INSTITUTE FOR GOVERNMENT

Following the Pound

The Accounting Officer in Central Government

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About the author

Josh Harris joined the Institute for Government as a researcher in July 2012. Prior to this he was parliamentary researcher for Steve Webb MP, Minister of State for Pensions. At the Institute, his research has centred on ministerial and civil service accountabilities, and he has also contributed to projects on economic policy making and transformation in Whitehall departments. His most recent publications are a report on permanent secretary appointments, and a briefing for the Spending Round in June 2013. Josh graduated from the University of Oxford in 2010 with a degree in history and politics, and has subsequently studied economics at the University of London.

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Any errors or omissions remain the responsibility of the author alone.

Summary

Accounting officers are central to how government spending is controlled. Always the most senior official in a department – the permanent secretary – accounting officers are personally accountable to parliament for the use of public money. They must sign the department's accounts, but accounting officers have more extensive responsibilities beyond the department's financial health. They are accountable to Parliament for how every penny of public money is spent.

The system is built on well-established conventions, the cornerstone of which is the Treasury's handbook to public finance, *Managing Public Money*. This sets out the standards by which public money must be handled. However, accounting officers have considerable discretion in how they carry out their role, and must use their own judgement and answer for it to Parliament.

The exception to this is when the secretary of state decides to pursue a course of action which the accounting officer believes does not meet at least one of the criteria which all government spending must meet: the four tests of regularity, propriety, value for money, and feasibility. Where these standards will not be met but a minister insists on going ahead anyway, accounting officers can be formally instructed to proceed by the minister through a written direction. The accounting officer then implements the decision and is no longer held personally responsible.

Directions are quite rare: there were 37 during the Labour government between 1997 and 2010, and there haven't been any since the 2010 general election. They are more common before an expected change of government, and are most frequently issued due to concerns about value for money. Directions are not necessarily signs of failure. There can be understandable policy reasons why a direction may be necessary. Directions allow democratically-elected ministers to have their decisions implemented, but registered publicly when this contradicts Treasury and parliamentary rules by publishing a direction's existence.

The accounting-officer system is strengthened by its close links with Parliament. Accounting officers are individually accountable to Parliament through the Public Accounts Committee (PAC), which scrutinises public spending for value for money. PAC hearings can be robust, and are seen by some in Whitehall as a deterrent to accounting officers being tempted to ignore their responsibilities.

This personal accountability is central to the accounting officer system, yet there is some concern that it reinforces organisational silos which make cross-government collaboration challenging. The system is further complicated by decentralised service delivery. Some accounting officers with responsibility for decentralised service delivery, such as in health or education, produce system statements annually to describe what exactly they are accountable for. These help describe the complexity and uniqueness of each accounting officer's responsibilities. Yet as decentralisation continues, the question remains of how parliamentary accountability can adapt effectively.

Nevertheless, the accounting-officer role is evolving. The Civil Service Reform Plan in June 2012 promised to develop their accountability by requiring accounting officers to sign implementation plans, major gateway reviews and Cabinet Committee papers, as well as department accounts. A 'one year on' update of the reform plan in July 2013 confirmed that new rules, allowing accounting officers to be recalled, would be issued to facilitate select committee investigations. This has been formalised in an updated edition of *Managing Public Money*.

These reforms are important for sharpening accountability at the top of government departments. But they do not alter the core of the accounting officer role, which is the clear and personal accountability of the accounting officer for the use of public money within their organisation. The significance of the role is often unspoken, but remains a crucially important element of how accountability in central government is structured.

Introduction

Effective government requires good control of finances. The public want assurance that money is not misspent and is handled with high standards of probity. Government needs to know what it is spending, why, and whether there is sufficient benefit to justify the expense. At a time of restrained public finances, this is even more pressing.

Central to the system which has evolved for keeping government spending under control are accounting officers. Control of the supply of money to the Crown was at the forefront of the assertion of parliamentary sovereignty. Accounting for the use of that money to Parliament and the public has always therefore been a central axis of government accountability. In the UK, that accountability for public money is vested in the Civil Service. The accounting officer – always the most senior permanent official in a department, the permanent secretary, or in an agency, the chief executive – is personally accountable to Parliament for the use of public money. They must ensure that spending meets the four tests of regularity, propriety, value for money, and, most recently, feasibility. Where it does not, they can be formally instructed to proceed by the minister through a written direction.

The role of accounting officers is a vital, but often unremarked, element of the accountability framework of UK government. Accounting officers have always been an exception to the traditional accountability model in which civil servants are accountable to their minister, and the minister to Parliament. In this model, ministers set direction and have the final say over which policies to pursue by virtue of having been democratically elected. In return, they are held accountable by Parliament, and the Civil Service enjoys anonymity for their impartiality and dedication to serving the government of the day.

The Government published its Civil Service Reform Plan in June 2012, and recently followed up with its 'one year on' update. The Reform Plan promised to develop the accounting-officer role itself, or at least strengthen its accountability to Parliament, as part of a suite of reforms intended to make the Civil Service more clearly accountable. This is in addition to reforms directed at the performance and capability of the Civil Service.[1] Some of these have already been included in a revised version of *Managing Public Money* published in July 2013, which for example now makes clear the procedure for recalling a former accounting officer to the Public Accounts Committee, and outlining when this would be appropriate.[2] The Reform Plan also promised greater parliamentary accountability for 'senior responsible owners' (SROs) for project delivery. A new edition of the rules concerning civil service accountability to Parliament should give more detail on how this will work alongside accounting-officer accountability, which is expected later in 2013.

The Institute for Government has already published research on several proposed areas of reform to accountability structures, including lessons from the New Zealand and Australian experiences, reform of the private office, and on the right role for ministers in permanent secretary appointments.[3] We will also be publishing research on civil servant accountability to

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[1] HM Government, *The Civil Service Reform Plan,* UK Civil Service website, June 2012, p.21, retrieved 8 May 2013 from www.civilservice.gov.uk/wp-content/uploads/2012/06/Civil-Service-Reform-Plan-acc-final.pdf ; HM Government, *Civil Service Reform Plan: One year on report*, Gov.UK website, July 2013, retrieved 10 July 2013 from https://www.gov.uk/government/publications/civil-service-reform-plan-one-year-on--2

[2] HM Treasury, *Managing Public Money,* para.3.5.3, Gov.UK website, 2013, retrieved 16 July 2013 from https://www.gov.uk/government/publications/managing-public-money

[3] Details on this project are available on the Institute for Government website: http://www.instituteforgovernment.org.uk/our-work/parliament-and-political-process/accountability-central-government

Parliament and the constitutional and legal position of the Civil Service, as well as our final report on accountability later in 2013.

In light of proposed reforms, this research paper describes the development of the accounting officer role, who accounting officers are and what they do, and the mechanisms through which the role functions today in central government. This paper discusses the core elements of the accounting officer conventions which help promote more effective government – a central theme of the Institute for Government's research. The strengths of the role are assessed, and we consider the ways in which the role is evolving. Some of this evolution is driven by the Civil Service Reform Plan and the reform agenda, while the changing nature of government spending and service delivery has also prompted a rethink of accountability structures.

The purpose of accounting officers

The purpose of an accounting officer in central government is to provide assurance to Parliament, and the wider public, that public funds have been managed with probity and that good value for money has been secured. The Treasury's handbook to government finance, *Managing Public Money,* describes the formal role of the accounting officer as being the single individual in a public sector organisation 'who parliament calls to account for the stewardship of its resources'.[4] The accounting officer alone must explain how the money appropriated to that department by Parliament has been used.

Yet accounting officers must do more than just explain. Despite the name, it is not solely an audit or accounting role. They must ensure that funds are used well in the first place. They are therefore responsible for the processes by which those funds are used in their organisations, and ensuring that the purposes for which public money is used represent value for money for the taxpayer. Accounting officers must ensure that any spending meets four criteria: regularity, propriety, value for money, and feasibility. When the accounting officer believes that one or more of these criteria is not met, they must seek explicit written instruction from the secretary of state to proceed – otherwise they can be held personally accountable for a decision which did not meet the standards required by Parliament for how public money is used.

The role of accounting officers is therefore directly and inescapably connected to parliamentary and Treasury control of how money is spent. The role helps ensure more effective government by pinning accountability for public money on named individuals with the power to influence how that money is spent. Those individuals cannot plead ignorance or innocence when things go wrong. This provides strong incentives to focus on using public money carefully, appropriately, and with due attention to value for money.

Who are accounting officers?

Accounting officers are not required to be trained accountants as the role is not technical. Their seniority rather than expertise is crucial, so by convention they are the permanent head of the organisation in question. For Whitehall departments this invariably means the permanent secretary. As the 1872 Treasury minute which formalised the role explains:

[4] HM Treasury, *Managing Public Money,* Gov.UK website, 2013, para.3.1.2, retrieved 16 July 2013 from https://www.gov.uk/government/publications/managing-public-money

> It cannot be doubted that the officer entrusted with the duty should occupy a sufficient standing to enable him not only to exercise a direct supervision and control over the persons executing the detailed business of account and book-keeping, but also to influence the working of his department in all those respects which affect the method of its receipts or expenditure. He must also be qualified to represent his department before the Parliamentary Committee of Public Accounts.[5]

When the system was originally constructed, the Treasury opted to make the permanent, rather than political, heads of department accounting officers. This was for the pragmatic reason that 'the temporary nature of their [ministers'] tenure of office, and the burden of their parliamentary, in addition to their strictly executive, duties, unfit them in the opinion of my Lords [of the Treasury] for a real and satisfactory performance of the duties connected with the rendering of the Appropriation Accounts'.[6] Ministers were seen as too temporary and too busy, rather than too political. Today, however, the political impartiality of the Civil Service is accepted as an important part of the accounting officer's ability to do their role.

Formally, the Treasury appoints the permanent head of each central government department as the 'principal accounting officer'. The Treasury also appoints the head of each trading fund – such as the Met Office and Foreign and Commonwealth Office (FCO) Services – as principal accounting officers. In turn, each principal accounting officer can appoint additional accounting officers, such as the heads of arm's-length bodies (ALBs) or individuals with particular responsibilities, such as Sharon White – a director general at the Treasury, who is the accounting officer responsible for the Contingencies Fund and Whole-of-Government Accounts.[7] Until recently the chief executive of the NHS was an additional accounting officer under the permanent secretary for the Department of Health, but he is now, as chief executive of NHS England, a principal accounting officer in his own right. Principal accounting officers can delegate certain financial powers to these other accounting officers in a formal letter of designation which is kept updated.

Devolution complicates the picture slightly. The permanent secretary of the Welsh Government is designated the principal accounting officer for the whole devolved government, and can then appoint additional accounting officers for particular areas of spending. The permanent secretary of the Scottish Government is the principal accountable officer and is accountable to the Scottish Parliament, rather than Westminster, under the Public Finance and Accountability (Scotland) Act 2000. Otherwise the system is analogous to the historic UK accounting officer system.[8] This research paper focuses on accounting officers in the UK Government, and primarily those at the top of central government departments in Whitehall.

