



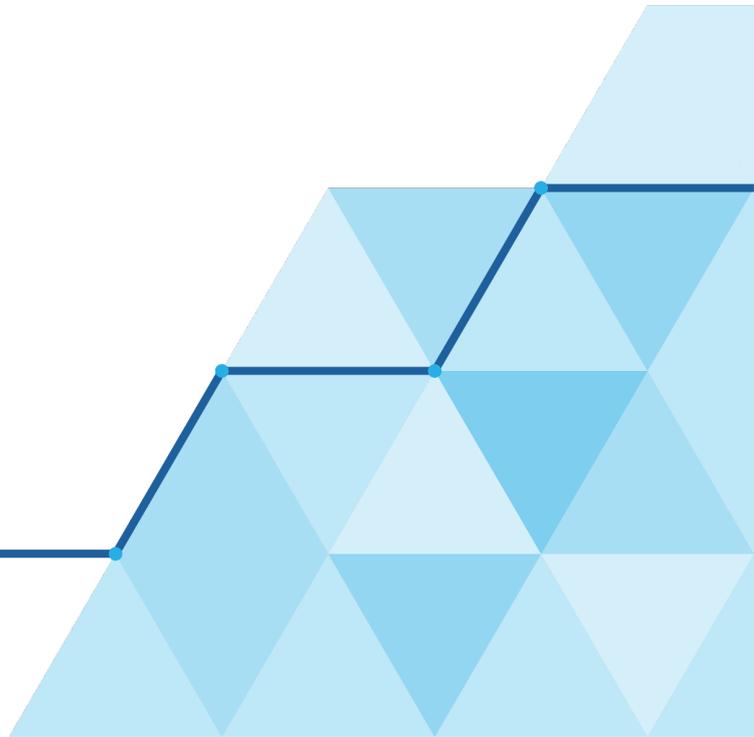
Ministry  
of Justice



Official Solicitor and  
Public Trustee

# Framework Document between the Ministry of Justice and Official Solicitor and the Public Trustee

December 2025



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# Introduction and background

## 1. Purpose of document

- 1.1 This Framework Document has been agreed by the Ministry of Justice (MOJ) and the Official Solicitor and the Public Trustee (referred to as the OSPT) in accordance with HM Treasury's handbook Managing Public Money (MPM) (as updated from time to time) and has been approved by HM Treasury.
- 1.2 The Official Solicitor to the Senior Courts (OS) and the Public Trustee (PT) are appointed by the Lord Chancellor and are legally separate independent statutory office holders, with both offices currently vested in one individual. The OS and PT are supported by an office.
- 1.3 This Framework Document sets out the broad governance framework within which the OSPT and MOJ operate. It sets out the OSPT's core responsibilities, describes the governance and accountability framework that applies between the roles of MOJ and the OSPT, and sets out how the day-to-day relationship works in practice, including in relation to governance and financial matters.
- 1.4 The Framework Document does not confer any legal powers or responsibilities but both parties agree to operate within its terms.
- 1.5 This Framework Document should be reviewed and updated at least every three years unless there are exceptional reasons that render this inappropriate that have been agreed with HM Treasury and the Principal Accounting Officer (PAO) of MOJ. All revisions must be agreed as between the OSPT and MOJ. The latest date for review and updating of this document is three years from the date of publication.
- 1.6 Copies of the Framework Document and any subsequent amendments have been placed in the libraries of both Houses of Parliament and made available to members of the public on the OSPT's website and GOV.UK.

## 2. Statement of independence

- 2.1 The decisions made by the OS and PT are made independently of MOJ, and MOJ is not responsible for the outcomes of individual cases. However, decisions made by the central authorities (the International Child Abduction and Contact Unit and the Reciprocal Enforcement of Maintenance Orders) – which sit within the organisation – are made on behalf of the Lord Chancellor, who is the central

authority under the relevant legislation. The OSPT is accountable to MOJ for the effective and efficient use of the resources allocated to them and for setting key performance indicators and being held to account by them.

- 2.2 Paragraph A5.4.24 in MPM provides cover for indemnity to the post holder in carrying out their role as OS and PT. A letter of comfort confirming this is provided to the OS and PT from MOJ.

### **3. Objectives**

- 3.1 MOJ and the OS and PT share the common MOJ strategic outcome of delivering swift access to justice to those who need it. To achieve this, the OS and PT and MOJ will work together in recognition of each other's roles and areas of expertise. This will provide an effective environment for the OS and PT to achieve their objectives through the promotion of partnership and trust, ensuring that the OS and PT also support the strategic aims, objectives and priorities of MOJ and wider government as a whole.

### **4. Classification**

- 4.1 The OSPT has been classified as a central government organisation by the HM Treasury classifications team.
- 4.2 The OS and PT are administratively classified by the Cabinet Office as independent statutory office holders, having been appointed under separate legislation as set out below.

# Purpose, aims and duties

## 5. Purposes

- 5.1 The OS and PT are independent statutory office holders and are supported by an office. The OS is appointed under section 90 of the Senior Courts Act 1981. The PT is appointed under section 8 of the Public Trustee Act 1906.
- 5.2 The OS's principal purpose is to enable people who are vulnerable because of their lack of mental capacity or because of their young age to access the justice system. The OS acts, whether in contentious or non-contentious matters, where either there is no other suitable person or agency able and willing to act (i.e. as a last resort), or for some other reason, such as where failure to do so would result in an injustice. Additionally, the OS acts as last-resort administrator of estates and trustee where the beneficiary is a vulnerable person.
- 5.3 Under the Senior Courts Act 1981, the Lord Chancellor also appoints a Deputy Official Solicitor who has the power to act in the OS's place when the OS is not available. Under the Public Trustee Act 1906, the Lord Chancellor also appoints a Deputy Public Trustee who has the power to act in the PTs place when the PT is not available.
- 5.4 The PT acts as executor or administrator of last resort for estates where the beneficiary is a vulnerable person. The PT:
- acts as the title holder of an estate where there is no will or no named executor or executor with ability to act, until a grant of representation is given
  - is the Custodian Trustee and one of the Administrative Trustees of the Chequers Estate
  - manages the register of certain notices affecting land, and in relation to common land and undivided shares in land

