

Judicial Appointments Commission Framework Document

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Foreword

Joint statement by the Rt Hon Lord Falconer of Thoroton, Secretary of State and Lord Chancellor, and Baroness Usha Prashar, Chairman of the Judicial Appointments Commission

We are delighted to publish the Framework Document, which determines the relationship between the Department for Constitutional Affairs (DCA) and the Judicial Appointments Commission (JAC). It sets out the strategic control framework for the JAC, including the conditions under which government funds are provided.

The JAC was established under Section 61 of the Constitutional Reform Act 2005 and has an important role delivering an essential public service. It is an executive Non-Departmental Public Body (NDPB) and its function will be to select candidates for judicial office. It will be funded by the DCA in the form of grant-in-aid.

The creation of the JAC will bring more independence and clarity to the appointments process. The Commission will select candidates solely on merit, and also have regard to the need to encourage diversity in the range of people available for selection for appointment. The members of the Commission come from a wide background and are drawn from the lay public, the legal professions, tribunals, the magistracy and the judiciary. The specific make up of the Commission means that it has a breadth of knowledge, expertise and independence. The independence of the Commission will be important in gaining confidence in ensuring that its decisions are its own. However, it will not work in isolation. It will work with the Government, the judiciary and the legal professions and engage with a wide range of organisations to assist it to make sound decisions.

Reform of our constitution is important to ensure our institutions are fit for the 21st century. The JAC is a key part of these reforms, aimed to secure judicial independence and help modernise the justice system. The creation of the JAC is an important move towards greater separation of Government, Parliament and the courts, and is a significant step forward for the constitution and the Country.

The JAC is also part of the Department's drive to modernise the justice system through a new constitutional framework for the administration of justice and by reform of the Office of Lord Chancellor.

The JAC's overall aim fully reflects the Department's objectives. To meet these objectives the DCA and the JAC will need to work closely together and remain engaged at all levels to meet our shared objectives while recognising and respecting our separate roles and responsibilities under the Act.

We look forward to working together in the years ahead. The Framework Document is designed to support the work of both organisations, enhance our relationship and most importantly, provide the platform from which the JAC can launch itself in providing a first class service.



Signed on the 24th October 2006 by:

Lord Falconer of Thoroton
Secretary of State & Lord Chancellor
Department of Constitutional Affairs

Baroness Usha Prashar
Chairman
Judicial Appointments Commission

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Part I: Management Statement

1. Introduction

1.1 This document

1. This Framework Document comprising a Management Statement and a Financial Memorandum, has been drawn up by the Department for Constitutional Affairs (herein referred to as the Department) in consultation with staff of the Judicial Appointments Commission (herein referred to as the JAC). In this document, the term “JAC” is used to describe the organisation and the “Commission” is used to refer to the Commissioners as a group. The document complies with Cabinet Office guidance and is derived from a model prepared by the Treasury. It takes effect from the 3rd April 2006.
2. Subject to the legislation noted below, Part I of the Framework Document, the Management Statement, sets out the overarching framework within which the JAC shall operate, in particular:
 - a. The JAC’s overall aims, objectives and targets in support of the Department’s wider strategic aims and current Public Service Agreement (PSA);
 - b. The rules and guidelines relevant to the exercise of the JAC’s functions, duties and powers;
 - c. The conditions under which any public funds are paid to the JAC; and
 - d. How the JAC is to be held to account for its performance.
3. This document does not create any legal powers or responsibilities. However, it does introduce a framework within which the JAC has agreed to conduct its statutory functions and affairs.
4. Part II of the Framework Document, the Financial Memorandum, sets out in greater detail certain aspects of the financial provisions which the JAC shall observe.
5. The document shall be periodically reviewed by the Department in consultation with the JAC when it is appropriate to do so, but no later than five years from the date of approval.

6. The JAC or the Department may propose amendments to this document at any time. Any such proposals shall be considered in the light of evolving departmental policy aims, operational factors and experience since inception. The guiding principle shall be that the extent of flexibility and freedom given to the JAC shall reflect that set out in the Constitutional Reform Act 2005. The Department shall draft, in consultation with the JAC, what changes, if any, are to be incorporated in the document. Significant variations to the document will require the approval of the Treasury or Cabinet Office as appropriate. Legislative provisions shall take precedence over any part of the document.
7. The Framework Document is signed and dated by the Lord Chancellor and the Chairman of the JAC.
8. Any questions regarding the interpretation of this document shall be resolved by the Department as the sponsor Department, after consultation with the JAC and, as necessary, with the Treasury and/or the Cabinet Office.
9. Copies of this Framework Document and any subsequent substantive amendments shall be placed in the Libraries of both Houses of Parliament. Copies shall also be made available to members of the public on the JAC's website.

1.2 Founding legislation; status

10. The JAC is an Executive Non-Departmental Public Body (NDPB) created under the Constitutional Reform Act 2005 (herein referred to as the Act).
11. The Act received Royal Assent on 24th March 2005. Detailed provisions relating to the JAC are in Schedule 12 to the Act.
12. The JAC is not to be regarded:
 - a. As the servant or agent of the Crown; or
 - b. As enjoying any status, immunity or privilege of the Crown.

1.3 Role of the JAC

13. The Commission selects candidates for judicial office and recommends them to the Lord Chancellor for appointment. It is the Lord Chancellor who, in accordance with the provisions of the Act, makes the appointments or recommends the appointments to The Queen.
14. The JAC is responsible for selections in relation to all judicial offices listed in Schedule 14 to the Act, as well as to the offices of the Lord Chief Justice, Heads of Division, Lords Justices of Appeal and High Court Judges. In the first year of operation some of the appointments are subject to transitional arrangements.

1.4 Functions, duties and powers of the JAC

15. The functions, duties and powers of the JAC are set out in Part 4 of, and Schedule 12 to, the Act.

1.5 Classification

16. For policy/administrative purposes, the JAC is classified by the Government as an Executive NDPB.
17. For national accounts purposes, the JAC is classified to the central government sector.

2. Aim, Objectives and Key Targets

2.1 Overall aim

18. The overall aim of the JAC is to select and recommend persons for judicial appointment on merit. With the Lord Chancellor and Lord Chief Justice, the JAC is committed to increasing the diversity of the judiciary in courts and tribunals at all levels. In delivering the JAC's overall aim, therefore, the JAC will ensure the widest possible choice of candidates and ensure fair and open processes for selection.

2.2 Objectives and key targets

19. The objectives and key targets for the JAC are agreed between the Lord Chancellor and the JAC and are set out in detail in its corporate and business plans (paragraphs 47-53 below refer).

2.3 Targets and indicators

20. The Department determines the JAC's performance framework in light of the Department's wider strategic aims, current PSA and the provisions of the Act.

3. Responsibilities and Accountabilities

3.1 The Lord Chancellor

21. The Lord Chancellor is accountable to Parliament for the activities and performance of the JAC. His/her responsibilities include:
 - a. Approving, as set out in this Framework Document, the JAC's strategic objectives and targets and the policy and performance framework within which it shall operate;

- b. Keeping Parliament informed about the JAC's performance;
- c. Approving the amount of grant-in-aid to be paid to the JAC, and securing Parliamentary approval;
- d. Carrying out responsibilities specified in the Act, including approving the terms and conditions of Commission members, approving the appointment of the Chief Executive, approval of terms and conditions of staff, and laying the annual report and accounts before Parliament;
- e. The discretionary power to issue procedural guidance to the JAC under Section 65 of the Act; and
- f. Considering and making decisions on selections for judicial appointments received from the JAC.

