



Department  
for Environment  
Food & Rural Affairs

# Framework Document

## Environment Agency

August 2017



Environment  
Agency



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# FRAMEWORK DOCUMENT: Environment Agency

## 1. Introduction

**1.1** This Framework Document has been drawn up by the Department for Environment Food and Rural Affairs (Defra) in partnership with the Environment Agency. The document sets out how the Environment Agency and Defra, as its principal sponsoring department, will work together in an open, honest, trust-based partnership in accordance with the principles of the *Partnerships between Departments and ALBs: Code of Good Practice*. As such, both parties will ensure that they have a good understanding of each other's strategic aims and objectives and will keep each other informed of any significant issues and concerns.

**1.2** The overall governance framework of the Environment Agency is defined and supported by legislation and a number of other documents reflecting the variety of the Environment Agency's roles and relationships. These are described in **Annex A**. This Framework Document is consistent with the legal requirements placed on the Environment Agency and the Minister under the Environment Act 1995 ("the 1995 Act").

**1.3** The Framework Document is signed and dated by Defra and the Environment Agency. Copies of the 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 GOV.UK.

**1.4** Any questions regarding the interpretation of this document shall be resolved by Defra and the Environment Agency or other government departments including the Treasury and/or the Cabinet Office, as necessary.

**1.5** This Framework Document should be formally reviewed every three years with light touch annual reviews as necessary. Changes can be made by addendum in advance of formal reviews if required. Certain events could also trigger a review of Framework Documents, such as the appointment of a new Chair or Chief Executive Officer in the Environment Agency, or changes in senior personnel.

## 2. Status of the Environment Agency

**2.1** The Environment Agency is a Non-Departmental Public Body (NDPB) and carries out its statutory and regulatory functions with technical expertise, impartiality and transparency, principally across England and at arm's length from its principal sponsor, Defra. In addition, the Environment Agency also works with, and delivers duties on behalf of, a range of other UK Government departments.

**2.2** The Environment Agency is led and directed by a Board, whose Chair, Deputy Chair and members are appointed by the Secretary of State.

**2.3** The functions accorded to the Environment Agency, on and since April 1996, mean that it has distinct roles as a regulator, operator and advisor. The 1995 Act requires the Environment Agency to have regard to a principal aim described in guidance from the Secretary of State (SoS) (section 4); to provide the SoS with such advice and assistance as requested (section 37(2)); to act in accordance with directions given by the SoS (section 40) and financial duties determined by the SoS (section 44) and to provide information requested by the SoS (section 51). Sections 45 to 49 and 52 also contain SoS controls in relation to accounts, audit, grants, borrowing, loans and the annual report.

**2.4** The Act also gives the Environment Agency wide powers to make charging schemes in relation to its functions, subject to SoS approval (sections 41 and 42) and to charge for services and facilities (section 43).

**2.5** This Framework Document is consistent with the legal requirements placed on the Environment Agency and the SoS under sections 44 to 52 of the 1995 Act (financial provisions and information). It also constitutes, in relation to that Act:

- the determination by the SoS of the Environment Agency's financial duties under section 44;
- the requirements of the SoS relating to the annual statement of the Environment Agency under section 45;
- the principles under which the SoS will lend or make grants to the Environment Agency, guarantee loans or agree to borrowing under sections 47 to 50;
- the requirements of the SoS in relation to the provision of information and annual reports, under section 51 to 52.

### **3. Purpose of the Environment Agency**

**3.1** The Environment Agency was established on 1 April 1996 under the Environment Act 1995. The Environment Agency's main aim (as defined in that Act) is to protect or enhance the environment, contributing towards the objective of achieving sustainable development through its role as:

- an environmental regulator;
- an environmental operator;
- a monitor and advisor of the state of the environment;
- a landowner and manager;

- a technical advisor on the development of environmental policy;
- a promoter of scientific research in support of these roles;
- a category one responder dealing with incidents and emergencies.

**3.2** The Environment Agency has statutory responsibilities in relation to the collection and dissemination of environmental information, assessing the environmental impacts of pollution, and promoting and understanding of methods for environmental and flood risk protection and management.

**3.3** The Environment Agency is a NDPB that works as part of the Defra group, with the rest of government, local councils, businesses, civil society groups and local communities. Its aim is to make our environment better for people to live in and work in, by working for cleaner air, cleaner water and cleaner land that benefits people and wildlife and supports the economy. Its current strategic objectives and how this aim will be achieved are set out in the Defra strategy and the Environment Agency's Action Plan.

## **Taking on additional duties**

**3.4** The Government may ask the Environment Agency to take on additional functions on a permanent or temporary basis. The decision to take on additional functions will be made jointly by the Secretary of State and the Environment Agency Board.

## **Directions**

**3.5** The Secretary of State also has a power under section 40 of the 1995 Act to give the Environment Agency general or specific directions as to the exercise of its functions. Such directions should be published as soon as is reasonably practicable after the giving of the direction. The Environment Agency complies with directions given under section 40. A direction may be varied or revoked at any time.

