



Department for  
Communities and  
Local Government

Local Government  
**OMBUDSMAN**

Framework Document between the  
Department for Communities and Local  
Government and the Commission for Local  
Administration in England

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# Contents

1. Introduction
2. Purpose of the Commission for Local Administration in England
3. Governance and accountability
4. Management and financial responsibilities
5. Financial Management
6. Activities requiring Department for Communities and Local Government clearance, including delegations
7. The employment of staff
8. Arrangements for review

# 1. Introduction

- 1.1 This framework document has been drawn up by the Department for Communities and Local Government (hereafter referred to as “the Department”) in consultation with the Commission for Local Administration in England (hereafter referred to as “the Commission”) and has been agreed by the Secretary of State for Communities and Local Government. Treasury officials have commented on the draft.
- 1.2 The governance of the Communities and Local Government Group (the central Department and the Arms Length Bodies sponsored by it) is based on the principle of earned autonomy within an agreed framework of accountability, transparency and responsibility. This framework allows Ministers and the public to benefit from the clear focus on delivering specified outputs whilst ensuring that Ministers, Parliament and the public are assured of the highest standards of public service, delivered in line with recognised principles of good corporate governance.
- 1.3 The primary vehicle for agreeing both the degree of autonomy and the framework of accountability is a Framework Document. It sets out the roles and responsibilities as well as expectations on monitoring, reporting and exchange of information. It is an agreed document between the Department and the Commission but ultimately remains the Department’s document. It should be reviewed at least every three years to ensure it reflects the current relationship.
- 1.4 The framework is underpinned by the understanding that the Commission and the Department will work closely together to ensure the maintenance of an efficient and effective Local Government Ombudsman scheme which secures wide and direct access for citizens seeking independent redress for maladministration and service failure, and which acknowledges the independent individual authority of the Local Government Ombudsmen to decide complaints brought to them.
- 1.5 The Government expects all Non-Departmental Public Bodies to be reviewed at least once every three years. The reviews will have two principle aims:
  - to provide a robust challenge of the continuing need for individual, Non-Departmental Public Bodies – both their functions and their form; and
  - (where it is agreed that a particular body should remain as an Non-Departmental Public Body) to review the control and governance arrangements in place to ensure that the public body is complying with recognised principles of good corporate governance.
- 1.6 In line with Government policy, the Department will also - along similar lines - regularly review Arms Length Bodies that do not carry Non-Departmental Public Body status. The Commission is therefore subject to Government Non-Departmental Public Body triennial reviews. The next review will be in 2016/2017.
- 1.7 Detailed guidance underpinning the principles set out in the Framework Document will be set out periodically through the issue of financial management notes, which

are guidance notes issued by Treasury from time to time in order to set out, for the mutual benefit of the Department and Commission, how particular accounting or management processes or initiatives will work. These financial management notes underpin the framework. They will not, however, change the meaning or intention of the framework and will not normally require formal adoption by the Commission. Compliance with these Treasury guidance notes will be mandatory for both the Commission and the Department.

- 1.8 The Framework Document also sets out requirements and makes general provision related to the payment and expenditure of public money and governs the formal sponsorship relationship between the Commission and the Department. Particular regard should be taken of relevant HMTreasury guidance including *Managing Public Money* and *Consolidated Budgeting Guidance*.
- 1.9 The framework clarifies the reciprocal arrangements in relation to: governance and accountability; management and financial responsibilities; Departmental clearance and delegations; and the employment of staff. The statute setting up and governing the Commission and any other legislation relevant to the operation of the Commission takes precedence over any provision of the framework that is found to be in conflict with such legislation.
- 1.10 Both the Department and the Commission will carry out their responsibilities under this Framework, and deal with requests associated with their respective responsibilities in a timely manner.
- 1.11 Copies of this document have been placed in the Libraries of both Houses of Parliament and made available to members of the public on the Commission's and the Department's websites.

## 2. Purpose of the Commission for Local Administration in England

- 2.1 The Commission for Local Administration in England was established by the Local Government Act 1974 as a body corporate, to provide the Local Government Ombudsman scheme. It provides for a Commission to consist of the Commissioners for Local Administration and for appointments to the office of Commissioner for Local Administration to be made by Her Majesty The Queen on the recommendation of the Secretary of State. The Act also provides for the Secretary of State to give Grant-in-Aid to cover the expenses of the Commission and to approve the terms and conditions on which any employees are engaged. The Commission is one of the Department's sponsored bodies.
- 2.2 The Commission's mission statement is to provide an independent means of redress to individuals for injustice caused by unfair treatment or service failure by local authorities and care providers and to use its learning to promote good public administration and service improvement.
- 2.3 The Commission's strategic objectives are:
- to provide a complaints-handling service direct to the public which is accessible, responsive, consistent and cost-effective;
  - to ensure sound decisions and appropriate redress based on impartial, rigorous and proportionate investigations;
  - to draw on its knowledge and insight from individual complaints, to identify best practice and issues of wider public benefit to bodies in jurisdiction and external stakeholders, to promote good public administration and service improvement and to influence public policy; and
  - to ensure the proper stewardship of public funds through the proper use of resources and effective public accountability.

## 3. Governance and Accountability

- 3.1 This section sets out the legal basis for the Commission's powers and duties and the individual independent authority of the Local Commissioners for administration; the collective responsibilities of the members of the Commission and the responsibilities of the Department to the Commission; the roles of the Commission's chairman and vice-chairman; the responsibilities and accountabilities of the Department for Communities and Local Government's Ministers and the Department's Accounting Officer; and the responsibilities and accountabilities of the Commission's Accounting Officer. It also sets out the Commission's responsibilities to report annually and conduct internal and external audit.
- 3.2 This framework allows Ministers and the public to benefit from the clear focus on delivering specified outputs whilst ensuring that Ministers, Parliament and the public are assured of the highest standards of public service, delivered in line with recognised principles of good corporate governance.

### The legal origins of the Commission for Local Administration in England's powers and duties

- 3.3 The Commission's statutory powers and duties (see Appendix 1) stem from Part 3 of the Local Government Act 1974 (as amended by the Local Government and Public Involvement in Health Act 2007, the Health Act 2009 and the Apprenticeships, Skills, Children and Learning Act 2009). The Act provides;
- for the appointment of Local Commissioners who, together with the Parliamentary Commissioner for Administration as an *ex officio* member, form the Commission. Appointments to the office of Local Commissioner are made by Her Majesty the Queen on the recommendation of the Secretary of State for Communities and Local Government. Commissioners may be appointed to serve full or part time and must be appointed for a period of not more than seven years. The Secretary of State also designates one of the Local Commissioners as Chairman and another as Vice Chairman of the Commission; and
  - for the Commission to be paid each year such amount as the Secretary of State determines is required for the discharge during that year of the Commission's functions.

## Independence of the Local Commissioners for Administration

- 3.4 Each Local Commissioner has personal authority to investigate cases of alleged injustice arising from maladministration and service failure on the part of local authorities and certain other bodies for a specific category and/or area of England and is supported in this task by teams of investigative staff. The powers and duties conferred on each Local Commissioner under the Act (as amended) are independent from their role as members of the Commission.
- 3.5 Individual Commission members must comply with the *Code of Conduct for Commission Members* and with the rules relating to the use of public funds and conflicts of interests.
- 3.6 Individual Commissioners also undertake to represent and promote the work of the Commission externally in his or her designated area.

## Corporate responsibilities of Commission members

- 3.7 The Commissioners have collective corporate responsibility (acting as the Commission) as follows:
  - ensuring that high standards of corporate governance are observed at all times;
  - establishing the overall strategic direction of the organisation, within statutory limits, and taking forward the mission and strategic objectives of the Commission consistent with its overall strategic direction and within the resources framework determined by the Secretary of State;
  - approving the corporate plan and annual business plan;
  - ensuring that the responsible Minister is kept informed of any changes which are likely to impact on the strategic direction of the Commission and determining the steps needed to deal with such changes;
  - ensuring that any statutory or administrative requirements for the use of public funds are complied with, that the Commission operates within the limits of its statutory authority and any delegated authority agreed with the Department, and in accordance with any other conditions relating to the use of public funds; and that, in reaching decisions, the Commission takes into account guidance issued by the Department;
  - ensuring that the Commission receives and reviews regular financial information concerning the management of the Commission; is informed in a timely manner about any concerns about the activities of the Commission or

the Local Commissioners; and provides positive assurances to the Department that appropriate action has been taken on such concerns;

- ensuring that effective arrangements are in place to provide assurance on risk management, governance and internal control;
- ensuring that the Commission effectively performs its functions within the funding that Government and Parliament has provided; and
- approving the Annual Report and Accounts.