3.2 The Departmental Accounting Officer

- 22. The Permanent Secretary, as the Department's principal Accounting Officer, is responsible for the overall organisation, management and staffing of the sponsor Department and for ensuring that there is a high standard of financial management in the Department as a whole. The principal Accounting Officer is accountable to Parliament for the issue of any grant-in-aid to the JAC. The principal Accounting Officer designates the Chief Executive of the JAC as the JAC's Accounting Officer, and may withdraw the Accounting Officer designation if he/she believes that the incumbent is no longer suitable for the role.
- 23. In particular the principal Accounting Officer of the Department shall ensure that:
 - a. the strategic aims and objectives of the JAC are set in light of the Act, and also support the Department's wider strategic aims and PSA targets;
 - b. the financial and other management controls applied by the Department to the JAC are appropriate and sufficient to safeguard public funds, and ensure that the JAC's compliance with those controls is effectively monitored ("public funds" include not only any funds granted to the JAC by Parliament but also any other funds generated by approved activities or falling within the stewardship of the JAC);
 - c. the internal controls applied by the JAC conform to the requirements of regularity, propriety and good financial management; and
 - d. any grant-in-aid to the JAC is within the ambit and the amount of the Request for Resources and that Parliamentary authority has been sought and given.
- 24. The responsibilities of a Departmental Accounting Officer are set out in more detail in *Annex 4.1 of Government Accounting*.

3.3 The Department's Sponsorship Team

25. The Sponsorship Team in the Judicial Services Directorate works with other teams across the Department to carry out the functions described in this section. The Sponsorship Team, in consultation as necessary with the Departmental Accounting Officer, is the primary source of advice to the Lord Chancellor on the discharge of his/her responsibilities in respect of the JAC and the primary point of contact for the JAC in dealing with the Department.
26. The Sponsorship Team shall advise the Lord Chancellor on:
- a. an appropriate framework of objectives and targets for the JAC in light of the Act and the wider strategic aims and current PSA targets of the Department;
 - b. an appropriate budget for the JAC in light of the overall public expenditure priorities of the Department; and
 - c. how well the JAC is achieving its strategic objectives and whether it is delivering value for money.
27. In support of the Departmental Accounting Officer the Sponsorship Team shall:
- a. On performance and risk management –
 - 1) monitor the activities of the JAC on a continuing basis through an adequate and timely flow of information from the JAC on performance, budgeting, control and risk management, including early sight of the Statement on Internal Control (SIC) for the JAC;
 - 2) address in a timely manner any significant problems arising in and/or drawn to the attention of the Department by the JAC, whether financial or otherwise. In doing so it will make such representations to the JAC as are judged necessary to promote value for money and to safeguard regularity and propriety;
 - 3) periodically carry out risk assessments of the activities of the JAC to inform departmental oversight; strengthen these arrangements if necessary; and amend the Framework Document accordingly. The risk assessment must take into account the nature of the activities of the JAC; the public money at stake; the JAC's corporate governance arrangements; its financial performance; internal and external auditors' reports; the openness of communications between the JAC and the Department; and any other relevant matters;
 - 4) ensure that they have a good understanding of how the activities and priorities of the JAC impact upon the Department and on the relevant business needs of Her Majesty's Courts Service (HMCS) and the Tribunals Service and non-DCA tribunals and that the impact is appropriately communicated to the JAC;
 - 5) inform the JAC of any significant departmental risks including those of the HMCS and the Tribunals Service which are relevant to the JAC;

- 6) have access to final reports on internal and external audits and may require additional inspection or audit in respect of a particular matter;
 - 7) be given copies of any Memorandums of Understanding (MoUs) that the JAC has with internal service providers (such as Human Resources Directorate, Finance Directorate, e-Delivery Group, Internal Audit Services, Legal Services and Commercial Group), and those that it has with other sponsored bodies. The Sponsorship Team should be informed if there are significant issues that arise in relation to these MoUs. It shall also be the main point of contact on annual reports and other corporate documents.
- b. On communication with the JAC –
- 8) inform the JAC of relevant Government policy in a timely manner; advise on the interpretation of that policy; and issue specific guidance to the JAC as necessary;
 - 9) bring concerns about activities of the JAC to the attention of the Commission, and require explanations and assurances from the Commission that appropriate action has been taken where necessary.

3.4 The Commission

28. The Commission has a Chairman who is appointed as described in paragraph 31 below. There are 14 other Commissioners who are selected and appointed in accordance with Schedule 12 to the Act. The Judges' Council selects three Commissioners, each of which is either a judge of the Court of Appeal or a High Court Judge, but there shall be at least one of each. An independent panel selects the remaining Commissioners, following full and open competitions. Appointments are made by The Queen on the recommendation of the Lord Chancellor.
29. The Commission has corporate responsibility for ensuring that the JAC fulfils its role under the Act, in delivering the aims and objectives agreed with the Lord Chancellor and for promoting the efficient and effective use of staff and other resources available to the JAC. To this end, and in pursuit of its wider corporate responsibilities, the Commission shall:
 - a. Establish the overall strategic direction of the JAC within the provisions of the Act, and within the policy and resources framework determined by the Lord Chancellor, to deliver the overall aim of the JAC;
 - b. Ensure that the Lord Chancellor is kept informed of any changes which are likely to impact on the strategic direction of the JAC or on the attainability of its targets, and determine the steps needed to deal with such changes;
 - c. Ensure that any statutory or administrative requirements for the use of public funds are complied with; that the JAC operates within the limits of its statutory authority and any delegated authority agreed with

the Department and in accordance with any other conditions relating to the use of public funds; and that in reaching administrative or financial decisions, the JAC takes into account guidance issued by the Department;

- d. Ensure that the Commission receives and reviews regular financial information concerning the management of the JAC; is informed in a timely manner about any concerns about the activities of the JAC; and provides positive assurance to the Department that appropriate action has been taken on such concerns;
 - e. Demonstrate high standards of corporate governance at all times, including maintenance of an independent Audit & Risk Committee to help the Commission to address the key financial and other risks facing the JAC; and
 - f. Where applicable, appoint with the Lord Chancellor's approval a Chief Executive to the JAC, and set performance objectives and remuneration terms linked to these objectives for the Chief Executive which reflect the aims and objectives for the JAC agreed with the Lord Chancellor and give due weight to the proper management and use of public monies.
30. Individual Commissioners shall also:
- a. comply at all times with the Code of Conduct (paragraph 35 below) in accordance with paragraph 17 of Schedule 12 to the Act, particularly with requirements relating to the use of public funds and to conflicts of interest;
 - b. not misuse information gained in the course of their public service for personal gain or political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
 - c. comply with the JAC's rules on the acceptance of gifts and hospitality, and of business appointments; and
 - d. act in good faith and in the interest of the JAC.

3.5 The Chairman of the JAC

- 31. The Chairman is selected through open competition in accordance with Schedule 12 to the Act by an independent appointment panel.
- 32. The Chairman is responsible to Parliament only through the Lord Chancellor. The Chairman shall aim to ensure within the statutory framework that the aims, policies and actions of the JAC support wider strategic policies of the Lord Chancellor; and that the JAC's affairs are conducted efficiently and with probity. The Chairman shares with other Commission members the corporate responsibilities set out in paragraph 29 above, and in particular for ensuring that the Commission fulfils the remit under the Act and the aims and objectives agreed with the Lord Chancellor.

