

# **GUIDANCE ON NI PUBLIC AUDIT PROCESS INCLUDING PAC SCRUTINY OF PUBLIC SPENDING**



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# Glossary of Abbreviations

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Arm's Length Body	ALB
Comptroller & Auditor General for Northern Ireland	C&AG
Department of Finance	DoF
Managing Public Money Northern Ireland	MPMNI
Memorandum of Reply	MoR
Northern Ireland	NI
Northern Ireland Assembly	the Assembly
Northern Ireland Audit Office	NIAO
Northern Ireland Executive	the Executive
Public Accounts Committee	PAC
Public Accounts Committee Chairperson	the Chair
Treasury Officer of Accounts	TOA

# Foreword

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## Guidance on NI Public Audit Process including PAC Scrutiny of Public Spending

### Purpose

This guidance is based on HM Treasury's 2015 *Parliamentary scrutiny of public spending* and is primarily aimed at assisting Accounting Officers of Northern Ireland's (NI) central government departments and organisations, senior officials, Finance Directors and others involved in the public audit process and the value for money scrutiny of government spending undertaken by the Northern Ireland Assembly (the Assembly).

The guidance focusses on how to:

- engage with the Northern Ireland Audit Office (NIAO) on the Comptroller and Auditor General's (C&AG's) value for money studies and other public reports;
- prepare for appearances before the Public Accounts Committee (PAC);
- respond to the PAC's recommendations; and
- implementation of, and follow-up to PAC recommendations.

It is of particular assistance and relevance to those in departments or organisations who have a role in briefing and advising Accounting Officers and others throughout the scrutiny process.

The *Guidance on NI Public Audit Process including PAC Scrutiny of Public Spending* comes in two parts: six relatively short chapters providing core guidance followed by a series of supporting annexes which provide more detailed information and advice.

### Essential reading

For those new to the NI Assembly spending scrutiny process or in need of a simple refresh, it is recommended that they, at least, read the first four chapters of this guidance. Other relevant supporting annexes can be considered as necessary.

### Guidance available online

The guidance is available online in the Accountability and Financial Management section of the Department of Finance (DoF) website.

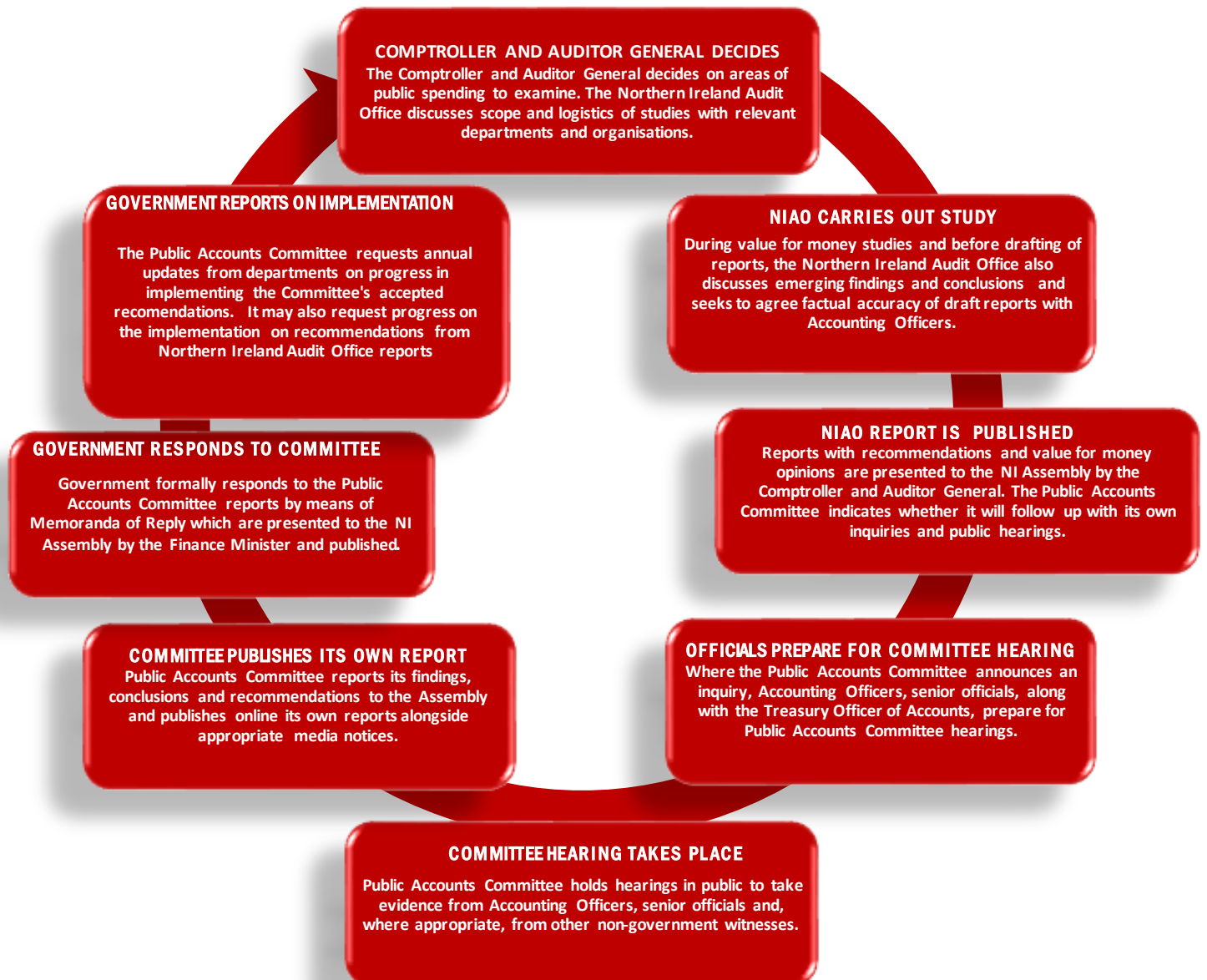
### Regularly updated

The *Guidance on NI Public Audit Process including PAC Scrutiny of Public Spending* is maintained by the Treasury Officer of Accounts (TOA) team in DoF. It is intended that the guidance will be updated regularly to take account of the latest developments in the public audit process and PAC protocols, changes in procedures and best practice. So, users of the guidance should always check that they are using the latest version.

**This version of the guidance**

This is *Guidance on NI Public Audit Process including PAC Scrutiny of Public Spending: Version 1* (June 2021).

# The cycle of the Public Audit Process and PAC scrutiny of public spending undertaken by Northern Ireland government departments and organisations



# Northern Ireland Assembly scrutiny of public spending

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## About this chapter

**1.1** This chapter provides an overview of how the NI Assembly scrutinises the spending of public money by Northern Ireland's (NI) central government departments and public sector organisations. A simple chart showing the cycle of the Assembly's scrutiny is provided on page 4.

## NI Assembly scrutiny of public spending

**1.2** The Northern Ireland Executive (the Executive), NI departments and their sponsored public sector organisations, are largely financed from public funds approved and authorised by the NI Assembly. Assembly scrutiny comes in two stages: before and after legislative authority to spend has been received by the Executive:

- the first stage is prospective or forward looking in that the Executive's projected future revenues, spending plans and underpinning policies are examined by the relevant departmental statutory committees; and
- the second stage is retrospective where actual spending and how wisely taxpayers' money has been or is being used in the delivery of government policies and statutory obligations is examined. This latter scrutiny is undertaken mainly, but not exclusively, by the Public Accounts Committee (PAC).

**1.3** For guidance on the scrutiny of prospective spending, not yet approved by the NI Assembly, see *Supply Estimates in Northern Ireland: Guidance Manual*<sup>1</sup> published by the Department of Finance (DoF). This guidance, *The Guidance on NI Public Audit Process including PAC Scrutiny of Public Spending*, however, focuses on the retrospective scrutiny of spending already approved by the Executive.

## NI Assembly and Department of Finance controls over public spending

**1.4** A system of Assembly and Department of Finance (DoF) controls over spending by government has emerged and evolved to protect and safeguard taxpayers' interests and resources. Spending outside these controls is either irregular or improper<sup>2</sup> and likely to incur possible DoF sanctions as well as Assembly censure.

**1.5** Northern Ireland departments are statutory corporations and as such have no powers except those which are conferred on them by, or under statute. Even if they have the legal power to do something they will only be able to pay for it if they have the financial authority to expend the money. This must be provided through the Assembly which provides the necessary resources through the Supply Estimate system and confirming Budget Act unless,

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<sup>1</sup> See [Supply Estimates in Northern Ireland: Guidance Manual](#) published by DoF which may be accessed online on the publications page of the Department of Finance website

<sup>2</sup> See paragraph 2.4 of *Managing Public Money Northern Ireland (MPMNI)* for more information on the concepts of regularity and propriety in the use of public funds which may be accessed online in the Accountability and Financial Management section of the Department of Finance website.



exceptionally, a statute authorises a direct charge on the Northern Ireland Consolidated Fund. In the PAC Concordat of 1932, HM Treasury undertook to aim that departments would respect this requirement. DoF has agreed to observe this principle. Therefore for expenditure to be properly incurred, there should be specific statutory authority for the activity or service as well as authority through the Budget Act for the related expenditure.

**1.6** As well as providing specific statutory authority to spend up to certain departmental limits and to safeguard taxpayers' interests further, the NI Assembly also requires that no resources may be properly committed or spent without the specific prior consent of DoF<sup>3</sup>. The NI Assembly has therefore delegated responsibility to DoF to operate these consents through setting the financial framework, budgetary controls and departmental delegated authorities within which NI departments and organisations manage and use public money.

**1.7** There are, however, some kinds of spending, such as extra-statutory, extra-contractual, ex-gratia, novel or contentious, which DoF cannot delegate and require explicit DoF consent on each occasion<sup>4</sup>. Similarly, DoF approval must always be sought where there is a statutory requirement for such approval.

**1.8** Finally, the NI Assembly also looks to DoF to promote across government and more widely across the public sector, efficiency, effectiveness and economy in the use of public money as set out in *Managing Public Money Northern Ireland* (MPMNI) and other DoF guidance.

### **Financial accountability to the NI Assembly**

**1.9** As part of this framework of the NI Assembly and DoF controls, departments and organisations are statutorily required to account fully for the consumption of public resources by presenting annually to the NI Assembly audited financial accounts (annual reports and accounts). In the main, these accounts are audited by the Northern Ireland Audit Office (NIAO) with the Comptroller and Auditor General for Northern Ireland (C&AG) giving an audit opinion including whether the financial transactions in the accounts have appropriate NI Assembly authority and DoF approval expected by the Assembly. However, regardless of the audit opinion, Assembly statutory committees and PAC, may nevertheless choose to scrutinise a department's or organisation's accounts.

### **Value for money accountability to the NI Assembly and the role of Comptroller and Auditor General**

**1.10** As part of the continuous scrutiny of spending and value for money, the C&AG has the power to investigate all spending by government departments and, in specified circumstances, the spending of other public authorities and bodies. Indeed, legislation (The Audit (Northern Ireland) Order 1987<sup>5</sup>) states that the C&AG has 'complete discretion' in the discharge of his or her functions, including determining areas of public expenditure to scrutinise in terms of economy, efficiency and effectiveness but is not permitted to 'question the merits of policy objectives' for these purposes. In exercising his or her discretion, the C&AG will consult with the PAC regarding future value for money studies.

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<sup>3</sup> See section 2.3 of *Managing Public Money Northern Ireland* for more information on Department of Finance consents to spend, which may be accessed online in the Accountability and Financial Management section of the Department of Finance website.

<sup>4</sup> See box 2.4 of *Managing Public Money Northern Ireland* for examples of spending requiring explicit Department of Finance consents, which may be accessed online in the Accountability and Financial Management section of the Department of Finance website.

<sup>5</sup> The Audit (Northern Ireland) Order 1987 may be accessed online on the official government legislation website.

**1.11** For the purposes of audit, under the Audit and Accountability (Northern Ireland) Order 2003<sup>6</sup>, the C&AG has extensive statutory rights of access to central government institution's records whatever they are and whatever form they may take. Failure to provide the information the C&AG requires in order to carry out his or her investigations, would be irregular and unacceptable to the Assembly.

**1.12** In most cases, the C&AG reports his or her value for money findings along with making recommendations to the NI Assembly. Since, the C&AG has no legal power to evaluate or challenge policy or Ministerial discretion, his or her reports, while often contextually describing relevant government policies, will not comment on their merits.

### **Value for money accountability to the NI Assembly and the role of the Public Accounts Committee**

**1.13** The function of the PAC is to examine public spending with the benefit of hindsight, to highlight good practice and poor value for money, and to recommend improvements to the stewardship of taxpayers' money. In carrying out its statutory remit it considers the accounts and report on accounts laid before the Assembly as set out in Section 60(3) of the 1998 Act and Standing Order 56 (1). These reports are mainly value for money reports and other public reports<sup>7</sup> from the C&AG as the bases for its inquiries and public hearings.

**1.14** The PAC operates in a non-political manner and its membership reflects the political balance of the NI Assembly. However, as reflected in Standing Order 56 (3) of the Northern Ireland Assembly, *neither the chairperson nor the deputy chairperson of the committee shall be a member of the same political party as the Minister of Finance and Personnel (now the Department of Finance) or of any junior Minister appointed to the Department of Finance and Personnel (now Department of Finance)*. The Committee does not question the rationale or merits of government spending policies or allocations which is left to other departmental statutory committees to undertake, if they so wish.