## **Legal basis of powers and duties**

**3.6** As indicated in section 3.2, the Environment Agency has a wide range of statutory duties and functions under the Environment Act 1995. It operates within a legal framework containing numerous pieces of national and local environmental legislation which together assign to it a broad range of environmental functions. This framework provides the Environment Agency often, within the same piece of law, with a wide range of environmental powers (for example, to place permit conditions in environmental permits to protect the environment) and duties (for example, to determine applications for permits made to it for permits under Environmental Permitting Regulations). The main areas covered by this framework concern flood and coastal erosion risk management and environmental protection. The framework covers a diverse range of environmental laws including:

- Environmental Permitting (England and Wales) Regulations - the main environment permitting regime which controls potentially polluting activities (waste, industry, water quality, groundwater, radioactive substances and waste, mining waste) through a system of permits and exemptions;
- water resources - controls on the abstraction and impoundment of water including in relation to drought orders under the Water Resources Act 1991;
- reservoirs regulation under the Reservoirs Act 1975;
- carbon mitigation under the EU Emissions Trading Scheme and a range of domestic carbon mitigation and adaptation measures;
- transfrontier shipment of waste and radioactive waste;
- navigation (for example, for the non-tidal Thames and the Medway navigations under local legislation);
- producer responsibility schemes (from Packaging Waste to End of Life Vehicles);
- fisheries legislation (for example, under the Salmon and Freshwater Fisheries Act 1975);
- responsibility for flood risk management on main rivers and coasts under primary, secondary and local legislation including a general supervisory duty for all flood and coastal erosion risk management and a power to issue flood warnings;
- responsibility for the operation of key flood risk assets empowered by local legislation (for example, the Thames Barrier and Flood Prevention Act 1972).

## 4. Key relationships

### Parliament

**4.1** The Environment Agency is accountable to Parliament via the Secretary of State. The organisation has specific responsibilities to submit evidence and to appear, when requested, to the Environment, Food and Rural Affairs (Efra) Committee to support the Committee in its role to examine the expenditure, administration and policy of the Department and its associated public bodies.

**4.2** More broadly, the Agency may be invited to submit evidence to government consultations, other Parliamentary Committees or to engage in other ways with Parliamentary committees or constituency MPs. As an NDPB, the Environment Agency will liaise with the Department, and ensure its responses to Parliament Committees and consultations are based principally on fact, evidence and technical expertise and judgement.

## Stakeholders

**4.3** The Environment Agency has wide-ranging functions, and many people have a direct or indirect interest in its work. The Agency should operate in an open and transparent way with all customers and partners from across the private, public and not-for-profit sectors.

## International relationships

**4.4** The Environment Agency has power to provide advice and assistance to any person, whether in or outside the UK, as respects any matter in which it has skill or experience, subject to the agreement of the Secretary of State where the person for whom advice is provided is outside the UK. By way of this Framework Document, the Secretary of State agrees to the exercise of this power by the Environment Agency, including the right to travel internationally where appropriate to do so. Whilst the Environment Agency's remit extends predominantly to England, it does retain some UK-wide duties, including the management of the Emissions Trading Scheme.

**4.5** The Environment Agency does not speak on behalf of the UK Government or Defra, but will liaise closely with Defra and a wide range of other Government Departments and their agencies, including those of the Devolved Administrations on proposals for international agreement.

## 5. Operating as the Defra group

**5.1** Defra and 10 of its delivery bodies, including the Environment Agency, have agreed a group operating model that supports joint working in pursuit of shared outcomes.

**5.2** The organisations involved are working to deliver the strategic objectives set out in the Defra group strategy ([Defra Strategy to 2020](#)), guided by the design principles underpinning the Target Operating Model on the understanding that effective partnerships must be based on trust, clarity of accountability, and a shared understanding of purpose and outcomes.

**5.3** The organisational model for the Defra group identifies six main areas where the organisations collectively deliver outcomes: food and farming, animal and plant health, floods and water, environmental quality, natural environment and rural, marine and fisheries. All the organisations involved in delivering outcomes in each area come together as an outcome system under the guidance of a system leader.

**5.4** The group operating model does not replace the accountability of the Environment Agency Accounting Officer and Board or alter the powers, duties, and governance of the Environment Agency.

**5.5** The Defra group Executive Committee (ExCo) is responsible for overseeing the strategic direction and tracking the performance of the Defra group from policy through to

delivery; and for strategic decisions that affect more than one organisation or set a precedent for the future. System leaders are members of ExCo, providing a direct connection to all the organisations within the group operating model. They are supported by outcome system groups bringing together leaders from all the organisations that contribute to delivering outcomes in that system.

**5.6** As part of the group operating model, the Environment Agency Chief Executive, Chair and Board have certain responsibilities in addition to those detailed in *Managing Public Money*.

**5.7** The Environment Agency Chief Executive is responsible for

- ensuring that the Environment Agency works in collaboration with other parts of the Defra group, in line with the principles of the group operating model, to secure the most efficient and effective delivery of outcomes;
- ensuring that the Environment Agency Board is fully engaged in any decision affecting the Environment Agency and other organisations where the Defra group Executive Committee has overall strategic responsibility;
- leading the Flood Risk Management and Environment Quality System, managing, guiding and coordinating the system to deliver strategic outcomes across the Defra group.

**5.8** The Environment Agency Chair and Board should

- support the delivery of the Defra group's objectives and champion Defra's agenda;
- deliver the Environment Agency's independent statutory duties;
- support the Executive in working collaboratively with other parts of the Defra group, building relationships with other Boards and helping to remove barriers to joint working;
- engage fully and constructively with strategic decision-making led by the Executive Committee where a decision impacts on the Environment Agency's formal duties and responsibilities.