33. The Chairman has a particular leadership responsibility on the following matters:
 - a. Formulating the Commission's strategy for delivering the overall aim of the JAC;
 - b. Ensuring that the Commission complies with its duties under Sections 63 and 64 of the Act to select persons for appointment solely on merit and also to have regard to the need to encourage diversity in the range of persons available for selection for appointments;
 - c. Ensuring that the Commission, in reaching decisions, takes proper account of guidance properly provided by the Lord Chancellor;
 - d. Promoting the efficient and effective use of staff and other resources;
 - e. Encouraging high standards of regularity and propriety; and
 - f. Representing the views of the Commission to the general public.
34. The Chairman shall also:
 - a. ensure that all members of the Commission, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities, receive appropriate induction training, including on the financial management and reporting requirements of public sector bodies and on any differences which may exist between private and public sector practice;
 - b. advise the Lord Chancellor and selection panel of the needs of the Commission when Commission vacancies arise, with a view to ensuring a proper balance of necessary skills; and
 - c. Annually assess the performance of individual Commission members.
35. The Chairman shall also ensure that a Code of Conduct for Commissioners is in place in accordance with paragraph 17 of Schedule 12 to the Act and based on the Cabinet Office's model Code of Practice for Board Members of Public Bodies. The Code shall commit the Chairman and other Commissioners to the seven principles of public life and shall include a requirement for a comprehensive and publicly available register of Commissioners' interests.
36. Communications between the Commission and the Lord Chancellor shall normally be through the Chairman. The Chairman shall ensure that the other Commission members are kept informed of such communications.

3.6 The Chief Executive as Accounting Officer

37. The Chief Executive of the JAC is designated as the JAC's Accounting Officer by the Departmental Accounting Officer of the Department.
38. The Accounting Officer of the JAC is personally responsible for safeguarding the public funds for which he/she has charge, for ensuring propriety and

regularity in the handling of those public funds and for the day-to-day operations and management of the JAC.

39. As Accounting Officer, the Chief Executive shall exercise the following responsibilities in particular:
- a. On planning and monitoring
 - 1) establish, in agreement with the Department, the JAC's corporate and business plans in light of its funding, the Act and the Department's wider strategic aims and current PSA;
 - 2) inform the Department of the JAC's progress in helping to achieve the Department's policy objectives and in demonstrating how resources are being used to achieve those objectives; and
 - 3) ensure that timely forecasts and monitoring information on performance and finance are provided to the Department; that the Department is notified promptly if overspends or significant underspends are likely and that corrective action is taken; and that any significant problems, whether financial or otherwise, and whether detected by internal audit or by any other means, are notified to the Department in a timely fashion.
 - b. On advising the Commission
 - 4) advise the Commission on the discharge of its responsibilities as set out in the Act, this document and in any other relevant instructions and guidance that may be issued from time to time;
 - 5) advise the Commission on the JAC's performance compared with its aims and objectives;
 - 6) ensure that financial considerations are taken fully into account by the Commission in reaching and executing its decisions, and that standard financial appraisal techniques are followed as far as this is practical; and
 - 7) take action as set out in paragraphs 14-18 of the *NDPB Accounting Officer Memorandum (Annex 8.2 Government Accounting)* if the Commission, or its Chairman, is contemplating a course of action which the Chief Executive considers would infringe the requirements of propriety or regularity or which would not represent prudent or economical administration or efficiency or effectiveness.
 - c. On managing risk and resources

The Chief Executive shall ensure that:

 - 8) a system of risk management is maintained to inform decisions on financial and operational planning and to assist in achieving objectives and targets;
 - 9) an effective system of programme and project management and contract management is maintained;

- 10) all public funds made available to the JAC (including any approved income or receipts) are used for the purposes intended by Parliament, and that such money, together with the JAC's assets, equipment and staff, are used economically, efficiently and effectively;
- 11) adequate internal management and financial controls are maintained by the JAC, including effective measures against fraud and theft;
- 12) a suitable system of internal delegated authorities is maintained and appropriately communicated to staff, together with a system for regularly reviewing compliance with these delegations;
- 13) effective personnel management policies are maintained;
- 14) appropriate protection is in place for the JAC's assets including its people, property and information (in line with a security policy that is consistent with that of the Department);
- 15) the JAC has health and safety arrangements in place that are consistent with relevant legislation and the Department's policy, which staff should be made aware of and adhere to; and
- 16) a business continuity plan is prepared and maintained to enable continuity of services in the event of a major disruption.

Assurance on risk management will be provided through a number of mechanisms, including the Audit & Risk Committee (paragraph 60 below).

- d. On accounting for the JAC's activities
 - 17) sign the accounts and be responsible for ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any directions issued by the Lord Chancellor;
 - 18) sign a Statement of Accounting Officer's responsibilities, for inclusion in the annual report and accounts;
 - 19) sign a Statement on Internal Control regarding the JAC's system of internal control, for inclusion in the annual report and accounts;
 - 20) ensure that effective procedures for handling complaints about the JAC are established and made widely known within the JAC;
 - 21) act in accordance with the terms of this document and with the instructions and guidance in *Government Accounting* and other instructions and guidance issued from time to time by the Department, the Treasury and the Cabinet Office – in particular, the Treasury documents the *The Responsibilities of an NDPB Accounting Officer* and *Regularity and Propriety and Value for Money*, both of which the Chief Executive shall receive on appointment. Paragraph 164 of the attached Financial Memorandum refers to other key guidance; and
 - 22) give evidence, normally with the Departmental Accounting Officer, when summoned before the Committee of Public Accounts on the use and stewardship of public funds by the JAC.

3.7 The Chief Executive as Consolidation Officer

40. For the purposes of Whole of Government Accounts, the Chief Executive of the JAC is normally appointed by the Treasury as the JAC's Consolidation Officer.
41. As the JAC's Consolidation Officer, the Chief Executive is personally responsible for preparing the consolidation information that sets out the financial results and position of the JAC, for arranging its audit and for sending information including the audit report to the Principal Consolidation Officer nominated by the Treasury.
42. As Consolidation Officer, the Chief Executive shall comply with the requirements of the Consolidation Officer Memorandum and shall, in particular:
 - a. ensure that the JAC has in place and maintains sets of accounting records that provide the necessary information for the consolidation process; and
 - b. be responsible for the consolidation information (including the relevant accounting records and disclosure requirements and all relevant consolidation adjustments) in accordance with the consolidation instructions and directions ("Dear Consolidation Officer" and "Dear Consolidation Manager" letters) issued by the Treasury on the form, manner and timetable for the delivery of such information.

3.8 Delegation of duties

43. The Chief Executive may delegate the day-to-day administration of his/her Accounting Officer and Consolidation Officer responsibilities to other employees in the JAC. However, he/she shall not assign absolutely to any other person any of the responsibilities set out in this document.

4. Accountability to Parliament

4.1 Parliamentary Questions

43. The Departmental Ministers are responsible for answering Parliamentary Questions about the JAC and, in discharging this responsibility, the relevant Minister or Departmental officials may seek advice and information from the JAC. The JAC shall provide such advice and information to the best of its ability.

4.2 Ministerial correspondence

44. Members of Parliament shall be encouraged to write directly to the Chairman about specific activities, and the administration of the JAC. When Ministers receive correspondence from Members of Parliament on these matters, they shall normally ask the Chairman to reply (sending a copy of the reply to the Department's Sponsorship Team). Where a Minister decides to reply personally, for example where the correspondence involves wider policy considerations, advice may be sought from the Chairman or JAC staff on aspects relating to the activities or administration of the JAC.

