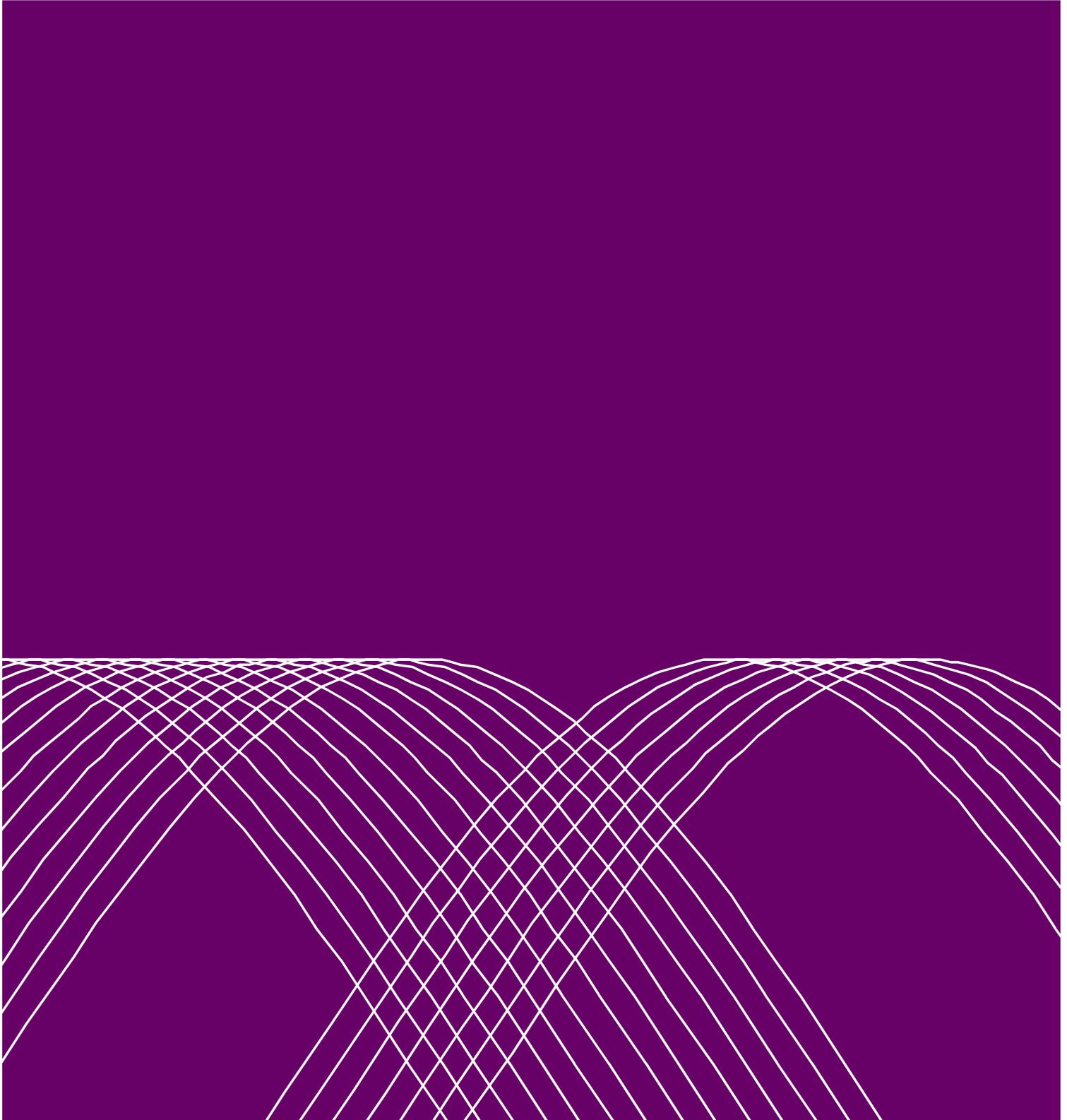




# Public Bodies: A Guide for Departments

## Chapter 1: Case assessment and classification of a Public Body



# **CASE ASSESSMENT AND CLASSIFICATION OF A PUBLIC BODY**

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## 1. THE OPTIONS

1.1 Before setting up a public body, it is important that you think through all the possible options for the most effective and efficient way of delivering the required service or function.

1.2 At the initial stages, the questions you should ask are:

1.2.1 Whether the service or function needs to be delivered at all:

- a. is it essential to the Government's and the departmental policy objectives? (Ministerial approval should, of course, always be sought before considering the creation of a public body)
- b. is there sufficient demand from customers?
- c. would providing the service be a justifiable use of taxpayers' money?
- d. what would be the costs and other effects of not providing the service?
- e. what are the potential risks associated with delivering the service?
- f. whether contracting out is possible.