## The Roles of Chairman and Vice Chairman of the Commission

3.8 In accordance with section 23(7) of the Local Government Act 1974 the Secretary of State shall designate two of the Local Commissioners for England as Chairman and Vice Chairman respectively of the Commission for Local Administration in England.

3.9 The duties of the Chairman, as agreed by the Commission, are set out below. The Vice Chairman undertakes these duties in the absence of the Chairman:

- formulates the Commission's strategic direction and strategies for discharging its statutory functions;
- encourages high standards of propriety and promoting the efficient and effective use of staff and other resources;
- ensures the Commission, Local Commissioners and Commission officials properly discharge their statutory functions;
- chairs meetings of the Commission;
- decides business to be conducted by the Commission;
- acts on behalf of the Commission in circumstances agreed by the Commission or where an urgent decision is required;
- participates in the selection of other Local Commissioners for Administration in England; and
- takes the lead in representing the Commission externally.

3.10 The Commission Chairman is personally responsible to the Secretary of State for Commission policies and for the effectiveness and probity with which it conducts its affairs. Communications between the Commission and Ministers will normally be through the Chairman.

- 3.11 The Chairman will ensure that all members of the Commission, when taking up office, are fully briefed on the terms for their appointment and on their duties, rights and responsibilities.

## Commission Operating Officer of the Commission

- 3.12 The Commission's Commission Operating Officer will be responsible for the effective operation of the Commission, managing the budget, liaising with the Department, acting as Secretary and principal corporate adviser to the Commission, and the Department's nominated Accounting Officer. In addition he or she is responsible for ensuring that effective procedures for handling complaints about the Commission are maintained.
- 3.13 The Commission Operating Officer is responsible for ensuring that the Commission progress against the performance framework and measurable targets included in its Corporate Plan and annual Business Plan is scrutinised regularly.

## Responsibilities of the Department for Communities and Local Government to the Commission for Local Administration in England

- 3.14 The Department for Communities and Local Government is responsible for:
- ensuring that, in so far as is practical, the Commission is consulted in good time by the relevant Department on any aspects of policy development that impact on their or the Local Commissioners' jurisdiction or powers;
  - keeping under review, through the triennial review process, the statutory provisions that govern the work of the Commission and the Local Commissioners, ensuring that they are correct, comprehensive and fit for purpose;
  - maintaining regular liaison arrangements with the Chairman on behalf of the Commission, agreeing to meet once every month or such other periods as may be agreed from time to time;
  - maintaining appropriate and regular communication and advice to the Commission at appropriate levels on expenditure matters;
  - ensuring that where new data is requested from the Commission that the purpose of the request is provided and account is taken of the collection burden on the Commission. In addition the Commission should be given feedback on how the data is used; and
  - ensuring that the Department has regard to the statutory obligations of the Commission when putting estimates to Parliament.

## **Responsibilities of Department for Communities and Local Government Ministers**

- 3.15. The Secretary of State is accountable to Parliament for the degree of independence which the Commission enjoys, for the appropriateness of its statutory functions and for the overall effectiveness and efficiency with which it exercises those functions. Ministers also remain accountable to Parliament for public money spent by the Commission, even though the Commission operates at arm's length with their own designated Accounting Officers.
- 3.16 The responsibilities of the Secretary of State are:
- agreeing the Commission Corporate Plan and annual Business Plan, which includes the performance framework and measurable targets for the Commission's activities;
  - following each Spending Review, setting the level of public resources available to the Commission for delivering its statutory functions;
  - agreeing the level of Grant-in-Aid allocation required to support the resource (and any capital) budgets (Departmental Expenditure Limits) available to the Commission subject to Parliamentary approval through the Estimates process;
  - designating the Chairman and Vice Chairman of the Commission, setting terms and conditions of such appointments;
  - to determine the terms and conditions on which any employees are engaged; and the matters to which the Secretary of State may have regard when making any such determination, may include any proposals that the Commission make on pay schemes and staff remuneration, following recommendation of the Commission's remuneration committee;
  - to approve the initial and any subsequent Framework Documents;
  - to consider the Commission's overall strategic role and remit through the Commission's triennial review and, having regard to the triennial review, determining if any legislation is required;
  - to pay the Local Commissioners and their officers such amounts, by way of remuneration, pensions, allowances or gratuities or by way of provision for any such benefits as he determines; and
  - in determining remuneration and pay, the Secretary of State may have regard to the recommendations of the Commission's Remuneration Committee (being a remuneration committee advising on issues relating to pay and allowances) as appointed by the Commission.

## Department for Communities and Local Government's Accounting Officer's specific accountabilities and responsibilities

- 3.17 The Permanent Secretary of the Department for Communities and Local Government is the Principal Accounting Officer of the Department for Communities and Local Government as a whole. As such the Permanent Secretary has a duty to satisfy himself that Arm Length Bodies sponsored by the Department for Communities and Local Government have adequate financial systems and procedures in place to promote the efficient and economical conduct of their business and to safeguard financial propriety and regularity. The Permanent Secretary also advises the Ministers for Communities and Local Government on the allocation of Departmental resources. He is supported in this role by the Department for Communities and Local Government's Investment and Finance Sub-Committees.
- 3.18 The responsibilities of both the Department's and Commission's Accounting Officers are set out in more detail in *Managing Public Money*<sup>1</sup> and take precedence over those Accounting Officers established by delegation. In particular in relation to the Commission, the Department for Communities and Local Government's Accounting Officer has the following responsibilities:
- designating the Commission Accounting Officer (who will normally be the Commission Operating Officer of the Commission) and issuing the terms and requirements of the post of Accounting Officer;
  - ensuring that procedures are designed to achieve organisational objectives whilst ensuring a high standard of financial management; ensuring that financial systems and procedures promote the efficient and economical conduct of business and safeguard financial propriety and regularity throughout the Department; ensuring that financial considerations are fully taken into account in decisions on policy proposals;
  - ensuring that arrangements are in place inside the Commission and within the Department to monitor the Commission's corporate activities on an ongoing basis and to ensure that the financial and other management controls applied by the Department to the Commission are appropriate and sufficient to safeguard public funds;
  - where applicable, scrutinising the processes used by the Commission for the selection and appraisal of programmes and projects (which should use the Treasury's *Green Book - Appraisal and Evaluation in Central Government* (<http://greenbook.treasury.gov.uk>) to evaluate alternatives, and ensuring that suitable project and programme management techniques, such as Office of Government Commerce Gateways, are used to track and where necessary adjust progress;

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<sup>1</sup> [http://www.hm-treasury.gov.uk/psr\\_managingpublicmoney\\_publication.htm](http://www.hm-treasury.gov.uk/psr_managingpublicmoney_publication.htm)

- ensuring that the organisation's procurement procedures and projects are systematically evaluated and assessed to provide confidence about their suitability, effectiveness, prudence, quality, and value for money;
- monitoring compliance by the Commission with all such arrangements and controls;
- ensuring that the internal controls applied by the Commission conform to the requirements of regularity, propriety and good financial management; and that the Commission supplies to the Department an adequate flow of information on matters of strategic, operational and financial performance, budgeting, control and risk management, including the Commission's Governance statement (this replaces the Statement on Internal Controls). Further, the Departmental Accounting Officer may instigate such investigations as he considers appropriate or necessary under advisement by the Department for Communities and Local Government's Audit and Risk Committee and other stakeholders;
- ensuring that appropriate due diligence has been carried out, and that appropriate internal controls have been established by the Commission Accounting Officer; and
- being accountable to Parliament (particularly before the Public Accounts Committee) for the payment of Grant-in-Aid to the Commission, and for ensuring that this is within the ambit and the amount of the Request for Resources, and that Parliamentary authority has been sought and given.

3.19 The Department's Accounting Officer is accountable to Parliament for the issue of any Grant-in-Aid to the Commission. The Department's Accounting Officer is also responsible for advising the responsible Minister on an appropriate framework of objectives and targets for the Commission in the light of the Department's wider strategic aims; on an appropriate budget for the Commission in the light of the Department's overall public expenditure priorities; and how well the Commission is achieving its strategic objectives and whether it is delivering value for money.

3.20 The Department's Accounting Officer is also responsible for ensuring any significant corporate problems in the Commission are addressed. Exceptionally, the Department's Accounting Officer may need to intervene if the Commission drifts significantly off track, e.g. if its budget is threatened, its systems are badly defective or it falls into disrepute. This may include replacing some or all of the leaders of the Commission, possibly even its Accounting Officer.