4.3 Parliamentary Select Committees

45. Where a Select Committee decides to take evidence on the specific activities of the JAC the Lord Chancellor may decide to nominate the Chairman or Chief Executive or a representative of the JAC to attend the hearings. Where a representative of the JAC has been called to give evidence, Ministers may also wish to attend or require Department officials to do so. In all cases it is entirely at the discretion of the Select Committee to decide from whom they shall hear evidence. The Chief Executive may be required to give evidence to the Public Accounts Committee, normally with the Accounting Officer from the Department, on the stewardship and use of public funds by the JAC.

4.4 The Parliamentary Commissioner for Administration

46. The JAC is not subject to the jurisdiction of the Parliamentary Commissioner for Administration. The Judicial Appointments and Conduct Ombudsman has a role in handling complaints about the selection process (see paragraph 77 below).

5. Planning, Budgeting and Control

5.1 The Corporate Plan

47. Consistent with the timetable for public spending reviews, the JAC shall submit annually to the Department a draft of its updated corporate plan covering three years ahead.
48. The JAC shall have discussed with the Department, the issues to be addressed in the plan and the timetable for its preparation. The plan shall reflect the JAC's statutory duties and, within those duties, the priorities set from time to time by the Lord Chancellor. In particular this shall include the Department, including HMCS and the Tribunals Service, and non-DCA Tribunals providing the JAC with forecasts of predicted appointment requirements over a three-year period and annually (see also paragraph 52).

The plan shall demonstrate how the JAC shall contribute to the achievement of the Department's PSA targets.

49. The plan shall set out:
 - a. the JAC's key objectives and associated key performance targets for the three years and its strategy for delivering those objectives, bearing in mind the needs of its customers;
 - b. a review of the JAC's performance in the preceding financial year and an estimate of performance in the current year; and
 - c. other matters as agreed between the Department and the JAC.
50. The main elements of the plan (including the key performance targets) shall be agreed between the Department and the JAC in light of the Department's decisions on policy and resources taken in the context of the Government's wider public expenditure plans and decisions.
51. In reaching an annual decision on the JAC's rolling corporate plan and in monitoring progress, the Department shall aim to give the JAC greater planning certainty by observing the principles set out in paragraph 15 of PES (2000)²⁵ concerning three year planning and end-year flexibility (EYF). These principles are summarised in paragraph 96 of the Financial Memorandum.

5.2 The Business Plan

52. The first year of the corporate plan, amplified as necessary, shall form the business plan. The business plan shall include key targets and milestones for the year immediately ahead and shall be linked to budgeting information so that resources allocated to achieve specific objectives can readily be identified by the Department. The business plan shall be agreed between the Department and the JAC.

5.3 Publication of plans

53. Subject to any commercial and policy considerations, the corporate and business plans shall be published and made available through the JAC's website (subject to any editing required to remove sensitive information).¹

5.4 Reporting performance to the Department

54. The JAC shall operate management information and accounting systems which enable it to review in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in the agreed corporate and business plans.

¹ The JAC on establishment shall have interim corporate and business plans in place which need not be published until finalised.

55. The JAC shall take the initiative in informing the Department of changes in external conditions which make the achievement of objectives significantly more or less difficult, or which may require a significant change to the budget or objectives set out in the corporate or business plans.
56. The JAC's performance in relation to its remit under the Act, and the achievement of its objectives and targets, shall be reported to the Department on a quarterly basis. Performance shall be reviewed by officials of the Department and six-monthly meetings shall be held between the Director General of Legal and Judicial Services and the Chief Executive. The Lord Chancellor may also wish to meet the Commission formally each year to discuss the JAC's performance, its current and future activities and any policy developments relevant to those activities.
57. The JAC's performance against key targets shall be reported in the JAC's annual report and accounts.

5.5 Budgeting procedures

58. The JAC's budgeting procedures are set out in the Financial Memorandum.

5.6 Internal Audit

59. The JAC shall establish and maintain arrangements for internal audit in accordance with the Treasury's *Government Internal Audit Standards (GIAS)*. The JAC shall consult the Department to ensure that the Department is satisfied with the competence and qualifications of the Head of Internal Audit and the requirements for approving the appointment in accordance with *GIAS 5.2*.
60. The JAC shall set up an independent Audit & Risk Committee as a committee of the Commission in accordance with the Cabinet Office's Guidance on Codes of Practice for Board Members of Public Bodies and the Treasury's Audit Committee guidance. The Department's internal audit representative is an attendee of the Committee's meetings.
61. The Chairman of the JAC's Audit & Risk Committee shall maintain effective communication arrangements with the Department's Corporate Audit Committee on governance, control and risk management arrangements. This includes attending meetings agreed with the Chairmen of the Department's Audit Committees, to discuss issues of mutual interest, and making the JAC's Audit & Risk Committee minutes available to the Department's Corporate Audit Committee.

62. The JAC shall arrange for periodic quality reviews of its internal audit in accordance with GIAS. The Department shall consider whether it can rely on these reviews to provide assurance on the quality of internal audit. However, the Department reserves a right of access to carry out independent reviews of internal audit in the JAC.
63. The Department's Internal Audit Service shall also have a right of access to all documents prepared by the JAC's internal auditor, including where the service is contracted out. The audit strategy, periodic audit plans and annual audit report, including the JAC's Head of Internal Audit's opinion on risk management, control and governance, shall be forwarded as soon as possible to the Sponsorship Team who shall consult the departmental Head of Internal Audit as appropriate. The JAC shall produce a Statement of Internal Control (SIC) according to and following the guidelines as set out in *Government Accounting, Chapter 21*.
64. In addition, the JAC shall forward to the Department an annual report on fraud and theft suffered by the JAC, notify any unusual or major incidents as soon as possible and notify any changes to internal audit's terms of reference, the Audit & Risk Committee's terms of reference or the JAC's Fraud Policy and Fraud response plan.

5.7 Additional Departmental access to the JAC

65. In addition to the right of access referred to in paragraphs 62 and 63 above and subject to the provisions of Section 139 of the Act, the Department has a right of access to the JAC's records and personnel for purposes such as internal audit of the Department's sponsoring function and operational investigations. Any further information that the Department requests shall be provided by the JAC as and when required.

6. External accountability

6.1 The Annual Report and Accounts

66. After the end of each financial year, the JAC shall publish an annual report of its activities together with its audited annual accounts. The report shall also cover the activities of any corporate bodies under the control of the JAC. A draft of the report shall be submitted to the Department at least two weeks before the proposed publication date.
67. The report and accounts shall comply with the Treasury document *Executive Non-Departmental Public Bodies: Annual Report and Accounts Guidance*. The accounts shall be prepared in accordance with the relevant statutes and the specific Accounts Direction issued by the Department.

68. The report and accounts shall outline the JAC's main activities and performance during the previous financial year particularly reporting on the performance of its functions under the Act and set out in summary form the JAC's forward plans. Information on performance against key financial targets shall be included in the notes to the accounts, and shall therefore be within the scope of the audit. The report shall deal with any matter specified in a direction under paragraph 32(2) of Schedule 12 to the Act.
69. The report and accounts shall be laid before Parliament and made available on the internet, in accordance with the guidance on the procedures for presenting and laying the combined annual report and accounts as prescribed in Chapter 13 of the *Executive Non-Departmental Public Bodies: Annual Reports and Accounts Guidance*.

