

**Agencies and Public Bodies Team**

# **Executive Agencies: A Guide for Departments**



**CREATION, REVIEW AND DISSOLUTION OF EXECUTIVE AGENCIES**

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# **CREATION, REVIEW AND DISSOLUTION OF EXECUTIVE AGENCIES**

## **Background**

1. Executive agencies were created to enable executive functions within government to be carried out by a well-defined business unit with a clear focus on delivering specified outputs within a framework of accountability to Ministers. By the mid-1990s the agency model had become the principal organisational type for public service delivery. The end of the main creation phase was announced in the "[Next Steps Report for 1997](#)<sup>1</sup>", by which time over three-quarters of civil servants were working in executive agencies.

2. This initiative has been further developed with the publication of the report of the Agency Policy Review "[Better government services: Executive agencies in the 21st century](#)"<sup>2</sup> in July 2002. The review concluded that while agencies have been successful in achieving radical cultural change in central government to the benefit of customers, in too many cases their work has become disconnected from the increasingly well-defined aims of Ministers. The principles enshrined in the review's 12 recommendations do not seek to impose a single blueprint but act as a guide to departments in their relationships with their agencies.

3. Although the main focus of government policy has shifted away from creation of agencies towards improving their performance, this was never intended to rule out the establishment of new agencies, where appropriate. Candidates for agency status will continue to be identified and this guidance outlines the processes involved in considering their suitability, creation and dissolution.

## **Creation of Executive Agencies**

### **Identification**

4. The identification of the most appropriate bodies for delivery of government business is primarily the responsibility of ministers and senior management within departments. This will often come about through undertaking a landscape review: a high-level whole system review of all the agents and partners through which the department delivers its objectives and targets, or a more detailed business process review, such as an 'end-to-end' review. Advice for review teams on both of these may be found [here](#).<sup>3</sup> (Note: link will only work for GSI users. The documents are not available on the public internet.) All sponsor departments completed a Performance Partnership Agreement as an integral part of the 2004 Spending Review Settlement. The agreements will set out departments' review programme for their delivery areas, including agencies. From 2006 onwards the government's programme of [Capability Reviews](#)<sup>4</sup> will take this forward.

5. The areas of businesses specifically suitable for consideration for executive agency status will vary, but common features include:

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<sup>1</sup> <http://www.archive.official-documents.co.uk/document/cm38/3889/3889.htm>

<sup>2</sup> <http://agencies.civilservice.gov.uk/publications/pdf/opsr-agencies.pdf>

<sup>3</sup> <http://www.cabinet-office.gsi.gov.uk/opsr/depcapland.htm>

<sup>4</sup> [http://www.civilservice.gov.uk/publications/html/pasc\\_speaking\\_note.asp](http://www.civilservice.gov.uk/publications/html/pasc_speaking_note.asp)

- clearly designated units within departments which are responsible for undertaking the executive functions of that department, as distinct from giving policy advice and are sufficient in size to justify major structural change;
  - independently accountable within their department. They must be capable of having agency-specific targets, which are reported to Parliament. They must also produce agency annual reports and accounts (in accordance with [HM Treasury's Government Financial Reporting Manual](#).<sup>5</sup>); and
  - by the time of launch they must be financially viable i.e. adequately resourced to attain challenging targets as contained in their Business or Corporate Plan.
6. Areas of work where the day-to-day involvement of the department or Ministers is inevitable, or where policy and its' execution are inextricably linked, are unlikely to be suitable candidates for agency status.

### Preparing for Agency status

7. If following a business review it is considered by the sponsor department that an agency is the most appropriate delivery agent, the departmental Minister should make a submission to Cabinet Office and HM Treasury Ministers seeking agreement to the proposals. These Ministers will expect the submission to include:-

- details of the processes and outcomes considered in reaching this decision, including mention of alternative institutional options considered and rejected (including a 'do nothing' or 'do minimum' option) and stakeholder consultation;
- proposals detailing how the department will take this forward; and
- any presentational issues that they should be aware of.

Departmental officials should normally have approached Treasury and Cabinet Office officials in advance of this to 'test the waters' – a draft submission, before it has been put to the departmental Minister, may be the best vehicle for this approach. Such consultation should ensure that the Ministerial submission is robust and can be cleared quickly. The appropriate contacts are the Agencies & Public Bodies Team in the Cabinet Office (see end of Guidance Note) and the relevant departmental spending team in the Treasury.

8. It is strongly recommended that the sponsoring department for the candidate agency treats the preparation for agency status as a project, appointing a project manager and using project management methodology. Not all aspects of the new organisation's future existence need to be incorporated within the project (e.g. IT strategy) but the project steering group needs to be regularly informed about all external developments that could have implications for the launch. The issues the launch project would need to address include the following:

- appointing the Chief Executive normally by open competition. Appointments into SCS pay band 2 or above and appointments to a small number of other specific posts must be cleared with the Civil Service Commissioners (CSC). Further details and CSC contacts may be obtained from [here](#)<sup>6</sup>. Where practical, it could be

<sup>5</sup> <http://www.financial-reporting.gov.uk/>. This applies to Annual Reports and Accounts for the 2005/06 financial year onwards.