## 6. Powers and duties

### Official Solicitor

- 6.1 The powers, duties and responsibilities of the OS are wide and various and derive from statute, rules of court, direction of the Lord Chancellor, common law and established practice. These include:
- the Senior Courts Act 1981 and any other Act (section 90(3) of the Senior Courts Act 1981)

- the direction given (before or after the commencement of the Senior Courts Act 1981) by the Lord Chancellor (section 90(3) of the Senior Courts Act 1981) – the Lord Chancellor may direct the OS as to the classes of cases they undertake but **not** as to their conduct of individual cases
- under rules of court, common law, and in accordance with established practice

6.2 The OS may, for any purpose connected with their responsibilities, undertake to represent people who are under legal disability, deceased or unascertained in a wide range of civil proceedings. They do so:

- as a litigation friend for incapacitated adults or child parties (usually, but not invariably, on invitation from the court)
- by acting for estates or trusts
- on behalf of unborn, unascertained or missing people as defendants pursuant to representation orders
- to assist the High Court, Court of Protection and Court of Appeal:
  - by acting as advocate to the court, providing advice and assistance to the court<sup>1</sup>
  - under *Harbin v Masterman* making enquiries on behalf of the court<sup>2</sup>

6.3 The OSPT accepts appointment as a last-resort litigation friend in line with defined criteria. These criteria can be found at: [www.gov.uk/litigation-friend/suitability](http://www.gov.uk/litigation-friend/suitability).

6.4 The OSPT also undertakes some functions on behalf of the Lord Chancellor in England and Wales:

- the International Child Abduction and Contact Unit carries out the operational functions of the Lord Chancellor under the relevant domestic legislation in relation to the Hague and European (Council of Europe) Conventions on international child abduction, recognition and enforcement of orders concerning children, and transitional responsibilities under the UK-EU Withdrawal Agreement for EU legislation
- the Reciprocal Enforcement of Maintenance Orders Unit carries out the operational functions of the Lord Chancellor for international child and spousal maintenance claims

### **Public Trustee**

6.5 The PT's functions are imposed by statute, by rules of court, by direction of the Lord Chancellor, by the common law or by established practice. MOJ does not, nor is it empowered to, carry out those of the PT's functions shown in paragraph 6.6.

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<sup>1</sup> Pursuant to the Joint Memorandum of the Attorney General and the Lord Chief Justice of 19.12.01.

<sup>2</sup> [1896] 1 Ch 351.

6.6 The PT's functions are to:

- administer trusts and estates where they have accepted appointment
- act as executor and as administrator of the estates of deceased people and as a trustee of trusts in the interests of vulnerable individuals or people under disability or where there are differences between executors, trustees or beneficiaries
- be the Custodian Trustee and one of the Administrative Trustees of the Chequers Estate
- deal with the recording (for a fee) of applications for Notice to Quit under the Law of Property (Miscellaneous Provisions) Act 1994, which are served on property originally occupied by someone who is now deceased and has no personal representatives acting for them

## 7. Aims

- 7.1 The key aim of the OS is to prevent injustice to the vulnerable. They do this by acting as a last-resort litigation friend, and in some cases solicitor, for adults who lack mental capacity and children (other than those who are the subject of child welfare proceedings) in court proceedings because they lack decision-making capacity in relation to the proceedings. As a litigation friend, the OS 'steps into the shoes' of the client who lacks litigation capacity. Their role is to carry on the litigation on behalf of the client and in their best interests.
- 7.2 The OS and, separately, the PT aim to prevent injustice through the provision of an effective executor and trustee service of last resort. In so doing, their objective is to secure the best value for the beneficiaries and to manage the assets under their control in the interests of their clients who are vulnerable individuals or people under disability.

# Governance and accountability

## 8. Governance and accountability

- 8.1 The OSPT shall operate corporate governance arrangements that, so far as practicable and in the light of the other provisions of this Framework Document or as otherwise may be mutually agreed, accord with good corporate governance practice and applicable regulatory requirements and expectations.
- 8.2 In particular (but without limitation), the OSPT should:
- comply with the principles and provisions of the Corporate Governance in Central Government Departments Code of Good Practice (as amended and updated from time to time) to the extent that is appropriate and in line with its statutory duties, or specify and explain any non-compliance in its annual report<sup>3</sup>
  - comply with MPM
  - in line with MPM, have regard to the relevant functional standards as appropriate and in particular those concerning finance, commercial, security and counter fraud<sup>4</sup>
  - take into account the codes of good practice and guidance set out in Annex A of this Framework Document, as they apply to the OS and PT
- 8.3 The OSPT shall comply with the corporate governance principles in MPM and the sponsor should be notified in advance if the OSPT intends to deviate from them.
- 8.4 The OSPT's senior leaders are accountable for managing functions in the organisation and are accountable to the OSPT for:
- the delivery of the OSPT business plan objectives relevant to the function and the direction and control of associated resources
  - the quality and value for money of the service provision
  - ensuring the OSPT adopts the relevant function's policies, controls and standards, so far as consistent with the other provisions of this Framework Document
- 8.5 As an embedded and integral part of the governance and performance management of the organisation, the senior officers accountable for managing each function in the organisation shall agree a proportionate basis for defining the scope

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<sup>3</sup> [www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017](http://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017)

<sup>4</sup> [www.gov.uk/government/collections/functional-standards](http://www.gov.uk/government/collections/functional-standards)

of services, service levels, appropriate milestones and performance criteria. There should be routine reporting on compliance with defined standards and requirements, the resources deployed and costs, and any gaps in capacity and capabilities.

- 8.6 The senior officers accountable for managing each function in the OSPT are accountable to the respective MOJ function leads for:
- providing assurance over compliance with functional standards, so far as is consistent with the other provisions of this Framework Document
  - implementing consistent policies, systems, processes and capabilities that support and promote interoperability and efficiency
  - supporting the ongoing development of the function
- 8.7 The senior officers accountable for managing each function in the OSPT shall provide the MOJ function leads with such information about their operations, performance and capabilities as may reasonably be required. In the event of any significant concerns being identified, the MOJ function lead will draw these to the attention of the OSPT.
- 8.8 The respective MOJ function lead will engage with the OSPT budget holder and senior officer accountable for managing each function in the OSPT to:
- develop functional plans that set out activities, processes and developments that align to the delivery of MOJ outcome priorities to required standards
  - meet the collective needs across the organisation
  - support an inclusive vision and clear prioritisation for all those operating within and supported by these activities
- 8.9 The OSPT shall work collaboratively with MOJ's functions to align processes, systems, knowledge and career pathways.
- 8.10 The OSPT will consult with and reflect the views of MOJ's function leads to inform the performance assessment of the function leads in the OSPT to support their continuing personal and professional development.
- 8.11 The OSPT budget holder may provide their views on the performance of the MOJ function leads to support their continuing personal and professional development.
- 8.12 MOJ may provide functional services to the OSPT. The PAO may seek to change the precise nature of the delivery model for these functions during the lifetime of this Framework Document to support better delivery of the OSPT's objectives, more consistency, increased innovation and enhanced efficiency. Where significant change is proposed in the way functions are delivered, the OSPT will be consulted.

