

Guide to the scrutiny of public expenditure

Treasury officer of accounts

October 2004



HM TREASURY



HM TREASURY

Guide to the scrutiny of public expenditure

Treasury officer of accounts

October 2004

© Crown copyright 2004

Published with the permission of HM Treasury on behalf of the Controller of Her Majesty's Stationery Office.

The text in this document (excluding the Royal Coat of Arms and departmental logos) may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the document specified.

Any enquiries relating to the copyright in this document should be sent to:

The Licensing Division
HMSO
St Clements House
2-16 Colegate
Norwich
NR3 1BQ

Fax: 01603 723000

E-mail: licensing@cabinet-office.x.gsi.gov.uk

HM Treasury contacts

This document can be accessed from the Treasury Internet site at:

www.hm-treasury.gov.uk

For further information on the Treasury and its work, contact:

Correspondence and Enquiry Unit
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Tel: 020 7270 4558

Fax: 020 7270 5718

E-mail: ceu.enquiries@hm-treasury.gov.uk

CONTENTS

		Page
Foreword	About the guide	3
Chapter 1	The Cycle of Accountability	5
Chapter 2	The National Audit Office	7
Chapter 3	Public Accounts Committee (PAC)	15
Chapter 4	Giving Evidence before the PAC	21
Chapter 5	Non-Departmental Public Bodies (NDPBs) - Appearances before the PAC	31
Chapter 6	Public Accounts Committee Reports	33
Chapter 7	Government Response: Treasury Minutes	35
Chapter 8	Briefing Prime Minister's Office (No.10)	41
Chapter 9	Public Accounts Committee Debates	43
Chapter 10	Further Guidance and Contact Points	45

FOREWORD ABOUT THE GUIDE

This Guide provides background information and guidance on scrutiny of public expenditure by the Comptroller & Auditor General and the Public Accounts Committee. It consolidates guidance issued over the years and has new material to make it more helpful.

This Guide is for departments and their agencies and sponsored bodies such as non-departmental public bodies. It sets out the procedures that should be followed for dealing with National Audit Office (NAO) value for money studies, appearances before the Public Accounts Committee, and in responding to the Committee's recommendations.

Useful contacts and pointers to further guidance are provided at the end of the document.

The Guide is intended to be of assistance to Accounting Officers, Finance Directors and other senior staff, as well as those who deal with NAO value for money studies or who have a role in preparing briefing.

The Guide is available on the Treasury GSI website and maintained by the Treasury Officer of Accounts Team. Views on the guide are welcome. Treasury contacts are given in Chapter 10.

THE CYCLE OF ACCOUNTABILITY

INTRODUCTION

1.1 This section provides an overview of the cycle of Parliamentary accountability for public expenditure. Detailed guidance is included in the following Chapters.

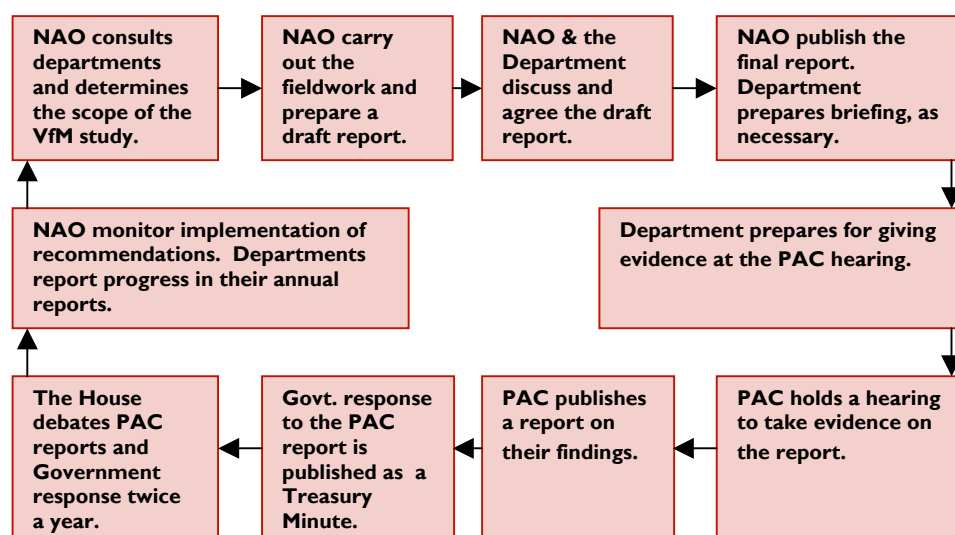
1.2 Departments consume resources that are financed from amounts voted by Parliament through Supply Estimates. The Treasury sets the financial framework within which departments spend that money. Departments account for the resources they consume by presenting their annual resource accounts to Parliament. The Comptroller and Auditor General (C&AG) audits the accounts and reports his findings to Parliament. Departments have a duty to spend public money wisely, achieving value for money, and with regard to regularity and propriety. The C&AG investigates whether departments are obtaining value for money and reports to Parliament.

1.3 Each year around 40 to 50 NAO reports – both value for money reports and reports on accounts of public bodies – are investigated by the Committee of Public Accounts (the Committee). The Committee takes evidence from Accounting Officers, senior government officials who have been specially designated by the Treasury and who have personal responsibility to ensure the prudent stewardship of public funds. The C&AG, or his deputy, and a senior official from the Treasury attend all the Committee’s hearings.

1.4 The Committee will then issue its own report. By convention, the Government must reply to recommendations within two months. The C&AG and/or the Committee may decide to conduct a follow up investigation into the issues raised.

1.5 In this way, a **cycle of accountability** operates. The C&AG is free to report to Parliament on the regularity, propriety and value for money of departments’ and other public bodies’ spending. The Committee can take evidence on this report from the most senior official, and then make recommendations to which the Government must respond. The NAO then follow up with the relevant department implementation of the recommendations.

The Cycle of Accountability



2

THE NATIONAL AUDIT OFFICE

ROLE OF THE NATIONAL AUDIT OFFICE (NAO)

Background

2.1 The National Audit Office (NAO) was created by the National Audit Act 1983 and is funded directly by a Parliamentary Supply grant agreed by the Public Accounts Commission. It operates independently of the Government.

2.2 The role of the Comptroller and Auditor General (C&AG), as Head of the NAO, is to report to Parliament on the spending of central government money. The C&AG is, by statute, an Officer of the House of Commons and all main work of the NAO is presented to Parliament by Order of the House.

2.3 The NAO conduct financial audits of all government departments and agencies and many other public bodies, and reports to Parliament on the value for money with which public bodies have spent public money. The NAO's relations with Parliament are central to its work, and it works closely with the Committee. It also works closely with relevant public audit bodies that have a role in other areas of public expenditure.

Financial Audit

2.4 Under the law, the C&AG and the NAO are responsible for auditing the accounts of all Government departments and agencies and to report the results to Parliament. Individual accounts can range from the Department for Work and Pensions, to the Passport Agency. The C&AG also audits over ninety per cent of the 'arms-length' public bodies (known as Non-Departmental Public Bodies or NDPBs) such as the Legal Services Commission. The C&AG is also responsible for auditing all National Loans Fund accounts, several international clients, such as the International Labour Organisation and the European Agricultural Guidance and Guarantee Fund.

2.5 As with other auditors, the C&AG is required to form an opinion on the accounts as to whether they are free from material misstatements. The C&AG is also required to confirm that the transactions in the accounts have appropriate Parliamentary authority. If the NAO identify material misstatements, the C&AG will issue a qualified opinion and prepare a report. Where there are no material errors or irregularities in the accounts, the C&AG may nonetheless prepare a report to Parliament on other significant matters and these reports may be considered by the Committee. Even if no report is made, the NAO will still, where appropriate, write a letter to the management of a body outlining where improvements in their systems could be made.

2.6 NAO's financial audits are subject to an annual independent assessment by the Quality Assurance Directorate (QAD) of the Institute of Chartered Accountancy in England and Wales (ICAEW).

Added Value Assignments

2.7 A recent development in the NAO's approach to financial audit has been the development of **Added Value Assignments**. These are discrete assignments designed to enhance the quality of service to Parliament and audited bodies by examining key issues of propriety, governance and financial management that are not essential components of certification coverage.

2.8 The identification of such assignments can arise from many sources: as part of the risk analysis that informs the audit planning approach; as a response to a weakness or development area identified as part of the financial audit process; or to address concerns raised by Members of Parliament regarding the propriety or economy of particular areas of public expenditure. The main criteria of this work however, is that the assignments are designed to focus on issues where the audit team feel they can 'add value' to the audited body. Indeed audited bodies have been very receptive to the assignments performed to date, and have implemented a variety of improvements in their controls and governance structures as a result of the work.

2.9 The results of assignments will normally be communicated to the audited body by way of an internal report, although some assignments may lead to the publication of findings and be heard by the Committee of Public Accounts.

2.10 Some examples of areas covered by added value assignments relate to financial audit work are:

- A review of audited bodies' implementation of risk management strategies.
- A review of a department's sponsorship of its non-departmental public bodies and how this may be improved.
- A review of a major department's IT controls.
- Reviews of the implementation of major new programmes in government departments.
- A review of the grant awarding procedures of a major non-departmental public body.

Value for Money Audit

2.11 Around 60 reports to Parliament are presented each year by the Comptroller and Auditor General on the value for money with which Government departments and other public bodies have spent their resources. Under the 1983 National Audit Act, the NAO can examine and report on the economy, efficiency and effectiveness of public spending.