<sup>6</sup> <http://www.civilservicecommissioners.gov.uk/>

beneficial to appoint the Chief Executive in advance of the agency coming into effect. The Chief Executive (Designate) would then be able to become actively involved in the planning of the new agency. The appointment of non executive board members is a matter for the agency once it has been created;

- preparing the Framework Document. This sets out the key elements of the policy and resources framework for the agency and the relationship and respective responsibilities of the Chief Executive, the relevant Minister, the departmental permanent secretary, the appropriate HM Treasury spending team and other departments, agencies and other organisations. Information on what the Framework Document should cover can be found in Annex A to this document. Alternatively, sponsor departments can draw up an over-arching 'Departmental Framework' setting out the governance arrangements for the whole department, including its agencies. It would be expected that this would include the elements identified in the guidance above.
- preparing an initial Corporate and Business Plan, including key targets. If the plans are unsuitable for publication because of commercial sensitivity this must be justified and agreed by HM Treasury and a statement to that effect included in the Framework Document.
- providing the guidance has been followed, it is no longer a requirement that Framework Documents, initial Business or Corporate Plans or initial targets are cleared by Cabinet Office officials or Ministers. Responsibility for ensuring they are fit for purpose rests with the departmental Minister on the advice of the sponsor team in the department. Outline guidance for preparation of these items is referred to where appropriate in this document. Cabinet Office officials remain willing to provide advice and comments on drafts of Framework Documents if desired. However, it continues to be the requirement that Framework Documents (both the initial version and all revisions) and initial Business Plan/ Corporate Plan and Ministerial Targets (but not subsequent revisions) must be cleared by Treasury officials and then by a Treasury Minister (on the basis of a submission from a Minister in the agency's sponsor department – see [para. 19](#) below). Departments proposing to deviate substantively from the central guidance are strongly recommended to discuss their reasoning for this with the Cabinet Office and HM Treasury.
- Sponsor departments' attention is also drawn to Chapter 6 of '[Government Accounting](#)'<sup>7</sup> on accounting and financing arrangements for executive agencies. In setting up a new agency, they must also pay due regard to the conclusions of the [Gershon review](#)<sup>8</sup> of public sector efficiency; the [Lyons review](#)<sup>9</sup> of public sector relocation; and (where relevant to the proposed agency's activities) the [Hampton Review](#)<sup>10</sup> of regulation.

9. Guidance on setting targets can be found in the joint HM Treasury, Cabinet Office and NAO document '[Setting Key Targets for Executive Agencies: A Guide](#)'<sup>11</sup>. Key Ministerial targets must be announced to Parliament each year by the sponsor

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<sup>7</sup> [http://www.government-accounting.gov.uk/current/content/ga\\_06\\_1.htm](http://www.government-accounting.gov.uk/current/content/ga_06_1.htm)

<sup>8</sup> [http://www.hm-treasury.gov.uk/spending\\_review/spend\\_sr04/associated\\_documents/spending\\_sr04\\_efficiency.cfm](http://www.hm-treasury.gov.uk/spending_review/spend_sr04/associated_documents/spending_sr04_efficiency.cfm)

<sup>9</sup> [http://www.hm-treasury.gov.uk/consultations\\_and\\_legislation/lyons/consult\\_lyons\\_index.cfm](http://www.hm-treasury.gov.uk/consultations_and_legislation/lyons/consult_lyons_index.cfm)

<sup>10</sup> [http://www.hm-treasury.gov.uk/budget/budget\\_05/other\\_documents/bud\\_bud05\\_hampton.cfm](http://www.hm-treasury.gov.uk/budget/budget_05/other_documents/bud_bud05_hampton.cfm). The Government's response to the Hampton Review is being led by the [Better Regulation Executive](#) <http://www.cabinetoffice.gov.uk/regulation/index.asp>

<sup>11</sup> <http://agencies.civilservice.gov.uk/publications/pdf/setting-targets.pdf>

Minister. A written Ministerial statement will normally be sufficient. This should normally be tabled by the end of April. Performance against Ministerial targets must be reported in the Annual Report and Accounts at the end of the year.

