OFFENCE OF THE DISHONEST ABUSE OF POWERS GIVEN TO A PUBLIC OFFICER HAS BEEN COMMITTED (THE TORT OF MISFEASANCE)”**

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**8.44** That is what the Judge ruled in the Harman case, where statutory procurement rules had not been followed when letting the contract for Portcullis House's fenestration (the prefabricated wall and window units), resulting in legal fees and damages payable by the House of almost £10 million. The details are in the Committee's 63rd Report, session 2001-02, "**The Construction of Portcullis House, the New Parliamentary Building**".

**8.45** A key feature of the design of Portcullis House was the fenestration which cost £37 million. European Union law, implemented in the United Kingdom by the Public Works Contracts Regulations 1991, requires contracts for public works to be placed in a manner that treats all tenderers from within the European Union fairly and equally, and which does not discriminate on grounds of nationality. In December 1993, the fenestration contract was advertised in the Official Journal. In May 1995, five companies, including Seele/Alvis and Harmon, were invited to tender; and a year later, in May 1996, the Clerk to the House of Commons, in his capacity as Corporate Officer of the House, signed a contract with Seele/Alvis.

**8.46** In August 1996, Harmon issued a writ against the Corporate Officer of the House for a breach of the procurement procedures. In October 1999, judgement was given against the House. The Judge in the case found that the correct procedures had not been followed in four ways:

- The statement of the criteria on which the contract would be awarded was not adequate;
- Material changes to the original scheme had been made in post-tender negotiations with Seele/Alvis but the same opportunity was not provided to Harmon;
- The successful variant bid had been accepted although there was no entitlement to do so; and
- A policy of buying British had been encouraged or permitted to continue, materially affecting the tendering procedure.

**8.47** The Judge ruled that the civil offence of the dishonest abuse of powers given to a public officer (tort of misfeasance in public office) had been committed. The Judge concluded that it had been obvious to officials when awarding the contract to the successful tenderer (Seele/Alvis) that to do so would not comply with procedures.

**8.48** House officials acknowledged that serious errors had been made and that the correct procurement procedures had not been followed, due to a lack of familiarity with the regulations. The Harmon case had arisen because of a collective failure on the part of the project team. In response to the Harmon case, the House took a number of steps to improve its procurement practices including the appointment of a Director of Procurement with a central procurement advisory function, and the issue of a standard procurement manual.

## Case 18 **“THIS IS ONE OF THE WORST PFI DEALS THAT WE HAVE SEEN...”**

**8.49** That was the overall conclusion of the Committee in their 44th Report, Session 2002-03, “**New IT systems for Magistrates' Courts: the Libra project**”. IT systems in magistrates' courts have been inadequate for many years, and a common IT strategy for magistrates' courts had been called for since the 1980s. After two failed projects in the early 1990s, the then Lord Chancellor's Department (now Department for Constitutional Affairs) decided in 1996 to procure a PFI contract for a national standard IT system called Libra. The Department received only one bid, from ICL (now called Fujitsu Services), for £146 million. ICL raised its bid by 25% after being named preferred bidder, and in December 1998 the Department signed a deal with ICL for a 10 and a ½ year contract at a price of £184 million.

**8.50** The contract was renegotiated twice, each time ICL asking for more money. As a result of the first re-negotiation, a revised contract for 14½ years at a price of £319 million was signed in May 2000. Within ten months ICL informed the Department it was in financial difficulties even at the price negotiated a year before. The total cost of the project is now estimated at £390 million for just 8½ years of service, rather than the original 10½ years. The Committee's main conclusions were:

**“This is one of the worst PFI deals that we have seen. The Department procured a contract to provide services to 42 Magistrates’ Courts Committees over which it did not have real authority or control.”**

“It ran a poor competition, attracting only one bidder, and it failed to take decisive action when ICL did not deliver what was required. For its part, ICL did not understand the Department’s requirements, took on excessive risk and underpriced its bid. It performed poorly throughout and could not meet the target dates for delivery of the core application.”

“As a result of these failures the cost of the project has more than doubled in just four years to almost £400 million and magistrates’ courts still do not have the IT systems they need to manage their workload properly.”