The principal accounting officer remains ultimately accountable to Parliament, even when delegating responsibilities to additional accounting officers. They are therefore required to maintain 'meaningful oversight' of an ALB.[9] This can mean intervening and, *in extremis*, revoking

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[5] *Treasury Minute, dated August 14, 1872.* The National Archives, Public Record Office (PRO) BT 13/7/15, p.5.
[6] Ibid*.,* p.4.
[7] For example, permanent secretaries are 'expected' to designate the chief executive of an executive agency as the agency's accounting officer. Cabinet Office Agencies and Public Bodies Team, *Executive Agencies: A guide for departments,* Gov.UK website, 2006, p.15, retrieved 23 July 2013 from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/80076/exec_agencies_guidance_oct06_0.pdf; HM Treasury list of accounting officers https://www.gov.uk/government/publications/accounting-officers-appointed-by-hm-treasury-july-2013
[8] Scottish Government guidance on accountability for public finances is contained in the *Scottish Public Finance Manual,* section entitled 'Accountability', Scottish Government website, February 2012, retrieved 9 July 2013 from http://www.scotland.gov.uk/Topics/Government/Finance/spfm/Accountability
[9] HM Treasury, *Managing Public Money*, para.3.8.2.

the additional accounting officer's subsidiary designation. The latest edition of *Managing Public Money* – published in July 2013 – has strengthened this point to make clear that ALBs do not enjoy unlimited independence from their sponsor department so far as accounting officer requirements are concerned, for example, if its budget is out of control or systems are defective. It says, 'the accounting officer of a sponsor department may need to intervene if an ALB drifts significantly off track … this may include replacing some or all of the leaders of the ALB, possibly even its accounting officer'.[10]

While made more explicit in this updated publication, principal accounting officers have always had the power to remove the accounting-officer status of ALB chief executives – as the permanent secretary of the then Department for National Heritage did in 1995 with the accounting officer for the National Heritage Memorial Fund, an Executive Non-Departmental Public Body.[11] The chair of trustees for the fund then had no option but to terminate her appointment as director. This demonstrates that the accounting-officer role is integral to carrying out wider executive responsibilities – and the removal of the status is an important control mechanism for the sponsor department over the chief executive. One permanent secretary said that his only lever over an arm's-length body that was not performing was the potential to revoke the chief executive's accounting-officer responsibilities.[12]

There are also some accounting officer appointments which technically the Treasury recognises rather than makes – including the clerks of both Houses of Parliament and the head of the National Audit Office (NAO) – to preserve the independence of Parliament and Parliament's financial watchdog respectively. In practice the significance of this distinction in Treasury discretion, like appointing permanent secretaries as accounting officers, has faded over time. Deeply entrenched conventions determine who within central government is appointed accounting officer.

What accounting officers do

There are several specific responsibilities which accounting officers alone must carry out: signing the department's annual resource accounts, annual report, and statement on internal control. They must also personally approve the voted budget limits and 'estimates memorandum', which provide House of Commons select committees with an explanation of how resources and cash sought from Parliament will be used.[13] In fact, the only statutory duties accounting officers have are to prepare and submit the accounts for audit to the Comptroller and Auditor General (C&AG) – the officer of Parliament responsible for disbursing money to government and for auditing its use.[14] These elements are mostly managed by the accounting officer's finance function, commonly the director of finance and his or her team in a department, though the accounting officer remains personally responsible for ensuring it happens.

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[10] HM Treasury, *Managing Public Money,* para.3.8.4.
[11] HM Treasury, *Regularity, Propriety and Value for Money*, p.27, National Archives website, November 2004, retrieved 9 July 2013 from http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/Reg_Prop_and_VfM-November04.pdf
[12] Rutter, J., Malley, R., Noonan, A., & Knighton, W., *It Takes Two: How to create effective relationships between government and arm's-length bodies*, Institute for Government, 2012, p.35, retrieved 9 July 2013 from http://www.instituteforgovernment.org.uk/sites/default/files/publications/it_takes_two_final_0.pdf
[13] For example, the *Cabinet Office Memorandum on the Main Estimate 2012-13*, submitted to the Public Administration Select Committee, UK Parliament website, retrieved 23 July 2013 from http://www.parliament.uk/documents/commons-committees/public-administration/document2012-04-17-143951.pdf
[14] Government Resources and Accounts Act 2000 S.5(7).

Alongside these specific accounting duties, accounting officers are responsible for providing assurance to the Treasury and PAC that the department's activities, and in particular its policy-driven spending commitments, meet a number of standards. They must sufficiently appraise policies against the Treasury's *Green Book* criteria to ensure they are affordable and sustainable, and offer value for money for the taxpayer.[15] They must also ensure that the running of the department, and the business it undertakes, conforms to the standards laid out in *Managing Public Money* which focus on effective governance (reiterated in the Governance Code), decision making, and financial management.[16] Opportunity and risk therefore need to be managed, which is the accounting officer's responsibility, as is ensuring the department retains a healthy financial position and accounting accurately for its transactions.

While the accounting officer is personally accountable for ensuring this takes place, in practical terms this responsibility also means ensuring the organisation's policies and processes conform to Treasury standards. One senior Whitehall official suggested this means having a strong finance section in the department, which is connected into the policy and analysis functions so that it has oversight of where possible conflicts with accounting-officer duties may arise.[17] As *Managing Public Money* puts it, a finance director's duties consist in large part of 'ensuring that the financial aspects of the accounting officer's responsibilities are carried through to the organisation and its arm's-length bodies (ALBs) in depth'.[18]

The accounting officer should also be supported by appropriate governance arrangements. In central government departments, this now normally means a board chaired by the secretary of state, and also comprising other ministers, senior officials and non-executive members. The new edition of *Managing Public Money* includes substantially more guidance than previous editions on what a departmental board can and should look like.[19] This reinforces the perspective that boards should play a central role in ensuring the good governance of a department, with their work therefore closely connected to the personal responsibilities of the accounting officer.

The foundations of the accounting-officer system

Accounting officers owe their existence to the long-standing UK culture of tight Treasury control of public finances. This Treasury control developed over centuries, and owed much to what current Permanent Secretary, Sir Nicholas Macpherson, calls the Treasury's 'inextricable links to Parliament', which focus on managing the level of public spending.[20] The paper trail to identify how these links came to exist is, as the current Treasury Officer of Accounts has described it, 'so ancient that it has been lost in the mists of time'.[21]

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[15] HM Treasury, *The Green Book,* The Stationery Office, Gov.UK website, 2011, retrieved 23 July 2013 from https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-governent

[16] HM Treasury, *Managing Public Money,* box 3.1; HM Treasury, *Corporate Governance in Central Government Departments: Code of good practice*, Gov.UK website, 2011, retrieved 11 July 2013 from https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments

[17] At the very least, *Managing Public Money* advises that 'the board of a central government department should include a professional finance director' which was not the case historically. HM Treasury, *Managing Public Money* p.23.

[18] HM Treasury, *Managing Public Money*, para.A4.1.2.

[19] HM Treasury, *Managing Public Money*, ch.4.

[20] Macpherson, N., 'The Origins of Treasury Control', Mile End Group website, 16 January 2013, retrieved 23 July 2013 from http://www.mileendgroup.com/event/history-treasury-part-1/

[21] House of Lords Select Committee on the Constitution, *The Pre-emption of Parliament, oral and written evidence,* Q.40, Parliament UK website, January 2013, retrieved 17 July 2013 from http://www.parliament.uk/documents/lords-committees/constitution/preemption/PPEvidence.pdf

Nineteenth-century Liberal Prime Minister and Chancellor, William Gladstone created the first systematic parliamentary controls of public money. One of Gladstone's many reforms intended to overhaul public finance was to create, in 1861, the House of Commons Select Committee of Public Accounts (PAC) to hold government to account openly and robustly for the use of public money, and to check that it was being handled with probity and spent on the purposes for which Parliament has authorised it. These reforms meant Treasury control was extended to managing the legality, as well as the level, of public spending.

Five years later the Exchequer and Audit Departments Act 1866 consolidated previously unco-ordinated elements of the system for seeking parliamentary approval for public spending by creating the combined role of Comptroller and Auditor General (C&AG).[22] For the first time this Act required departments to produce annual 'appropriation accounts'.[23] An officer was appointed to oversee these accounts, and the Treasury was required by the Act to inform the C&AG each time such an officer was appointed.[24] This was the original legislative basis for accounting officers.

The term 'accounting officer' was first used six years after the Act in a Treasury minute, the formal means of communication by the Treasury to the Committee of Public Accounts. The Treasury cleared up confusion over the use of 'accountant' in legislation, by proposing that these nominated accounting officers – rather than departmental book-keepers – should be the officers responsible for signing the accounts. Prior to this minute, the practice of who signed the accounts varied so, at the insistence of the PAC, the Treasury formalised the role as belonging to the permanent head of the department.

As the PAC asserted itself over the decades following its establishment, it reached a Concordat with the Treasury in 1932, which still formally underpins their co-operation. This Concordat agrees that Parliament can expect specific legislation and parliamentary authority for each year's expenditure including for continuing expenditure, and agrees that the Treasury should enforce this.[25]

The cornerstone of the conventions governing accounting-officer responsibilities is the Treasury's *Managing Public Money,* along with the Treasury and Cabinet Office's guidance on corporate governance.[26] *Managing Public Money* is a guide to the responsibilities of different actors within government for public money – the standards, processes, and procedures by which that money should be handled – and to the ways government funding is delivered. Illustrating how broadly the Treasury sees accounting-officer responsibilities, it outlines the standards expected of an accounting officer's organisation as below.

> **Standards expected of the accounting officer's organisation**[27]
>
> Acting within the authority of the minister(s) to whom he or she is responsible, the accounting officer should ensure that the organisation, and any ALB it sponsors, operates effectively and to a high standard of probity. The organisation should:

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22 Although the original reason for combining the two roles was as an economy. Franks, C.E.S., 'Not Anonymous: Ministerial responsibility and the British accounting officers', *Canadian Public Administration,* vol.40 (4), 1997, p.629.

23 Exchequer and Audit Departments Act 1866 S.22.

24 Exchequer and Audit Departments Act 1866 S.22 and S.34.

25 Annex 2.1, *The PAC Concordat of 1932* in HM Treasury, *Managing Public Money,* 2007.

26 HM Treasury and Cabinet Office, *Corporate Governance in Central Government Departments: Code of good practice,* Gov.UK website, 2011, retrieved 2 July 2013 from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/179693/corporate_governance_good_practice_july2011.pdf.pdf

27 HM Treasury, *Managing Public Money,* box 3.1.

Governance

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

Decision making

- support its ministers with clear, well-reasoned, timely and impartial advice
- make all its decisions in line with the strategy, aims and objectives of the organisation set by ministers and/or in legislation
- take a balanced view of the organisation's approach to managing opportunity and risk
- impose no more than proportionate and defensible burdens on business

Financial management

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

As the department's leader, the permanent secretary as accounting officer is responsible for ensuring the whole organisation meets these standards. Their leadership of departments is shared with secretaries of state however, and this has significant implications for the accounting-officer role.

Accounting officers and departmental leadership

Whitehall departments have both an elected political leader – the secretary of state – and an impartial civil service leader – the permanent secretary. The accounting-officer role is an important element of this partnership.

The separation between the political and administrative spheres of Whitehall leadership has become more important since the activity of government, and therefore accounting-officer responsibilities, extended beyond the administration of small central department bureaucracies. When the accounting-officer system was established in the nineteenth century, most public service delivery – such as it was – came through local and municipal authorities rather than central government. These were therefore not subject to the accounting-officer regime, which was principally concerned with the propriety and regularity of handling funds in central government.

Now the role affects large-scale policy decisions and delivery organisations, the scope for legitimate tension over spending decisions between ministers and accounting officers is greater, for example, over whether large flagship ministerial policies represent value for money. Where there is direct disagreement over whether policies are consistent with accounting-officer responsibilities – or if ministers wish to pursue an action which they accept is not consistent with an accounting officer's responsibilities – accounting officers can ask for a direction. This is a formal written instruction to proceed, which means the minister – rather than the accounting officer – is then held accountable for the decision.

Directions

If an accounting officer sees any potential conflict between their duties as an accounting officer and the minister's instructions, the accounting officer must bring this first to the minister's attention. The accounting officer is expected to work with the minister, and often the Treasury as well, to see if the minister's instructions can be modified to satisfy the permanent secretary's concerns arising from their responsibilities as accounting officers.

Only if the spending cannot be brought into line with the standards required of accounting officers, and ministers wish to continue regardless, should a direction be sought and issued on certain limited grounds.

Criteria for directions

There are four grounds on which a direction can be issued, which also encapsulate the core standards which accounting officers must ensure any use of resources by their department meets.

> **Regularity:** if a proposal is outside the legal powers, parliamentary consents, or Treasury delegations; or incompatible with the agreed spending budgets.
>
> **Propriety:** if a proposal would breach parliamentary control procedures or expectations.
>
> **Value for money:** if an alternative proposal, or doing nothing, would deliver better value, for example, a cheaper, higher-quality or more effective outcome for the Exchequer as a whole.
>
> **Feasibility:** where there is a serious doubt about whether the proposal can be implemented accurately, sustainably, or to the intended timetable.[28]

Sometimes a direction might be sought on multiple grounds. These are not mutually exclusive criteria.

