Cabinet Office

Checklist for departments

March 2012

Version 2

FOREWORD

On 14 October 2010 the Minister for the Cabinet Office announced an ambitious reform programme across the public bodies landscape, as part of the Government's drive to reform the delivery of public services in the United Kingdom.

This checklist supports departments in implementing these reforms. Just over a year into the reform programme and as the Public Bodies Act enters the statute book, now is an opportunity for the checklist to be reissued.

With thanks to colleagues in departments and to our network of experts across Government, this updated version helps ensure that departments have access to the right advice, best practice and guidance as they continue with implementation of their reforms.

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Cabinet Office
29 March 2012

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INTRODUCTION

The Government's intention is to create a slimmed-down and more efficient centre that enables and empowers, rather than seeking to command and control from Whitehall. Within this new approach, Ministers will take those decisions that should rightly be taken at the centre – and be accountable to elected representatives – but will free the public sector, civil society and the private sector, such as SMEs, to shape and deliver the public services valued by citizens.

The Government's approach to reforming public bodies is based upon the principle that public services and functions should be regularly reviewed to determine whether they are necessary, and that overall responsibility should rest with democratically accountable ministers. The reform programme is therefore fundamentally about restoring accountability to ministers and other elected representatives for public services and functions whilst releasing organisations to deliver public services in the most efficient and effective way possible.

Improving Accountability

The Government started from the premise that public bodies should only exist at arm's length from ministers where there is a compelling reason for their functions to be carried out by an independent body.

Where a function does not need to be undertaken at arm's length from Government, the central aim of the reform programme is to ensure that Ministers are clearly and directly accountable to Parliament for the strategic direction of such functions.

In the instances where it is absolutely right that a body is retained at arm's length, continuing to deliver a function that is needed, it is the responsibility of Government to ensure that appropriate accountability mechanisms are put in place that allow citizens to have a say about how public services are delivered and to hold to account those who are responsible for carrying out public functions.

Other Benefits of the Reforms

Alongside the primary aim of the reforms to increase democratic accountability, Government is strongly committed to removing duplication and waste and creating a simpler landscape of fewer, streamlined public bodies. This will generate significant savings, freeing up taxpayers money so it can either be invested in the front line or contribute to reducing the deficit.

A further benefit is that this simplified landscape will no longer be confusing, distant and impenetrable to citizens, which will help to realise a power shift away from Whitehall, placing control of public services in the hands of people who use them.

The 2010 Public Bodies Review

The Government's 2010 review of public bodies rigorously applied the principle that overall responsibility for public services should rest with democratically accountable ministers to test whether their functions are needed at all and, if they are, whether each of the 904 bodies in scope of the review should continue to operate at arm's length from Government. This decision was based upon three tests:

- Does it perform a technical function?

- Do its activities require political impartiality?

- Does it need to act independently to establish facts?

On 14 October 2010 the Minister for the Cabinet Office announced proposals for reform of public bodies, arising from this review.

Of the bodies reviewed, approximately 500 are to be reformed to some extent. Of these, 200 will cease to be public bodies, with their functions brought back into Government, devolved to local government or an alternative supplier, or abolished altogether.

A further 120 bodies will be merged into 56 bodies and another 175 will be retained but substantially reformed. In total, the number of public bodies will reduce by more than 250.

The Implementation Checklist

Individual government departments are responsible for developing and implementing reforms to their individual public bodies, in partnership with the bodies and engaging with their staff, trade unions and stakeholders. This checklist provides departments with high level pointers on issues which they should consider when implementing their reforms, presented in the form of questions which organisations need to ask themselves to help identify the issues relevant to their particular reforms. Where appropriate, the checklist includes links to other, more detailed guidance available on each topic, as well as contact details for colleagues across government who can provide further advice.

Not all of the issues covered in the checklist are relevant to each body and not all will need the same type or scale of response; the departments are best placed to make this judgement, dependent upon the nature of their particular reforms. This checklist is intended as a generic, high level statement of a range of issues that may need consideration, rather than a source of details of the processes which will need to be followed.

Each department will need to ascertain the legal and administrative processes that must be followed in their particular reforms, which will vary depending on the legal form of each body and the nature of the reforms being made. However, it is

hoped that this checklist provides a good place to start when implementing reforms and a helpful reference guide as these progress.

Future Direction

Once these reforms have been completed, the public bodies landscape will look radically different. As part of the process, Government is fundamentally changing how departments relate to public bodies by strengthening governance arrangements. A new Code of Conduct for board members of public bodies has been rolled out and the principles of good corporate governance have been revised, to ensure that the rules on lobbying and attendance at party conferences are fully understood by departments and public bodies, and properly enforced. Building on the improvements in the accountability of public bodies, this will help to repair the reputation of public bodies in the UK.

The Government will continue with the transformation of public bodies by conducting periodic reviews of the remaining Non-Departmental Public Bodies (NDPBs) – regularly asking the important question of whether public functions are still needed, and if they are, making sure that they are carried out by the most appropriate delivery model.

This will mean that those NDPBs that remain must be reviewed once every three years. The first stage of the review will establish whether the NDPB's functions are still needed and whether an

NDPB remains the most appropriate delivery model. The second stage will examine whether the body's control and governance arrangements meet the recognised principles of good corporate governance, which underpin the Cabinet Office's guidance on triennial reviews published in June 2011.

The reform of public bodies will also play a role in a wider evolution of the delivery of public services; moving towards a more diverse range of providers. These providers may include mutuals, the private sector, charities and social enterprises. The section on 'better models for delivering public services' provides an overview of Government's intention in this area and the process of identifying an appropriate delivery model.

For more on Public Bodies, please go to:

http://www.cabinetoffice.gov .uk/content/public-bodies- and-appointments

The Cabinet Office Public Bodies Reform team welcomes comments and suggested additions to the checklist. Please send comments or queries to:

publicbodiesreform@cabinet- office.gsi.gov.uk

REQUIREMENTS IN IMPLEMENTING REFORMS

In March 2011 the Cabinet Office published a list of requirements in implementing reforms, as Annex B of its response to the Public Administration Select Committee Report *Smaller Government: Shrinking the Quango State*. The response can be found online at: http://www.official-documents.gov.uk/document/cm80/8044/8044.pdf

Below is a refreshed list, bringing together nine 'must do' requirements upon departments and public bodies in implementing reforms.

1. **The appropriate delivery model for providing services must be considered at an early stage in the process of reform.**
   For further information contact the Delivery Models Team at deliverymodels@cabinet-office.gsi.gov.uk.
   Information on public sector mutuals can be found at ww.mutuals.cabinetoffice.gov.uk.

2. **Departments must seek the best value for money (VFM) in terms of existing contracts and managing assets in the round across the department and public bodies.**
   All bodies which are being abolished or merged to provide departmental Accounting Officers with a register of assets. Departments and public bodies must take stock of their contracts in the round, particularly for ICT and facilities management, and consider renegotiation to secure better VFM. There should be strong downward pressure on costs and end-year peaks of expenditure which do not reflect good VFM should be avoided.

3. **Central governmental bodies must seek approval for certain types of spending from the Minister for the Cabinet Office and HMT Treasury.**
   All central governmental bodies are obliged to implement the Cabinet Office 'actions and processes'. To determine whether your public body is in scope, please see http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-224353. The most recent guidance document was published in July 2011, with some additional updates in November 2011, and can be found here: http://www.cabinetoffice.gov.uk/resource-library/cabinet-office-controls-guidance-actions-and-processes-document.The guidance covers spending on advertising and marketing, ICT, property, consultancy and recruitment, among other key areas of activity. These controls will be in place until the end of the SR period in March 2015 unless otherwise stated.

4. **Departments and public bodies must provide for knowledge management and transfer of records.**
Departments must develop a knowledge and information transfer plan to ensure that key knowledge and information assets are appropriately safeguarded and to mitigate risks arising from their loss. Organisations need to ensure they continue to meet their obligations under information and records management legislation.
See http://www.nationalarchives.gov.uk/information-management/projects-and-work/reform-public-bodies.htm for more guidance.

5. **Departments must comply with their obligations to the staff of public bodies.**
Departments must ensure that they abide by legal and policy requirements relating to the staff of public bodies, including TUPE/COSOP[1] and, for the Civil Service and relevant NDPBs, the *Protocols for Handling Surplus Staff Situations*. Departments must ensure that changes take account of any protected accrued pension rights of staff and that pension liabilities are fully accounted for and minimised in the best interests of the taxpayer.