**5.9** Partnership working arrangements will be put in place between the Environment Agency and the new integrated corporate functions to ensure that the appropriate information is shared on business requirements. This will enable delivery to be appropriately planned and prioritised, thereby continuing to enable and support the delivery of wider business objectives and ensuring that organisations are able to meet their statutory obligations under other external regulators and regulation.

## 6. Ministerial responsibility

**6.1** The Secretary of State for Environment, Food and Rural Affairs will account for business in Parliament.

**6.2** The role of the Secretary of State is to:

- agree the Environment Agency's overall priorities and objectives;
- allocate resources to the Environment Agency for its activities and with Treasury Ministers, to approve the Environment Agency's charging schemes or amendments to such schemes;
- monitor the performance and accountability of the Defra group Corporate Services functions to ensure adequate service provision is available for the Environment Agency to fulfil its statutory duties under the Environment Act;
- monitor the performance of the Environment Agency through regular Ministerial Performance Reviews with the Chair of the Environment Agency and through reports to Defra's Executive Committee and the Defra Board;
- keep Parliament informed about the Environment Agency's performance and answer Parliamentary Questions after consultation with the Environment Agency where appropriate;
- appoint a Chair and members of the Environment Agency Board;
- confirm the appointment of the Environment Agency's Chief Executive;
- issue any general guidance or specific directions;
- lay copies of the Environment Agency's annual report and accounts before Parliament each year.

**6.3** This document refers to the Secretary of State but in practice he/she may empower another Defra Minister to act on his or her behalf.

## 7. The Environment Agency Board

**7.1** The Environment Agency Chair and board members are normally appointed for a period of three years by the responsible minister. Such appointments are regulated in line with the current requirements set out by government. In accordance with the Environment Act 1995, section 1, the Board consists of a Chair and no less than eight or more than fifteen other members. The Secretary of State may appoint one of the board members as Deputy Chair.

**7.2** In line with the government's [\*Code of Good Practice\*](#) the Board shall have a balance of skills and experience appropriate to fulfilling the Environment Agency's business.

**7.3** The Board is responsible for:

- establishing and taking forward the strategic aims and objectives of the Environment Agency within the policy and resources framework determined by the Secretary of State and in line with the relevant legislation;
- agreeing an Action Plan that sets out the Environment Agency's specific delivery commitments and approving the appropriate allocation of resources;
- supporting the delivery of Defra group objectives whilst respecting the independent statutory duties of the Environment Agency;
- ensuring effective arrangements are in place to provide assurance on risk management, governance and internal control (see section 12);
- ensuring that any statutory or administrative requirements for the use of public funds are complied with; that the Board operates within the limits of its statutory authority and any delegated authority agreed with Defra, and in accordance with any other conditions relating to the use of public funds; and that in reaching decision, the Board takes into account any relevant guidance issued by Defra or by the Government more broadly;
- ensuring that the responsible Minister and Defra are kept informed of any changes which are likely to impact on the strategic direction of the Environment Agency;
- ensuring that the Board receives and reviews regular performance and financial information concerning the delivery against the agreed Action Plan of the Environment Agency; is informed in a timely manner about any concerns about its activities; and provides positive assurance to Defra that appropriate action has been taken on such concerns;
- demonstrating high standards of corporate governance at all times, including by using the independent audit committee to help the Board to address key financial and other risks;
- approval (e.g. of new charging schemes and high-value business cases);
- appointing a Chief Executive and setting performance objectives linked to these objectives;
- complying at all times with the *Code of Conduct for Board Members of Public Bodies* and with the rules relating to the use of public funds and to conflicts of interest;

- proactively engaging in succession planning and identification of potential candidates for future Board appointments.

**7.4** Ministers and senior Defra group representatives will engage with the Board and, where appropriate and in agreement with the Chair, attend meetings where this might aid discussion or help inform decision making.

## **The Chair's responsibilities**

**7.5** The Chair is responsible to the named minister for the overall leadership, direction and effectiveness of the Environment Agency. The Chair will represent the Environment Agency and will be the primary contact with Ministers for the Board, raising issues with Ministers as appropriate and ensuring that the other board members are kept aware of such communications.

**7.6** In addition, the Chair has the leadership responsibility to:

- formulate the Board's strategy;
- demonstrate appropriate leadership and support a culture of ambition and inclusion in line with Environment Agency strategies and plans;
- drive the culture of collaborative working with the Defra group and OGDs as appropriate to make the best use of resources available and to maximise outcomes and multiple benefits;
- ensure the Board takes proper account of guidance or strategy provided by Defra or Ministers when reaching decisions;
- ensure there is a Board Operating Framework and strategy in place setting out the role and responsibilities of the Board;
- drive efficiency and effectiveness;
- deliver high standards of regularity and propriety in accordance with Nolan's Seven Principles of Public Life;
- represent the views of the Board to the general public.

The Chair also has an obligation to:

- set his/her objectives with the Secretary of State;
- ensure the Board is run in line with good governance practices including those sections of the *Corporate Governance in Central Government Departments: Code of Good Practice* appropriate for arm's length bodies;

- review the work of the Board and its individual members annually to ensure the Board is working effectively and that board members are aware of the terms of their appointment, their duties, rights and responsibilities;
- receive, together with other Board members, appropriate induction to enable them to discharge their duties in line with *Managing Public Money*;
- ensure the Board has a balance of skills appropriate to directing Environment Agency business;
- advise the responsible Minister of the Environment Agency's needs with as much notice as possible before board vacancies arise.

