Box 2.3: some transactions requiring specific DFP consent

- extra statutory payments in settlement of legal disputes out of court
- certain private expenses of employees made necessary because of their public duties
- severance payments in excess of the employer's contractual commitment
- non-standard payments in kind
- unusual financing transactions, especially those with lasting commitments

2.2 Regularity, propriety and value for money

2.2.1 Accounting Officers must make sure that their organisations' activities achieve high and reliable standards of regularity and propriety (see HM Treasury booklet entitled "Regularity and Propriety"). These important terms, which are often used together because they are so closely linked, are defined in box 2.4.

Box 2.4: regularity and propriety

- **Regularity**: resource consumption should accord with the relevant legislation, the relevant delegated authority and this document.
- **Propriety**: patterns of resource consumption should respect the Assembly's intentions, conventions and control procedures, including any laid down by the PAC.

2.2.2 The concept of regularity and propriety is powerful. The Assembly has consistently interpreted it as delivering public sector values in the round, encompassing the qualities summarised in box 1.1. Supporting this concept are the Seven Principles of Public Life (the Nolan Principles - see annex 2.4), which apply to the public sector at large. In striving to meet these standards, central government departments should give a lead to the partners with which they work.

2.2.3 Each departmental Accounting Officer should make sure that the Minister in his or her department appreciates:

- the importance of operating with regularity and propriety; and
- the need for efficiency, economy, effectiveness and prudence in the administration of public resources, to deliver value for money.

2.2.4 Should a Minister seek a course of action which the Accounting Officer cannot reconcile with any of these requirements, he or she should seek a direction in writing from the Minister before proceeding (see chapter 3).

2.2.5 Should departments need to resolve an issue about regularity or propriety, they should consult the relevant DFP Supply Officer. Similarly, arm's length bodies (ALBs - NDPBs, companies in which the department has a significant shareholding and other sponsored bodies) should consult their sponsor departments about such issues, and the department concerned may need in turn to consult DFP.

2.3 Using the authority of the Budget Act

2.3.1 In certain limited circumstances departments may obtain authorisation for their planned expenditure not through specific empowering legislation but by relying just on the authority of the Budget Act. Such Acts cover the whole range of voted expenditure in Estimates. The Assembly does not normally authorise consumption of public resources through these instruments alone because the approval process does not provide a meaningful opportunity for detailed scrutiny.

2.3.2 The Budget Act for a given year provides Assembly approval for the year's Estimates, authorising resource consumption one year at a time. By convention, this is sufficient authority for expenditure on administration. The same convention also allows departments to seek Assembly authority to use resources one year at a time for administration where there is a more lasting commitment of some kind. Some examples are mentioned in box 2.5. The list is not exhaustive.

2.3.3 With DFP approval, it is sometimes possible to rely on the Budget Act alone for certain other expenditure in order to avoid an undue burden on the Assembly timetable. So the Assembly is routinely prepared to authorise certain expenditure through the Budget Act alone, subject to the conditions:

- the expenditure is below the threshold set by DFP (see annex 2.5.15)
- it is expected to last for no more than two years, e.g. to finance a pilot study;

and

- any existing explicit statutory limits are respected; and
- no specific legislation on the matter in question is before the Assembly (though see annex 2.5).

Box 2.5: resource use which a Budget Act may authorise

- expenditure on administration: employment costs, rent, cleaning etc
- lease agreements, eg for photocopiers
- contractual obligations to purchase goods or services (where it might be poor value for money to agree single year contracts only)
- employing staff with significant notice periods
- supporting capital projects lasting for more than a year
- staged grants phased over more than a single financial year
- resources used under prerogative powers such as international treaty obligations

2.4 New services

2.4.1 When Ministers decide on a new activity, such a new service normally requires both specific legislative authority and cover in the Budget Act. However, the authority of the Budget Act alone can suffice if the conditions in paragraph 2.3.3 are satisfied. This of course is not adequate for any new policy which is intended to last more than a couple of years.

2.4.2 Nevertheless, sometimes ministers are anxious to make an early start on a new activity which is expected to continue but for which explicit Assembly authority has not yet been secured. In these circumstances there are limited steps that can be taken to make the new service ready for delivery when the Assembly has assented. Specific Assembly consent is always required.

