



CabinetOffice

Machinery of government changes

Best practice handbook

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OVERVIEW

The Machinery of government

The Prime Minister is responsible for the overall organisation of the government and the allocation of functions between ministers. As powers generally rest with the Secretary of State and departments do not have their own legal personality, the structure of Government departments tends to change to reflect the allocation of functions to ministers.

It is essential that the Prime Minister is able to structure the government as he sees fit to respond to new challenges. This can mean that machinery of government changes happen very quickly and as such there can be no hard and fast rules about them.

This handbook

This handbook provides *guidance* on the process of making machinery of government changes, as well as offering advice to departments in their first days, weeks and months after a significant machinery of government change.

This handbook has been written primarily for use by the civil service and is intended to record best practice, not to establish any legal obligations.

The handbook consists of two parts. The first part sets out why a machinery of government change might occur and the process for assessing options for change and reaching final decisions. It is largely aimed at larger machinery of government changes, when key functions transfer between Departments, although many of the principles will also be applicable to smaller changes. The second part focuses on the implementation of those changes and includes a general advice based on experience of previous changes and more detailed guidance on key areas such as resource transfers.

As machinery of government changes differ in scale and speed this handbook does not set out a strict prescription of what needs to or should happen, but instead sets out the key actions that are likely to be taken during the process. Above all it is helpful to remember that the process for making the changes needs to be flexible.

Role of the Cabinet Office

The Cabinet Secretary is responsible for advising the Prime Minister on machinery of government issues, and he is supported in this by the Economic and Domestic Affairs team in the Cabinet Secretariat.

Departments involved in machinery of government changes, or considering proposing such changes to the Prime Minister, should consult the Cabinet Secretariat for advice.

PART ONE

INTRODUCTION

This part of the handbook explains what a machinery of government changes is, the key principles associated with any machinery of government changes, the decision-making process for making any changes and where responsibility for providing advice and taking decisions lies. It also sets out information on establishing arms length bodies and on obtaining legal advice for machinery of government changes.

What is a machinery of government change?

As set out in the *Ministerial Code*¹ the Prime Minister is responsible for the overall organisation of the executive and the allocation of functions between ministers. As such, responsibility for changes to the machinery of government rests with the Prime Minister and his approval must be sought for any changes.

The Ministerial Code states that a machinery of government change occurs where functions transfer:

- between ministers in charge of departments unless the changes are

de minimis and can be made administratively and do not justify public announcement

- within the field of ministerial responsibility of one minister when the change is likely to be politically sensitive or to raise wider issues of policy or organisation
- between junior ministers within a department when a change in Ministerial title is involved.

The Prime Minister's approval is also required for the allocation of new functions which do not fall wholly within the responsibility of one minister, or where there is a disagreement about who should be responsible. In addition a Head of a Department's proposal for the assignment of duties to junior ministers, together with any proposed "courtesy titles" descriptive of their duties should be agreed with the Prime Minister.

The responsibility for the allocation of functions between ministers is a fundamental part of the Prime Minister's role to ensure that the Cabinet and the Government are structured in the best way. The key objective is to structure government in a way that responds to current challenges, thereby ensuring a constant focus on the key issues. To achieve this the Prime Minister has to be able to act quickly to change the structure of the Government. However, changes are not made lightly, nor in a vacuum.

¹ See section 4 of the Ministerial Code
http://www.cabinetoffice.gov.uk/propriety_and_ethics/ministers/ministerial_code.aspx.

A transfer of functions order (an Order in Council under the Ministers of the Crown Act 1975), is likely to be needed for almost all major machinery of government changes involving ministerial departments. In some cases, it will not be possible to implement the change until the order has been made. But where the change involves the transfer of functions between Secretaries of State it will usually be possible to implement the change in advance of the order being made. Primary legislation may be needed for machinery of government changes extending beyond ministerial departments. As set out later in this handbook, the Office of Parliamentary Counsel is responsible for drafting transfer of functions orders but departments should work with their lawyers to consider whether or not an order is needed.

Key principles

There are some key principles that are applicable to considerations of machinery of government change, although it may not be possible to follow them in some cases. These are highlighted in the box below.

Machinery of government changes: key principles

- Changes to the organisation of government are a matter for the Prime Minister on the advice of the Cabinet Secretary.
- Machinery of government change is disruptive and costly for the organisations involved and can distract them from delivery for some

time afterwards. As such, there needs to be a clear explanation of why a machinery of government change is the best solution to current challenges.

- Decisions need to be taken on the basis of the best possible information. Officials from departments involved in discussions therefore need to be prepared to share information relating to functions, funding and staffing before any change is agreed.
- For the implementation of larger changes, a dedicated transition team should be established to support the Permanent Secretary and the Board. Its work should include adapting the department's strategy, organisation and systems to its new role.
- Effective communication is crucial. A detailed internal and external stakeholder and communications strategy is necessary for all changes, and should ideally be prepared before the announcement.
- The resources transferred to a new or importing department should be sufficient to support the functions transferred.
- Staff generally transfer with a function when it moves from one department to another, subject to the receiving Permanent Secretary's judgement about the most appropriate fit of people to roles at the most senior level.
- The transfer of business important and historically significant records,

information and knowledge needs to happen without loss of information, interruption to business continuity or a reduction in customer or end-user services provided.

MACHINERY OF GOVERNMENT CONSIDERATIONS

Considerations

As the previous section indicated there are a number of different types of machinery of government changes or issues. Many of these are initiated from the centre following decisions by the Prime Minister; other ideas are first developed by departments, and Cabinet Office would expect to be notified of all of these at an early stage. In all cases making existing mechanisms work should be a first priority; however this may not always be sufficient to respond to a particular challenge.