6.2 External Audit

70. The Comptroller and Auditor General (C&AG) audits the JAC's annual accounts. The accounts and the annual report shall be laid before Parliament. For the purposes of audit, the C&AG has a statutory right of access to relevant documents as provided for in the Government Resource and Accounts Act 2000, including by virtue of any order made under that Act.
71. The C&AG has agreed to consult the Department and the JAC on who (the NAO or a commercial auditor) should undertake the actual audit on his behalf. The final decision rests with the C&AG.
72. The C&AG has agreed to share with sponsor departments information identified during the audit process and the audit report (together with any other outputs) at the end of the audit. This should apply, in particular, to issues which impact on the Department's responsibilities in relation to financial systems within the JAC. The C&AG has also agreed, where asked, to provide departments and other relevant bodies with Regulatory Compliance Reports and other similar reports which departments may request at the commencement of the audit and which are compatible with the independent auditor's role.

6.3 Value for Money (VfM) examinations

73. The C&AG may carry out examinations into the economy, efficiency and effectiveness with which the JAC has used its resources in discharging its functions. For the purpose of these examinations, the C&AG has statutory access to documents as provided for under Section 8 of the National Audit Act 1983. In addition, the JAC shall provide, in conditions to grants and contracts, for the C&AG to exercise such access to documents held by grant recipients and contractors and sub-contractors as may be required for these examinations, and shall use its best endeavours to secure access for the C&AG to any other documents required by the C&AG which are held by other bodies.

7. Staff Management

7.1 General

74. In accordance with paragraph 22 (3) and (4) of Schedule 12 to the Act, staff of the JAC (other than those on secondment from a government department or elsewhere) shall be:
- a. appointed on terms and conditions determined by the Commission, and approved by the Lord Chancellor; and
 - b. paid by the JAC in accordance with provision made by or under the terms of appointment.
75. In determining the terms and conditions the Commission shall have regard to the desirability of keeping remuneration and the other terms and conditions broadly in line with those applying to employment in the civil service of the State.
76. Subject to the provisions of the Act, the JAC is responsible for the recruitment, retention and motivation of its staff. To this end, the JAC will ensure that:
- a. it complies with paragraph 22 (3) and (4) of Schedule 12 to the Act (see paragraph 114 below);
 - b. its rules for the recruitment and management of staff create an inclusive culture in which diversity is fully valued; where appointment and advancement is based on merit; and where there is no discrimination on grounds of gender, marital status, sexual orientation, race, colour, ethnic or national origin, religion, disability, community background or age etc;
 - c. the level and structure of its staffing, including grading and numbers of staff, is appropriate to its functions and the requirements of efficiency, effectiveness and economy;

- d. the performance of its staff at all levels is satisfactorily appraised and the JAC's performance measurement systems are reviewed from time to time;
- e. its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the JAC's objectives;
- f. proper consultation with staff takes place on key issues affecting them;
- g. adequate grievance and disciplinary procedures are in place;
- h. whistleblowing procedures consistent with the Public Interest Disclosure Act 1998 are in place; and
- i. a Code of Conduct for staff is in place based on the Cabinet Office document, *Model Code for Staff of Executive Non-Departmental Public Bodies*.

8. Open Government

76. The JAC shall prepare, issue and keep under review a Publication Scheme as required under the Freedom of Information Act. The JAC shall comply with all aspects of the Freedom of Information Act and Data Protection Act and the Information Commissioner shall review relevant policies.

9. Judicial Appointments and Conduct Ombudsman

77. Applicants for judicial appointment who wish to complain about the handling of their application by the JAC may refer the complaint to the Ombudsman. The applicant shall first send their complaint to the JAC. Once the JAC has responded and if the applicant is not content, he/she shall then be able to send the complaint to the Ombudsman in accordance with Section 101 of the Act.

10. Reviewing the role of the JAC

78. The JAC shall be reviewed by the Department at least every five years, in accordance with central Government guidance on "lighter touch" reviews.

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Part II: Financial Memorandum

I. Introduction

79. This Financial Memorandum, which forms part of the Framework Document for the JAC, sets out in greater detail certain aspects of the financial framework within which the JAC is required to operate.
80. The JAC shall satisfy the conditions and requirements set out in the Framework Document.

II. The JAC's Income and Expenditure – General

The Departmental Expenditure Limit (DEL)

81. The JAC's current and capital expenditure form part of the Department's resource DEL and capital DEL respectively.

Expenditure not proposed in the budget

82. The JAC shall not, without prior written departmental approval, enter into any undertaking to incur any expenditure which falls outside the JAC's delegations or which is not provided for in the JAC's annual budget as approved by the Department.

Procurement

83. The JAC shall use the services of the Department's Commercial Group for procurement under a Memorandum of Understanding to support the Gershon principles.
84. Proposals to let single-tender or restricted contracts shall be subject to a specified delegated authority, and the JAC shall send to the Department after each financial year a report for that year explaining any contracts above £50,000 in which competitive tendering was not employed.

Value for money

85. Procurement by the JAC of works, equipment, goods and services shall be based on value for money, i.e. quality (in terms of fitness for purpose) and timely delivery against price. Where appropriate, a full option appraisal shall be carried out before procurement decisions are taken.

Timeliness in paying bills

86. The JAC shall collect and pay all matured and properly authorised invoices in accordance with the terms of contracts or within 30 days, as provided for in *Annex 16.2 of Government Accounting*. The JAC shall comply with the British Standard for Achieving Good Payment Performance in Commercial Transactions (BS 7890), and with the Late Payment of Commercial Debts (Interest) Act 1998 as amended.

Novel, contentious or repercussive proposals

87. The JAC shall obtain the approval of the Department before:
- a. incurring any expenditure for any purpose which is or might be considered novel or contentious, or which has or could have significant future cost implications, including on staff benefits;
 - b. making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the Department; or
 - c. making any change of policy or practice which has wider financial implications (e.g. because it might prove repercussive among other public sector bodies) or which might significantly affect the future level of resources required.

Risk management

88. The JAC shall ensure that the risks which it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and shall develop a risk management strategy, in accordance with the Treasury guidance *Management of Risk: A Strategic Overview*.
89. The JAC shall adopt and implement policies and practices to safeguard itself against fraud and theft, in line with Treasury's guide *Managing the Risk of Fraud*.
90. The JAC shall take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract or to give grant or grant-in-aid.

Wider markets

91. In accordance with the wider markets policy, the JAC shall seek to maximise receipts from non-Exchequer sources provided that this is consistent with:
- a) the JAC's main functions and
 - b) its corporate plan as agreed with the Department.

Fees and charges

92. Fees or charges for any services supplied by the JAC shall be determined in accordance with the Treasury's *Fees and Charges Guide* and any other relevant Treasury guidance.

III. The JAC's Income

Grant-in-aid

93. Grant-in-aid shall normally be paid to the JAC in quarterly instalments, on the basis of a written application from the JAC showing evidence of need. The application shall certify that the conditions applying to the use of grant-in-aid have been observed to date and that further grant-in-aid is now required for purposes appropriate to the JAC's functions.
94. The JAC should have regard to the general principles enshrined in *Chapter 9 of Government Accounting* that it should seek grant-in-aid according to need.
95. Cash balances accumulated during the course of the year from grant-in-aid or other Exchequer funds should be kept at the minimum level consistent with the efficient operation of the JAC. Grant-in-aid not drawn down by the end of the year shall lapse. However, where draw-down of grant-in-aid is delayed to avoid excess cash balances at year-end, the Department shall make available in the next financial year – subject to approval by Parliament of the relevant estimates provision – any such grant-in-aid which is required to meet any liabilities at year end, such as creditors.