### **OSPT Management Advisory Board**

8.13 The purpose of the Management Advisory Board is to advise the OS and PT and assist them in their decision making and monitoring in respect of:

- strategy and direction of the OSPT
- finance
- people resources
- performance against budgets and plans including risk management
- compliance with principles of good corporate governance

### **Assessment of office holder**

8.14 The OS and PT is a senior civil servant and, as such, is included in the Senior Civil Service moderation process.

# Role of the department

## 9. The responsible minister

- 9.1 The Secretary of State (SoS) for Justice is accountable to Parliament for all matters concerning the OS and PT. The SoS's responsibilities include:
- appointing the OS under section 90 of the Senior Courts Act 1981
  - appointing the PT under section 8 of the Public Trustee Act 1906
  - appointing one or more Deputy Official Solicitors under section 90 of the Senior Courts Act 1981 – they will have power to act in the OS's place when the OS is not available
  - appointing a Deputy Public Trustee under section 8 of the Public Trustee Act 1906 – they will have power to act in the PT's place when the PT is not available
  - removing the OS on account of misbehaviour with the concurrence of the Lord Chief Justice
  - directing the OS as to the classes of case taken, but not the conduct of individual matters
  - approving the resources framework within which the OS and PT should operate
  - answering Parliamentary Questions
  - responding to ministerial correspondence
- 9.2 The Lord Chancellor does not account for the conduct of the OS and PT in specific cases.

### Appointments

- 9.3 The OS is appointed by the Lord Chancellor under section 90 of the Senior Courts Act 1981. The PT is appointed by the Lord Chancellor under the Public Trustee Act 1906.
- 9.4 All appointments should reflect the diversity of the society in which we live, and should be made taking account of the need to appoint individuals with a balance of skills and backgrounds.

### Other ministerial powers and responsibilities

- 9.5 The minister is also responsible for:
- the policy framework within which the OSPT operates
  - setting the performance framework within which the OSPT operates including approving the OSPT's strategy

- matters regarding spending approvals, acquisitions, disposals and joint ventures in line with delegations as set out in the delegation letter
- such other matters as may be appropriate and proportionate

## 10. The Principal Accounting Officer

- 10.1 The Permanent Secretary of MOJ is the PAO.
- 10.2 The PAO has designated the OS and PT as the Accounting Officer for third party accounts – funds or assets held on behalf of beneficiaries by the OS or the PT in their legal role as trustee or administrator. A trustee has a duty to keep trust accounts, which a beneficiary should also be expected to see. This is because it is the accounts, more than any other documents, which will show a beneficiary whether the trustee has properly accounted for the conduct of their trusteeship. The OS and PT therefore produce an annual account for each trust and estate, which is sent to the beneficiary.
- 10.3 The respective responsibilities of the PAO are set out in Chapter 3 of MPM. The PAO is also accountable to Parliament for the issue of any grant-in-aid to the OSPT.
- 10.4 The responsible senior civil servant for this relationship is the Senior Sponsor as delegated by the Permanent Secretary. The PAO may delegate the exercise of their responsibilities to an appropriately senior official within the department to act as Senior Sponsor to the OS and PT. Where these responsibilities are delegated to a Senior Sponsor, the PAO does so based on the continuing assurances provided by the Senior Sponsor, supported by the policy sponsorship team and the Public Bodies Centre of Expertise.
- 10.5 The PAO is also responsible, via the Senior Sponsor and the sponsorship team, for advising the Lord Chancellor on:
- an appropriate framework of objectives and targets for the OSPT in the light of the department's wider strategic aims and priorities
  - an appropriate budget for the OSPT in the light of MOJ's overall public expenditure priorities
  - how well the OSPT is achieving its strategic objectives and whether it is delivering value for money
  - the exercise of the minister's statutory responsibilities concerning the OSPT as outlined above
- 10.6 The PAO, supported by the Senior Sponsor, the Public Bodies Centre of Expertise team (in collaboration with the MOJ policy sponsorship team) and senior officials

accountable for managing each function in MOJ, is also responsible for ensuring arrangements are in place in order to:

- monitor the OS and PT's activities and performance
- address significant problems in the organisation, making such interventions as are judged necessary
- periodically and at such frequency as is proportionate to the level of risk carry out an assessment of the risks both to MOJ and the OS and PT's objectives and activities in line with the wider departmental risk assessment process
- inform the OS and PT of relevant government policy in a timely manner
- bring ministerial or departmental concerns about the activities of the organisation to the attention of the OS and PT and, as appropriate, to MOJ's departmental board, requiring explanations and assurances that appropriate action has been taken

## 11. The role of the sponsorship team

- 11.1 The Senior Sponsor, supported by the Public Bodies Centre of Expertise, the policy sponsorship team in MOJ and MOJ's functions (where relevant), is the primary contact within MOJ for the OSPT. The Senior Sponsor is the main source of advice to the responsible minister on the discharge of his or her responsibilities in respect of the OS and PT. They also support the PAO on their responsibilities towards the OS and PT. This sponsorship engagement will be guided by the principles set out in the Cabinet Office Code of Good Practice: Partnerships Between Departments and Arm's Length Bodies.<sup>5</sup>
- 11.2 Officials of the Public Bodies Centre of Expertise team and the policy sponsorship team in MOJ will liaise regularly with the OSPT's officials to review performance against plans, achievement against targets and expenditure against its departmental expenditure limit and annually managed expenditure allocations.
- 11.3 Representatives of the MOJ Policy Group will provide policy sponsorship. They will support the PAO and Senior Sponsor in advising the SoS and ministers on the desired policy outcomes and monitoring and reporting on performance as to whether these are being delivered. They will also liaise regularly with OSPT officials and will take the opportunity to explain wider policy developments that might have an impact on the OSPT. In particular, they will:
- facilitate the OS and PT's engagement and exchange of information and perspectives across MOJ and Whitehall where policy development will have an impact on international, vulnerability or tribunals policy