As a first step a consideration of the issues is likely to be carried out. The aim is to assess what options there are to address the particular challenge faced, one of which might be a machinery of government change. The consideration should preferably cover:

- Assumptions and scope of the work
- Background: Description of current policy responsibilities; staff numbers and funding for existing responsibilities; current ministerial roles and responsibilities; other

relevant machinery of government changes

- Analysis of current and future performance
- Benefits of change
- Costs and risks of change
- Stakeholder analysis
- Devolution implications
- Options analysis, including Indicative costs
- Legal requirements
- International comparisons.

See Annex A for more details. For larger changes Cabinet Office would expect to lead this work. Departments, with the agreement of Cabinet Office, may lead this work for smaller changes.

The decision making process

All machinery of government changes are a decision for the Prime Minister or the Cabinet Secretary, acting on his behalf. The Cabinet Secretary is responsible for providing advice to the Prime Minister on machinery of government changes, particularly those larger changes where swift and confidential reviews are required. This advice would usually set out the issue, provide an

assessment of the options and make a recommendation. The Economic and Domestic Affairs Secretariat supports the Cabinet Secretary in this role.

For small machinery of government changes a head of department or a minister may contact the Cabinet Secretary or the Prime Minister directly, although any unresolved differences of view should be referred to the Cabinet Secretary before a submission is made to the Prime Minister. It may be appropriate for him to make the submission on behalf of the ministers concerned. In other cases, each minister with a view on the proposal may minute the Prime Minister direct, with a copy to the Cabinet Secretary.

Once a decision has been taken the relevant Permanent Secretary will be notified by the Cabinet Secretary. It is the responsibility of the Permanent Secretary and the Departmental Board to implement that decision.

Announcing a machinery of government change

Effective communication of machinery of government changes is very important and there are a number of different audiences including the public, Parliament, staff and those outside government who will be affected (such as customers, business or other parts of the public sector).

Issuing a Press Notice

No10 will normally issue a press notice on behalf of the Prime Minister announcing any

significant machinery of government changes.

Informing Parliament

The Government will notify Parliament of significant machinery of government changes. The Cabinet Office may publish an explanatory document and place it in the libraries of both Houses. This helps explain to Parliament and the public the Prime Minister's reasoning for making the changes. This also ensures parliamentary oversight and scrutiny of significant machinery of government changes. The Government has also committed to the Public Administration Select Committee that ministers will make themselves available to any Select Committee that wishes to examine the implementation of such changes.

Wider communication

Communication to other audiences is the responsibility of the relevant department and is considered further in part Two.

ARMS LENGTH BODIES

This section provides guidance on establishing arm-length bodies, particularly the establishment of a non-ministerial department, which is a machinery of government change in accordance with the provisions of the Ministerial Code. It also covers how responsibility for arms length bodies can change when a machinery of government changes takes place.

There are three main² types of arms-length organisations:

Non-ministerial department (NMD) – this is a central government department, staffed by civil servants. It will be headed by a Board, which may be statutory, rather than by a minister. It is not directly headed and controlled by a minister, although it will have a sponsoring minister through whom it is accountable to Parliament. For example, Her Majesty’s Revenue and Customs (HMRC) is a non-ministerial department, which reports to Parliament through the Chancellor.

Executive agency - this is a well-defined business unit, with a clear focus on delivering specific outcomes. It is part of a central

government department (although it will have its own identity and branding) and is staffed by civil servants. It has no separate legal personality. For example, Jobcentre Plus is an executive agency of the Department for Work and Pensions.

Non-departmental public body (NDPB) – this is not a government department or part of one but operates, to a greater or lesser extent, at arm’s length from ministers. It will usually have its own legal personality and will not be part of the Crown. It will usually employ its own staff who will not be civil servants. It operates within a strategic framework set by ministers and will be sponsored by a central government department. For example, the Environment Agency is an NDPB sponsored by the Department for Environment, Food and Rural Affairs.

This handbook does not offer definitive guidance on which type of body is most suitable for a purpose. For reference, the key features of each type of body are set out at Annex B. To seek further guidance departments should discuss options with their departmental lawyers and governance teams and the Cabinet Office’s Propriety and Ethics team in the first instance.

Machinery of government changes and arms length bodies

When a machinery of government change is being considered thought will be given to the arms length organisations that a department sponsors. In some cases notification of a

² There are a number of other types of body, particularly in the health sector.

machinery of government change may also cover the department's arms length organisation. This is particularly true for large and high profile bodies that carry out statutory or executive functions. In other cases the parent departments and accountability chains for some bodies will need to be determined in the days and weeks immediately after a change. Establishing clear lines of control and accountability must be a priority, just as in departments. This may be straightforward but there can be issues to resolve, including consideration of mergers of NDPBs. Cabinet Office and HM Treasury should be involved in any discussions if resolution cannot be reached between departments.

Establishing non-ministerial departments

Getting agreement on your proposal

Creating a non-ministerial department is a machinery of government change as it involves a change in ministerial responsibilities. Therefore the agreement of the Prime Minister needs to be sought by the Cabinet Office before any proposal to establish a NMD is announced. Departments must consult the Cabinet Office as soon as possible when developing proposals to create a NMD even if this is part of a wider package of policy change. HM Treasury should also be engaged early.

There needs to be a clear reason for establishing a non-ministerial department. This decision is taken on the basis of substantive options analysis. A consideration of the issues, as set out in Annex A, should

be undertaken by any department wishing to establish a NMD. This should subsequently be submitted to the Cabinet Office.