End-year flexibility

96. As set out in PES(2000)25, the Department aims to set firm multi-year plans and cascade end-year flexibility (EYF) on budgets where possible. Although EYF is not automatic, the Department shall aim to apply the following principles:
- a. Agree, ahead of the year in question, a rolling three-year budget, fixed for at least the first year and with indicative amounts for subsequent years;
 - b. Decide at that point the JAC's likely entitlement to EYF in relation to any

underspend by the JAC that represents slippage (as opposed to e.g. initial over-provision or abandonment of a project or programme) against the overall departmental position and ministerial priorities. However any non-Treasury ring-fenced underspend cannot be guaranteed;

- c. Adjust (if necessary) and confirm the amount of EYF when accurate information is available in the Public Expenditure Outturn White Paper, taking account of outturn and of any DEL Reserve claims which limit EYF entitlement of the Department itself.

Receipts from sale of goods or services

97. Receipts from the sale of goods and services (including certain licences where there is a significant degree of service to the individual applicant), rent of land, and dividends are classified as negative public expenditure in national accounts and are therefore normally offset against the DEL (i.e. they provide additional DEL spending power).
98. If there is any doubt about the correct classification of a receipt, the JAC shall consult the Department, who shall consult the Treasury as necessary.

Fines, taxes and other receipts

99. Most fines and most taxes (including levies and some licences) are not negative public expenditure and do not provide additional DEL spending power. Such receipts shall either be surrendered to the Department or, if retained, should either reduce the need for grant-in-aid or, if used to finance additional expenditure by the JAC, require additional DEL cover from the Department.

Interest earned

100. Any interest earned by the JAC on its assets shall be given the same budgeting treatment as the cost of capital charge on the assets.
101. The cost of capital charge and any interest receipts on most DEL financed assets score as resource DEL.
102. If the JAC uses the receipts to finance additional expenditure, the Department needs to ensure it has the necessary DEL cover. Any interest earned on cash balances arising from grant-in-aid or other Exchequer funds shall be treated as a receipt from any Exchequer source. Depending on the budgeting treatment of this receipt, and its impact on the JAC's cash requirements, it may lead to commensurate reduction of grant-in-aid or be required to be surrendered to the Consolidated Fund via the Department.

Unforecast changes in in-year income

103. If the negative DEL income realised or expected to be realised in-year is less than estimated, the JAC shall, unless otherwise agreed with the Department, ensure a corresponding reduction in its gross expenditure so that the authorised provision is not exceeded.
104. If the negative DEL income realised or expected to be realised in the year is more than estimated, the JAC may apply to the Department to retain the excess income for specified additional expenditure within the current financial year without an offsetting reduction to grant-in-aid. The Department shall consider such applications, taking account of competing demands for resources. If an application is refused, any grant-in-aid should be commensurately reduced or the excess receipts surrendered to the Exchequer via the Department.

Build-up and draw-down of deposits

105. The JAC shall comply with the rules that any DEL expenditure financed by the draw-down of deposits counts within DEL and that the build-up of deposits may represent a saving to DEL (if the related receipts are negative DEL in the relevant budgets).
106. The JAC shall ensure that it has the necessary DEL provision for any expenditure financed by draw-down of deposits.

Proceeds from disposal of assets

107. Disposals of land and building are dealt with in paragraphs 149 to 155 below.

Gifts and bequests received

108. The JAC is free to retain gifts, bequests or similar donations up to the value of £50 without the prior approval of the Department. These shall be treated as receipts.
109. Before proceeding in this way, the JAC shall consider if there are any associated costs in doing so or any conflicts of interest arising. The JAC shall keep a written record of any such gifts, bequests and donations and of their estimated value and whether they are disposed of or retained.

Receipts from the EC

110. Receipts from the European Community (if retained by the Department/JAC) do not provide additional DEL spending power for the JAC.

Borrowing

111. The JAC may not borrow money except with the agreement of the Lord Chancellor in accordance with paragraph 19(2) of Schedule 12 to the Act. The JAC shall observe the rules set out in 29.5.1-9 of *Government Accounting* when undertaking borrowing of any kind. The JAC shall also seek the approval of the Department to ensure that it has any necessary authority and budgetary cover for any borrowing or the expenditure financed by such borrowing. Medium or long-term private sector or foreign borrowing is subject to the value-for-money test in *Government Accounting*.

Reserves

112. No grant or grant-in-aid shall be paid into any reserve held by the JAC. Funds in any reserve may be a factor for consideration when grant-in-aid is determined.

IV. Expenditure on Staff

Staff costs

113. Staff costs shall be shown separately in budget reports to the Department. The creation of any additional posts shall not incur forward commitments which exceed the JAC's ability to pay for them.

Pay and conditions of service

114. The Commission shall determine pay, structure and terms and conditions of service in accordance with paragraphs 22 (3) and (4) of Schedule 12 to the Act which provide for:

- a) staff of the JAC (other than those on secondment from a government department) to be:
 - 1) appointed on terms and conditions determined by the Commission, and approved by the Lord Chancellor, and
 - 2) paid by the JAC in accordance with provision made by or under the terms of appointment.
- b) In determining the terms and conditions, the Commission to have regard to the desirability of keeping remuneration and the other terms and conditions broadly in line with those applying to employment in the civil service of the State.

The JAC shall provide the Department with a copy of its Employee Handbook once available and subsequent significant amendments.

115. Subsequent significant changes to any terms and conditions of employment, and any annual pay award, may be determined by the Commission, subject to the financial commitments being met from the JAC's existing resource and to approval of the Lord Chancellor in accordance with Treasury guidelines.
116. The JAC may pay to each Commissioner such remuneration, fees or expenses as the Lord Chancellor may determine.
117. The JAC may operate, if and when appropriate, a performance-related pay scheme, which shall form part of the annual aggregate pay budget approved by the Department.
118. The JAC shall comply with the EU directive on contract workers [Fixed Term Employees Regulations (Prevention of Less Favourable Treatment)].

Pensions; redundancy/compensation

119. Staff directly employed by the JAC are normally eligible for a pension provided by membership of the Principal Civil Service Pension Scheme (PCSPS).
120. Staff may opt out of the occupational pension scheme provided by the JAC. However the employer's contribution to any personal pension arrangement, including a stakeholder pension, shall normally be limited to the National Insurance rebate level.
121. Any proposals by the JAC to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office, require the approval of the Department. Proposals on severance payments shall comply with DAO (GEN) 04/02.

V. Non-staff Expenditure

Capital expenditure

122. Subject to being above an agreed capitalisation threshold, all expenditure on the acquisition or creation of fixed assets shall be capitalised on an accruals basis. Expenditure to be capitalised shall include:
- a. The acquisition, reclamation or laying out of land.
 - b. The acquisition, construction, preparation or replacement of buildings and other structures or their associated fixtures and fittings.
 - c. The acquisition, installation or replacement of movable or fixed plant, machinery, vehicles and vessels.

123. Proposals for large-scale individual capital projects or acquisitions above £100,000 are normally considered within the JAC's corporate planning process. Applications for approval by the Department and if necessary, the Treasury shall be supported by formal notification that the proposed project or purchase has been examined and duly authorised by the Commission and Chief Executive of the JAC. Regular reports on the progress of such projects shall be submitted to the Department.
124. Within its approved overall resources limit, the JAC shall have delegated authority to spend up to £100,000 on any individual capital project or acquisition. Beyond that delegated limit, the Department's prior authority shall be obtained before expenditure on an individual project or acquisition is incurred.