2.4.3 Relying on the Budget Act ahead of full and specific legal authority will often mean borrowing from the Northern Ireland Consolidated Fund under paragraph 6 of the Financial Provisions (NI) Order 1998 (see annex 2.5). Access to this Fund is controlled by DFP and cannot be assumed. To obtain such an advance the proposal must pass two main tests:

- the proposed expenditure must be genuinely urgent and in the public interest, i.e. there must be wider benefits to outweigh the convention of awaiting Assembly authority; and
- the planned legislation must be certain, or virtually certain, to pass into law, for example, the Bill must have successfully passed Second Stage in the Assembly i.e. there is an Assembly expression of support for the principle of the Bill.

Annex 2.1 The PAC concordat of 1932

Annex 2.2 DFP approval of legislation

Annex 2.3 DFP approval of Expenditure

Annex 2.4 The Seven Principles of Public Life (the Nolan Principles)

Annex 2.5 The new services rules

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3. ACCOUNTING OFFICERS

This chapter sets out the personal responsibilities of all Accounting Officers, both in government departments and in other parts of central government. Essentially Accounting Officers must be able to assure the Assembly and the public of high standards of probity in the management of public funds. This chapter is drawn to the attention of all Accounting Officers when they are appointed.

3.1 Role of the Accounting Officer

3.1.1 Each organisation in central government - department, agency, trading fund, HSC body, NDPB or significant arm's length body - must have an Accounting Officer. This person is usually the senior official in the organisation. In line with the *Code of Good Practice on Corporate Governance in Central Government Departments*, it is now usual for the Accounting Officer to be supported by a board whose structure should be agreed with the responsible minister(s) where it is not set in statute. Arrangements for leadership and accountability may be slightly different in other parts of the public sector.

3.1.2 Formally the Accounting Officer is someone who may be called to account in the Assembly for the stewardship of the resources within the organisation's control. The standards the Accounting Officer is expected to deliver in the organisation are summarised in box 3.1. The senior business managers of other public sector organisations are expected to deliver similar standards.

3.2 Appointment of Accounting Officers

3.2.1 DFP appoints the permanent head of each central government department to be its Accounting Officer. Where there are several Accounting Officers in a department, the permanent head is the Principal Accounting Officer.

3.2.2 Within departments, DFP also appoints the chief executive of each trading fund as its Accounting Officer; and may also appoint Additional Accounting Officers with responsibility for certain Requests for Resources.

3.2.3 In turn the Accounting Officer of each department normally appoints the permanent heads:

- of its executive agencies, as Agency Accounting Officers for their agencies; and
- of all its NDPBs[7], and of most other significant arm's length bodies, as Accounting Officers for these bodies.

7 In certain NDPBs with small budgets, an Accounting Officer in the sponsor department may assume the role of the Accounting Officer for the NDPB, with the costs of the NDPB charged directly to the sponsor department's Estimate. This is the usual arrangement for advisory bodies and Royal Commissions.

3. ACCOUNTING OFFICERS

Box 3.1: standards expected of the Accounting Officer's organisation

Acting within the authority of the Minister(s) to whom he or she is responsible, the Accounting Officer should ensure that the organisation, and any subsidiary to it or organisation sponsored by it, operates effectively and to a high standard of probity. The organisation should:

governance

- have a governance structure which transmits, delegates, implements and enforces decisions
- have trustworthy internal controls to safeguard, channel and record resources as intended
- operate with propriety and regularity in all its transactions
- treat its customers and business counterparties fairly and honestly
- offer redress for failure to meet agreed customer standards where appropriate
- give timely, transparent and realistic accounts of its business, underpinning public confidence;

decision-making

- support its Ministers with clear, well reasoned, timely and impartial advice
- make all its decisions in line with the strategy, aims and objectives of the organisation set by ministers and/or in legislation
- meet DFP's requirements about limits on use of public resources
- manage its staff fairly, with inclusive policies designed to promote and integrate diversity having regard to Section 75 of the Northern Ireland Act
- communicate its decisions openly and transparently;

financial management

- use its resources efficiently, economically and effectively, avoiding waste and extravagance
- carry out procurement and project appraisal objectively and fairly, seeking good value for the public sector as a whole
- use management information systems to secure assurance about value for money and the quality of delivery and so make timely adjustments
- avoid overdefining detail and imposing undue compliance costs, either on its own staff or on its customers and stakeholders
- have practical documented arrangements for working in partnership with other organisations
- use internal and external audit to improve its internal controls and performance.