**“Competitive procurements of PFI projects are essential.** The Department was unable to maintain competitive tension as all potential bidders bar ICL dropped out during the procurement process and the Department was left with just one bidder. A single bid for a major complex project is seldom likely to achieve value for money. That only one bid was received should have alerted the Department to the fact that its project may not have been sufficiently well designed to attract competition.”

## The accuracy of evidence

**8.51** The Committee also raised the issue of accuracy of evidence given by the Accounting Officer. At a hearing on 24 June 2002, on the collection of fines in the Criminal Justice System, the Accounting Officer denied that the Department was not proceeding with that part of the Libra contract which would provide the software for court business. However, the Accounting Officer told the Committee at the hearing on 10 February 2003, that the Department had decided in February 2002 that ICL should not continue with the development of the core software application. ICL told the Committee that it had learnt in March 2002 that it was no longer required to provide the core software application.

**8.52** The Accounting Officer said that at the earlier hearing he had sought to protect the commercial negotiation that was still in train. At the time of the hearing the deal had not been finalised. Discussions were continuing on a number of sensitive matters, and until he was sure that the Department had a signed, settled agreement he was anxious not to jeopardize those discussions. He thought it would be unwise, from both a commercial and legal aspect, to divulge details of the proposed agreement until the contract was signed. The Accounting Officer accepted that he could have handled the situation differently by, for example, presenting the information to the Committee in confidence. He regretted giving incorrect information, and stressed that he had not deliberately sought to mislead the Committee.

**8.53** Again there is the emphasis on procedures, such as competitive tendering, as a safeguard against impropriety and poor value for money. There are also concerns about concealing information. Handling of sensitive information is covered by the **Osmotherly rules**<sup>1</sup>. In essence, if the Committee raises sensitive issues the official should inform the Committee that such matters could only be answered on a confidential basis. The Committee can then decide whether to go into a closed session or request a confidential memorandum.

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<sup>1</sup> [www.cabinetoffice.gov.uk/propriety\\_and\\_ethics/select\\_committees/index.asp](http://www.cabinetoffice.gov.uk/propriety_and_ethics/select_committees/index.asp)



**Case 19 “PROPER PROCEDURES ARE FOLLOWED... SO THAT DECISIONS ON THE AWARD OF CONTRACTS CAN ALWAYS BE SHOWN TO FOLLOW FROM AN OBJECTIVE EVALUATION OF TENDERS”**

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**8.54** In April 2002, the Department of Health, with the Ministry of Defence, let a contract with PowderJect Pharmaceuticals PLC for the supply of 20 million doses of smallpox vaccine. The Department used the exemptions under European Union regulations and the Public Supply Contracts Regulations 1995 that, on grounds of national security, enabled it to adopt confidential procurement procedures for these supplies. Concerns had been raised among some suppliers, and in Parliament and the media, about the Department's handling of the procurement, and about any link between the political donations made by the then Chief Executive of PowderJect and the award of the contract. The Committee's 15th Report, Session 2003-04, “Procurement of vaccines by the Department of Health” addressed these issues. On the issue of political donation the Committee concluded:

“At around the same time the Department was letting a contract for the purchase of the smallpox vaccine, political donations were made by the successful bidder. We found no evidence that these donations had influenced the award of the contract. As in this case, however, officials dealing with contracts need to see that proper procedures are followed and that there is a clear audit trail, so that decisions on the award of contracts can always be shown to follow from an objective evaluation of tenders.”

**8.55** This case raised the issue of impartiality, openness, and conduct above all suspicions. Since the time the Committee reported the Department has reinforced and rewritten the procurement procedures and informed all staff. Procurement of all goods and services are now captured through a new financial system, offering a complete audit trail. The Department also requires all major purchases to be subjected to the Office of Commerce “gateway” review procedure that offers a controlling safeguard to large, contentious and sensitive procurements.