Transfer of funds within budgets

125. Unless financial provision is subject to specific departmental or Treasury controls (e.g. where provision is ring-fenced for specific purposes), transfers between budgets within the total capital budget, or between budgets within the total revenue budget, do not need departmental approval.

Lending, guarantees, indemnities; contingent liabilities; letters of comfort

126. The JAC shall not, without the Department's prior written consent, lend money, charge any asset or security, give any guarantee or indemnities or letters of comfort, or incur any other contingent liability (as defined in *Chapter 26 of Government Accounting*), whether or not in a legally binding form.

Grant or loan schemes

127. Unless covered by a delegated authority, all proposals to make a grant or loan to a third party, whether one-off or under a scheme, shall be subject to prior approval by the Department, together with the terms and conditions under which such grant or loan is made. If grants or loans are to be made under a continuing scheme, statutory authority is likely to be required.
128. The terms and conditions shall include a requirement on the recipient to maintain records in relation to the grant or loan and to ensure that these are readily available for inspection by the JAC, the Department and the C&AG.
129. See also paragraphs 153-155 below.

Gifts made, write-offs, losses and other special payments

130. Proposals for making gifts, donations or other special payments (including write-offs) outside the delegated limits of the JAC must have the prior approval of the Department. The departmental debt manager should be consulted.
131. The JAC shall agree with the Department procedures to ‘write off’ any losses or make any special payments. Following these procedures and up to a limit of £10,000 in each case, the JAC may deal with:
- a. Cash losses
 - 1) Losses by theft, fraud, arson or gross carelessness (where every effort shall be made to secure full recovery, prosecution shall be pursued in all appropriate cases and disciplinary action considered where applicable).
 - 2) Physical losses of cash, e.g. by fire.
 - 3) Loss of cash equivalents, e.g. stamps.
 - 4) Unvouched and incompletely vouched payments.
 - 5) Irrecoverable losses due to overpayments.
 - 6) Unauthorised issues of cash.
 - b. Store losses
 - 1) All losses normally dealt with under this head (including losses by fraud, etc).
 - 2) Constructive losses and fruitless payments.
132. Similarly, the JAC may deal with and make special payments up to a limit of £10,000 in each case. In doing so, the JAC should have regard to the guidance in *Government Accounting* chapter 18 and to any subsequent guidance.
133. Gifts by management to staff and Commissioners are subject to the requirements of DAO (GEN)13/01 and the associated Cabinet Office guidance on non-pay rewards.

Fraud and corruption

134. The JAC shall safeguard itself against fraud, corruption and theft by establishing an anti-fraud and corruption policy and response plan. Any cases of fraud, corruption and theft by Commission members, staff, recipients of JAC grants or others whether proven or suspected (even when the sum involved is within the delegation limits) shall be notified to the Head of Internal Audit in the Department.

Leasing

135. Prior departmental approval shall be secured for all property and finance leases. The JAC shall have capital DEL provision for finance leases and other transactions, which are in substance borrowing (paragraph 111 above).
136. Before entering into any lease (including an operating lease), the JAC shall demonstrate that the lease offers better value for money than purchase.

Property and accommodation

137. The JAC is a non-Crown NDPB that is constituted as a body corporate and has its own landholding powers. The JAC may occupy accommodation on the Government estate with the consent of all interested parties.
138. If the JAC owns land or property that it occupies then the JAC is responsible for the proper management and use of the property it occupies but shall consult the Department before embarking on any significant capital expenditure or acquiring or disposing of property. Any such proposals should be the subject of a formal investment appraisal carried out in accordance with Treasury guidance, and should include consideration of a Public-Private Partnership option. Before acquiring accommodation the JAC should check whether suitable property is available on the Department's estate or other Departments' estates. The JAC shall ensure that it has access to the necessary property expertise to manage its accommodation. The JAC is also required to refer to common good property advice issued by the Office of Government Commerce.
139. Any property held by the JAC is not regarded as property of, or property held on behalf of the Crown, as set out in paragraph 18 (2) of Schedule 12 to the Act.
140. The JAC shall occupy Steel House 11 Tothill Street London SW1H 9LH from April 2006 until the Department reviews its London estate. The Department's Estates team shall ensure that the JAC is kept informed throughout this process. The JAC shall not be directly responsible for the management of Steel House, which shall fall to the Department. This relationship is set out and managed in an MoU between the JAC and the Department's Estates Management Team. The Department shall be responsible for ensuring Steel House is appropriately maintained, particularly in relation to cleanliness, prompt repairs and similar requirements.

Public/Private Partnerships

141. The JAC should seek opportunities to enter into Public/Private Partnerships where this would be more affordable and offer better value for money than conventional procurement. Where cash flow projections may result in delegated spending authority being breached, the JAC shall consult the Department.
140. Any partnership controlled by the JAC shall be treated as part of the JAC in accordance with UK GAAP and consolidated with it subject to any particular treatment required by UK GAAP. Where the judgement over the level of control is a close one, the Department shall consult the Treasury (who may need to consult with the Office of National Statistics over national account treatment).

Subsidiary companies and joint ventures

141. The JAC shall not establish subsidiary companies or joint ventures without the express approval of the Department. In judging such proposals, the Department shall have regard to the Department's wider strategic aim(s), objectives and current Public Service Agreement (PSA).
142. Any subsidiary company or joint venture controlled or owned by the JAC shall be consolidated with it in accordance with UK GAAP for public expenditure accounts purposes subject to any particular treatment required by UK GAAP. Where the judgement over the level of control is a close one, the Department shall consult the Treasury (who may need to consult with the Office for National Statistics over national accounts treatment). Unless specifically agreed with the Department and the Treasury, such subsidiary companies or joint ventures shall be subject to the controls and requirements set out in this Management Statement and Financial Memorandum and to the further provisions set out in supporting documentation.

Financial investments

143. The JAC shall not make any investments in traded financial instruments without the prior written approval of the Department, or build up cash balances or net assets in excess of what is required for operational purposes. Equity shares in ventures which further the objectives of the JAC shall equally be subject to departmental approval unless covered by a specific delegation.

Unconventional financing

144. Unless otherwise agreed with the Department, the JAC shall not enter into any unconventional financing arrangement.

Commercial insurance

145. The JAC shall not take out any insurance without the prior approval of the Department, other than third-party insurance required by the Road Traffic Acts and any other insurance which is a statutory obligation or which is permitted in *30.3.2a-d of Government Accounting*.
146. The Department shall have a written agreement with the JAC about the circumstances in which, in the case of a major loss or third-party claim, an appropriate addition to budget out of the Department's funds and/or adjustment to the JAC's targets shall be considered.
147. A Certificate of Exemption for Employer's Liability Insurance has been issued to the JAC.

VI. Management and Disposal of Fixed Assets

Register of assets

148. The JAC shall maintain an accurate and up-to-date register of its fixed assets.

Disposal of assets

149. The JAC shall dispose of assets which are surplus to its requirements. Assets shall be sold for best price, taking into account any cost of sale. High-value assets shall be sold by auction or competitive tender unless otherwise agreed by the Department, and in accordance with *Government Accounting, Chapter 24*.
150. The JAC may normally retain receipts derived from the sale of assets provided that:
- a. the Department and the Treasury are content for the JAC to retain these receipts;
 - b. They are used to finance other capital spending;
 - c. The Department receives prior notification of individual sales; and
 - d. Total sales in any financial year do not exceed a specified limit normally 3 per cent of the JAC's grant-in-aid (see PES(98)5).
151. If, notwithstanding the above, the JAC disposes of assets which have been purchased, improved or developed with Exchequer funds and the receipts amount to more than £1million, or where the disposal has unusual features of which Parliament should be aware, Parliamentary approval shall be secured for the receipts to be reinvested. The receipts shall therefore be surrendered to the Department, which shall then submit an Estimate seeking

approval for the receipts to be appropriated in aid by the Department and for a corresponding increase in the JAC's grant-in-aid. If the proposed new investment exceeds the JAC's relevant delegated authority the Department's approval shall be needed.

