



Accounting Officer Memorandum

Independent Monitoring Authority

It is normal practice for accounting officers to scrutinise significant policy proposals or plans to start or vary major projects, and then assess whether they measure up to the standards set out in Managing Public Money. From April 2017, the government has committed to make a summary of the key points from these assessments available to Parliament when an accounting officer has agreed an assessment of projects within the Government's Major Projects Portfolio.

Background and context

Article 159 of the EU Withdrawal Agreement (WA) and Article 64 of the EEA EFTA Separation Agreement require the UK to establish a new, independent authority – the Independent Monitoring Authority (IMA) - to monitor the UK's application and implementation of the provisions in those agreements relating to citizens' rights. The IMA must monitor the application of these rights in a way equivalent to the European Commission – who, in turn, will monitor the EU's implementation of the relevant provisions (in line with their role to monitor and enforce Union law).

The European Union (Withdrawal Agreement) Act 2020 (EUWAA) legally established the IMA. The IMA will be an independent Non-Departmental Public Body with wide-ranging powers. It will be able to launch inquiries, receive complaints, and bring legal action in order to identify any breaches in how the citizens' rights provisions are being implemented or applied in the UK.

The Ministry of Justice (MoJ) assumed responsibility for the IMA project from the Department for Exiting the European Union on 13th May 2019. As sponsor Department for the IMA, the MoJ is responsible, on behalf of Government, for ensuring the body is operational by the end of the transition period, 31st December 2020. Though timelines are tight, work is progressing well: an available location has been identified in Swansea and the IMA's Interim Chief Executive has been appointed to take delivery and operational decisions necessary for the IMA's timely establishment.

The IMA project's Risk Potential Assessment has been assessed as High Risk and is logged on the Cabinet Office IPA's EU Exit Project Register.



Assessment against the accounting officer standards

I considered that the Independent Monitoring Authority met the four accounting officer tests.

Regularity

The EUWAA received Royal Assent on 23rd January 2020. This established the IMA as a legal entity, and gives the MoJ the required authority to spend.

Propriety

The IMA will be independent of government, both at board and operational levels. The need for an independent authority is a requirement of the Withdrawal Agreement. Accordingly, the founding legislation sets out the IMA will not be part of the Crown and requires the Secretary of State to have regard to the need to protect the IMA's operational independence.

The Secretary of State must pay the IMA such sums as he, the Secretary of State, considers appropriate for the purpose of enabling the IMA to exercise its functions. It will be for the IMA to make its own decisions with regard to how it operates, within the parameters set out in Withdrawal Agreement and the founding legislation.

The MoJ will work with the interim Chief Executive of the IMA to develop, as early as possible, the appropriate relationship between the IMA as an independent body and the MoJ as its sponsor department. This relationship will be reflected in the formal Framework Agreement signed between MoJ and the IMA.

Value for Money

The IMA will work to a flexible resourcing model, which will adapt the organisation's size and capability according to demand.

Space has been made available for the IMA in the Swansea Civic Centre, aligned with the Cabinet Office's Places for Growth Strategy. Where possible the IMA will work through existing public-sector frameworks and contracts; the use of the Civic Centre is an example of that.

It is forecast that under this preferred option the IMA will have a net present cost over 10 years of £75.79m.

Feasibility

The project sits on the Government Major Projects Portfolio (GMPP) and underwent its second Gateway review in January 2020, led by the Infrastructure and Projects Authority (IPA). It received a Delivery Confidence Assessment of Amber, and all of the IPA's recommendations are being taken forward. These focused on the tight timeframe for the delivery of the IMA, and encouraged clarity on responsibilities as they transfer from the MoJ to the IMA, and detailed planning of the subsequent stages of the project.

The successful delivery of the IMA within the required timescale is considered to be achievable, although there are implementation, resourcing and transition issues which will require close and continued attention. The project is appropriately resourced with policy, PPM and subject matter

experts and is taking advantage of MoJ experience with other major projects, as well as lessons from wider government in establishing comparable organisations.

Conclusion

As the accounting officer for the Ministry of Justice I considered this assessment of the Independent Monitoring Authority and approved it in June 2020.

I have prepared this summary to set out the key points which informed my decision. If any of these factors change materially during the lifetime of this project, I undertake to prepare a revised summary, setting out my assessment of them.

This summary will be published on the government's website (GOV.UK). Copies will be deposited in the Library of the House of Commons, and sent to the Comptroller and Auditor General and Treasury Officer of Accounts.