2.12 The NAO use the following definitions for the 'three Es':

Economy: minimising the cost of resources used or required – **spending less**

Efficiency: the relationship between the output from goods or services and the resources to produce them – **spending well**; and

Effectiveness: the relationship between the intended and actual results of public spending – **spending wisely**.

2.13 The value for money work covers a wide range of issues. Reports range from examining the entire operation of the criminal justice system to the major procurement projects of the Ministry of Defence and the administration of European Union schemes by the Department for Environment, Food and Rural Affairs. The NAO identifies topics for examination from careful monitoring and analysis of the risks to value for money across the full range of its responsibilities and discusses the scope with the departments.

Relations with other Public Audit Bodies

2.14 As the auditor of central government expenditure, the NAO is the principal state audit body in the United Kingdom. Other bodies are responsible for other aspects of public spending in the UK. The Audit Commission is responsible for appointing the auditors for local authorities and local health service bodies in England and Wales and for promoting value for money in these sectors. The Auditor General for Scotland, supported by Audit Scotland, is responsible for auditing the expenditure of the Scottish Parliament and Executive and reporting to that Parliament. Staff at Audit Scotland are also responsible for local authority audit in Scotland.

2.15 The audit arrangements in Wales are changing with the creation of a "Wales Audit Office" headed by the Auditor General for Wales with responsibility for the work currently undertaken by the National Audit Office and the Audit Commission in Wales. The Comptroller and Auditor General for Northern Ireland and the Northern Ireland Audit Office do a similar job in respect of the Northern Ireland Assembly. If the NI Assembly is not in operation, reports go directly to the Westminster Parliament. In these circumstances, Northern Ireland Accounting Officers may be expected to appear before the Committee.

2.16 The various public audit bodies work as closely as possible together to share good practice. To this end, they have established a **Public Audit Forum** to act as a focus for developmental thinking on public audit.

2.17 The European Court of Auditors (ECA) is responsible for auditing European Union expenditure in all EU member states, including the United Kingdom. The NAO acts as a liaison point between the ECA and UK departments. The NAO also report regularly to Parliament on issues relating to the expenditure of EU funds in the UK, and on occasion, on wider issues of financial management within the European Union.

THE NAO RIGHT OF ACCESS TO INFORMATION

General

2.18 For the purposes of examination of a government department's accounts the C&AG has a statutory right of access (as provided for in the Government Resources and Accounts Act 2000, sections 8(1), 8(2), 25(4) and 25(5)) at all reasonable times to any of the documents relating to departments' accounts and, further, a person who holds or has control of any of those documents is obliged to give the C&AG any assistance, information or explanation which he requires in relation to any of those documents. These rights apply only in relation to documents that are held or controlled by a government department or in pursuance of arrangements made by a department for the compiling or handling of any of its financial records. Section 25(8) of the Act enables Treasury to make an Order widening the range of documents to which the section 8(1) right applies to include documents held or controlled by other bodies.

2.19 Similar rights apply where the C&AG audits the accounts of other bodies under an enactment or by agreement. Section 11(5) of the Government Resources and Accounts Act 2000 provides the C&AG with a statutory right to ask auditors of bodies designated for inclusion in Whole of Government Accounts for such information and explanations as he or she may reasonably require for his or her examination.

2.20 In addition, for the purpose of carrying out value-for-money studies, section 8 of the National Audit Act 1983 provides the C&AG with a statutory right of access at all reasonable times to all such documents as may reasonably be required, provided that the documents are held by or under the control of the department or body concerned. The C&AG is also entitled to an explanation of the documents, and the Finance Director or his or her staff should normally arrange this. The Government will seek to facilitate access for VFM studies to the same classes of bodies to which the C&AG has statutory access under the GRAA Order. This will be done through such mechanisms as conditions on grants and clauses in contracts.

2.21 The C&AG is thereby, for example, given access to:

- all manual or computerised records relating to the income and expenditure and assets and liabilities appearing in the accounts; and
- departmental correspondence and minutes held on files and working papers which are relevant to value-for-money studies being undertaken.

NAO staff are cleared to see security classified papers; they may therefore see such papers, subject to the normal security rules e.g. Top secret papers should be released only to those cleared to see them.

2.22 Papers primarily concerned with the formulation of policy by ministers will not normally be relevant to value-for-money studies. The C&AG is not, therefore, generally given access to Cabinet or Cabinet Committee papers or minutes. If the C&AG should request access to specified Cabinet or Cabinet Committee papers on the ground that he or she considers it necessary for the purpose of audit, the Cabinet Office should be consulted. The folders of Ministers' private offices are by custom, not made available to NAO.

2.23 Where departmental activities are contracted out, the C&AG should continue to have access to any document held by the contractor which is necessary for the C&AG to meet his or her statutory duties.

2.24 In the past, papers that dealt with the conduct of departments' business with the NAO were in certain circumstances been given the designation "Not for NAO Eyes" (NFNE). Following correspondence between Treasury and departments at official and Ministerial levels in 1997, the Government dropped the use of this designation on official papers. The change was retrospective and the designation should therefore be ignored on all previous papers.

Non-Departmental Public Bodies

2.25 As part of implementing recommendations in the Sharman Report NAO would now audit all executive NDPBs whether or not they receive direct Government funding. For existing NDPBs this will happen as and when their existing external auditor contracts come to an end. For new NDPBs the NAO will either be made external auditor through primary legislation or by the Treasury through an Order under the Government Resources and Accounts Act 2000. This would enable the C&AG to bring to the attention of Parliament, where appropriate, any material departures by the body from the requirements of regularity and propriety and other government accounting rules, including any material cases where expenditure does not conform with conditions attached by the sponsoring departments. The right of inspection confers the right to carry out value-for-money studies by virtue of section 6 of the National Audit Act 1983.

NAO VALUE FOR MONEY STUDIES

Statutory Basis

2.26 The National Audit Act 1983 provides a statutory basis for the C&AG's value-for-money studies. Under section 6, the C&AG may at his discretion carry out examinations of the economy, efficiency and effectiveness with which any body to which this section applies has used its resources in discharging its functions. The bodies concerned are mainly government departments and other public bodies where the C&AG is the statutory auditor or where the C&AG has statutory rights of inspection. **The Act specifically precludes the C&AG from questioning the merits of the policy objectives of the department or body concerned.**

2.27 Under section 7 of the Act, the C&AG also has the right to carry out such examinations in any authority or body appointed, or whose members are required to be appointed, by or on behalf of the Crown, in any year in which the body receives more than half its income from public funds (nationalised industries and some other public authorities being excluded).

2.28 The 1983 Act also provides, in certain circumstances, for the C&AG to undertake value-for-money studies in bodies where the C&AG audits the accounts by agreement or where the C&AG has inspection rights as a result of agreements between the appropriate minister and the body concerned.

Procedure

2.29 Where the C&AG proposes to carry out a major value-for-money examination, the scope and timing of the work is normally discussed between the NAO and staff in the department or body concerned. The NAO usually announces in advance that it will carry out a value for money study or other investigation. The subjects may arise through audit findings, or from concerns expressed in Parliament, the media, or elsewhere.

2.30 Departments are expected to co-operate fully with the investigation and to give the NAO all assistance it can. On completion, findings and conclusions are set out in a draft report, which is sent to the Accounting Officer for comment on the accuracy and completeness of the facts and their presentation.

Departmental Responsibilities

2.31 The Finance Director is responsible for managing their department's relations with the NAO. The Director is expected to:

- undertake the liaison needed on NAO value for money studies and reports concerning the department;
- take the lead in ensuring that C&AG reports correctly reflect the department's position before the Accounting Officer agrees to its publication; and
- be responsible for co-ordinating the briefing of the Accounting Officer for any PAC hearing which flows from the report.

2.32 The conduct of NAO examinations and the preparation of reports go through a number of stages.

- The NAO normally first discuss with the department the scope and methods proposed for the examination. If an Accounting Officer has any reservations about the scope, methods, and the timing, these should be make plain to the NAO at this stage, so that they can be fully considered.
- When the examination has been completed an outline report is normally prepared and shown to and discussed with the department.
- A full draft report is then given to the Finance Director to be considered by the departmental officials who are primarily concerned with the area of study and to any relevant third parties.
- A subsequent final draft is sent by the NAO to the Accounting Officer.
- The NAO also gives the Accounting Officer an opportunity to comment on any press release that they intend to issue when the report is published.

Use of Consultants and Secondees by NAO

2.33 The NAO may engage the services of outside consultants to assist in their studies. In each case, departments need to consider the competence of the consultants, potential conflicts of interest with any other work the consultants may be doing for the department, and their access to departmental papers including classified information. In general, the NAO's consultants have the same rights of access to papers as NAO staff have, although this may not be appropriate in certain circumstances. The extent to which outside consultants should be given access to information (including classified material) is set out in detail in **DAO 2/90** and should be decided on a case by case basis before they start work on a study.

2.34 Some of the same issues may arise with secondees to the NAO. The NAO would inform departments of proposals to use secondees on studies, so that any possible sensitivities can be considered.

Agreeing Draft Reports

2.35 Departments should check draft NAO reports meticulously at every stage. If any part of a draft report, including the Summary and Conclusions, contains statements of fact, implications, opinions or recommendations with which an Accounting Officer disagrees, or which he considers are unfairly presented, this must be made clear to the NAO. If the C&AG does not agree to amend or remove the disputed material, the Accounting Officer should ensure that his or her disagreement and reasons are included in the report alongside the statements concerned. This should be done whether or not the disputed statements are attributed in the text to the NAO. Similarly, while the scope of an NAO examination ultimately remains a matter for the C&AG, in any case where an Accounting Officer's initial reservations have not been fully met he should ensure that his or her views are stated in the report.