6. **Remuneration for Chairs, Board Members and senior staff must be in line with a prudent approach to public expenditure.**
Departments should not presume that additional payments will be made to staff in bodies under reform. CEO objectives should be reviewed and revised to ensure that activities critical to delivering the reforms are clearly stated and taken into account in assessing bonus payments. Where the department sees a compelling business need for end-of-contract performance payments, a clear business case must be presented to Cabinet Office as well as to the Treasury spending team. Terms and conditions for Chairs and Board members should be brought into line with new guidelines and cleared with Cabinet Office when new appointments, renewals or other review points arise.

7. **Departments must not approve plans which result in staff being made redundant from a public body and then being reemployed on effectively the same work either as a member of staff or on a consultancy basis.**
It is likely to be an unacceptable use of public funds to agree to members of staff departing with a package, only to return to effectively the same post on a consultancy basis. Where it is considered that there are good reasons – for instance, it could make sense to ask someone to return on a fee-paid basis to answer questions from the auditors on the previous year's accounts – then arrangements must be cleared in advance with the Accounting Officer (and through the usual process for spending control exemptions if it falls with their scope).

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[1] **TUPE**: Transfer of Undertakings (Protection of Employment) and **COSOP**: Cabinet Office Statement of Practice
http://www.bis.gov.uk/policies/employment-matters/rights/tupe, http://www.hm-treasury.gov.uk/d/staff_transfers_145.pdf

8. **The public body must put in place robust and effective systems to ensure that the public body is not, and is not perceived to be, engaging in political lobbying.** Public bodies should never engage in activities that necessitate instructing lobbyists or using public money to fund activities designed to influence Civil Servants, Ministers or Parliament.

9. **Departments should avoid unnecessary expenditure on branding and reissuing promotional material when merging bodies or transferring functions.** Departments should keep such expenditure to an absolute minimum. This should be part of the business case that departments have to clear with Cabinet Office and HM Treasury on the creation of a new body, whether or not this arises from a merger or other reform. Approval for significant spend in this area will be exceptional.

Section 1: General Considerations

1. GOVERNANCE

Governance relates to the way in which a body is controlled, managed and directed. Most public bodies, for example, will be governed by a board including non-executive members, led by a non-executive Chair, and will have terms of reference (and often specific legislation) which set out roles and responsibilities and how the body is to be governed. The Accounting Officer (whether of the department or the public body) is personally accountable to Parliament for the stewardship of the resources within the organisation's control and must be satisfied that the organisation(s) use resources efficiently, economically and effectively, avoiding waste and extravagance. These principles are key to the controlled closure, or merger, of organisations so accountability and assurance during and after transition need to be clear and unambiguous. Governance arrangements will vary between different types of public body.

For all reforms, have you considered...

1. Ensuring that all Audit Committee members are fully briefed about the proposals and the associated risks?

2. Ensuring that the role for internal audit is clearly identified, that internal audit is fully briefed about the proposals and associated risks and effectively deployed to provide key advice and assurance (this may include reviewing control arrangements through to closure/merger in order to provide an independent opinion to support the Governance Statement)?

3. If multiple internal audit systems are in place, establishing an agreement as to who covers audit functions, and on whose behalf, up to the reforms being complete?

4. Arranging 'due diligence' type reviews, with input or advice from internal audit, for bodies whose functions are to be merged or taken over, to assess the body's financial state, internal control, assets, liabilities and customer base.

5. Ensuring that the Senior Information Risk Owner (SIRO) at Board level is fully engaged with all aspects of planning for the change programme, taking account of the increased risks at times of change?

6. Discussing how governance arrangements will be strengthened during the period of change?

7. Setting up a Project Board, with sub-boards for specific topic areas as necessary?

8. The advantages of a joint board comprising the department and the public body (or some joint membership covering both boards), with clarity about which decisions and actions are for which party?

9. How to define the role of the Project Board in relation to the departmental board and the board of the public body itself?

10. Appointing project manager(s) with responsibility for individual projects?

For all reforms, have you considered...

11. Appointing business change manager(s) to define benefits and assess benefits realisation?

12. How to ensure a close working relationship between the senior management of the department and the public body?

13. Setting down in writing the respective roles and responsibilities of the public body and its sponsor department during the change period?

14. Ensuring there is a clear channel of communication between the departmental Accounting Officer and the team leading the transition?

15. Making transparent any conflicts of interest within the Board, such as involvement in successor arrangements?

16. Putting in place a clear and robust approach to risk assessment and management, with supporting documentation?

17. Whether you have the appropriate project resources and documentation to support closure or other reforms?

18. How to maintain capacity for ongoing operational management and leadership during the transition?

19. How to deal appropriately with existing temporary appointments, or whether temporary appointments are needed to see through the reforms?

20. Are Accounting Officer(s), and/or successor Accounting Officer, responsibilities and timescales clear for preparing a Governance Statement for the respective entities that will be adequately supported and informed by directors and internal audit?

21. Tracking and managing the expected benefits of reform?

22. Using the experience of Arms Length Bodies in the department?

23. The merits of having a dedicated change team "utilising the experience of the existing sponsor team" and to have access to key expertise within the department who can advise on specific aspects such as central finance, legal, HR, ICT, communications throughout the change.

24. Checking other changes/reforms across the department particularly to corporate services and ICT that could affect your planning and implementation, for example those which could create dependencies or influence decisions for managing your change.

For bodies being abolished, have you considered...

25. Who has responsibility for preparing, signing and auditing the final financial statements?

26. Whether there is a clear role for the Board of that body once the decision has been taken to close?

27. Whether there are adequate resources in place to deal with transition issues such as the transfer of functions?

28. Ensuring that your planning extends beyond the closure date of the organisation to account for future issues, such as financial matters, and the protection and destruction of residual information after closure?

29. A process for allocation of assets and liabilities between parent department, successor bodies and disposal?

For bodies that remain or are being set up, have you considered...

30. How to implement any cross-government governance and review processes (for example, those specified by Cabinet Office)?

31. What will be the role of the sponsorship team in the future?

32. What governance framework is required for that body (for example, an NDPB)?

33. Constructing a business case that demonstrates business need?

34. Securing approval from HM Treasury and Cabinet Office?

35. Building in an ongoing review process?

For bodies changing status, have you considered...

36. Consulting Cabinet Office and HMT as appropriate (who will determine the body's new status (if still in the central Government sector) and rule on public/private sector classification issues)?

37. Contacting the Charity Commission (for those bodies retaining or seeking charitable status)?

38. For those offering scientific advice, ensuring that you are still meeting the Principles of Scientific Advice to Government?

Departments should seek advice from their internal leads on Governance.

Sources of further advice across Government:

Corporate Governance Code for Governance in Central Government Departments, code of good practice and separate guidance note, available at: http://www.hm-treasury.gov.uk/psr_governance_corporate.htm

Managing Public Money, offering guidance on how to handle public funds of all kinds properly, available at: http://www.hm-treasury.gov.uk/psr_mpm_index.htm

HMG Security Policy Framework, the central internal protective security policy and risk management for government departments and associated bodies, available at: http://www.cabinetoffice.gov.uk/resource-library/security-policy-framework

HMG IA Standard 5 - Secure Sanitisation of Protectively Marked Information or Sensitive Information (obtainable from CESG: enquiries@cesg.gsi.gov.uk)

Further information from the Government Office for Science
CSACsecretariat@bis.gsi.gov.uk

Audit Committee Handbook, reflecting developing best practice in governance and the increasing significance of risk management and associated assurance needs, available at: www.hm-treasury.gov.uk/audit_committee_handbook.htm

2. PEOPLE ISSUES

For staff affected by these changes there is often a period of uncertainty and potential anxiety.

Communication is key. Staff need to know why the change is happening, how the change is happening, the planned timescales and how it affects them. Communication with staff should be started at an early stage, undertaken with clarity and openness to manage expectations and occur with consistency and regularity. Whilst visible leadership is welcomed in such situations by staff, it should be remembered that communication needs to be two-way. Whilst staff need to be informed, they also benefit from being able to share their concerns, being able to ask questions. Be open, be honest and be supportive.

These principles should apply whether staff are being transferred into another organisation or are in a redundancy situation. Legal requirements must be complied with. This is an area where departments are highly likely to need legal advice.

For all reforms, have you considered...

1. Developing an internal communications plan with both staff and trade unions to ensure messages are regular, clear and consistent?

2. Who to talk to within your department as soon as you identify that there is an impact on staff and whether they can help you develop a people plan?

3. Identifying a lead contact for affected staff?

4. Instituting regular face to face contact with staff?

5. Reflecting the changes in performance management arrangements?

6. Producing guidance for line managers on supporting staff?

7. That staff respond to change in different ways and may need different forms of communication?

8. Looking at staffing changes in the context of the department's and its remaining public bodies' future workforce needs?