## Individual Board member's responsibilities

**7.7** Individual board members should comply at all times with the *Code of Conduct for Board Members of Public Bodies* and with the rules relating to the use of public funds and to conflicts of interest:

- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
- comply with the board's rules on the acceptance of gifts and hospitality, and of business appointments;
- act in good faith and in the best interests of the Environment Agency.

## 8. Defra's Principal Accounting Officer (PAO)

**8.1** The Principal Accounting Officer (PAO) of Defra has designated the Chief Executive as the Environment Agency's Accounting Officer (The respective responsibilities of the PAO and accounting officers for ALBs are set out in Chapter 3 of *Managing Public Money*.)

**8.2** The PAO is accountable to Parliament for the issue of any grant-in-aid to the Environment Agency. As such, he/she is directly accountable for the grant-in-aid paid by the Secretary of State to the Environment Agency in England. The PAO is also required to advise the responsible Minister on:

- an appropriate framework of objectives and targets for the Environment Agency in line with the Defra group strategic aims and priorities;
- an appropriate budget for the Environment Agency in the light of Defra's overall public expenditure priorities;

- how well the Environment Agency is achieving its strategic objectives and whether it is delivering value for money.

**8.3** The PAO is also responsible for ensuring arrangements are in place that enable strategic oversight and review of performance and delivery, including:

- addressing significant problems in the Environment Agency, making such interventions as are judged necessary;
- carrying out assessments of the risks both to Defra and the Environment Agency's objectives and activities;
- informing the Environment Agency of relevant government policy in a timely manner;
- bringing any concerns about the activities of the Environment Agency to the full Environment Agency board requiring explanations and assurances that appropriate action has been taken.

## 9. The Environment Agency Chief Executive as Accounting Officer

**9.1** The Chief Executive is recruited through open competition. The appointment is made by the Board and is subject to approval by the Secretary of State. On appointment the Chief Executive may become an executive member of the Board alongside non-executive members, subject to approval by the Secretary of State. The Board should set performance objectives for the Chief Executive which reflect both the Accounting Officer (AO) responsibilities and the Chief Executive's role in ensuring the Environment Agency delivers its stated priorities and statutory responsibilities.

**9.2** The Chief Executive as accounting officer is responsible for safeguarding the public funds for which he or she has charge, for ensuring propriety, regularity and value for money in the handling of those public funds and for the day-to-day operations and management of the Environment Agency. In addition, he or she should ensure that the Environment Agency in terms of governance, decision-making and financial management, is run on the basis of the standards as set out in *Managing Public Money*.

### Responsibilities for accounting to Parliament

**9.3** The accountabilities include:

- signing the accounts to confirm that the accounts are properly prepared and presented in accordance with any directions issued by the Secretary of State;

- preparing and signing a Governance Statement covering corporate governance, risk management and oversight of any local responsibilities, for inclusion in the annual report and accounts;
- ensuring that effective procedures for handling complaints about the Environment Agency are established and made widely known within the organisation, and available externally for customers to use;
- acting in accordance with the terms of this document, *Managing Public Money* and other instructions and guidance issued from time to time by the Department, the Treasury and the Cabinet Office;
- giving evidence, normally with the PAO, when summoned before the Public Accounts Committee on the Environment Agency's stewardship of public funds;
- calling on the support that he/she requires from Defra Corporate Services to meet these accountabilities.

## Responsibilities to Defra

### 9.4 Responsibilities to Defra include:

- establishing the Environment Agency's contributions to the Defra group Strategy and Single Departmental Plan;
- ensuring that timely forecasts and monitoring information on performance and finance are provided to Defra; that Defra is notified promptly if over or under spends are likely and that corrective action is taken; and that any significant problems whether financial or otherwise, and whether detected by internal audit or by other means, are notified to Defra in a timely fashion;
- informing Defra of progress in helping to achieve Defra group objectives and in demonstrating how resources are being used to achieve those objectives;
- driving the culture of collaborative working with the Defra group to make the best use of resources available and to maximise outcomes and multiple benefits;
- ensuring robust and effective dispute resolution systems are in place, in order to identify and address issues promptly and effectively.

## Responsibilities to the Environment Agency Board

### 9.5 The Chief Executive as Accounting Officer is responsible for:

- advising the Board on the discharge of their responsibilities as set out in this document, in the founding legislation and in any other relevant instructions and guidance;

- advising the Board on the Environment Agency's performance;
- ensuring that financial considerations are taken fully into account by the Board at all stages in reaching and executing its decisions, and that financial appraisal techniques are followed;
- taking action if the Board or its Chair, is contemplating a course of action involving a transaction which the Chief Executive considers would infringe the requirements of propriety or regularity or does not represent prudent or economical administration, efficiency or effectiveness, is of questionable value, or is unethical;
- ensuring that all public funds made available to the Environment Agency including any approved income or other receipts are used for the purpose intended by Parliament, and that such monies, together with Environment Agency assets, equipment and staff, are used economically, efficiently and effectively ensuring that the Environment Agency acts in accordance with its statutory remit and that all associated legal risks are effectively managed;
- ensuring that a system of risk management is maintained to inform decisions on financial and operational planning and to assist in maintaining and improving performance;
- ensuring that adequate internal management and financial controls are maintained by the Environment Agency, including effective measures against fraud and theft;
- maintaining a comprehensive system of internal delegated authorities which are notified to all staff, together with a system for regularly reviewing compliance with these delegations;
- ensuring that effective personnel management policies are maintained;
- recruiting, leading and motivating the senior management team and staff including the development of an organisational culture that promotes high performance and commitment;
- promoting and maintaining effective customer, stakeholder and partner engagement and collaboration at strategic and operational levels to ensure good understanding and responsive management of customer and stakeholder needs and concerns.