Cross-Governmental Recommendations

2.36 On occasions, the NAO make recommendations that apply across government. If any such recommendations are proposed in a department's VfM studies, these should be brought to the attention of the Treasury (see contacts at the end of the Guide) so that it can take a view on wider implications. Departments should not sign up to, as a matter of practice, any recommendations that go beyond their area of responsibility.

Publication of Reports and Publicity

2.37 The NAO usually puts out a press release on the day NAO reports are published. These highlight the main findings of the investigation. The NAO also gives the Accounting Officer an opportunity in advance to comment on any press release which they intend to issue on the day the report is published.

2.38 In giving immediate comment on NAO reports departments should be careful not to pre-empt or prejudge the Government's evidence to be given at a Committee hearing, nor anticipate what the Government might say in response to any subsequent PAC Report.

GOOD PRACTICE

- **Nominate someone to co-ordinate the clearance of draft reports and to monitor progress, and let NAO know who that person is.**
- **Involve staff responsible for the policy under study right from the start to avoid any misunderstandings later in the process.**
- **Keep the Accounting Officer(s) informed as the report progresses so that nothing comes as a surprise rather late in the process.**
- **Keep proper notes of what has been agreed or disagreed with the NAO.**
- **Take NAO deadlines for clearing draft reports seriously. Failure to respond could lead to NAO publishing a report without departmental agreement as some of the PAC hearing dates are fixed in advance.**
- **Brief Ministers and the departmental press office on the report before it is published so that they are not caught unaware and can respond to any queries.**
- **Keep in touch with the NAO auditor responsible for the report to be sure about publication date, also check the NAO website for this regularly as a matter of practice.**
- **Consider the need to brief No 10 if the subject of the report is in the news, the findings and recommendations are likely to be of interest to the media or could be critical of Government.**
- **Ensure that the Accounting Officer is consulted when commenting on the draft NAO press release; consider the need for own press release.**
- **Have a proper monitoring system to track implementation of recommendations. This will be handy for any subsequent study or PAC hearing.**
- **Keep your department's audit committee fully informed on all NAO and PAC reports and progress with the implementation of recommendations.**
- **Be prepared in advance to brief the Accounting Officer and other officials at short notice as some PAC hearings can take place within days of publication of the NAO report.**

RELEVANT GUIDANCE

DAO letter AAL/1, of 30 June 1989 "PAC Hearings: The Accounting Officers' Responsibilities". On the Treasury's website at:

- www.hm-treasury.gov.uk/media//483F4/dao89pachearing.pdf

DAO 2/90 "NAO use of Consultants". On the Treasury's website at:

- www.hm-treasury.gov.uk/media//7186B/daor0290.pdf

3

PUBLIC ACCOUNTS COMMITTEE (PAC)

INTRODUCTION

3.1 This section gives an overview of the procedures, practicalities, and powers of the Committee. More detailed guidance for Accounting Officers and other senior officials is given in the following chapters.

BACKGROUND

3.2 The Public Accounts Committee (the Committee) was set up in 1861 as one of the measures taken to give Parliament a better control over the expenditure of public funds. The Committee is appointed for the examination of accounts for funds granted by Parliament to meet public expenditure.

3.3 The Committee consists of 16 members of the House of Commons, four being a quorum, drawn from all parties. Traditionally, the Chairman is from the largest Opposition party. The Committee normally confines its examinations to officials but has widened the range of witnesses called in recent years to include “expert witnesses”, such as private contractors.

3.4 It adopts a non-party attitude in its work and seeks to reach dispassionate findings and recommendations whatever government is in power. Although the Committee has no executive power and can only make recommendations or expressions of opinion, its reports to Parliament carry considerable weight. Around 90% of recommendations are accepted. Members of the Committee may follow these up, for example, by asking Parliamentary Questions on a department’s progress in implementing its recommendations.

WORKING METHODS

3.5 The Committee usually meets on Monday and Wednesday afternoons from November to July (when the House is sitting). However, in recent years, it has also been meeting in September and October. Most meetings are held in public although some may be in private if commercially confidential or security classified matters are to be discussed.

ORAL EVIDENCE

Timing of Hearing

3.6 The Committee determines three times a year which of the reports they will take evidence on. They select from all published and imminent NAO vfm reports and major reports on accounts. This means that some meetings are set before the report is published. The NAO aims to ensure that their reports are published about three weeks before the PAC hearing on the issue in order to enable Committee Members, Accounting Officers and other witnesses to have at least two weekends to prepare and brief themselves. However, there have been extremely rare occasions when this convention has not been followed, often due to lateness in agreeing and publishing the NAO report.

Place

3.7 Oral evidence sessions usually take place in one of the committee rooms at the House of Commons. It is not normally possible to confirm the room number until the end of the preceding week. On the day of the meeting room numbers are displayed in the Central Lobby on lists in the Committee Corridors. Entrance to the House is through St. Stephen's Entrance, opposite Westminster Abbey (see map at the end of the chapter). Access for those with disability is via New Palace Yard. As much notice as possible should be given to the Committee if such access is required. For Committee contacts see **Chapter 10**.

Time to arrive

3.8 No special passes are required for witnesses but at least ten minutes should be allowed to get through the security arrangements. (Witnesses should identify themselves as such and ask to be directed to the committee room). To avoid delay, departmental officials can, if they wish, apply for House of Commons passes through their respective Parliamentary branches. Sometimes the Committee takes evidence from more than one set of witnesses successively at a single meeting; in this case it is helpful if the witnesses to be called second attend the whole of the hearing so that if necessary they can be asked for their comments on the earlier evidence.

Likely Questions

3.9 The Committee attaches great importance to the fact that NAO reports are agreed by the Accounting Officer as well as the C&AG before the hearing. The PAC conducts its examinations on that basis. It is helpful to check in advance with the Clerk whether the Committee has agreed to give some informal indications of possible lines of inquiry, but witnesses should not expect Members to restrict themselves to these or even the NAO report that is subject to the hearing. The Committee will try to inform witnesses in advance when some research or gathering of information or views might be necessary.

Supplementary written evidence

3.10 In the event that an Accounting Officer wishes to draw the Committee's attention at the hearing to additional documentary evidence, he or she should consult the C&AG and inform the Clerk to the Committee as soon as reasonably possible, and copies should be sent to the Clerk at least eight days before the hearing. The NAO needs time to consider the material and provide relevant briefing to the Committee in advance of the hearing. This can sometimes involve needing to be certain that the information is correct which can require additional investigation by the NAO. This should be the rule but if, exceptionally, it is not possible to meet this deadline, the Clerk's advice should be sought on how best the information can be made available to the Committee. For example, In a recent PAC hearing on Regional Development Agencies, the Chair of the PAC objected to the Department supplying additional material that had not been "verified" by the NAO (because of insufficient time) even though it had been copied to them beforehand and the PAC Clerk had agreed to the material being given to the Committee.

Witnesses

3.11 The Accounting Officer or Chief Executive of the department or body concerned is the chief witness. He or she can be supported by other officials but their numbers should be kept to a minimum (usually up to six). The Clerk to the Committee will be able to advise as necessary. The Committee may, however, request the attendance of specific individuals or post holders. The names (including the forename by which they are usually known) of those who will be attending to answer questions, with their proper titles within the organization, should be e-mailed to the Committee if possible one week before the evidence session. (It is not necessary to list those who will be accompanying the witnesses either to watch or to pass them information). The Comptroller & Auditor General (C&AG) and the Treasury Officer of Accounts (or his Deputy) is also present, and the Committee may direct questions to them.

Privilege

3.12 Witnesses appearing before the Committee are protected by Parliamentary privilege. Article 9 of the Bill of Rights 1689 provides “That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament”. This provision remains the law of the land. It ensures that witnesses have absolute privilege in parliamentary proceedings and are not liable in the courts for answers they give to the questions put to them. This protection must not be abused. Witnesses should answer questions put to them by the Committee carefully, fully and honestly. Deliberately attempting to mislead the Committee is contempt of the House, which the House has the power to punish.

Powers

3.13 The Committee has the power to require witnesses to answer questions but, in practice, evidence taken before the Committee is conducted with a degree of informality and the wide powers of the House to require a witness to co-operate are seldom used. If witnesses consider that a particular question is unfair, or that they are not the appropriate people to answer it, or that they would like time to consider the answer or to seek advice they may appeal to the Chair. However, if the Committee, collectively, considers that the question is proper, the witness must attempt to answer it.

Public/Private Evidence

3.14 The Committee nearly always takes evidence in public; representatives of the press will usually be there and the proceedings are often recorded for broadcast on radio or television. If there are particular reasons why a witness wants to give some or all of the evidence in private, the Clerk should be approached about this at an early stage. The Committee is prepared to consider representations by the Accounting Officer that secret or confidential information given in private session or by note need not be published. This procedure is known as "sidelining".

Evidence on Oath

3.15 The Committee has power to take evidence on oath. This rarely happens but if the procedure is used witnesses are liable to the laws under perjury Act 1911.

Matters before a Court

3.16 When giving evidence in public to the Committee witnesses should take care not to comment on matters currently before a court of law. The same consideration may apply in certain cases where proceedings are imminent. If witnesses think this is likely to be a problem or that evidence they may give is likely to breach an injunction or order of a court of law, they should discuss the matter in advance with the Clerk to the Committee.