For many years the only grounds on which a direction could be sought were regularity and propriety, reflecting the original scope of the system. Regularity is, according to the Treasury,

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[28] These descriptions are taken from *Managing Public Money*, box 3.2. The chapter from *Managing Public Money* which describes accounting-officer accountability was updated in 2011 to include feasibility through the *Dear Accounting Officer letter, DAO(GEN)01/11*, National Archives website, 12 April 2011, retrieved 23 July 2013 from http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/dao01_11.pdf

'about compliance with appropriate authorities'.[29] This means ensuring that money provided by Parliament has been spent for the purposes authorised by Parliament, so expenditure must fall within the scope of the department's 'estimate', which is the annual amount voted to a department by Parliament as part of the 'supply procedure' of the House of Commons.[30] As well as needing to ensure that spending has parliamentary authority, it is also necessary for the accounting officer to have Treasury permission. Under the Government Resources and Accounts Act 2000, the C&AG is statutorily required to inform the Treasury if he or she discovers a material use of resources which needed, but did not receive, Treasury consent.[31]

If regularity is about hard-edged compliance, propriety is about an accounting officer's judgement. Parliament's 'expectations' are interpreted broadly, going beyond the express authority required under regularity. The 1995 Nolan Committee on standards in public life defines propriety as encompassing 'a sense of the values and behaviour appropriate to the public sector'.[32] The behaviour expected of civil servants is set out in the Civil Service Code, which is based on the values of integrity, honesty, objectivity, and impartiality. As Treasury guidance on propriety puts it:

> The public expects official decisions to be made fairly and impartially, public money to be spent wisely, and public assets to be used and cared for responsibly. They expect the conduct of officials to be above reasonable reproach, and official duties to be performed conscientiously and competently at all times.[33]

This values-based approach means there remains a high level of flexibility over the interpretation of the accounting officer's duties. While the Treasury Officer of Accounts (TOA) and her team – the Treasury officials responsible for supporting accounting officers throughout government – are available to offer advice, ultimately accounting officers are expected to 'take a principled decision on the facts' in cases of ambiguity, especially 'in circumstances with no precedents'.[34] Accounting officers are expected to use their own personal judgement.[35]

Value for money was made a specific ground equal to regularity and propriety following the well-known Pergau Dam episode, in which the accounting officer for the Overseas Development Agency – Sir Tim Lankester – sought a direction to proceed with funding a project in Malaysia which, it transpired, was not only a relatively poor use of development money but was also connected to arms sales agreements, and therefore illegal under UK law.[36] Prior to this the requirement was that spending should be 'prudent and economical', but this was left ill-defined and largely for ministers to determine, with less stringent reporting requirements if a direction was sought on these grounds.

Feasibility and risk

Feasibility is a much more recent addition to the accounting officer's armoury, being introduced through updated guidance from the Treasury – known as a 'Dear Accounting Officer' letter, from

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29 HM Treasury, *Regularity, Propriety and Value for Money*, November 2004, p.9.
30 See the description of the process at HM Treasury, *HMT Main Estimates,* Gov.UK website, 5 June 2013, retrieved 23 July 2013 from https://www.gov.uk/government/organisations/hm-treasury/series/hmt-main-estimates
31 HM Treasury, *Regularity, Propriety and Value for Money*, November 2004, p.10.
32 *Ibid.*, p.11.
33 *Ibid.*, p.12.
34 HM Treasury, *Managing Public Money,* para.3.9.2.
35 *Ibid.,* para.3.4.4.
36 Lankester, T., *The Politics and Economics of Britain's Foreign Aid: The Pergau Dam affair,* 2013; The Institute for Government hosted an event with Sir Tim Lankester on 25 October 2012 to discuss this episode. A video of the event was retrieved 23 July 2013 from http://www.instituteforgovernment.org.uk/events/politics-and-economics-britains-foreign-aid-pergau-dam-affair

the generic addressed letter from the TOA – in April 2011.[37] The definition of 'feasibility' emphasises the 'long-standing duty to ensure that decisions with resource implication are affordable and sustainable', which includes providing assurance that major projects can be implemented on the allotted timescale.

Our interviewees told us the explicit grounds of 'feasibility' for a direction was introduced in response to PAC hearings about the hasty introduction of the incredibly complex tax credits system, later described as 'implementing the unimplementable'.[38] We were told the Treasury appears to regard this explicit ground of feasibility as urging caution on permanent secretaries who might feel they had to commit to unachievable programmes to satisfy impatient or unrealistic ministers. One former permanent secretary, who left the Civil Service before feasibility was introduced as a separate criteria for a direction, told us that there were occasions when he would have liked to have been able to ask – or at least threaten to ask – for a direction on the grounds of feasibility even when the policy, if it were implementable, would appear to offer value for money.

At an Institute for Government seminar on the accounting officer role, one current accounting officer suggested that the requirements and the personal responsibility of the accounting officer's role incentivised a cautious and risk-averse attitude, rather than the entrepreneurial attitude which ministers have spoken of wanting.[39] Sir Andrew Cahn – a former chief executive of UK Trade and Investment, civil servant, and private sector executive – has made this point as well, arguing that the culture created by the system of audit and scrutiny by the NAO and PAC is 'one where the risk of immediate criticism … is far more important than the potential future benefits generated by a brave new idea'. While the NAO has sought to 'avoid dampening innovation', their enquiries are still treated by some civil servants 'as a bogeyman to halt innovation'.[40]

Nevertheless, as Sir Andrew acknowledges, these rules are 'specifically designed to prevent individuals from acting unilaterally with public money'.[41] Indeed, a Treasury official we spoke to suggested that when an accounting officer seeks to ensure a proposal complies with their responsibilities, ministers may sometimes mistake this for obstructionism. But ensuring this compliance is different to avoiding risk because of how personal incentives are structured. As one senior Whitehall official we spoke to put it:

> 'What is risk aversion? You have to be quite clear about what you mean. It's one of those terms which can be used quite imprecisely to refer to things you don't want to do'.

He believed that a proper approach is to identify the expected value of the risks identified for a policy; something he thought requires 'pretty basic economics and finance'. As government increasingly uses more complex financial products and mechanisms – such as payment-by-

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[37] HM Treasury, *Dear Accounting Officer letter: DAO(GEN)01/11*, National Archives website, 12 April 2011, retrieved 23 July 2013 from http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/dao01_11.pdf

[38] Attributed to Sir Richard Mottram, Permanent Secretary of the Department for Work and Pensions, by Richard Bacon MP, *Corrected Transcript of Oral Evidence* HC 740-I Q38, UK Parliament website, January 2011, retrieved 23 July 2013 from http://www.publications.parliament.uk/pa/cm201011/cmselect/cmpubacc/c740-i/c74001.htm

[39] See for example the Prime Minister's speech calling for the liberation of 'the hidden army of public service entrepreneurs'. Prime Minister's Speech on Modern Public Service, National Archives website, 17 January 2011, retrieved 23 July 2013 from http://webarchive.nationalarchives.gov.uk/20130109092234/http://number10.gov.uk/news/prime-ministers-speech-on-modern-public-service/

[40] Cahn, A. and Clemence, M., *The Whitehall Entrepreneur: Oxymoron or hidden army?,* Institute for Government, 2011, p.17, retrieved 8 July 2013 from http://www.instituteforgovernment.org.uk/sites/default/files/publications/The%20Whitehall%20Entrepreneur.pdf

[41] Ibid., p.12.

results, and schemes such as Help to Buy, which takes an equity stake in first-time buyers' houses – these skill sets for evaluating risk are increasingly required.

Guidance from the centre on how to handle risk has been made clearer since the new edition of *Managing Public Money* included an expanded chapter on departmental boards and a previously absent appendix on risk. The guidance now makes clear that the board of any public sector organisation has a critical role in making the strategic choices about the 'style, shape and quality of risk management'.[42] The board sets the 'risk appetite' of an organisation, taking into account its 'legal obligations, ministers' policy decisions, its business objectives, and public expectations of what it should deliver'.[43] Part of the accounting officer's personal responsibility is then the 'management of opportunity and risk to achieve the right balance commensurate with the institution's business and risk appetite'.[44] The object of this responsibility is not to avoid risk – since excessive risk avoidance can be financially damaging – but to ensure that knowable risks are understood clearly, regularly assessed, and taken into account in decision making.

This connects the accounting officer's responsibilities for feasibility to the quality of the process, as well as the decision itself. Feasibility as a criteria for a direction is similar to the recommendation, previously made by the Institute for Government, that accounting officers should be able to seek directions when an accounting officer 'is not satisfied that the fundamentals of policy making have been adequately observed'.[45] The accounting-officer responsibility to ensure that proposals are good value for money and feasible, implies a stewardship responsibility for the integrity of the policymaking and decision-taking processes. Core to the accounting-officer role is the principle that process matters as much as the outcome achieved.

Ensuring accounting officers can adequately carry out their responsibilities requires guidance from the Treasury, as a centre of expertise in government on accounting and strategic-finance matters. At present, the finance profession is led by an individual outside the Treasury who combines the part-time role with their 'day job' – the current head of Finance Profession is director-general for finance in the Department for Health. The Institute has previously recommended an enhancement of the Treasury's financial-leadership role across Whitehall.[46] The Treasury is considering this as part of a review of financial-management capability in government, announced alongside the Spending Round in June 2013.[47] Ensuring good financial management is connected to the accounting officer role for ensuring the feasibility of projects and seeking value for money, as well as propriety and regularity.

Mechanism for directions

When an accounting officer decides a direction is required, the formal mechanism is straightforward. The secretary of state instructs the accounting officer to proceed in writing, unless time is extremely short, and the accounting officer forwards this direction to the C&AG and the TOA. The C&AG then draws this to the attention of PAC, who will 'attach no blame to the accounting officer' though, if asked, the accounting officer must still explain the minister's course

[42] HM Treasury, *Managing Public Money,* para.A4.3.3.
[43] HM Treasury, *Managing Public Money,* para.4.3.1.
[44] HM Treasury, *Managing Public Money,* para.3.3.3.
[45] Hallsworth, M. & Rutter, J., *Making Policy Better*, Institute for Government, 2011, p.23, retrieved 9 July 2013 from http://www.instituteforgovernment.org.uk/publications/making-policy-better
[46] Bouchal, P. & McCrae, J., *Financial Leadership for Government*, Institute for Government, 2013, retrieved 9 July 2013 from http://www.instituteforgovernment.org.uk/publications/financial-leadership-government-0
[47] HM Treasury, *Strengthening Financial Management Capability in Government*, 27 June 2013, Gov.UK website, retrieved 8 July 2013 from https://www.gov.uk/government/publications/strengthening-financial-management-capability-in-government

of action and implement it loyally and as effectively as possible. The accounting officer must carry out the minister's instructions 'without further ado', and the existence of the direction (though not routinely the direction itself) is duly published no later than the next annual report and accounts.[48]

The requirement for transparency has been gradually increased. The default that the existence of directions should be published was only introduced in 2011.[49] When Sir Tim Lankester sought a direction in the early 1990s over the Pergau Dam affair on the grounds of prudent and economical administration of funds – a forerunner of value for money – rather than propriety or regularity, there was no requirement to inform the C&AG, let alone publish a direction's existence as there is now.[50] The C&AG only learnt of Sir Tim Lankester's direction when the NAO began its own investigation.[51]

A direction allows ministers to proceed with a decision if they believe there is a strong case to do so, even if this conflicts, in the accounting officer's judgement, with the standards otherwise expected of how public money should be handled. It is the democratic pressure valve in the system.