**Case 20 “WE FOUND A CATALOGUE OF ERRORS AND CONTROL FAILURES... THERE IS EVIDENCE THAT DEPARTMENTAL STAFF WERE AT TIMES COMPLICIT IN TURNING A BLIND EYE TO THE RULES”**

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**8.56** This is from the Committee report on the evidence it took on the C&AG's Report, “The Sheep Annual Premium Scheme” (NIA 75/02, Session 2002-03).

**8.57** Sheep farming is a major component of Northern Ireland's rural economy. Between 1995 and 2002, £170 million was paid under the Sheep Annual Premium Scheme in Northern Ireland. The Scheme is a European Union support mechanism for sheep producers, who receive a 'headage' payment for eligible sheep. The number of sheep for which farmers can claim is limited by sheep 'quota', and farmers are required to keep eligible animals on notified land for a period of 100 days after the claim application deadline.

**8.58** Reimbursement of the Department's costs, by the EU, is conditional upon it managing the Scheme in accordance with EU regulations, and in having adequate control mechanisms in place. There is a history of defective administration. Due to control deficiencies identified in the administration of the Scheme across the United Kingdom by the European Court of Auditors, a disallowance was imposed on the UK by the European Commission between 1993 and 1997. Some £1.5 million of this was attributed to Northern Ireland. The Committee's main conclusions were:

"Overall, we found a **catalogue of errors and control failures**, all of which pointed towards a particularly slack regime. It seems to us that the Department has consistently neglected the interests of the taxpayers, over a long period of time, in favour of the interests of farmers. What is needed to successfully administer a scheme of this nature is to get the right balance between the efficient payment of income to farmers and the controls which **protect the integrity of public money**. The Department has clearly failed to do so in this case."

"It is clear that this scheme has not received the close management and supervision that it deserves. The most damning aspect of the Department's handling is the extent to which key requirements of the scheme were repeatedly ignored, over a long period of time. Non-compliance was not confined to unscrupulous claimants – **there is evidence that Departmental staff were at times complicit in turning a blind eye to the rules**. As a result, the integrity of the scheme has been undermined. With non-compliance often leading to overpayment of premium, we can only conclude that the Department has been failing in its duty as custodian of the public purse."

"The Department's failure to properly address the weaknesses in control, highlighted by the European Court of Auditors in 1994, was a **serious error in judgement**. Given the risk of disallowance for failing to enforce EEU controls, the Department's disregard for the auditors' recommendations, especially on flock records and markings, was irresponsible. The Department has to understand that ignoring EU requirements is not an option as it creates a liability which the taxpayer may have to repay."

"We want to emphasise that a '£' of EU subsidy is as much taxpayers' money as any other form of voted money – this Committee makes no distinction between the rigorous safeguards we expect to see operated for EU subsidies and any other form of grant payment. The Department must be in no doubt that we expect all of its schemes to be administered in line with best practice."

"Our overall impression is that the Department has in the past been soft on fraud and this has contributed to unacceptably high levels of fraud within Northern Ireland agriculture. Indeed, having carefully examined the evidence, we are convinced that many fraudsters would have regarded an attempt to cheat the scheme as a risk worth taking, given the **slackness in control** and the Department's poor record of prosecution."

**8.59** There is here again a reminder that public servants should endeavor to fulfill their duties and obligations conscientiously without bias or mal-administration. The Accounting Officer in this instance gave assurances to the Committee that his Department now operates a policy of zero tolerance to fraud and that attempts to cheat the system are being tackled in a much more vigorous way.

## WHAT IS PROPER CONDUCT?

**9.1** These case studies should have given you a clear impression of the type of actions, or behaviour, the Committee regards as unacceptable, as outside its definition of propriety.