Machinery of government considerations

Broadly, any consideration of the issues should also bear in mind that:

- Detailed consideration should be given to accountability – in terms of the public's expectation of direct ministerial accountability and Parliament's ability to scrutinise ministers for their actions.
- The responsibilities of a non-ministerial department tend to be core (often statutory) functions of the state that exceptionally do not require the same accountability to Parliament as a department led by a Secretary of State. Other functions like regulation or inspection are better delivered by other types of arms-length body.
- Clear governance structures should be in place, including relationships with ministers. Any proposal should include best practice in corporate governance, for example, an independent governing board (or Commissioners).
- There are significant differences between the structures and functions of existing non-ministerial departments which make categorisation difficult. This is largely a function of trying to fit historic organisations into modern categories and

existing NMDs should not be seen to set precedents.

- Creation of a non-ministerial department should not increase the risk to the Exchequer. Any proposals that will increase spend are unlikely to be agreed. Value for money should be a core principle of the proposals.
- When setting up an NMD, staff should generally transfer with the function. The staff of non-ministerial departments are civil servants and as such must abide by the Civil Service Code and be recruited within the civil service recruitment principles.

Key features of a newly established NMD

The following features should be present in any newly established non-ministerial department:

- A Board, or Commissioners, should run an NMD supported by a Head of Department who will be the Accounting Officer.
- The Board will carry out their responsibilities free from day-to-day control by ministers, but will be subject to their authority and direction.
- An NMD should have a framework document, approved by ministers, and setting out the long-term principles to govern the work of the NMD and specific oversight

arrangements. The minister should also approve the Annual Report and the Business Plan.

- An NMD is a Crown body and the staff of NMDs are civil servants.
- NMDs generally negotiate their own vote with HMT, but variants on this are possible. For example, the sponsor Department can provide all the funding for the NMD with a nominal vote coming from HMT.
- The establishment of an NMD will normally be done through primary legislation.

Executive Agencies and NDPBs

In the main the establishment of an executive agency is a matter for the relevant minister. This is because the minister retains responsibility and is free to organise his responsibilities. However Cabinet Office and HMT must be consulted on any proposals to establish a new agency.

Similarly the establishment of a NDPB is a matter for the relevant minister. Again Cabinet Office and HMT should be informed early on in the process. It is also usual for a department to publicly consult on the establishment of a new public body, particularly when it impacts on stakeholders. The minister should seek Cabinet Committee clearance before undertaking any public consultation.

LEGAL ADVICE AND SUPPORT

When undertaking a machinery of government review, or following a machinery of government change, legal advice is likely to be required. This can range from advice on ministerial appointments to staff transfers and pensions. This section sets out the respective roles of the legal advisors.

The Office of Parliamentary Counsel (OPC), Cabinet Office Legal (COL) and Treasury Legal Advisors provide advice on machinery of government issues to Cabinet Office and No 10. Importing and exporting departments should consult their departmental lawyers in the first instance who will liaise with COL if they have any questions or concerns. OPC is responsible for drafting the transfer of functions orders on instructions from departmental lawyers in the transferring department to ensure that following a machinery of government change the responsible minister can legally carry out his or her statutory functions.

The main roles of the legal advisors can be summarised as follows:

Office of Parliamentary Counsel

OPC has primary responsibility for advising the Cabinet Office and No10 on the following areas:

- Ministerial appointments – including:
 - procedures and processes for appointments and resignations
 - restrictions on numbers
 - constitution of Cabinet
- Establishment and dissolution of government departments
- Transfer of functions between ministers/departments.

Cabinet Office Legal

Cabinet Office Legal has primary responsibility for advising the Cabinet Office and No10 on the following areas:

- Ministerial salaries
- Status of staff, including management of civil servants
- Agencies and public bodies

Cabinet Office Legal also acts as a point of contact for departmental lawyers on machinery of government issues.

Treasury Legal Advisers

TLA has primary responsibility for advising Cabinet Office and No10 on the following areas:

- Pensions and compensation for loss of office for ministers (including grants under section 4 of the Ministerial and other Pensions and Salaries Act 1991),
- Pensions and compensation for loss of office for civil servants,

PART TWO

IMPLEMENTING A MACHINERY OF GOVERNMENT CHANGE

Introduction

This part of the guidance provides advice on implementing a machinery of government change.

As mentioned earlier there can be no hard and fast rules about what tasks need to be carried out as this will need to be considered on a case by case basis. As such the process for making the changes needs to be flexible. Nevertheless there are some issues that nearly all machinery of government changes are likely to throw up, such as effective communication, the transfer of resources and the transfer of knowledge and records management.

The sections below refer to transferring and receiving departments. Receiving departments are those which are either entirely new departments or existing departments which gain responsibilities from other departments. Transferring departments

are those which transfer responsibilities to another department.

Machinery of government changes can happen very quickly and often the implementation of the changes may need to commence almost immediately. This section sets out a number of suggested Day One and Week One tasks that will need to be undertaken. The nature of the change (for example whether it involves creation of a new department or a smaller transfer of responsibility) will affect the importance of the tasks listed and it is important to remember that flexibility is crucial and in a fast paced environment things may not be able to happen as set out here. In addition with all significant changes there is a need, in the longer term, to build a new culture and sense of identity as a department. This task should not be underestimated or forgotten.

If the circumstances allow, some of the tasks set out below can ideally be planned in advance of an announcement.

This handbook does not aim to provide an exhaustive guide to all aspects of implementing a change. However there is a great deal of shared experience of machinery of government changes within Whitehall – you can contact the Cabinet Office for further advice.

Advice to receiving departments

Suggested Day One tasks

- Meet with ministers.