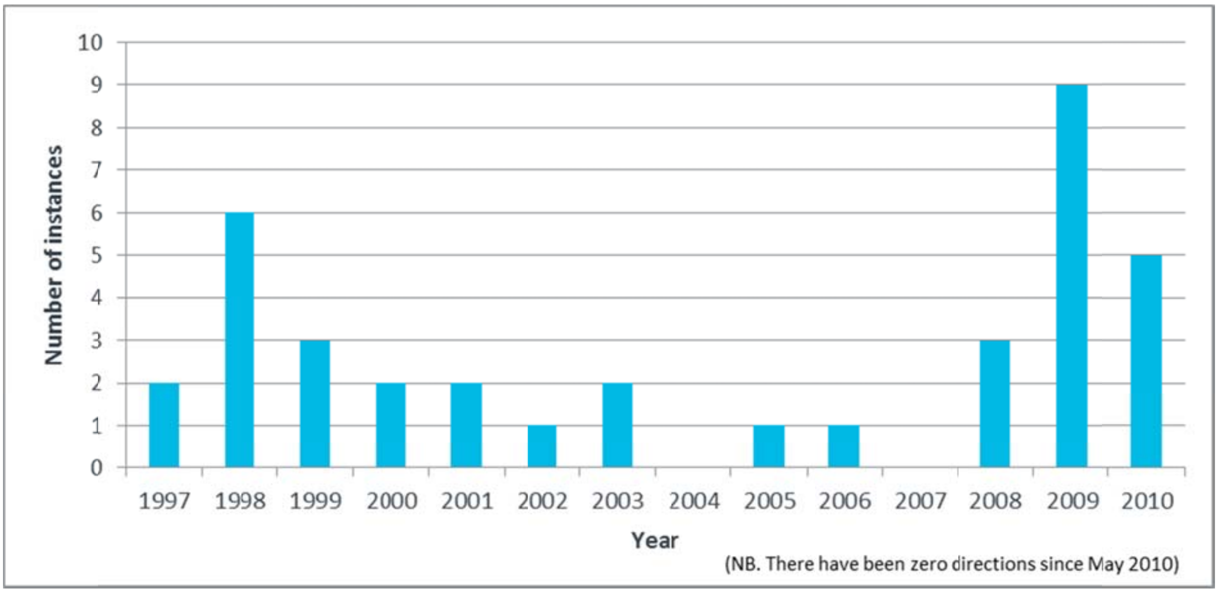
Use of directions

So how are directions actually used? No records are kept of when the possibility of directions is raised in departments. One senior Whitehall figure suggested to us that their department seriously considered about one every three months. Another suggested the Treasury dealt with a couple of enquiries related to possible directions every week.

Figure 1 shows the number of instances in which directions were issued each year under the Labour government between 1997 and 2010. A full list of directions since 1997 is included at the end of this paper.

Figure 1: Number of instances when ministerial directions were issued by year (1997-2010)

[48] HM Treasury, *Managing Public Money,* para.3.4.5.
[49] HM Treasury, *Dear Accounting Officer letter: DAO(GEN)01/11*, National Archives website, 12 April 2011, retrieved 23 July 2013 from http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/dao01_11.pdf
[50] Lankester, T., *The Politics and Economics of Britain's Foreign Aid: The Pergau Dam affair,* 2013, p. 101; The Institute for Government hosted an event with Sir Tim Lankester on 25 October 2012 to discuss this episode. A video of the event was retrieved 23 July 2013 from http://www.instituteforgovernment.org.uk/events/politics-and-economics-britains-foreign-aid-pergau-dam-affair
[51] Franks, C.E.S., 'Not Anonymous: Ministerial responsibility and the British accounting officers', *Canadian Public Administration,* vol.40 (4), 1997.



The data shows that directions rarely occur, even if discussion of possible directions is more common. The data also shows that the incidence of directions increased towards the expected change of government in 2010. This might be expected, our interviewees suggested, as civil servants seek directions to protect themselves from criticism by a successor government. For example, directions were sought – by both the Department for Business Innovation and Skills (BIS) and the Department for Communities and Local Government (DCLG) in 2009 – over the Labour government's decision to fund Blackpool Leisure Assets via the North West Development Agency in the run-up to the general election. Several directions were also directly connected to instability in the financial system (both of the Treasury's directions relate to bank rescues and protecting depositors) and subsequent government attempts to mitigate the effects of the recession (such as the car-scrappage scheme by the Department for Business, Enterprise and Regulatory Reform which required two directions for value for money in 2009). The other peak was soon after the election of a new Labour government in 1997 – three directions in 1998 related to the value for money of benefit system changes for example.

There have been no directions issued since the general election and change of government in 2010, despite the Coalition Government pursuing a number of projects which carry substantial risk.[52] Several interviewees suggested that this may be because new permanent secretaries do not wish to undermine their relationship with the secretary of state by questioning the value for money or feasibility of new government projects. As one put it, 'It is probably because after thirteen years of Labour government civil servants want to show they haven't been captured by the Labour machine.' However, this factor apparently did not put off permanent secretaries seeking directions from new Labour ministers in 1997-1999. It may be that the requirement since 2011 to publish the existence of directions has strengthened incentives to avoid them.

Figure 2 shows the criteria on which directions are issued, most commonly due to concerns about value for money. There was one occasion each where value for money was combined alongside regularity and propriety. This means value for money was a criterion in 26 out of 37 directions in this period. This data demonstrates how important, and contested, the value for money of government programmes is. On seven occasions regularity and propriety were

[52] Recent data from the Major Projects Authority gave eight government projects a 'red' rating and a further 23 an 'amber/red' rating – including flagship policies such as Universal Credit in the DWP. Cabinet Office, *The Major Projects Authority Annual Report,* Cabinet Office website, retrieved 23 July 2013 from https://engage.cabinetoffice.gov.uk/major-projects-authority/

combined as two criteria for a single direction. This combination is unsurprising because if ministers do not have express parliamentary authority to spend money on something, it is also likely to not meet parliamentary standards or expectations. In fact, no direction has been issued in this time period solely on regularity.

Figure 2: Number of directions by grounds, including combined grounds (1997-2010)

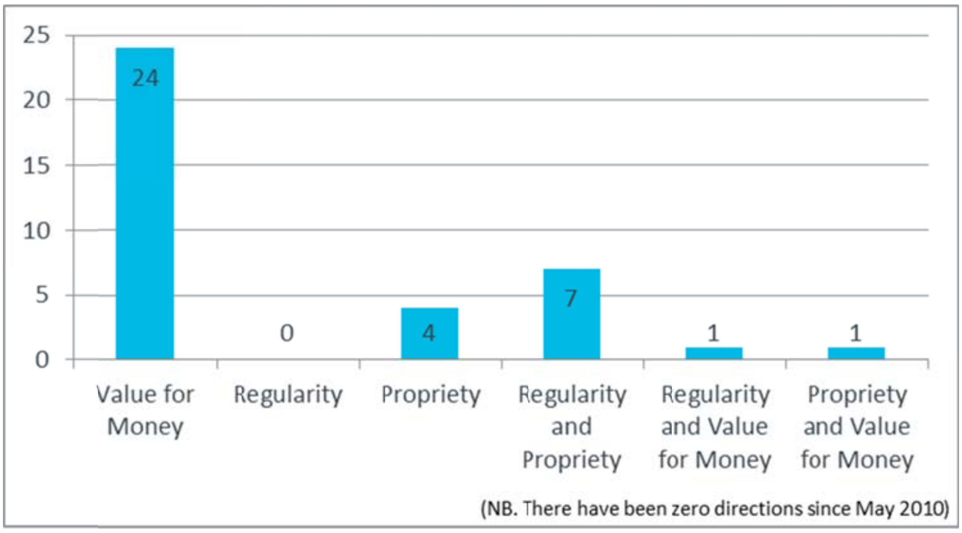
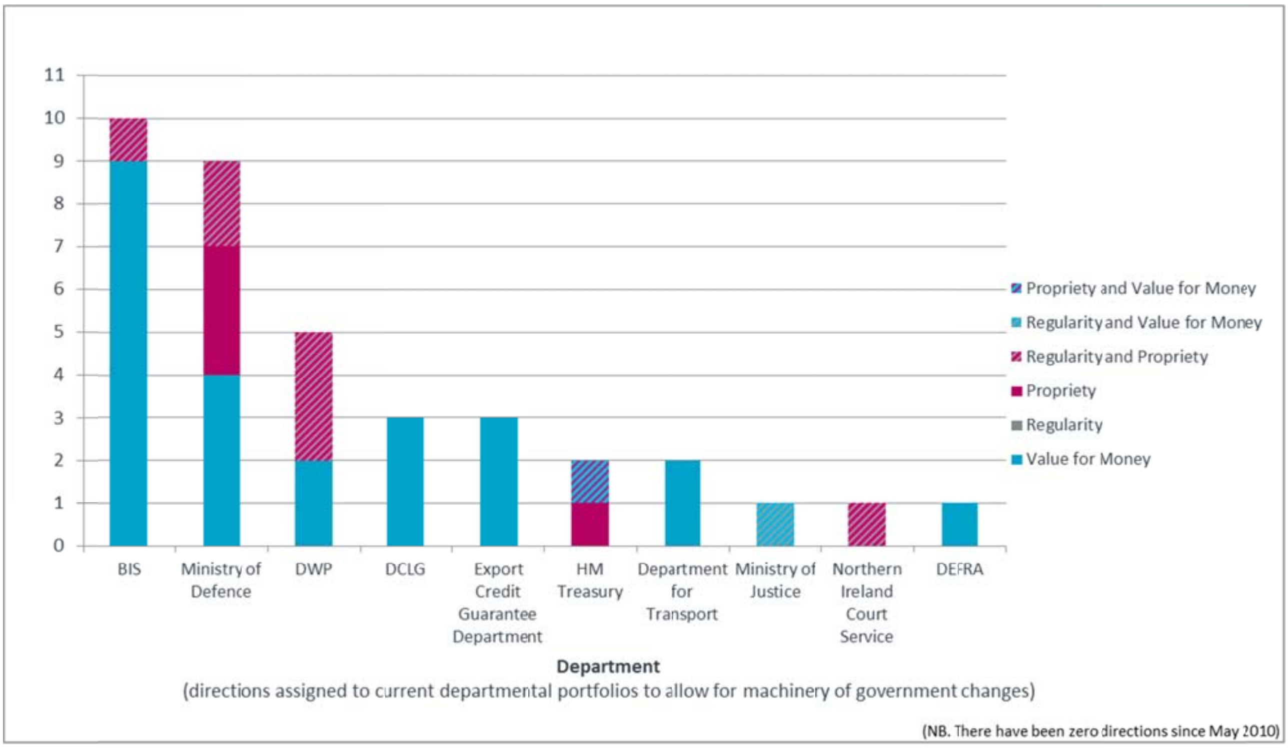


Figure 3 shows ministerial directions by departments, and by the criteria they were issued on. The three departments whose permanent secretaries received the most written directions were three of the largest by spending: BIS, the Department for Work and Pensions (DWP) and the Ministry of Defence (MoD). However, while at BIS these have almost all been on value for money for projects and grants, this has not been the case at MOD and DWP. Several at MOD, for example, related to matters of regularity and propriety for the return of hostages from Iraq to the UK and the creation of a memorial in Basra – relatively small and uncontested items of expenditure in the context of the MoD budget.

Figure 3: Ministerial directions to accounting officers by department (1997-2010)



In all these cases, directions are issued when a decision is taken as to whether or not to proceed with a proposed policy or action. They are, as one interviewee put it, a final check at the decision 'gateway'. This raises the question therefore of whether accounting officers have a comparable accountability for programmes which are already underway. The development of system statements (discussed below) is one way accounting officers must take greater responsibility for the continual oversight of their organisation. But it is not clear that once an accounting officer has passed the point when a direction would conventionally be considered, they – or their successors – consider actively the value for money of ongoing programmes.

That does not mean, however, that permanent secretaries or other accounting officers can wash their hands of costly reversals. The repeated reversals over what kind of aircraft to fit onto the UK's new aircraft carriers are examples of where decisions to alter a previously-agreed procurement were taken in light of updated information on two occasions. This reversal did not require a direction – as ministers supported the two reversals and did not insist on a contrary course of action to that recommended by the permanent secretary – and was clearly directed at achieving better value for money than the previous decision. However, this still resulted in a hearing with the permanent under-secretary in front of the Public Accounts Committee.[53]

Are directions signs of failure?