## Governance

10. Every agency needs clear arrangements for overseeing its strategic direction, performance monitoring and review; and these arrangements should be outlined in the Framework Document. The variety of agencies means that one solution will not fit all, and it should be for departments to decide on the precise structure of governance arrangements as long as the key principles of governance are met: shared strategic direction; meaningful, stretching but achievable targets; risk assessment and management and effective high-level performance monitoring and review. Sponsor teams are advised to study the Treasury document [“Corporate Governance in central government departments: Code of good practice July 2005”](#)<sup>12</sup>. Para. v. of the Introduction and Principles 1 and 2 are of particular relevance to executive agencies. Every agency should have a departmental sponsor. It would be appropriate to provide a means of bringing in outside expertise or a different perspective through the appointment of non-executive members to the agency’s management board. If the agency is to be a key contributor to the Department’s objectives, it may be appropriate for a senior member of the agency to be a member of, or observer on, the department’s management board. However, none of these should undermine the direct accountability of the Chief Executive, and right of access, to the responsible Minister which is a key feature of the agency model. Whatever governance arrangements are chosen, these should be kept under review.

## Departmental Sponsors

11. Sir Angus Fraser's 1991 report to the Prime Minister envisaged a senior figure within a department (the ‘Fraser figure’), enjoying the trust of both Minister and Chief Executive, and acting as the main source of external advice on the performance of an agency. This role was further developed with the publication of the report of the Agency Policy Review [“Better government services: Executive agencies in the 21st century”](#)<sup>13</sup> (Chapter 4, paras. 26-39). This defined the role and responsibility of a sponsor more fully to include:

- developing and advising Ministers on the strategic direction of the agency in the context of wider departmental or cross-governmental objectives;
- agreeing a framework for strategic performance management;
- advising Ministers on their response to strategic performance information;
- advising the Chief Executive on steering the agency’s activities to ensure that they most effectively support the delivery of departmental objectives; and
- ensuring that the agency has the delegations and authorities necessary for effective delivery and continuous improvement.

12. Some agencies (such as HM Land Registry) are departments in their own right so the role of the sponsor would differ. A greater emphasis would be placed on

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<sup>12</sup> <http://www.hm-treasury.gov.uk/media/5DF/7D/corpgovernancecode280705.pdf>

<sup>13</sup> <http://agencies.civilservice.gov.uk/publications/pdf/opsr-agencies.pdf>

communication, liaison and integration rather than on setting the strategic direction; with the Chief Executive being directly accountable to Ministers.

13. It is feasible that the sponsor role might be held by the Permanent Secretary in the case of a few major agencies, but it is more likely to be the director of the relevant policy area or the head of an agency sponsorship unit. In order to carry out the role effectively, the sponsor should generally be at Senior Civil Service level and will need the necessary skills and competencies to add value through:

- understanding and having experience of the needs of delivery and business opportunities;
- experience of dealing with Ministers;
- knowledge and understanding of cross-governmental objectives; and
- providing constructive challenge to the management of the agency.

### **Non-Executive Members**

14. Non-executive members should be appointed to the departmental Management Board and agency Management Board. Section 4 of the Treasury Corporate governance Code (see [para. 10 above](#)) states that there should be a minimum of two, ideally more. If a Ministerial Advisory Board is also set up (see below), its membership should also include non-executive members.

15. Non-Executive members should be supportive, advisory and enabling; but also constructively challenging. They should provide advice in ways that will help the department or agency and its board. They also have a key role in suggesting challenging and customer-focused targets and innovative approaches to their delivery. However they have neither the powers of direction nor the liabilities of members of a private company or a Non-Departmental Public Body Board.

16. Guidance on the recruitment, appointment and development of non-executive directors is being developed by the Board Effectiveness and Corporate Leadership Team at the Cabinet Office (National School of Government) Tel: 020 7276 1356 or e-mail [boardpolicy@nationalschool.gsi.gov.uk](mailto:boardpolicy@nationalschool.gsi.gov.uk).

### **Ministerial Advisory Boards**

17. Many agencies have set up Ministerial Advisory Boards (MAB) following advice given some years ago (e.g. the Trosa report 1994). However, the 2002 Agency Policy Review (paragraph 40) suggested that no agency needed both a Steering/Management Board and a MAB and that in most cases non-executive directors played a more valuable role on departmental and agency management boards. It is for sponsor departments to decide whether a MAB should be set up but if it is considered appropriate, its role should be included in the Framework Document.

18. MABs should be chaired by a senior official carrying the Minister's confidence, although the Minister might attend and act as chair from time to time. A MAB would provide advice to the Minister on strategic direction, corporate and business plans, target setting and the appointment, performance assessment and pay of the Chief Executive. Suggestions for making MABs more effective include:

- provision of training for MAB members;

- establishment of a small secretariat from within the sponsor department to support the MAB. This might be particularly useful in a department without a dedicated agencies' support branch. The role could be carried out by the sponsor's staff;
- encouraging Ministers to attend MAB meetings periodically.

Para 6.3 of the Treasury Corporate Governance Code (see [para. 10 above](#)) suggests the possibility of departmental board members sitting on the management board of an agency. If this is done it would further diminish the value of a separate MAB.