**1.15** After the Committee has conducted its inquiries, it lays and publishes online its own reports, setting out its findings and recommendations. Where the Committee decides not to take an inquiry it may write to departments that have been subject to a value for money, or other public report, asking for an update on the progress of implementing the C&AG's recommendations. It may also dispose of a report to the relevant Assembly statutory committee.

### **Value for money accountability to the NI Assembly and the role of Accounting Officers<sup>8</sup>**

**1.16** Civil servants are accountable to Ministers, who in turn are accountable to the NI Assembly. However, as set out in DoF's MPMNI, Accounting Officers uniquely have a direct, personal<sup>9</sup> and fiduciary duty to the Assembly in relation to the use of public resources, which arise from their office. They are expected to:

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<sup>6</sup> The Audit and Accountability (Northern Ireland) 2003 may be accessed online on the official government legislation website.

<sup>7</sup> These can include emerging issue reports, investigations, impact reports, general reports and good practice guides, all of which are available on the NIAO website,

<sup>8</sup> Accounting Officers are usually, but not exclusively, Permanent Secretaries or heads of government departments or Chief Executives of central government organisations. Departmental or Principal Accounting Officers are appointed by the Department of Finance who in turn appoints the heads of their Executive Agencies and Arm's Length Bodies as Accounting Officers. See chapter 3 of MPMNI for more details on the role of Accounting Officers which may be accessed online in the Accountability and Financial Management section of the Department of Finance website.

<sup>9</sup> The concept of personal responsibility of Accounting Officers was instituted by the Treasury and confirmed by Parliament in October 1883.

- firstly, manage and spend taxpayers' money wisely and to achieve value for money for the public sector as a whole and not just for their own departments or organisations;
- secondly, supported by their officials, engage fully with the C&AG and the NIAO in the conduct of value for money studies and investigations; and
- thirdly, account directly and fully to the Assembly in their own right, and not through Ministers, for all past and current spending within their responsibility.

### **Public hearings of the Public Accounts Committee**

**1.17** On behalf of the NI Assembly, the PAC constantly conducts detailed inquiries into government spending in which Accounting Officers, including on occasion former Accounting Officers, and senior officials give oral evidence at its public hearings. On occasions, to widen its perspective, the Committee may also call on others involved in the delivery of public services to give evidence.

**1.18** The C&AG attends all hearings and may be asked questions by the Committee or to contribute to the hearings. The Treasury Officer of Accounts (TOA) from DoF also attends all hearings on behalf of DoF as the central department concerned with financial matters and may also be asked questions by the Committee and contribute to the hearings. This allows scope for the PAC to explore issues of more general application arising out of the subject of the hearing.

**1.19** Depending on the nature of the Committee's inquiries, its hearings may attract considerable public and media interest, and are generally broadcast and streamed live over the internet. However, where commercially sensitive or confidential matters these are likely to be discussed or disclosed, the Committee may choose to hear evidence in closed session, excluding the public and the media.

### **Reports of the Public Accounts Committee**

**1.20** Usually within twelve weeks after each hearing, the Committee formally lays and publishes online its reports alongside a media release, detailing its findings, conclusions and recommendations<sup>10</sup>. These reports may take account of evidence already provided by the C&AG's reports, oral evidence taken at its hearings, supplementary written evidence submitted after hearings as well as other evidence that may have been provided separately.

**1.21** Because of their non-political nature and their focus on value for money, the Committee's reports are generally held in high regard both inside and outside the NI Assembly and across the political spectrum. Generally, the vast majority of the Committee's recommendations are accepted.

### **Government responses to the Public Accounts Committee's reports in Memoranda of Reply**

**1.22** For each and every PAC report, the Executive responds to the Committee's findings and recommendations by means of Memoranda of Reply (MoR) presented to the NI Assembly by the Finance Minister and published online, indicating those recommendations which have been accepted and those which have either not been accepted or partially accepted<sup>11</sup>. For

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<sup>10</sup> Public Accounts Committee reports and media releases may be accessed on the NI Assembly website, under Committees, NI Committees (choose relevant mandate), Public Accounts, Reports.

<sup>11</sup> Copies of DoF Memoranda of Reply may be accessed online in the Accountability and Financial Management section of the Department of Finance website.

those accepted, the MoR will include the actions that departments are planning to take to address those recommendations, together with target implementation dates. For those recommendations not accepted or partially accepted, the response will set out reasons for non-acceptance and what alternate actions will be taken.

### **Progress on implementing the Committee's accepted recommendations**

**1.23** As part of the accountability framework, PAC will generally request an update on progress in implementing Committee recommendations, in twelve months' time following the publication of a MoR, or sooner if it is deemed necessary. On occasions, PAC will request further updates beyond the twelve month period, if some recommendations remain outstanding.

# The Comptroller and Auditor General for Northern Ireland and the Northern Ireland Audit Office

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## About this chapter

**2.1** This chapter describes the Comptroller and Auditor General's (C&AG's) Auditor General function, supported by the Northern Ireland Audit Office (NIAO), in auditing the financial accounts and in reporting on the value for money performance of NI government departments and organisations to the Assembly. The Comptroller function is outside the scope of this document.

## The Comptroller and Auditor General

**2.2** The role of the C&AG, who is by statute an Officer of the NI Assembly, is wholly independent of government, and is the Accounting Officer<sup>12</sup> and Head of the NIAO. In addition to statutory audit responsibilities, the C&AG has 'complete discretion'<sup>13</sup>, as far as the law provides, in determining the areas of public spending to be examined in terms of value for money, propriety and regularity scrutiny. He or she regularly reports to the NI Assembly on the full range of spending undertaken by government departments and organisations. See Annex A for more details on the statutory basis for the C&AG's value for money and other public reporting studies.

**2.3** The C&AG has, under law, comprehensive rights of access<sup>14</sup> to relevant information and records held by the departments and organisations for the purposes of carrying out financial audits, value for money studies and other investigations. The C&AG is also entitled to an explanation of the relevant documents and records. Departments and public sector organisations are expected to co-operate fully with NIAO teams in providing the C&AG with relevant information. See also Annex A for more details on the C&AG's legal rights of access to information.

**2.4** The C&AG also has access rights to certain bodies where he is not the appointed auditor. He uses these rights to bring any material matters to the attention of the Assembly. Such bodies include Housing Associations, Universities, Voluntary Grammar Schools, Grant Maintained Integrated Schools and other entities, such as Public Private Partnerships.

## The Northern Ireland Audit Office

**2.5** The Audit (Northern Ireland) Order 1987 established the NIAO. It is wholly independent of government so its employees are not civil servants and do not report to Ministers. It is funded directly by the Assembly (not government) within an annual budget approved by the

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<sup>12</sup> Under the Audit (Northern Ireland) Order 1987, DoF appoints the C&AG for Northern Ireland as Accounting Officer for the Northern Ireland Audit Office.

<sup>13</sup> See [Part II, Article 3 of the Audit \(Northern Ireland\) Order 1987](#) which may be accessed at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>14</sup> See [Part III, Article 10 of the Audit \(Northern Ireland\) Order 1987](#) and [Article 3 of the Audit and Accountability \(Northern Ireland\) Order 2003](#) which may be accessed at [www.legislation.gov.uk](http://www.legislation.gov.uk).

Assembly taking account of the views of the Public Accounts Committee (PAC) and the Department of Finance (DoF). The core central government activities<sup>15</sup> of the NIAO include:

- the annual audit of the financial accounts of NI government departments and organisations; and
- supporting the C&AG in the provision of value for money and other public reports to the NI Assembly.

### **Financial audits of central government spending**

**2.6** Under law, the C&AG is required to provide an opinion on some 142 financial accounts of NI government departments and organisations and to state whether they are ‘true and fair’, free from material misstatements, and properly prepared as well as to confirm that the transactions recorded in the accounts have appropriate Assembly authority and DoF approval<sup>16</sup>. Most of the accounts are prepared under the government’s *Financial Reporting Manual*<sup>17</sup>, but many are prepared in accordance with the legislation and standards covering companies, charities and pension schemes in Northern Ireland.

**2.7** Where material misstatements in the financial accounts of departments or organisations are identified, the C&AG will give a qualified opinion and prepare a separate report to the Assembly. Even where there are no material errors or irregularities in the accounts, the C&AG may, nevertheless, prepare a report to the Assembly on other significant matters. Sometimes where no report is made, NIAO may still, where appropriate, write a letter to the management of a department or organisation outlining where improvements could be made.

### **Public reporting programme of central government spending**

**2.8** NIAO defines value for money audit as ‘an independent evidence based investigation which examines and reports on whether economy, effectiveness and efficiency has been achieved in the use of public funds’. On behalf of the C&AG, NIAO undertakes a wide ranging public reporting programme which results in the publication of approximately 11 evidence-based public reports<sup>18</sup> which include a number of value for money reports each year for the Assembly. The public reporting programme is based on a strategic view of the challenges facing the public sector.

**2.9** As well as traditional value for money studies, it has more recently developed a range of reporting outputs. This has more emphasis on reports that make real impact, and includes some more investigative style reports, impact reports which examine and follow-up on previously published reports, and reports that are shorter and sharper and more responsive to emerging issues. These shorter reports are focused and facts-based, designed to provide the Assembly with a rapid assessment of service quality, service failure (if any) and financial management without making judgements. In other words, ‘the facts should speak for themselves’.

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<sup>15</sup> Under the lead of the Local Government Auditor, the Northern Ireland Audit Office also conducts a large programme of statutory audits and public reports on local government bodies, reporting to the Department for Communities. As the Assembly does not perform a scrutiny role of local government bodies this programme of work falls outside the scope of this document.

<sup>16</sup> See [subsections 6\(1\), 6\(2\), 6\(3\), 7\(4\) and 11\(2\) of the Government Resources and Accounts Act \(Northern Ireland\) 2001](#) which may be accessed at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>17</sup> See the [Financial Reporting Manual](#) which is published by HM Treasury and may be accessed online in the Accountability and Financial Management section of the department of Finance website.

<sup>18</sup> These include value for money reports, emerging issue reports, investigations, impact reports, general reports and good practice guides which are available online on the NIAO website.

**2.10** The studies undertaken to produce these reports can be forensic in nature covering a range of government spending programmes and public administration, and can reach across several departments and organisations. Any of the C&AG's reports, in particular the value for money reports, may be used by the PAC as the basis of subsequent inquiries and public hearings. The Committee ultimately decides which of the C&AG's reports it will select to consider in detail, based on its own strategic priorities.

**2.11** Prior to the commencement of a study, particularly during the scoping stage, departments and organisations should seek to understand the relative knowledge, competences and skills of teams in the areas to be studied in order to determine the degree of engagement and levels of resources to be allocated. Where a study is cross-governmental, departments and organisations should liaise closely with each other and agree a 'lead department' to coordinate work across government consulting with DoF as necessary.

**2.12** From before the start of and throughout a study, it is essential for departments and organisations, to work closely with NIAO teams in order to understand fully its scope, the provision of information required by NIAO, the resources needed to support the study, and the emerging findings and conclusions. In doing so, departments and organisations are also expected to provide NIAO teams with information that is reasonably required to carry out their studies<sup>19</sup>. Indeed, where necessary, departments and organisations should also alert NIAO teams to data and evidence not requested by them but which departments or organisations feel are relevant and material to presenting a proper balance of up-to-date facts. Lead business areas within departments should ensure their Finance Director is kept informed of any ongoing NIAO studies and any relevant issues raised within them.

**2.13** Before their publication and presentation to the NI Assembly, the studies' draft reports are agreed with Accounting Officers in terms of factual accuracy, completeness and balance so as to inform properly and fully the C&AG's findings, conclusions, recommendations and final value for money opinion. The Treasury Officer of Accounts (TOA) in DoF is also copied into all draft reports to consider any wider issues.

**2.14** PAC will normally consider NIAO reports, selecting those which it believes merit taking forward as part of its work programme. Other statutory Assembly Committees may consider NIAO reports which have not already been selected by PAC. Therefore it is important that the facts in all NIAO reports are formally agreed by both NIAO and the relevant Accounting Officer(s) prior to publication, and that they are factual, evidence-based, accurate and balanced in content. Departments are expected to co-operate fully with any studies undertaken by NIAO. However, it is important to note that, under a longstanding convention, PAC has primacy on considering NIAO reports, as it is for them in the first instance, to dispose of all reports laid by the C&AG before the Assembly.

### **Importance of early senior engagement with the Comptroller and Auditor General**

**2.15** From the outset, departments and organisations should actively engage with the NIAO teams particularly during the pre-drafting stage of its public reports in order to be alert to emerging findings, conclusions and areas of possible difficulty. Understanding the NIAO's rationale for emerging findings and why certain relevant data are not being taken into account or how other data are being somehow 'misinterpreted' is essential to a productive engagement.

**2.16** It is therefore highly important that Accounting Officers are fully briefed by officials throughout the progress of individual studies pointing out to them, at the earliest opportunity,

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<sup>19</sup> See [section 8 of the Northern Ireland Audit Act 1983](#) which may be accessed at [www.legislation.gov.uk](http://www.legislation.gov.uk).

areas of concern (Finance Directors should also be made aware of any issues as appropriate). Leaving areas of significant difficulty unresolved beyond the pre-drafting stage in the course of NIAO studies can be administratively inefficient and costly for both the NIAO and departments or organisations concerned. It could also, from the government's perspective, undermine full and accurate accountability which could have been avoided.