- Establish key roles and responsibilities.
- In particular, the Accounting Officer has responsibility from day one so it is important that they know who they are and take action accordingly even if the formal appointments follow later. The appointment of the Accounting Officer is a decision for the HM Treasury Permanent Secretary.
- Other key roles include individuals responsible for leading the transition and for ensuring effective communication.
- Begin discussions with the Treasury and agree authority to begin to commit expenditure.
- Discuss communication activity with the Permanent Secretary for Government Communications and develop an initial communications plan. It may also be advisable to draw on the experience of Directors of Communications who have managed machinery of government communications previously.
- Then communicate to staff and delivery partners to explain what has happened, what it means for them.
- Notify Trade Unions of the change.
- Consult the *Cabinet Office Statement of Practice on Staff Transfers in the Public Sector 2000* (COSOP). This sets out the policy expects public sector organisations

are expected to follow. It protects the rights of public sector staff involved in transfers, ensuring continuity of employment and of terms and conditions

- Set up holding page for an interim website and establish e-mail addresses for staff
- Set up interim private offices, communications and press office.
- Set up an interim handling centre for correspondence, PQs, FOI, and Cabinet Committees.
- Start to collect data on all staff in your new department.
- Decide on office accommodation and who, initially, will be located in it.

Suggested Week One tasks

- Continue to recruit key leadership posts, including a qualified Finance Director who can lead resource transfer negotiations.
- Find homes and accountability chains for the new department(s)' arms length bodies.
- Decide on and implement transitional model for your organisational structure.
- Develop a more detailed communications plan. This should involve; developing a new or amended website; meeting with Trade Unions; establishing a core list of stakeholders and making contact;

establishing a core list of delivery partners and starting to negotiate boundaries and budgets; setting up a help centre for external enquiries; and working up a wider branding plan.

- Appoint a Departmental Records Officer and initiate planning for the capture and transfer of corporate information and records.

Over the first few weeks departments may want to give consideration to:

How to involve staff in shaping the change: It is important to note that the EC Information and Consultation Directive 2002/14/ EC and the Information and Consultation of Employees Regulations 2004 require consultation to take place while proposals are being formulated. However the *Code of Practice on Informing and Consulting Employees* does recognise that there will be occasions in relation to decisions on machinery of government changes when there can be no expectation of prior consultation. In these circumstances, employees will be given information and, where possible, should be consulted about the implementation of such decisions.

Where to guide the Board and Ministerial time: It is vital not to lose sight of major policy issues and stakeholders. Working with ministers early on to establish their initial priorities for action can help target resources initially.

Accommodation, IT and staff working conditions: See the section on Finance and Resource Transfers for more information.

Whether to use a change model: Past experience suggests that many departments find it helpful to use a change model, as this helps to give them focus on the important stages of implementing the machinery of government change. A department should have a dedicated transition team, headed by a Change Manager. Whilst it may be tempting, try to avoid piggybacking other change initiatives onto the machinery of government change.

Whether external assistance is required: Many small changes can be implemented by existing staff, but larger changes are likely to require significant resources dedicated to managing the implementation, at the same time as the department is working to deliver any policy changes. For larger changes departments should consider how to draw on the expertise of people within Government who have experience of similar changes or outside advisers.

Advice for transferring departments

Departments will encounter a number of key challenges when they lose elements of their business. There are also several areas where they may have short-term responsibilities and/or can provide welcome support to the new department. Providing HR services and secondments to assist with the transition is one such example. This section

highlights the major issues to focus on, although the level of action required might be lower in some cases.

Over the first few weeks departments may want to give consideration to:

Policy: Departments will want to work out the fine details of what policy stays and goes, liaising with the Cabinet Office as necessary. Departments may also want to consider whether the residual policy mix and strategy of the exporting department needs to be refreshed.

Public Service Agreements and Departmental Strategic Objectives:

Departments should also work with HM Treasury to agree which Public Service Agreements the department will continue to be responsible for, if this isn't announced as part of the machinery of government change, and how this will affect the Departmental Strategic Objectives.

Communication with staff: Calling an all-staff meeting to share information and be open about where uncertainties lie can be a good first move. This is most effective when followed by regular bulletins informing staff about the change, and more tailored sessions for those most affected.

Key stakeholders: They may have moved to the new department, or now be divided between two departments. You will have to communicate to these stakeholders the changes that have taken place. It will be

important to liaise with the new department to ensure a coherent and joined-up message is conveyed.

Support for the new Department: If the machinery of government change happens at short-notice, for a period of up to three months (or longer in some cases) transferring departments will need to continue to provide services to staff who will be moving to the new department. Such services may include paying salaries and handling legal or procurement queries.

FINANCE AND RESOURCE TRANSFERS

A significant part of any machinery of government change concerns the transfer of resources between the importing and exporting department. Such resources may be of a financial nature, or relate to headcount or assets. Whilst HM Treasury will have a strong interest in the appropriate level of resources to be transferred, departments should seek to negotiate the transfer of resources between themselves. It is important to follow the basic rule that the resources to be transferred should be sufficient to support the functions being transferred, on the basis of existing policies and any collectively agreed changes to these policies. They should not be excessive however. Resources transferred should match those received, so in particular:

- there is no claim on or benefit to the Reserve; and
- any costs associated with transition and merger are therefore managed within existing funding levels.

This section sets out a number of ‘rules of the game’ which departments should follow, as well as some key steps they should take early on in the process, such as establishing who the Accounting Officer is and appointing a Finance Director.