## Agency Launch

19. Once preparation has been nearly completed, departmental Ministers should seek further approval from the Chief Secretary to the Treasury before an agency can be launched. This second Ministerial submission should be accompanied by a copy of the agency's Framework Document, Corporate and Business Plans, and the text of the proposed Ministerial Statement announcing the launch, including the targets set for the first year of operation. If Parliament is in recess at the time of launch, the relevant departmental Minister should write to MPs with a constituency interest in the new agency and a retrospective Ministerial Statement should be placed for the start of the next session. The new agency may also wish to issue a press release and organise an appropriate launch event. Cabinet Office Agencies & Public Bodies Team officials should be kept informed of progress towards the announcement of a new agency.

## Reviewing Executive Agencies

20. Executive agencies are tasked with carrying out executive functions within government. The emphasis is placed on ensuring that there is a clear focus on delivering specific outputs within a framework of accountability to Ministers as detailed in the Framework Document. Sponsor departments are required to keep under review the effectiveness of their business processes in achieving those outputs, within all their operating units, including agencies. Where changes in delivery mechanisms are identified, the agency's Framework Document will require amendment. The opportunity should also be taken to identify any other areas where the Framework Document requires updating. Such reviews should take place, in consultation with the agency, at intervals of not more than three years, or as business plans are rolled forward. It is at this point that the department may decide that the activities carried out by the agency are no longer supporting the objectives of the department, government or indeed its customers and should be dissolved, or that the function should be carried out within a different organisational structure. The Cabinet Office guidance for reviewing Public Bodies<sup>14</sup> may also be useful to Departments considering reviewing small agencies.

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<sup>14</sup> Chapter 9 of 'Public Bodies: A Guide for Departments' provides detailed advice. This Guide is available from the Agencies and Public Bodies Team Website.

## Merger and Transfer of Executive Agencies

### Merger of Executive Agencies or merger of an Agency with another type of body

21. If two agencies are to merge, this is a matter for decision by the sponsor departmental Minister(s) subject to the approval of the Chief Secretary to the Treasury. The decision should be supported by a thorough review which has considered whether the benefits (which ought primarily to be improved service delivery) outweigh any disruption that the change process will cause. Cabinet Office officials should be kept informed of the intention and progress of the proposals, but agreement need not be sought from them or their Minister. The merger must be announced by Parliamentary statement from a departmental Minister and sponsor teams are responsible for ensuring that a Framework Document, Business and Corporate Plan and Targets for the newly-merged agency are produced in good time. The same requirements apply where an agency is merging with another type of body and the resulting body will continue to be an executive agency. If the 'other type of body' to become part of the new agency is currently a non-departmental public body, the Cabinet Office guidance for dissolution of that body must be applied (please refer to Chapter 10: 'Dissolving a NDPB' of Public Bodies: A Guide for Departments).

### Transfer of agencies between sponsor departments.

22. Generally, where functions are to be transferred from one government department to another, the Prime Minister's approval must be obtained and a formal Transfer of Functions Order may be required. This includes the transfer of an agency between departments. However, there is a derogation from this for minor changes. The sponsor department proposing the move should consult Treasury and Cabinet Office (both Agencies and Public Bodies Team and Economic and Domestic Affairs Secretariat (who handle liaison with the Prime Minister's Office and can determine whether the transfer is small enough not to require PM approval.)) Ministers from the two departments must agree formally to the transfer, and it should be announced by a written parliamentary statement.

### Trading Funds.

23. Trading Funds are a means of financing the revenue-generating operations of a government department which takes them outside the supply process. They are not separate legal entities and remain part of a department (or are departments in their own right). Advice and guidance on the Treasury website ['Guide to the Establishment and Operation of Trading Funds'](#)<sup>15</sup>

## Dissolution of an Executive Agency

24. Identification of agencies for closure is the responsibility of Ministers and senior management within departments. When considering whether to dissolve an executive agency it is important to base the decision on the outcome of a thorough review. This section applies equally to dissolution without replacement (if the functions of the agency no longer need to be carried out within government), return of the agency and its functions to within its sponsor department ("de-agencification"), or conversion of an agency to another type of public body.

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<sup>15</sup> [http://www.hm-treasury.gov.uk./media/F72/CC/establishment\\_operation\\_\\_trading\\_funds.pdf](http://www.hm-treasury.gov.uk./media/F72/CC/establishment_operation__trading_funds.pdf)

25. Once a decision has been made to dissolve an agency, departmental Ministers should seek formal approval from the Chief Secretary to the Treasury and the Minister for the Cabinet Office. This request should be accompanied by:

- details of the processes and outcomes considered in reaching this decision;
- proposals detailing how the department will take this forward i.e. what will happen to the staff, work etc; and
- any presentational issues that they should be aware of.