3.3 Special responsibilities of Accounting Officers

3.3.1 It is important that each Accounting Officer takes personal responsibility for ensuring that the organisation he or she manages delivers the standards in box 1.1. In particular, the Accounting Officer must personally sign:

- the organisation's accounts;
- the annual report;
- the statement on internal control (SIC);

and, having been satisfied that they have been properly prepared to reflect the business of the organisation, must personally approve any Request(s) for Resources.

3.3.2 In the case of Accounting Officers of corporate arm's length bodies, the Accounting Officer should also arrange for a board member to sign the accounts as well, if (unusually) he or she is not a member of the board.

3.3.3 There are several other areas where the Assembly expects Accounting Officers to take personal responsibility:

- *regularity and propriety* (see box 2.4), including seeking DFP approval for any expenditure outside the normal delegations or outside the subheads of Estimates, and carried through with appropriate disclosures in the resource accounts;
- selection and appraisal of programmes and projects: using the *Green Book* (supported by *additional DFP guidance*) to evaluate alternatives, and good quality project and programme management techniques, such as Office of Government Commerce (OGC) Gateways™, to track and where necessary adjust progress;
- *value for money*: ensuring that the organisation's procurement, projects and processes are systematically evaluated and assessed to provide confidence about suitability, effectiveness, prudence, quality, good value and avoidance of error and other waste, judged for the public sector as a whole, not just for the Accounting Officer's organisation;
- management of *opportunity and risk* to achieve the right balance commensurate with the institution's business and risk appetite;
- *learning from experience*, both using internal feedback, and from right across the public sector; and
- accounting accurately for the organisation's *financial position and transactions*: to ensure that the government published financial information is transparent and up to date, and that the organisation's efficiency in the use of resources is tracked and recorded.

3.4 Advice to Ministers

3.4.1 Each departmental Accounting Officer should take care to bring to the attention of the Minister to whom he or she is responsible any conflict between the Minister's instructions and his or her duties as set out in this chapter. Examples of concerns where this procedure is appropriate are in box 3.2 but the ultimate judgement must lie with the Accounting Officer personally.

3.4.2 There is no set form for doing this, though the Accounting Officer should be specific about the nature of his or her objections and where possible set these out in writing. Before doing so it is good practice for an Accounting Officer to discuss the matter with DFP if time permits. It may also be necessary to discuss the issue with officials from the Office of First Minister and Deputy First Minister to determine if the matter needs to be brought to the Executive Committee under the terms of the Ministerial Code.

3.4.3 If, despite the Accounting Officer's advice, the Minister decides to continue with a course the Accounting Officer has advised against, the Accounting Officer should ask for a formal Ministerial Direction to proceed. This can be oral but, if so, should be confirmed in writing as soon as possible. Directions of this kind are rare but the acid test is whether the Accounting Officer could justify the proposed activity if asked to defend it.

3.4.4 Such a direction is likely to mean that the associated expenditure is novel or contentious and therefore outside of the departmental delegated expenditure. Having received a Direction from the Departmental Minister, in these circumstances, the Accounting Officer should seek DFP approval.

3.4.5 A Minister may decide, in these circumstances, that the issue should be discussed by the Executive. If this happens and a decision reached at the Executive is to agree to the course of action proposed by the Departmental Minister it will be recorded in the minutes which can be treated as formal approval. The DFP Minister, as part of the Executive, is bound by this decision and in these circumstances it is not envisaged that it will be necessary for the Accounting Officer to seek a formal written approval from DFP. If the Executive decides not to proceed the Accounting Officer should abide by the Executive's decision and not undertake any course of action which could be seen as contrary to the decision.

3.4.6 When a Ministerial Direction is confirmed by the DFP Minister or Executive Committee as appropriate, the Accounting Officer should:

- write to the C&AG with the relevant details of the issue. This correspondence should be copied to DFP. The C&AG will normally draw the matter to the attention of the PAC, who will attach no blame to the Accounting Officer;
- follow the direction without further ado; and
- if asked, explain the Ministers/Executive's course of action. This respects Ministers' rights to frank advice, while protecting the quality of internal debate.