## 10. Transparency, audit and scrutiny

### Annual Report and accounts

**10.1** The Environment Agency Board must publish its Annual Report and Accounts (ARA) after the end of each financial year. The Environment Agency shall provide Defra

with its finalised (audited) accounts in line with the agreed timetable each year in order for the accounts to be consolidated within Defra's.

**10.2** The Environment Agency's ARA must be approved by the appropriate Defra Minister and signed by the Comptroller and Auditor General (C&AG) before being laid before the House of Commons. The ARA must also be published on GOV.UK once the document has been laid before Parliament.

**10.3** The Annual Report must comply with the Treasury's *Financial Reporting Manual* (FreM).

## **Internal Audit**

**10.4** The Environment Agency shall:

- establish and maintain arrangements for internal audit in accordance with the *Treasury's Public Sector Internal Audit Standards* (PSIAS);
- ensure that their Internal Audit team have complete access to all relevant records within the organisation;
- ensure that the competencies and professional qualifications of the Head of Internal Audit meet the requirements of PSIAS;
- share the audit strategy, periodic audit plans, all final audit reports and annual audit report, including the Environment Agency Head of Internal Audit opinion on risk management, control and governance with Defra;
- keep records of, and forward to Defra an annual report on fraud, error and theft suffered by the Environment Agency and notify Defra of any unusual or major incidents as soon as possible.

## **Audit of Receipts and Payments from the European Union (EU)**

**10.5** Where the Environment Agency receives funding from the EU, it may be subject to an audit by the European Court of Auditors. It may also be subject to audit from other auditors acting under the terms governing the provision of the financial assistance or the protocol arrangements agreed between government departments and the EU.

## **External audit**

**10.6** The C&AG passes the audited accounts to the Secretary of State who will lay the accounts together with the C&AG's report before Parliament. In the event that the Environment Agency has set up and controls subsidiary companies, the Environment Agency will (in the light of the provisions in the Companies Act 2006) ensure that the C&AG is appointed auditor of those company subsidiaries that it controls and/or whose

accounts are consolidated within its own accounts. The Environment Agency shall discuss with Defra the procedures for appointing the C&AG as auditor of the companies.

#### **10.7 The C&AG:**

- will consult Defra and the Environment Agency on whom – the National Audit Office (NAO) or a commercial auditor – shall undertake the audit(s) on his behalf, though the final decision rests with the C&AG;
- has a statutory right of access to relevant documents, including by virtue of section 25(8) of the Government Resources and Accounts Act 2000, held by another party in receipt of payments or grants from the Environment Agency;
- will share with Defra information identified during the audit process and the audit report (together with any other outputs) at the end of the audit, in particular on issues impacting on Defra's responsibilities in relation to financial systems within the Environment Agency;
- will, where asked, provide Defra and other relevant bodies with Regulatory Compliance Reports and other similar reports which Defra may request at the commencement of the audit and which are compatible with the independent auditor's role.

**10.8** The C&AG may carry out examinations into the economy, efficiency and effectiveness with which the Environment Agency has used its resources in discharging its functions. For the purpose of these examinations the C&AG has statutory access to documents as provided for under section 8 of the National Audit Act 1983. In addition, the Environment Agency shall provide, in conditions to grants and contracts, for the C&AG to exercise such access to documents held by grant recipients and contractors and sub-contractors as may be required for these examinations; and shall use its best endeavours to secure access for the C&AG to any other documents required by the C&AG which are held by other bodies.

### **Right of access**

Defra has the right of access to all Environment Agency records and personnel for any lawful purpose including for example, audits and operational investigations.

## **11. Risk management**

**11.1** The Environment Agency shall ensure that the risks that it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and in line with the Defra risk strategy and framework, adopting the principles contained within the Treasury guidance *Management of Risk: Principles and Concepts*. Applying the common Defra group risk language, risks should be escalated where required and fully contribute to an annual central review of all of their corporate risks.

**11.2** It should adopt and implement policies and practices to safeguard itself against fraud, error, bribery, money laundering and theft, in line with the Treasury's guidance.

**11.3** It should also take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract or to give grant or grant-in-aid.

**11.4** The Chief Executive can call upon the support that he/she requires from Defra Corporate Services to discharge these duties.

## **12. Audit and Risk Assurance Committee**

**12.1** The Environment Agency Board has a responsibility to ensure that proper internal audit and risk arrangements are established and maintained, and for that purpose should establish an Audit, Risk and Assurance Committee (ARAC) in accordance with *Managing Public Money* and the Cabinet Office's *Guidance on Codes of Practice for Public Bodies*. The Environment Agency should develop a risk management strategy, in accordance with HM Treasury guidance *Management of Risk: Principles and Concepts*.