There is a perception in parts of government – reinforced by some media reporting[54] – that directions are *ipso facto* bad things which signal a failure of the system. One former permanent secretary said at an Institute for Government seminar that he would have regarded asking for a direction as a professional failure.[55] Directions imply a lack of confidence in ministerial decisions, and show a public rift in what is supposed to be a private working relationship.

Yet there can be good public policy reasons for taking a decision for which the accounting officer feels they must still seek a direction. For example, Chancellor of the Exchequer Alistair Darling issued Sir Nick Macpherson, the Permanent Secretary of the Treasury, with a direction to allow the Treasury to guarantee UK deposits in Icelandic savings accounts – despite there being no legal obligation to do so. This was to reassure depositors throughout the savings market.[56] Interviewees told us that the public policy justification and the need to act quickly meant that this was a 'good-natured' direction, and Alistair Darling's memoirs recalled it as business-like.[57] The formal correspondence between Alistair Darling and Sir Nick Macpherson on this issue is reproduced in appendix two of this report, as an example of a written direction.

Alistair Darling similarly issued a direction for public policy reasons 10 years earlier as social security minister, when he instructed officials not to seek repayments of £15 million (m) from hundreds of disabled people who had received benefits because of errors in the benefits system. The ministerial decision not to seek these repayments required a direction, but was seen as a reasonable judgement – demanding money from vulnerable people who received it because of a department error was considered unjustifiable.

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[53] 'Government in £100m U-turn over F35-B fighter planes', *BBC News online,* 10 May 2012, retrieved 9 July 2013 from http://www.bbc.co.uk/news/uk-politics-18008171

[54] For example, Evans, R., 'Disobedient servants', *The Guardian*, 8 May 2001, retrieved 9 July 2013 from http://www.guardian.co.uk/politics/2001/may/08/Whitehall.socialsciences ; Curtis, P. and Evans, R., 'Top civil servants made formal protests over Labour spending', *Guardian online*, 18 May 2010, retrieved 8 July 2013 from http://www.guardian.co.uk/politics/2010/may/18/civil-servants-labour-spending

[55] Institute for Government seminar, 'Following the pound: Is the accounting officer role in need of reform?', 26 March 2013

[56] The direction was considered primarily on the grounds of regularity because the Treasury did not have the explicit powers to guarantee deposits, and jurisprudence indicated that the UK government had no liability anyway. Providing a legally-unnecessary guarantee was therefore also a *prima facie* instance of poor value for money. Nevertheless, the direction was given on the grounds of propriety and value for money. The giving of a direction was itself interpreted as 'sufficient authority' to resolve the regularity issue specifically. House of Lords Select Committee on the Constitution, *The Pre-emption of Parliament, oral and written evidence,* Q.46, Parliament UK website, retrieved 17 July2013 from http://www.parliament.uk/documents/lords-committees/constitution/preemption/PPEvidence.pdf

[57] Darling, A., *Back from the Brink: 1,000 days at Number 11*, 2011, p.148.

Many of these directions issued for 'good' policy reasons have been technical in nature and connected with spending rules rather than substantive judgements on major policy, and sometimes involved very small sums of money. For example, a direction was issued to the accounting officer for the MoD to pay for flights to Croatia for a member of the public to attend the trial in August 2000 of those accused of murdering his son, a British serviceman. This was a cost of just £500, but it fell outside the scope of authorised expenditure.[58] That directions can be sought over such small sums, indicates how seriously the rules are taken.

All our interviewees agreed that seeking a direction is a last resort, to be used only when a permanent secretary in their accounting-officer role has decided that they cannot publicly justify a ministerial decision within accounting-officer standards. Yet the conversation about a direction – especially about value for money – can be a useful tool for permanent secretaries trying to help improve ministerial plans. Policymakers in opposition, for example, do not necessarily have the resources or incentives to ensure that their policies meet the tests of value for money and feasibility before they enter government. It is the accounting officer's role to ensure they are considered. And in the permanent secretary's capacity as the minister's principal policy adviser, they are also responsible for making the policy implementable.

Current and former accounting officers told us they rarely needed to get close to asking for a direction. The implicit threat of one was enough to persuade most ministers to adapt their plans to provide sufficient assurance that they were viable, or came within the rules. As one former permanent secretary put it to us, 'I did say on not a completely trivial number of occasions, "If you were to persist in going down this route, Secretary of State, I could get to a point where I might have to seek a direction from you''.' This had, in his view, a 'galvanising effect' on discussions to avoid a direction being sought. Few ministers are any more enthusiastic about incurring the criticism of the PAC, or a condemnatory NAO report on their policies, than the permanent secretary directly accountable to it.

When a direction is issued, the accounting officer is absolved of personal accountability for the decision, which becomes instead a matter of political accountability. This is therefore pursued in Parliament through the relevant select committee, or even on the floor of the House of Commons. However, even where a direction is issued the C&AG and PAC can still launch an inquiry. Indeed, its existence would flag that there might be issues in need of exploring. When this is done, it is to PAC that accounting officers must answer.

Accountability to Parliament

Accounting officers are directly and personally accountable to Parliament for the use of public funds. This takes place through the well-established House of Commons Committee for Public Accounts (PAC).

Public Accounts Committee

PAC considers whether government programmes or policies – their implementation, at least – represent value for money for the taxpayer.

By long-standing convention, PAC is chaired by an opposition MP. Since 2010 this has been former minister Margaret Hodge. The chair – alongside the other select committee chairs – was

[58] Evans, R., 'Disobedient servants', *The Guardian*, 8 May 2001, retrieved 23 July 2013 from http://www.guardian.co.uk/politics/2001/may/08/Whitehall.socialsciences

elected by her fellow MPs for the full parliamentary term, a process designed to enhance the authority of committee chairs. While PAC chairs have always enjoyed a high profile, several interviewees felt – as commentators appear to agree[59] – that Mrs Hodge has significantly increased the authority and profile of the Committee's work.

The Committee includes a majority of government MPs (nine out of 14, including one Liberal Democrat). One of these is the Economic Secretary to the Treasury, currently Sajid Javid MP, who sits as an ex-officio member – though does not attend meetings. This is to symbolise that scrutiny of accounting officers is a joint endeavour between Parliament and the Treasury.

PAC has a small number of support staff: a full-time clerk, and recently a part-time assistant clerk as well. More importantly, PAC is supported by NAO auditors who compile the value for money reports on which most hearings are based. The relationship between PAC and the NAO, and in particular its head the C&AG, is therefore critical to its success. As one interviewee close to the process reflected, where previously PAC appeared to be at the end of an NAO 'sausage making machine' of reports, the NAO was becoming much more focused on Margaret Hodge and the Committee's priorities and style.

PAC hearings with accounting officers

PAC meets two or sometimes three times a week, and each hearing is attending by the C&AG, other relevant NAO auditors, the Treasury Officer of Accounts, committee members, and witnesses.

Hearings usually follow the publication of a NAO report on a policy or programme that requires further examination and which PAC decides would benefit from an evidence session. These reports are usually prepared in advance by NAO auditors, and their factual accuracy agreed before the PAC hearing with the relevant department or organisation. This allows the hearing to be conducted – usually[60] – with a pre-agreed evidence base.

A typical hearing would invite a permanent secretary, as the accounting officer, and any other relevant officials to discuss the implementation of a programme or project in light of the NAO report. For example, on 20 May 2013 the Committee received evidence from the Permanent Under-Secretary at MoD, the Chief of Defence Matériel, and the Deputy Chief of the Defence Staff (Military Capability), concerning the 2012 decision to change the specification of the carrier-strike procurement.[61] This hearing is characteristic of PAC, which focuses on process and the quality of decision making. PAC formally does not examine policy decisions, which are ministerial, though this can be a difficult line to draw in practice. Indeed, PAC has recently held a number of hearings with private companies which arguably have been used by PAC as a means to influence government policy on handling tax avoidance.

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[59] See for example Cameron, S., 'The populists at Westminster who are reshaping politics', *Telegraph online*, 19 June 2013, retrieved 23 July 2013 from http://www.telegraph.co.uk/news/politics/10130104/The-populists-at-Westminster-who-are-reshaping-politics.html

[60] The process of agreeing the evidence base is not always straightforward. For example, in a 2011 hearing about NHS IT there was a significant disagreement between the accounting officer for the NHS, Sir David Nicholson, and PAC about the veracity of NAO figures. At one point Sir David said, 'I hate the idea that we would come with a different set of numbers from the NAO, because it is not the most productive way of spending our time together. There is no doubt that there was a significant breakdown of the process operating between the department and the NAO around this report' (Q.200). He then told an NAO auditor 'You have come up with a figure that I think is nonsense.' (Q.201). HC1070, *The National Programme for IT in the NHS*, forty-fifth report of session 2010-12, retrieved 17 July 2013 from http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpubacc/1070/1070.pdf

[61] Uncorrected transcript of oral evidence, Carrier Strike, HC 113-i.

Using PAC as a deterrent in Whitehall

At a recent seminar that the Institute for Government held on this subject, some accounting officers expressed their frustrations with PAC. While supportive of PAC's role, one former permanent secretary described hearings as too often resembling a 'piece of theatre where accounting officers appear for sentencing'.[62]

Parliamentary accountability can be uncomfortable. This acts as a deterrent to accounting officers not taking PAC seriously. PAC hearings can be used as a threat in Whitehall – mostly implicit, but sometimes explicit – to enforce accounting-officer compliance with Treasury control of spending. One civil service advocate of the role of PAC described hearings as a 'worthwhile discipline' for focusing accounting-officer minds on their responsibilities, and ensuring the system of directions depends on more than just professional integrity. While some permanent secretaries have claimed that appearing before PAC 'doesn't change the price of fish',[63] PAC can be a hostile environment for accounting officers, especially those who do not treat it seriously, prepare adequately, or even mislead it. Its perceived hostility was described as a 'bear pit' by some attending an Institute for Government seminar. Others felt this was reasonable given the issue at PAC hearings is the use of public money. They felt the 'bear pit' atmosphere pressures accounting officers into preparing for the hearing, so that they fully understand what is under discussion and have robust answers when challenged.

The prospect of facing this 'bear pit' can therefore compel accounting officers to focus on parts of their organisation which they might not have otherwise. For example, Dame Sue Street – formerly Permanent Secretary at the Department for Culture, Media, and Sport – described how preparations for PAC hearings brought to light issues she might not have otherwise encountered: 'Things emerge in the department that never get through to the PAC'.[64]

The likelihood of a PAC hearing helps guide accounting officers when using their discretion. One former permanent secretary described how he was guided in his accounting-officer role by his 'PAC test'. If he was uncomfortable about the prospect of defending a proposal to the PAC, he told us, this gave him good reason to explore whether a direction was necessary. In fact, Treasury guidance explicitly commends this 'one key test' for accounting officers to decide if they need a direction for a given action:

> 'Could I satisfactorily defend this before the Public Accounts Committee?'
>
> Since accountability to Parliament is part of a wider accountability, the question might be put even more simply:
>
> 'Could I satisfactorily defend this course of action in public?'[65]

The possibility of a hostile PAC experience can prompt accounting officers to seek a direction when they otherwise might not. Sir Tim Lankester famously sought a direction in the early 1990s over the use of aid money to fund the Pergau Dam project in Malaysia, not least to protect himself from parliamentary criticism:

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[62] Institute for Government seminar, 'Following the pound: Is the accounting officer role in need of reform?', 26 March 2013
[63] IPPR, 'No price for failure in Whitehall', press release, IPPR website, 7 August 2006, retrieved 9 July 2013 from http://www.ippr.org.uk/press-releases/111/1842/no-price-for-failure-in-whitehall
[64] Dudman, J., 'A bear with not enough bite?', *Guardian Professional*, 24 January 2011, retrieved 9 July 2013 from http://www.guardianpublic.co.uk/chair-of-the-public-accounts-committee-calls-for-overhaul
[65] HM Treasury, *Regularity, Propriety and Value for Money*, November 2004, p.40.