**9.2** It is not easy to define neatly what is “proper” behaviour. But it is possible to identify its characteristics:

<ul style="list-style-type: none"> <li>• <b>It follows the rules and seeks approval where this is required</b></li> </ul>	<p>If the proposed course of action is outside the current rules, discuss it with the relevant authority. And if approval is required for the proposed course of action – from the Treasury, or the sponsoring department or the NHS Executive – get it before you take action.</p>
<ul style="list-style-type: none"> <li>• <b>It puts in place and follows clear procedures</b></li> </ul>	<p>Clear procedures for decision-making - for example, when letting contracts - are a safeguard for propriety. Effective financial procedures generally are similarly a safeguard.</p>
<ul style="list-style-type: none"> <li>• <b>It resolves any conflict of interests</b></li> </ul>	<p>Conflicts of interests may well arise. They must be dealt with so that decisions are not taken, or appear to be taken, for the wrong reasons.</p>
<ul style="list-style-type: none"> <li>• <b>It does not use public money for private benefit</b></li> </ul>	<p>A basic test for whether an action does or does not meet the requirements of propriety.</p>
<ul style="list-style-type: none"> <li>• <b>It is even-handed</b></li> </ul>	<p>There must be no bias or partiality in decisions about the use of public funds. That is why there are the rules about competition, for example, to ensure that the choice of contractor is made on merit.</p>
<ul style="list-style-type: none"> <li>• <b>There are records</b></li> </ul>	<p>Recording the reasons for decisions is another important safeguard of propriety. It establishes the audit trail that supports accountability.</p>
<ul style="list-style-type: none"> <li>• <b>It is transparent - it can accept scrutiny</b></li> </ul>	<p>If a proposed course of action meets the requirements of propriety, then there will be no concern about external scrutiny.</p>

### Seven Tests of Propriety

**9.3** Evaluating the propriety of expenditure requires a high level of judgment. Below is an expenditure evaluation framework. Expenditure should be considered proper if answer to all these questions is “yes”.

- Is the expenditure in the best interest of your organisation?
- Does the expenditure comply with approved procurement rules and policies?
- Will there be a valid business benefit to the organisation from the expenditure and not just personal benefit to an employee?
- Is the expenditure within approved budget?
- Is the expenditure necessary?
- Is the expenditure reasonable, meaning, does it fully meet the identified and agreed needs?
- Has the expenditure been properly authorised?

**9.4** These characteristics and questions again show the relationship between financial propriety and good governance. They provide tests which can be applied when a course of action is being considered, to check that it meets the requirements of propriety. If any of them leave a question mark about the proposed course of action, there is then one key test to apply:

**Could I satisfactorily defend this before the Public Accounts Committee?**

Since accountability to Parliament is part of a wider accountability, the question might be put even more simply:

**Could I satisfactorily defend this course of action in public?**

**9.5** To end on a practical note, if you have any doubts as to whether a proposed course of action meets the requirements of propriety, rather than “taking a chance” you should think again and seek advice from the sponsoring department, the Treasury or the NHS Executive.

# 10 GOOD PRACTICE IN PREVENTING FRAUD AND CORRUPTION

**10.1** A number of case studies included in this handbook involved fraud or corruption. Following NAO's examination of a case of corruption in the Inland Revenue, it made a number of recommendations directed at minimising the risk of corruption, some of which have wider applications and are included here.

- **Regular rotation of key staff** working in high-risk areas to minimise the risk of inappropriate behaviour becoming the norm.
- **Clear documentation** to ensure that key events and decisions relating to transactions are properly recorded and authorised.
- **Robust quality assurance arrangements** to provide assurance that departmental instructions are adhered to.
- **Independent investigation of complaints** about members of staff to reduce the risk of inappropriate behaviour being overlooked.
- **Periodic vetting of the relatively few staff exposed to significant financial risks** to assess whether they are likely to be susceptible to corruption.
- **Periodic staff surveys** to check their awareness of guidance on the standards of conduct expected of public servants, so that further action can be taken, if necessary.

**10.2** In addition, the NAO analysed a number of published guides on the prevention of fraud and corruption and identified the following seven possible early warning signs, relating to employee behaviour, which management must be alert to:

<b>Extravagant lifestyle</b>	This is the most common factor in the detection of corrupt employees.
<b>Financial problems</b>	Possibly arising from loan shark or other unusual debts, or from a drug, alcohol or gambling addiction.
<b>Rule breaking</b>	A person taking corrupt payments will often take action themselves (or direct others to do so), to bend, break or ignore standard operating procedures.
<b>Social relationships</b>	With people whom he or she has professional dealings, particularly people with whom the recipient appears to have little in common.
<b>Acceptance of gifts</b>	An officer who regularly accepts inappropriate gifts is often susceptible to larger payments.
<b>Making excuses</b>	The corrupt employee will often make excuses for deficiencies in the payer's expected performance.
<b>Genuine need</b>	Although greed is the motivating factor in most cases, legitimate pressures, such as family illness etc., can sometimes induce participation in illegal schemes.