3.21 The Department's Deputy Director, responsible for the sponsorship of Commission, is the primary contact for the Commission and is the main source of advice to the responsible Minister on the discharge of his or her responsibilities in respect of the Commission. He or she also supports the Department's Accounting Officer on his or her responsibilities toward the Commission.

# Responsibilities of the Commission's Accounting Officer

## General

- 3.22 For the purposes of financial management the Commission, which is an Arms Length Body of the Department for Communities and Local Government, will be treated as if it were an Executive Non-Departmental Public Body.
- 3.23 The Accounting Officer of the Commission carries similar responsibilities to those of the Departmental Accounting Officers for the stewardship of public funds, including responsibilities for ensuring that the accounts of the Commission are properly presented, for good financial management, and for advising the Commission on matters of propriety and regularity and prudent and economical administration, efficiency and effectiveness. These responsibilities are set out in more detail in a letter from the Department's Principal Accounting Officer and in the Accounting Officer Memorandum which is published in HM Treasury guidance, *Managing Public Money*.

## Responsibilities for accounting to Parliament

- 3.24 The main accountabilities of the Commission's Accounting Officer are:
- ensuring that the Commission accounts are properly kept, prepared and presented in accordance with accounting standards and any directions issued by the Department;
  - ensuring that adequate internal management and financial controls are maintained, including effective measures against fraud, misappropriation and theft;
  - acting in accordance with the terms of this document and in compliance with directions and guidance from the Government on financial management, including HM Treasury guidance *Government Accounting* and *Managing Public Money* and other instructions and guidance issued from time to time by the Department, the Treasury and the Cabinet Office;
  - signing a Statement of Accounting Officer's responsibilities, for inclusion in the annual report and accounts;
  - signing a Governance Statement (formally Statement of Internal Controls) regarding the system of internal control, for inclusion in the annual reports and accounts;
  - giving evidence, normally with the Department's Accounting Officer, when summoned before the Public Accounts Committee (PAC) on the Commission's stewardship of public funds; and
  - taking action as set out in the Accounting Officer Memorandum if the Commission, or its Chairman, is contemplating a course of action which he or she considers would infringe the requirements of propriety or regularity, or

does not represent prudent or economical administration, or efficiency or effectiveness in value for money terms.

## Responsibilities to the Department for Communities and Local Government

### 3.25 The Commission's Accounting Officer will:

- ensure that accurate forecasts and monitoring information on performance and finance are provided to the Department in the format, within deadlines and in the level of detail as set out under Departmental guidance *Resource Management and Corporate Governance (for Arm Length Bodies)* and any other guidance issued by the Department;
- ensure that appropriate corrective action is taken to avoid overspending or underspending its Grant-in-Aid and that the Department is notified promptly when overspending or underspending is likely together with the detailed reasons for it, including any financial risks and issues and details of the programme expenditure affected by it;
- ensure that any significant problems, including financial, are immediately notified to the Department with proposals to address them where possible;
- sign off Grant-in-Aid claims and financial data returns to the Department have been made in accordance with *Managing Public Money*.
- The Commission's Accounting Officer has an obligation to ensure that the Commission works effectively in accordance with the Government Code of Good Practice on Corporate Governance and advises the responsible Departmental Minister when any Local Commissioner vacancies arise.

## Responsibilities to the Commission for Local Administration in England

### 3.26 The Commission's Accounting Officer is responsible for:

- ensuring that proper financial procedures are followed and records maintained;
- ensuring that resources are properly and well managed and safeguarded;
- ensuring that assets such as land, building and equipment are controlled and safeguarded;
- when policy proposals are considered, ensuring that all relevant financial considerations, including issues of propriety, regularity and value for money are taken into account;
- advising the Commission on its performance compared with its aims and objectives;

- advising the Commission on matters of financial probity and regularity and, more broadly, on considerations of prudent and economical administration, efficiency and effectiveness. The Commission's Accounting Officer should advise the Department where that advice is overruled on these issues;
- ensuring that managers, at all levels, have a clear view of the Commission's objectives and performance and are assigned well defined responsibilities for making best use of resources and have the necessary information to carry them out;
- maintaining a Risk Register in accordance with the Treasury's *Orange Book: Management of Risk – Principles and Concepts*<sup>2</sup> operating a system of risk management to inform financial and operational decisions and assist in achieving objectives and targets, and ensuring the Commission's involvement in the strategic and operational risk management process; and
- ensuring that all material, relevant financial considerations are taken fully into account by Commission at all stages in reaching and executing its decisions as part of its governance and approval processes, and that standard financial appraisal techniques are followed using the Treasury's *Green Book, Appraisal and Evaluation in Central Government*<sup>3</sup> to evaluate alternatives, and good quality project and programme management techniques, such as Office of Government Commerce Gateways, are used to track and where necessary take corrective action.

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<sup>2</sup> <http://www.hm-treasury.gov.uk/media/3/5/FE66035B-BCDC-D4B3-11057A7707D2521F.pdf>

<sup>3</sup> <http://greenbook.treasury.gov.uk>

## Consolidation of Accounts

- 3.27 The Commission falls within the Department's consolidation boundary as set in annual Designation Orders, unless otherwise agreed. Accordingly the Commission must produce such consolidation packs as required in a format and to a timetable specified by the Department to produce compliant Resource Accounts as part of ensuring the accounts of the Commission are consolidated in the Department's Resource Accounts. The Commission's accounts should be prepared in accordance to the Government Financial Reporting Manual issued by HM Treasury which states that a Department shall produce consolidated accounts inclusive of any bodies within its accounting boundary. The Department will consider precedents of other Ombudsmen and other Arms Length Bodies similarly classified by the Office for National Statistics to un-designate the Commission from the consolidation boundary.
- 3.28 The Commission, like other Arms Length Bodies within the consolidation boundary, is required to undertake a formal assurance exercise of their internal controls and compliance. The outcome will inform the Department's Governance Statement which replaces the Statement on Internal Control (SIC) in accordance with HM Treasury.

## Annual report and accounts

- 3.29 After the end of each financial year the Commission will publish an Annual Report of its activities, together with its audited Annual Accounts. These should normally be prepared within three months of the end of the financial year to allow them to be laid before Parliament before the summer recess and no later than six months after the end of the financial year.
- 3.30 As the Commission accounts are consolidated with those of the Department, the Commission must comply with Departmental consolidation requirements including timetable, year end and in-year reporting and group accounting policies, including the Government Financial Reporting Manual. The accounts must be prepared in accordance with the relevant statutes and HM Treasury and Departmental guidance on accounts completion.
- 3.31 The Report and Accounts will outline the Commission's main activities and performance against targets during the previous financial year and set out its forward plans in summary form.
- 3.32 A draft of the Commission's Annual Report and Accounts must be submitted to the Department's sponsorship team and to the Department's Director of Finance, allowing sufficient time (at least three weeks) for comment by the Department and for the Commission to consider any comments and make any amendments it so wishes prior to publication.

- 3.33 The Report and Accounts will be laid before Parliament on behalf of the Secretary of State by the Department. Neither the Report and Accounts nor any information taken from them must be made public before then. The Report and Accounts must subsequently be made available on the Commission's website.
- 3.34 A draft of the Commission's Governance Statement (formally the Statement of Internal Control) will be shared with the Department's sponsorship team, allowing sufficient time (at least three weeks) for comment by the Department and for the Commission to consider any comments and make any amendments it so wishes prior to publication.