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<sup>5</sup> [www.gov.uk/government/publications/partnerships-with-arms-length-bodies-code-of-good-practice/partnerships-between-departments-and-arms-length-bodies-code-of-good-practice](http://www.gov.uk/government/publications/partnerships-with-arms-length-bodies-code-of-good-practice/partnerships-between-departments-and-arms-length-bodies-code-of-good-practice)

- inform the OS and PT of wider government policy initiatives that may impact on victim and witness policy in a timely manner so that the OS and PT can contribute constructively to consultations on the matter
- work with the OS and PT to respond to changes in operational demands
- maintain regular contact with the OS and PT to ensure that there is ongoing dialogue around policy issues with the OS and PT's remit

## **12. Resolution of disputes between the OS and PT and MOJ**

- 12.1 Any disputes between MOJ and the OS and PT will be resolved in as timely a manner as possible. MOJ and the OS and PT will seek to resolve any disputes through an informal process in the first instance. If this is not possible, then a formal process, overseen by the Senior Sponsor, will be used to resolve the issue. Failing this, the Senior Sponsor will ask the relevant policy Director General to oversee the dispute. They may then discuss with the OS and PT, review the dispute and agree a joint solution. This could also be in consultation with the SoS.

## **13. Freedom of information requests**

- 13.1 Where a request for information is received by either party under the Freedom of Information Act 2000 or the Data Protection Act 1998 or 2018, the party receiving the request will consult with the other party prior to any disclosure of information that may affect the other party's responsibilities.

## **14. Reporting on legal risk and litigation**

- 14.1 The OSPT shall provide a regular update to the sponsor on the existence of any active litigation and any threatened or reasonably anticipated litigation against it (as opposed to litigation that forms the core of its statutory responsibilities). The parties acknowledge the importance of ensuring that legal risks are communicated appropriately to the sponsor in a timely manner.
- 14.2 The OSPT will manage any litigation arising from its operational activities, involving the Government Legal Department. In respect of each substantial piece of litigation involving the OS and PT that does not include the litigation in which the OS acts as a litigation friend, the parties will agree a litigation protocol. This will include specific provisions to ensure appropriate and timely reporting on the status of the litigation and the protection of legally privileged information transmitted to the Senior Sponsor to facilitate this. Until such time as a protocol is agreed, the parties will ensure that:

- material developments in the litigation are communicated to the Senior Sponsor in an appropriate and timely manner
- legally privileged documents and information are clearly marked as such
- individual employees handling the legally privileged documents are familiar with principles to which they must adhere to protect legal privilege
- circulation of privileged information within government occurs only as necessary

## OSPT governance structure

### 15. OS and PT

15.1 As Accounting Officer for third party accounts, the OS and PT are personally responsible for safeguarding the public funds for which they have charge, for ensuring propriety, regularity, value for money and feasibility in the handling of those funds, and for the day-to-day operations and management of the OSPT. In addition, they should ensure that the OSPT 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 MPM. These responsibilities include the below and those that are set out in the Accounting Officer appointment letter issued by the PAO of MOJ.

### 16. Responsibilities for accounting to Parliament and the public

16.1 The OSPT is not required to produce audited accounts for its income and expenditure. The OSPT's income and expenditure are integrated into MOJ's Resource Account. However, for third party assets, the OSPT has established a proportionate audit regime.

16.2 As Accounting Officer for third party accounts, the OS and PT's responsibilities to Parliament and the public include:

- ensuring that effective procedures for handling complaints about the OS and PT in accordance with Parliamentary and Health Service Ombudsman's Principles of Good Complaint Handling are established and made widely known within the OSPT and are published on the organisation's website
- acting in accordance with the terms of this document, MPM and other instructions and guidance issued from time to time by MOJ, HM Treasury and Cabinet Office
- ensuring that as part of the above compliance, they are familiar with and act in accordance with:
  - any governing legislation
  - this Framework Document
  - any delegation letter issued to the OS and PT

- giving evidence, normally with the PAO, if summoned before the Public Accounts Committee and other parliamentary select committees on the OS and PT's stewardship of third-party public funds
- assuring Parliament and the public of high standards of probity in the management of public funds and assets
- ensuring they have appropriate internal mechanisms for monitoring, governance and external reporting regarding non-compliance with and conditions arising from the above documents

## 17. Responsibilities to MOJ

17.1 The OS and PT's responsibilities to MOJ, in particular the PAO, include:

- establishing, in agreement with MOJ, the OSPT's corporate and business plans in light of MOJ's wider strategic aims and agreed priorities
- informing MOJ of progress in helping to achieve the department's policy objectives and in demonstrating how resources are being used to achieve those objectives
- co-operating with MOJ during the development of various relevant international, vulnerability or tribunal policy, ensuring the OS and PT's voice is heard
- ensuring that timely forecasts and monitoring information on performance, risk and finance are provided to MOJ
- notifying MOJ, and in particular the PAO, promptly of likely over or under spends and of corrective action taken
- notifying MOJ, and in particular the PAO, of any significant problems, whether financial or otherwise and whether detected by internal audit or other means, in a timely fashion
- notifying MOJ at the earliest opportunity if there is a risk of legal challenge against the OS and PT

17.2 Where the OS and PT have decided to delegate activities within their remit to external providers, whether they be public sector or private providers, the OS and PT shall ensure that such delegation, which will be set out in their commercial delegation letter, is subject to a robust governance regime, evidenced in a statement of accountability, seeking to provide the following:

- clearly defined outcomes for the activity in question
- robust and transparent mechanisms for information about performance and financial management, which permit the provider to be held to account for the regularity, propriety and value for money of the activity delegated
- clear decision-making lines, allocating authority appropriately in the context of the Accounting Officer's responsibility to the PAO

- a clear system for dealing promptly with failure, including the advance definition of the triggers for intervention

17.3 In providing the above, the OS and PT shall ensure that any such regime is supported by a process of regular review and monitoring, to ensure that governance arrangements are current and fit for purpose.