## POSTSCRIPT

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**11.1** A postscript, in the form of a final quote from the Public Accounts Committee. It is again from the 8th Report, Session 1993-94 "**The Proper Conduct of Public Business**":

"We make one further point. Some allege that the drive for economy and efficiency must be held back to some extent because of the need to take specific care with public money. Others argue that if economy and efficiency are to be forcibly pursued then traditional standards must be relaxed. We firmly reject both these claims. The first is often urged by those who do not want to accept the challenge of securing beneficial change. And the second is often put forward by those who do not want to be bothered to observe the right standards of public stewardship. Quite apart from the important moral and other aspects involved we consider that any failure to respect and care for public money would be a most important cause of a decline in the efficiency of public business. **But there is no reason why a proper concern for the sensible conduct of public business and care for the honest handling of public money should not be combined with effective programmes for promoting economy and efficiency.**"

**11.2** The Treasury Minute response agreed that:

"...effective programmes for economy and efficiency must be combined with a proper concern for the sensible conduct of public business and care for the honest handling of public money."





# THE PROPER CONDUCT OF PUBLIC BUSINESS: CHECKLIST

**12.1** This is based on the checklist from the Public Accounts Committee's Eighth Report, Session 1993-94 "The Proper Conduct of Public Business" published in January 1994. The report drew on a number of PAC reports over the previous three years to draw attention to what the Committee regarded as departures from the established standards of public administration. Lessons learned since then have also been added to the checklist. Hence it covers a wide range of stewardship issues, including issues of regularity and propriety and value for money.

Failures	Checklist
<b>On the topic of Inadequate Financial Controls</b>	
Inadequate internal accounting systems and controls, leading to waste and a risk of fraud and theft.	Departments and public bodies should ensure that from the outset proper financial systems are in place and applied.
Failure to ensure that financial procedures and controls are adapted in line with major changes in the organisation of the business.	Procedures and controls need to be revised from time to time to ensure their continuing relevance and reliability, especially at times of major changes.
Inexperienced staff lacking in financial training and expertise, leading to failure to secure adequate controls especially at a time of change.	Care should be taken to provide staff with the financial skills required and to ensure that staff responsible for securing major changes in accounting systems are suitably experienced.
Poor monitoring of expenditure on capital projects, leading to overspends and waste.	Major capital projects require specific financial and project management skills and experience, and the projects should not be embarked upon unless such skills are available and utilised.
Paying bills and other outgoings without checking.	Bills and other outgoings should be checked and validated before payment is made. They should be supported by evidence that the goods or services have been supplied.
Failure to pursue money owed.	There should be adequate arrangements to ensure that monies owed are properly monitored and pursued.

Failures	Checklist
<b>Failure to comply with rules</b>	
Payments of grants on the basis of insufficient evidence as to entitlement.	Robust procedures should be in place and applied so that entitlement is clearly established and documented.
Provision of redundancy benefits.	Public bodies should ensure that they do not exceed their delegated powers in making provision for redundancy and other benefits.
Ex-gratia payments made without authority on termination of employment, sometimes in circumstances where disciplinary action might have been more appropriate.	As well as seeking authority from sponsoring departments for any payments to staff going beyond their delegated powers, public bodies should ensure that any such exceptional payments can be fully justified in all the circumstances.
Provision of official cars to senior executives without requiring them to pay for private motoring.	Public bodies should ensure that they follow the rules laid down for the provision of official cars.
Failure to secure full recovery of benefits provided to senior executives to which they were not entitled.	Public bodies should pursue full recovery of all such benefits.