## Internal audit

- 3.35 The Commission must establish and maintain arrangements for internal audit in accordance with the HM Treasury's *Government Internal Audit Standards*<sup>4</sup>. The Commission must not appoint the Head of Internal Audit until the Department's Accounting Officer is satisfied with the competence and qualifications of the person proposed for the appointment.
- 3.36 The Commission will set up an Audit Committee, chaired by an independent member, as a sub-committee of the Commission in accordance with the Cabinet Office's Guidance on *Codes of Practice for Public Bodies* and HM Treasury's Audit Committee guidance, to assure the Commission of the effectiveness of the internal control and risk management systems.
- 3.37 The Commission will arrange for independent periodic quality reviews of its internal audit in accordance with the Government Internal Audit Standards which will be made available to the Department. The Department will consider whether it can rely on these reviews to provide assurance on the quality of internal audit but reserves a right of access to carry out its own independent reviews of internal audit.
- 3.38 Where auditors identify issues deemed high priority the Department, via the sponsor team, is made aware of these promptly or at the next bi-lateral meeting.
- 3.39 The Department's Internal Audit Service has an automatic right of access to all documents prepared by the Commission's internal auditor or otherwise relating to internal audit, including where the service is contracted out (the Commission must ensure that the terms of appointment of an external auditor ensure that the Commission can facilitate access to all documents and other information relating to audit activity). The audit strategy, periodic audit plans and annual audit report, including the Commission's Head of Internal Audit's opinion on risk management, control and governance shall be forwarded as soon as possible to the Department's sponsorship team and the Department's Head of Internal Audit. Copies of audit reports must be submitted to the Department. Where the Department's Internal

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<sup>4</sup> [http://www.hm-treasury.gov.uk/d/internalaudit\\_gias\\_0211.pdf](http://www.hm-treasury.gov.uk/d/internalaudit_gias_0211.pdf)

Audit Shared Services provide that internal audit service to the Commission, that role to the Commission as clients, will be separate, independent and distinct from the Department's separate role on scrutiny of Arm Length Bodies internal audit service.

- 3.40 The Commission must also forward to the Department an annual report on fraud and thefts; notify the Department of any unusual or major incidents as soon as possible; and notify the Department of any changes to Internal Audit's terms of reference or the Audit Committee's terms of reference.

## External audit

- 3.41 The Comptroller and Auditor General may audit the Commission's Annual Report and Accounts. For the purpose of such audits, the Comptroller and Auditor General have a statutory right of access to relevant documents as provided for in the Government Resources and Accounts Act 2000.
- 3.42 The Commission will agree with the Department which auditor it will use. The Department will in turn consult Comptroller and Auditor General and audit colleagues as necessary.
- 3.43 The Comptroller and Auditor General has agreed to share with the Department during the Commission's audit process information coming to light which has or seems likely to have a significant impact on the performance of the Department's sponsorship responsibilities, and, at the end of the audit process, the audit report (together with any other outputs). This applies, in particular, where material issues arise which have an impact on the Department's responsibilities for financial systems within the Commission.
- 3.44 The Comptroller and Auditor General have also agreed to provide the Department with Regulatory Compliance Reports and similar reports, which the Department may request at the commencement of the audit, provided that disclosure is compatible with the role of an independent auditor.
- 3.45 The Comptroller and Auditor General may carry out examinations into the economy, efficiency and effectiveness with which the Commission has used its resources in discharging its functions. For the purpose of these examinations the Comptroller and Auditor General has statutory access to documents under section 8 of the National Audit Act 1983.
- 3.46 In addition, in grant and procurement contracts, the Commission must make provision requiring the grant recipient or the contractor to allow the Comptroller and Auditor General access to documents held by them and any sub-contractor where access is reasonably required for the purpose of these examinations.
- 3.47 The Commission must use its best endeavours to secure access for the Comptroller and Auditor General to any other documents required by the Comptroller and Auditor General which are held by other bodies. The Commission must keep the Department informed of any material discussions or potential material outcomes with the National Audit Office regarding value for money examinations.

3.48 The Department has the right of access to all the Commission records and personnel for any purpose including, for example, sponsorship audits and operational investigations. This does not extend to a right of access to individual case records relating to the investigation of complaints undertaken on behalf of Local Commissioners, which are subject to statutory requirements of confidentiality.

## 4. Management and financial responsibilities

- 4.1 The Commission must follow the standards, rules, guidance and advice in HM Treasury guidance *Managing Public Money*. Any issues or requests for exceptions must be referred to the Department in the first instance and then to HM Treasury via the Department. The Commission must discuss with the Department at an early stage any novel, contentious or repercussive proposals likely to arise on any of its proposed actions.
- 4.2 Detailed guidance on financial and management procedures and processes will be set out in a series of HM Treasury guidance notes which are issued by HM Treasury from time to time. Where such HM Treasury guidance notes are issued, the Commission is required to comply with them in all respects.

### Corporate and business plans

- 4.3 The Commission should submit to the Department, within agreed deadlines, for formal submission, its plans including the Commission's annual business plan along with an updated three year corporate plan for Departmental approval. These plans shall set out the Commission's strategic approach in line with the Commission's strategic obligations and its organisational priorities, as determined from time to time by the Commission.
- 4.4 Subject to any commercial considerations, the corporate plan and an appropriately summarised format of the business plan should be published by the Commission on its website and separately be made available to staff.
- 4.5 The plans will include key objectives and associated key performance targets for the forward years and the strategy for achieving those objectives.

### Setting the Annual Budget

- 4.6 The Commission's budgets have been set as firm for the period up to and including 2014-2015. In year budget reviews cannot be ruled out but the Department would look to minimise such requests.
- 4.7 The Commission's resource consumption and capital expenditure score in the Department's resource and capital in the same way as the Department's own spending. Grant in Aid payments to the Commission are outside of the Department's budget but it is still subject to control as it impacts on the Department's cash position.
- 4.8 The assumption is that funding from each Government Department is ring-fenced, unless this funding is brought within the baseline or agreed by the Department for Communities and Local Government.

## Delegating Budget Allocations

- 4.9 Delegations are personal to the Budget Holder and to their successors in post. Budget Holders may sub-delegate budgets and spending authorities to their own staff, and give authority to sub-delegate further as appropriate, to meet their operational needs. Sub-delegations must be cascaded down to every level where financial decisions are made.
- 4.10 The Commission must maintain appropriate documentation and records for all sub-delegations made within and across their organisation. Documentation will be made available to the Department on request.
- 4.11 Agency staff, interims, contractors, consultants, fixed term appointees and secondees should not normally be given delegation to hold a budget, authorise expenditure, or authorisation to process payments on financial and/or interface systems. In exceptional circumstances, the Commission's Accounting Officer may delegate to temporary staff, although the Department must be consulted, in advance, where such an approach could be novel or contentious.
- 4.12 The Commission are required to ensure that there is appropriate separation of duties in their delegation process. All existing delegations should be reviewed and new delegations issued, where necessary. Delegations that are no longer required must be revoked.

## 5. Financial management

### The Departmental Expenditure Limit (DEL) and Annually Managed Expenditure (AME)

- 5.1 The Commission's resource and any capital expenditure form part of the Department's Resource and Capital Departmental Expenditure Limit. Prior to each financial year as part of the formal statement of annual budgetary provision (see paragraph 4.6) the Commission will receive firm budget allocations for Resource non cash and Capital. The Commission also records some expenditure against Annually Managed Expenditure for which any changes to budgets must be agreed with the Department. A separate Accounting and Management Note provides detail on accounting for expenditure within Resource Accounting and Budgeting rules that the Commission must comply with.

### Other Conditions for Authority to Spend

- 5.2 The Commission has authority to incur expenditure without further reference to the Department once the Commission's budget has been approved by the Department through the issuing of the statement of annual budgetary provision. However, this authority is subject to restrictions imposed by statute, including a requirement for consent for giving financial assistance or in any guidance or direction or as a term of any consent.
- 5.3 Restrictions laid down in this document include the following, to which the Commission's particular attention is drawn as regards incurring expenditure:
- the Commission must comply with the financial delegations set out in this document. These delegations are consistent with any delegations issued to the Department's Departmental Accounting Officer by HM Treasury, and may not be altered without the prior agreement of the HM Treasury;
  - the Commission must comply with the conditions set out in paragraph 6.1 below regarding expenditure on anything which is novel, contentious or repercussive; and
  - the approval of planned expenditure in the Commission's Corporate Plan or budget is subject to the need to seek formal approval from the Department where the expenditure concerned is outside the financial delegations set out in this document or the terms of any general consent given by the Secretary of State under Schedule 4 of the Local Government Act 1974; therefore any spend that is over the Commission's delegation, outside their legal powers, or that is novel or contentious, must have separate Departmental approval through the submission of a robust business case.
- 5.4 In line with HM Treasury guidance *Managing Public Money*, the Commission are required to ensure that the following controls are in place:

- internal controls to provide authority for acquiring the goods or services to be purchased (including controls on new suppliers), within any legal constraints;
- authorisation for payment is separated from the process of making the payment, with appropriate validation and recording at each step;
- checks that the goods or services acquired have been supplied in accordance with the relevant agreement(s) before paying for them;
- payment terms chosen or negotiated to provide good value;
- invoices paid accurately when mature, once and on time, avoiding late payment penalties;
- a balance of preventive and detective controls to tackle and deter fraud, corruption, etc;
- audit trails, which can readily be checked and reported upon both internally and externally; and
- periodic reviews to bring to bear any lessons from internal audit examination or other relevant experience, or to implement developments in good practice.