9. Whether you hold sufficient information about staff and their contracts?

10. Whether you hold sufficient information about the terms and conditions of board members?

11. Disclosing senior management severance costs in the remuneration report and information on wider employee compensation (exit packages) as a note to accounts?

12. Whether there will be changes to wider staff benefits, such as on-site childcare?

13. How to ensure adherence to contracts of employment and redundancy agreements?

For all reforms, have you considered...

14. That you will need a very strong business case to demonstrate value for money for reemploying staff? (See NAO link below.)

15. Minimising uncertainty about redundancy or transfers by providing information on the terms and timing of redundancy as early as possible?

16. Are there any outstanding performance issues / grievances that need to be resolved?

17. Are there opportunities, in addition to outplacement support, for staff to up-skill or re-skill and strengthen connections with possible future employers?

18. Is the body accredited, enabling staff to apply for jobs on civil service vacancies site?

19. Can HR systems and processes (including payroll) cope with a variety of different terms and conditions?

20. How can key staff be retained whilst still needed?

21. How will the new organisation be structured?

22. What number of roles will be required? (Workload?)

23. What level will the new roles be? (Job evaluation?)

24. Who will design the new roles / structure?

25. What will be the process for mapping staff into the new roles?

26. Whether relocation will be an issue for some staff and how this can be resolved, including whether contracts include mobility clauses?

27. Getting HMT severance approval for severance payments above normal terms and conditions?

28. Ways for staff to share experience and make contacts with staff in relevant bodies, for example through secondments?

29. That you may be changing staff's status so they become Civil Servants?

30. How do deal with any non pay elements of existing reward packages that are not appropriate for Civil Servants, such as private use cars and private health insurance?

For bodies being merged, downsized or abolished, have you considered...

31. Whether departmental guidance on managing surplus staff has already been drawn up?

32. Whether a protocol has previously been agreed and applies (as in the civil service for example)?

33. In staff transfer situations, whether TUPE or COSOP applies?

34. Are staff expectations and rights being appropriately managed where terms and conditions are affected?

For bodies being merged, downsized or abolished, have you considered...

35. The earliest appropriate point at which to engage in consultation with staff and trade unions?

36. Whether voluntary severance schemes might be needed to reduce staff numbers before consideration of compulsory arrangements?

37. How to communicate clearly to staff as early and as regularly as possible, including informing them when there are delays?

38. Maintaining appraisal and personal development opportunities, including relevant objectives, to ensure that performance does not dip?

39. Ways of redeploying staff across the department, its public bodies, and bodies with similar skills needs belonging to other departments, or other measures to avoid compulsory redundancies where possible?

40. Whether there is a risk of re-employing staff made redundant and whether this represents good value for money?

41. Whether natural wastage would provide for any headcount reduction?

42. Developing transparent and fair selection criteria for redundancy and early release schemes that help ensure that the people needed to deliver future business are retained?

43. Ensuring any support is properly costed?

44. Factoring costs arising from redundancy into budgets?

45. How to provide support to people affected, for example through retirement planning, support in finding other work, CV writing, or other types of training?

46. Who will provide confirmation of employment and / or references following closure?

47. How you will meet the requirement to consult the body or office holder, for statutory bodies being reformed through the Public Bodies Act 2011?

48. Whether incentive payments would be good value for money in retaining business critical staff?

49. How pay and conditions can be harmonised whilst avoiding additional expenditure as far as possible?

50. Whether there are issues of pension equivalence?

Departments should seek advice from their internal leads on People Issues.

Sources of further advice across Government:

Staff Transfers in the Public Sector Statement of Practice (COSOP), available at:
http://www.hm-treasury.gov.uk/d/staff_transfers_145.pdf

Guidance on TUPE regulations, available at:
http://www.bis.gov.uk/policies/employment-matters/rights/tupe

The National Audit Office's guidance on reforming public bodies is available at:
http://www.nao.org.uk/publications/1011/arms_length_bodies.aspx

BIS: www.businesslink.gov.uk
BIS provides practical advice on employment and skills issues. Particularly relevant is their guidance on handling potential redundancy situations (which includes an interactive tool) and on Transfer of Undertakings Protection of Employment (TUPE).

ACAS: www.acas.gov.uk
ACAS guidance includes redundancy handling (with redundancy case studies), TUPE and 'managing in difficult times'. ACAS guidance helps in clarifying the requirements of employment legislation and is often used as the standard in employment tribunals.

CIPD: www.cipd.co.uk/subjects/emplaw
CIPD employment law guidance covers redundancy handling and TUPE (including a frequently asked questions section).

Jobcentre Plus resources, supporting efforts to help staff facing redundancy:
http://www.businesslink.gov.uk/bdotg/action/detail?itemId=1084072915&type=RESOURCES

Public Bodies: A Guide for Departments:
http://www.civilservice.gov.uk/about/resources/information-on-public-bodies

Applicable to the public sector:

Machinery of Government Changes Best Practice Handbook:
http://umbr4.cabinetoffice.gov.uk/media/332838/mog-handbook.pdf

Staff Transfers in the Public Sector Statement of Practice (COSOP), including *Staff Transfers from Central Government: A fair deal for staff pensions:*
www.civilservice.gov.uk/about/resources/employment/codes.aspx

Applicable to the civil service and some NDPBs[2]:

Protocol for Handling Surplus Staff Situations:
www.civilservice.gov.uk/about/improving/efficiency/efficiency.aspx

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[2] NDPBs that either employ Civil Servants or who have representation from civil service trade unions

Applicable to the Civil Service:

Civil Service Management Code: The rules for delegated terms and conditions – chapter 11 'Leaving the Civil Service' is particularly relevant (currently being redrafted):
www.civilservice.gov.uk/aboutwork/codes/csmc/index.aspx

Good practice guidance for managing the people consequences of outsourcing and privatisation is available here:
www.civilservice.gov.uk/about/resources/employment/codes.aspx

Guidance on informing and consulting employees in the Civil Service:
www.civilservice.gov.uk/about/resources/employment/codes.aspx

3. COMMUNICATIONS AND STAKEHOLDER RELATIONS

To bring about the reforms to a body there will need to be effective communication with your various stakeholders. To do this you may need to create a communications plan or cover in a wider comms plan. Your communications need to be sent through appropriate media to reach your stakeholders. Websites may need to be updated or closed down and appropriate signposting supplied.

For all reforms, have you considered...

1. How to engage staff and other important stakeholders in the reforms, gathering their expertise and suggestions as appropriate?

2. Developing a stakeholder engagement strategy?

3. Which stakeholders need to be kept informed of public body reforms? For example:

   - management and staff in the body and associated organisations, such as the department itself
   - other government departments with an interest
   - Devolved Administrations where they have an interest
   - external data owners or partners in shared services arrangements
   - key external partners such as interested voluntary organisations and the EU
   - customers
   - trade unions or staff associations
   - contractors
   - potential future delivery partners
   - Parliament and sections of the public.

4. The means by which to communicate this?

5. How the organisation's governing body can play a role in communicating the benefits and story behind the reforms?

6. Working with a group of industry and customer representatives and professional bodies to communicate an accurate message about the changes?

7. If there are multiple sponsor organisations for the body, how to co-ordinate proposals, decision making and announcements with the other sponsor(s)?

8. How to co-ordinate between the sponsor's and the body's communications teams, ensuring co-operation on announcements?

9. Whether relevant websites should be updated to reflect the position?

For all reforms, have you considered...

10. Working with colleagues in other government departments to share expertise and learning about implementing reforms?

11. Developing a handling plan for reforms that may have significant interest from influential lobby groups or others who wish to be involved in shaping the reforms?

12. How to ensure that there are sufficient resources to handle internal enquiries from staff?

For bodies being merged or abolished, have you considered...

13. How to establish a strong working relationship between the affected bodies, particularly their Chief Executives, where bodies will merge or transfer functions?

14. Ensuring any customers of the body are aware of the changes and the new point of contact?

15. The right timing of any closure of websites, and whether signposting to any new sites or alternative sources of information will be needed?

Departments should seek advice from their internal leads on communications and stakeholder relations.

4. IMPACT ASSESSMENT, INCLUDING EQUALITY IMPACT ASSESSMENT

Changes you propose to make may require an impact assessment. You need to consider the impact on any relevant groups including in relation to race, disability, gender, age, sexual orientation, religion and belief, gender reassignment, small and medium size enterprises and relevant industries. Where an impact assessment is required, you will need to consider the monetary value of the costs and benefits of the reform, give an indication of the risks involved and undertake specific impact tests including Justice, Sustainable Development, Carbon Assessment, Environment, and Rural Proofing. Past experience can be used by looking at impact assessments done in similar areas to your own. You will need to involve economists and consider using an external expert panel in developing and signing off the impact assessment. Check for the most recent guidance and ensure your staff are familiar with it, to ensure that they can comply with the clearance and assurance process involved in publishing an impact assessment. Allow enough time and resources, including quality assurance. Factor in resources to take forward actions from the impact assessment.