Proceedings

3.17 Members sit around a horseshoe table, with the Chairman at the centre, the Comptroller & Auditor General and the Treasury Officer of Accounts at the either end of the table. The witnesses sit at a straight table at the end of the horseshoe; their assistants may sit immediately behind. The other seats behind are for the public. There are sometimes microphones around the table; these are to record the proceedings (for broadcast or to assist with the transcript), and do not make voices louder; witnesses are therefore encouraged to speak up. The Committee prefers answers that are to the point and reasonably brief. When hearings have been recorded for television purposes, unedited video recordings may subsequently be purchased through the **Parliamentary Recording Unit** (Tel. 020 721 95511).

3.18 Each Committee member is given 10 minutes to ask questions and a further 5 minutes of follow up questions, once the first round of questions is completed. The length of the hearing depends on the number of members present. The Chair opens and closes the rounds of questions.

Transcript

3.19 A few days after the hearing, witnesses will be sent, normally by e-mail, a transcript of what was said, so that they can correct it and identify any supplementary information asked by members of the Committee. The transcript will be accompanied by a letter giving details of the very limited type of corrections which are acceptable, and the time within which they should be sent. Failure to keep to the timetable for corrections may mean that the evidence is published without correction. It is helpful if any supplementary material can be sent in at the same time as the corrections.

Publication of Uncorrected and Corrected Transcripts

3.20 Transcripts of evidence taken at each public meeting will appear at the PAC website. Where witnesses have given their consent, an **uncorrected** transcript will be placed here as soon as practicable (usually within nine working days). Where witnesses have expressed a preference to correct any inaccuracies in the typing or reporting of the evidence, a **corrected** transcript will be placed here once their corrections have been received (usually within 14 working days).

Training

3.21 The Centre for Management and Policy Studies (CMPS), formerly Civil Service College, can provide tailored training to officials appearing before a PAC hearing, contacts are given in Chapter 8 at the end of the Guide. The BBC Parliamentary Channel “BBC Parliament” holds an archive of previously but recently broadcasted hearings. These can be accessed on-line and provides useful introduction to the style and intensity of questioning officials can expect. Another source is “Parliament online” at www.parliament.uk, look for Parliament Live. The Treasury Officer of Accounts or his deputy are always prepared to meet and discuss with Accounting Officers the issues for their hearing.

Relevant Guidance

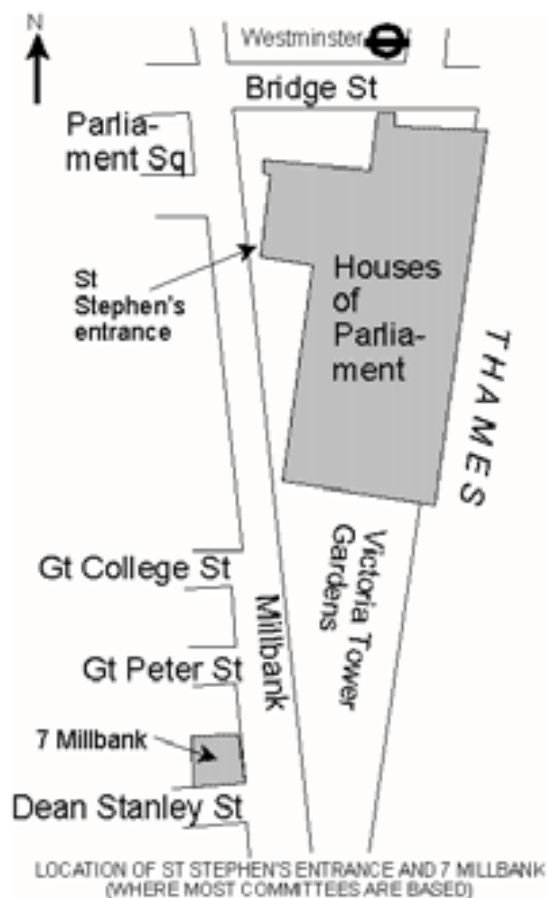
Accounting Officer Memorandum, Annex 4.1 of Government Accounting. On the web at:

- www.government-accounting.gov.uk/current/content/ga_04_4.htm

Accounting Officer Memorandum for Non Departmental Public Bodies, Annex 8.2 of Government Accounting. On the web at:

- www.government-accounting.gov.uk/current/content/ga_08_8.htm

Map



4

GIVING EVIDENCE BEFORE THE PAC

APPEARING BEFORE THE COMMITTEE

Introduction

4.1 An Accounting Officer may expect to be called upon to appear before the Committee from time to time to give evidence on the reports arising from NAO examinations; and to answer the questions of the Committee.

4.2 An Accounting Officer will be expected to furnish the Committee with explanations of concerns and issues that have been brought to the Committee's attention through C&AG reports. An Accounting Officer will have delegated authority widely, but cannot disclaim responsibility. Nor, by convention, does the incumbent Accounting Officer decline to answer questions where the events took place before taking up appointment; although the Committee may be expected not to press the incumbent's personal responsibility in such circumstances.

4.3 The Committee occasionally invites former Accounting Officers to appear in tandem with the serving Accounting Officer as a witness, where the Committee believes that the former Accounting Officer is better placed to provide a first hand account of events than others or where the Accounting Officer has moved on shortly before the hearing. The purpose in recalling former Accounting Officers is to clarify matters and not to apportion blame.

Accuracy of Evidence

4.4 The Committee has emphasized the importance it attaches to accuracy of evidence, and the responsibility of witnesses to ensure this. The Accounting Officer should ensure that he or she is adequately and accurately briefed on matters that are likely to arise at the hearing. The Accounting Officer may ask the Committee for leave to supply information not within his or her immediate knowledge by means of a later note. This should normally be supplied within **10 days**. Should it be discovered subsequently that the evidence provided to the Committee has contained errors, these should be made known to the Committee at the earliest possible moment.

Disclosure of Advice to Ministers

4.5 In general, the rules and conventions governing appearances of officials before Parliamentary Committees apply to their appearance before the Committee, including the general convention that civil servants do not disclose the advice given to Ministers. There are exceptions including:

- Ministerial Directions overruling the Accounting Officer's advice as to the regularity and propriety of expenditure – the disclosure of the details of Ministerial Directions is subject to procedures under the Code of Access to Government Information and from 1st January 2005, the Freedom of Information Act; and details can be given to the PAC; and
- Ministerial Directions overruling an Accounting Officer in a matter of prudent and economical administration, efficiency, or effectiveness of a particular course of action.

4.6 In such cases, the C&AG will have made clear in the report to the Committee that the Accounting Officer was overruled. The Accounting Officer should, however, avoid disclosure of the terms of the advice given to the Minister, or dissociation from the Ministerial decision. Subject, where appropriate to the Minister's agreement the Accounting Officer should be ready to explain the reasons for such a decision and may be called on to satisfy the Committee that all relevant financial considerations were brought to the Minister's attention, before the decision was taken. It will then be for the Committee to pursue the matter further with the Minister if they so wish.

Treasury Officials and the Committee

4.7 The Treasury Officer of Accounts (TOA) or their Deputy attends each Committee hearing and may be asked to comment on the evidence. They then speak as representatives of the Executive and are subject to collective Ministerial authority.

4.8 The Treasury comments from the standpoint of the department that has:

- the formal responsibility for presenting Estimates to Parliament;
- responsibility for prescribing the form of accounts and the rules of government accounting; and
- responsibility for promoting good financial management in departments.

4.9 This goes with the Treasury's central responsibility for the operation of public expenditure control. Parliament has traditionally regarded the Treasury as an ally in controlling expenditure.

Giving Oral Evidence

4.10 Committee Members will have been briefed by the NAO, although they may also have other sources of information on the subject to be discussed. Not all Members attend every hearing. The Committee is not party political and their questions will range for the most part on the report in front of them. Members tend to press hard on particular issues and points and are particularly concerned about taxpayers' money that may have been wasted as well as issues of propriety.

4.11 The Chairman begins by introducing the subject of the hearing, inviting the Accounting Officer to introduce other supporting staff, and then asks several questions about the NAO Report, usually referring to specific paragraphs. Each Member that attends the hearing is then given ten minutes to ask questions. At the end, the Chairman and other members may ask supplementary questions and will close the hearing. Hearings usually last for one and a half to two hours depending on the number of members that attend. There may be interruptions during the hearing if the division bell rings and members are required to return to the floor of the House to vote.

Officials accompanying the Accounting Officer

4.12 The Committee prefers the number of officials and support staff accompanying the Accounting Officer to be kept to a minimum and expects that wherever possible:

- the Accounting Officer should personally respond to the Committee's questions; and
- accompanying officials should merely provide back-up information.

4.13 Accounting Officers will wish to consider their representation at Committee hearings in the light of the Committee's views. There can be no hard and fast rules, but normally the Committee is unlikely to welcome more than two accompanying officials as witnesses. However, if two Accounting Officers appear together as witnesses, e.g. an Accounting Officer and an Agency or NDPB Accounting Officer, it is reasonable for each to be accompanied by one official.

4.14 It is advisable for the Accounting Officer to take the lead in answering questions throughout the hearing, and to refer only exceptional questions to accompanying officials. The Committee is unlike other Select Committees because the Accounting Officer has a formal responsibility for all of the matters for which he or she is accountable.