1.2.2 Is the function assigned by statute to a minister, office holder or local authority? If so, the power in part II of the Deregulation and Contracting Act 1994 may need to be used.

- a. is the market capable of providing the service? If the market is not particularly mature, does it show signs of developing and expanding to meet the challenge of market testing and contracting out?
- b. where there are workload fluctuations and the potential for rapid technological change, can the private sector offer economies of scale and sufficient flexibility?
- c. is expertise required which the private sector is better able to offer and develop because of specialisation and differences in size?
- d. would the private sector be better at managing the risks associated with delivering the service?
- e. who would bid? Is the potential market wide enough?
- f. is capital investment needed? If so, the Private Finance Initiative should be considered<sup>1</sup>.

1.2.3 Whether a Public Private Partnership would be the best option<sup>2</sup> :

- a. what skills, assets and capabilities would the private sector be able to contribute to a joint partnership?
- b. is there scope for private sector innovation in delivering the desired outcomes?
- c. can the risks associated with achieving the desired outcomes be managed better by a public private partnership?

1.2.4 Whether the work could be undertaken by a voluntary organisation (government could provide limited support initially – obviously this is not a feasible alternative where it involves government financing the greater part of the voluntary body's expenditure).

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<sup>1</sup> Further guidance on PFIs can be found at: [www.partnershipsuk.org.uk](http://www.partnershipsuk.org.uk)

<sup>2</sup> Further guidance on PPPs can be found at: [www.partnershipsuk.org.uk](http://www.partnershipsuk.org.uk)

1.2.5 Whether the tasks can be performed within the department or by an existing NDPB or Agency, or other public body sponsored by another government department.

1.3 If you have decided that the function is necessary and that it cannot be carried out by the private or voluntary sector or within an existing departmental structure, you will need to think about what type of public body would be most appropriate.

## 2. Classification Guidance

2.1 The Cabinet Office Classification Guidance document provides an overview of different types of delivery agents and their key characteristics. The document contains some additional comments which should help you decide whether that particular type of body is appropriate to your needs. The document is available from the Agencies and Public Bodies Team web-site.

2.2 Chapter 2 (Policy and Characteristics of a Public Body) of this Guidance provides information about public bodies and the key characteristics.

2.3 HM Treasury provide guidance on how a body is classified to the private or public sector: Classification of Expenditure Public and Private Sectors: New Bodies, Partnership, Joint Ventures, Privatisation & Nationalisation dated November 2000. Please use the following link to access the guidance.  
<http://www.wga.gov.uk/pages/classification.html>

## 3. OBTAINING A CLASSIFICATION DECISION

3.1 There are three parts of Government that have an interest in the classification of bodies:

- **Office for National Statistics (ONS)** – a Non-Ministerial Department who produce National Accounts to international standards free from political interference. For national accounts purposes the public sector is defined within international statistical manuals<sup>3</sup>. The public sector comprises the General Government Sector (central and local government) and public corporations. For the purposes of subsequent classification by the Cabinet Office, the sectors of interest are public corporations and the central government sub sector of General Government. It should be noted that these sectors list more than those bodies sponsored by central government.
- **HM Treasury** – HM Treasury has responsibility for the control framework used to ensure that the Government successfully pursues its fiscal and monetary policy objectives, and is concerned with the correct and proper use of public funds with regard to propriety and regularity.

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<sup>3</sup> System of National Accounts 1993 and European System of National Accounts 1995 (ESA95) - <http://forum.europa.eu.int/irc/dsis/nfaccount/info/data/esa95/en/esa95en.htm>

- **Cabinet Office** – who are charged with overseeing the structure of government and for producing guidelines for governance of the various types of body in that structure. Cabinet Office (alone) is also interested in short-term non-statutory advisory bodies such as task forces, ad-hoc advisory groups and reviews; these bodies are listed in the Public Bodies database.

3.2 A Classification Questionnaire (version agreed by Cabinet Office, HM Treasury and ONS officials) should be completed and forwarded to your departmental Public Bodies Co-ordinator who should ensure that it is forwarded to both the Departmental Spending Team in the Treasury and the Agencies and Public Bodies Team in Cabinet Office. On receipt, Treasury (liaising with ONS as appropriate) will provide advice on the sector classification of the proposed body i.e. is it part of the public or private sector. The Classification Pack (listed under 'Supplementary Guidance – classification of entities') is available from the Treasury web-site:

[http://www.hm-treasury.gsi.gov.uk/psd/PES\\_database/classification/classification\\_papers\\_index.htm](http://www.hm-treasury.gsi.gov.uk/psd/PES_database/classification/classification_papers_index.htm)

3.3 If the body is deemed to be a public sector body/public corporation in Central Government, Cabinet Office will need to determine its classification for the purposes of ensuring proper governance and public accountability. Treasury in parallel will also provide guidance in respect of the Government Accounting requirements that will need to be met.