For all reforms, have you considered...

1. The requirement to conduct an impact assessment when considering traditional regulations, as well as alternatives such as proposals that encourage self-regulation or opt-in regulation and voluntary guidance or proposed codes of practice?

2. Whether the impact assessment has been considered early enough in the policy process to influence the implementation of the proposed reform?

3. The impact of your policies on race, disability and gender?

4. The impact of your policies on different ages, sexual orientations, gender reassignment, and religions or beliefs?

5. The impact of reforms on small and medium enterprises?

6. The impact on relevant industries?

7. Working closely with your departmental better regulation unit, who can support you during the impact assessment process?

8. Looking at examples of impact assessments for similar reforms in order to use recent experience?

9. Involving departmental economists in developing assessments?

10. Ensuring a robust sign-off process, including peer review by economists and where appropriate use of an external expert panel?

11. Securing internal sign-off from the departmental chief economist?

For all reforms, have you considered...

12. Ensuring that you are complying with the most recent impact assessment guidelines?

13. Ensuring that staff carrying out the impact assessment and/or equality impact assessment understand where to go for guidance?

14. Factoring in sufficient time and staff numbers to carry out impact assessments, including time for evidence gathering?

15. The requirements for publishing impact assessments, set out in the guidance?

16. The importance of quality assurance for published impact assessments?

17. Ensuring there are sufficient resources in place to take forward any actions resulting from the impact assessments?

Sources of further advice across Government:

Guidance on Impact Assessments, available at: http://www.bis.gov.uk/ia

5. LEGAL, EU AND DEVOLUTION ISSUES

The work to reform a public body may have a significant legal element to it. You need to check where to get legal advice. Departments should ensure that they have met any specified conditions and followed procedural requirements under any relevant legislation. If secondary legislation is required, ensure you have factored in enough time and resources to manage the Parliamentary process. You need to check whether reforms have implications relating to devolved functions and, if necessary, consult with Devolved Administrations. Check if you need legislation to transfer functions and wind up processes, or whether you need legislation to take on new functions. You need to consider the type of body you are reforming (for example companies limited by guarantee, bodies under Royal Charter and bodies registered as charities) and the implications that may have on the implementation of your proposal. If the body has an EU dimension, you need to consider where functions and liabilities will be transferred.

For all reforms, have you considered...

1. Whom in the department to contact to get appropriate legal advice?

2. Whether the body requires legislation in order to reform it?

3. If legislation is required, which legislation will be used?

4. If the Public Bodies Act, or another Act that requires secondary legislation, is being used, has the time required to make the Order been factored in to planning, and are the staff in place to take this forward?

5. If the Public Bodies Act, or another Act that requires secondary legislation, is being used, have you sufficient evidence that the changes will meet the required objectives?

6. Whether the reforms result in issues involving devolved functions?

7. Any Welsh Language Act implications?

8. Consulting with the territorial offices (Scotland Office, Wales Office, Northern Ireland Office) regarding cross-border issues and the impact on Devolved Administrations?

9. Discussing any changes with officials in Devolved Administrations from as early a stage as possible?

10. How to co-ordinate with officials in Devolved Administrations to ensure consistency in approach and timing of progress (such as making proposals)?

11. Factoring in sufficient time to consult with Ministers from other administrations before orders are made?

12. If transferring public functions to a private body, how to provide for continued delivery of these functions in the event that the private body is unable to perform its functions?

For all reforms, have you considered...

13. If transferring public functions to a private body, what would happen to property transferred to that body in the event that is unable to perform its functions?

14. If transferring function to a private body, the human rights implications of the reforms and whether rights under the European Convention on Human Rights will, or will not, be enforceable against a transferee?

For bodies being abolished and merged, have you considered...

15. Whether legislation being used to abolish a body makes provisions for powers to transfer functions and undertake other winding-up processes (such as preparation of final accounts and the disposal of assets)?

16. Whether bodies that are receiving functions have the necessary legislative powers to do so?

17. Whether the body is a company limited by guarantee and if so what steps need to be taken to wind up the company?

18. Whether the body was set up under Royal Charter, and therefore whether the Privy Council Office should be consulted, as it has a formal role?

19. Whether the body is registered as a charity and what steps need to be taken to dissolve the charity?

20. Whether the body is a competent authority or lead negotiator under EU directives or regulations and, if so, where these functions will be transferred to ensure they continue to be carried out?

21. Whether the body holds any liabilities (for example for infractions of EU regulations) and, if so, where these liabilities will be transferred to ensure they continue to be met?

Departments should seek advice from their internal leads on legal, EU and devolution issues.

Also of Interest:

Institute for Government Study *Transparency in Arms Length Bodies*:
http://www.instituteforgovernment.org.uk/publications/42/transparency-in-arms-length-bodies

6. OPERATIONS

Adequate time needs to be factored into operations including contingency time for delays. Current operations need to be assessed to see whether they are sufficient to successfully implement reforms. Departments will need to develop a culture that promotes and embraces change. You will need to quickly develop policies and resourcing plans where functions are being transferred and ensure that you are talking with successor bodies. Departments should consider how to signpost to the public where any enquiries or complaints functions are transferring to. You may need to manage withdrawal from projects, ensure some functions continue, including support services, set up specific change teams and find ways of retaining staff critical for implementation.

For all reforms, have you considered...

1. Estimating the time that each stage of the reform process will take?

2. Building in contingency time in case of delays?

3. Ways of developing the type of organisational culture required for a change process?

4. Reviewing the organisation's operations at the start of the change process to identify which areas might see either an increase or decrease in activity in light of decisions on future structure and functions?

5. Putting processes in place to reduce the risk of fraud or other impropriety during the period of disruption?

6. Whether short-term expertise – such as HR specialists – may be needed during transition?

7. If the body provides scientific advice and, if so, how should the department's Chief Scientific Adviser be involved in the reforms?

8. Whether the functions of the body include production of National Statistics and if so what actions do you need to take in line with the Code of Practice for Official Statistics?

9. Whether some statistics will stop being produced, and if so, is there a need to inform the UK Statistics Authority and consult with interested departments?

10. If the body is a Crown organisation and if not whether copyright for material should be assigned to the Crown?

For bodies being abolished or merged, have you considered...

11. Moving quickly to develop clear policies on transfer of functions, and planning resourcing accordingly?

12. Establishing relationships with any successor bodies to facilitate transfer of assets, information or functions?

13. If the organisation deals with enquiries or complaints from the public (such as regulatory organisations), where responsibility for this will transfer and how the public will be made aware of the change?

14. How to manage projects being delivered in partnership with other organisations – where the public body may have to withdraw part-way through?

15. Whether a specific team needs to be set up for any element of closure – such as finance and accounting?

16. How to retain staff who are critical for the transition period?

17. Identifying which functions will continue, and where, in order to maintain their performance throughout the transition period?

18. Ensuring that work ongoing throughout the transition period is sufficiently resourced, and that the organisation's objectives are appropriate for the transition year?

19. Ensuring that support services (such as facilities management or IT systems) are maintained until closure?

20. Ensuring that all IT systems containing personal data or protectively marked information continue to be managed securely until they are securely decommissioned?

21. Whether decommissioned IT could be contributed to Government's drive to provide affordable PCs to households in the UK?

Departments should seek advice from their internal leads on operational issues.

Sources of further advice across Government:

Further information from the Government Office for Science
CSACsecretariat@bis.gsi.gov.uk

Code of Practice for Official Statistics
www.statisticsauthority.gov.uk/assessment/code-of-practice/code-of-practice-for-official-statistics.pdf

IT Professional Group contact:
itprofession@cabinet-office.gsi.gov.uk

7. ACCOUNTING

Accounting involves the recording, reporting and analysis of financial transactions, and is fundamental to good financial management (Chapter 8). Public sector accounting requires that a set of rules and regulations are followed. The nature of the public body reforms will mean the accounting treatment will vary in different situations, depending on the organisations involved and the type of restructure.

The Treasury's *Government Financial Reporting Manual* (FReM) is the technical accounting guide that complements guidance on the handling of public funds published separately by the relevant authorities. The Manual is prepared following consultation with the Financial Reporting Advisory Board and is issued by the relevant authorities in England and Wales, Scotland and Northern Ireland. The manual does not apply directly to Local Government, NHS bodies and Public Corporations that are not trading funds, but divergences are specifically agreed.

For all reforms, have you considered...

1. Ensuring you are following HM Treasury's *Government Financial Reporting Manual* (FReM) and additional guidance or equivalent reporting guidance issued by relevant authorities?