Box 3.2: examples when Accounting Officers should seek a direction *reflecting previous cases*

- **Irregularity**: if a proposal is outside the legal powers, Assembly consents, or DFP delegations.
- **Impropriety**: if a proposal would breach Assembly control procedures.
- **Poor value for money**: if an alternative proposal, or doing nothing, would deliver better value, e.g. a cheaper or higher quality outcome.

3.5 Public Accounts Committee

3.5.1 The PAC may hold public hearings on the accounts of central government organisations laid in the Assembly (see section 1.6). In practice most PAC hearings focus on NIAO value for money studies. The PAC expects that NIAO will agree the texts of these reports with the Accounting Officer(s) of the organisation(s) concerned so there is a clear evidence base for their scrutiny to proceed.

3.5.2 When a hearing is scheduled, the PAC normally invites the Accounting Officer(s) of the relevant institution(s) to attend as witness(es). An Accounting Officer may be accompanied by appropriate officials. Where it is appropriate, and the PAC agrees, the Accounting Officer may send a substitute. In answering questions, the Accounting Officer should take responsibility for the organisation's business, even if it was delegated or if the events in question happened before he or she was appointed Accounting Officer.

3.5.3 The PAC expects witnesses to give clear, accurate and complete evidence. If evidence is sensitive, witnesses may ask to give it in private. It is also acceptable to offer supplementary notes if a witness does not have the detail to hand at the hearing. Where such notes are offered, they should be provided within two weeks and with attention to the PAC's concerns in asking for the information. If the evidence might take longer to prepare, witnesses may seek an extension. They should do so without delay.

3.5.4 The Treasury Officer of Accounts (TOA) (a DFP official who answers questions on behalf of DFP as the central department concerned with financial matters) or his/her nominee attends all PAC hearings. This allows scope for the PAC to explore any issues of more general application arising out of the subject of the hearing. Other responsibilities of the TOA are listed in Box 3.3.

3.6 When the Accounting Officer is not available

3.6.1 Each organisation must have an Accounting Officer available for advice or decision as necessary at short notice.

3.6.2 When the Accounting Officer is absent and cannot readily be contacted, another senior official should deputise. If a significant absence of more than 4 weeks is planned, the Accounting Officer, should invite DFP (or the sponsor department, as the case may be) to appoint a temporary acting Accounting Officer.

Box 3.3: Specific responsibilities of the TOA

To supply advice on:

- the principles underlying the resource accounting system;
- the responsibilities and appointment of Accounting Officers;
- the responsibilities of Finance Directors;
- policy on internal audit and the prevention of fraud;
- propriety, in terms consistent with the Assembly's requirements for the conduct of financial business and whether, and in what form, specific authority for expenditure is required;
- financial provisions in Assembly Bills affecting public funds, accounting and audit arrangements, and acceptance of contingent liabilities;
- contingent liabilities generally and on the use of commercial insurance;
- fees and charges issues; and
- the departmental use of banks

In addition the TOA is also Head of Finance Profession for the Northern Ireland Civil Service.

3.7 Conflicts of interest

3.7.1 If an Accounting Officer faces an actual or potential conflict of interest, it is essential to find a way of eliminating it. There must be no doubt that the Accounting Officer meets the standards described in box 3.1 without divided loyalties. Possible ways of managing this issue include:

- for a significant but temporary conflict, inviting DFP (or sponsor department, as the case may be) to appoint an interim Accounting Officer for the period of the conflict of interest;
- for a minor conflict, arranging for someone other than the Accounting Officer to make the key decisions on the issue(s) in question; or
- for serious and lasting conflicts, resignation.

3.8 Arm's length bodies

3.8.1 The responsibilities of Accounting Officers in departments and in ALBs are essentially very similar. But Accounting Officers in ALBs must also take account of their special responsibilities and powers. In particular, they must respect the legislation (or equivalent) establishing the organisation and the terms of the Management Statement/Financial Memorandum (MS/FM) agreed with the sponsor department. The relationship between sponsor departments and their ALBs is discussed further in chapter 7.