152. If the criteria in paragraph 150 above are not met, any receipts shall be dealt with in line with the rules on surplus in-year receipts.

Recovery of grant-financed assets

153. Where the JAC has financed expenditure on capital assets by a third party, the JAC shall make appropriate arrangements to ensure that any such assets are not disposed of by the third party without the JAC's prior consent.

154. The JAC shall therefore ensure that such conditions are sufficient to secure the repayment of the Exchequer's due share of the proceeds of the sale, in order that funds may be surrendered to the Department.

155. The JAC shall ensure that if the assets created by grants made by the JAC cease to be used by the recipient of the grant for the intended purpose, a proper proportion of the value of the asset shall be repaid to the JAC for surrender to the Department. The amounts recoverable under the procedures in paragraphs 148-149 above shall be calculated by reference to the best possible value of the asset and in proportion to the Exchequer's original investment(s) in the asset.

VII. Budgeting Procedures

Setting the annual budget

156. Each year, in the light of decisions by the Department on the JAC's updated draft corporate plan, the Department shall send to the JAC:

- a. a formal statement of the annual budgetary provision allocated by the Department in the light of competing priorities across the Department and of any forecast income approved by the Department. The Department will aim to provide this at least one month before the target date the draft business plan is required by the Department; and
- b. a statement of any planned change in policies affecting the JAC.

157. The JAC's approved annual business plan takes account both of its approved funding provision and of any forecast receipts, and includes a budget of estimated payments and receipts together with a profile of expected expenditure on a resource accounting and budgeting basis and of draw-down of any departmental funding and/or other income over the year. These elements shall form part of the approved business plan for the year in question. Cash draw-down is on a quarterly basis.

158. Any grant-in-aid provided by the Department for the year in question is voted in the Department's Estimate and is subject to Parliamentary control.

General conditions for authority to spend

159. Once the JAC's budget has been approved by the Department and subject to any restrictions imposed by statute, the Lord Chancellor or this document, the JAC shall have authority to incur expenditure approved in the budget without further reference to the Department, on the following conditions:

- a. the JAC shall comply with the delegations issued by the Department. These delegations shall not be altered without the prior agreement of the Department;
- b. the JAC shall comply with the conditions set out in paragraph 87 above regarding novel, contentious or repercussive proposals;
- c. inclusion of any planned and approved expenditure in the JAC's budget shall not remove the need to seek formal departmental approval where any proposed expenditure is outside the delegated limits or is for new schemes not previously agreed;
- d. the JAC shall provide the Department with such information about its operations, performance, individual projects or other expenditure as the Department may reasonably require.

Providing financial monitoring information to the Department

160. The JAC shall provide the Department with, as a minimum, information on a quarterly basis which shall enable the satisfactory monitoring by the Department of:

- a. the JAC's cash management;
- b. its draw-down of any grant-in-aid;
- c. forecast outturn by resource headings; and
- d. other data required for the Government Expenditure Monitoring Systems.

161. The management information requirement in paragraph 160 above is to be set out and agreed between the JAC and the Department and reconsidered annually or as needed.

VIII. Banking

Banking arrangements

162. The JAC's Accounting Officer is responsible for ensuring that its banking arrangements are in accordance with the requirements of *Government Accounting* and the Treasury guidance document *Departmental Banking: A Manual for Government Departments*. In particular, he/she shall ensure that the arrangements safeguard public funds and are carried out efficiently, economically and effectively.
163. The Accounting Officer shall therefore ensure that:
- a. the arrangements are suitably structured and represent value for money, and are reviewed at least every two years, with a comprehensive review, usually leading to competitive tendering, at least every three to five years;
 - b. sufficient information about banking arrangements is supplied to the Department's Accounting Officer to enable the latter to satisfy his/her own responsibilities;
 - c. the JAC's banking arrangements shall be kept separate and distinct from those of any other person or organisation; and
 - d. adequate records are maintained of payments and receipts and adequate facilities are available for the secure storage of cash.

IX. Compliance with Instructions and Guidance

Relevant documents

164. The JAC shall comply with the following general guidance documents:
- a. This document.
 - b. *Government Accounting*, including in particular the Accounting Officer memorandum for NDPBs (reproduced in *Annex 8.2 of Government Accounting*).
 - c. *Non-Departmental Public Bodies – a Guide for Departments* (the NDPB Guide), issued by the Cabinet Office.
 - d. *Government Internal Audit Standards*, issued by the Treasury.
 - e. *Managing the Risk of Fraud*, issued by the Treasury.
 - f. *Executive NDPBs – Annual Reports and Accounts Guidance*, issued by the Treasury, and the Department's Financial Reporting Manual.
 - g. *The Fees and Charges Guide*, issued by the Treasury.
 - h. *Departmental Banking: A Manual for Government Departments*, issued by the Treasury.
 - i. Relevant "Dear Accounting Officer" (DAO) letters, issued by the Treasury.

- j. *Regularity and Propriety and Value for Money*, issued by the Treasury.
- k. The Consolidation Officer memorandum, issued by the Treasury.
- l. Relevant “ Dear Consolidation Officer “ (DCO) letters, issued by the Treasury.
- m. Other relevant guidance and instructions issued by the Treasury in respect of Whole of Government Accounts.
- n. Other relevant instructions and guidance issued by the central Departments.
- o. Specific instructions and guidance issued by the sponsor Department.
- p. Recommendations made by the Public Accounts Committee, or by other Parliamentary authority, which have been accepted by the Government and which are relevant to the JAC.

X. Variations to Financial Memorandum

165. The Treasury shall be consulted on any significant variation proposed to this Financial Memorandum and the associated Management Statement.

Annex A

Summary of Reporting Requirements

Due date	Requirement
December - March	Department to notify the JAC of its formal allocation
January	JAC submit 3 rd Quarterly Performance Report
February	JAC to submit draft Business Plan covering the financial year ahead (dependent on date of receipt of allocation notification)
March	JAC to submit draft Corporate Plan covering three financial years ahead JAC to submit profiles of expected quarterly draw-down of grant-in-aid over the financial year ahead
Before beginning of each financial year	JAC to publish Corporate Plan
April	JAC to submit Annual Performance Report JAC to submit annual report on Fraud & Theft
May	JAC to submit Draft Annual Report to the DCA
June	NAO to audit JAC's Annual Report, SIC and Statement of Accounts JAC to submit audited Annual Report and Accounts to the Secretary of State to be laid before Parliament prior to the Parliamentary Summer Recess
Before Parliamentary Summer Recess	JAC to publish Annual Report and Accounts
July	JAC to submit 1 st Quarterly Performance Report
September	HMCS/Tribunals to provide forecasts for appointments to JAC
October	JAC to submit 2 nd Quarterly Performance Report

Memorandums of Understanding (MoUs) will be reviewed as and when required.

For more information about the Judicial Appointments Commission, please call the general enquiries number on 020 7210 1453 or email enquiries@jac.gsi.gov.uk.

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