2. What accounting requirements are set out in relevant legislation?

3. Whether the body is a going concern as interpreted by the FReM or other relevant accounting guidance?

4. Whether the services or functions are being discontinued or transferred within, or outside of, the public sector?

5. Contacting the National Audit Office (NAO) to ensure compliance with technical accounting requirements?

6. Whether an NAO representative should attend Project Board meetings?

7. Including in the final accounts any provisions, contingent assets or contingent liabilities, in accordance with the FReM or other relevant accounting guidance?

8. Clearly documenting all assets and liabilities, including how and where liabilities have been discharged, applying acquisition accounting, merger accounting or asset transfer accounting interpretations as appropriate? A process of allocation of assets and liabilities between parent department, successor bodies and disposal?

9. Have you considered which actions, in relation to final accounts, will need to be completed after the formal abolition of the body and who will undertake this (including Accounting Officer, internal audit and the Audit Committee)?

10. How emerging figures on costs and savings will be communicated to ministers and HM Treasury?

For all reforms, have you considered...

11. Separating out Resource and Capital transactions and applying appropriate discount rates to determine the present value of future transactions?

12. Collating as much detail about redundancy costs as possible to meet, as a minimum, existing FReM and Cabinet Office disclosure requirements. Detail may include accounting for the number of headcount exits, wastage rates, redundancy packages and, where relevant, using the updated proposals contained within the Civil Service Compensation Scheme?

13. Including Prior Year Comparators (see NAO link below) in the accounts of successor bodies for the costs of activities that had previously been carried out, by any other body?

14. Has the Accounting Officer got parliamentary authority to spend public funds before the new organisation begins to work? See NAO link below?

15. If the service will in future be delivered through a joint venture with a private sector partner, consider how the organisation will be classified by ONS. Classification will be important in determining the organisation's budgetary and financial control framework. HM Treasury can provide advice on classification, though the final decision will be made by ONS.

Departments should seek advice from their internal leads on accounting.

Sources of further advice across Government:

Government Financial Reporting Manual (FReM) and additional guidance:
http://www.hm-treasury.gov.uk/frem_index.htm

The National Audit Office provides guidance here:
http://www.nao.org.uk/ publications/1011/arms_length_bodies.aspx

8. FINANCIAL MANAGEMENT

Financial management is the management of an organisation's finances to achieve specific objectives. In its broadest sense, sound financial management will include:

- financial planning to ensure funding is available to meet the needs of the organisation or service before, during and after reform;
- financial control, to ensure assets are used efficiently and effectively in a secure manner, within the defined frameworks for public bodies; and
- financial decision-making, based on sound financial information, in budgets, estimates and accounts.

For all reforms, have you considered...

1. How to ensure that the process follows the appropriate Treasury guidance, such as *Managing Public Money*, *Consolidated Budget Guidance* and *Estimates Manual*?

2. Allocating a budget specifically for the change process so wind-up or reform costs, including redundancies, can be accounted for?

3. Identifying and recording any efficiencies released over the change period, including where they are offset by transitional costs?

4. Confirming the VAT status of the body and how this affects any changes?

5. Fully costing any VAT consequences from restructuring?

6. Whether new limits need to be placed on expenditure prior to closure or reform?

7. Identifying and restating data on financial systems for prior period comparatives where appropriate?

8. Assessing how financial systems data will be maintained or transferred adhering to *Managing Public Money* principles?

9. How to undertake financial analysis of costs and savings?

10. Subjecting financial systems and reports to additional checks to guard against fraud and general errors (for example to identify and action overpayments that might not be recovered once a body is dissolved)?

11. Agreeing how and where any efficiency savings should be recycled?

12. The costs of obtaining the right legal advice?

13. Any costs incurred by, and resources required to support, the project team(s) managing the reform.

14. How you will keep HM Treasury spending teams informed of the financial implications of the reforms?

For bodies being abolished, have you considered...

15. Developing a complete list of contractors and suppliers, so notice can be given, and so progress can be made on renegotiating where necessary?

16. Including closure plans in financial forecasts as soon as they are confirmed?

17. How to deal with financial commitments and contractual obligations in budgets, estimates and accounts (including where a body provides specific funding, such as student loans)?

18. Ensuring that the Accounting Officer role is defined following closure in order to sign off accounts and answer questions on accounting issues?

19. Closing all bank accounts and cancelling GPC cards and access to financial systems?

20. Ensuring that all elements of the closing balance sheet are transferred to either a successor or another body?

21. How to ensure any costs incurred after closure can be paid and any unforeseen liabilities dealt with?

22. Where to transfer data and records on accounting transactions?

For bodies being merged, have you considered...

23. How to avoid unnecessary expenditure on rebranding, for example?

24. Ensuring merger of information systems does not prevent the Finance Department and auditors being able to identify information relevant to the body that has been merged?[3]

25. Prior Period Adjustments in main or supplementary estimates to account for accounting policy changes? The requirement is removed from 2011-12?

26. Which resources can continue to be used by the new organisations, such as existing reports?

Departments should seek advice from their internal leads on financial management.

Sources of further advice across Government:

Managing Public Money:
http://www.hm-treasury.gov.uk/psr_mpm_index.htm

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[3] See 9 Knowledge transfer and information management

9. KNOWLEDGE TRANSFER AND INFORMATION MANAGEMENT

Making arrangements for knowledge transfer and information management is a key part of any machinery of government change. Forward planning and allocation of appropriate resource is essential to ensure a smooth transition. Key tasks include identifying information (both paper and digital and across all information systems) that needs to be transferred and ensuring that it remains usable and accessible, that it continues to be protected in accordance with national security policy and data protection legislation; organisations must understand and manage their legislative responsibilities including the Public Records Act, Data Protection Act and Freedom of Information Act. It is also important to make arrangements for the management of websites and their content and addressing any copyright issues.

For all reforms, have you considered...

1. Conducting a data audit?

2. Whether the organisation a 'Public Record Body' with obligations under the Public Record Act?

3. What information is subject to the Freedom of Information Act and who will handle requests?

4. How to capture learning from the change process itself?

For bodies being abolished, have you considered...

5. Assessing the information held, whether it needs to be destroyed or transferred, and to whom?

6. Whether official statistics and publications are held and whether these will need to continue to be published following closure?

7. How requests such as parliamentary questions, Freedom of Information or Data Protection Act requests will be dealt with in future?

8. If official statistics and publications need to continue to be published, which body will be responsible for their publication? If so, consider consulting with collecting organisations (such as the British Library or the Bodleian) about future publications.

9. If the publication of official statistics will cease, letting the UK Statistics Authority know (and conducting a user consultation if they are national statistics)?

10. Consulting the departmental Head of Profession for Statistics in case of any doubt over official or national statistics?

For bodies being abolished, have you considered...

11. If the body is a Crown organisation and if not whether copyright for material should be assigned to the Crown?

12. How to ensure that data is disposed of appropriately in line with HMG security policy, and audit and legal advice?

13. Ensuring adherence to guidance on data transparency (see link below)?

For bodies being abolished or merged, have you considered...

14. Who in the public body or in the department will have responsibility for reviewing information and making decisions about transfer?

15. Setting up a transition team to manage the transfer of knowledge, information and records?

16. How to ensure that data protection laws and HMG policies on data protection and security are followed?

17. How to communicate the importance of knowledge transfer to senior management and staff?

18. Whether there is legislation governing what should happen to the information and whether this needs to be created or revised?

19. Whether a data transfer agreement is needed where data is being passed on?

20. Ensuring that digital information continues to be useable and accessible and discussing this with IT service providers?

21. Whether a continuing web presence will be required or, if not, who will hold existing website content?

22. How to capture the knowledge of staff who are leaving the organisation / sector?

23. Ensuring adherence to Central Office of Information web guidance (see link below)?

24. The need for a digital continuity impact assessment?

Departments should seek advice from their internal leads on knowledge and information management.