Appointing Accounting Officers and Finance Directors

It is important to establish from day one who the Accounting Officer(s) is in the new structure. Formal responsibility for appointing the Accounting Officer rests with the HM Treasury Permanent Secretary. Until new Estimates have been approved by Parliament, the exporting department’s Accounting Officer remains personally responsible for their current request for resources including for making judgements in respect of regularity and propriety. However, for the benefits of the machinery of government change to be realised as intended, it is important for the new or importing department to take effective, practical responsibility for policy, decisions and processes as soon as possible. To allow this to happen, a schedule of accountabilities needs to be agreed between the respective Accounting Officers for the transition period. The Treasury Officer of Accounts in the Treasury should be consulted on the terms of the schedule of accountabilities and the National Audit Office will need to be made aware of the arrangements.

While acknowledging that the exporting Accounting Officer retains accountability to Parliament until a new Estimate is in place, the importing Accounting Officer should be invited to take responsibility for ensuring that the requirements of the Treasury's guidance 'Managing Public Money' are complied with in respect of the resources transferred to the new department as if the Estimate was in place. This responsibility would therefore include regularity and propriety, value for money, compliance with delegated authorities, liaison with Treasury on novel or contentious cases, observing control totals, management of future liabilities and arms length body compliance with their Framework Documents. However, the exporting Accounting Officer for this period will need to take assurances from the importing Accounting Officer in respect of those funds and decisions, and also from his own Head of Internal Audit.

A qualified Finance Director should also be appointed to the Departmental Board within a week at most of the new department. This is a pivotal control issue which should not be deferred. Resource transfers are one of the main issues to resolve immediately when a machinery of government change occurs and it is crucial to have a qualified Finance Director in place who has a strong understanding of the numbers and the authority to speak for the department.

Financial provision

Wherever possible, transferring and receiving departments should reach agreement on transfers, with support and guidance as necessary from the Treasury. The resources transferred should be sufficient to support the functions being transferred on the basis of existing policies and any collectively agreed changes to these policies. They should not be excessive, however. Resources transferred should also match those received, so in particular there is no net claim on or benefit to the Reserve.

In all the following categories the transferring department has an obligation to open its books, display the policies it has adopted and satisfy the receiving department that the resources it has provided are consistent with the principle above. If they are not, adjustments should be made. Receiving departments have an obligation to satisfy the transferring department that the resources they have identified for transfer do not exceed what is necessary to support the transferring functions. It is important that they share any relevant information and recognise that the receiving department is reliant on the information provided.

To calculate the financial provision to be transferred (resource Departmental Expenditure Limit (DEL) - near and non-cash - resource Annually Managed Expenditure (AME), capital DEL and capital AME), the normal starting point is the budget for the transferring functions in the current year. This

should take into account any distinct end of year attached to the functions established by the transferring department.

Calculating financial provision in later years will depend on whether both departments have agreed Comprehensive Spending Review (CSR) settlements for the years in question and have allocated them to functions. If they have then the approach is the same as for the current year. If neither department has agreed a settlement then future funding will be decided in a Spending Review. If one department has settled and the other has not then Treasury should be consulted at an early stage on the approach to adopt.

The receiving department will normally have a claim on a proportion of the transferring department's unallocated provision or departmental reserve and a proportion of any unallocated End of Year Finance (EYF). The right proportion will depend on an assessment of the extent to which the risks and unforeseen liabilities for which the 'reserve' is being held back are being transferred to the receiving department.

This assessment should take account of the fact that the receiving department normally becomes responsible for the historic liabilities associated with the transferred functions. In general liabilities should be the responsibility of the department best able to manage them. This is usually the department taking responsibility for ongoing functions in an area. See detailed Treasury guidance for

how to assess the assets and liabilities being transferred.

Efficiency assumptions should be those of the transferring department, so if the receiving department can secure greater (or lower) improvements it will retain the benefit (or bear the cost). The receiving department can challenge such assumptions if the efficiency assumptions established for the transferring functions are greater than for the transferring department overall.

It is expected that departments should actively look for opportunities to make efficiency savings through closer collaboration and sharing of corporate services. They nevertheless need to recognise that a department receiving a new function needs to be confident it is properly resourced.

Transfers must follow the guidance in *Managing Public Money*.

Head count

Staff generally transfer with a function when it moves from one department to another. This is also the case for non-ministerial departments and non-departmental public bodies. The new headcount needs to be based on the established headcount total for the transferring functions.

Assets

Buildings (leasehold or freehold) and associated financial provision should transfer

if the majority of staff in the building transfer. If this leaves either the transferring or receiving department with a minority of staff in the building they should pay rent to the other, with a compensating adjustment to the financial transfer.

Other assets should transfer if they are primarily linked to the transferring functions.

Corporate services

In some case a new department will need to establish its own corporate services such as HR and IT. However, it is important to consider whether this is required or whether these services can be provided on a shared services basis, either by a transferring department or another provider.

Where corporate services do move, additional transfers for a share of corporate services should generally be based on the marginal cost (usually per head) of the functions being transferred. These will vary according to whether the staff in question are directly reliant on the department's corporate services, or have a more distant relationship (agency staff for example). One exception is accommodation, where the associated cost should be agreed as part of any transfer of buildings. Another may be contracts for outsourced services, if they have to be renegotiated as a consequence of the transfer.

Transfers for the cost of ministerial, senior official, correspondence and press offices

should depend on the proportion of the activity that is linked to the functions being transferred.

Transition Costs

Machinery of government changes can generate up-front transition costs, such as aligning staff pay, re-branding or making changes to buildings. They also have the potential to generate long term savings. For example, either or both departments may wish to rationalise their estate following a change. In such cases they should each bear their own upfront costs and secure downstream benefits. Receiving departments should expect to manage pressures for pay alignment within their (new) total budget.

The general rule is that transition costs should be absorbed: there should no net claim on the Reserve.