Failures	Checklist
<b>Inadequate stewardship of public money and assets</b>	
<p>Failure by departments to establish effective monitoring of non-departmental public bodies which they fund and sponsor, leading to failure to detect waste and irregularities.</p>	<p>Departmental Accounting Officers should identify the key information they need on the way in which non-departmental public bodies conduct their business, and ensure they obtain and use such information.</p>
<p>Inadequate oversight by those in authority (failure to obtain information, infrequent meetings, decisions not properly reached and recorded).</p>	<p>Chairmen and Members (including non-executives) of public bodies should receive adequate training to enable them to discharge their responsibilities.</p>
<p>Failure to ensure that delegation of responsibility is accompanied by clear lines of control and accountability, leading to the waste of large sums of public money.</p>	<p>Chairmen and Members should ensure that chief executives and senior executives are clear what their individual responsibilities are.</p>
<p>Over-dominant chief executives and senior executives.</p>	<p>Chairmen and Members need to ensure that chief executives and senior executives are regularly and effectively accountable to them.</p>
<p>Failure to hold individuals personally accountable for their actions.</p>	<p>Those who have delegated their responsibilities need to ensure that individual responsibility for management decisions can be established, and that such responsibility is made properly accountable so far as the individual is concerned.</p>
<p>Failure to take prompt corrective action when things begin to go wrong.</p>	<p>Robust reporting arrangements from all levels of delegated responsibility need to be secured.</p>
<p>Failure to conduct regular reviews of the necessity and functionality of particular expenditure programmes, and to draw appropriate conclusions from their failure to date.</p>	<p>Public bodies should conduct regular internal examinations of the programmes on which they are spending public money, and should, where appropriate, draw into such examinations the employees or contractors who are engaged on the programmes concerned.</p>

Failures	Checklist
<b>Inadequate stewardship of public money and assets - continued</b>	
Lack of evenhandedness when taking disciplinary action against individuals.	The case for dismissal or other disciplinary action needs to be fully considered in a fair and objective way, irrespective of the seniority of the individual concerned.
Concealing information.	Fear of embarrassment is no justification for withholding information the release of which would be in the public interest.

Failures	Checklist
<b>Failure to provide Value for Money</b>	
<p>Inadequate management of major building projects, contributing to overspend and failure to identify and address problems as they arise.</p>	<p>Project management needs should be carefully assessed and met throughout the lifetime of the project.</p>
<p>Embarking on ambitious computer projects on the basis of inadequate appraisal, and failing to ensure that the system delivers what is required.</p>	<p>Rigorous financial and risk appraisal should be carried out before computer projects are approved, and care taken to ensure that users are fully consulted and the system thoroughly tested at each stage.</p>
<p>Inadequate re-appraisal of computer etc projects in response to changing circumstances and requirements.</p>	<p>Project managers should carry out careful re-appraisals of the continuing validity of the project when change occurs.</p>
<p>Generally accepted principles of full and open competition not always observed when privatising or contracting out the provision of goods and services.</p>	<p>Full and open competition should be applied in all save the most exceptional circumstances (e.g. where no alternative supplier is available) in order to secure the best the market can provide at the most competitive price.</p>
<p>Failure to secure arms' length relationships with private sector consultants, leading to conflicts of interest in decisions to spend public money.</p>	<p>Care should be taken to avoid actual, potential, perceived or perceivable conflicts of interest when employing consultants and staff.</p>
<p>Failure to recognize situations that gave rise to refinancing gains in PFI contracts.</p>	<p>Given the complexities and specialist nature of refinancings, departments should seek advice on refinancing matters from suitably experienced advisors including OGC and obtain sufficient information from contractors about their financing.</p>





## RELATED READING

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**A.1** This is simply a list of some related documents and websites, some of which have been mentioned in the handbook:

### **“THE RESPONSIBILITIES OF AN ACCOUNTING OFFICER”**

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[www.government-accounting.gov.uk/current/content/ga\\_04\\_4.htm](http://www.government-accounting.gov.uk/current/content/ga_04_4.htm)