5.5 Additionally, the Commission is required to ensure that there is full compliance with Cabinet Office, Treasury and Departmental "Spending Controls", including that budget allocations will not be breached, including those areas that are ring fenced.

5.6 The Commission shall ensure that spending decisions are:

- considered and approved through the appropriate channels;
- always approved by the delegated/authorised person;
- not extravagant, wasteful, and represent good value for money;
- able to be justified through a robust and valid business case;
- sustainable;
- actual spending is reviewed on a monthly basis, and corrections and inaccuracies to amounts and/or expenditure codings are identified and addressed;
- actual expenditures are not retrospectively adjusted;
- they promptly support transparency initiatives, including the monthly publication of financial transactions over £250 on the Commission's website;
- expenditure forecasts are reasonable and accurate;
- cash forecasts are reasonable and accurate;
- spending is recorded against the correct budget line;
- financial reports are reviewed/challenged, issues and inaccuracies are addressed; and
- measures are in place to assess and improve financial performance.

- 5.7 That non-compliance could indicate a breach of delegated spending limits, and could lead to irregular expenditure. Where irregular expenditure is identified, the National Audit Office will consider whether this leads to a need for the Comptroller and Auditor General to qualify his regularity opinion.

## Grant-in-Aid and any ring-fenced grants

- 5.8 Grant-in-Aid will be paid to the Commission in monthly instalments, on receipt of a written application from the Commission in a format and to a timetable agreed with the Department. Cash balances from Grant-in-Aid or other Exchequer funds shall be kept at the minimum level consistent with the efficient operation of the Commission. Further details of the process for claiming Grant-in-Aid from the Department will be included in HM Treasury guidance notes. Levels of cash balances and any reserves held will be reviewed every six months by the Department and HM Treasury.

## Changes to in-year Income Estimates

- 5.9 If the negative Departmental Expenditure Limit income realised or expected to be realised in year is less than estimated, the Commission must, unless otherwise agreed with the Department, ensure a corresponding reduction in its gross expenditure so that the authorised provision within the Departmental Expenditure Limit budgets is not exceeded.
- 5.10 If the negative Departmental Expenditure Limit income realised or expected to be realised in the year is more than estimated, the Commission may apply to the Department to retain the excess income for specified additional expenditure within the current financial year without an offsetting reduction to Grant-in-Aid. In considering such applications the Department will take account of competing demands for resources and any decision will need to be consistent with and within Departmental limits set by HM Treasury.

## Income

- 5.11 Income earned by the Commission on its assets, providing those assets are subject to a cost of capital charge within resource non-cash, benefits the resource near-cash Departmental Expenditure Limit budget, up to the level agreed in budgets. Additional income above budget levels may be retained to fund additional resource near cash Departmental Expenditure Limit expenditure with the agreement of the Department. In considering a request for such agreement, the Department will take account of overall HM Treasury limits on the retention of income across the resource Departmental Expenditure Limit as a whole.
- 5.12 Consistent with HM Treasury guidance *Managing Public Money*, any interest earned on cash balances shall be surrendered to the Exchequer and will have no impact on the Commission's budget.

- 5.13 The Department will allow the Commission a tolerance of +/- 10% in year rolling balance to meet any liabilities at year end such as creditors. Otherwise Grant-in-Aid not drawn down by the end of the financial year shall lapse.

## Budget Exchange

- 5.14 Budget Exchange has replaced End Year Flexibility. Provision exists for Departmental Expenditure Limits underspends identified in the run up to the Supplementary Estimate process (by early December at the latest ) to be given up in year and added to Department's Departmental Expenditure Limit totals in the following year. The additional funding in the following year will be used to deal with emerging Departmental spending pressures. There is no provision to carry forward under spends at year end.
- 5.15 In the event that the Department provides the Commission separate grants for specific (ring-fenced) purposes, it would issue the grant as and when the Commission needed it on the basis of a written request. The Commission will provide evidence that the grant is used for the purposes authorised by the Department. The Commission shall not have uncommitted grant funds in hand, nor carry grant funds over to another financial year.

## Spending Controls

- 5.16 The Commission falls within the scope of the spending controls, and should ensure it complies with the set of spending controls, actions and processes.
- 5.17 The aim of the controls, which are administered by the Efficiency and Reform Group in the Cabinet Office, include: i) prompting Departments to reduce spending within areas such as recruitment, property management, Information and Communication Technologies, consultancy and advertising and marketing; ii) setting delegated spending levels, above which value for money (vfm) and affordability will be tested by the Efficiency and Reform Group in the Cabinet Office; and iii) enabling identification of strategic and joined-up opportunities, for example better negotiation of prices with suppliers. Approval for exceptions to any control must be sought from the Efficiency and Reform Group in the Cabinet Office. The processes that the Commission must follow to obtain approval for any exceptions are set out in the Department's Consolidated Spend Control Guidance as updated.

## Transparency

- 5.18 The Commission follow the Transparency Code on data (key terms of the code are at Appendix 3), including making data available to the public in line with the terms of the *Code of Recommended Practice for Local Authorities on Data Transparency*.

## Borrowing

- 5.19 The Commission must follow the guidance in HM Treasury guidance *Managing Public Money* when undertaking borrowing, as it must in relation to all of its activities. The Commission may, for the purpose short-term management of its finances, borrow from any person by way of overdraft or otherwise. Subject to this, the Commission may only borrow from the Secretary of State and as any borrowing undertaken by the Commission (including short term borrowing) impacts on the Department's Departmental Expenditure Limits, must notify the Department in advance and ensure that it has the necessary authority and budgetary cover for any borrowing or expenditure financed by it. The Commission may not borrow in currencies other than sterling.

## Gifts and Bequests Received

- 5.20 The Commission shall make sure any gifts approved are in accordance with the procedures and requirements in HM Treasury guidance *Managing Public Money*. Any that are liquid will be treated as income. The Commission must keep a written record of details of any gifts, bequests and donations received and of their estimated value and whether they are disposed of or retained. The record is to be available for scrutiny by the Commission's external auditors.

## Cash Reserves

- 5.21 No grant or Grant-in-Aid shall be paid in advance of need into any cash reserve held by the Commission. Funds in any reserve may be a factor for consideration by the Department when Grant-in-Aid is determined.

## Banking Arrangements

- 5.22 The Commission's Accounting Officer is responsible for ensuring that the Commission's banking arrangements are in accordance with the requirements of HM Treasury guidance *Managing Public Money* and the Treasury guidance document *Departmental Banking: a Manual for Government Departments*. In particular, he or she must ensure that the arrangements safeguard public funds, are efficient, economical and effective. They must also be suitably structured and offer good value for money. Banking arrangements must be reviewed annually, including the retention of any commercial banking accounts, and a comprehensive review, usually leading to competitive tendering for banking services, must be undertaken at least every three to five years. In addition:-

- sufficient information about banking arrangements must be supplied to the Department's Accounting Officer to enable him to satisfy his or her own responsibilities;
- the Commission's banking arrangements must be kept separate and distinct from those of any other person, corporation or organisation; and

- adequate records are maintained of payments and receipts and adequate facilities must be made available for the secure storage of cash and unused cheques.

## Reporting Financial and Non-Financial Performance against Key Targets

- 5.23 The Commission must operate management information and accounting reporting systems which enable the Commission and Executive to review in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in its agreed Corporate Plan.
- 5.24 The Commission must therefore establish and maintain adequate systems for timely, reliable and consistent recording and forecasting of expenditure and commitments and ensure that forecasts are as accurate as circumstances permit. Key and material assumptions should be reviewed regularly and, where appropriate, discussed with the Department.
- 5.25 The accounting policies and accounting records maintained by the Commission must at all times comply with the Government Financial Reporting Manual, which includes within its scope executive Non-Departmental public bodies. The Department may also require the adoption of group wide accounting policies.
- 5.26 Group wide accounting policies will be recommended by the Accounting Treatment Panel, on which the Commission will be represented.
- 5.27 Performance on the achievement of key objectives must be reported to the Department at least every two months. It is a responsibility of the Commission to ensure that it receives and reviews this financial and non-financial information; is informed in a timely manner about any concerns raised within the Commission or by other persons about the activities of the Commission; provides positive assurance to the Department that appropriate action has been taken on such concerns; and ensures that the Department are made aware of any changes which might impact on the strategic direction or attainability of targets; and to determine the steps needed to deal with such changes.
- 5.28 Performance will be formally reviewed quarterly by the Department. The Department's Director responsible for the sponsorship of Commission will meet with the Chairman of the Commission on a regular basis to discuss the Commission's performance, its current and future activities and any policy developments relevant to its activities. The Commission must take the initiative in informing the Department of material changes in external conditions which make the achievement of objectives more or less difficult, or which have financial or budgetary implications.
- 5.29 In addition, review meetings will be held on a monthly basis between the Commission's Accounting Officer and the Department's Deputy Director responsible for the sponsorship of Commission.