Sources of further advice across Government:

The National Archives' *Guidance on the Dissolution and Privatisation of Public Bodies:* http://www.nationalarchives.gov.uk/information-management/projects-and-work/reform-public-bodies.htm

The National Archives' *Machinery of Government Changes: Guidance on the Transfer of Records, Information and Knowledge*:
http://www.nationalarchives.gov.uk/documents/.../machinery_of_government.pdf
information.management@nationalarchives.gsi.gov.uk

Central Office of Information (COI) web standards and guidelines:
http://coi.gov.uk/guidance.php?page=188

National Archives pages on digital continuity:
http://www.nationalarchives.gov.uk/information-management/our-services/digital-continuity.htm or email digitalcontinuity@nationalarchives.gsi.gov.uk

Data Transparency – data.gov.uk:
http://data.gov.uk/blog/guidance-from-the-local-public-data-panel-on-quango-data

Cabinet Office – *HM Government Security Policy Framework:*
http://www.cabinetoffice.gov.uk/resource-library/security-policy-framework

HMG IA Standard 5 - Secure Sanitisation of Protectively Marked Information or Sensitive Information and *HMG IA Standard 6 - Protecting Personal Data and Managing Information Risk* (obtainable from CESG: enquiries@cesg.gsi.gov.uk)

Crown copyright queries: psi@nationalarchives.gsi.gov.uk

10. PENSIONS

Pensions are a key area in the public bodies reforms. Two of the main schemes are the Principal Civil Service Pension Scheme (PCSPS) and the Local Government Pension Scheme (LGPS).

For all reforms, have you considered...

1. Which pension schemes do staff belong to?

2. Whether adequate powers exist to meet residual pension liabilities for board members and staff, and the source of funding for any liabilities?

3. Have you got as much information as possible about your pension scheme early on to help make decisions? For example, whether there is a pension scheme/s, what type of scheme it is (whether defined benefit or defined contribution), whether it is funded or unfunded, how it will be dealt with in the future and who will be responsible for any deficit?

4. Being careful when communicating with staff not to raise expectation or make commitments which cannot be met and result in creating unintended liabilities?

5. Obtaining an up to date assessment of the pension provision (assets and liabilities) for the workforce?

6. Where employees of the body will be transferred with their work to another employer (either in the public or private sector), that you are responsible for ensuring that the requirements of COSOP/Fair Deal (or, in connection with the Local Government Pension Scheme, the 2007 Best Value Pensions Direction) are complied with?

7. Where the staff are to be made redundant, whether you have notified your Pensions Service Centre as soon as possible to ensure the relevant awarding processes are completed on time?

8. Whether your pension scheme going to be wound up?

9. Whether the employer in relation to your scheme exempt from an employer debt (section 75 of the Pensions Act 1995)? The categories of exemption are set out in regulation 4 of the Occupational Pension Schemes (Employer Debt) Regulations 2005/678, as amended. If you consider your employer is not exempt from an employer debt, please contact Cabinet Office Public Bodies Reform Team and, before doing so, take no action which may crystallise the debt.

10. How to meet your obligation to keep members notified on a regular basis if the scheme winds up?

11. Whether there are finance issues such as deficits which are primarily a financing matter which the public body and/or sponsoring department should be leading on (in conjunction with their relevant Treasury spending team if appropriate)?

For all reforms, have you considered...

12. Whether there are changes to the actual pension provision being considered (such as moving to defined contribution) as a way of partly addressing funding issues, which are a pensions policy matter that should be considered in the light of the Government's proposals on public service pension reform which followed on from Lord Hutton's report and ongoing scheme specific discussions?

13. If there is a defined benefit pension scheme, what is the nature of the scheme? For example is the scheme a separate one or part of a public service pension scheme (such as the PCSPS or LGPS under admitted body status), a funded scheme that is analogous to a public service scheme (trustee-based) or a separate funded private trustee-based scheme?

14. Does Fair Deal (or other equivalent standard apply) apply? If public service pension scheme members are transferred to an independent sector organisation under TUPE, then Fair Deal (or other equivalent standard) may well apply (and this could involve the new body having to provide benefits which are certified at "broadly comparable" to the ones staff are giving up as well as the right to bulk transfer current pension benefits to the new employer)?

Principle Civil Service Pension Scheme

15. For those bodies which are currently covered by the PCSPS, any legislation laid to abolish the body must also include a clause removing that body from Schedule 1 of the Superannuation Act 1972. However, before any change is made you should refer to the Cabinet Office (below) to ensure that any future change to the Fair Deal policy is reflected before this change is made, as this policy has been out to consultation.

16. Informing the Cabinet Office (Scheme Management Executive) of any such legislation?

Local Government Pension Scheme

17. Contacting the LGPS team in CLG?

For bodies being merged, have you considered...

18. Speaking to the other body involved at the earliest opportunity about pensions?

19. Whether the Government's policy on the treatment of pensions in staff transfers ("Fair Deal" or equivalent other standard) apply? If so, follow the policy and make the recommended contacts.

20. Are there any other employee benefits that might be TUPE-able in a transfer of staff?

Departments should seek advice from their internal leads on pensions, including legal advisors.

Sources of further advice across Government:

Principle Civil Service Pension Scheme only:
Colin Hennem
colin.hennem@cabinet-office.x.gsi.gov.uk
Phone number: 01256 846131 (GTN: 1439 6131)

Local Government Pension Scheme only:
Workforce, Pay and Pensions team, Department for Communities and Local Government (CLG)
lynda.jones@communities.gsi.gov.uk

Government Actuary's Department:
General enquiries about pensions and possible pension liabilities to enquiries@gad.gov.uk
Enquiries requiring specific pensions actuarial advice to ian.boonin@gad.gov.uk
Enquiries about pensions in transfers of staff Staff.transfers@gad.gov.uk

HM Treasury:
http://www.hm-treasury.gov.uk/tax_pensions_guidance.htm

Civil Service website:
www.civilservice.gov.uk/Assets/stafftransfers2_tcm6-2428.pdf

11. ASSETS AND LIABILITIES

There are a variety of assets and contracts to take care of (such as information, furniture, property, ICT equipment, vehicles). Personal Electronic Devices (PEDs) such as laptops and smartphones should be valued both as physical assets and in terms of the information they contain.

For bodies being abolished, have you considered...

1. Minimising the assets held as early as possible?

2. Considering an appropriate timetable for asset disposal, taking into account the need for the asset during the transition phase and the best time to sell to ensure maximum value in line Managing Public Money and linked guidance?

3. Whether leases that are in place beyond the life of the organisation can be terminated early in a cost efficient way, or whether unoccupied property can be put to alternative use?

4. The full range of assets that the body holds including information, software, copyright, other forms of intellectual property?

5. Whether personal electronic devices are recovered from staff to ensure that the information they contain is protected or destroyed?

6. How to ensure debtors continue to pay amounts due?

For bodies being merged, downsized or abolished, have you considered...

7. Seeking advice from the Government Property Unit?

8. Maintaining a detailed and up-to-date asset register, including the projected cost of disposal?

9. Considering all types of assets, including IT equipment (not forgetting PEDs such as laptops and smartphones), furniture, property and vehicles?

10. Undertaking an audit of contracts, such as facilities management or IT services, and ascertaining end dates and termination clauses?

11. Putting controls in place to prevent purchase of new assets or entering into new contracts?

12. Where liabilities are to be transferred, for example to the sponsor department, agreeing a process for doing so as early as possible?

13. If transferring public property to a private body, what will happen to this property should the body be unable to discharge its public functions or become insolvent?

For bodies being merged, downsized or abolished, have you considered...

14. Following current guidance, such as the Government Property Unit's *Civil Estate Coordination Protocol* and their *Guide for Disposal of Surplus Property*?

15. Using existing mechanisms to get best value from assets, such as OGC's Furniture Clearing House?

16. Ensuring that any disposal of IT assets is done in compliance with disposal standards, including *HMG IA Standard 5 - Secure Sanitisation of Protectively Marked Information or Sensitive Information* (obtainable from CESG)?

17. The tax issues associated with the disposal of assets?

18. The accounting arrangements for the disposal or transfer of assets and liabilities, and onerous leases in particular?

Departments should seek advice from their internal leads on assets and liabilities.

Sources of further advice across Government:

http://webarchive.nationalarchives.gov.uk/20110822131357/http://www.ogc.gov.uk/documents/CivilEstateCoordinationProtocol.pdf

http://webarchive.nationalarchives.gov.uk/20110822131357/http://www.ogc.gov.uk/documents/Guide_for_disposal_of_surplus_property_PDF.pdf

http://webarchive.nationalarchives.gov.uk/20110822131357/http://www.ogc.gov.uk/estate_rationalisation_furniture_clearing_house.asp

12. ICT

The checklist below is intended to highlight the common ICT considerations for any reconfiguration of Government business. It is aimed at managers who might not have specialist ICT skills and is intended to highlight common issues, such as the contractual implications of changing your ICT provision.

The answers to these questions will vary due to the context, size and nature of the reconfiguration. The list of issues covered here is not exhaustive. Equally not all of the issues are relevant to every organisation and not all will need the same type or scale of response. It is open to departments to tailor the checklist's advice to the specific issues in their areas of work.

Please consult your Chief Information Officer/Chief Technology Officer for advice on best practice.

For bodies being merged, downsized or abolished, have you considered...

1. How to identify in advance any potential problems arising from the transfer of information between systems, or from the continued use of multiple legacy systems?