4.15 Sometimes the Committee summons non-official witnesses on its own initiative. They can be left out of account in determining the size of the Accounting Officer's team.

4.16 The number of supporting officials immediately behind the witnesses could attract critical comment and should therefore be limited to the minimum necessary to provide key information. But conversely, if there is someone with particular knowledge or expertise on the subject in question, there can be criticism if he or she is not available.

4.17 Support staff attending for other reasons (for example, because they have been involved in preparing for the hearing or may be involved in follow-up action) can sit elsewhere as members of the public. However, support staff should be kept to a minimum to leave room for members of the public. (They would have to leave if evidence was taken in private, but this is rare.)

Private sector witnesses

4.18 The Committee may also identify possible private sector witnesses and issue specific invitations to them to submit written or oral evidence. The House gives almost all Select Committees the power to send for "persons, papers and records". They therefore have powers to insist upon the attendance of witnesses and the production of papers and other material. These formal powers are rarely used.

4.19 The Committee may call senior directors of private companies to give evidence on their own right or if it is investigating a private finance deal, or other private sector involvement in the delivery of a public service. In certain circumstances the Committee is seeking expert views on particular issues and the individual is there to provide independent expertise on the investigation. These witnesses will therefore be appearing to give their own personal or their employer's views and independent of any evidence the Accounting Officer may present. For example the Committee in June 2002 took evidence from Imperial Tobacco on the level of cooperation Customs received from the company in combating tobacco smuggling. Customs did not consider that the company had been as cooperative in tackling tobacco smuggling as they would have expected, or as the other major tobacco companies had been. The company subsequently resolved the issue, agreeing a Memorandum of Understanding with Customs in July 2003.

4.20 Accounting Officers may, of their own volition, bring a director, specialist or other expert from a private sector firm who is working on a particular PFI project, or delivering a public service that is the subject to the Committee's investigation, to support him/her at the hearing. In these circumstances, the Accounting Officer will wish to set a clear framework as to what issues the expert may cover and the lines they will take. If the witnesses are likely to have different points of views on any issues likely to be raised at the hearing, it would normally be helpful to explore these jointly prior to the hearing to gain a better mutual understanding of the issues.

Policy Issues

4.21 The extent to which an Accounting Officer should respond to questions by the Committee on matters of policy was set out in Treasury guidance of 10 January 1992. This responded to Committee concerns that Accounting Officers were refusing to explain the reasons for policy decisions on the grounds that Ministers were responsible.

4.22 The main point of the guidance is that the Accounting Officer should be prepared to say what he has done to fulfil his or her duties under the AO Memorandum. These duties are:

- to ensure that all relevant financial considerations are taken into account in the consideration of policy proposals and where necessary brought to Ministers' attention; and
- that appropriate advice is tendered to Ministers on all matters of financial propriety and regularity and as to all considerations of prudent and economical administration, efficiency and effectiveness.

4.23 The Accounting Officer should be ready to inform the Committee about relevant factual information which the department has provided to the Minister in the context of a policy decision, including any background material and assumptions necessary for an understanding of the information. The amount of such information is a matter of judgment. For example, it may not be appropriate to disclose the options considered by Ministers and the Accounting Officer should not disclose the recommendations made by the department.

4.24 An Accounting Officer should not be reluctant to explain the reasons for a decision merely because it has been taken by Ministers, but should do so, if asked, in terms that reflect the Minister's position. Where a decision has been announced, an Accounting Officer should be prepared to repeat any public justification of it. Where the decision has been implemented but not announced, the Accounting Officer should be prepared to explain it, having consulted the Minister beforehand in appropriate circumstances.

4.25 In some cases, however, the reasons may not be clear, in which case the Accounting Officer is entitled to refuse to speculate about them. Also, if Ministers have decided that their disclosure would not be in the public interest, the Accounting Officer has no authority to speak on the matter except to say that Ministers have so decided. In order to protect the collective responsibility of Ministers the Accounting Officer should not give information about the machinery by which the decision was taken.

4.26 An Accounting Officer should be prepared to explain the objectives of any expenditure programme for which he is accountable.

Disciplinary Issues

4.27 Committee hearings sometimes involve questions about the conduct of individuals, particularly where the hearing concerns regularity or propriety issues. The purpose behind the questions may not just be in the sense of establishing the facts about what occurred in making decisions or implementing Government policies, but with the implication of allocating individual criticism or blame. Paragraphs 70-74 of the **Osmotherly Rules** provide guidance on this issue in relation to Departmental Select Committees. Accounting Officers may find these rules will read-across to their appearance before the Committee. (The Osmotherly rules '**Departmental Evidence and Responses to Select Committees**' – are available from the Cabinet Office www.cabinetoffice.gov.uk/propriety_and_ethics/select_committees/index.asp).

4.28 In such circumstances, and in accordance with the principles of Ministerial accountability, it is for the Minister to look into the matter and if necessary to institute a formal inquiry. Such an inquiry into the conduct and behaviour of individual officials and consideration of disciplinary action is properly carried out within the Department, according to established procedures designed and agreed for the purpose, and with appropriate safeguards for the individual. It is then the Minister's responsibility to inform the Committee of what has happened, and of what has been done to put the matter right and to prevent a recurrence. Evidence to a Committee on this should be given not by the official or officials concerned, but by the Minister or by a senior official designated by the Minister to give such evidence on the Minister's behalf.

4.29 In this context, Accounting Officers should adhere to the principle that disciplinary and employment matters are a matter of confidence and trust (extending in law beyond the end of employment). In such circumstances, public disclosure may damage an individual's reputation without that individual having the same "natural justice" right of response which is recognized by other forms of tribunal or inquiry. Any public information should therefore be cast as far as possible in ways that do not reveal individual or identifiable details. Where the Committee may need such details to discharge their responsibilities, they should be offered in closed session and on an understanding of confidentiality.

4.30 Evidence on such matters should normally be given on the basis that:

- information will not be given about Departmental disciplinary proceedings until the hearings are complete;
- when hearings have been completed, the Department will inform the Committee of their outcome in a form which protects the identity of the individual or individuals concerned except insofar as this is already public knowledge;
- where more detail is needed to enable the Committee to discharge its responsibilities, such detail will be given but on the basis of a clear understanding of its confidentiality;
- the Committee will thereafter be given an account of the measures taken to put right what went wrong and to prevent a repeat of any failures which have arisen from weaknesses in the Departmental arrangements.

4.31 It is not the Committee's task to act as a disciplinary tribunal. Accordingly, if in the course of an inquiry the Committee were to discover evidence that called into question the conduct (in this sense) of individual named officials, the Committee should be asked not to pursue their own investigation into the conduct of the person concerned, but to take up the matter with the Minister.

4.32 If it is foreseen that the Committee's line of enquiry may involve questions about the conduct of named officials, it should be suggested to the Committee that it would be appropriate for a Minister or a senior official designated by the Minister to give evidence, rather than the named officials in question. If an official giving evidence to a Committee is unexpectedly asked question which are directed at his or her individual conduct, or at the conduct of another named official, the official should indicate that he wishes to seek instructions from Ministers, and the Committee should be asked to allow time for this.

Handling Sensitive Information

4.33 It would clearly be inappropriate for evidence that a Department wished to be treated as confidential to be given at a public session of the Committee. If subjects to be discussed at a forthcoming public session are such that the witnesses would only be able to give substantive answers in confidence, the Department should write to the Chairman or the Clerk explaining why this is so. The Committee may then agree to take that part of the Department's evidence in closed session.

4.34 If, despite such an approach, a Committee questions an official witness in public session on confidential matters, or if such matters are raised unexpectedly, the official should inform the Committee that the questions could only be answered on a confidential basis. The Committee may then decide to go into closed session or request a confidential memorandum. It is not for the witness to suggest that the Committee should go into closed session, as this is wholly a matter for them to decide. Further guidance on the handling of sensitive information, and the publication of transcripts of evidence, is covered in paragraphs 82-85 of the Osmotherly rules.

PROVIDING UP-TO-DATE INFORMATION

General Points

4.35 The Committee has expressed concern from time to time about the need for departments to provide it with accurate and up to date information.

4.36 Accounting Officers should come to Committee hearings as well briefed as is reasonably possible on issues arising from the C&AG report. But it is understood by the Committee that Accounting Officers may not always be able to answer at the hearing questions that do not arise directly from the C&AG report. Moreover, on any issue there will be a level of detail beyond which an Accounting Officer will be unable to respond without notice, for example where a precise knowledge of individual facts is not central to the main issues under examination.

4.37 It may also be difficult for Accounting Officers to respond on matters raised in letters and other submissions to the Committee from outside organisations or members of the public when these have not been seen by the witnesses or are only received very shortly before a hearing. Accounting Officers could ensure that they are briefed to answer at the hearing any questions of which they were given appropriate advance notice. Although on some points it may be necessary for a written note to be submitted to the Committee after the hearing.

Updated Information

4.38 Where necessary, Accounting Officers should be ready to cooperate with the NAO in bringing up to date material arising from a NAO report in good time for Committee members to consider at the hearing. It is for NAO to agree with the department concerned what new data is required, and who is responsible for preparing it. The NAO should then submit the new data to the Committee after clearance with the department.

4.39 Departments for their part will inform the NAO in any cases where substantial new information becomes available to them, which supersedes material in the NAO report. Departments may also suggest that particular pieces of information should be included in a further note to the Committee or submit such information themselves after consultation with the NAO. It is important to bear in mind that the NAO needs time to consider the new material and provide relevant briefing to the Committee in advance of the hearing. This will sometimes involve needing to be certain that the new information is correct which can require additional investigation by the NAO.