## Financial and Non-Financial Reporting

5.30 The Department has to provide forecast information to HM Treasury on a monthly basis, both for Departmental Expenditure Limits expenditure and cash. HM Treasury monitor this information very closely and use its accuracy as a performance measure for Government Departments. To facilitate this, the Commission is required to submit the following financial information to the Department to a timetable, format and level of detail specified by the Department.

This will include the following information:

- actual expenditure and forecast profiles by month and end year outturn, by **resource and capital budget headings**, broken down to the detail shown in the Treasury Standard Chart of Accounts and otherwise as required by the Department, including reference to separate programmes, and against Departmental Expenditure Limit and Annually Managed Expenditure budget allocations;
- reserves held;
- borrowing;
- **cash management and forecast draw-down of Grant-in-Aid** - HM Treasury impose financial penalties on the Department for poor cash management. The Commission must therefore produce timely monthly cash requirement forecasts one month in advance and up date these with actual requirements at least 7 days in advance of actual cash draw downs. In the event that the Department is penalised by HM Treasury then the Department reserves the right to pass this on to the Commission;
- **workbook returns** - The Commission submit a workbook return each month in accordance with the timetable set out in the Department's annual workbook guidance. This should include actual spend for the month, and a re-forecast of spend for the rest of the year and carried out in accordance with the workbook guidance. This should be as accurate a picture of full year outturn as is achievable at that time;
- **grant-in-Aid** - each month the Department need to provide a cash forecast for the following month's Grant-in-Aid payment. The Commission's budget profile will be used for this purpose unless the Commission inform the Department of any significant expected variances. The budget profile for Grant-in-Aid will be reviewed by the Commission on a quarterly basis. Monthly grant claims should be signed off by the Commission's Accounting Officer confirming the request has been made in accordance with HM Treasury guidance *Managing Public Money*;
- **supplementary process** - within this framework budgetary changes can be made at the Supplementary Estimate - such as the provision for capital Departmental Expenditure Limits spending from within the Commission's

existing resource budget. There is now only one Supplementary Estimate in any financial year; and

- **workbook guidance** – the Commission is required to have regard and act in accordance with the Departmental workbook guidance issued in each financial year.

- 5.31 The Department also expect from the Commission a detailed explanation of any forecast/cash variances, and supplementary changes upon submitting workbook returns. The Commission should ensure these workbook returns should align with their returns to the Department's Accounts Team.
- 5.32 The Commission will provide the Department with monthly non-financial monitoring information to a timetable, format and level of detail as required by the Department.
- 5.33 The Commission's Senior Finance Officer and the Department's Directors of Finance will meet quarterly to review the Commission's financial reports and the achievement of its key financial objectives and targets. These meetings will normally be chaired by the Department's Director of Finance.

## 6. Commission activities requiring Department for Communities and Local Government clearance including delegations

### Novel or Contentious proposals

- 6.1 The Commission must discuss with the Department at an early stage any novel, contentious or repercussive proposals likely to arise with respect to a particular piece of business or proposal, and must obtain the specific approval of the Department before:-
- incurring or making any promise to incur, any expenditure for any purpose which 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; and
  - making any change of policy or practice which has wider financial implications (e.g. because it might prove repercussive among other public sector bodies) or which might significantly affect the future level of resources required.
- 6.2 The requirement in section 6.1 applies whether or not the proposal concerned is subject to any other requirement for consent or approval. Thus, for example, the requirement applies notwithstanding that it involves expenditure below financial delegation limits (see below). Treasury approval is also required in these cases, irrespective of the financial amounts involved.

### Register of Fixed Assets

- 6.3 The Commission must keep an accurate and up-to-date register of fixed assets, and keep the overall level of its fixed assets under regular review, with a view to disposing of any that are surplus to its requirements. The register should be made available for inspection by the Department on request.
- 6.4 Disposal of fixed assets must be undertaken in accordance with the requirements of HM Treasury guidance *Managing Public Money*. Guidance contained in the Office of Government Commerce publications on High Performing Property should also be taken into consideration on disposal of assets. The Commission will also be required to maintain property data within the Office of Government Commerce Electronic-Property Information Mapping Service database.

## Disposal of Assets

- 6.5 In undertaking disposals of any stock, equipment or other assets the Commission shall have regard to relevant guidance in HM Treasury guidance *Managing Public Money* or any successor document. The Commission shall not dispose of any asset(s), where the market value of the asset(s) is £100,000 or more and the proceeds are less than market value, without approval from the Department. In any cases where market value exceeds proceeds from the disposal of publicly funded assets by more than £250,000, the Department will notify Parliament in accordance with the relevant provisions in HM Treasury guidance *Managing Public Money*.
- 6.6 Proceeds from the disposal of assets and any other income accruing to the Commission shall be treated as receipts and will be available to the Commission. Subject to this, the Department will take account of receipts, including any proceeds from asset disposal, when assessing subsequent year grant requirements.
- 6.7 Reporting arrangements for the Commission's disposals, including non-competitive disposals at best consideration, must be agreed with the Department.

## Register, Recovery and Disposal of Assets

- 6.8 In accordance *Managing Public Money* (or any successor document), the Commission shall maintain a record of all fixed capital and other assets - for example, items of equipment, furniture and vehicles - having an initial purchase price exceeding £5,000 (or such other amount as may be determined by the Department from time to time after consultation with the Commission), or an expected lifetime of more than five years, and of all actual and contingent liabilities, including any authorised under paragraph 6.5 and 6.6.
- 6.9 Where the Commission has helped to finance expenditure on the acquisition, construction or enhancement of any fixed asset by means of a grant or any other form of financial assistance given to another party, it must make appropriate arrangements to ensure that:
- no interest in the asset is disposed of by the person who owns the asset without its prior consent;
  - the asset is used for the purpose for which financial assistance was given and no change is made to its use without its consent;
  - if the asset is disposed of or if the asset is used for any other purpose, it can secure the repayment of its due share of the proceeds of the sale or asset value, the due share being determined with regard to all the circumstances, including, in particular, the public benefit derived at the time from the Commission's investment; and
  - the Commission should follow guidance set out in HM Treasury guidance *Managing Public Money*. The Commission must secure the Department's

prior approval to writing off clawback to which it is entitled if it is above the delegated limits in paragraph 6.11 below.

## Lending, Guarantees, Contingent Liabilities, Letters of Comfort

- 6.10 The Commission must not, without the Department's prior written consent, charge any asset or security, give any guarantee or indemnities or letters of comfort or incur any other contingent liability (as defined in HM Treasury guidance *Managing Public Money*), whether or not in a legally binding form.

## Gifts, Write-offs and Special Payments

- 6.11 The Commission shall ensure that all losses are written off and special payments and gifts approved in accordance with the procedures and requirements of Chapter 4 of HM Treasury guidance *Managing Public Money*. The Chairman or Vice-Chairman of the Commission may approve write-offs and special payments up to the following limits without consulting the Department provided all reasonable attempts at recovery have proved unsuccessful.

- (a) Losses - cash losses, unrecovered overpayments to staff (including pay, allowances and superannuation benefits) **£250**

Loss of accountable stores, bookkeeping losses, fruitless payments and constructive losses, claims waived or abandoned (except for claims against Commission staff as above) **£500**

- (b) *Special payments* - compensation including personal injury, traffic accidents, damage to property and ex-gratia payments **£1000**

- c) *Gifts* - up to a value of **£500 in total** per annum

- The Department's prior approval is needed for any cases exceeding these levels and for cases which fall outside these categories, i.e. extra contractual/extra-regulatory or extra-statutory payments, the Department's authority is required before any action is taken;
- The Commission's Chairman may approve special payments in respect of voluntary severance of employment without consulting the Department, subject to the following: The amount is limited to the maximum entitlement permitted under the Commission's redundancy scheme, as agreed with the Department and must be in line with the provisions in HM Treasury guidance *Managing Public Money*;
- The Commission's normal Human Resource procedures have been followed in attempting to resolve the matter in an alternative way; and

- There is a business case that economically justifies the amount,

- 6.12 The Commission shall maintain a record of all losses, special payments and gifts made, giving details of each case. In the case of losses, the details shall include action taken to effect recovery and prevent recurrence. The record is to be available for scrutiny by the Commission's external auditors. These records shall also be available to the Department for inspection on request and a copy formally provided annually no later than the end of May each year.
- 6.13 Gifts by management to staff are subject to the requirements of Cabinet Office guidance on non-pay rewards.