**12.2** The Internal Audit service should provide regular reports to the Chief Executive and also report regularly to the Members of the Environment Agency Board, through the ARAC which will be chaired by a non-executive Member of the Environment Agency, on its programme, agreed management actions and their implementation. The Internal Audit service shall have direct access to the Accounting Officer and to the Members of the Board, usually through the ARAC. The Board or ARAC may deal directly with the Head of Internal Audit.

**12.3** To assist with the provision of assurance to the Principal Accounting Officer the Environment Agency will ensure that the agenda and minutes and papers of all ARAC meetings are also shared with Defra's group Chief Internal Auditor (GCIA). The Environment Agency will also extend an invitation, at its discretion, to Defra's GCIA to attend ARAC meetings. Defra will provide copies of its ARAC agenda and meeting minutes to the Chair of the Environment Agency ARAC.

## **13. Freedom of Information**

**13.1** The Environment Agency is subject to the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) which ensure that the public can, on request, be given access to information, in accordance with its statutory obligations.

## **14. Maladministration**

**14.1** The Local Government Ombudsman investigates complaints relating to flooding and land drainage. The Parliamentary and Health Service Ombudsman may investigate all other complaints against the Environment Agency.

## 15. *Managing Public Money* and other government-wide corporate guidance and instructions

**15.1** Unless agreed by Defra and, as necessary, HM Treasury, the Environment Agency shall follow the principles, rules, guidance and advice in *Managing Public Money*, referring any difficulties or potential bids for exceptions to Defra in the first instance. A list of guidance and instructions with which the Environment Agency should comply is in Annex A.

**15.2** Once the budget has been approved by Defra (and subject to any restrictions imposed by statute or to the responsible Minister's instructions) the Environment Agency shall have authority to incur expenditure approved in the budget without further reference to Defra on the following conditions:

- The Environment Agency shall comply with the delegated financial limits agreed with Defra and set out in an annual Delegated Authority Document issued prior to the commencement of a new financial year (see paragraph 17.1). These delegations shall not be altered without the prior agreement of Defra;
- The Environment Agency shall comply with *Managing Public Money* 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 as set out in the annual Delegated Authority Document;
- The Environment Agency shall provide Defra with such information about its operations, performance on individual projects or other expenditure as Defra may reasonably require, taking account of the need for the Environment Agency to operate within constrained resources;
- The Environment Agency, Defra, HM Treasury and the Cabinet Office have agreed what management and financial information will be required over the course of a year. Central government and the department are mindful of the need to avoid duplicate requests for the same information, and recognise the need to minimise reporting costs for the Environment Agency.

## 16. Management and financial responsibilities

### Business Planning

**16.1** Action plans will be required to establish how objectives in Defra's Single Departmental Plan are to be delivered. The Action Plan and joint local area plans developed collaboratively across the Defra group should set out delivery of objectives, outputs, performance targets, drive for efficiency, costs and resources.

**16.2** The plans should be developed and agreed through the Defra group business planning process. The plans will reflect indicative allocations and priorities and will be agreed by ExCo and the Board and then approved by Ministers and made available to the public through GOV.UK.

## **Budgeting procedures**

**16.3** Prior to the start of the financial year and in light of the decisions relating to financial provision including the proper use of fees and charges in line with *Managing Public Money*, and the policy delivery requirements of Defra, the Environment Agency will receive:

- a formal statement of the annual budgetary provision allocated by Defra in the light of competing priorities across the department and of any forecast income approved by Defra;
- notification of any planned changes in Defra or wider government policy affecting Environment Agency delivery and policy functions. These will be discussed and agreed as part of an on-going dialogue between the Environment Agency and Defra and recorded as part of the regular performance process;
- an updated annual delegation letter if any changes are made by Defra to the budget.

## **Grant-in-aid and any ring-fenced grants**

**16.4** Any grant-in-aid provided by Defra for the year in question will be voted in Defra's Supply Estimate and be subject to Parliamentary control.

**16.5** The grant-in-aid will normally be paid in monthly instalments on the basis of written applications showing evidence of need. The Environment Agency will comply with the general principle, that there is no payment in advance of need. Cash balances accumulated during the course of the year from grant-in-aid or other Exchequer funds shall be kept to a minimum level consistent with the efficient operation of the Environment Agency. Grant-in-aid not drawn down by the end of the financial year shall lapse. Subject to approval by Parliament of the relevant Estimates provision, where grant-in-aid is delayed to avoid excess cash balances at the year-end, Defra will make available in the next financial year any such grant-in-aid that is required to meet any liabilities at the year end, such as creditors.

**16.6** In the event that Defra provides the Environment Agency with separate grants for specific (ring-fenced) purposes, it would issue the grant as and when the Environment Agency needed it on the basis of a written request. The Environment Agency would provide evidence that the grant was used for the purposes authorised by Defra. The Environment Agency shall not have uncommitted grant funds in hand, nor carry grant funds over to another financial year without the agreement of Defra.

## 17. Corporate governance

### Delegated financial authorities

**17.1** Delegations are issued annually from the Principal Accounting Officer in Delegated Authority Documents which provide the detail of specific delegations for the Accounting Officer of each organisation within the Defra accounting boundary. The Environment Agency shall obtain Defra'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 Environment Agency's annual budget as approved by Defra;
- 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 Defra;
- 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; or
- carrying out policies that go against the principles, rules, guidance and advice in *Managing Public Money*.