**2.17** Where, despite sustained engagement with the NIAO teams, unresolved areas of difficulty remain, it may be necessary for the Accounting Officer to have a discussion with the C&AG who will, on a 'best endeavours' basis seek to resolve outstanding issues, prior to publishing the report. Nevertheless, the final contents, conclusions, recommendations and value for money opinion (if applicable) of a report will always remain a matter solely for the C&AG.

### **Agreeing the facts base of public reports**

**2.18** Where, even after careful engagement, a report or any part of it contains statements of fact or alleged fact, material factual omissions giving rise to implications, opinions or impractical recommendations with which a department or organisation disagrees or considers unfairly presented, this must be made clear to NIAO by the Accounting Officer. Departments should also engage with the TOA team in DoF where such difficulties arise. It should not be left close to the date of the report's publication. In the event that departments or organisations fail to negotiate appropriate and reasonable changes, Accounting Officers should seek, as early as possible, further discussion with the C&AG, including where necessary, the TOA. Where there are implications for across government, they should also be brought to the attention of DoF so that a wider government position can be agreed as necessary. See Annex B for more detailed guidance on agreeing draft value for money reports.

**2.19** Accounting Officers will always strive to agree the facts of value for money reports in terms of accuracy, completeness and balance and will usually go to considerable lengths to reach agreement with the C&AG. Nevertheless, Accounting Officers also have a duty, in the public interest and in transparency, to ensure that the facts base is fairly, fully and accurately presented from the government's perspective. It would be very rare indeed that agreement could not be reached since the PAC, the government, the public and media commentators find disagreement on the facts base less than acceptable and as fundamentally undermining the integrity and validity of the NI Assembly scrutiny system.

### **Non-agreement on the facts base of public reports**

**2.20** Where, however, the C&AG does not agree to amend, remove disputed or include relevant material, which is his or her prerogative, the Accounting Officer should ensure that his or her disagreement and reasons for it are included in the report alongside the statements concerned. This should be done whether or not the disputed material or statements in the report are attributable to NIAO or a third party. Where there is a likelihood of disagreement, the TOA should also be kept informed and consulted as appropriate.

### **Publication of Comptroller and Auditor General's reports and publicity**

**2.21** The C&AG's public reports follow a consistent format and include an executive summary, details of their scope, methodology key findings, and, where applicable, recommendations. There are often a number of appendices outlining other relevant information.

**2.22** Once reports have been agreed by Accounting Officers and a date has been finalised for publication, NIAO will prepare a draft media release for issue with the report on publication.



NIAO will engage with departments on the contents of the media release for factual accuracy at least one week prior to publication of the report where possible. Accounting Officers should be consulted when commenting on the draft media releases bearing in mind that the C&AG is the final arbiter on their content.

**2.23** Embargoed copies of the reports and final media releases are usually made available by NIAO to the departments and organisations concerned and to DoF at least two days before publication.

**2.24** When the reports are published, the C&AG's comments on value for money and service delivery often attract media attention and enquiries. It is therefore important to brief and advise Ministers and departmental press offices beforehand on imminent reports and press notices so that they are not caught unaware and can respond to any media queries.

### **Media handling immediately on publication of Comptroller and Auditor General's reports**

**2.25** The general guiding principle is that it is inappropriate to comment in detail in advance of a potential PAC hearing and the Finance Minister's response to subsequent PAC recommendations. NIAO reports are agreed reports, and any comment considered necessary should generally be confined to quoting material contained in the report itself (including expressions of departmental views), and correcting any misstatements of fact or interpretation in media coverage. Any comments in these circumstances should also observe the long-standing convention that immediate comment should not be controversial. Prior to making any comments, departments should engage with the TOA team in DoF. See Annex I on Media Protocols for further detail.

#### **Annexes relevant to chapter 2**

[Annex A](#): The Comptroller and Auditor General's statutory rights

[Annex B](#): Working with the Northern Ireland Audit Office on value for money studies

[Annex I](#): Media Protocols

# NI Assembly Public Accounts Committee

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## About this chapter

**3.1** This chapter provides an overview of the role of the Public Accounts Committee (PAC) in holding to account, on behalf of the Assembly, the financial and value for money performance of government departments and organisations. It also outlines the Committee's powers and procedures.

## NI Assembly Public Accounts Committee

**3.2** The Public Accounts Committee (PAC) is a Standing Committee of the Northern Ireland Assembly established in accordance with Section 60(3) of the Northern Ireland Act 1998 and under Assembly Standing Order 56 which states:

- *There shall be a standing committee of the Assembly to be known as the Public Accounts Committee to consider accounts, and reports on accounts laid before the Assembly.*
- *The committee may exercise the power in section 44(1) of the Northern Ireland Act 1998 and may report from time to time.*
- *Neither the chairperson nor the deputy chairperson of the committee shall be a member of the same political party as the Minister of Finance and Personnel or of any junior Minister appointed to the Department of Finance and Personnel.*

## Powers of the Committee to call witnesses

**3.3** As reflected in Standing Order 56, the Committee's powers and remit are set out in section 44(1) of the Northern Ireland Act 1998. The Committee has wide Assembly powers to send for '*persons, papers and records*' and to require witnesses to attend its hearings and to provide full and truthful evidence. Failure to attend its hearings, when requested, may be regarded as being guilty of an offence for which the NI Assembly has the power to punish offenders.

## Evidence on oath

**3.4** Under Section 46 of the Northern Ireland Act 1998, the Committee also has power to take evidence under oath. This rarely happens but any person who refuses to take an oath is guilty of an offence.

## Privilege

**3.5** Under Section 50 of the Northern Ireland Act 1998, all evidence given by witnesses to a Committee, whether in written or oral form is covered by privilege. As a result, no action may lie in defamation against a witness in respect of statements whether written or oral to a Committee.

**3.6** In addition, departments or organisations may not take disciplinary action against officials (or anyone else) as a consequence of their giving evidence to the Committee. Such action might be regarded as a contempt of parliament with potentially serious consequences for those

involved. Therefore, this protection extended to witnesses under the Bill of Rights 1689 must not be undermined or abused in any way by anyone.

### **Public Accounts Committee's hearings**

**3.7** When the Assembly is sitting, the Committee usually holds public hearings on Thursday afternoons in the Senate Chamber or Room 30 in Parliament Buildings. Most hearings are held in public and the media may be present, although some or part of them may be held in closed session where commercially confidential or other sensitive matters are to be discussed.

**3.8** Members of the Committee sit down the sides of an oblong table, with the Chair, supported by the Committee Secretariat, at one end. The Comptroller and Auditor General (C&AG) along with Northern Ireland Audit Office (NIAO) officials sit behind members on one side, and the Treasury Officer of Accounts (TOA) and supporting officials sit behind members on the opposite side. Accounting Officers and other witnesses sit opposite the Chair and Committee Secretariat. Other seats are available in the public gallery, and behind where witnesses sit, for members of the public and the media. There are microphones around the table for audio and video recording purposes only and do not make voices louder, so witnesses are therefore encouraged to speak up.

**3.9** Evidence taken before the Committee is usually conducted with a degree of pragmatism and informality although it is important not to refer to colleagues simply by their first names but to use their full names and/or titles for the benefit of the viewing or listening public. The length of the hearings varies considerably often depending on the number of members present and the degree of their interest in the issues being examined. Hearings may range from around two hours to over three hours. In order for evidence sessions to go ahead there has to be a quorum of four members present.

**3.10** During hearings, the Committee may also direct questions to the C&AG and the TOA.

### **Department of Finance, the Treasury Officer of Accounts and the Committee**

**3.11** The Assembly looks to the Department of Finance (DoF) to make sure that departments use their powers only as it has intended, and that expenditure is within agreed limits. It therefore falls to DoF to set the ground rules for the administration of public money, and to account to the Assembly for doing so. The Assembly also regards DoF as an ally in controlling overall public spending, promoting sound financial management and corporate governance, and in the delivery of value for money.

**3.12** Formally the Accounting Officer in a public sector organisation is the person who the Assembly calls to account for the stewardship of public funds. DoF appoints the head of each central government department to be its Accounting Officer and they are directly and personally accountable, without Ministerial interference, to the Assembly for the use of public resources. Accounting Officers must also be able to assure the Assembly and the public of high standards of probity in the management of public funds.

**3.13** The Assembly also looks to the TOA, in particular, to promote and uphold across government the principles of probity, propriety, regularity, value for money and financial feasibility agreed with the Assembly and set out in *Managing Public Money Northern Ireland* (MPMNI).

**3.14** The TOA or his/her deputy is required by the Assembly to attend every PAC hearing, not least because the use of public money is under scrutiny, but also as a standing

representative of government who speaks subject to collective Ministerial authority. He/she answers questions on behalf of DoF as the central department concerned with financial matters, and on any central guidance issues as it is under the authority of the TOA in DoF that formal guidance on financial, governance and control matters is issued. This allows for PAC to explore any issues of more general application arising out of the subject matter of the hearing.

**3.15** PAC also looks to the TOA to ensure that government witnesses are, as far as possible, properly prepared for hearings in order to provide full and effective contributions to the Committee's inquiries.

### **Accounting Officers and the Committee**

**3.16** Accounting Officers and senior officials may expect to be called upon to appear before the Committee from time to time to give oral evidence following value for money studies and other investigations undertaken by the C&AG. Rarely would the Committee consider holding a hearing without the relevant Accounting Officer being present to answer questions. In very exceptional circumstances and usually only for clear specific reasons, such as illness or special leave of absence for personal reasons would the Committee choose to hold hearings without an Accounting Officer.

### **Accounting Officers' accountability and the Committee**

**3.17** As civil servants, Accounting Officers are accountable to their Ministers for the delivery of government policies. However, as Accounting Officers, they are also directly responsible and personally accountable to the Assembly for the stewardship of public resources in the delivery of government policies and statutory obligations<sup>20</sup>. Ministers, not Accounting Officers, are accountable to the NI Assembly for justifying the merits of government policies and objectives.

**3.18** Importantly, a strength of the Accounting Officers system is that an Accounting Officer's accountability is sole and indivisible. It cannot, without specific prior DoF agreement, be shared with others, diluted or absolved in any way, nor may Accounting Officers assume accountability on behalf of other Accounting Officers. That said, Accounting Officers have a general duty to promote and secure collective value for money for taxpayers as a whole.

**3.19** It is important that Accounting Officers have a clear view of the areas of public resources for which they are both responsible and accountable to the Assembly and are able to describe succinctly and with clarity those areas to the Committee. This is particularly relevant where departments devolve spending and delivery of public services beyond their departmental boundaries to local providers both in the public and private sectors.

**3.20** Where Accounting Officers, particularly Principal Accounting Officers, have wide delegated spending authority from DoF, they cannot disclaim accountability for any use of public resources that have been further delegated to, for example, Arm's Length Bodies within their departmental groups. The Committee will therefore expect Principal Accounting Officers to account fully for the totality of spending delegated to them by DoF.

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<sup>20</sup> See Chapter 3 of MPMNI on the role and responsibilities of Accounting Officers which may be accessed online in the Accountability and Financial Management section of the DoF website.

**3.21** Where spending has been devolved by departments, in line with legislation, to Arm's Length Bodies, Accounting Officers cannot be held responsible for the actual day to day spending decisions of those bodies. Nevertheless, they must be able to reassure the Committee that they have robust systems and arrangements in place for ensuring proper use, monitoring and accountability of devolved public resources and for alerting themselves early to inappropriate spending or poor value for money. The Committee will also expect Accounting Officers to describe the powers they have, legally or contractually or otherwise, to intervene and act expeditiously and effectively in such circumstances. Accounting Officers of Arm's Length Bodies would be expected to have similar arrangements in place and powers of intervention in relation to their subsidiaries.

### **Former Accounting Officers and officials and the Committee**

**3.22** Accounting Officers who may not have been personally responsible for use of public resources prior to their tenure are nevertheless still fully accountable and answerable to the Assembly for the use of those resources within their organisations' budgets. When preparing for evidence sessions, Accounting Officers, and other witnesses should consider the need to consult with their predecessors to gain a full understanding of any relevant events prior to their tenure to ensure they can provide the Committee with insight to the actual events.

**3.23** Nevertheless, the Committee may occasionally invite former Accounting Officers to appear along with current Accounting Officers as witnesses, where the Committee believes that former Accounting Officers are better placed to provide a first-hand account of events than others or where former Accounting Officers have moved on shortly before the hearing. The purpose in recalling former Accounting Officers is to clarify matters and not to apportion blame.

**3.24** Former Accounting Officers may reasonably ask the Committee to allow them sufficient time to refresh their memories and understanding of past issues. The Committee may also invite former officials to give evidence on a similar basis. In such instances, they should be provided with access to relevant departmental records and support to enable them to be as helpful as possible to the Committee.

### **Other witnesses**

**3.25** The Committee may also call some private or third sector representatives to give evidence where it is investigating how effectively contracted out public services have been or are being delivered. In other circumstances, the Committee may seek expert witnesses' views on particular issues to aid the Committee's inquiries. These witnesses' views and opinions are independent of any evidence Accounting Officers may present. Often, their evidence is taken at a separate earlier session immediately prior to the main hearing. It is recommended that government witnesses should also attend these sessions so as to be in a more informed position to answer subsequent Committee questions arising from their evidence.

#### **Annexes relevant to chapter 3**

[Annex C](#): Preparation for Public Accounts Committee hearings

[Annex D](#): Consideration of different types of evidence

[Annex E](#): Logistics of attending a hearing of the Public Accounts Committee

# Giving evidence to the Public Accounts Committee and afterwards

4

## About this chapter

**4.1** This chapter describes the expectations the Public Accounts Committee (PAC) has in relation to the provision of oral and written evidence to them. It also provides guidance on how Accounting Officers and other witnesses should prepare to give evidence at public hearings of the Committee.