   - if the records contain personal data then access to and transfer of these needs to comply with the Data Protection Act;
   - if the receiving organisation has to avoid inheriting any potential copyright infringements.

   See the link below for advice on Machinery of Government Changes: Guidance on Transfer of Records, Information & Knowledge.

2. How to manage the transfer of electronic records between different systems?

3. Ensuring that all media used for storing or processing protectively marked or otherwise sensitive information are disposed of or sanitised in accordance with *HMG IA Standard No. 5 - Secure Sanitisation of Protectively Marked or Sensitive Information*?

4. Consulting the responsible Chief Information Officer/Chief Technology Officer to ensure best practice is adhered to?

5. Taking a whole of government approach and discussing with parent departments if ICT contracts can be renegotiated to transfer services where termination costs are significant or best value for money for the taxpayer is achieved?

6. Whether software licences can be reallocated either within the merged public body or to the sponsoring department if the body is abolished? Are they subject to contractual arrangements? (For further information please contact Government Procurement Service at: softwarelicensing@gps.gsi.gov.uk.)

For bodies being merged, downsized or abolished, have you considered...

7. Whether hardware owned by the public body can be reused? See link below for advice on a Government Procurement Service framework that covers the disposal of ICT assets – the *Supported Factories and Businesses Framework Agreement* (RM722).

8. Whether any IT professionals within the organisation could be redeployed? Are they subject to contractual arrangements? The IT Professional Group can give advice on opportunities for redeploying IT professionals.

9. If you are using open standards based solutions to reduce potential transition costs?

10. Assessing and responding to the increased risk to the confidentiality, integrity and availability of data from disaffected employees?

Departments should seek advice from their internal leads on ICT issues.

Sources of further advice across Government:

The National Archives:
http://www.nationalarchives.gov.uk/documents/information-management/machinery_of_government.pdf

Buying.Solutions:
http://www.buyingsolutions.gov.uk/frameworks/contract_details.html?contract_id=888

IT Professional Group Contact:
itprofession@cabinet-office.gsi.gov.uk

13. PUBLIC APPOINTMENTS

Public appointees are generally office-holders who are appointed by Ministers to serve in a non-executive capacity on the boards of public bodies. Appointments are made on merit. Many public appointments are regulated by the independent Commissioner for Public Appointments and the selection process must comply with the Commissioner's *Code of Practice.* All public appointees are expected to uphold the highest standards of public life.

The House of Commons Liaison Committee *Report into Select Committees and Public Bodies* can be seen here:
http://www.publications.parliament.uk/pa/cm201012/cmselect/cmliaisn/1230/123002.htm

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For bodies being abolished, merged or downsized, have you considered...

1. What is the impact on the board? Does the board currently have the right mix of skills and experience to drive forward/manage the planned reform?

2. Will the role of the board change? Will there be a Chair and non-executive members on the board of the new body? If so, what will their role be in the new/reformed organisation? Will you need to recruit new board members?

3. If recruiting a new Chair or new non-executives, have you spoken to your department's public appointments contacts? Have you spoken to the central Cabinet Office Public Appointments Team?

4. Recruiting a new Chair or new non-executives – or if reappointing existing board members – have you reviewed the terms and conditions of appointment? Is any proposed remuneration in line with Cabinet Office rules? Do you need Cabinet Office or HMT approval?

5. If recruiting a new Chair or new non-executives – or if reappointing existing board members – is the process subject to regulation by the Office of the Commissioner for Public Appointments? If so, is the process compliant with the Commissioner's Code of Practice?

6. Actively managing public appointments through extensions and reappointment rather than make new appointments (through recruitment) to keep the body quorate, in between the decision in principle to abolish and actually winding the body down.

Departments should seek advice from their internal leads on public appointments.

Sources of further advice across Government:

Cabinet Office:

http://www.cabinetoffice.gov.uk/content/public-bodies-and-appointments

http://www.publicappointmentscommissioner.org

http://publicappointments.cabinetoffice.gov.uk

Direct.gov.uk:

http://www.direct.gov.uk/publicappointments

Section 2:
Models of Delivery and Specific Considerations

14. BETTER MODELS FOR DELIVERING PUBLIC SERVICES

The *Open Public Services* white paper outlines the Government's intention for public services to be delivered by a diverse range of providers. Mutuals, the private sector, charities and social enterprises may all have a contribution to make in ensuring the provision of high-quality and efficient public services.

Utilising a diverse range of providers will bring about a renewed focus on achieving positive outcomes for service users, avoiding excess costs and ensuring delivery is undertaken by those organisations best able to deliver. Furthermore the process of reform is an opportunity to promote plurality of provision; allowing end users to reward innovative new providers with their custom.

Appropriate delivery models will be needed to ensure that different organisations are able to play a part in delivering services on a sustainable basis. **The model for delivering a service must therefore be considered at an early stage in the process of reform**. For further information contact the Better Business Models Team, at deliverymodels@cabinet-office.gsi.gov.uk.

Consideration of delivery models

In-house or external delivery

The default position is that services should be considered for provision by a diverse range of providers. In some cases external delivery will not be possible; for example when a body is involved with policy development, semi-judicial decision-making, core policing, or national security. Nevertheless in such cases there may be some functions of a service which could be considered for delivery through external providers.

If external provision is possible, there will be a range of business models with which the relationship with providers could be structured.

Selecting a business model

The most appropriate business model for external delivery will depend on specific circumstances. However characteristics within two areas are likely to be highly influential: the service's operational context and the extent of its income diversification. Within these, the following questions will be relevant:

Operational context

- Are there commercial suppliers who could provide the service?

- Could the scale of delivery lead to competition concerns?

- If there are no commercial suppliers, is this because of problems specifying the service?

Income diversification

- Has the organisation developed diverse income streams?

- Are further opportunities to develop the business evident?

- Would capital investment enable significant development of the business?

The appropriate business model may allow delivery to be undertaken by organisations in different sectors, and with different legal forms. Examples of different forms include mutuals (either employee, customer or multi-stakeholder), companies, charities, partnerships, or social enterprises. These organisations might be pre-existing or newly-formed to deliver the service. In some cases, existing staff may wish to spin-out from Central Government or public sector organisations, to deliver a service within a new structure. A further possibility is for a joint venture to be formed with one or more of these groups.

In choosing to deliver services through a range of diverse providers, Government's role remains in ensuring a high-quality and efficient service is provided. In subsequent chapters the detailed suggestions provided may differ where a new model of delivery is being implemented. For further information on selecting a model for delivering public services contact: **deliverymodels@cabinet-office.gsi.gov.uk**.

Information on public sector mutuals can be found at www.mutuals.cabinetoffice.gov.uk.

15. MOVING FUNCTIONS INTO A DEPARTMENT

Public bodies exist either to carry out functions on behalf of, or provide advice to, government. In certain circumstances, functions might be transferred from a public body into a Government department.

When moving functions into a department, have you considered...

1. Whether there are any legal/statutory changes necessary to transfer functions into a department?

2. What resources already exist within the department to carry out transferred functions?[4]

3. Whether staff will have to transfer from the public body in order to allow continued delivery of those functions?[5]

4. How to minimise increases to the civil service headcount whilst ensuring that functions can be carried out effectively?[6]

5. Whether the department will require additional infrastructure in order to deliver those functions, such as IT systems or property?[7]

6. How to transfer necessary data from the body to the department?[8]

7. How to ensure that senior officials and ministers understand their new obligations?[9]

8. Have the assets and liabilities have been transferred at the correct value?[10]

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[4] See 2, People issues
[5] As above
[6] As above
[7] See 11, Assets and liabilities
[8] See 9 Knowledge transfer
[9] See3, Communications
[10] See 7, Accounting & 11, Assets and liabilities

16. BECOMING AN EXECUTIVE AGENCY

Executive Agencies are defined business units that form part of a Government department. They operate with a degree of autonomy from ministers and the main department. Ministers do not concern themselves with the day to day running of agencies but are directly accountable to Parliament and the public for the overall performance of agencies and for their continued existence. Executive Agencies typically deliver a service, do not have a separate legal personality and are staffed by Civil Servants.