### Policies

**17.2** The Environment Agency maintains and follows fit for purpose policies on the exercise of regulatory functions, propriety and whistle-blowing.

### Risk management

**17.3** The Environment Agency ensures that the risks it faces are dealt with in accordance with relevant aspects of best practice in corporate governance, and in line with the Defra risk strategy and framework, adopting the principles contained within the Treasury guidance *Management of Risk: Principles and Concepts*. Risks should be escalated where required and fully contribute to an annual central review of all of their corporate risks.

**17.4** The Environment Agency adopts and implements policies and practices to safeguard itself against fraud, error, bribery, money laundering and theft, in line with the Treasury's guidance.

**17.5** The Environment Agency also takes all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract or to give grant or grant-in-aid.

## 18. Environment Agency as an employer

### Broad responsibilities for staff

**18.1** Within the arrangements approved by the responsible minister and the Treasury, the Environment Agency will have responsibility for the recruitment, retention and motivation of its staff. The broad responsibilities toward 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 is based on merit: there is no discrimination on grounds of gender, marital status, sexual orientation, race, colour, ethnic or national origin, religion, disability, community background or age;
- the level and structure of its staffing, including grading and staff numbers, are appropriate to its functions and the requirements of economy, efficiency and effectiveness;
- the performance of its staff at all levels is satisfactorily appraised and Environment Agency performance measurement systems are reviewed from time to time;
- its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the organisation's objectives;
- proper consultation with staff (or elected representatives when appropriate) 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 1998; and
- Defra whistleblowing policies are in place;
- a code of conduct for staff is in place based on the Cabinet Office's *Model Code for Staff of Executive Non-departmental Public Bodies*.

### Staff costs

**18.2** Subject to its delegated authorities, the Environment Agency shall ensure that the creation of any additional posts does not incur forward commitments that will exceed its ability to pay for them.

### Pay and conditions of service

**18.3** Environment Agency staff are subject to levels of remuneration and terms and conditions of service (including pensions) within the general pay structure approved by

Defra and the Treasury. The Environment Agency has no delegated power to amend these terms and conditions except where prior approval has been given by the department to vary such terms. The department should have regard to the Cabinet Office publication, [Public Bodies: A Guide for Departments](#).

**18.4** Staff terms and conditions are set out in an Employee Handbook, which should be provided to the department together with subsequent amendments.

**18.5** The Environment Agency shall operate a performance-related pay scheme that shall form part of the annual aggregate pay budget approved by Defra and the Treasury.

**18.6** The Environment Agency shall comply with the EU Directive on contract workers, the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations.

**18.7** The expenses of Board members are the same as the rates and conditions allowed to senior staff. Reasonable actual costs shall be reimbursed. The time commitments for individual Board members shall be agreed between the Chair and the Secretary of State. Any review or revisions to these shall be agreed with Defra.

## **Pensions, redundancy and compensation**

**18.8** The Environment Agency is an administering and employing authority for the Local Government Pension Scheme and contractually enrolls all eligible staff. The Environment Agency may not make alternative arrangements for providing occupational pension benefits without the prior approval of the Department and DCLG.

**18.9** The Environment Agency is an employing authority as defined in Schedule 2 to the Local Government Pension Scheme (1997). The Environment Agency must therefore ensure that their compensation schemes operate in accordance with the relevant Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations.

**18.10** The Environment Agency operates compulsory redundancy and voluntary early release schemes that have been approved by Defra and will seek approval from Defra for any scheme changes that represent a degree of betterment. Proposals on redundancy and severance payments must comply with *Managing Public Money*, Annex 4.13. Any member of staff treated outside this arrangement could be viewed as a novel or contentious payment and approval from HMT is required.

## **19. Environment Agency Pension Arrangements**

### **Background**

**19.1** The Environment Agency is responsible for the EA Active Pension Fund and the EA Closed Pension Fund. These are statutory public service occupational pension schemes, providing retirement benefits to current and past employees, and their dependants.

**19.2** The Active Fund is open to all eligible Environment Agency employees as well as employees of certain other employers with close connections to the Environment Agency. The Closed Fund has no employed members. It exists to provide benefits to deferred and pensioner members who were employed by the former water authorities. The Closed Fund's liabilities are met under grant-in-aid paid to the EA by Defra, the detailed terms of which are set out in a Memorandum of Understanding signed on 17 May 2005.

## **Statutory and regulatory background**

**19.3** The Active and Closed Funds are part of the Local Government Pension Scheme (LGPS). The principal regulations are the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016. Reflecting the statutory framework for all public service pension schemes prescribed in the Public Service Pensions Act 2013, they set out the provisions relating to membership, benefits, contributions, funding and investment matters. Other regulations relate to such matters as taxation, discretionary benefits and certain transitional arrangements.

**19.4** The Department for Communities and Local Government issues statutory guidance relating to the governance and administration of the LGPS. The Pensions Regulator is responsible for the oversight of such matters, in accordance with the relevant regulatory requirements. Other bodies such, as the Government Actuary's Department and the Pensions Ombudsman, have regulatory responsibilities which also impact on the LGPS.

## **Environment Agency as administering authority**

**19.5** The Environment Agency is the administering authority for both Funds. In that capacity, it owes fiduciary obligations to the beneficiaries under general public principles, and is required to ensure the prudent management of the Funds' assets. Those assets are held and managed separately from the Environment Agency's other assets.