> I was praised by several commentators for my ‘courage’ in doing so [seeking a direction]. The reality was different. I was certainly determined to stand up for prudent financial management and to achieve the best results in terms of development from our limited aid budget. But equally, I was protecting my back against what I foresaw would be sharp criticism by the Public Accounts Committee. I was not willing to take personal responsibility for this use of aid money if ministers decided to proceed. Asking for a ministerial direction absolved me from this responsibility.[66]

However, there is a question as to how effective a deterrent PAC can be. An exchange during the hearing about the failed FiReControl project by the Department for Communities and Local Government suggested that committee members were frustrated by their inability to do more than make an accounting officer feel uncomfortable.

> **Mr [Richard] Bacon** … This was an extraordinary failure of leadership that has cost nearly two-thirds of £1 billion. Who is carrying the can for it?
>
> **Sir Bob Kerslake:** I am sitting here, taking responsibility for the questions that you are raising.
>
> **Mr Bacon:** You have a couple of hours that are slightly uncomfortable. It is not the same.[67]

In fact, in this case the former accounting officer did return to Parliament to give an account, but to the departmental select committee inquiry rather than PAC. Since Sir Peter Housden had by then moved to become the most senior civil servant in Scotland, he was not requested to give evidence to PAC due to the-then accounting officer conventions that the incumbent is responsible for answering committee questions.[68]

There are important questions about to whom exactly accounting officers are accountable. They are clearly answerable to Parliament through the PAC, but Parliament cannot wield either sanctions or reward – beyond the effect of their reports, and press releases, on an accounting officer’s reputation.[69] In the Institute for Government’s forthcoming report on accountability in central government later in 2013, we will consider how the accounting-officer role is connected to the performance management of permanent secretaries.

Strengths of the accounting officer system

The accounting-officer system is generally seen as an effective and important tool for maintaining probity in the use of public money. As one former permanent secretary put it at an Institute for Government seminar, ‘If it didn’t exist, someone would have to invent it’. Indeed, as recently as 2006 another Westminster parliamentary system, Canada, recognised this and introduced (a limited version of) the accounting-officer role through legislation.[70]

But what are the features that make the accounting-officer role effective? Our interviewees described four: personal accountability, a basis of principles rather than rules, a strong connection to Parliament, and the ability for ministers to have the final say.

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[66] Lankester, T., *The politics and economics of Britain’s foreign aid,* p.86.
[67] ‘The failure of the FiReControl Project’ (HC 1272), Minutes of evidence, 6 July 2011, Q61, Parliament UK website, retrieved 9 July 2013 from http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpubacc/1397/11070603.htm
[68] For contemporary discussion of the accountability issues this case raised, see Riddell, P., ‘Pass the parcel (or The buck stops where?)’, *Institute for Government blog*, 27 September 2011, retrieved 9 July 2013 from http://www.instituteforgovernment.org.uk/blog/3566/pass-the-parcel-or-the-buck-stops-where/
[69] As a former Treasury Officer of Accounts wrote, ‘The Committee can give an accounting officer a bruising time, it can publish a highly critical report, it can damage an accounting officer’s reputation. But it cannot, at the end of the day, dismiss or discipline an accounting officer. That is something that would fall to ministers and/or the head of the Civil Service.’ Glicksman, B., ‘The Role of Accounting Officers: A Perspective from the United Kingdom’, *Canadian Parliamentary Review*, Autumn 2007, p.25.
[70] Smith, A., *The Accountability of Accounting Officers Before Parliamentary Committees,* Library of Parliament, October 2008.

Personal accountability

The system focuses accountability on a single person. In a recent lecture, the current permanent secretary to the Treasury, Sir Nicholas Macpherson, quoted approvingly his predecessor Warren Fisher's attitude to personal accountability in 1921:

> It should not be open to any permanent head … to say "please, sir, it wasn't me" … Pin it on him in the last resort and you have got him as an ally for economy.[71]

Treasury insistence on individual, clear accountability potentially exacerbates problems for cross-Whitehall working (see below). PAC's frustrations when trying to hold individuals accountable also reveals that accounting-officer accountability is personal to the office, rather than the person. This has been a point of debate in Canada, where Parliament wanted to hold the relevant individual accounting officer – irrespective of whether they were the current or former incumbent – to account, whereas the Privy Council Office (equivalent of the UK Cabinet Office) held that the accountability belongs 'to the office and not the individual'.[72]

Permanent secretary turnover therefore raises questions about how effective this individual focus can be. However, as a basic principle the accounting-officer system appears to benefit from assigning accountability for the use of money clearly and directly to individuals with sufficient power to influence how that money is used. The directions system further clarifies accountability – in case of disagreements, it can be made clear where a minister, rather than the Civil Service, has chosen to take responsibility for a decision.

Principles and values rather than rules

The accounting-officer system is based on rules, but also a high degree of personal discretion and value judgements. This has merits compared to a predominantly rule- or compliance-based system. It removes the possibility of an accounting officer defending a decision which was made within the letter but not the spirit of the rules. A focus on values rather than rules avoids the problems which contractual accountabilities often experience. For example, the mid-1990s experience in New Zealand of contract-based accountabilities led to criticisms of an excessive focus on complying with the contracts, rather than focusing on the outcomes and behaviour those contracts were intended to lead to.[73]

Parliament and public

The accounting-officer system is based on the principle that the use of public money should be accounted for directly to Parliament – which authorises its use – and, through Parliament, to the public. This transparency is important, not only for the deterrent effect mentioned above, but also because, as one interviewee put it, 'the public have a right to know if their money has been spent well or not'.

Another interviewee said, 'The question is whether you want good government, or public assurance that there is good government'. In their view, a robust accountability system before Parliament is essential for the latter, even if it is not always helpful for promoting the former.

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[71] Macpherson, N., 'The Origins of Treasury Control', speech 16 January 2013, Gov.UK website, retrieved 23 July 2013 from https://www.gov.uk/government/speeches/speech-by-the-permanent-secretary-to-the-treasury-sir-nicholas-macpherson-the-origins-of-treasury-control

[72] Smith, A., *The Accountability of Accounting Officers Before Parliamentary Committees,* p.5.

[73] Paun, A., & Harris, J., *Reforming Civil Service Accountability: Lessons from New Zealand and Canada*, Institute for Government, 2012, retrieved 9 July 2013 from http://www.instituteforgovernment.org.uk/publications/reforming-civil-service-accountability

Primacy of ministers

The accounting-officer system and the mechanism for directions allow democratic overrides to take place – within a broader context of a system designed to ensure control of the level and legality of spending. It does not seek to restrain ministerial action, but to make clear when ministers are acting contrary to the standard which Parliament and the Treasury have agreed should, under normal circumstances, govern the use of public money. It therefore resolves the tension between clarity and politics, articulated by PAC committee member Richard Bacon MP:

> Politics is complex, subtle, messy and ambiguous … It is one thing to point out that the current system involves supervising a deeply ambiguous set of relationships, but it is another not to acknowledge that they are bound to be deeply ambiguous. This is called politics. It is true that with more clarity there would be less politics – and sometimes that might be a good thing – but there would also be less democracy, leaving ministers even more circumscribed than they are now, facing civil servants who refused to do as they were asked.[74]

The Civil Service and ministers sometimes simply disagree over the analysis of the costs and benefits of a policy decision. For example, then permanent secretary of DCLG, Peter Housden, received a direction from then Communities Secretary, John Denham, over the proposed creation of unitary authorities in Devon, Norfolk, and Suffolk. Housden felt this did not represent value for money; Denham disagreed – subsequently saying, 'There is no point in having a democracy if ministers are unable to make a judgement that civil servants are wrong.'[75]

Similarly the accounting officer for the Millennium Dome project, Mike O'Connor, was overruled in his objections to providing grants of £29m and £47m to bail out the project by culture secretary Chris Smith, who believed that it would cost more money and damage the country's image to close the Dome early.[76] Mr Smith described Mr O'Connor as having to take a 'narrow view' because of his accounting-officer responsibilities, but that a wider perspective justified the extra expense – and the direction that required.[77]

The evolving accounting officer system

This paper has described the current accounting officer which, broadly speaking, serves the function it was created for: to facilitate Treasury control of the legality and level of public spending by departments, and to focus permanent secretaries on ensuring good decision-making processes.

But there are questions about how well the system is suited to the challenges facing government. In particular, there are challenges about how the nineteenth-century accounting-officer role can adapt to decentralised services and the growing need for Whitehall to overcome entrenched departmental silos.

Decentralised services and system statements

The accounting-officer system was designed at a time when the scope of government activity, and the size of government departments, was considerably smaller than today. Accounting

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[74] Bacon, R., 'Guest blog: Accountability under the spotlight', *Institute for Government blog*, 27 March 2013, retrieved 9 July 2013 from http://www.instituteforgovernment.org.uk/blog/5578/guest-blog-accountability-under-the-spotlight/
[75] 'A sense of direction', *Civil Service World*, 28 March 2011.
[76] Evans, R., 'Disobedient servants', *The Guardian*, 8 May 2001, retrieved 9 July 2013 from http://www.guardian.co.uk/politics/2001/may/08/Whitehall.socialsciences
[77] House of Commons Culture, Media and Sport Committee, Minutes of Evidence, Eighth Report, 12 July 2000 Q.459, Parliament UK website, retrieved 9 July 2013 from http://www.publications.parliament.uk/pa/cm199900/cmselect/cmcumeds/578/0071213.htm

officers as the heads of central government bureaucracies could reasonably be expected to have sufficient oversight of the activities of their organisation to be able to provide the assurance that Parliament demanded. Yet as governments of all political persuasions have experimented with more decentralised and market-based forms of service delivery, it is becoming harder for the permanent secretary to be able to provide sufficient assurance throughout the system.

As government becomes more diffuse there are different ways to structure accountability. Two common forms which do not present major difficulties for the accounting officer system are the arm's-length body (ALB), and contracted-out services.[78] In both systems accountability is relatively straightforward. For ALBs, the permanent secretary of the parent department almost always retains an oversight role, and has the implicit or explicit right to hire and fire the chief executive to ensure the accounting officer role is fulfilled. As described above, the threat of revoking accounting officer designation can be a powerful control of the principal accounting officer over the ALB chief executive. When contracting out, the accounting officer is simply using an agent to implement an area of policy or action and they are therefore responsible for ensuring that a contractual mechanism is in place to take action if the agent fails. While contracting or commissioning services is not itself straightforward, the line and limits of accountability should be.[79] This in itself might require further debate. For example, some have suggested that private companies which are commissioned to deliver public services should be expected to remain true to the 'spirit' of *Managing Public Money*, perhaps by being subject to the same freedom of information requirements as public sector organisations.

Decentralisation presents a more complicated picture when money, and control over using it, are both devolved. There is a well-established system of local government financial accountability, although this is arguably less assured now the Audit Commission is being abolished.[80] However there are a growing number of areas where the permanent secretary in Whitehall cannot reasonably exercise control over public money they are nominally accountable for. The two clearest and most problematic examples are academy schools and foundation trust hospitals, where each trust chief executive and each academy principal is an accounting officer with substantial autonomy from the Departments for Education and Health (and the NHS, whose chief executive is now a principal accounting officer in his own right) respectively. Accounting officers have therefore proliferated to number hundreds beyond the direct control of permanent secretaries.