Financial and accounting adjustments

Following a machinery of government change a number of financial and accounting adjustments need to take place between departmental budgets. HM Treasury have separate guidance to help those involved navigate the various changes. However the main elements to consider in relation to the financial and accounting adjustments are:

- Budgets
- Estimates

- Performance management
- Risk management
- Pay and workforce issues
- General accounts
- COINS adjustments

Within each of these spending areas there are a number of financial tools and processes that need adjustment following a machinery of government change. There are several different teams with HM Treasury who deal with the different aspects of spending control. These teams need to be engaged early on to allow time for the necessary changes to be made. In addition past examples have shown that HM Treasury involvement helps facilitate more successful machinery of government change.

A major financial change concerns the preparation of the Supply Estimates and the end-year resource accounts. While HM Treasury involvement should be sought as early as possible regarding accounting changes, guidance on Supply Estimates can be found at http://www.hm-treasury.gov.uk/psr_estimates_manual.htm.

Once departments have reached agreement on the numbers the transfers need to be recorded on the Combined Online Information System (COINS). These transfers will be recorded using the machinery of government changes

adjustment type and should sum to zero and all data for all years should be transferred.

The transferring department should decrease the Programme Object (PO)/Standard Chart of Accounts (SCOA) combination and use SCO 31700000 (Net Parliamentary Funding) as the balancing journal entry. The receiving department will need to create new Programme Objects to match those in the transferring department and then increase these with the relevant PO/SCOA combination; again the balancing journal entry will be 31700000.

The COINS teams to liaise with during the process are COINS Systems Maintenance (CSM), COINS Operations (COINS Ops) and, although not a COINS team, the Estimates team, to ensure that the working of their new lines etc are adjusted accordingly.

Those involved in machinery of government changes should not underestimate the scale of the practical issues concerned with effecting financial changes. The processes concerning these changes are complex and can be time-consuming, and so sufficient time should be factored into any programme in order to allow these to be completed.

Arbitration

Departments should keep the Treasury and Cabinet Office informed about progress of resource transfers. In exceptional circumstances where agreement cannot be reached, No10 (or Cabinet Office on their

behalf) will arbitrate, involving the Treasury. Final decisions on disputes rest with the Prime Minister.

TRANSFER OF RECORDS, INFORMATION AND KNOWLEDGE

It is important to ensure that official paper and electronic records and informally held information and knowledge are transferred to receiving departments as soon as possible. Ideally this should be factored into the initial planning phases of the machinery of government work, since inability to access the information would present considerable risks to the conduct of business. The consequences of this risk could include the loss of vital information which could lead to substantial additional costs and reputational risk.

Senior management have an important role to play and need to take responsibility to ensure that the transfer is taken forward without loss of information, interruption to business continuity or reduction in customer or end-user services provided. A specific

budget is often required to meet the costs of transfer and monitor progress.

The National Archives provide detailed guidance and advice on the transfer of records, knowledge and information.

Guidance is available on The National Archives web-site at:

http://www.nationalarchives.gov.uk/documents/Machinery_of_government.pdf, and

departments should contact their Information Management Consultant at The National Archives for advice on the transfer.

The guidance is in two parts:

- Part 1 outlines the key lessons and guiding principles to be applied in transferring records, information and knowledge in the event of a machinery of government change. It is designed to be particularly relevant to senior management and those overseeing the change.
- Part 2 contains detailed guidance, including task lists for both transferring and receiving departments. It is designed for those carrying out the transfer.

Scope

The transfer should ensure that all public-facing staff have access to the information they need to support public services. This should include information relevant to newly acquired functions. Specifically the forms of information for transfer include:

- Paper files - relevant paper records, including personnel and index files. These may be stored in a central registry or in business units. Paper should only be discarded according to a departmental retention schedule and under the guidance of the Departmental Records Officer.
- Electronic information – for example, documents held on shared drives and contacts databases, messages and attachments held on e-mail systems, and information stored in Electronic Records Management Systems, Geographical Information Systems, case management systems and datasets, or made available via wikis or the website or intranet.
- Relevant publications, guidance or training manuals and procedural information, whether in hard copy or electronic format.
- Information and publications held in departmental libraries.
- Knowledge held informally (in personal folders or not written down). To ease the transition between the two organisations maximum use should be made of existing knowledge management tools such as staff directories and intranets.

Management of the transfer process

The information transfer process needs to be owned by the departments involved, although

close working with IT solutions providers and other contractors (e.g. document storage companies) will be necessary.

A joint Information Transition Team should be set up to carry out the work required and should be represented on the machinery of government dedicated transition team. Each stage of the transfer should be planned and documented with all parties understanding their responsibilities. The departmental record officers of both organisations should sign a formal transfer agreement once the transfer has been completed.

Management of risk and legal obligations

A security risk assessment should be carried out to ensure that appropriate levels of security are being applied. Implications for compliance with relevant legislation, including Freedom of Information and Data Protection, should be identified before information is transferred.

Digital continuity (the continued availability, usability and completeness of information) is of paramount importance, and risk to digital continuity should be identified in advance. The Senior Information Risk Owner (SIRO) should take responsibility for ensuring the identification of all information assets, their technical environment and usage and for conducting a digital continuity impact assessment. Further guidance is available at www.nationalarchives.gov.uk/digitalcontinuity

IT challenges

Any potential problems arising from the transfer of information between systems, or from the continued use of multiple legacy systems, should be identified in advance.

must be provided for appropriate staff at all levels.

The transfer of electronic records poses particular difficulties because of the wide range of systems used by government departments and the need to maintain accessibility protocols. Detailed guidance has been provided and can be accessed from this page:

<http://www.nationalarchives.gov.uk/electronic-records/advice/default.htm>

Gaining benefit from the transfer

Opportunities to manage records and information more efficiently and effectively should be identified and acted upon, and the possibility of sharing services should be considered. The draft guidance on managing digital continuity provides a framework for identifying efficiencies arising from the disposal of unrequired information assets and technical capability - see

www.nationalarchives.gov.uk/digitalcontinuity

Departments can consult with their information management consultants from The National Archives for advice on the identification of business and historically significant information to transfer.