## Leases

- 6.14. Prior Departmental approval must be secured for all property and finance leases. The Commission must have capital Departmental Expenditure Limits provision for finance leases and other transactions which are in substance borrowing. Before entering into any lease (including an operating lease) the Commission must demonstrate that the lease offers better value for money than purchase.
- 6.15 Estates decisions must take full consideration of Department's Building Research Establishment Environmental Assessment Method requirements. Value for money considerations should be approached on a whole life cost basis, taking into account ongoing operating and maintenance costs and any disposal costs and requirements. Decisions must not be solely based on capital costs. Where it is believed that upfront cost constraints prevent choosing the most sustainable option, the case should be referred to the Department for guidance.
- 6.16 The Commission must set up a Property Asset Management Commission or equivalent to oversee its property strategies for its operational office accommodation and provide a Property Asset Management Plan in accordance with the Office of Government Commerce's High Performing Property requirements. The Property Asset Management Plan should be regularly reviewed and submitted to the Department's Group Property Asset Management Commission for endorsement in advance of intended major changes. No new operational office accommodation leases may be taken, no expiring leases may be renewed, and no lease break option may be exercised without the approval of the Department's Group Property Asset Management Board and the Department's Executive Team.

## Fees and Charges

- 6.17 Fees and charges for any services supplied by the Commission must be determined in accordance with HM Treasury guidance *Managing Public Money* (chapter 6 and related annexes).

## Insurance

- 6.18 The Commission shall not take out insurance without the prior approval of the Department other than insurance which is a statutory obligation or which is permitted in HM Treasury guidance *Managing Public Money* to cover other identified risks that could materially affect its ability to discharge its functions. When considering whether to purchase such insurance the Commission shall carry out a rigorous cost benefit analysis as set out in HM Treasury guidance *Managing Public Money* as part of risk assessment undertaken by the Commission's Accounting Officer, and who shall ensure that all practicable steps are taken to minimise the risk. The Commission shall annually review its insurance requirements.

## Competition

- 6.19 Contracts for purchases of works, equipment, goods and services of all kinds, including consultancy appointments, must be awarded on a competitive basis unless there are good reasons to the contrary. The Commission shall establish financial regulations to include arrangements for contract letting and tendering. The Commission shall consult the Department when devising or making significant amendments to these regulations. All contracts should therefore normally be let by means of competitive tender and advertising must be adopted to encourage open, competitive and transparent contract awards, as per Office of Government Commerce Procurement Policy.
- 6.20 The Commission shall maintain a record of all contracts let either by single tender or where the lowest tender is not the one accepted, giving reasons for its decision. The record is to be available for scrutiny by the Commission's external auditors.

## Accommodation

- 6.21 In respect of its property holdings, the Commission will ensure that accurate records are maintained and that accommodation is kept to a standard which complies with all statutory requirements, particularly those relating to Health and Safety. Account should be taken of common good advice from the Office of Government Commerce, who should be consulted on any material changes in accommodation requirements. The evaluation of accommodation requirements should be carried out by a suitably qualified professional adviser in accordance with the guidance contained in the *Appraisal and Evaluation in Central Government: Treasury Guidance* ("the Green Book") and the *Economic Appraisal of Property Options: A manual of procedures and techniques using standard property appraisal techniques*. In accordance with paragraphs 6.14 and 6.16, the Commission will not enter into any agreement for new or additional office space without first consulting the Department.
- 6.22 The Commission may share, sub-let or surrender any interest in its property subject to the limitations and covenants in the lease with the agreement of the Department.

## Property Maintenance

- 6.23 The Commission is responsible for the effective use and management of all its assets, land and buildings. It is also responsible for ensuring that adequate arrangements are in place to maintain accurate and up-to-date records and to ensure that the buildings are maintained (as a minimum to comply with Health and Safety legislation and recommendations) and are used and managed cost-effectively.
- 6.24 Records should include a market valuation (as defined by the Royal Institution of Chartered Surveyors) of property held by the Commission. This should be updated at not less than five year intervals in accordance with external audit requirements. When considering accommodation requirements for its own needs, the Commission must liaise closely with the Office of Government Commerce and should inform the Office of Government Commerce and the Department of any material changes in its accommodation requirements.
- 6.25 The Commission should conform to any mandatory standards required by the Office of Government Commerce, including space usage and annual benchmarking.

## Fraud and Theft

- 6.26 The Commission must adopt and implement policies and practices to safeguard itself against fraud and theft, in line with HM Treasury's guidance; *Tackling External Fraud* and *Tackling Internal Fraud*. The Commission shall inform the Department immediately, in the format specified by HM Treasury guidance *Managing Public Money* about any cases involving fraud, whether confirmed or suspected, irrespective of the amount concerned.

## 7. The employment of staff

- 7.1 The Commission can establish an independent Remuneration Committee to consider and make recommendations to the Commission on pay schemes and the remuneration of staff.
- 7.2 The Commission may appoint a Secretary and such other officers as it considers to be required for the discharge of its functions.
- 7.3 Subject to the provisions of the Framework Document, and Spending Controls and Freezes the Commission has responsibility for the recruitment, retention and motivation of its staff. The Commission must ensure that:
- its rules for the recruitment and management of staff provide for appointment and advance on merit on the basis of equal opportunities for all applicants and staff, regardless of race, colour, ethnic or national origin, age, religion, gender, marital status, disability or sexual orientation. The Commission is subject to the requirements of the Equality Act 2010;
  - the level and structure of its staffing, including gradings and numbers of staff, is appropriate to its functions and the requirements of efficiency, effectiveness and economy;
  - the performance of staff at all levels is satisfactorily appraised and its performance measurement systems are reviewed on a regular basis;
  - its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the Commission's objectives;
  - proper consultation with staff takes place on key issues affecting them;
  - whistleblowing procedures that are consistent with the Public Interest Disclosure Act 1998 are in place;
  - adequate grievance and disciplinary procedures are in place; and
  - a code of conduct for staff is in place which takes account of the Cabinet Office document *Model Code for Staff of Executive Non-Departmental Public Bodies*.

### Payments to Commissioners

- 7.4 The Chairman is designated by the Secretary of State, who determines the levels of remuneration, allowances and pensions to be paid by the Commission. Commission members' (including the Parliamentary Health Service Ombudsman as an ex officio member of the Commission) reasonable actual travel and subsistence costs will be reimbursed by the Commission.

## Staff Costs

- 7.5 The Commission pays Commissioners and its officers such amounts, by way of remuneration, pensions, allowances or gratuities or by way of provision for any such benefits, as the Secretary of State may determine. The Commission may not increase the salaries of the Commissioners or staff, or exceed the pensions or allowances payable to Commissioners or staff, without the prior approval of the Department.

## Pensions Deficit

- 7.6 The Commission is required to report any significant pension deficit to the Department's Secretary of State as soon as the Commission becomes aware of it, with a statement of how the deficit occurred. Where a significant pension deficit issue occurs, the Commission is required to devise and agree a strategy, within two months of becoming aware of the issue with the Department, on taking appropriate and timely action to manage any pension deficit, including details of an appropriate recovery plan.
- 7.7 To mitigate pension deficit issues, Commission should bring to the Department's attention any issues which are significant, or likely to become significant, following triennial valuations, and report to the Department on a quarterly basis on any issues. The Commission is also required to bring to the Department's Secretary of State's attention any other circumstances which have a significant bearing on the solvency and management of the scheme or which may have implications for public expenditure, including advance warning of any significant movements on triennial valuations.
- 7.8 Reports on triennial valuations should be submitted to the Department in a timely manner.

## Performance pay and bonuses

- 7.9 The Commission may devise and operate a scheme of performance pay and bonuses for its officers. Any such scheme requires the prior approval of the Department. The scope for performance pay and bonuses in any year will be subject to the availability of funds within the Commission's budget and in accordance with HM Treasury guidance *Managing Public Money* and any guidance set out by the Department.