4.40 Where the NAO provides the Committee with additional factual information that is not included in its original report, this information should be cleared with departments and they should be told what has been provided to the Committee in time for the Accounting Officer to brief him or herself accordingly.

Processing late information

4.41 When new information - including papers - of direct relevance to the Committee's inquiry becomes available **shortly before** the Committee's meeting, it should be sent both to the Clerk to the Committee and the Comptroller and Auditor General.

4.42 When important additional information – that is information which could affect the line of questioning when the Committee takes evidence – becomes available only a few days before the Committee's meeting and needs to be brought to the Committee's attention, Members will always wish to receive advance copies. This is to counter the possibility that interested parties may occasionally seek to influence the course of a Committee hearing by offering divergent views to the department and/or individual Committee members at a late stage, without themselves informing the Committee as a body.

4.43 If the department passes any such papers to the Committee at the same time as to the Comptroller and Auditor General along with an explanation of the timing, any criticism of the lateness of the submission would focus on the source of the information rather than the department. Of course the Committee may not have time to fully assess late information, and equally, the Accounting Officer may need to make clear to the Committee that he or she has not been able to brief him or herself fully.

GOOD PRACTICE AND USEFUL TIPS

Preparation before the hearing

- Read the **NAO** report thoroughly and familiarise yourself well with the key findings, facts, and any trends.
- Identify your own key issues and other things that may give rise to criticism and make sure these are covered satisfactorily in the briefing you are provided.
- Agree the format of the briefing so that you are comfortable using it.
- Ensure that you are provided with briefing in good time so that you have sufficient time to absorb it and ask for any additional material.
- Annotate the **NAO** report, as necessary, so that it is easy to refer to during the hearing. Members usually refer to a specific paragraph, page, fact, weakness, recommendation or conclusion when asking questions.
- Take note of any previous **NAO** report or **PAC** recommendations on the subject and what progress has been made as the Committee often refers to previous reports, recommendations, and failings.
- If appearing for the first time, talk to someone who has recently given evidence or watch a video recording to get familiar with the process and place. Meet the **Treasury Officer of Accounts** a few days before the hearing.
- Be familiar with Committee members' names, background, special interest or skill, and any case studies in the report or related subjects that are based in or around their constituencies.
- Set aside some free time before the hearing to collect your thoughts and reflect on the briefing.

At the Hearing

- Be aware of your body language as hearings are often broadcast live on television, stay focused at the members with good eye contact and do not let the cameras distract you.
- Take the hearing seriously and use suitable tone to demonstrate that.
- Listen carefully to the questions and don't hesitate to ask for any clarification.
- Give a considered and direct answer to the question put to you, don't try to fudge it or prolong the answer as each member is given a limited time for questioning.
- Do not try to pass questions put to you to your colleagues unless they have the specific expertise and knowledge to answer them.
- Do not argue about the findings of the report as these would have been discussed and agreed with you.
- Do not use the excuse that you were not in the post during the period covered by the report. Remember you are answerable, but not accountable, for what might have happened before you joined.
- Do not dig in to defend what is clearly indefensible; it is better to admit failings at the start and to be positive and forward looking and set out what has been done or planned to set things right.
- Remember NAO reports are not just about things going wrong but also about work done well and identifying good practice; be ready to draw attention to those that are in the report in order to present a balanced picture of the department's achievements.

Bear in mind...

A quotation from the PAC Chairman on the quality of answers given at a hearing:

“I have to say, you have been, in the last three hours, a master of obfuscation and there is no point in having a parliamentary inquiry if we are subjected to platitudes. It is only in the last couple of questions in that line of questioning that you actually told us something of interest as opposed to expressing general expressions of apple-pie and motherhood.. That is my opinion.”

RELEVANT GUIDANCE

DAO(R)1/92 “The PAC and Matters of Policy”. On the Treasury’s website at:

- www.hm-treasury.gov.uk/media//B17E3/daor0192.pdf

DAO(GEN)6/95 “Accuracy of Evidence to the PAC”. On the Treasury’s website at:

- www.hm-treasury.gov.uk/media//14A61/dao0695.pdf

DAO(R)1/95 “Provision of up-to-date Information the PAC”. On the Treasury’s website at:

- www.hm-treasury.gov.uk/media//BA58B/daor0195.pdf

Treasury Office of Accounts letter to the Committee dated 11th November 1991 reproduced in DAO letter (R)3/91. On the Treasury’s website at:

- www.hm-treasury.gov.uk/media/FE776/daor0391.pdf

OsmotherlyRules: guidance to civil servants on giving evidence to Select Committees of Parliament and responding to Select Committee reports. On the Cabinet Office website at:

- www.cabinetoffice.gov.uk/propriety_and_ethics/select_committees/index.asp

DAO(R)1/92 “Letter from Lord President of the Council to Chairman of the Liaison Committee dated 5 June 1990” summarised in the Osmotherly Rules at paragraph 99. On the Cabinet Office’s website at:

- www.cabinetoffice.gov.uk/propriety_and_ethics/select_committees/responses.asp

Paragraphs 14-18 of the Accounting Officer Memorandum, Annex 4.1 of Government Accounting – on circumstances surrounding the need for a Ministerial Direction. On the web at:

- www.government-accounting.gov.uk/current/content/ga_04_4.htm

Accounting Officer Memorandum for Non Departmental Public Bodies, Annex 8.2 of Government Accounting. On the web at:

- www.government-accounting.gov.uk/current/content/ga_08_8.htm

NON-DEPARTMENTAL PUBLIC BODIES (NDPBs) - APPEARANCES BEFORE THE PAC

INTRODUCTION

5.1 A NDPB is a body that has a role in the processes of national government but is not a government department or part of one, and accordingly operates to a greater or lesser extent at arm's length from Ministers. Conferring functions on an NDPB involves recognition that a degree of independence from ministers in carrying out those functions is appropriate.

5.2 The sponsor department's Accounting Officer designates the Chief Executive or another senior staff member of an executive NDPB as its Accounting Officer and the relationship and respective responsibilities of the two organizations is set out in the NDPB's Management Statement and associated Financial Memorandum.

APPEARANCE BEFORE THE COMMITTEE

5.3 An NDPB Accounting Officer may also expect to be called upon to appear before the Committee from time to time, normally with the Accounting Officer from the sponsor department, to give evidence on the reports arising from C&AG's value for money studies or reports following the annual audit of accounts. The guidance given in Chapter 4 applies equally to NDPB Accounting Officers and supporting officials.

SPONSORING DEPARTMENTS' ROLES

5.4 Sponsoring departments have specific accountability responsibilities in relation to their NDPBs and Departments' Accounting Officers can expect to be questioned on these by the Committee. These responsibilities are to ensure that:

- there is a clear strategic control framework for the NDPB;
- sufficient and appropriate management and financial controls are in place to safeguard public funds;
- the nominated Accounting Officer is fit to discharge his or her responsibilities;
- there are suitable internal audit arrangements;
- accounts are prepared in accordance with the relevant legislation and any accounting direction; and
- intervention is made, where necessary, in situations where the NDPB Accounting Officer's advice on transactions in relation to regularity, propriety or value for money is overruled by the body's Board or its Chairman.

5.5 The Committee takes a close interest in the quality of stewardship exercised by sponsor departments over their NDPBs. Departments need to strike the right balance between sponsorship responsibilities and the NDPB's need to have a degree of independence.

GOOD PRACTICE

- **Sponsors and their NDPBs should foster and maintain a culture of openness and mutual trust between them so that issues can be properly addressed as they arise.**
- **The NDPB and the departmental Accounting Officer should meet in advance to discuss the issues for the Committee hearing.**
- **There should be a common understanding of the issues and the way forward so that there are no contradictions at the hearing.**
- **Both should share each other's briefing so that there are no surprises at the hearing.**
- **The sponsor department should respect the degree of independence NDPBs have and not be overbearing on line to take at the hearing.**
- **Any area of disagreement should be clearly identified. There should be a good understanding of each other's position and the reasons for taking it.**

6

PUBLIC ACCOUNTS COMMITTEE REPORTS

INTRODUCTION

6.1 Following Committee hearings, the NAO prepares a report in discussion with Members setting out the Committee's findings and making recommendations. Once members have agreed the Report, it is published as a House of Commons Paper. The Report sets out the Committee's findings, and publishes the Minutes of Evidence of the hearing and any subsequent information provided to the Committee. This process usually takes on average six months after the hearing. An embargoed copy of the final Report is sent to departments at least a day before publication.

PUBLIC COMMENT ON COMMITTEE REPORTS

Basic Principle

6.2 Paragraphs 98-101 of the Osmotherly Rules provide guidance on commenting on Departmental Committee reports. As with NAO reports, Accounting Officers may find some read-across with commenting on Committee reports.

6.3 In giving immediate comment on Committee reports Departments should be careful not to pre-empt or prejudge the Government's final and considered reply to the Committee's recommendations which must first be given to Parliament. This means that comments given to the media or in other statements, especially outside the House, on publication of the Report, or in the intervening period up to the delivery of the Government's reply, should not seem (or be seen) to anticipate that reply.