# Management and financial responsibilities and controls

## 18. Delegated authorities

- 18.1 The OS and PT's delegated authorities are set out in the delegation letter. This delegation letter may be updated and superseded by later versions which may be issued by MOJ in agreement with HM Treasury.
- 18.2 In line with MPM Annex 2.2, these delegations will be reviewed on an annual basis.
- 18.3 The budget holder shall consult with the Senior Sponsor and obtain MOJ's, and where appropriate, HM Treasury's prior written approval before:
- entering into any undertaking to incur any expenditure that falls outside the delegations or which is not provided for in the OSPT's annual budget as approved by MOJ
  - incurring expenditure for any purpose that is or might be considered novel or contentious, or which has or could have significant future cost implications
  - making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the department
  - making any change of policy or practice which has wider financial implications that might prove repercussive or which might significantly affect the future level of resources required
  - carrying out policies that go against the principles, rules, guidance and advice in MPM

## 19. Spending authority

- 19.1 Once the budget has been approved by MOJ (and subject to any restrictions imposed by statute, the responsible minister's instructions, this document, HM Treasury settlement or budget/delegation letters), the OSPT has authority to incur expenditure as approved in the budget without further reference to MOJ on the following conditions:
- the OSPT shall comply with the delegations and financial transaction limits set out in the prevailing budget version letter – these delegations shall not be altered without the prior agreement of MOJ and as agreed by HM Treasury and Cabinet Office as appropriate

- the OSPT shall comply with MPM regarding novel, contentious or repercussive proposals
- inclusion of any planned and approved expenditure in the budget shall not remove the need to seek formal departmental approval where any proposed expenditure is outside the delegated limits or is for new schemes not previously agreed
- the OSPT shall provide MOJ with such information about its operations, performance, individual projects or other expenditure as MOJ may reasonably require
- the oversight of expenditure against budget delegation is the responsibility of the finance business partnering team, who support the Public Bodies Centre of Expertise

19.2 At times, MOJ may need to impose department-wide spending controls on the OSPT that may require additional instances of written approval. In respect of recruitment of staff, spending control applications should be applied in light of any specific agreement to further delegate the authority to recruit to the OSPT.

## **20. Banking and managing cash**

- 20.1 The OSPT must maximise the use of publicly procured banking services (accounts with central government commercial banks managed centrally by the Government Banking Service).
- 20.2 The OSPT should only hold money outside Government Banking Service accounts where a good business case can be made for doing so, and HM Treasury consent is required for each account to be established. Only commercial banks which are members of relevant UK clearing bodies may be considered for this purpose.
- 20.3 Commercial accounts where approved should be operated in line with the principles as set out in MPM.
- 20.4 The Accounting Officer is responsible for ensuring the OSPT has a banking policy as set out in MPM and ensuring that the policy is complied with.

## **21. Procurement**

- 21.1 The OSPT shall ensure that it operates within the delegated authorities set out in the delegation letter(s), which will include its delegated commercial authority as well as its spending authority to incur expenditure approved in the budget.

- 21.2 The OSPT shall ensure that its procurement policies are aligned with and comply with any relevant UK Procurement Regulations, government policies and procedures, or other international procurement rules.
- 21.3 The OSPT shall establish its procurement policies in line with MOJ guidance and procedures.
- 21.4 In procurement cases where the OSPT is likely to exceed its delegated authority limit, procurement strategy approval for the specific planned purchase must be sought from the Senior Sponsor, via MOJ's sponsorship team.
- 21.5 Goods, services and works should be acquired by competition. Proposals to let single-tender or restricted contracts shall be limited and exceptional, compliant with the UK Procurement Regulations. A quarterly report explaining those exceptions should be sent to the MOJ Commercial Officer.
- 21.6 Procurement by the OSPT of works, equipment, goods and services shall be based on a full option appraisal and value for money, i.e. the optimum combination and whole life costs and quality (fitness for purpose).
- 21.7 The OSPT shall:
- engage fully with MOJ and government-wide procurement initiatives that seek to achieve value for money from collaborative projects
  - comply with all relevant procurement policy notes issued by Cabinet Office
  - co-operate fully with initiatives to improve the availability of procurement data to facilitate the achievement of value for money
  - ensure that its staff are fully aware of relevant procurement policies and guidance, its general commercial delegations and financial transaction limits
  - put in place a procurement framework which sets out its procurement structure, organisation, processes and control mechanisms where/if relevant/appropriate
  - provide reports of spend against central contracts and other spend metrics as requested by the commercial team for ongoing reporting to the Cabinet Office
  - periodically, and wherever practicable, participate in a benchmarking exercise against best practice elsewhere in MOJ
- 21.8 The OSPT shall comply with the commercial standards and grants standards.<sup>6, 7</sup> These standards apply to the planning, delivery and management of government commercial activity, including management of grants in all departments and arm's

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<sup>6</sup> [www.gov.uk/government/publications/commercial-operating-standards-for-government](http://www.gov.uk/government/publications/commercial-operating-standards-for-government)

<sup>7</sup> [www.gov.uk/government/publications/grants-standards](http://www.gov.uk/government/publications/grants-standards)

length bodies, regardless of commercial approach used. They form part of a suite of functional standards that set expectations for management within government.

## 22. Risk management

- 22.1 The OSPT, supported by the Audit Risk and Assurance Committee, shall establish the organisation's overall approach to risk management in accordance with the Orange Book Management of Risk – Principles and Concepts and the MOJ risk management framework, and ensure that the risks it faces are dealt with in an appropriate manner.<sup>8</sup>

## 23. Counter fraud and theft

- 23.1 The OSPT should adopt and implement policies and practices to safeguard themselves against fraud, bribery and corruption. This includes staff fraud and theft.
- 23.2 The OSPT should act in line with guidance as issued by the Counter Fraud Function and in compliance with the procedures and considerations as set in in MPM Annex 4.9 and the Counter Fraud Functional Standard.<sup>9</sup> The OSPT should also take all reasonable steps to conduct due diligence checks and appraise the financial standing of any firm or other body with which they intend to enter a contract or to provide grant or grant-in-aid in order to minimise fraud risks.
- 23.3 The OSPT should keep records of, and prepare and forward to MOJ, an annual report on fraud and theft suffered by them and notify MOJ of any unusual or major incidents as soon as possible. The OSPT should also report, quarterly, detected loss from fraud, bribery, corruption and error, alongside associated recoveries and prevented losses, to the MOJ Counter Fraud Centre of Expertise ([mojcounterfraud@justice.gov.uk](mailto:mojcounterfraud@justice.gov.uk)) in line with the agreed government definitions as set out in the Counter Fraud Functional Standard.