## Media Handling in respect of PAC evidence sessions

**4.2** There may be some publicity and media attention on the day of a PAC evidence session with coverage in the press, or the Chair may on occasion give a radio or television interview. In such circumstances, it is recommended that while matters are under consideration by the PAC, the guiding principle is that no comment should be made that might be considered to pre-empt or pre-judge either the PAC report or the subsequent Ministerial response. Departments should brief their Minister in advance of a PAC session as appropriate, and engage with their Press Office to ensure they are aware of potential publicity. Further detail is contained in Annex I on Media Protocols.

## Prior to hearings: providing late evidence to the Committee

**4.3** Where the emergence of late but relevant evidence is foreseeable, NIAO and PAC should be kept informed and arrangements put in place with NIAO to validate the new information as soon as it becomes available and to share it in time for the entire Committee to consider.

**4.4** However, where unforeseeable new and relevant evidence comes to light shortly prior to hearings and which could have a bearing on a hearing, there is a presumption that departments and organisations will, in the interests of transparency and balance, still bring the existence of new evidence to the attention of both NIAO and PAC. While, in normal circumstances, PAC does not like to receive evidence just before or during hearings without prior NIAO validation, it nevertheless needs to be aware of material new evidence in order to decide how it should be handled.

**4.5** In those circumstances, particularly where there has been a long interval between publication of the Comptroller and Auditor General's (C&AG) report and the hearing, departments and organisations should, at the earliest opportunity, consult the Clerk of the Committee and NIAO explaining the potential relevance of the new evidence to the hearing. Advice should also be sought from the Treasury Officer of Accounts (TOA). In the end, the Committee may find it sufficient for the new evidence to be submitted subject to post-hearing NIAO validation or as supplementary evidence after the hearing.

## Prior to hearings: handling confidential and sensitive evidence

**4.6** It would be clearly inappropriate for evidence that a department or organisation wishes to be treated as confidential to be given at a public hearing of the Committee. Where, for whatever reason, departments or organisations have identified some potential evidence as sensitive, they should discuss it in advance with DoF (TOA) and the Clerk of the Committee

pointing out that it could only be given in closed session, explaining the rationale for taking that position and on the basis that it will be treated in confidence and will not be published. Alternatively, departments or organisations may offer to provide the Committee with a separate note in confidence, again on the basis that it will not be disclosed or published. PAC will consider ultimately consider the merits of how it will receive sensitive information, taking account of all the factors that have been presented for its consideration.

### **Accounting Officers and supporting officials' accountability to the NI Assembly**

**4.7** The civil service supports Ministers in developing and implementing their policies, and in delivering public services. Civil servants are therefore accountable to Ministers, who in turn are accountable to the Assembly. It follows therefore that when civil servants give evidence to Assembly Committees, they do so, not in a personal capacity but as representatives of Ministers.

**4.8** However, Accounting Officers have personal responsibility to the Assembly for the stewardship of a department's or organisation's resources in line with the principles set out in *Managing Public Money Northern Ireland*<sup>21</sup> (MPMNI). It also follows that civil servants who give evidence at PAC hearings, do so, on such occasions, in support of their Accounting Officers and not as representatives of Ministers.

### **Accuracy and completeness of evidence**

**4.9** PAC attaches great importance to the convention that, apart from the conclusions, recommendations and value for money opinion, the factual accuracy of the C&AG's reports has been agreed in advance by the relevant Accounting Officer(s) and the C&AG. The Committee conducts its value for money inquiries and public hearings on that basis of agreed evidence.

**4.10** Similarly, the Committee emphasises the importance it attaches to the accuracy and completeness of evidence presented to the Committee by witnesses. Accounting Officers and supporting witnesses therefore have a particular responsibility to ensure that they are, as far as possible, fully and accurately briefed beforehand on matters that are likely to arise at hearings. The Committee takes a dim view of witnesses who are clearly unprepared or unable to give full and accurate evidence to the majority of its questions.

**4.11** Equally, in the interests of accuracy and balance and to avoid misinterpretations of the evidence, Accounting Officers and witnesses should also clarify for the record any factual inaccuracies or incorrect assertions made in the course of hearings in such a manner that respects the role of the Committee. Allowing misinterpretations or wrong conclusions of the evidence to prevail could unhelpfully undermine, from the government's perspective, its true position on issues and give misleading impressions to the media and public which are often difficult to rectify afterwards.

### **Misleading the NI Assembly**

**4.12** As reflected in Section 45 of Northern Ireland Act 1998, deliberately misleading or attempting to mislead the Committee, either orally or in writing, is an offence which can lead to a summary conviction or a fine or up to three months in prison.

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<sup>21</sup> See paragraph 3.3 of MPMNI for the special responsibilities of Accounting Officers and which may be accessed online in the Accountability and Financial Management section of the DoF website.

## **Conventions for giving oral evidence at hearings**

**4.13** Before hearings, Committee members will have been fully briefed by NIAO on the findings and conclusions of the C&AG's report. They may also rely on other sources of information including media reports and representations from members of the public or other groups, some of which the Committee may decide to publish subsequently as part of the evidence base for their report.

**4.14** The PAC Chair introduces the subject of the hearing followed by welcoming Accounting Officers and other witnesses. The Chair may invite the Accounting Officer to introduce fellow witnesses before he or she then asks the Accounting Officer to make any opening remarks they may wish to make. The Chair will then normally begin with a series of opening questions.

**4.15** Each Committee member is then given an opportunity to ask questions drawing on particular aspects of the C&AG's report to the extent that all aspects of the report are usually addressed. Members tend to press hard on particular issues and points where they are particularly concerned that taxpayers' money may have been wasted, as well as on issues of propriety. They may also ask wider questions not directly related to the findings of the report but which may have a bearing on their constituency interests or of current public concern more widely.

**4.16** The Committee expects witnesses to answer questions fully, clearly, accurately and in a focused and meaningful manner. The Committee is usually unreceptive to long and, what may appear to members to be, evasive answers. Essentially, witnesses should be positive and aim to be as open, transparent and as helpful as possible in answering the Committee's questions in order to provide it with useful and relevant insights that may not have emerged in the C&AG's report. At the same time, witnesses should not present unsolicited 'new evidence' in an attempt to challenge or disprove the C&AG's findings or conclusions.

**4.17** Witnesses should avoid being unnecessarily defensive in their responses and be prepared to acknowledge, where appropriate, shortcomings and failings in performance and value for money delivery. Generally, hearings that are open and frank, more discursive and less confrontational in nature are likely to 'shed more light than heat' and therefore provide a better, fuller and more rounded understanding of the issues to the benefit of all concerned.

**4.18** Towards the end of hearings, the Chair and other members may ask further closing questions, and the Chair will close the hearing often with a brief summing up of his or her views.

## **Avoiding possible inaccurate or speculative responses**

**4.19** It is understood by the Committee that Accounting Officers and witnesses may not always be able to answer questions that do not arise directly from the C&AG's report or have precise knowledge of individual facts which are not central to the main issues under examination. Where witnesses consider that they do not have the relevant information, or are not the appropriate person to answer certain questions, or that they would like time to consider their answers, or to seek advice, they may appeal to the Chair. However, if the Committee collectively considers that the question is proper, witnesses must attempt to answer it honestly and fully to best of their ability pointing out the limits of that ability.

**4.20** Similarly, where not through lack of preparations, witnesses are unable to provide accurate and complete answers, they should not attempt to offer speculative responses but,



instead, ask the Chair for leave to supply the information, in so far as it is available, in a supplementary note to the Committee.

**4.21** However, where Committee members insist that witnesses give a speculative response, they should only do so, making clear that it is given as such, and that they reserve the right to follow it up with a note to the Committee confirming the accuracy or otherwise of their answer. This approach is particularly relevant where Accounting Officers and witnesses are asked to respond on matters raised in letters and other submissions to the Committee from outside organisations or members of the public which have not already been seen by the witnesses before a hearing.

**4.22** Finally, where witnesses do not understand a question, they should request that it be repeated or clarified.

### **Handling certain types of evidence**

**4.23** More generally, Accounting Officers and witnesses also need to be alert to the operational sensitivities and risks surrounding the public disclosure of certain kinds of evidence which may not be in the public interest. Departments should discuss any potential sensitivities with the TOA in advance. However, the Committee, along with other statutory committees, is generally aware of these risks too and usually receptive to cogent proposals for special handling of sensitive evidence. These include discussion of:

- the basis of government policy and decisions;
- advice to Ministers including private discussion with Ministers leading up to Ministerial Directions to Accounting Officers;
- individuals' conduct and disciplinary staff matters;
- individuals' and employees' identities and private information;
- some regulatory matters;
- Ministers' quasi-judicial decisions;
- commercially sensitive information;
- current or potentially prospective criminal investigations; and
- matters before the courts or which may be *sub judice*.

**4.24** Where, unexpectedly, in the course of a hearing a request for sensitive evidence emerges, Accounting Officers should offer to give the information in private, provided it is lawful to do so. It is for the Committee to decide whether it wants to take sensitive oral evidence in private or receive a confidential note.

**4.25** See Annex D for further guidance on handling different types of evidence at hearings.

### **After hearings: checking transcripts after hearings**

**4.26** It is important also that transcripts of the oral evidence are checked immediately they are available after hearings for the accuracy of what was actually stated or said by witnesses. These are issued directly to witnesses from Hansard as soon as reasonably possible after each hearing. The Committee will only allow minor amendments to transcripts such as obvious corrections or misquotes. It will not allow corrections to the substance or broad thrust of the

evidence given at hearings. It is also important from the government's perspective that what government witnesses said at hearings is reported accurately.

**4.27** Should it be discovered subsequently that substantive oral evidence provided to the Committee contained errors or was somehow misleading, it should be made known to the Clerk of the Committee at the earliest possible opportunity along with an explanation for the errors and details of the correct version of the evidence followed up in writing by the Accounting Officer. On such occasions, the Committee will consider the issue in the course of its normal committee business and formerly recorded the outcome of its deliberation in its minutes as appropriate. In cases of major or significant error, the Committee may recall Accounting Officers and other witnesses to a further hearing.

#### **After hearings: providing supplementary written evidence after hearings**

**4.28** There may be the need for supplementary written evidence to be provided, whether offered to, or requested by the Committee during hearings. Normally the Clerk of the Committee will write to the Accounting Officer to confirm details of the information required giving a two week deadline. If departments foresee any difficulty in providing the information within the required deadline, they should consult with the Clerk of the Committee at the earliest opportunity with the aim of assisting the Committee as much as possible. The TOA will be copied into such correspondence from the Committee, and likewise, Accounting Officers should ensure that the TOA is copied into all correspondence with the Committee.

#### **After hearings: good practice**

**4.29** It is good practice after a PAC hearing, for departments or organisations to carry out a short review or 'post mortem' of what went well and did not go well at a particular hearing. Ideally, part of the review should involve the Accounting Officer, other witnesses and the relevant policy or operational officials within the department or organisation. It is important to be objective and to identify the main areas of concern for the Committee and whether they signal systemic or generic shortcomings in value for money delivery/general performance in the department or organisation. The post-hearing review could also come forward with any steps to be put in place to rectify identified shortcomings and failings, and to prevent future recurrences.

#### **Annex relevant to chapter 4**

[Annex D](#): Consideration of different types of evidence

## About this chapter

**5.1** This chapter describes the process the Public Accounts Committee (PAC) follows in publishing its reports. It also provides guidance on how departments and organisations should handle any media interest generated by their publication.

## Publication of Public Accounts Committee reports

**5.2** Usually within twelve weeks of PAC hearings, the Committee publishes online its own reports setting out its findings, conclusions and recommendations along with an accompanying press release. The Committee may also use various social media platforms to highlight the publication of its reports. An embargoed copy of the final report along with the Committee's press release is issued to relevant department(s), organisation(s) and the Department of Finance (DoF) usually no more than two working days prior to publication.

**5.3** The reports also include a summary of the Committee's overall view of departments' or organisations' performance followed by its conclusions and recommendations prefaced by a short introduction. In addition, they provide some detail of the rationale behind its conclusions based on evidence in the Comptroller and Auditor General's (C&AG) reports and on oral evidence and supplementary evidence provided by witnesses at its hearings, and a transcript of the evidence session.

**5.4** Where necessary, it is important to brief Ministers and departmental press offices on impending Committee reports and likely public and media reaction to possible findings and criticisms.

## Media handling immediately after publication of Committee reports

**5.5** There is often media attention given to the Committee's reports with coverage in press, and on occasions the PAC Chairperson (the Chair) may give radio and television interviews, particularly when the Committee has been highly critical of performance by government. This sometimes gives rise to occasions where it is difficult for departments and organisations not to give an immediate general comment, particularly in light of intense media enquiries.

**5.6** In instances where publicity surrounding PAC reports contains misstatements of fact, appears to sensationalise certain aspects of these reports rather than to provide a balanced view of the Committee's deliberations, or where conclusions have been drawn which are not evidence-based, Ministers should feel free to challenge these where they consider them to be unjustified or overstated. See Annex I on Media Protocols for further information.