**19.6** In its role as the administering authority, the Environment Agency commissions triennial valuations. These valuations assess the financial health of each Fund relative to their liabilities, and provide the basis of forward-looking funding agreements with all the employers participating in the Funds, and feed into the Funds' ongoing investment strategies. In addition, an annual report and audited financial statements relating to each Fund are prepared and externally audited.

## **Pensions Committee**

**19.7** The Environment Agency Board has delegated its administering authority responsibilities to a Pensions Committee. The basis of such delegation is set out in formal Terms of Reference and a Scheme of Delegation. The Pensions Committee therefore acts as the administering authority for both Funds, in accordance with powers and duties delegated to it by the Board.

## **Environment Agency as scheme employer**

**19.8** As a scheme employer in the LGPS, the Environment Agency is required to deduct and pay member and employer contributions into the Active Fund. The level at which employer contributions are payable is set at the time of each triennial valuation. Any other employers participating in the Active Fund have similar obligations.

**19.9** The Environment Agency can exercise certain scheme employer discretions under the LGPS Regulations, and these are set out in a written discretions policy.

**19.10** The Environment Agency is responsible for paying out of revenue certain other pension liabilities relating to legacy pension arrangements. The funding cost for these liabilities is projected by the pension fund actuaries and funded through a separate ring-fenced portion of grant-in-aid paid by Defra.

**19.11** The Environment Agency's scheme employer responsibilities are not delegated to the Pensions Committee.

## **20. Review of Environment Agency status (and winding-up arrangements)**

**20.1** The Environment Agency will be reviewed in line with Defra and Cabinet Office requirements.

### **Arrangements in the event that the Environment Agency is wound up**

**20.2** Defra shall put in place arrangements to ensure the orderly winding up of the Environment Agency. In particular it should ensure that the assets and liabilities of the Environment Agency are passed to any successor organisation and accounted for properly. To this end, Defra shall:

- ensure that procedures are in place in the Environment Agency 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 Environment Agency assets and liabilities;
- ensure that arrangements are in place to prepare closing accounts and pass to the C&AG for external audit, and that, for non-Crown bodies funds are in place to pay for such audits. It shall be for the C&AG to lay the final accounts in Parliament, together with his report on the accounts;
- arrange for the most appropriate person to sign the closing accounts. In the event that another organisation takes on the role, responsibilities, assets and liabilities,

the succeeding Accounting Officer should sign the closing accounts. In the event that Defra inherits the role, responsibilities, assets and liabilities, Defra's Accounting Officer should sign;

- ensure that the Environment Agency Chief Executive has the support that he/she requires from Defra Corporate Services in order to discharge their duties in this event;
- ensure the statutory obligations in relation to the Environment Agency Active and Closed Pension Funds are passed to a successor body in line with LGPS Regulations and overriding pension legislation.

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

# Signatures

## For Defra

Signed

A handwritten signature in black ink, appearing to be 'Peter Lee', written in a cursive style.

(on behalf of Defra)

Peter Lee

Director (Devolution, Legislation, Governance and Private Office)

## For Environment Agency

Signed

A handwritten signature in blue ink, appearing to be 'James Bevan', written in a cursive style.

James Bevan

Chief Executive, Environment Agency

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

The Environment Agency shall comply with the following general guidance documents and instructions:

This Framework Document;

Appropriate adaptations of sections of *Corporate Governance in Central Government Departments: Code of Good Practice*

<https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments>;

*Code of Conduct for Board Members of Public Bodies*

<https://www.bl.uk/aboutus/governance/blboard/BoardCodeofPractice2011.pdf>

*Managing Public Money* (MPM); <https://www.gov.uk/government/publications/managing-public-money>

Cabinet Office Code of Good Practice Partnerships between departments and arm's-length bodies

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/594345/Partnerships\\_between\\_departments\\_and\\_arm\\_s\\_length\\_bodies-code\\_of\\_good\\_practice.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/594345/Partnerships_between_departments_and_arm_s_length_bodies-code_of_good_practice.pdf)

Fees and Charges Guide, Chapter 6 of *Managing Public Money*;

Departmental Banking: A Manual for Government Departments;

Relevant Freedom of Information Act guidance and instructions (Ministry of Justice);

Public Sector Internal Audit Standards,

<https://www.gov.uk/government/publications/public-sector-internal-audit-standards>

Management of Risk: Principles and Concepts;

<https://www.gov.uk/government/publications/orange-book>

HM Treasury Guidance on Tackling Fraud,

[http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/managing\\_the\\_risk\\_fraud\\_guide\\_for\\_managers.pdf.pdf](http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/managing_the_risk_fraud_guide_for_managers.pdf.pdf);

Government Financial Reporting Manual (FReM),

<https://www.gov.uk/government/publications/government-financial-reporting-manual>;

Regularity, Propriety and Value for Money,

[http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/psr\\_governance\\_valueformoney.htm](http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/psr_governance_valueformoney.htm);

The Parliamentary and Health Service Ombudsman's Principles of Good Administration

<http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples> ;

Relevant Dear Accounting Officer letters;

Consolidation Officer Memorandum, and relevant DCO letters;

Recommendations made by the Public Accounts Committee, or by other Parliamentary authority, that have been accepted by the Government and relevant to the ALB.