## 24. Income

- 24.1 The OSPT also generates income from the classes of case which are chargeable. The OSPT operates on a net funding basis and income is offset against the annual allocation from MOJ to achieve the agreed annual budget.

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<sup>8</sup> [www.gov.uk/government/publications/orange-book](http://www.gov.uk/government/publications/orange-book)

<sup>9</sup> [www.gov.uk/government/publications/government-functional-standard-govs-013-counter-fraud](http://www.gov.uk/government/publications/government-functional-standard-govs-013-counter-fraud)

- 24.2 In the event that the scope of the work of the OSPT changes (whether due to a change in the law, a direction of the Lord Chancellor or other external factor), MOJ and the OSPT will agree how that work should be funded in advance of the OSPT taking on responsibility for it.
- 24.3 As a last-resort litigation friend, the OS has never sought to, and indeed could not in many cases, recover its costs of being a litigation friend.

### **Sources of income and funding**

- 24.4 The OS and PT will usually make their involvement in proceedings conditional on their costs of obtaining or providing legal services being secured from external sources. The exception is cases involving medical treatment, where their involvement has long been regarded a matter of necessity, or where they are invited by the court to provide an advocate to the court or make enquiries under *Harbin v Masterman*. Those external sources may be:
- the Legal Aid Agency where the OS's client is eligible for public funding
  - the client's own funds where the Court of Protection has given authority to recover the costs from the client
  - a conditional funding agreement (such as in personal injury claims)
  - an undertaking from another party to pay their costs
  - the funds in dispute where the case involves a trust or estate

### **Trusts and estates income**

- 24.5 The OS seeks to recover costs of administering trusts and estates on a time charge basis subject to assessment by the Senior Courts Costs Office. The PT seeks to recover costs of administering trusts and estates based on scale fees as set out in the PT Fees Order. Additionally, they charge a fixed fee to register title on death.

### **International funding**

- 24.6 The OSPT funds this work out of its delegated budget which includes elements for the international case workers (but no additional element for the lawyers' input to the work) and translations. The funding of this work will be subject to review as and when the OSPT is requested by MOJ to undertake additional international work under any conventions to be brought into force.

## **25. Staff**

### **Staff recruitment**

- 25.1 OSPT staff are civil servant employees on MOJ terms and conditions and are subject to MOJ staff policies.

### **Broad responsibilities for staff**

- 25.2 Within the arrangements approved by the responsible minister (and HM Treasury) the OSPT will have responsibility for the recruitment, retention and motivation of its staff. The broad responsibilities towards its staff are to ensure that:
- the rules for recruitment and management of staff create an inclusive culture in which diversity is fully valued, appointment and advancement are based on merit, and there is no discrimination against employees with protected characteristics under the Equality Act 2010
  - the OSPT is subject to the Security Policy Framework and complies with its requirements
  - the level and structure of staffing, including grading and staff numbers, are appropriate to their functions and the requirements of economy, efficiency and effectiveness
  - the performance of its staff at all levels is satisfactorily appraised and the OSPT performance measurement systems are reviewed in line with MOJ
  - its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the OSPT's objectives
  - proper consultation with staff takes place on key issues affecting them
  - adequate grievance and disciplinary procedures are in place
  - whistle-blowing procedures consistent with the Public Interest Disclosure Act are in place

### **Staff costs**

- 25.3 Subject to its delegated authorities, the OSPT will ensure that the creation of any additional posts does not incur forward commitments that will exceed the ability to pay for them (this should include all staff costs – the on-costs – not just the headline salary and should take into account costs potentially increasing through pay increases).

### **Pay and conditions of service**

- 25.4 The OSPT's staff are subject to levels of remuneration and terms and conditions of service (including pensions) within the general pay structure approved by MOJ and HM Treasury. The OSPT has no delegated power to amend these terms and conditions.
- 25.5 Civil Service terms and conditions of service apply to the rates of pay and non-pay allowances paid to the staff and to any other party entitled to payment in respect of travel expenses or other allowances. Payment shall be made in accordance with the

Civil Service Management Code and the annual Civil Service pay remit guidance, except where prior approval has been given by MOJ to vary such rates.<sup>10, 11</sup>

- 25.6 Staff terms and conditions should be set out in relevant sections of the MOJ intranet.
- 25.7 The OSPT and its staff shall abide by public sector pay controls, including the relevant approvals process dependent on the organisation's classification, as detailed in the senior pay guidance and the public sector pay and terms guidance.

### **Pensions, redundancy and compensation**

- 25.8 Compensation scheme rules and pension scheme rules should reflect legislative and HM Treasury guidance requirements regarding exit payments.
- 25.9 Staff are eligible to join the Civil Service Pension Scheme, alpha, with the alternative to join the partnership scheme which is a defined contribution scheme and also known as a money purchase pension, provided by a third party provider, Legal and General. Staff are able to opt out of the pension scheme if they wish, However, under automatic enrolment legislation, departments must re-enrol all employees and workers who are not currently in a pension scheme every three years from their initial starting date.
- 25.10 Any proposal by the OSPT to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the prior approval of the department. Proposals on severance must comply with the rules in Chapter 4 of MPM.