## 4. CONSULTATION

### 4.1 Departmental Public Bodies Co-ordinators

Your departmental co-ordinator should be your first port of call. Co-ordinators have knowledge of all your department's public bodies and should be able to advise you on where there is read across with similar work areas in the department. It is important that your public body co-ordinator is kept informed of developments. The Agencies and Public Bodies Team in the Cabinet Office has a list of departmental co-ordinators.

#### 4.1.1 Departmental Public Appointments Co-ordinator

Once the classification of the public body has been confirmed by Cabinet Office (see paragraph 4.2 below) you should consult your Public Appointments Co-ordinator on the make-up and appointment procedures required for the board of a Public Body. If any board appointments are to be made by the Minister, then you will also need to consult the Office of the Commissioner for Public Appointments (see paragraph 4.3 below).

### 4.2 Cabinet Office

#### 4.2.1 Agencies and Public Bodies Team

The Agencies and Public Bodies Team need to agree the classification of the Public Body and should be consulted at the earliest opportunity for advice:

Agencies and Public Bodies Team  
Room 030  
70 Whitehall  
London SW1A 2WH  
Telephone No. 020 7276 2040/0269  
E-mail: [apbt@cabinet-office.x.gsi.gov.uk](mailto:apbt@cabinet-office.x.gsi.gov.uk)

#### 4.2.2 Public Appointments Unit (PAU)

The Public Appointments Unit in the Cabinet Office publishes policy and best practice guidance on the appointment and management of board members for public bodies. “*Making and Managing Public Appointments*” is available at: [www.publicappointments.gov.uk](http://www.publicappointments.gov.uk)

The Public Appointments Unit also runs a vacancy website advertising public appointment opportunities.

Public Appointments Unit  
Cabinet Office  
Room 1.8  
Admiralty Arch  
The Mall  
London SW1A 2WH  
Tel: 020 7276 2489/2485  
E-mail: [public.appointments.unit@cabinet-office.x.gsi.gov.uk](mailto:public.appointments.unit@cabinet-office.x.gsi.gov.uk)

#### 4.2.3 Cabinet Office Civil Service Pensions Division

The Cabinet Office Civil Service Pensions Division should be consulted about pension arrangements for staff employed by the Public Body (following discussions with HMT Public Service Pensions Team). The contact details are:

Civil Service Pensions Division (CSPD)  
Cabinet Office  
8<sup>th</sup> floor, Grosvenor House  
Basing View  
BASINGSTOKE  
Hants RG21 4HG

Employer Helpdesk  
Tel: 01256 846414  
e-mail: [employerhelpdesk@cabinet-office.x.gsi.gov.uk](mailto:employerhelpdesk@cabinet-office.x.gsi.gov.uk)

#### 4.3 Office of the Commissioner for Public Appointments (OCPA)

Government departments are required to follow the Commissioner for Public Appointments principles and Code of Practice when making ministerial appointments to the boards of public bodies. Your departmental Public Appointments Co-ordinator will be able to advise you. OCPA's Code of Practice can be found at: [www.ocpa.gov.uk](http://www.ocpa.gov.uk)

#### 4.4 HM Treasury

##### 4.4.1 The department's Spending Team in Treasury

This is necessary where:

- the new body is part of the Central Government or Public Corporation sub-sector of the National Accounts;
- there are other implications for government expenditure;
- it is proposed that the body should be financed other than by direct government spending (eg by levy or fees);
- there are implications for the sponsor department's Estimate;
- departmental activities are to be "hived off" to a new or existing NDPB;
- the proposals will involve new legislation.

4.4.2 Both Cabinet Office and Treasury will want to know how the new Public Body:

- will be resourced, including the broad level of any government funding likely to be required, and the approach to staffing;
- any wider implications for policy or the Machinery of Government; and
- its accounting and audit arrangements.

##### 4.4.3 HMT Workforce Pay and Pensions Team

The Workforce Pay and Pensions Team should be consulted in the first instance about pension arrangements for staff employed by the Public Body.

Workforce Pay and Pensions (WPP) Team  
HM Treasury  
1/S1  
1 Horse Guards Road  
LONDON  
SW1A 2HQ  
Tel: 020 7270 4525

##### 4.4.4 Central Accountancy Team

The Central Accountancy Team should be consulted in respect of accountancy issues:

Central Accountancy Team  
HM Treasury  
First Floor  
1 Horse Guards Road  
LONDON  
SW1A 2HQ

#### 4.5 Trade Unions

When it is proposed that work and/or staff should be transferred from departments to Public Bodies, you should consult both staff and unions at the appropriate stages.