Nevertheless, PAC has insisted that it needed clarity through an otherwise potentially confusing accountability landscape. Following a hearing in which the accounting officer for the NHS disclaimed responsibility for misuse of money in individual hospitals, PAC complained that a gap was emerging between accounting officers at the centre and service delivery at the frontline. PAC was concerned they were being faced with hundreds of individual accounting officers, and that calling each one in individually was neither a good use of their time, nor an effective way of

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[78] The Institute for Government has published research on both ALBs and contracting out. For the collected publications please see both http://www.instituteforgovernment.org.uk/our-work/new-models-governance-and-public-services/arms-length-bodies and http://www.instituteforgovernment.org.uk/our-work/new-models-governance-and-public-services/choice-competition-and-public-service-markets

[79] For example, the Institute for Government has recommended that government produces an 'accountability map' to detail who is accountable for each aspect of market stewardship. Gash, T., Panchamia, N., Sims, S. and Hotson, L., *Making Public Service Markets Work,* Institute for Government, 2013, p.35, retrieved 18 July 2013 from http://www.instituteforgovernment.org.uk/sites/default/files/publications/Making_public_service_markets_work_final_0.pdf

[80] For an in-depth study of the work of the Audit Commission see Campbell-Smith, D., *Follow the Money: The Audit Commission, public money and the management of public services, 1983-2008,* 2008. For a briefer discussion of its intended abolition see for example Timmins, N., 'Audit Commission's ex-head: its abolition will affect public services', *The Guardian*, 9 October 2012, retrieved 9 July 2013 from http://www.guardian.co.uk/society/2012/oct/09/audit-commission-chairman-abolition-value

ensuring value for money throughout the system. It was not clear to the Committee what the role of the Whitehall accounting officer was within this landscape. As Mrs Hodge put it:

> ‘There has to be a way in which Parliament and the PAC can operate without having to deal with 300 GP commissions, 150 hospitals, or whatever it is. You can’t do it another way. You have got to have somebody in between who is then accountable to Parliament’.[81]

This was traditionally the permanent secretary of the responsible department, with the PAC and the Treasury maintaining the orthodoxy of the original 1872 Treasury Minute: ‘This officer is the person whom Parliament and the Treasury regard as primarily responsible for the balance in the custody of the department, *although he himself may not hold one farthing of it*.’[82]

Yet this principle on which the system is based now seems to be stretched too far, and it seems unreasonable to hold a permanent secretary in Whitehall to account for the misuse of funds in an individual academy or hospital trust, over which that principal accounting officer’s control is constrained deliberately by statute. The tensions in the accounting-officer system created by decentralised service delivery, and a heightened level of parliamentary interest in scrutinising this delivery, require addressing.

In response, Sir Bob Kerslake was asked to look at the implications of localism for accounting officers. He defined decentralised service delivery as ‘where the Government sets the framework for, and funds, autonomous local bodies to deliver the services that they are responsible for’.[83] For decentralised service delivery, he wrote, the accounting officer is responsible for ‘ensuring that there is an effective system in place to ensure that funding that is devolved is used appropriately and, overall, secures value for money’.[84]

The accounting officer is required not only to ensure a system exists but to assure Parliament that it works in practice. The system, and the accounting officer’s role within it, are detailed in the departmental ‘system statement’ which the accounting officer is required to update continually and sign annually.

In the case of individual failure, for example in a hospital trust, the Treasury envisage PAC calling both the accounting officer for the system, and the accounting officer for the trust concerned, to account in order to discern whether it was a system or individual failure.[85] Sir Nicholas Macpherson described the focus of an accounting officer’s responsibility like this:

> ‘I am not certain that Parliament should be seeking to delve into every nook and cranny of an individual [hospital] trust … They [permanent secretaries] may not be responsible for each and every unit of delivery but they need to understand what the system as a whole is delivering and be content with that outcome. So where there is a massive variation, they have really got to understand why. That doesn’t mean that they should be interfering in each and every organisation, but I do think that for taxpayers’ money, which goes through departments, it is the responsibility of the accounting officer to understand in broad terms what that money is delivering and why there are differences’.[86]

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[81] HC 740, *Accountability for Public Money,* Twenty-eighth report of session 2010-11, Oral evidence, 19 January 2011, Q.73, Parliament UK website, retrieved 10 July 2013 http://www.publications.parliament.uk/pa/cm201011/cmselect/cmpubacc/740/740.pdf
[82] *Treasury Minute, dated August 14, 1872.* The National Archives (TNA): Public Record Office (PRO) BT 13/7/15 (author’s emphasis.)
[83] Department for Communities and Local Government, *Accountability: Adapting to decentralisation*, 2011, para. 12, Gov.UK website, retrieved 9 July 2013 from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6263/1994187.pdf
[84] Ibid., para. 17
[85] HC 740, *Accountability for Public Money,* Q.5, Q.15, Q.16.
[86] HC 740, *Accountability for Public Money*, Q.76, Q.92.

System statements attempt to retrofit clear and comprehensible accountability for value for money onto policies and structures which were not designed with this necessarily foremost in policymakers' minds. Sir Nicholas Macpherson implicitly accepted that there had been a previous lack of clarity:

> 'These accountability system statements are quite a major step forward in requiring us to explain what the hell is going on and how we account for our systems'.[87]

In future, PAC has expressed the hope that 'new policy initiatives which involve the devolution of resources to local service providers should not be launched without establishing a clear mechanism which will ensure proper accountability to Parliament'.[88] This echoes the recommendation the Institute for Government previously made that 'policymakers should publish an 'accountability-map' setting out the main accountabilities of ministers and others and the impact of decentralisation on parliamentary oversight'.[89]

System statements make clear that each accounting officer, while sharing a number of core accountabilities, actually exists at the tip of a unique and complex set of relationships depending on that department's functions, programmes, and methods of delivery. A department which spends a large proportion of its budget through ALBs – such as the Department for the Environment, Farming, and Rural Affairs – has a different set of accountability relationships to a department which spends money through grants and subscriptions – such as the Department for International Development. The statements help describe this complexity. At present not all principal accounting officers are required to produce system statements, and attention has focused on the departments for Education and Health in particular. However, in due course it may be appropriate for all principal accounting officers to publish system statements to describe what they are responsible for and how they are ensuring that the whole system – rather than just individual policies – produces value for money for the taxpayer.

Furthermore, one interviewee suggested that system statements give a 'positive push' to make value for money central to the accounting-officer role throughout the system and on an ongoing basis, making sure permanent secretaries cannot 'file and forget'. Rather than just judge individual policies at the outset, the system statements require permanent secretaries in Whitehall to continually review arrangements within the system as they annually revise and sign the statements.

Cross-departmental working and shared accountabilities

Central to the accounting officer system is that a single named person is clearly accountable for the use of public money. Sir Nicholas Macpherson recently told PAC, 'In my view, accountability is best served by a single person and not a committee taking responsibility for the administration of resources.'[90]

As its recent publication on financial management makes clear, the Treasury insists that any reforms to the way finances are managed in Whitehall must preserve this 'single point of accountability to Parliament for financial stewardship that the accounting officer regime

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[87] HC 1503-I, *Corrected transcript of oral evidence*, 14 September 2011, Q.40, Parliament UK website, retrieved 10 July 2013 http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpubacc/c1503-i/c150301.htm

[88] HC 740, *Accountability for Public Money* , paras.10-11.

[89] Moyes, W., Wood, J. & Clemence, M., *Nothing to do with me? Modernising ministerial accountability for decentralised public services,* Institute for Government, 2010, p.10, retrieved 9 July 2013 from http://www.instituteforgovernment.org.uk/publications/nothing-do-me – reiterated by Gash, T., Panchamia, N., Sims, S. and Hotson, L., *Making Public Service Markets Work,* Institute for Government, 2013, p.35.

[90] HC 740, *Accountability for Public Money*, Q.3.

requires'.[91] Where programmes are jointly delivered in Whitehall, one person must be made the accounting officer. There is no scope for two or more accounting officers being made jointly accountable in a form of 'joint and several liability' where accountability is shared, though this has been tried for some senior responsible owners for projects.

However, some of those we interviewed suggested that the accounting-officer role risks therefore reinforcing the siloed tendency of Whitehall departments, which Institute for Government research has indicated already discourages collaborative working in government.[92]

One senior Whitehall official we spoke to thought it would be straightforward for the Treasury – with input from PAC and the C&AG – to facilitate greater use of framework agreements between accounting officers for joint work. Our interviewees thought there could then be fully shared accountability, while maintaining clarity for the use of money on shared programmes. The Treasury, however, shows no signs of moving away from the principle of accountability residing with a single named person. And PAC has on occasion expressed its discomfort when accountability is shared without a single focal point or person.[93]

An alternative to reforming the accounting officer role could be to develop the performance objectives for permanent secretaries to incentivise cross-departmental working more strongly. This could potentially function as a counter-weight to the departmentalism inadvertently encouraged by accounting-officer accountabilities. This is common in New Zealand for department chief executives, for example, where objectives and performance management is carried out by the head of state services and has been used deliberately in recent years to incentivise collaboration between departments.[94]

Civil Service Reform Plan

The Civil Service Reform Plan in June 2012 proposed reforms to the accounting-officer role to 'sharpen and make more transparent' their responsibilities by 'requiring explicit accounting officer sign off of implementation plans, major gateway reviews and Cabinet Committee papers' and 'establishing the expectation that former accounting officers return to give evidence to select committees on a time-limited basis where there is a clear rationale to do so'.[95] These have been reinforced by the Government's 'one year on' assessment of how the reform plan is being implemented, which promised imminent action to implement these changes.[96]

The first set of reforms require the accounting officer to agree proactively that a policy is feasible, rather than asking for a direction if they decide it definitely is not. While there has always been an implicit requirement to assure the Treasury that a policy is feasible as well as value for money, the changed wording makes this clearer and unavoidably explicit. The latest edition of *Managing Public Money* includes this as a newly listed area where accounting officers should take personal responsibility. It states, 'The accounting officer should personally approve and confirm their

[91] HM Treasury, *Strengthening Financial Management Capability in Government*, p.6.
[92] Page, J., Pearson, J., Jurgeit., & Kidson, M., *Transforming Whitehall Departments*, Institute for Government, 2012, retrieved 9 July 2013 from http://www.instituteforgovernment.org.uk/publications/transforming-whitehall-departments-0
[93] For example, DCMS and BERR were jointly accountable for the delivery of digital switchover. Though the project was successfully delivered, PAC members expressed dissatisfaction at how accountability was shared by two departments, as well as the BBC which was actually implementing the switchover. As PAC member Richard Bacon MP put it, 'I am always suspicious where there is lots of joint responsibility'. HC 306, *Preparations for Digital Switchover*, Twenty-eighth report of session 2007-08, Q.69, Parliament UK website, retrieved 16 July 2013 from http://www.publications.parliament.uk/pa/cm200708/cmselect/cmpubacc/416/8031005.htm
[94] Paun, A., & Harris, J., *Reforming Civil Service Accountability.*
[95] HM Government, *The Civil Service Reform Plan*, p.20.
[96] HM Government, *Civil Service Reform Plan: One year on report*, July 2013, p.7, p.21, Gov.UK website, retrieved 10 July 2013 from https://www.gov.uk/government/publications/civil-service-reform-plan-one-year-on--2

agreement to all Cabinet Committee papers and major project or policy initiatives before they proceed.'[97]

A number of interviewees thought this development would not only sharpen the accountability of permanent secretaries to Parliament and the Treasury, but also to ministers, by forcing them to commit to whether a policy is feasible or not – including against a timeline based on the permanent secretary's professional judgement. As one current permanent secretary put it at an Institute for Government seminar, this is intended to help mitigate the 'optimism bias' inherent in policymaking and compel permanent secretaries to invest heavily in analysing the risks and costs of proposals which they might otherwise not prioritise.

The second set of changes agrees that former-accounting officers should expect to return to give evidence to PAC where it is reasonable for them to do so. Used appropriately, this seems to be relatively uncontroversial since it is already possible and has happened on occasion. For example, Catherine Bell returned to give evidence about the attempted rescue of Rover in April 2005, shortly before the general election, when she had been acting accounting officer.[98] Yet there has been some resistance to Parliament recalling accounting officers – such as the spat between Committee Chair Margaret Hodge and then Cabinet Secretary Sir Gus O'Donnell over whether Dame Helen Ghosh, former permanent secretary at Defra, should return to give evidence about the Rural Payments Agency. While Mrs Hodge prevailed in that instance and Dame Helen attended, some felt that more formal guidance on when and how former-accounting officers could be recalled should be established.[99]

The new edition of *Managing Public Money* does clarify the procedure for recalling accounting officers and the circumstances in which the Treasury regards this as appropriate:

> In response to specific PAC or select committee requests, previous accounting officers may also attend relevant PAC hearings. Recalls of this kind should be assessed case by case, depending on the circumstances. They are acceptable if the business in issue was fairly recent, and where the former accounting officer has had an opportunity to comment before publication on any NAO report which the PAC is to investigate.[100]

Future experience will show if the new guidance is sufficient to avoid further disagreements between government and PAC on recalling accounting officers, but the principle has been accepted by government.