**5.7** The general guiding principle again, is that it is inappropriate to comment in detail in advance of the Finance Minister's response to the Committee's recommendations. Often, it may be prudent and sufficient to comment simply that the department welcomes the publication of the report and will consider the Committee's recommendations fully, and that a detailed Memorandum of Reply (MoR) will be prepared in due course which will set out the Finance Minister's considered response to the issues raised. Prior to making any comments, departments should engage with the Treasury Officer of Accounts (TOA) team in DoF.

**5.8** Where a proposed public comment on a Committee report may have potential financial implications or affect other departments and organisations or which might affect substantively a subsequent government response, it should be cleared beforehand with the TOA who will engage with the relevant DoF Supply Officer as appropriate. In addition, where a report's findings and recommendations affect more than one department or organisation, it is important that any public comment on behalf of the government is agreed by the departments or organisations and across government more generally and that the relevant press offices work closely together. Again, prior to making any comments in either of these circumstances, the relevant departments concerned should engage with the TOA.

## About this chapter

**6.1** This chapter describes how the NI Executive (the Executive) responds to reports of the Public Accounts Committee (PAC) by means of Department of Finance (DoF) Memoranda of Reply (MoRs) as well as general guidance for departments and organisations on preparing draft responses or contributions to responses.

## Memoranda of Reply

**6.2** For each PAC report, the Executive responds to the Committee's recommendations by means of a MoR which is presented to the NI Assembly in the name of the Finance Minister and published online. Therefore the final drafts of all MoRs are ultimately cleared by the Finance Minister prior to publication.

**6.3** MoRs respond on behalf of the Executive, not on behalf of particular departments and organisations, on the grounds that the Committee's recommendations address primarily value for money, not policy issues on which the Executive and, in particular, DoF always have ultimate responsibility.

## Drafting responses to Public Accounts Committee reports

**6.4** The Treasury Officer of Accounts (TOA) team manage the process of ensuring MoRs are prepared and published within the appropriate timescale. Following the publication of a PAC report, the TOA team will write to the subject department's Accounting Officer, to commission responses to the recommendations contained in the PAC report. The letter will outline what is required, will refer them to this guidance and attach a template to be used in drafting the MoR. The letter will also set out dates for the production of responses that are to be forwarded to DoF, the need for certain approvals and contact details for the TOA team.

**6.5** Where a number of departments have an interest in a particular report, the TOA team will co-ordinate and collate the individual responses. However, in these instances, it is also advisable that departments liaise with each other to ensure consistency of approach.

**6.6** Responses to each Committee recommendation, should clearly indicate whether it is being accepted, partially accepted or not accepted. Where recommendations are being accepted, the response should describe how and by when the recommendation will be implemented. Where recommendations cannot be accepted or can only be partially accepted, the response should set out the reasons why, often in a little more detail, and state what alternative action is planned to deliver a similar outcome. Annex F contains more detailed guidance on preparation of responses to PAC recommendations.

**6.7** Once a first draft has been received in DoF, there is usually a period of engagement between relevant departmental officials and DoF in order to refine responses and ensure all aspects have been covered. The final draft should then be approved by the relevant departmental Accounting Officer and Minister.

## **Timetable for responses**

**6.8** Responses to PAC reports should be published within eight weeks of the report's publication. The timetable for publication of MoRs is tight and deadlines set by DoF must be adhered to carefully, bearing in mind that they need the approval of Accounting Officers, departmental Ministers, on occasion other departments or organisations, and ultimately the Finance Minister.

**6.9** However, where departments are unable, for whatever reason, to meet MoR deadlines, they should engage with the TOA team, who in turn will engage with the Clerk to the Committee if necessary.

## **Publication of Memoranda of Reply**

**6.10** Once the MoR has been cleared by the relevant departmental Minister and submitted formally to DoF, the TOA team will arrange for approval by the Finance Minister and for the MoR to be printed and presented to the NI Assembly, and for it to be uploaded to the DoF website.

## **Media Handling**

**6.11** Once a MoR has been presented to the Assembly and published, departments are free to comment and it is the responsibility of individual departments to determine what level of publicity to give to the publication and presenting of a MoR. However, there is generally no media coverage associated with the publication of a MoR, and a press release/statement is not normally issued at this stage. Departments should however brief their Minister and Press Office as appropriate.

## **Issues of Wider Application**

**6.12** Where there are lessons of wider application to be learned or examples of good practice within PAC reports, DoF will circulate these, together with the associated MoRs in batches to highlight them to Accounting Officers. Accounting Officers should in turn, disseminate these within their own organisations and to their Arm's Length Bodies for application as appropriate.

## **Monitoring Progress in implementing Committee recommendations which have been accepted**

**6.13** It is important that departments monitor progress in implementing any accepted recommendations that have emerged from the Committee's reports. To enable departments to monitor and report on progress on fulfilling such commitments, DoF developed an Accountability Grids database with access for all departments to update and track progress. To support Accounting Officers in this role, it is recommended that Internal Audit programmes should include the review of progress against PAC commitments. In addition there is an oversight role for Audit and Risk Assurance Committees, and good practice would indicate that progress on commitments given to the PAC should be a regular item on the agenda of departmental Audit and Risk Assurance Committees.

## **Updates on progress in implementing Committee recommendations**

**6.14** The Committee will request annual updates on progress of its recommendations until it is satisfied that these have been addressed, as appropriate. Departments should also copy the TOA into any updates on progress against MoRs so that he/she is fully aware of any matters going before the Committee.

**6.15** See Annex F for further guidance on the procedures to be followed in responding the Committee's recommendations and on monitoring progress in implementing those recommendations which have been accepted, and on reporting progress to NIAO to inform their annual impact assessment exercise.

**Annex to chapter 6**

[Annex F](#): Procedures to be followed in responding to Public Accounts Committee reports and monitoring progress in implementing accepted recommendations

# The Comptroller and Auditor General's statutory powers and rights

## A

### About this annex

**A.1** This annex describes the statutory basis for the Comptroller and Auditor General's (C&AG) value for money studies and other investigations carried out by the Northern Ireland Audit Office (NIAO). It also describes the C&AG's extensive right of access to information held by departments and other public bodies as well as factors to be considered when providing information, data and records.

### Statutory basis for value for money studies

**A.2** The *Northern Ireland Audit (Northern Ireland) Order 1987*<sup>22</sup> provides a statutory basis for the Comptroller and Auditor General's value for money studies. Under Part III, Article 8(1) of the Order:

*'the Comptroller and Auditor General may carry out examinations into the economy, efficiency and effectiveness with which any department, authority or other body to which this Article applies has used its resources in discharging its functions'*.

**A.3** The Act also provides, in certain circumstances, for the C&AG to undertake value for money studies in relation to organisations where the C&AG audits the accounts by agreement or where the C&AG has inspection rights as a result of agreements between the appropriate Minister and organisations concerned.

**A.4** Additionally, under Part III, Article 9 (1) of the Order<sup>23</sup>, the C&AG also has the right to carry out such examinations in relation to any organisation appointed, or whose members are required to be appointed, by or on behalf of the Crown, in any year in which the organisation receives more than half its income from public funds (Nationalised industries and some other public authorities being excluded).

### Right of access to information in relation to financial audits

**A.5** For the purposes of examination of a government department's financial accounts, the C&AG has a statutory right of access (as provided for in the Audit and Accountability (Northern Ireland) Order 2003 Article 3) to any relevant documents relating to departments' accounts. Anyone who holds or has control of any of those documents is obliged to give the C&AG any assistance, information or explanation which he or she requires in relation to any of those documents or data.

**A.6** These rights apply only in relation to documents that are held or controlled by a government department or in pursuance of arrangements made by a department for the compiling or handling of any of its financial records. Article 2 of the Order enables DoF to

<sup>22</sup> See Part III of the Audit (Northern Ireland) Order 1987 which may be accessed at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>23</sup> See Part III, Article 9 (1) of the Audit (Northern Ireland) Order which may be accessed at [www.legislation.gov.uk](http://www.legislation.gov.uk).



make an Order in the Assembly widening the range of documents to which the subsection 8 (1) right applies to include documents held or controlled by other public sector organisations.

### **Right of access to information in relation to value for money studies**

**A.7** In addition, for the purpose of carrying out value for money studies, Article 10 of the *Audit and Accountability (Northern Ireland) Order Northern Ireland<sup>24</sup> 2003* provides that:

*‘the Comptroller and Auditor General shall have right of access at all reasonable times to all such documents as he may reasonably require for carrying out any examination ... and shall be entitled to require from any person holding or accountable for any such document such information and explanation as are reasonably necessary for that purpose’*

**A.8** In other words, for the sole purpose of carrying out value for money studies or investigations, the C&AG has extensive rights of access to documents and records held by departments or organisations who should therefore facilitate full and prompt access as well as provide explanations of the documents and records in question. While the C&AG and NIAO have considerable statutory rights of access, they will not publish or share with others confidential material.

**A.9** DoF will also seek to facilitate access to the documents and records of organisations to which the C&AG has statutory access under Orders made under the *Audit and Accountability (Northern Ireland) Order 2003*. In addition, those organisations shall provide, in conditions to grants and contracts, for the C&AG to exercise such access to documents and records held by grant recipients and contractors and sub-contractors for the purposes of his or her enquiries<sup>25</sup>.

**A.10** The C&AG is thereby, for example, given access to:

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

### **Right of access to security classified documents and records**

**A.11** NIAO staff are cleared to see all security classified papers and may therefore see such papers subject to the normal security rules.

### **Right of access to policy documents and records**

**A.12** Documents and electronic records primarily concerned with the formulation and development of policy by Ministers and their officials will not normally be relevant to the work of the NIAO. The C&AG is not generally given access to Executive papers, minutes and records. Additionally, the records and documents under the control of Ministers’ private offices are, by custom, not made available to NIAO either.

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<sup>24</sup> See Article 10 of the *Audit and Accountability (Northern Ireland) Order 2003* which may be accessed at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>25</sup> See Article 3 (4) of the *Audit and Accountability (Northern Ireland) Order 2003* which may be accessed at [www.legislation.gov.uk](http://www.legislation.gov.uk).

**A.13** However, should the C&AG request access to specific Executive papers or Ministerial papers on the grounds that he or she considers it necessary for the purpose of carrying out a financial audit or value for money study, the Executive Office should be consulted where supervised access might be considered. For the most sensitive material, it may make sense to invite NIAO to view evidence under supervision without taking copies away.

#### **Right of access to information held by providers of contracted-out services**

**A.14** Where public services, functions or activities of departments or organisations are contracted out to the private or third sectors, the C&AG should continue to have access to any document or record held by the contractor which is necessary for the C&AG to carry out value for money studies or investigations.

#### **Right of access by consultants of or secondees to the Northern Ireland Audit Office**

**A.15** NIAO may engage the services of outside consultants to assist in their studies. In each case, departments and organisations need to consider the competence of the consultants, potential conflicts of interest with any other work the consultants may be doing for the department or organisation or elsewhere in the public sector, and their access to papers and electronic records including personal, classified and commercially sensitive information. In general, NIAO's consultants have the same right of access to papers or electronic records as NIAO staff, although this may not be appropriate in certain circumstances.

**A.16** The extent to which outside consultants should be given access to information (including classified material) should be considered carefully, discussed with NIAO and should be decided on a case by case basis before work commences on a study or investigation. Assurances should also be obtained that consultants will only use the information obtained for the purposes of the NIAO study and will not be disclosed to third parties without the explicit permission of the department or organisation.

**A.17** Some of the same issues may arise with secondees to NIAO. NIAO should inform departments or public sector organisations of proposals to use secondees on studies, so that any possible sensitivities may be considered.

#### **Sensitive documents and records**

**A.18** In practice, NIAO teams are astute in recognising the sensitivities surrounding certain information found in documents and records relating to private, personal, Northern Ireland security, commercial and operationally sensitive information. As a result, they are diligent in not disclosing sensitive information where they may come across it in the course of their audits, value for money studies and investigations. NIAO teams are also aware of the provisions of the Freedom of Information Act 2000<sup>26</sup> regarding the disclosure and exemptions from disclosure of information by auditors. However, where information is not always readily apparent as sensitive, departments and organisations should, as a precaution, alert NIAO to sensitive data and information.

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<sup>26</sup> See [section 33 of the Freedom of Information Act 2000](#) which may be accessed at [www.legislation.gov.uk](http://www.legislation.gov.uk). See also [guidance from the Information Commissioner's Office on section 33 of the Act](#).

## B

# Working with the Northern Ireland Audit Office on value for money studies and other public reports

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### About this annex

**B.1** This annex provides background to the Northern Ireland Audit Office's (NIAO) public reporting programme, and practical guidance for Accounting Officers and officials in departments or organisations working with NIAO teams who are conducting, on behalf of the Comptroller and Auditor General (C&AG), value for money studies or other investigations into aspects of the department's or organisation's spending. It is by no means comprehensive so departments or organisations, using common sense, should follow this broad guidance and adapt it to suit their particular needs and circumstances and, where necessary, liaise closely with NIAO. The Treasury Officer of Accounts (TOA) team in the Department of Finance (DoF) is also available to provide further assistance and advice.

### NIAO Public Reporting Programme

**B.2** NIAO defines its reports as '*an independent evidence-based investigation which examines and reports on whether economy, effectiveness and efficiency have been achieved in the use of public funds*'. Its reports are presented to the Assembly and play an important role in helping the Assembly hold government to account.