It would be appropriate for sponsor departmental officials to alert Treasury and Cabinet Office officials to the impending Ministerial approaches. If the departmental view is that the agency ought to be converted to another form of public body (e.g. a non departmental public body) then the department must follow the processes for setting up such a new body laid down in separate guidance (e.g. [‘Public Bodies: A Guide for Departments’](#)<sup>16</sup>)

26. Once Treasury and Cabinet Office Ministers are content, the Department can then formally dissolve the agency with effect from the agreed operative date. The change in the body’s status should be announced to Parliament by means of a written statement.

### Further Information

27. This guidance may be revised and updated from time to time as necessary.

28. For further information about any aspect of this guidance please contact the Agencies & Public Bodies Team, Room 030, 70 Whitehall, London SW1A 2AS, Tel 020 7276 2040/0269, e-mail: [apbt@cabinet-office.x.gsi.gov.uk](mailto:apbt@cabinet-office.x.gsi.gov.uk) or HM Treasury via your departmental spending team.

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<sup>16</sup> ‘Public Bodies: A Guide for Departments’ is available from the Agencies and Public Bodies Team Website.

## GUIDANCE ON FRAMEWORK DOCUMENTS

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## Introduction

1. Framework Documents set out the key accountability relationships between Agency Chief Executives and key players in their sponsor department<sup>17</sup> including the Permanent Secretary, agency sponsors and the responsible Minister. The responsible Minister should seek the approval of Treasury Ministers before publication. Approval of Cabinet Office officials and Minister is no longer required as long as this guidance has been followed. Publication and distribution of the document would then be the responsibility of the relevant department.
2. The traditional formulation envisages that each agency has a separate Framework Document. Alternatively departments may wish to consider developing a departmental framework setting out the governance arrangements for the whole department, including its agencies<sup>18</sup>. This could assist in emphasising the role that the agencies play in delivering the department's overall objectives and help to address any problems of disconnection between the agency and department as identified in the [Agency Policy Review](#).<sup>19</sup>
3. In recognition of the range of different types of agencies, there is no "model" Framework Document. The presentation and content of the document may differ considerably from case to case. The Framework Document should be published on the department's web site (and agency web site if this exists) and copies should be placed in the libraries of both Houses of Parliament. Hard copies should be available from the department and agency on request.

## Overview

4. Cabinet Office advice is that all Framework Documents should contain:
  - (i) [a foreword by the Minister;](#)
  - (ii) [details of the Agency's size, location and functions;](#)
  - (iii) [the Agency's aim and objectives;](#)
  - (iv) [key target areas;](#)
  - (v) [the relationship between the Minister, the Agency Chief Executive and senior officials in the parent or relevant policy making Department;](#)
  - (vi) [the relations with the Accounting Officer of the Department \(and other relevant Accounting Officers\) as provided for in the Accounting Officer Designation Letter](#)

<sup>17</sup> Some agencies are departments in their own right but should still have Framework Documents setting out their relationship with the responsible Minister and key players in the relevant policy making department(s)

<sup>18</sup> Following restructuring, the Department of Work and Pensions has used this approach to set out the accountability relationships across all its business units

<sup>19</sup> Better Government Services – Executive agencies in the 21<sup>st</sup> century (published July 2002)  
<http://agencies.civilservice.gov.uk/publications/pdf/opsr-agencies.pdf>

(vii) the relationship with other bodies;

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(viii) the arrangements for dealing with Parliamentary Questions and letters from Members of Parliament;

(ix) the customer complaints procedure and the arrangements for handling Parliamentary Commissioner for Administration cases;

(x) the financial regime for the agency (including the extent of delegations to the agency);

(xi) the machinery for accounting, audit, monitoring and reporting, both within government and externally;

(xii) the arrangements for producing accounts;

(xiii) the business and corporate planning framework;

(xiv) the arrangements for recruitment, pay and other personnel management responsibilities (including the extent of delegations to the agency);

(xv) the method of recruitment and the basis of remuneration for the Chief Executive;

(xvi) Appearance before the Public Accounts Committee and other (eg. departmental) Select Committees;

(xvii) the arrangements for risk management; and

(xviii) the arrangements for changing the Framework Document.

5. Each of these elements is explained in more detail below. The Framework Document might also include other elements, such as statements of the Agency's policies on training and development, industrial relations and health and safety, although these do not need to be dealt with exhaustively.

## **Detail**

### **(i) Foreword by the Minister**

6. This should be a single page statement introducing the document and commenting on the importance of the agency (and any other business units that might be covered by the document). This is a good opportunity to set out the agency's role in delivering the wider objectives of the department (and, where appropriate, cross cutting objectives for the government as a whole). This will help to emphasise the connections between the agency and the core department. The Foreword should normally be signed by the relevant Secretary of State.

**(ii) Details of the Agency's size, location and functions**

7. This section should set out the size of the agency in terms of number of employees and perhaps also annual budget, the location of the head office and a description of where local offices (if applicable) are located and an outline of the

job that it exists to do. Any legal or accreditation functions that the agency performs should be particularly clearly explained. A map or maps showing the regional structure of the agency may help where the agency operates nationwide. The nature and extent of any functions that have been contracted-out should be explained. These basic facts about the agency serve to set the accountability arrangements in context.