The 1990 convention

6.4 In a letter from the then Lord President to the Chairman of the Liaison Committee, the Government set out its understanding of the position. The main points were: departments may respond immediately in order to correct misstatements of fact; to provide background information; or to draw attention to particular passages in the Committee's Report or in the published Government evidence to the Committee;

“Ministers have a right to respond publicly to criticisms of the Government as robustly as seems appropriate: this would include criticisms in the Committee's Report itself, inaccuracy or misstatement in media reporting, or public criticisms made by individual Committee members;

It is not the Government's intention that recommendations in Committee Reports should be subject to snap responses without detailed Government assessment. Nonetheless Ministers would feel free to respond immediately to certain recommendations, either positively or negatively, where the Government's position was established and clear, or where an early response was needed in order to influence fast-moving events.”

6.5 Similar considerations apply to immediate comment on Reports from the Committee. Departments' public comment on Committee Reports that have financial implications, or which might affect substantively the subsequent Treasury Minute, should be cleared first with the relevant Treasury expenditure team.

RELEVANT GUIDANCE

DAO(R)1/92 “Letter from Lord President of the Council to Chairman of the Liaison Committee dated 5 June 1990” summarised in the Osmotherly Rules at paragraph 99. On the Cabinet Office’s website at:

- www.cabinetoffice.gov.uk/propriety_and_ethics/select_committees/responses.asp

7

GOVERNMENT RESPONSE: TREASURY MINUTES

BACKGROUND

7.1 If the subject is of sufficient importance Government replies to Select Committee reports may be made as Command Papers that are laid before Parliament in the name of a Minister. More usually a reply is sent to the Committee who arranges for it to be published as a House of Commons paper. In the case of Public Accounts Committee reports, a reply is always made in the form of a Treasury Minute presented in the name of the Financial Secretary to the Treasury and published as a command Paper. This note provides general guidance for departments on preparing their contribution to the Treasury Minute.

DRAFTING A TREASURY MINUTE

General

7.2 It falls to the department or agency concerned to draft each response to a Committee report in consultation with the relevant Treasury expenditure team. However, the text requires the approval of the Financial Secretary, the Prime Minister's Office and the Whips Office prior to publication as a Treasury Minute. These processes are organised by Treasury Officer of Accounts (TOA) team.

7.3 Where a number of departments have an interest in a particular report, the lead department nominated in the letter commissioning contributions to the Treasury Minute should liaise with the other departments concerned and incorporate their contributions in the reply. Where it falls to the Treasury to provide a response to a particular conclusion the relevant expenditure team will ensure that this is incorporated into the reply.

Timetable

7.4 The objective is to reply to a PAC report within about two months of that report's publication as required by **the Osmotherly rules**. In practice, as replies are normally grouped together so that one Treasury Minute covers a number of PAC reports, the two month timetable can vary slightly. In addition as Treasury Minutes are not normally laid during a Recess, replies to reports published shortly before or during a Recess may be delayed. Since in addition to drafting, the necessary approval must be obtained from departmental Accounting Officers, the Treasury and Ministers, the timetable for publication is tight and must be adhered to carefully.

Procedure

7.5 TOA write to relevant departments around the time when Committee reports are published. The letter sets out the timetable for providing draft responses to the Treasury. Departments should address **first** drafts to their Treasury expenditure team, with copies to TOA. **Final** agreed texts should be addressed to TOA and copied to the Treasury expenditure team.

7.6 If, when considering the response departments foresee problems that will require discussion with the Treasury, they should approach their Treasury expenditure team straightaway, rather than wait until the first draft has been received. Once the Treasury has agreed the draft it should be submitted to the Accounting Officer and as necessary, to departmental Ministers for approval. Any changes made at this stage should be cleared with the Treasury before the final version is formally submitted.

7.7 TOA will arrange for the approval of Treasury Minutes by the Financial Secretary, the Prime Minister's Office and the Whips' Office, and for publication. Departments will receive confirmation in advance when the Minutes will be laid before Parliament and published. Embargoed copies will be available from TOA once the Treasury Minute is laid before Parliament (normally 24 hours before publication).

Briefing and Press Notices

7.8 The Prime Minister's Office requires briefing for Prime Minister's Questions on every Treasury Minute (see Chapter 8 "Briefing No 10"). The Prime Minister's Policy Office provides guidance for departments on how to structure the briefing. Departments should send this briefing direct to No 10, copied to the Treasury (TOA team), by noon on the Tuesday before it is laid. Treasury Minutes are embargoed until the time of publication.

7.9 The Treasury does not issue a press notice on publication of a Treasury Minute. It is for the department concerned to determine what level of publicity to give to its response to a report by the Committee. New guidance on this will be issued once the Cabinet Office has concluded its review of Osmotherly Rules in the light of the Hutton Inquiry.

Style and Format

7.10 Departments should respond to the Committee conclusions and recommendations as fully and as positively as possible. Replies should make clear whether a conclusion has been accepted or not. Clear explanations should be given of the actions that the department has taken, or will take, to implement accepted recommendations. The Committee has a keen interest in the action taken by departments in response to its reports, so implementation target dates should be given whenever possible. Where a conclusion or recommendation is rejected the reasons for doing so should be clearly stated.

7.11 Replies should not be argumentative or appear to set the National Audit Office (NAO) against the Committee by implying that rejection or criticism of a PAC recommendation is justified because it was not reflected in the NAO report that gave rise to the hearing.

7.12 Statements should not be included in Treasury Minutes unless they accurately reflect the position at the time of publication. Where at the time of drafting a statement needs to be confirmed, or further action is anticipated by the date it is laid it should appear in square brackets in the draft. Departments should inform TOA of any later information that may need to be added to the text, so that this is not overlooked in the final run-up to publication (which can be quite hectic).

7.13 The aim should be to provide clear, direct and succinct responses to the Committee's conclusions and recommendations. Introductory paragraphs of general material, not connected to specific conclusions and recommendations, should not normally be included in a Treasury Minute except in exceptional circumstances: for instance where there has been a change in organisation or policy, since the time of the NAO report or the hearing, which affects the reply. An example would be where responsibility for the subject of the report had been transferred from one department to another.

7.14 Departments should reply to all the conclusions while seeking to avoid unnecessary repetitions. Departments should seek advice from TOA (see contacts in Chapter 10) before drafting a response, if they are not clear how to proceed. A sample Treasury Minute page is shown at the end of this section.

7.15 The Committee conclusions should be reproduced in the Treasury Minute subject to the following conventions:

- conclusions should be preceded by the words “**PAC conclusion (x):**”;
- there is no need to reproduce the text of conclusions in full. Key phrases and recommendations should be retained, those parts of conclusions which are simply commentary or description may be omitted;
- where conclusions are shortened, departments should as far as possible keep to the Committee's words, only changing or adding to them to ensure the shortened version makes sense. Omissions should be indicated by dots (three dots when leaving out words in the middle of a sentence, four in other circumstances). Sub-editing for sense should be indicated by square brackets;
- the department's response will follow the conclusion to which it relates. It is sometimes appropriate to provide a composite reply to two or more related conclusions. In these cases the relevant conclusions should be grouped together; these may be shortened but each conclusion must be kept distinct and the reply should cover every conclusion/recommendation in the group.

Style Conventions

7.16 The following style conventions should be employed:

- **Headings** – initial capitals for the title of the report, but not for subordinate headings (if used). Subordinate headings to be in italics.
- If a department, body, etc is to be referred to by initials, it should be identified in full, followed by the initials in brackets, the first time it is referred to in the response. Thereafter the initials should be used in both the Committee's conclusions and the Government's response.
- DTI (not “the DTI”)
- DTI is/the Committee is (not are)
- the Committee (not “the PAC”)
- xx million (not m)
- 2003-04 (not 2003/04)

- Interdepartmental - do not hyphenate
- Colon without dash precedes indented item(s)
- % in words “per cent”
- The figures “one” to “nine” should be written in words, 10 and above in figures.
- **Department/Government** – with lower case when referring to departments or governments generally (e.g. “several departments have...”, “agreements have been negotiated with several foreign governments”); and with initial capital when referring to a particular department or government, (e.g. “the Department/Government will consider this recommendation...”, “Government policy is...”, “this is a matter for the French Government”).

Correcting Statements in Treasury Minutes

7.17 Departments should inform the Committee well in advance of any related Committee hearing, when decisions have been taken that affect statements in a Treasury Minute.

7.18 Departments are therefore asked to inform the Committee in writing of any decisions or events that invalidate statements made in a Treasury Minute and of which the Committee might reasonably expect to be made aware. The following procedures are intended to ensure that Treasury Minutes in response to Committee reports are kept under review and that earlier ones are scrutinized only where they are relevant to a forthcoming Committee hearing:

- any decisions taken or events occurring within a year of publication of a Treasury Minute which materially invalidate any statements in that Minute should be reported in writing to the Committee Clerk, with a copy to the National Audit Office (NAO). This applies whether or not there is a relevant forthcoming Committee hearing; and
- as part of the routine preparation for future Committee hearings, departments should check the text of earlier relevant Treasury Minutes. If any statement in a Minute is invalidated materially by subsequent decisions or events (and action has not already been taken to inform the Committee and NAO as above) this should be reported in writing to the Committee Clerk, with a copy to the NAO, at least four weeks before the hearing.

7.19 Departments are not however required to follow the above procedures in cases where the decisions or events have been or are about to be recorded in a further NAO report. Nor are departments expected, unless they so wish, to inform the Committee of developments of a normal kind occurring after the publication of a Treasury Minute. This guidance is concerned only with cases where statements in a Treasury Minute are rendered factually inaccurate or misleading to a significant extent.