**B.3** NIAO's public reporting programme is based on a strategic view of the challenges facing the public sector. As well as NIAO's traditional value for money (VFM) studies, it has developed a range of reporting outputs (see Appendix 1) with more emphasis on reports that make real impact, and includes some more investigative style reports, impact reports which examine and follow-up on previously published reports, and reports that are shorter and sharper and more responsive to emerging issues. These shorter reports are focused and facts-based, designed to provide the Assembly with a rapid assessment of service quality, service failure (if any) and financial management without making judgements. In other words, 'the facts should speak for themselves'.

**B.4** Although the timescale for such shorter reports may be constrained and a department's or organisation's resources already stretched, organisations are nevertheless expected to support this work in the same way as they would a traditional VFM study.

**B.5** The Public Accounts Committee (PAC) (and/or other Assembly Committees) will normally consider NIAO reports. Therefore it is important that the facts in all NIAO reports are formally agreed by both NIAO and the relevant Accounting Officer(s) prior to publication, and that they are factual, evidence-based, accurate and balanced in content. Departments are expected to co-operate fully with any studies undertaken by NIAO.

**B.6** Further detail on the programme of NIAO studies can be found on the NIAO website.

## Key principles

**B.7** The primary purpose of the clearance process is to avoid disagreement about factual matters during PAC evidence sessions. The key principles underpinning the process for the production of NIAO reports are:-

- concise reports focusing on the fundamental issues affecting economy, effectiveness and efficiency;
- all material and relevant facts have been included and are not in dispute;
- their presentation is fair, balanced and evidence-based;
- where the report contains any material views or conclusions which the bodies concerned are unable to agree, the position is made clear, with the reasons of all parties being properly represented and with necessary balance; and
- formal agreement of the content of the final report within a mutually agreed and reasonable timescale.

**B.8** The C&AG is however ultimately responsible for making the final decision on what is published.

## Audit Strategies

**B.9** NIAO publishes its updated three year public reporting programme annually. It also provides audited bodies with an annual Audit Strategy, a twelve month forward-looking combined financial and public reporting operational audit plan, which is issued to each departmental Accounting Officer at the start of the audit year. Among other things, it outlines any ongoing and planned public reporting work in the department.

**B.10** While some reports are planned in advance and will be highlighted in the Audit Strategy, other public reports may arise from the audits of the financial statements of departments and their Arm's Length Bodies (ALBs) where the C&AG determines that significant findings should be made public. These reports, by their nature, are reactive and will therefore not be identified in the Audit Strategy.

## Project specification

**B.11** At the start of every planned study, NIAO will issue a draft project specification to the relevant departmental Accounting Officer(s) and invite him/her and a nominated Senior Responsible Officer (SRO) to an initial meeting to discuss the audit approach and type of report to be produced (see Appendix 1 for different types of report).

**B.12** The project specification will describe the rationale and planned scope of the study, the methodology to be used, the key issues to be addressed and the expected benefits. It will also include relevant NIAO contact details. If an Accounting Officer has any reservations about the scope, methods or timing of the study, these should be made plain to NIAO at this stage and, if necessary, documented. However, the C&AG remains independent and it is at his discretion as

to what is included in an NIAO report. In relation to the information required to support its fieldwork, NIAO will endeavour to provide departments with its information requirements as early in the process as possible.

## **Departmental Responsibilities**

**B.13** It is recommended that an SRO should be appointed by the departmental Accounting Officer for each NIAO study as the main senior point of contact between NIAO and the Department. He/she will take the lead in advising the departmental Accounting Officer throughout the study and will manage relationships between the Department, its ALBs, other departments and third parties, as required. Whilst the SRO may nominate other officials to carry out some of these duties, he/she will retain overall departmental responsibility for the study.

**B.14** NIAO will on occasion produce a report on an ALB. As Principal Accounting Officer, the departmental Accounting Officer has overall responsibility for all the department's ALBs and therefore he/she and the nominated departmental SRO will be the lead contacts for such studies. In these cases, aside from requests for fieldwork/operational information, all significant correspondence on a study will be directed by NIAO to the relevant Principal Accounting Officer and copied to the other Accounting Officers. The department will however work closely and in collaboration with relevant staff in the ALB throughout the study.

**B.15** Similarly, in cases where a study cuts across more than one Department or includes ALBs, NIAO will agree a lead department as the initial and main point of contact. NIAO will also correspond with the other Accounting Officers.

**B.16** Departmental Finance Directors also have an important role to play. They are responsible for managing their department's relationship with NIAO and should be involved in key stages throughout the study, including the consideration of draft reports. They may also be involved/responsible for co-ordinating the briefing for the Accounting Officer for any PAC hearing which flows from NIAO reports.

## **Project Timetable**

**B.17** The project specification will include an 'outline' study timetable, which will be agreed by both NIAO and the department(s), and to which all should seek to adhere. The timetable for individual studies may vary, depending on the nature and the scale of work involved. Relevant factors will include type of study being conducted, complexity of the subject matter, accessibility of relevant information and the number of organisations involved. Typically, the elapsed time from initiation to production of a draft report can vary between 2 and 9 months. However, the key aim is to ensure that reports are produced and cleared within an appropriate timeframe, including those to be produced quickly to respond to emerging issues and Departments should aim to respond to draft reports within any deadlines requested by NIAO.

**B.18** Once the first draft of a report has been produced, the study timetable should be reviewed to confirm if it is still achievable or if it needs amending. At this stage NIAO and the relevant Accounting Officer(s) will agree a firm timetable for the completion of the report. Should NIAO, or a department subsequently foresee any difficulties in meeting the agreed timetable, they should highlight the fact to the other party at the earliest possible opportunity.

## Fieldwork

**B.19** Departments are expected to co-operate fully with any studies undertaken by NIAO. Under the legislation governing the audit processes, the C&AG has “the right of access to any relevant documents” and “any person who holds, has control of or is accountable for any of those documents shall give the C&AG any assistance, information or explanation which he requires in relation to any of those documents”. The term “documents” includes anything in which information is recorded in any form. This right of access applies to both financial and value for money studies and covers public bodies as well as departments.

**B.20** It is important that NIAO and departments/ALBs/audited bodies communicate with each other and on a regular basis throughout the period of the study. While routine meetings should be built into the timetable at the outset to help to ensure that there are no ‘surprises’, ad-hoc meetings should also be held if necessary to resolve any particular difficulties/issues. Meetings to discuss and resolve difficult issues are particularly important because they obviate the need for lengthy and protracted correspondence which can delay the study and production of the final report. DoF would be content to participate in such meetings at any stage of a study, if that was considered helpful.

**B.21** On occasion NIAO will identify an issue during a study which had not been identified at the outset and which it subsequently decides to include within its report. Clearly, it is at the C&AG’s discretion as to what is included in a report, however NIAO will attempt to minimise the introduction of new issues as much as possible. If new issues are introduced, NIAO will inform the relevant Accounting Officer(s) in a timely manner of any major scope elements that were not identified in the original brief and how it intends to deal with them. This may have an impact upon the previously agreed time-table for the report.

**B.22** On completion of the fieldwork, NIAO will meet with the Accounting Officer(s) and designated SRO to outline the provisional findings and discuss key issues before drafting the report. This will provide an opportunity to resolve any areas of disagreement early in the process.

## Consideration of Draft Reports

**B.23** The aim of each NIAO study is to agree a factually accurate, fair and balanced report within an appropriate timeframe. To meet this objective, departments should scrutinise draft NIAO reports thoroughly at every stage and liaise with ALBs/audited bodies as appropriate. When NIAO issue the first draft of a report to a department for consideration, a pro-forma schedule will be attached which should be used to present any comments and areas of disagreement departments may have with NIAO regarding the draft report. At this stage, Departmental Accounting Officers should also consider if it is necessary to liaise with their predecessor, depending on the issues and the timing of the subject matter in hand, and the possible requirement for a former Accounting Officer to be called to give evidence at a future PAC evidence session.

**B.24** NIAO will detail their response to the comments and issues raised, confirming either that they are happy to take on board the department’s comments, or explaining their rationale for

not accepting the comments. This will subsequently be issued to the department together with a second draft for further consideration. The process is then repeated until a final draft has been produced.

**B.25** If any part of a draft report, including the summary, conclusions and recommendations, contains statements of fact or opinions with which an Accounting Officer disagrees, or which he/she considers are unfairly presented, this must be made clear in detail and in writing to NIAO.

**B.26** If the C&AG does not agree to amend or remove disputed material, he will confirm and explain the reason why in writing to the Accounting Officer(s). The Accounting Officer(s) must ensure that his/her views and reasons are included in the report alongside the statements concerned. This should be done whether or not the disputed statements are attributable in the text to NIAO. Similarly, while the scope of a NIAO examination ultimately remains a matter for the C&AG, where an Accounting Officer's initial reservations have not been fully met, he/she should ensure that his or her views are stated in the report.

**B.27** DoF should be kept informed of any instances where an Accounting Officer has requested that his/her disagreement with particular statements or views should be recorded in a report.

### **Formal Agreement and 'Sign-off' of Reports**

**B.28** It is the responsibility of the departmental Accounting Officers(s) and the C&AG to 'sign-off' on each report. At the culmination of each study, NIAO will write to the relevant Accounting Officer(s) asking them to confirm that they agree the relevant contents of the report on behalf of the Department and its ALBs as appropriate, i.e. that it is factually accurate and that it fully reflects any areas or issues of disagreement. If the Accounting Officer is content, then he/she should respond in writing to that effect. If not, the reasons for any disagreement should be clearly documented. In exceptional cases, the Accounting Officer may decide not to formally agree the report. Should PAC or another Committee decide to take evidence on a report, it is important that they have the full facts.

**B.29** It is vital to document the fact that a report has been agreed, or not, as outlined above, particularly to facilitate the work of PAC who attach great importance to NIAO reports being agreed with departments.

### **Communication**

**B.30** Communication is the cornerstone of this whole process. Good quality and frequent contact between NIAO and the departmental Accounting Officer/SRO, and between a department and ALB where relevant, is key to a successful NIAO study, and in particular to meeting the time-table and securing formal agreement of the report. This encompasses both written and oral communication (including meetings as necessary), and the involvement of all relevant parties at the correct times. This will help in avoiding protracted correspondence and enable reports to be finalised and published within a reasonable timeframe.

**B.31** DoF has an important role to play in relation to assisting with the clearance of draft reports. The TOA receives copies of **all** draft NIAO reports, and will in turn share these with

the relevant DoF Supply Officer(s) to enable them to provide a view on the subject matter from a DoF perspective. Following consideration of the report, DoF will, if appropriate, provide comments to the subject department.

**B.32** DoF is keen to ensure that draft reports are finalised in the shortest possible timeframe. For that reason, it will, if requested, participate in meetings between NIAO and departments/ALBs/audited bodies to consider difficult issues at any stage of a study, if it was considered helpful.

### **Feedback**

**B.33** DoF and NIAO will continue to work together and consider if there are any lessons to be learned emerging from individual audits that can be shared with all departments.



**NIAO Public Reporting**

**NIAO Report types**

**Value for Money (VFM) Studies**

VFM studies assess the economy, efficiency and effectiveness of the delivery of public services and programmes

**Investigations**

Investigations aim to establish facts through engagement with audited bodies and produce a timely, responsive and focused report

**Impact reports**

Previously published reports may be followed-up, impacts of all relevant corrective actions considered and update provided

**Emerging issues Reports**

Reactive and rapid reports on topical issues that establish facts to assist public accountability

**Good practice guides**

Providing public bodies with good practice guides across a range of areas

**Local Government reports**

The local government auditor also has statutory authority to carry out VFM audit work in local government

# Preparations for Public Accounts Committee hearings

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## About this annex

**C.1** This annex provides logistical and practical guidance for Accounting Officers and senior officials who are preparing to appear before the Public Accounts Committee (PAC) to give evidence. It should also be of general assistance to those supporting witnesses in their preparations. It is by no means comprehensive so departments and organisations, using common sense, should follow this broad guidance and adapt it to suit their particular needs and circumstances. The Treasury Officer of Accounts (TOA) team in the Department of Finance (DoF) is always willing to provide further advice where necessary.

## General preparations and training for Accounting Officers and witnesses

**C.2** For newly appointed Accounting Officers, it is good practice to read this guide in full in order to gain a general awareness of the Committee's value for money scrutiny process. In addition, Accounting Officers when first appointed are expected to attend specific Accounting Officer training, provided through the Chief Executives' Forum. Part of this covers their role and responsibilities in relation to the Northern Ireland Audit Office (NIAO) and the PAC. Both the Comptroller and Auditor General (C&AG) and the TOA contribute to this course and there is an opportunity for informal engagement with them at the end of the course.

**C.3** The TOA and his/her team are also available for informal engagement at any time. The TOA, as the standing government representative at all Committee hearings, will be very familiar with Committee members' concerns and thinking, and how it may impact on Accounting Officers' own particular areas of accountability.

**C.4** Audio-visual recordings of previous Committee hearings (as well live hearings) may also be accessed on the NI Assembly's website<sup>27</sup>. While each hearing will have its own dynamics, these recordings provide a useful introduction to the style and intensity of questioning officials may expect from members.

## Treasury Officer of Accounts involvement in preparations

**C.5** In relation to specific Committee hearings, the Committee expects that Accounting Officers and witnesses' contributions represent the whole government's position not just their respective departments or organisations' position. Departments should therefore involve the TOA team to discuss the process in relation to preparations for hearings at the earliest opportunity so that he or she can understand and fully support the department's or organisation's position. More practically, the TOA team can usefully bring a wider cross-government perspective to preparations as well as useful insight into current Committee preoccupations and how they may impact on a forthcoming hearing.