**(iii) Agency's aim and objectives**

8. Agencies should have a single aim or mission statement and this should be set out clearly. This aim may be given expression in several main objectives that should also be stated. The relationship between these objectives and the Department's overall objectives as expressed in Public Service Agreements (PSAs) should be explained.

**(iv) Key target areas**

9. This should set out the areas in which key Ministerial targets will be developed in order to assess the progress with which the aim and objectives are being achieved. The relationship between these target areas and the relevant department's PSA targets should be explained. Agencies should be consulted by their sponsor Department (or their main policy-making Department) both on the agency targets and relevant PSA targets prior to Ministerial approval and the right for the agency to be consulted on these targets should be written into the Framework Document.
10. The actual agency targets do not need to be shown in the Framework Document. They will normally be set annually and will appear in the agency's business plan and annual report and accounts. They are also announced to Parliament by means of a Ministerial statement (usually written) published in Hansard before the start of the financial year.

**(v) Relationship between the Minister, the Agency Chief Executive and senior officials in the Department**

11. Agency Chief Executives (CEs) should continue to be accountable to Ministers. The principle is that the relevant Secretary of State should be responsible for the policy framework within which each agency operates; for determining its strategic objectives; for setting its annual key financial and performance targets<sup>20</sup> (which are announced to Parliament by Ministerial statement); approving Corporate and

<sup>20</sup> In the case of Trading Funds, Ministers also set further financial objectives. These are agreed with the Treasury and are announced to Parliament by means of a Treasury Minute.

Business Plans; and for monitoring performance against these targets. There is a need for regular dialogue between Ministers and CEs and it is recommended

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that at least one face-to-face meeting takes place every year to discuss the agency's strategy and performance and how risks can best be managed. CEs should retain a standing right of access to their Minister. All this should be appropriately written into the Framework Document.

12. In practice, the direct contact between the Minister and CE, while important, is unlikely on its own to generate the close contact between the agency and the department needed for efficient operation. Therefore, the Minister should assign a senior member of staff (i.e. at SCS level) to act as a sponsor<sup>21</sup> for the agency. The sponsor might be the Permanent Secretary in the case of a small number of very important agencies but in most cases would be the director of a relevant policy area or agency sponsorship unit. The sponsor is a key link between the agency and the department and will be key to ensuring that the department and the agency have clear understanding of each other objectives and methods of working and how these can best fit together. Sponsors should keep the CE informed of any central policy developments that might impact on the agency. The role of the sponsor, which should be covered in the Framework Document, should be to:

- advise Ministers on the strategic direction of the agency in the context of wider departmental or cross-governmental objectives
- agree a framework for strategic performance management
- advise Ministers on their response to strategic performance information
- advise the CE on steering the agency's activities to ensure that they most effectively support the delivery of departmental objectives
- ensure that the agency has the delegations and authorities necessary for effective delivery and continuous improvement

Some of these functions may be undertaken by or through a departmental stakeholder board – if so, the arrangements should be set out clearly in the Framework Document. See the Treasury document Corporate governance in central government departments: Code of good practice July 2005<sup>22</sup> for further information on best practice governance arrangements. Para. v. of the Introduction and Principles 1 and 2 are of particular relevance to executive agencies.

The sponsor will also have an important role in assisting the CE to work through the implications of any recommendations emerging from landscape and end-to-end business process reviews where they affect the agency. In order to fulfil all

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<sup>21</sup> In the case of agencies which are departments in their own right, it is recommended that a liaison role be filled by a senior member of staff in the relevant policy making departments along the lines of the sponsor role set out here

<sup>22</sup> [http://www.hm-treasury.gov.uk/documents/public\\_spending\\_and\\_services/audit\\_and\\_accounting/pss\\_audit\\_corporategovernance.cfm](http://www.hm-treasury.gov.uk/documents/public_spending_and_services/audit_and_accounting/pss_audit_corporategovernance.cfm)

these tasks, the sponsor is likely in practice to need the support of a sponsorship team (but there is no need to explain the details of this in the Framework Document).

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If it is decided that, exceptionally, there is a need to supplement these arrangements through other methods of oversight, such as Ministerial Advisory Boards, then this should be explained.

13. CEs are responsible for the day to day management of the agency. They are usually directly accountable to the appropriate Secretary of State and the departmental Accounting Officer (normally the Permanent Secretary) for the financial management of the agency<sup>23</sup> and for performance against key targets. CEs (or their senior staff) should notify their senior sponsors in the department of any significant problems that they are experiencing in meeting their delivery targets.