Departmental Annual Reports

7.20 Departments are required to include in their annual report recommendations made by the Public accounts Committee and a summary of progress since the Treasury Minute related to those recommendations was published. This task is made much easier if departments have proper systems in place for monitoring progress with the implementing of recommendations and for regular reviews by their audit committees.

7.21 The Treasury provides guidance on the coverage of departmental Annual Reports and details are set out in Public Expenditure System (PES) papers that can be viewed on its GSI website at:
www.hm-treasury.gsi.gov.uk/psd/pes_papers/PES_papers_home.htm.

An Extract from a Treasury Minute

Seventeenth Report

Department of Health

Hip replacements: an update

PAC conclusion (i): Around 1 in 10 of consultants use hip prostheses for which there is inadequate evidence of effectiveness. Innovation can bring benefits for patients, but there needs to be strict safeguards for new models with little or no track record. The NHS Purchasing & Supply Agency should issue a full list of prostheses which meet the NICE standard as soon as possible.

1. The Department agrees with this recommendation. In September 2000, NHS Purchasing & Supply Agency (NHS PASA) published a database on its intranet site containing the claims of manufacturers regarding their products and whether they met the National Institute for Clinical Effectiveness (NICE) benchmarks or not, therefore fulfilling its requirement under the NICE guidance. However, whilst much of the data supplied was satisfactory, problems were highlighted with the accuracy and validity of some of the data. As a consequence NHS PASA set up the Orthopaedic Data Evaluation Panel (ODEP) to give an independent view of manufacturers' claims regarding their products in relation to the NICE benchmarking standards. All manufacturers were asked to submit data for products meeting the 10-year benchmark to the ODEP for evaluation. The results were made available to the NHS via the NHSnet on 31 March 2004.
2. ODEP is now looking at manufacturers' claims on how their prostheses meet the NICE entry benchmark (three year benchmark). Manufacturers are currently collating data in support of this benchmark for submission to ODEP in September 2004. NHS PASA plan to publish the outcome of this evaluation in early 2005.

RELEVANT GUIDANCE

Dear Accounting Officer letter of 2 October 1989 "Correction of Statements in Treasury Minute". On the Treasury's website at:

- www.hm-treasury.gov.uk/media/B8B/CD/dao89correction.pdf

GENERAL

8.1 The Treasury Officer of Accounts (TOA) team keeps No 10 informed of all NAO reports, PAC business, and Treasury Minutes. The TOA team also provides a short briefing on every NAO value for money report setting out the focus of the report and its main findings. It is therefore not necessary for departments to brief No.10 on every NAO VfM report unless the subject of a report is in the news and the findings and recommendations are likely to be of interest to the media or could be critical of Government.

8.2 As soon as possible after a Confidential Final Revise (CFR) of a PAC Report is received, a short note (not more than two or three pages) should be prepared on the main points, especially difficult points, with brief lines to take where necessary (bearing in mind the guidance on immediate comments on Reports at paragraphs 98-101 of the **Osmotherly Rules**). This should be sent to the Parliamentary Clerk at No.10 to arrive before publication of the Report concerned. In the event of a department receiving the Report only on the day of publication, a short note should still be put urgently in hand to reach No.10 on the same day. Copies of the briefing should go in parallel to other departments with an interest in the Report. This requirement stands for Reports published during the recess as well as when Parliament is sitting.

8.3 No.10 also require briefing on every Treasury Minute for Prime Minister's Questions in the House. Departments should send this briefing direct to No.10, copied to the Treasury (TOA Team), by noon on the Tuesday before it is laid. Please remember Treasury Minutes are usually laid on a Wednesday and published the following day. The Treasury will provide the relevant departments with embargoed copies on Wednesday morning.

8.4 The standard guidance on briefing No.10 should be followed, the Parliamentary Clerk there usually writes out to departments setting out the requirements. It is important that the briefing is provided in good time. The key requirement with any briefing is that it should be focused, precise, contains key facts and line to take.

8.5 The Prime Minister's questions are on Wednesdays around mid-day whilst the House is in session. Departments should ensure that any briefing is received by No.10 in time to meet the Monday and Tuesday deadlines of 16:00hrs and 12:00hrs respectively. The PM's Office may agree an extension where there is a good reason but it is vital that it is kept to a minimum.

8.6 Departments must clear briefing for PM's Office with their Permanent Secretary and relevant Ministers.

INTRODUCTION

9.1 Twice a year the House debates the reports produced by the Committee and the Government's responses to them. The debates should take place before the Christmas and summer Recesses, but can take place at any time. For example, in 2004, they were held in February and late June. The motion that is put to the House is in terms of taking note of the numbered recent reports and their accompanying Treasury Minutes. Only the reports to which the Government has responded through a published Treasury Minute are included in the debate motion and only the Reports and TMs published since the previous debate are included in the motion for the next debate. However, this does not prevent MPs from raising other issues or referring to Committee Reports that have been published but where the Government has yet to respond.

9.2 Each debate lasts about three hours. The Chairman of the Committee introduces the motion for debate. Then individual Committee Members speak about particular issues, themes and concerns that they have discovered through their membership of the Committee. The Financial Secretary to the Treasury gives the Government response, and finally, the Chairman closes commenting on the main issues debated.

BRIEFING FOR THE DEBATE

9.3 TOA drafts the speech for the Financial Secretary. The speech tends to concentrate on general issues and themes that have a broad read-across to wider value for money and/or regularity and propriety across Government. TOA will have drafted or commissioned briefing on these issues beforehand. But the Financial Secretary may also wish to respond immediately to the Chairman's or other Members' concerns about specific reports and it is important that the Minister has speaking notes in order to do so.

9.4 About a month before the debate, TOA will commission briefing on the specific reports that will be covered by the motion to be debated, including those where the Treasury Minute response has not yet been published but will have been in time for the debate. Depending on the subject, TOA may also commission briefing on those reports that have been published but where a Treasury Minute response will not be published before the debate. Briefing should be received in TOA no later than two weeks before the debate.

9.5 Clearly the Financial Secretary will not have time to wade through reams of briefing on each of the reports, simply to pick out one or two detailed issues that Members may mention in their speeches. TOA will not, therefore, be asking for detailed briefing on each report, rather it is more helpful to have one or two pages at the most that cover the following:

- The main accusation in the report;
- A response that the Financial Secretary could read verbatim;
- A short background note; and
- Any facts and figures that may be used in support of the Government's position.

THE AFTERMATH OF THE DEBATE

9.6 When the transcript of the debate is published on the PAC website, TOA will bring it to the attention of all those that provided briefing, and also to the Accounting Officers of the departments and bodies that were specifically mentioned in the debate. If the Financial Secretary has promised to write to a Member on a particular issue through lack of time or if the answer was not immediately to hand, TOA will ask the relevant body for a draft letter or paragraphs that could be used in a follow-up letter. It is preferable if the issue is not left to fester, so TOA would wish to put a draft to the Financial Secretary within three weeks of the debate and it will set the timetable for a draft letter or paragraphs accordingly.

10

FURTHER GUIDANCE AND CONTACT POINTS

KEY ORGANISATIONS, DOCUMENTS AND LINKS

Parliament

PAC homepage To find out about future meetings, Committee members and their background, published evidence, and press releases.

- www.parliament.uk/parliamentary_committees/committee_of_public_accounts.cfm

Clerk to the PAC Public Accounts Committee
7 Millbank
London
SW1P 3JA
Telephone: 0207 219 3273
Email: pubacom@parliament.uk

Video Recordings When hearings have been recorded for television purposes, unedited video recordings may subsequently be purchased through the **Parliamentary Recording Unit** - Tel. 020 721 95511.

Hansard House of Commons Daily Debates, including PAC debates. On the web at:

- www.parliament.the-stationery-office.co.uk/pa/cm/cmhansrd.htm

HM Treasury
1 Horse Guards Road
London, SW1P 3JA
Tel: 020 7270 5000

Treasury Officer of Accounts 1/21
1 Horse Guards Road
London, SW1A 2HQ

Contact:

Sarah Blackman
Tel: 020 7270 5524
Email: Sarah.Blackman@hm-treasury.gsi.gov.uk
Andy West
Tel: 020 7270 5498
Email: Andy.West@hm-treasury.gsi.gov.uk

TOA website For guidance and other contacts within TOA.

- www.hm-treasury.gsi.gov.uk/GFM/TOA/toahomepage.htm

Gov't Acct'g The Government Accounting Manual. On the web at:

- www.government-accounting.gov.uk

Reg', Prop' & Vfm The handbook on Regularity, Propriety and Value for Money. On the web at:

- www.hmtreasury.gov.uk/Documents/Public_Spending_and_Services/Audit_and_Accounting/pss_aud_regprop97.cfm

Cabinet Office

Find out more about departments' sponsorship of agencies and NDPBs and other related guidance.

- www.cabinet-office.gov.uk/agencies-publicbodies/guiddepts/guidance2.shtm

HMSO (Legislation)

Copies of UK legislation are available online at:

- www.hmso.gov.uk

National Audit Office

Value for Money reports, work in progress, and best practice guidance can be found at the NAO website.

- www.nao.gov.uk

NAO participate in the Public Audit Forum.

- www.public-audit-forum.gov.uk

Centre for Management and Policy Studies (CMPS)

Formerly known as the Civil Service College. The Contact for Public Accountability and Public Accounts Committee training is:

Jane Foulsham, Principal Lecturer, CMPS.
Email: Jane.foulsham@cmps.gsi.gov.uk