## Pay and Conditions of Service/Staff reviews

- 7.10 The Commission is responsible for ensuring staffing resources, including staff structures and grading, are kept under review and best directed towards meeting the Commission's objectives. The grading structure should be underpinned by

appropriate systems for job evaluation. The Commission shall follow Departmental guidance on pay matters, including the consolidated spending guidance (as updated), with Departmental approval required for any proposed major structural changes to pay and grading systems, and any proposals supported by a fully costed business case. The Department will in turn consult Treasury, which has a strategic interest in public sector pay policy generally and in the control of public expenditure.

- 7.11 The Commission is required to provide the Department with details of the National Joint Council pay award levels before agreeing these with its staff.
- 7.12 The Commission must obtain the Department's agreement to all staff terms and conditions, including fringe benefits. All terms and conditions shall conform to any relevant rules or principles notified to the Commission by the Department and must comply with the following general principles:
- all benefits that form part of the remuneration package shall be clearly identified as part of the remuneration package, and costed in money terms as part of the Commission's own audited accounts;
  - the use of non pay benefits shall be justified on a value for money basis; and
  - effective processes and systems shall be maintained to ensure abuse of benefits does not take place and that pressure is not placed on costs.
- 7.13 The Commission must ensure that it has proper mechanisms for monitoring and controlling manpower resources. The Commission must periodically review the outputs of these mechanisms and allow access to the Department for the purpose of carrying out audits.
- 7.14 The Commission must provide the Department with a copy of its Conditions of Service and any subsequent amendments as approved by the Department. The Department may request specific information on staffing and personnel matters, including for the purposes of reporting on the performance and employment policies of the wider Departmental "family" or in order to fulfil Accounting Officer responsibilities. The Commission must submit such information as the Department may reasonably require for these purposes.

## Redundancies and Severance Payments

- 7.15 Proposals on severance payments must comply with guidance in HM Treasury guidance *Managing Public Money* and the Department's Consolidated guidance (as updated), subject to approval limits set out at 6.11.

## 8. Arrangements for Review

8.1. As with other bodies established by statute, the winding up of the Commission would require legislative provisions.

8.2 In such an eventuality the Department shall put in place arrangements to ensure the orderly winding up of the Commission. In particular it should ensure that the assets and liabilities of the Commission 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 the Department). To this end, the Department shall:-

- ensure that procedures are in place in the Commission 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 the Commission's 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 funds are in place to pay for such audits. It shall be for the Comptroller and Auditor General to lay the final accounts in Parliament, together with his report on the accounts; and
- arrange for the most appropriate person to sign the closing accounts. In the event that another body takes on the role, responsibilities, assets and liabilities, the succeeding body's Accounting Officer should sign the closing accounts.

# List of appendices to the document

Appendix 1 – The Commission for Local Administration in England’s statutory duties and powers

Appendix 2 - List of Departmental and Government-wide corporate guidance instructions

Appendix 3 – Transparency

Signed on behalf of the Department for Communities and Local Government

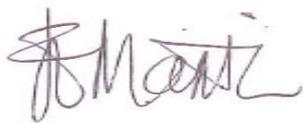
A handwritten signature in black ink that reads "Paul Rowsell". The signature is written in a cursive style and is underlined with a single horizontal line.

Paul Rowsell

A Senior Civil Servant in the Department for Communities and Local Government

Date: 31 July 2013

Signed on behalf of the Commission for Local Administration in England

A handwritten signature in black ink that reads "Dr Jane Martin". The signature is written in a cursive style and is underlined with a single horizontal line.

Dr Jane Martin

Chairman of the Commission for Local Administration in England

Date: 13 August 2013

# Appendix 1

## The Commission for Local Administration in England's statutory duties and powers

The Commission for Local Administration in England's statutory duties and powers are to:

- make arrangements for the Local Commissioners to investigate matters, allocating staff to assist the Local Commissioners and providing offices and other accommodation (paragraph 4(2) of Schedule 4 Local Government Act 1974);
- provide advice and guidance about good administrative practice as appears to be appropriate (s23(12A) Local Government Act 1974);
- pay officers (paragraph 3 of Schedule 4 Local Government Act 1974);
- prepare an annual report on the discharge of their function and submit it to authorities to which Part 3 of the Local Government Act 1974 applies and lay a copy of the annual report before Parliament (s23A Local Government Act 1974);
- divide the matters which may be investigated into such categories as they consider appropriate and allocate responsibility for each category of matter to one or more of the Local Commissioners (s23(8A) Local Government Act 1974);
- make arrangements for Local Commissioners to deal with matters for which they do not have responsibility pursuant to subsection (8A) above) and to publish information about procedures for making complaints (s23(10) Local Government Act 1974);
- undertake a review of the operation of the provisions of Part 3 of the Local Government Act 1974 within every third financial year (s23(12) Local Government Act 1974);
- appoint a secretary and other officers as they may consider to be required for the discharge of their functions (paragraph 4(1) of Schedule 4 Local Government Act 1974); and
- determine their own procedure, including the quorum necessary for their meetings (paragraph 5 of Schedule 4 Local Government Act 1974).

# Appendix 2

## List of Departmental and Government-wide corporate guidance instructions

### **Department for Communities and Local Government Consolidated Spending Controls guidance**

All Departmental Group Arm Length Bodies are deemed to be within scope of the controls, actions and processes. This document (as updated) sets out how the Department for Communities and Local Government is implementing the revised spend controls, actions and processes within the Departmental Group. In some instances, such as Transparency and recruitment the Department has gone further than the HM Treasury and Cabinet Office guidance.

### **HM Treasury guidance: *Managing Public Money and Consolidated Budgeting Guidance***

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/179695/mpm\\_whole.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/179695/mpm_whole.pdf)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/207689/consolidated\\_budgeting\\_guidance\\_201314.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207689/consolidated_budgeting_guidance_201314.pdf)

### **MS FD documents**

These are HM Treasury guidance notes which are issued from time to time by Treasury on financial management, including accounting treatment, and which apply to all Arms Length Bodies.

### **Department for Communities and Local Government Workbook Guidance**

The Department issues guidance annually on the completion of workbooks and assist with financial and non-financial reporting, and which all Arm Length Bodies are required to have regard to.

# Appendix 3

## Transparency

The Commission will adopt a framework for openness in line with "The Code of Recommended Practice for Local Authorities on Data Transparency", and continue to update and amend its transparency framework in line with changes to that Code.

This framework will include, but not be limited to building and maintaining an inventory of the public data that they hold so that people are able to know what is available to them. If public data would be released under Freedom of Information it should be included in the inventory.

As a minimum, the public data that should be released are:

- Expenditure over £250, (including costs, supplier and transaction information). Any sole trader or body acting in a business capacity in receipt of payments of at least £250 of public money should expect such payments to be transparent.
- Senior employee salaries, names (with the option for individuals to refuse to consent for their name to be published), job descriptions, responsibilities, budgets and numbers of staff. 'Senior employee salaries' is defined as all salaries which are above £58,200 and above (irrespective of post), which is the Senior Civil Service minimum pay band. Budgets should include the overall salary cost of staff reporting to each senior employee.
- An organisational chart of the staff structure of, including salary bands and details of currently vacant posts.
- The 'pay multiple' – the ratio between the highest paid salary and the median average salary of the whole of the authority's workforce.
- Staff and Board allowances and expenses.
- Copies of contracts and tenders to businesses and to the voluntary community and social enterprise sector.
- Grants to the voluntary community and social enterprise sector should be clearly itemised and listed.
- Policies, performance, external audits and key inspections and key indicators on Commission's fiscal and financial position.

- The location of public land and building assets and key attribute information that is normally recorded on asset registers

With regards to the provision of public data, in so far as is practical, the following practice should be observed by the Commission:

- Provision of public data should become integral to the Commission's engagement with the public and its applicants. Its availability should be promoted and publicised so that the public knows how to access it and how it can be used. Presentation should be helpful and accessible;
- Public data should be published in a format and under a licence that allows open re-use, including for commercial and research activities, in order to maximise value to the public. The Open Government Licence published by The National Archive should be used as the recommended standard. Where any copyright concerns exist with public data these should be made clear;
- Publication should be in open and machine-readable formats;
- Data should be made published as soon as possible following production even if it is not accompanied with detailed analysis;
- Public data should be as accurate as possible at first publication. While errors may occur, the publication of information should not be unduly delayed to rectify mistakes. Instead, publication should be used to help address any imperfections and deficiencies;
- Where errors in public data are discovered, or files are changed for other reasons (such as omissions), the Commission will publish revised information making it clear where and how there has been an amendment.