When moving functions into a department, have you considered...
1. Preparing a business case and consulting HM Treasury and Cabinet Office, who will need to approve any proposals for new agencies at a ministerial level?
2. Preparing a framework document setting out the agency's governance and the responsibilities of all relevant parties, such as ministers, the chief executive, HM Treasury spending team, and others?[11]
3. Preparing an initial corporate and business plan?
4. Ensuring sponsorship arrangements are clearly defined within the department?
5. The changing role of the organisation's board as it moves to agency status? Cabinet Office can advise on this.[12]
6. Building an appropriate review process into the agency from the start?
7. Where to go for guidance? For example, http://www.civilservice.gov.uk/Assets/exec_agencies_guidance_oct06_tcm6-2464.pdf

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[11] See 1, Governance
[12] See 1, Governance and 13, Public appointments

17. MERGING ORGANISATIONS

Public bodies exist either to carry out functions on behalf of, or provide advice to, government. In certain circumstances, for example in order to secure better value for money for the taxpayer or to prevent duplication of functions, a decision might be taken to merge together public bodies – particularly if they are closely aligned in terms of policy or subject matter.

When merging organisations, have you considered...

1. If this involves a significant reorganisation, preparing a business case?

2. If the new organisation is an Executive Agency or NDPB, have you consulted HMT and the Cabinet Office (who will need to approve the new proposals and can provide advice)?

3. Getting parliamentary approval for the new body to spend?

4. What issues are involved in merging boards/setting up a new board/appointment of a new Chair and board members?

5. How to establish Prior Year Comparators for the new body's costs?

6. Ensuring chief executives and senior management of the two organisations have the opportunity to talk to each other early on in the process?

7. Initiating ways of allowing operational staff to form relationships before the merger goes ahead?

8. How to manage the process of merging payroll and other HR systems?[13]

9. How to manage the transfer of data between IT systems?[14]

10. The issues associated with pay or pensions harmonisation?[15]

11. How to minimise upfront costs, for example making use of existing branded materials rather than rebranding all property?[16]

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13 See 2, People issues and 12, IT
14 See 9, Knowledge transfer and 12, IT
15 See 8, Financial management, 2, People issues and 11, Assets and liabilities
16 See 8, Financial management

18. MOVING TO CHARITABLE STATUS

A charity is a voluntary organisation that is set up to benefit the public in a way the law deems charitable. For example, helping to improve education or relieving poverty. This may take a variety of legal forms – for example, a charitable company – and may or may not be required to register their charitable status with the Charity Commission.

When considering a move to charitable status, have you considered...

1. Consulting HM Treasury on public/private sector issues?

2. Whether the proposed new body can be established, and operate effectively, as charity?

3. What the stated aims of the new charitable organisation will be and whether those will be exclusively charitable aims that fall within the list of descriptions of purposes in the Charities Act 2006?

4. The appropriateness of the new constitutional structure for a charity and how this interrelates with the existing structure created by statute?

5. Whether any changes in statute will be needed to authorise the wholesale transfer of assets and activities to a new charity and, if so, how soon any necessary change of statute might occur?

6. The viability of retaining any current statute-created constitutional structure for limited purposes whilst transferring the main activities to a new charitable organisation?

7. The extent to which any new charitable organisation that is established will be sufficiently independent of the state, in terms of its purposes, proposed funding arrangements, operation and constitutional structure, such that it could be established and run as a charity?

8. The appropriateness of any statutory powers of the existing organisation if transferred to a new charitable organisation? The charity's powers must be exercisable only at the discretion of the trustees and only in furtherance of the charity's charitable purposes.

9. How the liabilities of the existing organisation will be addressed? If the existing organisation is loss making, any proposed transfer of "toxic" assets and liabilities (such as pension fund deficits or assets which are costly to maintain) to the new charitable organisation would raise the issue of whether the new charity's trustees could properly accept such assets?

10. The extent of commercial activities and the potential for/degree of private benefit to commercial partners?

11. Whether any existing commercial activities need to be transferred to a separate, non-charitable, trading company.

When considering a move to charitable status, have you considered...

12. Whether any existing non-charitable, non fund-raising activities, which it would not be appropriate for the new charitable organisation to undertake, should discontinue, or be transferred elsewhere?

13. Whether the body would need to register as a charity or whether it would be exempt?

14. The status of public appointees to the existing body and how their role may change upon moving to charitable status?

15. Whether and how staff can transfer to the charitable organisation?

Sources of further advice:

Charity Commission:
http://www.charitycommission.gov.uk/Charity_requirements_guidance/default.aspx
http://www.charitycommission.gov.uk/About_us/Contacting_us/default.aspx

Office for Civil Society:
Ben Harrison, Strategy, Environment and Engagement Team
tel: 020 7271 6282
email: ben.harrison@cabinet-office.gsi.gov.uk

19. ABOLISHING A BODY THAT IS ALSO A COMPANY LIMITED BY GUARANTEE

Some public companies are constituted as companies limited by guarantee. A limited company can request to be closed / dissolved under Section 1003 of the Companies Act 2006, providing that it meets all of the following requirements:

- has not traded within the last 3 months

- has not changed the company name within the last 3 months

- is not subject to any legal proceedings, current or proposed, and

- has not made a disposal for value of property or rights.

Companies House provide guidance to help you with this (see link below).

When abolishing a company limited by guarantee, have you considered...
1. What closure options will be used, for example a strike off?
2. Where to go for advice?   (for example   http://www.companieshouse.gov.uk/infoAndGuide/windingUpCompany.shtml)

20. RECONSTITUTING SCIENTIFIC ADVISORY COMMITTEES

As part of the Government's reforms of public bodies, it was agreed that a number of Scientific Advisory Committees (SACs) that are currently advisory NDPBs will be reconstituted outside of the NDPB framework. This change should not compromise the independence of the advice that the committee offers and all SACs, whether NDPBs or not, should continue to work in line with the *Principles of Scientific Advice to Ministers and with the Code of Practice for SACs* (CoPSAC).

The following points should be considered. If you have any questions then please contact your departmental Chief Scientific Adviser or colleagues from the Government Office for Science (GO-Science) identified below.

When reconstituting scientific advisory committees, have you considered...

1. Consulting Cabinet Office on the different forms of advisory bodies – and the pros and cons of each?

2. If the body provides scientific advice, how to ensure that you are adhering to the *Principles of Scientific Advice to Government and the Code of Practice for Scientific Advisory Committees*?

3. If the body provides scientific advice, discussing reforms with the departmental Chief Scientific Adviser?

4. Whether it would be appropriate to create an overarching departmental Scientific Advisory Council?

5. Whether there is an escalation route in place to ensure advice from scientific advisory committees can be submitted directly to Ministers (as required by CoPSAC)?

6. How to ensure that committees are not reconstituted in a way that is at odds with the Cabinet Office guidance on what defines an NDPB?
    see http://www.civilservice.gov.uk/about/resources/public-bodies.aspx)

Sources of further advice across Government:

Code of Practice for Scientific Advisory Committees (CoPSAC):
http://www.bis.gov.uk/assets/bispartners/goscience/docs/c/11-1382-code-of-practice-scientific-advisory-committees.pdf

Further information from the Government Office for Science
CSACsecretariat@bis.gsi.gov.uk

ANNEX A – WHEN CONSIDERING ESTABLISHING AN NDPB

A non departmental public body (NDPB) is defined as "*a body which has a role in the process of national government but is not a government department, or part of one, and which accordingly operates to a greater or lesser extent at arm's length from ministers*".

It is Government policy that new NDPBs should only be established as an absolute last resort. Any proposal to set up a new NDPB must be accompanied by a robust and fully costed business case in which departments must assess the function or activity against the following tests:

- is this a technical function;
- is this a function which needs to be, and be seen to be, delivered with absolute political impartiality (such as certain regulatory or funding functions); or
- is this a function which needs to be delivered independently of ministers to establish the facts and/or figures with integrity and credibility.

There are four types of NDPB:

- **Executive NDPBs** – these are usually established in statute and carry out a wide range of administrative, commercial, executive and regulatory or technical functions which are considered to be better delivered at arm's length from ministers.
- **Advisory NDPBs** - these provide independent, expert advice to ministers on an ongoing basis on a wide range of issues.
- **Tribunal NDPBs** – these normally operate under statutory provisions and are usually concerned with the rights and obligations of individuals towards a branch of Government or other public authority. No new Tribunal NDPBs should be created.
- **Independent Monitoring Boards (IMBs) of Prisons, Immigration Removal Centres and Immigration Holding Facilities** – these bodies are attached to each prison establishment and immigration removal centre and holding room in England and Wales. The role of IMBs is to satisfy themselves as to the state of a prison: the premises, the administration and the just and decent treatment of prisoners and detainees.

For further information, please see *Public Bodies: A Guide for Departments* and *Categories of Public Bodies: A Guide for Departments*

(http://www.civilservice.gov.uk/about/resources/information-on-public-bodies)

If you have any queries on the process for establishing an NDPB, please contact the Propriety and Ethics Team, Cabinet Office, 70 Whitehall, London SW1A 2AS Tel: 020 7276 0387/0269

Cabinet Office
70 Whitehall
London SW1A 2AS

www.cabinetoffice.gov.uk