**(vi) Relations with the Accounting Officer of the Department (and other relevant Accounting Officers)**

14. The Accounting Officer for the department, normally the Permanent Secretary, is expected to designate the CE as Accounting Officer for the agency. In the case of a Trading Fund the Treasury appoints the Chief Executive as its Accounting Officer. A similar procedure applies where the agency is a Government department in its own right.
15. As provided for in the Accounting Officer designation letter, the CE will be responsible for ensuring that the requirements of Government Accounting are met and that proper procedures are followed for securing the regularity and propriety of the public funds administered by the agency. The CE will also be responsible for observing any general guidance issued by the Treasury and Cabinet Office and implementing recommendations of the Parliamentary Accounts Committee (PAC) or other Parliamentary Select Committees if they are accepted by the government.

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<sup>23</sup> For agencies which are departments in their own right, the CE is directly accountable to Parliament for the financial affairs of the agency.

**(vii) Relationship with other bodies**

16. This section should set out the relationship between the agency and other stakeholders with an interest in its work. This might include: industry, voluntary sector organisations, local authorities, the devolved administrations, other government departments with policy or resourcing roles that affect the agency, other agencies or non-departmental public bodies with whom collaboration currently does or could usefully take place and details of partnerships with any commercial organisations. This should reflect the modern emphasis on joining up public service delivery so that customer needs are met in the most effective way, not determined by administrative boundaries.

**(viii) Arrangements for dealing with Parliamentary Questions and letters from Members of Parliament**

17. Members of Parliament should be encouraged to deal directly with CEs on day-to-day operational matters. The Secretary of State is normally expected to ask a CE to reply direct to correspondence and written Parliamentary Questions that concern issues delegated to the CE. Nevertheless, the Secretary of State is

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accountable to Parliament on all matters concerning their agencies, and accordingly should retain the right to intervene in the operations of the agency if public or parliamentary concerns justify it.

**(ix) Customer complaints procedure and arrangements for handling Parliamentary Commissioner for Administration cases**

18. The Framework Document should state that the agency operates in accordance with a published complaint procedure that is clear and accessible to all users. It should also set out the right of Members of Parliament to refer complaints from the public to the Parliamentary Commissioner for Administration where an individual claims to have suffered injustice through maladministration.

**(x) Financial regime for the Agency**

19. The Framework Document should set out the type of financial framework (e.g. supply financed or Trading Fund), the process by which financial provision is made for the agency and the extent of financial delegations to the agency. The arrangements should allow for agency involvement in spending review discussions and should normally aim at giving agencies three year (rather than annual) budgets.
20. The financial delegations given to the CE as Accounting Officer should be explained (and would usually be set out in an annex). It is expected that the CE will have authority to approve expenditures within their allocated resource budgets, incur capital expenditure within their agreed capital budget and be granted End-Year Flexibility to carry forward resources into the next financial year, in line with Treasury guidance. If it is decided that, exceptionally, there should be limits on these freedoms, this should be set out clearly (usually in the annex on financial delegations). In the case of Trading Funds, the issue of End Year Flexibility does not arise because the Fund retains its receipts and finances its activities from its income.

21. The Framework Document should underscore the agency's ability to deliver services to new customers on a commercial basis in accordance with Treasury guidance on selling services to the wider market. Departments should work with their agencies to get the best out of their assets – this may mean acting more commercially or expanding into wider markets where appropriate.
  22. For further information on the effect of Trading Fund status on the framework document see Chapter 3 – paragraph 3.4.2.j. on the HM Treasury website '[Guide to the Establishment and Operation of Trading Funds](#)',<sup>24</sup>
- (xi) Machinery for accounting, audit, monitoring and reporting, both within government and externally**
23. This should set out the CE's responsibility (as Accounting Officer) to produce and sign off an audited Annual Report and Accounts. This should be submitted to Parliament via the relevant Minister before the start of the summer recess after the financial year-end (except in the case of agencies that are also whole

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departments where the timetable may be relaxed to 31 October after the financial year-end). The accounts should be prepared in accordance with guidance and directions issued by the Treasury, such as [Chapter 11 of the Resource Accounting Manual](#)<sup>25</sup> and the [Financial Reporting Manual](#)<sup>26</sup>. They should be submitted to the Comptroller and Auditor General within an agreed timetable for the purposes of external audit.

24. This section should also cover the CE's responsibility to establish an internal audit service. The standards to which it should comply and its responsibilities in respect of providing assurance on risk management, control and governance should be set out, including the role of the audit and risk management committees.

**(xii) Arrangements for producing accounts**

25. The CE is responsible for producing and publishing accounts for the agency (see (xi) above). However, some agencies may wish to use the accounting systems and services provided by the core department. In this case, the processes by which the CE will satisfy himself of the quality of accounting services provided by the department and the right of the agency to enforce service level agreements with the department should be set out in the Framework Document.