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<sup>10</sup> [www.gov.uk/government/publications/civil-servants-terms-and-conditions](http://www.gov.uk/government/publications/civil-servants-terms-and-conditions)

<sup>11</sup> [www.gov.uk/government/publications/civil-service-pay-remit-guidance-2025-to-2026](http://www.gov.uk/government/publications/civil-service-pay-remit-guidance-2025-to-2026)

# Financial reporting, business plans and management information

## 26. Budgeting procedures

- 26.1 Each year, in the light of decisions by MOJ on the updated draft corporate plan, MOJ will send to the OSPT:
- a formal statement of the annual budgetary provision allocated by MOJ in the light of competing priorities across MOJ and of any forecast income approved by MOJ, including funding from other departments
  - a statement of any planned change in policies affecting the OSPT

## 27. OSPT corporate and business plans

- 27.1 The OSPT shall submit annually to MOJ a draft business plan covering the year ahead. The OSPT and MOJ shall agree the issues to be addressed in the plan and the timetable for its preparation. The plan shall reflect the OS and PT's statutory duties, and, within those duties, the priorities set from time to time by the SoS (including decisions taken on policy and resources in the light of wider public expenditure decisions). The plan shall demonstrate how the OSPT contributes to the achievement of MOJ's or the government's wider strategic aims.
- 27.2 The business plan shall include key targets and milestones for the year immediately ahead and shall be linked to budgeting information so that resources allocated to achieve specific objectives can readily be identified by MOJ. Subject to any commercial considerations, the OSPT will publish its business plan on GOV.UK, together with ensuring it is separately made available to staff.

## 28. Reporting performance to MOJ

- 28.1 The OSPT shall operate management, information and accounting systems that enable it to review in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in the corporate and business plans.
- 28.2 The OSPT shall inform MOJ of any changes that make achievement of objectives more or less difficult. It shall report financial and non-financial performance,

including performance in helping to deliver ministers' policies, and the achievement of key objectives regularly.

- 28.3 The OSPT's performance shall be formally reviewed by MOJ via regular business assurance meetings, the frequency of which will be reviewed by the Public Bodies Centre of Expertise based on risk. Business assurance meetings shall be chaired in agreement with the OSPT by the Head of the Public Bodies Centre of Expertise (or in exceptional circumstances by their deputy) and attended by senior officials from the OSPT and the Policy Group, including the Director of Planning and Performance. These meetings provide a timely formal opportunity for a two-way conversation to discuss the OSPT's performance, risk and finance to assure the PAO, via the Senior Sponsor, that the OSPT is functioning efficiently and effectively.
- 28.4 The Public Bodies Centre of Expertise and the Senior Sponsor will work closely together to ensure that the OSPT effectively carries out its functions under the Senior Courts Act 1981 and section 8 of the Public Trustee Act 1906 Act, and co-operates with MOJ in doing so.
- 28.5 The responsible minister will meet the OS and PT once a year.

## **29. Information sharing**

- 29.1 MOJ will have a right of access to all OSPT records (except ones relating to the OS and PT's private clients) and personnel for any purpose, including sponsorship audits and operational investigations.
- 29.2 The OSPT shall provide MOJ with such information about its operations, performance, individual projects or other expenditure as MOJ may reasonably require.
- 29.3 MOJ and HM Treasury may request the sharing of data held by the OSPT and its office in such a manner as set out in central guidance except insofar as it is prohibited by law. This may include requiring the appointment of a senior official to be responsible for the data sharing relationship.
- 29.4 As a minimum, the OSPT shall provide the department with information monthly that will enable the department satisfactorily to monitor:
- the OSPT's budget management
  - forecast outturn by resource headings
  - other data required for the Online System for Central Accounting and Reporting (OSCAR)

- data as required in respect of its compliance with any Cabinet Office controls pipelines
- data as required in order to meet any condition as set out in any settlement letter

## **30. Internal and external audit**

30.1 The OSPT will remain within MOJ arrangements for internal and external audit.

## **31. Relationship with Parliament**

### **Parliamentary Questions**

31.1 Parliamentary Questions relating to the OS and PT will be sent by the Parliamentary Branch to the MOJ sponsorship team, who will inform the OSPT and agree whether the Parliamentary Question is about government policy or about the work or operation of the OSPT. In the case of the former, the sponsorship team will produce the draft reply and submit to the Parliamentary Branch but will first seek any immediate concerns from the OSPT. In the case of the latter, the OSPT will produce the draft reply and send it to the sponsorship team who will send on to the Parliamentary Branch, making it clear the reply is provided by the OSPT. The general expectation is that the sponsorship team would not amend the OSPT's draft.

### **Ministerial correspondence**

31.2 MPs shall be encouraged to write directly to the OS and PT about specific activities and the administration of the OSPT. When ministers receive correspondence from MPs on these matters, they shall normally ask the OS and PT to reply. Where a minister decides to reply personally – for example, where the correspondence involves wider policy considerations – advice may be sought from the OS and PT or other OSPT staff on aspects relating to the activities or administration of the OSPT.

### **Parliamentary select committees**

31.3 The OS and PT shall support the PAO in giving evidence on the OSPT's stewardship of public funds, normally with the PAO, when requested by the Public Accounts Committee.

# Reviews and winding up arrangements

## 32. Winding up arrangements

32.1 MOJ shall put in place arrangements to ensure the orderly winding up of the OSPT. In particular it should ensure that the assets and liabilities of the OS and PT are passed to any successor organisation and accounted for properly. (In the event that there is no successor organisation, the assets and liabilities should revert to MOJ.) To this end, the department shall:

- have regard to Cabinet Office guidance on winding up of arm's length bodies<sup>12</sup>
- ensure that procedures are in place in the OSPT to gain independent assurance on key transactions, financial commitments, cash flows and other information needed to handle the wind-up effectively and to maintain the momentum of work inherited by any residuary body
- specify the basis for the valuation and accounting treatment of OSPT assets and liabilities
- ensure that arrangements are in place to prepare closing accounts and pass to the Comptroller and Auditor General for external audit and that, for non-Crown bodies, funds are in place to pay for such audits – the Comptroller and Auditor General will lay the final accounts in Parliament, together with his report on the accounts
- arrange for the most appropriate person to sign the closing accounts – if another arm's length body takes on the role, responsibilities, assets and liabilities, the succeeding Accounting Officer should sign the closing accounts, but if the department inherits the role, responsibilities, assets and liabilities, MOJ's Accounting Officer should sign

32.2 The OSPT shall provide the department with full details of all agreements where the OSPT or its successors have a right to share in the financial gains of developers. It should also pass to the department details of any other forms of claw-back due to the OSPT.

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<sup>12</sup> [www.gov.uk/guidance/public-bodies-reform](http://www.gov.uk/guidance/public-bodies-reform)

# Annex A: Compliance with government-wide corporate guidance and instructions

The OSPT shall comply with the following guidance, documents and instructions.