An options appraisal for the future storage of paper records should be carried out before firm decisions are taken. Equally importantly, training in new information and other systems

EVALUATION

Implementing a machinery of government change is not always easy and while this handbook can provide helpful guidance a lot can be learnt from others who have gone through a similar process.

It is important that departments evaluate machinery of government changes, capture and share learning and contribute to the library of lessons which Cabinet Office has set up to learn from past changes.

A year after the change has occurred is a sensible time to undertake an evaluation but this may need to be considered on a case by case basis.

A good evaluation should cover:

- A description of the change that occurred
- The opportunities and challenges that the change presented
- A description of the change process the department went through, accompanied by an analysis of its strengths and weaknesses, focussing on the change imperative how this aligned to the strategic vision
- developing the case for change

- developing a change strategy
- developing change plans
- implementing the plans
- engaging with stakeholders
- evaluating progress
- Lessons learnt from the machinery of government change, particularly drawing out lessons others could benefit from.

An example of an evaluation on *Developing Defra*³ can be found at:

<http://www.parliament.uk/deposits/depositedpapers/2009/DEP2009-2410.pdf>

Cabinet Office (Economic and Domestic Affairs Secretariat) are happy to discuss the process of evaluation with departments. Completed evaluations should be submitted to the Cabinet Secretary. The evaluations will be for internal government use only and will not be published unless the department considers it appropriate.

Departments should also be aware that the Government has given an assurance to the Public Administration Select Committee that ministers will make themselves available to any Select Committee wishing to examine the implementation of machinery of government changes.

³ *Developing Defra: A report on the merger for people who lead and manage change*, DEFRA, August 2002

ANNEX A: MACHINERY OF GOVERNMENT CONSIDERATIONS

This annex sets out the type of issues that any work done on machinery of government might cover. It is not necessarily an exhaustive list and it should not be considered as a template, rather as an aid.

Assumptions and scope of the work

Describe the issues that the work will cover, and those that are outside of scope.

Examples of this include:

- Specify the policy areas and delivery responsibilities that the review will address
- Are there other changes, either recent or on the horizon, that the review will need to take account of?
- Will the review consider departments with linked responsibilities?
- Will the review consider breaking up the functions of existing delivery organisations?

- Are there limitations on the changes that will be considered, for example ruling out those with a large cost, or that require primary legislation?

Background

Description of current policy responsibilities

Outline the responsibilities of the departments involved. These could include:

- Delivery responsibilities and organisations
- Organisation, structure and staffing
- Targets and objectives
- Relationships with other departments/agencies.

Overview of the delivery process

A diagram outlining the delivery chain is helpful. This should be focused on the service user and highlight where they interact with different organisations. Depending on the review, it might highlight issues such as which information is provided at which stage, where activities take place or the timescales for the interaction.

Staff numbers and funding for existing responsibilities

- Detailed breakdown including funding for policy areas (programme spend, staff, DEL/AME split where relevant etc)
- Funding for delivery bodies
- Corporate services
- Location and status of staff members, for example maternity leavers
- Infrastructure (IT, estates, procurement, finance).

Current ministerial roles and responsibilities

Simple description of current ministers and their responsibilities.

Other relevant Machinery of government changes

Have any machinery of government changes affected the departments in the past? Would this change reverse the move or build on it? Are there links to possible changes in other departments?

Analysis

Analysis of current performance and future challenges

Include:

- Current performance against PSA targets

- Recent challenges, and changes in priorities

- Horizon-scanning

Use evidence from other sources like Select Committee reports or Capability Reviews.

Success criteria

What would a successful organisation look like? A list of some of the features of successful organisations follows. These can be tailored to the organisation and used as a tool to assess whether a machinery of government change is the right option.

- Strong leadership
- Skilled staff
- The right culture, capabilities and systems
- Clear and simple goals that do not conflict with each other and fit within national strategies. Goals that are fundamentally in conflict are best placed in different organisations to externalise the debate about trade-offs).
- An appropriate management span, neither too small to exploit relevant economies of scale nor too large to be run as a unit
- Clear accountabilities and responsibilities to all relevant stakeholders

- Outward looking and customer focused
- Access to the other resources (e.g. information) needed to achieve their goals.

Benefits of change

Analysis of:

- Potential savings (in staff and finance terms)
- Potential benefits from the customer perspective, for example, dealing with fewer agencies, or providing information less often.

One approach to this analysis could be to compare the different options (both structural and non-structural) against the success criteria for the organisation.

Indicative costs of change

High level analysis to include:

- pay costs of transferring staff (considering equal pay possibilities including different pay scales, grade mix, pay settlement dates, bonus schemes, terms and conditions)
- cost for any systems/estates changes
- cost of transition team
- cost of rebranding.

Risks of change

- Analyse risks to public service delivery
- Consider establishing a jointly owned risk register

Stakeholder analysis

This should include:

- Likely views
- Impact and influence of stakeholders
- Academic work on structural options.

Devolved Administrations

Consider:

- whether the change will have any impact on the devolved administrations
- if so, how to manage and handle this.

Options analysis

Taking into account the costs and risks of change, is machinery of government change the preferred option? Any change will take up the time and focus of senior management. Performance often dips before it improves. The core test for organisational change should therefore be whether it will achieve a sufficient improvement in performance over time to offset the costs.

What other options have been considered (joint PSAs, dual-key funding, shared policy teams/management boards)? Why is machinery of government change the favoured option?