### **“THE RESPONSIBILITIES OF A NDPB ACCOUNTING OFFICER”**

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[www.government-accounting.gov.uk/current/content/ga\\_08\\_8.htm](http://www.government-accounting.gov.uk/current/content/ga_08_8.htm)

### **THE CIVIL SERVICE CODE**

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[www.cabinetoffice.gov.uk/propriety\\_and\\_ethics/civil\\_service/civil\\_service\\_code.asp](http://www.cabinetoffice.gov.uk/propriety_and_ethics/civil_service/civil_service_code.asp)

### **MODEL CODE FOR STAFF IN EXECUTIVE NON-DEPARTMENTAL PUBLIC BODIES (NDPBS)**

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Annex A to part G of ‘NDPB’s: A Guide for Departments’, which can be downloaded from:

[www.civilservice.gov.uk/improving\\_services/agencies\\_and\\_public\\_bodies/guidance\\_for\\_departments/non\\_departmental\\_public\\_body\\_guidance/index.asp](http://www.civilservice.gov.uk/improving_services/agencies_and_public_bodies/guidance_for_departments/non_departmental_public_body_guidance/index.asp)

### **“CODE OF CONDUCT FOR NHS PRIMARY CARE TRUST (PCT) BOARDS”**

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On page 30 of the Primary Care Trusts (PCTs) Corporate Governance Framework, which can be downloaded from:

[www.dh.gov.uk/PolicyAndGuidance/OrganisationPolicy/PrimaryCare/PrimaryCareTrusts/PrimaryCareTrustsArticle/fs/en?CONTENT\\_ID=4000579&chk=NAzQg6](http://www.dh.gov.uk/PolicyAndGuidance/OrganisationPolicy/PrimaryCare/PrimaryCareTrusts/PrimaryCareTrustsArticle/fs/en?CONTENT_ID=4000579&chk=NAzQg6)

### **FIRST REPORT OF THE COMMITTEE ON STANDARDS IN PUBLIC LIFE**

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[www.archive.official-documents.co.uk/document/parlment/nolan/nolan.htm](http://www.archive.official-documents.co.uk/document/parlment/nolan/nolan.htm)

### **SECOND REPORT OF THE COMMITTEE ON STANDARDS IN PUBLIC LIFE**

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[www.archive.official-documents.co.uk/document/parlment/nolan2/nolan2.htm](http://www.archive.official-documents.co.uk/document/parlment/nolan2/nolan2.htm)

### **MANAGING THE RISK OF FRAUD: A GUIDE FOR MANAGERS**

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[www.hm-treasury.gov.uk/Documents/Public\\_Spending\\_and\\_Services/Audit\\_and\\_Accounting/ps\\_aud\\_risk.cfm](http://www.hm-treasury.gov.uk/Documents/Public_Spending_and_Services/Audit_and_Accounting/ps_aud_risk.cfm)

**GOOD PRACTICE IN TACKLING EXTERNAL FRAUD**

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Produced jointly by the Treasury and the NAO. A .pdf version will download directly to your computer from [www.nao.org.uk/guidance/Tackling\\_External\\_Fraud.pdf](http://www.nao.org.uk/guidance/Tackling_External_Fraud.pdf)

**OTHER NATIONAL AUDIT OFFICE GOOD PRACTICE GUIDES**

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[www.nao.org.uk/guidance/index.htm](http://www.nao.org.uk/guidance/index.htm)

**OFFICE OF GOVERNMENT COMMERCE (OGC) BEST PRACTICE GUIDES**

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[www.ogc.gov.uk/sdtoolkit](http://www.ogc.gov.uk/sdtoolkit)

**THE “GREEN BOOK” – APPRAISAL AND EVALUATION IN CENTRAL GOVERNMENT**

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[www.hm-treasury.gov.uk/economic\\_data\\_and\\_tools/greenbook/data\\_greenbook\\_index.cfm](http://www.hm-treasury.gov.uk/economic_data_and_tools/greenbook/data_greenbook_index.cfm)

**CENTRE FOR MANAGEMENT AND POLICY STUDIES (CMPS)**

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[www.cmps.gov.uk](http://www.cmps.gov.uk)