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<sup>27</sup> Archive video recordings of previous Public Accounts Committee hearings may be accessed on the NI Assembly website under Assembly Committees, Public Accounts, Listen Again.

## **Notification to Accounting Officers of forthcoming Public Accounts Committee evidence sessions**

**C.6** The PAC usually decide their programme well in advance, and aim to give Accounting Officers as much time as possible (preferably eight weeks' notice) in order to prepare for evidence sessions. As soon as the Committee have decided on the inquiry topics for its forthcoming forward work programme the Committee Clerk will liaise with the TOA team to provide informal advance notice. The TOA team will then liaise with the relevant Accounting Officers to confirm availability for proposed dates. Formal invitations will then be issued from the PAC Chairperson (the Chair) to the relevant Accounting Officer(s).

### **Supporting witnesses**

**C.7** Depending on the nature of the topic, the Committee may already have firm views on its preferred witnesses. On such occasions, the names of those specific witnesses that the Committee wishes to hear evidence from will be included in the invitation to the Accounting Officer. Generally, invitation letters will also ask the Accounting Officer to name any other supporting witnesses they also wish to bring with them on the day.

**C.8** The Committee's usual preference is to keep witness numbers to a minimum. It is normal to have a maximum of three witnesses, but if two organisations are involved i.e. a core department and one of its Arm's Length Bodies (ALBs), there can be four – where there are two Accounting Officers appearing together as witnesses, for example, a departmental Accounting Officer and an ALB Accounting Officer, it is reasonable for each to be supported by at least one official. In deciding on additional witnesses, Accounting Officers will need to consider who would be best placed to provide valuable evidence for the Committee's purpose, and not choose individuals because of grade e.g. is a technical Grade 5/7 better placed to answer on detail than the Grade 3/Deputy Secretary.

### **Providing the Committee with witnesses' details**

**C.9** The Committee's invitation letter will ask the Accounting Officer to confirm the names of those who will be attending as supporting witnesses, and will ask for contact details, pen pictures and photos of all witnesses. As soon as possible therefore, departments or organisations should confirm their attendance to the Committee Clerk along with requested information. The information should include details of their proper titles within departments or organisations and their respective responsibilities.

### **Officials other than witnesses attending Public Accounts Committee hearings**

**C.10** Other officials who wish to attend to observe the hearing must sit in the public gallery alongside other members of the public and media representatives. However, they are not permitted to pass information, or speak to any of the witnesses during the hearing. In addition, they would be expected to leave the Senate Chamber where evidence is to be taken in closed session. It is not necessary to provide to the Committee a list of names of those officials who will be attending to observe proceedings.

### **Briefing and preparations for Committee of Public Accounts hearings**

**C.11** As soon as a PAC hearing has been confirmed, an Accounting Officer should nominate an official to co-ordinate preparations – usually either an official from the lead policy area or from within their Finance Directorate. An initial meeting should then be arranged with the TOA

team in DoF if necessary to discuss the process and timetable leading up to the hearing. Following this initial meeting, a series of preparatory briefing meetings involving the Accounting Officer, his or her supporting witnesses and officials should also be arranged. Where appropriate, preparations and briefing should be shared and coordinated with other departments or organisations appearing before the hearing to ensure a joined up approach and position. Further, as part of their preparations, Accounting Officers and other witnesses should consider the need to consult with their predecessors to gain a full understanding of any relevant events prior to their tenure to ensure they can provide the Committee with insight to the actual events. More practicably, it is recommended that Accounting Officers, and other supporting witnesses and officials should hold at least one joint preparatory briefing session shortly before the Committee hearing.

**C.12** For Accounting Officers and supporting witnesses, it is essential that they read and digest the C&AG's report to the extent that they are satisfied they know it quite well 'from cover to cover' and have identified the areas in which they are most vulnerable to criticism. In addition, some Accounting Officers may find it helpful to have page by page briefing provided by their support teams to match the content of every page in the reports: others may not. Indeed, some Accounting Officers and witnesses benefit from annotating the reports with their own comments and notes. However, Accounting Officers and other witnesses should ensure that they have sufficient briefing in the format they prefer and identify early those areas where they feel they need supplementary briefing.

**C.13** Witnesses should look out for the negative side of positive facts as the Committee will more often concentrate on the negative facts. For example, a report might say '95 per cent of payments are made within the deadline' but Committee members are likely to focus on why the five per cent that were not made within the deadline. It is important also to understand graphs and charts in the report and particularly any 'outliers' appearing in them.

**C.14** It is also important that, where there were previously related Committee hearings and reports, Accounting Officers and witnesses are up to date on progress in implementing the Committee's earlier recommendations accepted by government and why some were rejected or no longer being implemented. The Committee often quizzes Accounting Officers on progress since previous reports.

**C.15** Again depending on Accounting Officers and other witnesses' particular preferences, it is recommended to arrange to hold 'mock hearings' closer to the date of hearings inviting 'critical friends' to pose 'awkward questions'. It is generally helpful to have some of those asking questions at the mock who are not close to the subject matter of the report. Relevant senior officials should also attend to take notes and provide feedback. The TOA and his/her team will be happy to provide advice to departments on arranging such sessions.

**C.16** It is also recommended that at the 'mock hearing', Accounting Officers should agree with the other witnesses, a clear framework as to the areas of possible questioning each one should address at the hearing. Further, where witnesses are likely to have views on issues that may differ from those of the department or organisation, it is advisable for Accounting Officers and senior officials to explore these differences jointly with the other witnesses in order to gain a better mutual understanding of the issues from all parties. At the end of 'mock hearing' sessions, it is usually helpful for colleagues to review and comment objectively on witnesses' performances and answers.

## Briefing

**C.17** The scope of good briefing should not be limited strictly to the contents of the C&AG's report. Although witnesses will have their own preferences regarding the kind of briefing they would like to have, it is often recommended that it should be made up of two main elements: a top high level and focused summary briefing supported by a second more detailed analytical briefing.

**C.18** The top level briefing, which should be at witnesses' fingertips at hearings, should be short and include, mostly in bullet style:

- a page or so of key facts and figures;
- a page of key points to make or messages to get across;
- no more than a page on main areas of criticism and defensive points;
- a page or two on areas where Accounting Officers may have specifically sought additional and more personalised briefing; and
- some real examples demonstrating good performance where appropriate.

**C.19** The detailed briefing and its format is essentially at the discretion of the briefers taking account of Accounting Officers and witnesses' preferences and requirements who will generally use this briefing to immerse themselves in the detailed evidence prior to hearings. It is usually recommended however to prepare a detailed paragraph by paragraph briefing against the NIAO report. The lead official preparing the briefing should engage with the Finance Director as appropriate to ensure they are aware of any relevant issues and provide any input as necessary. Officials should also consider the following when preparing briefing packs:

- previous NIAO/PAC reports on the same/related subject;
- related National Audit Office/Westminster Committee of Public Accounts reports on same/related subject;
- relevant benchmarking against other jurisdictions to compare performance;
- recent Assembly Questions/Minister's cases/Committee members interest on the topic; and
- compliance with any relevant guidance material and good practice.

**C.20** Departments or organisations should circulate briefing for comments throughout the department as necessary, and to other departments and organisations appearing before the Committee. The TOA and his/her team are available and happy to answer any queries from departments and also to discuss any potential questions based on a wider public sector perspective and experience of recent PAC concerns.

## Answering questions at the evidence session

**C.21** Once the actual hearing begins, only the Accounting Officer and other supporting witnesses can answer the Committee's questions. There is an expectation on the part of the Committee that Accounting Officers will mostly lead in answering questions, referring only operational and detailed questions to supporting witnesses. However, Accounting Officers

should not be surprised that the Committee may nevertheless choose, even from the start of a hearing, to pose questions directly to accompanying witnesses.

**C.22** Where the main subject area of a hearing is in connection with operational matters within an ALB, the majority of questions will be directed to the Accounting Officer of the ALB and his/her supporting witness.

**C.23** All witnesses should ensure that their responses to the Committee's questions are clear, accurate and complete and they should provide evidence in a constructive and open manner. Where information is not within the witnesses' immediate knowledge, the Accounting Officer may ask the Committee for leave to provide that information in writing following the hearing. As reflected in Chapter 4, the Clerk to the Committee will write to the Accounting Officer to confirm the information to be provided.

### **Key Principles**

**C.24** Key principles/issues to remember for dealings with the Committee as highlighted by a former Head of Civil Service a number of years ago includes:

- the requirement for candour at all times;
- a helpful approach to the disclosure of information taking into account the limits on PAC's powers of compulsion and the sub judice rule;
- a willingness to acknowledge any failings in performance at the earliest opportunity and without protracted questioning;
- the need to avoid an over-reliance on the NIAO Report as a basis for preparation for PAC hearings. The Committee is entitled to and frequently does draw on other sources of information in its questioning;
- the need to be willing to admit to less than perfect knowledge and to seek to submit evidence in written form or at a subsequent session; and
- the need for appropriate liaison between Departments, NIAO, the Treasury Officer of Accounts and the Clerk to the Committee to facilitate productive and constructive engagement with the Committee.

### **Checklist of tips for witnesses attending Public Accounts Committee hearings**

**C.25** The following checklist of tips for witnesses attending hearings is by no means comprehensive and not always appropriate. However, while it may repeat some of the guidance in this annex, it should nevertheless provide witnesses with a good steer for engaging with the Committee at hearings.

## **Box C1: Checklist for witnesses attending Public Accounts Committee hearings**

### **Shortly before the Committee hearing**

1. Shortly before hearings, Accounting Officers and witnesses should, time permitting, re-read the C&AG's report thoroughly and familiarise themselves with key facts, findings, trends, conclusions and recommendations. They should also identify their own key areas that may give rise to criticism and check they have adequate briefing.
2. Where it is an Accounting Officer's first PAC hearing, it is perhaps worth his or her time to talk to someone who has recently given evidence or watch a video recording of a hearing to get familiar with the process. A few days before hearings, Accounting Officers may find it helpful to have a discussion with the TOA who attends all Committee hearings and is familiar with the Committee's current concerns.
3. Witnesses should be familiar with Committee members' names, constituencies, background, career, special interests and any evidence in the report related to their interests or constituencies.
4. Witnesses should set aside some 'quiet time' soon before the hearings to consider the briefing and collect their thoughts, especially the morning of the hearing.

### **During the hearing**

5. If the Committee is taking evidence from other witnesses prior to the main hearing, it is advisable that officials attend this session to take notes as it is likely that witnesses could be asked questions relating to that earlier evidence.
6. Accounting Officers should have a clear understanding of their areas of responsibility and accountability and should be able to outline them succinctly to the Committee.
7. Witnesses should listen carefully to members' questions and not hesitate to seek clarification, as Members are usually content to clarify their questioning.
8. Witnesses are encouraged to be open, frank and non-evasive in their responses to questions and to provide full yet appropriately concise and accurate answers. Where, sometimes, more detailed answers are required, witnesses should seek the Chair's agreement to provide more detailed answers.
9. It is important that Accounting Officers avoid arguing over the facts of a report since they are supposed to have been agreed by them with the C&AG beforehand. Nevertheless, witnesses may reasonably challenge the conclusions to be drawn from the same facts and explain why.
10. Accounting Officers and witnesses should not attempt to defend the indefensible but acknowledge readily and openly where there have been failings. They should also seek to be positive and forward looking and explain how things are being or will be put right.
11. In the event that witnesses are unable to provide factual evidence immediately at the hearing, they should offer to provide a note to the Committee. The PAC Chair will write to the Accounting Officer to confirm what follow-up information is required.
12. Accounting Officers and witnesses should be careful to refrain from discussing the merits of government policy which are outside Accounting Officers' and the Committee's scope.

13. Witnesses should also be appropriately careful about disclosing or discussing sensitive information.
14. Witnesses should also be prepared to update the Committee on the delivery of previous Committee recommendations or matters relating to previous hearings and reports.
15. Finally, remember that the C&AG's reports also describe work done well and good practice. Witnesses should draw attention to those parts of the reports in order to present a more balanced picture of a department or organisation's achievements.



# D Consideration of different types of evidence

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## About this annex

**D.1** This annex provides guidance for Accounting Officers and senior officials who are preparing to appear before the Committee to give evidence and who need to consider handling of certain types of evidence. It should also be of general assistance to those supporting witnesses in their preparations for a hearing of the Committee. The principles contained in The Executive Office's (TEO's) *Departmental Guidance on Assembly Committees*<sup>28</sup> is also a helpful source of advice. The Treasury Officer of Accounts (TOA) team in the Department of Finance (DoF) is also available to provide further advice where necessary. Useful information is also contained in the Assembly's *Guide for Witnesses appearing before Assembly Committees*<sup>29</sup>.

## Discussion of policy issues and decisions

**D.2** Accounting Officers should be prepared to say what they have done to fulfil their accountability duties in accordance with *Managing Public Money Northern Ireland* (MPMNI). These duties are:

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

**D.3** Accounting Officers should be ready to inform the Committee about relevant factual information which departments or organisations have provided to Ministers in the context of policy decisions, including any background material and assumptions necessary for an understanding of the information. The amount of such information is a matter of judgment. For example, it may not be appropriate to disclose the options considered by Ministers.

**D.4** In some cases, the reasons may not be clear, in which case Accounting Officers are entitled to refuse to speculate about them. Also, where Ministers have decided that their disclosure would not be in the public interest, Accounting Officers have no authority to speak on such matters except to say that Ministers have so decided. In order to protect the collective responsibility of Ministers, Accounting Officers should not give information about the machinery by which policy decisions were taken.