Legal steps

- What legal steps are required to implement the change (e.g. is primary legislation needed?)
- How long are they likely to take?

International comparisons

Look elsewhere for precedents and explain their relevance. Focus on key comparator countries.

ANNEX B: KEY FEATURES OF AN ARMS LENGTH BODY

Non-departmental public body

Key features

There are four types of NDPBs:

Executive

Advisory

Tribunal

Independent Monitoring Boards

Executive NDPBs usually:

are established by Statute or under the Companies Act

are not part of the Crown but have their own legal personality

are headed by boards appointed by ministers

employ their own staff who are not civil servants

deliver a wider range of regulatory, executive, commercial or administrative

functions which are best delivered at arm's length from ministers.

Advisory NDPBs are usually non-statutory and are typically supported by civil servants from the sponsoring department. They provide independent, expert advice to Ministers. They have no separate legal personality.

Funding

It does not have its own vote. Funding for executive NDPBs is usually delivered through a grant or grant-in-aid (although some executive NDPBs also generate income through other sources). Advisory NDPBs rarely have their own budgets but are supported directly by their sponsor department.

Accountability

NDPBs are directly accountable to ministers who, in turn, are ultimately answerable to Parliament for the overall performance of their NDPBs – and for their continued existence. NDPBs are also directly accountable to Parliament for their actions and performance.

Executive agency

Key features

Part of a department

A defined business unit headed by a Chief Executive (who is often supported by a Management Board)

No separate legal personality

Staffed by civil servants

Delivers a service or delivers a policy.

Funding

It does not have its own vote. Its funding is delivered through its department's estimates, although it usually has its own request for resources.

Accountability

Ministers are accountable to Parliament.

Non-ministerial department

Key features

A government department in its own right

Doesn't have its own minister and instead is headed by a statutory board

Powers are generally (but not always) derived from underlying statute.

Funding

It produces its own estimates and request for resources and has its own vote.

Accountability

It is ultimately accountable to Parliament through its sponsoring minister.

ANNEX C:

KEY CONTACTS

Cabinet Office Legal also acts as a point of contact for departmental lawyers on machinery of government issues.

Treasury Legal Advisors:

0207 270 4304

HM Treasury – Spending Teams:

0207 270 5366

HM Treasury – Treasury Officer of Accounts:

0207 270 5666

Economic and Domestic Affairs

Secretariat, Cabinet Office:

020 7276 0189/0637

Supports the Cabinet Secretary in providing advice on machinery of government changes. The Cabinet Office's primary role is to advise the Prime Minister on what changes should take place rather than implementing of them.

Propriety and Ethics Team, Cabinet

Office: 020 7276 0387

Responsible for providing policy advice and guidance on the arms-length sector (executive agencies and NDPBs) and on public appointments.

Parliamentary Counsel:

020 7210 2580

Responsible for providing advice on ministerial appointments, the establishment and dissolution of government departments and the transfer of functions between ministers/departments.

Cabinet Office Legal:

0207 276 5076

Responsible for ministerial salaries, status of staff, including management of civil servants, and agencies and public bodies,

ANNEX D: FURTHER INFORMATION

Cabinet Office Statement of Practice on Staff Transfers in the Public Sector 2000 (COSOP): This sets out policy in relation to transfers, which the government expects public sector organisations to follow. It protects the rights of public sector staff involved in transfers, ensuring continuity of employment and of terms and conditions. <http://www.civilservice.gov.uk/about/resources/employment/codes.aspx>

Civil Service Code: The code sets out the duties and responsibilities of all civil servants, whatever their jobs. <http://beta.civilservice.gov.uk/about/work/csc/code/index.aspx>

Civil Service Management Code: This code sets out regulations and instructions to departments and agencies regarding the terms and conditions of service of civil servants <http://beta.civilservice.gov.uk/about/work/codes/csmc/index.aspx>

Code of Practice on Informing and Consulting Employees: This code implements the EC Information and Consultation Directive on 6 April 2005. The

code establishes a right to new minimum standards for information and consultation for employees in larger undertakings (those with 50 or more employees). The regulations confer rights upon all employees in the undertaking (i.e. not just upon trade union members).

<http://www.civilservice.gov.uk/about/resources/employment/codes.aspx>

Corporate Governance Code for Central Government Departments: The code has been assembled to guide central government departments. It focuses on the role of departmental management boards and how they can support ministers and heads of departments. http://www.hm-treasury.gov.uk/psr_governance_corporate.htm

Executive Agencies: A Guide for Departments: This sets out the policy framework for the creation and abolition of executive agencies. <http://www.civilservice.gov.uk/about/resources/public-bodies.aspx>

Making and Managing Public Appointments: This document aims to provide practical and helpful guidance for all those involved in making public appointments. It is directed at those with central responsibility for public appointments (departmental co-ordinators) and those responsible for sponsoring a public body (the sponsor team). It provides advice about what is considered to be best practice.

<http://beta.civilservice.gov.uk/about/work/public-appointments.aspx>

Managing Public Money: This guidance offers advice on how to properly handle public funds of all kinds. http://www.hm-treasury.gov.uk/psr_mpm_index.htm

Ministerial Code: A Code of Ethics and Procedural Guidance for Ministers
http://www.cabinetoffice.gov.uk/media/cabinetoffice/propriety_and_ethics/assets/ministerial_code_current.pdf

Public Bodies - A Guide for Departments: Detailed guidance for departments on establishing new non-departmental public bodies (NDPBs) <http://www.civilservice.gov.uk/about/resources/public-bodies.aspx>

Supply Estimates: A guidance manual
http://www.hm-treasury.gov.uk/psr_estimates_manual.htm