## Corporate governance

- This Framework Document
- Corporate Governance Code for Central Government Departments (relevant to arm's length bodies) and supporting guidance:  
[www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017](http://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017)
- Code of Conduct for Board Members of Public Bodies:  
[www.gov.uk/government/publications/code-of-conduct-for-board-members-of-public-bodies](http://www.gov.uk/government/publications/code-of-conduct-for-board-members-of-public-bodies)
- Code of Practice for Partnerships Between Departments and Arm's Length Bodies:  
<http://www.gov.uk/government/publications/partnerships-with-arms-length-bodies-code-of-good-practice/partnerships-between-departments-and-arms-length-bodies-code-of-good-practice>

## Financial management and reporting

- Managing Public Money (MPM): [www.gov.uk/government/publications/managing-public-money](http://www.gov.uk/government/publications/managing-public-money)
- Government Financial Reporting Manual (FReM):  
[www.gov.uk/government/collections/government-financial-reporting-manual-frem](http://www.gov.uk/government/collections/government-financial-reporting-manual-frem)
- Relevant Dear Accounting Officer (DAO) letters:  
[www.gov.uk/government/collections/dao-letters](http://www.gov.uk/government/collections/dao-letters)
- Relevant guidance and instructions issued by HM Treasury in respect of whole of government accounts: [www.gov.uk/government/collections/whole-of-government-accounts](http://www.gov.uk/government/collections/whole-of-government-accounts)
- The most recent letter setting out the delegated authorities, issued by the parent department

## Management of risk

- Management of risk: [www.gov.uk/government/publications/orange-book](http://www.gov.uk/government/publications/orange-book) and [www.gov.uk/government/publications/management-of-risk-in-government-framework](http://www.gov.uk/government/publications/management-of-risk-in-government-framework)
- HM Treasury approval processes for major projects above delegated limits:  
[www.gov.uk/government/publications/treasury-approvals-process-for-programmes-and-projects](http://www.gov.uk/government/publications/treasury-approvals-process-for-programmes-and-projects)

- The government cyber-security strategy and cyber security guidance: [www.gov.uk/government/publications/national-cyber-strategy-2022/national-cyber-security-strategy-2022](http://www.gov.uk/government/publications/national-cyber-strategy-2022/national-cyber-security-strategy-2022) and [www.gov.uk/government/collections/cyber-security-guidance-for-business](http://www.gov.uk/government/collections/cyber-security-guidance-for-business)

### **Commercial management**

- Procurement policy notes: [www.gov.uk/government/collections/procurement-policy-notes](http://www.gov.uk/government/collections/procurement-policy-notes)
- Cabinet Office spending controls: [www.gov.uk/government/collections/cabinet-office-controls](http://www.gov.uk/government/collections/cabinet-office-controls)
- Transparency in supply chains – a practical guide: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1040283/Transparency\\_in\\_Supply\\_Chains\\_A\\_Practical\\_Guide\\_2017\\_final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040283/Transparency_in_Supply_Chains_A_Practical_Guide_2017_final.pdf)

### **Public appointments**

The following are relevant where public bodies participate in public appointments processes.

- Guidance from the Commissioner for Public Appointments: <https://publicappointmentscommissioner.independent.gov.uk/>
- Governance Code on Public Appointments: [www.gov.uk/government/publications/governance-code-for-public-appointments](http://www.gov.uk/government/publications/governance-code-for-public-appointments)
- Procurement Policy Note 08/15 – Tax Arrangements of Public Appointees: [www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees](http://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees)

### **Staff and remuneration**

- HM Treasury guidance on senior pay and reward: [www.gov.uk/government/publications/senior-civil-service-pay-and-reward](http://www.gov.uk/government/publications/senior-civil-service-pay-and-reward)
- Civil Service pay guidance (updated annually): [www.gov.uk/government/collections/civil-service-pay-guidance](http://www.gov.uk/government/collections/civil-service-pay-guidance)
- Public sector pay and terms: [www.gov.uk/government/publications/public-sector-pay-and-terms-guidance-note](http://www.gov.uk/government/publications/public-sector-pay-and-terms-guidance-note)
- Whistleblowing guidance and code of practice: [www.gov.uk/government/publications/whistleblowing-guidance-and-code-of-practice-for-employers](http://www.gov.uk/government/publications/whistleblowing-guidance-and-code-of-practice-for-employers)
- The Equalities Act 2010: [www.gov.uk/guidance/equality-act-2010-guidance](http://www.gov.uk/guidance/equality-act-2010-guidance)

### **General**

- Freedom of Information Act guidance and instructions: [www.legislation.gov.uk/ukpga/2000/36/contents](http://www.legislation.gov.uk/ukpga/2000/36/contents) and <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/>

- The Parliamentary and Health Service Ombudsman’s Principles of Good Administration: [www.ombudsman.org.uk/about-us/our-principles](http://www.ombudsman.org.uk/about-us/our-principles)
- Other relevant instructions and guidance issued by the central departments (Cabinet Office and HM Treasury)
- Recommendations made by the Public Accounts Committee, or by other parliamentary authority, that have been accepted by the government and are relevant to the OSPT
- Guidance from the public bodies team in Cabinet Office: [www.gov.uk/guidance/public-bodies-reform](http://www.gov.uk/guidance/public-bodies-reform)
- The Civil Service diversity and inclusion strategy (outlines the ambition, to which arm’s length bodies can contribute): [www.gov.uk/government/publications/civil-service-diversity-and-inclusion-strategy-2022-to-2025](http://www.gov.uk/government/publications/civil-service-diversity-and-inclusion-strategy-2022-to-2025)
- Guidance produced by the Infrastructure and Projects Authority on management of major projects: [www.gov.uk/government/organisations/infrastructure-and-projects-authority](http://www.gov.uk/government/organisations/infrastructure-and-projects-authority)
- The Government Digital Service: [www.gov.uk/government/organisations/government-digital-service](http://www.gov.uk/government/organisations/government-digital-service)
- The Grants Functional Standard: [www.gov.uk/government/publications/grants-standards](http://www.gov.uk/government/publications/grants-standards)
- Code of Practice for Official Statistics: <https://code.statisticsauthority.gov.uk>
- Accounting Officer System Statements (these are produced by departments with input from arm’s length bodies): [www.gov.uk/government/publications/accounting-officer-system-statements](http://www.gov.uk/government/publications/accounting-officer-system-statements)



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