**(xiii) Business and Corporate planning framework**

26. The Framework Document should set out the CE's obligation to prepare a three year Corporate Plan (to match its three year budget) covering the agency's strategy to meet its key performance targets. The plan would normally be updated annually. The timetable for submission of the plan to the Minister for approval<sup>27</sup> should be stated. Once approved, the plan should be published on

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<sup>24</sup> [http://www.hm-treasury.gov.uk/media/F72/CC/establishment\\_operation\\_\\_trading\\_funds.pdf](http://www.hm-treasury.gov.uk/media/F72/CC/establishment_operation__trading_funds.pdf)

<sup>25</sup> [http://www.resource-accounting.gov.uk/current/content/ram\\_11\\_1.htm](http://www.resource-accounting.gov.uk/current/content/ram_11_1.htm)

<sup>26</sup> <http://www.financial-reporting.gov.uk/>

<sup>27</sup> For the first year of operation only, the business plan must also be approved by a Treasury Minister.

the agency web site and/or available on request from the agency's head office.<sup>28</sup> The plan should take into account the recommendations of any landscape and end-to-end business process reviews as they impact on the agency. As a variation on this, agencies with annual budget agreements may agree with their responsible Minister that an annual business plan, perhaps accompanied by a longer term (3-5 year) Corporate Plan, would be more appropriate.

27. The Framework Document should set out that the parent department will assist the agency in its corporate planning process by providing information about likely policy developments or other changes that could impact on the agency.

**(xiv) Arrangements for recruitment, pay and other personnel management responsibilities**

28. The right to pay, grade, promote and manage agency staff should be delegated to the agency Chief Executive<sup>29</sup>. Agencies should be able vary terms and conditions to respond to local employment market conditions. In the case of

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recruitment to the senior civil service, agencies should observe the requirements and processes imposed by the [Civil Service Commissioners](#)<sup>30</sup>. If the Permanent Secretary wishes, the arrangements may also require departmental representation on an agency recruitment board for SCS positions. The extent of the personnel delegations should be set out in an annex to the Framework Document.

29. Some agencies may prefer to use core departmental resources to meet their personnel needs. For this reason, the Framework Document should preserve their ability to opt in or out of departmental support services.
30. Certain HR policies such as conduct and discipline, attendance management, equal opportunities and health and safety policies may be common across the whole department. This should be made clear in the Framework Document.

**(xv) Method of recruitment and the basis of remuneration for the Chief Executive**

31. An agency Chief Executive is normally appointed by open competition by the relevant Secretary of State. Appointments into SCS pay bands 2 and 3, and appointments to a small number of other specific posts need to be cleared with [Office of the Civil Service Commissioners](#)<sup>31</sup>. There is usually an element of performance related pay built into the employment contract and this should be explained in broad terms. In common with other civil servants, the CE's appointment can be terminated on grounds of poor performance (e.g. failure of the agency to achieve its objectives and key targets).

**(xvi) Appearance before the Public Accounts Committee or Select Committees**

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<sup>28</sup> Exceptions made be made for reasons of commercial confidentiality, staff sensitivity or national security

<sup>29</sup> In practice, these authorities may be delegated to directors and other staff in the agency

<sup>30</sup> <http://www.civilservicecommissioners.gov.uk/>

<sup>31</sup> <http://www.civilservicecommissioners.gov.uk/>

32. The CE and Permanent Secretary may be required to appear before PAC. At Select Committee hearings, Ministers will normally ask the CE to represent or accompany them if the Committee is concerned with the day to day operations of the agency.

**(xvii) Arrangements for risk management**

33. This should set out the CE's responsibility to develop a comprehensive risk management plan for the agency. This should be made available to the parent department (where one exists). Guidance on Risk Management is contained in [Chapter 21 of 'Government Accounting'](#)<sup>32</sup>.

**(xviii) Arrangements for changing the Framework Document.**

34. This should set out that the Framework Document and its operation will be reviewed by the department, in consultation with the agency, at intervals of not more than three years. The review should include an assessment of the agency's track record in the effective use of its financial and managerial freedoms to achieve its objectives. Proposals for further freedoms will be considered in the light of evolving policy and operational factors and the track

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record of the agency itself. The guiding principle will be that the extent of flexibility and freedom given to the agency should reflect both the quality of its internal controls and its operational needs.

35. Provision should however be made for amendments to be proposed by the department or the agency at any time. The Minister will be responsible for consulting all those concerned with proposals for amendments, including a Treasury Minister. An up-to-date copy of the Framework Document should be published on the department web site (and agency web-site if this exists) and copies should be placed in the libraries of both Houses of Parliament. Updated copies should be placed in the House libraries when significant amendments have been made. Hard copies should be available from the department and agency on request. The need to keep Framework Documents up to date was stressed in the 2002 Agency Policy Review.

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<sup>32</sup> [http://www.government-accounting.gov.uk/current/content/ga\\_21\\_1.htm](http://www.government-accounting.gov.uk/current/content/ga_21_1.htm)