Nevertheless, while there is consensus that recalling accounting officers can occasionally be appropriate, views diverge over the practical usefulness of this. It can potentially allow the current accounting officer to evade full responsibility, which includes the responsibility to rectify a problem or ensure it cannot happen again. In the case of long-running programmes, for example, the current accounting officer should ensure they are fully apprised of the details without requiring their predecessor to return. As the system statements make clear, accounting officers have an ongoing responsibility for their departments and spending programmes, including for rectifying past mistakes where identified. To this end, the new paragraph in *Managing Public Money* makes clear that the current accounting officer should still 'take responsibility for the

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[97] HM Treasury, *Managing Public Money,* para.3.3.3.
[98] HC 1003, 'The closure of MG Rover', Fifty-seventh report of Session 2005-06, Parliament UK website, retrieved 9 July 2013 from http://www.publications.parliament.uk/pa/cm200506/cmselect/cmpubacc/1003/1003.pdf
[99] Rutter, J., 'PAC introduces the "Hodge Doctrine"?', *Institute for Government blog,* 16 November 2011, retrieved 17 July 2013 from http://www.instituteforgovernment.org.uk/blog/3793/pac-introduces-the-%E2%80%9Chodge-doctrine%E2%80%9D/
[100] HM Treasury, *Managing Public Money,* para.3.5.3.

organisation’s business, even if it was delegated or if the events in question happened before he or she was appointed accounting officer’.[101]

On the other hand, the *ex-post* accountability can be useful, particularly where PAC is attempting to find out what exactly happened in the process of a policy being implemented. For example, as mentioned above, Sir Peter Housden was recalled to give evidence about the failed FiReControl project – an aborted attempt to regionalise control centres for the fire service – after he had left to become Permanent Secretary for the Scottish Government.[102] Relatively high rates of turnover in Whitehall, not least among permanent secretaries,[103] can make this difficult without recalling former accounting officers.

[101] HM Treasury, *Managing Public Money,* para.3.5.3.
[102] HC 1397, ‘The failure of the FiReControl project’, Fiftieth report of Session 2010-12, Parliament UK website, retrieved 9 July 2013 from http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpubacc/1397/1397.pdf
[103] Dash, K., ‘Permanent secretaries?’, *Institute for Government blog,* 20 November 2013, retrieved 9 July 2013 from http://www.instituteforgovernment.org.uk/blog/5204/permanent-secretaries/

Appendix one: list of ministerial directions to accounting officers since May 1997[104]

Year	Department	Direction	Category
1997	Department of Environment, Transport and the Regions	Millennium Exhibition	Value for money
1997	Department of Environment, Transport and the Regions	Channel Tunnel Rail Link	Value for money
1998	Department of Social Security	Benefits Agency / Post Office Counters Ltd – Automation Project	Value for money
1998	Department of Social Security	Benefits Agency / Post Office Counters Ltd – Automation Project	Value for money
1998	Northern Ireland Court Service	Concerns an individual's personnel records	Regularity and propriety
1998	Ministry of Defence	Sale of Cadet Property in Moffat	Regularity and propriety
1998	Department of Social Security	Benefits Integrity Project	Regularity and propriety
1998	Department of Social Security	Benefits Integrity Project	Regularity and propriety
1999	Department of Social Security	Benefits Integrity Project	Regularity and propriety
1999	Export Credit Guarantee Department	Cashmere Exporters	Value for money
1999	Export Credit Guarantee Department	ECGD Cover – Indonesia	Value for money
2000	Export Credit Guarantee Department	ECGD Cover – Romania	Value for money
2000	Ministry of Defence	Use of public funds towards the cost of air flight to Croatia for member of public to attend trial of those accused of murdering his son, a British Serviceman	Regularity and propriety
2001	Ministry of Defence	Roll-on, roll-off Ferries	Value for money
2001	Department of Trade and Industry	Regional Selective Assistance	Regularity and propriety
2002	Department of Environment, Transport and the Regions	A43 Silverstone bypass	Value for money
2003	Department of Trade and Industry	Regional Selective Assistance	Value for money
2003	Ministry of Defence	Acquisition of BAE Hawk trainer	Value for money

[104] Source: Correspondence with HM Treasury

Year	Department	Direction	Category
		aircraft	
2005	Department of Trade and Industry	Bombardier C-series launch investment	Value for money
2006	Ministry of Defence	The Armed Forces Memorial	Propriety
2008	Department for Business, Enterprise and Regulatory Reform	Launch investment	Value for money
2008	Ministry of Defence	Remploy procurement	Value for money
2008	HM Treasury	Landsbanki	Propriety and value for money
2009	Department for Business, Enterprise and Regulatory Reform	Icelandic Water Trawlermen Scheme	Value for money
2009	Department for Business, Enterprise and Regulatory Reform	Advantage West Midlands Loan	Value for money
2009	Ministry of Defence	Repatriation flights for UK hostages in Iraq	Propriety
2009	Ministry of Defence	Repatriation flights for UK hostages in Iraq	Propriety
2009	Department for Environment, Food and Rural Affairs	Dairy farmers of Britain	Value for money
2009	Department for Business, Enterprise and Regulatory Reform	Leeds Arena Project	Value for money
2009	Department for Business, Enterprise and Regulatory Reform	Car Scrappage Scheme	Value for money
2009	Department for Business, Enterprise and Regulatory Reform	Car Scrappage Scheme	Value for money
2009	HM Treasury	Asset Protection Scheme	Propriety
2010	Department for Communities and Local Government	Proposals for new unitary local government structures for Devon, Norfolk and Suffolk	Value for money
2010	Ministry of Justice	Pleural plaques	Regularity and value for money
2010	Ministry of Defence	Basra Memorial Wall dedication ceremony	Value for money
2010	Department for Business, Innovation and Skills	North West Development Agency's funding for Blackpool Leisure Assets	Value for money
2010	Department for Communities and Local Government	North West Development Agency's funding for Blackpool Leisure Assets	Value for money

Appendix two: example of written ministerial direction[105]

[105] Correspondence dated October 2008 from Alistair Darling MP to Nick Macpherson regarding asset protection scheme for UK depositors following difficulties in Icelandic banking sector (Landsbanki). Desposited papers in the House of Commons. DEP2010-0367.

From: **Nick Macpherson,**
Permanent Secretary
2/15
Date: **8 October 2008**

CHANCELLOR

LANDSBANKI

Against the background of widespread disruption and collapse of the Icelandic banking system, you have told me that you are minded to provide a full guarantee to all UK depositors in the branch of Landsbanki, an Icelandic bank trading as Icesave in the UK

2. You take this view in the context of deciding that, in the case of Landsbanki's UK subsidiary, Heritable, and Kaupthing bank's UK subsidiary, deposits should be guaranteed in full. You are taking this action in the interest of securing financial stability.

3. I would draw a distinction between guaranteeing deposits in UK incorporated subsidiaries (such as Heritable) and branches. The former are to all intents and purposes British banks: they are regulated by the Financial Services Authority and their deposits are covered by the Financial Services Compensation Scheme (FSCS). Branches on the other hand are not British banks. In this case, Landsbanki's branch is regulated by the Icelandic authorities and they guarantee the first €20, 887 of deposits.

4. In my view, there are systemic reasons for standing behind retail deposits in UK institutions and that has been Government policy since last autumn. However, I think it is much less easy to apply the same arguments to foreign branches. I recognise this is an area where reasonable people can differ. Yesterday's response to the collapse of Icesave does not seem to have had wider consequences. Equally, confidence in the banking sector remains fragile, and most depositors will not distinguish between a subsidiary and a branch. The Bank shares my concern that what you propose may go beyond what is required for financial stability; the Financial Services Authority tend towards your view.

5. Providing a full guarantee or payout to depositors in the branch of Landsbanki would require two steps:

- first, to cover the amount that should be paid by the Icelandic deposit guarantee scheme, of a little over €20, 887 per person (the Icelandic minimum). At present, the responsibility for this lies with the Icelandic scheme. This would involve, in effect, a loan to the Icelandic authorities, either directly or more likely by simply making the payments and then pressing those authorities for the repayment to the Government. The sum required is estimated at about £2.24 billion; and

- second, to cover amounts over the topped up level of £50, 000 per person (the UK minimum). This would involve direct payments to those individuals. The sum required is estimated at about £800 million.

6. The sums which would be provided in this way would be in addition to the amount between the Icelandic minimum and the UK minimum currently covered by the UK's FSCS. (By comparison, the cost of this to the FSCS is estimated at £1.4 billion.) In both cases, some repayments might be secured: either from the Icelandic authorities, or from a wind-down of Landsbanki, or from seizing fund and financial assets held by Landsbanki in the UK. However, it is not clear that this latter action would recover sufficient security or indeed stands up to legal scrutiny.

7. Taking these two steps together, from my perspective as accounting officer, I have two reasons for discomfort about your proposed course:

- it offers poor value for some £3 billion of taxpayers' money, and carries implied - almost unlimited - guarantees for considerably more should any other international banks trading in the UK fail in the future; and

- it falls short of even-handed deployment of the Treasury's function, since some of the benefit, especially of the implied guarantee of other foreign banks' branches, will accrue to non-UK institutions.

8. On the first step specifically:

   - there is a possibility that the Icelandic authorities will be unwilling or unable to ensure full repayment of any funds that the UK might advance for payment of the Icelandic minimum; and

   - taking such a course creates a risk of other countries choosing to do likewise in similar circumstances, when the legal framework in the EEA is clearly built around shared arrangements.

9. On the second step specifically:

   - the payment would be entirely discretionary, to a limited group of individuals; and

   - on the known facts about the Icelandic plans for winding-down Landsbanki, it seems that recoveries of this extra share will be very low, so the net cost will be very high.

10. I understand that you may take a different view. The interconnected nature of the banking market makes it difficult to take action to protect UK savers unilaterally. And the UK has traditionally espoused international trade as the best way to underpin economic activity and prosperity.

11. If you decide that you want the Treasury to go ahead and provide full guarantees for all these banks' deposit business, I will need your written direction to do so. I will then ensure that the necessary steps are taken to carry it out without delay. I will also alert the Comptroller and Auditor General, who will inform the Public Accounts Committee. It will then be for the Committee to decide whether to investigate the matter further, for example by holding a hearing in parliament.

Nick Macpherson
Permanent Secretary and Accounting Officer
HM Treasury

HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

8 October 2008

Nick Macpherson

LANDSBANKI

Thank you for your minute of today.

2. I understand your reservations about the course I have decided to take and have taken them into account in deciding to proceed as described in your advice. I should be grateful if you would make the necessary arrangements, with the Bank and FSCS, to provide guarantees to depositors in Icesave, the UK branch of Landsbanki

3. In coming to this decision I have taken into account the serious crisis of confidence among banks and their customers. I am also convinced that financial instability itself carries financial risks to the taxpayer, and that action to mitigate such risks therefore potentially reduces future costs.

4. The Government has said that it will do everything it can to protect financial stability and ensure depositor protection. After the experience of the government's action to support both Northern Rock and Bradford and Bingley, most people understand this to mean that no depositor would lose money and that their deposits in UK outlets are safe. I do not think the general public understand the subtle distinction you make between subsidiaries and branches: and the sight of people losing their deposits will undermine confidence in the financial system further, especially in today's difficult conditions. Several other European countries are offering guarantees to retail deposits in cases such as these. The Financial Services Authority also favours support of this kind to avoid loss of customer confidence in the banking system. Moreover, the EU agreed only yesterday to raise the coordinated limit from €20,000 to €50,000, with considerable pressure for €100,000. There is a growing consensus in Europe and elsewhere that banks' customers deserve full protection in the event of bank failures.

5. As for the cost to the taxpayer, there is a written undertaking from the Icelandic government to stand behind its financial services compensation scheme. And today I have taken action to freeze the funds and financial assets held by Landsbanki in the UK. This action is proportionate, will prevent detriment to the UK economy through maintaining depositor confidence and confidence in the wider banking system.

You should therefore take this note as a formal direction to proceed to make arrangements to give full protection to customers of Icesave. I judge this action necessary to preserve confidence in the UK banking system.

ALISTAIR DARLING