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<sup>28</sup>TEO's Departmental Guidance on Assembly Committees was published in January 2020 and is available on the Executive Office intranet.

<sup>29</sup>The Assembly's Guide for Witnesses appearing before Assembly Committees is available online on the NI Assembly's website under Committees.

**D.5** Although unlikely in the context of Public Accounts Committee (PAC) hearings, Accounting Officers and their supporting officials should also avoid being drawn into discussion of the merits of alternative policies including their advice to Ministers. If pressed, they should make clear to the Committee that they are unable to answer as the line of questions is for the relevant Ministers. Accounting Officers should nevertheless be prepared to explain the policy objectives of any spending programmes for which they are accountable.

### **Non-disclosure of advice to Ministers**

**D.6** In general, the rules and conventions governing appearances of officials before Assembly statutory and standing committees apply to their appearance before PAC, including the general convention that civil servants do not disclose the advice given to Ministers.

### **Previous administrations**

**D.7** In line with TEO's guidance, Assembly Committees are not entitled to see papers or take evidence in connection with the discharge of any functions before devolution, or during any period of suspension. Paragraph 56 of TEO's Departmental Guidance on Assembly Committees provides further advice.

### **Ministerial directions<sup>30</sup> overruling Accounting Officers**

**D.8** There are two main exceptions to the convention of non-disclosure of advice to Ministers. These relate to details of Ministerial directions overruling Accounting Officers' advice on:

- the regularity, propriety of proposed public spending; and
- a matter of prudent and economical administration, efficiency, effectiveness and feasibility (longer term affordability and sustainability) of a particular course of action.

The disclosure of the details of Ministerial directions is subject to the provisions of the *Freedom of Information Act 2000*<sup>31</sup>.

**D.9** In the cases of Ministerial directions to departmental Accounting Officers (or board directions to Accounting Officers of Arm's Length Bodies<sup>32</sup>), the Comptroller and Auditor General (C&AG) will have made clear in his or her report or separately to the Committee that the relevant Accounting Officer was overruled.

**D.10** Accounting Officers should, however, avoid disclosure of the terms of the advice given to Ministers or dissociation from Ministerial decisions. Subject, where appropriate to the relevant Minister's agreement, the Accounting Officer should be ready to explain the reasons for the Minister's decision and may be called on to satisfy the Committee that all relevant financial, value for money, propriety and regularity considerations were brought to the Minister's attention, before decisions were taken.

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<sup>30</sup> For further information on Ministerial Directions see Section 3.4 and Box 3.2 of *Managing Public Money Northern Ireland* available on the Accountability and Financial Management section of the Department of Finance website.

<sup>31</sup> See [section 35 of the Freedom of Information Act 2000](#) which may be accessed on [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>32</sup> In the case of directions to Accounting Officers from the Boards or Chairs of Arm's Length Bodies, see also guidance in Paragraph 3.8.6 of *Managing Public Money Northern Ireland*.

**D.11** The Committee will not attach any blame to Accounting Officers for implementing Ministerial directions. It will then be for the Committee to pursue the matter further with the relevant Minister if it so wishes.

### **Non-disclosure of employees' identities and personal information**

**D.12** On occasions, the Committee's line of enquiry might involve requests to disclose personal information about individual employees or former employees in relation to disciplinary action, bonus payments, redundancy compensation, or other matters. Accounting Officers and witnesses should avoid agreeing to such requests where it is possible that the identities of individuals might be publicly disclosed or deduced on grounds that to do so would be unethical as well as could be unlawful.

**D.13** On ethical grounds, as a good employer, it is the government's duty to protect, as far as possible, the identities and personal information of individual staff members. It would be unreasonable for employees and former employees to have expected that during their careers, they would be faced with the prospect of public disclosure of their personal and confidential information. Disclosure could also expose them to unfair and unwelcome media attention with the risk of damaging reputations, adversely affecting their private and families' lives without a right of response available in other forms of tribunal or inquiry. In addition, importantly, in accordance with the principle of individual Ministerial responsibility, civil servants are not directly accountable to the NI Assembly. Ministers account to the Assembly for civil servants' and employees' actions taken within their departments or sponsored organisations.

**D.14** On legal grounds, it is likely to be a breach of the *EU General Data Protection Regulation (GDPR) and Data Protection Act 2018* to disclose, either publicly or in closed session, an individual's pay, performance, disciplinary record, bonus or redundancy payments, without that individual's explicit prior consent. Indeed, if such a request were received under the *Freedom of Information Act 2000*<sup>33</sup>, the government would most likely pursue the line that such information should be exempt from disclosure under Section 40(2) of that Act.

**D.15** However, in order to be a helpful and as cooperative as possible to the Committee, Accounting Officers should offer to provide the information on an anonymised basis in so far as that is possible without releasing identifiable details. Accounting Officers and witnesses can, of course, continue to provide information on senior officials where the practice already is to disclose personal information, for example, in remuneration reports published in annual accounts.

### **Questions regarding the conduct of individual officials and disciplinary issues**

**D.16** Committee hearings may sometimes involve questions about the conduct of individuals, particularly where the hearing concerns regularity or propriety issues. The purpose behind the questions may not just be in the sense of establishing the facts about what occurred in making decisions or implementing government policies, but with the possible implication of allocating individual criticism or blame.

**D.17** In such circumstances, and in accordance with the principles of Ministerial accountability, it should be explained to the Committee that it is for the Minister to look into the matter and, where necessary, to determine whether to institute a formal disciplinary inquiry.

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<sup>33</sup> See [section 40 of the Freedom of Information Act 2000](#) which may be accessed at [www.legislation.gov.uk](http://www.legislation.gov.uk).

Such an inquiry into the conduct and behaviour of individual officials and consideration of disciplinary action is properly carried out within the department or organisation according to established procedures designed and agreed for the purpose, and with appropriate safeguards for the individual. It is then the Minister's responsibility to inform the Assembly of what has happened and of what has been done to put the matter right and to prevent a recurrence. Evidence to the Committee on such matters should not be given by the official or officials concerned but by a senior official designated by the Minister to give such evidence on the Minister's behalf.

**D.18** In this context, Accounting Officers should adhere to the principle that disciplinary and employment matters are a matter of confidence and trust extending in law beyond the end of employment. In such circumstances, public disclosure may damage an individual's reputation without that individual having the same 'natural justice' right of response which is recognised by other forms of tribunal or inquiry. Any public information should therefore be cast as far as possible in ways that do not reveal individual or identifiable details. Where the Committee may need such details to discharge its responsibilities, they should be offered in closed session, on an understanding of confidentiality would be preserved and that to do so would not, after first taking appropriate legal advice, conflict with the provisions of the *EU General Data Protection Regulation (GDPR) and Data Protection Act 2018*.

**D.19** Evidence on such matters should normally be given on the basis that:

- information will not be given about disciplinary proceedings until they are complete;
- when disciplinary hearings have been completed, the department or organisation will inform the Committee of their outcome in a form which protects the identity of the individual or individuals concerned except insofar as this is already public knowledge; and
- the Committee will thereafter be given an account of the measures taken to put right what went wrong and to prevent a repeat of any failures which have arisen from weaknesses in a department's or organisation's arrangements.

**D.20** Where, in the course of an inquiry or hearing, the Committee were to discover evidence that called into question the conduct of individual named officials, the Committee should be asked not to pursue its own investigation at a hearing itself into the conduct of the person concerned, but to take up the matter with the relevant departmental Minister. It is not the Committee's task to act as a disciplinary tribunal. Disciplinary matters are for departments or organisations in the first instance.

**D.21** Where it is foreseen that the Committee's line of questioning may involve questions about the conduct of named officials, it should be suggested to the Committee that it would be appropriate for a Minister or a senior official designated by the Minister to give evidence, rather than the named officials in question. If an official giving evidence to a Committee is unexpectedly asked question which are directed at his or her individual conduct, or at the conduct of another named official, the official should indicate that he wishes to seek instructions from Ministers, and the Committee should be asked to allow time for this.

**D.22** Guidance on this issue is contained in paragraphs 38 to 44 of TEO's Departmental Guidance on Assembly Committees. The principles reflected in paragraphs 35 to 37 of Cabinet

Office's guidance *Giving Evidence to Select Committees (the Osmotherly Rules)*<sup>34</sup> are also a useful reference on this matter.

### **Matters before a court of law or which may be *sub judice***

**D.23** NI Assembly committees are subject to the same rules by which the Assembly regulates its conduct in relation to matters awaiting the adjudication of the courts. If a matter is already before the courts and departments or organisations have reason to believe it is likely to come up for discussion at a hearing, they should check with the Clerk of the Committee that he/she is also aware. However, it should be noted that the Chair of the Committee has an overriding discretion to decide what is appropriate in the hearing of evidence.

**D.24** It follows that when giving evidence in public to the Committee, witnesses should take care not to comment on matters currently before a court of law. The same consideration may apply in certain cases where proceedings are imminent regardless as to whether or not the government is likely to be a party to such proceedings. Similar considerations apply where Ministers have a quasi-judicial or appellate functions.

**D.25** Where Accounting Officers or witnesses think this is likely to be a problem or that evidence they may give is likely to breach an injunction or order of a court of law, they should, in the first instance, consult their legal advisers or the Departmental Solicitors Office in DoF on how to handle questions which may arise. Departments or organisations should also discuss the matter in advance with the Clerk of the Committee.

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<sup>34</sup> See [Giving Evidence to Select Committees](#) (also known as the *Osmotherly Rules*) published by the Cabinet Office in October 2014 which may be accessed at [www.gov.uk/government/publications](http://www.gov.uk/government/publications).

# E Logistics of attending Public Accounts Committee hearings

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## About this annex

**E.1** This annex provides some basic practical guidance to those attending hearings of the Public Accounts Committee, including getting to Parliament Buildings.

## Location of public hearings

**E.2** Oral evidence sessions usually take place in the Senate Chamber located on the ground floor in Parliament Buildings, located halfway down the Great Hall on the right hand side. Car parking is available in the main car park on the east side of Parliament Buildings. However, on occasion, some hearings may also take place away from Parliament Buildings. Committee staff will provide the location in the formal letter of invitation and will advise of any last minute changes.

## Non-Assembly pass holders

**E.3** For witnesses and officials without Assembly passes, entrance to Parliament Buildings is through the main security hut/checkpoint on the east side of the building, and then through either the East door or the Main entrance at the front of the building. Once inside the building, details will be taken by security staff/ushers and a one day pass with a photograph will be issued. Witnesses should proceed to wait in the Rotunda, a small waiting area outside the Senate Chamber just off the Great Hall. Any other officials who are attending to watch proceedings should wait in the Great Hall outside the Rotunda and will be called in when the session is due to start. Witnesses should aim to be in the Rotunda waiting area at least 15 minutes before the evidence session is scheduled to begin, and allow an additional 15 minutes to clear security.

**E.4** On busy days when there are large numbers of visitors, witnesses and officials could identify themselves as such to security staff/ushers preferably with some documentation to enable them to get passes issued and proceed to relevant waiting areas on time.

**E.5** Before entering the Senate Chamber or allocated meeting room, on the invitation of the security staff/ushers, all electronic devices such as mobile phones, tablets and other electronic devices should be switched off. Lockers are available in the Rotunda for witnesses and other officials to store their belongings. On leaving Parliament Buildings, visitors with day passes must surrender them at the exits.

## NI Assembly pass holders

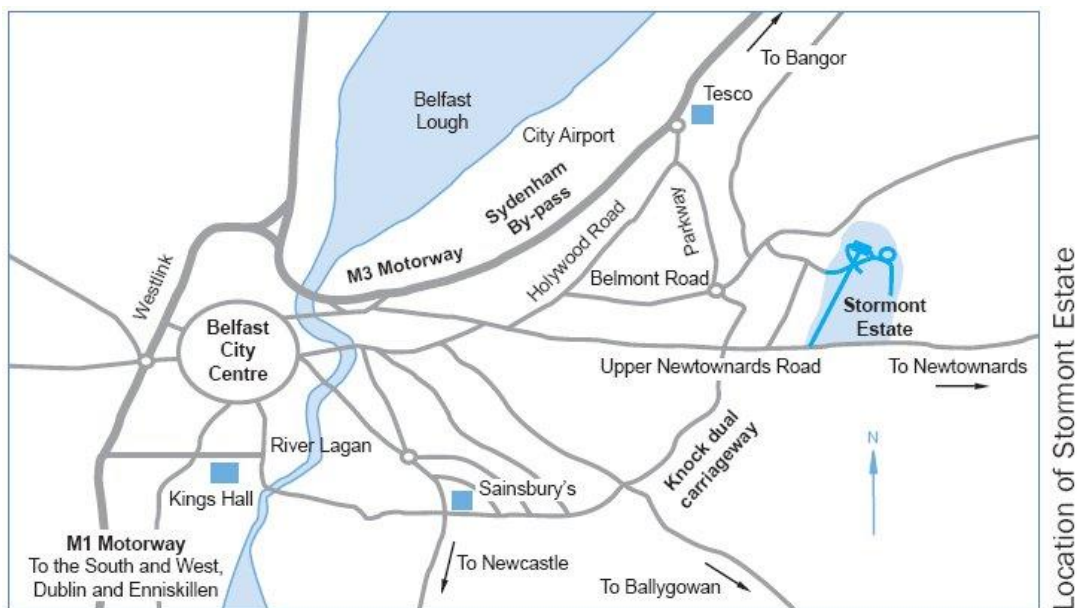
**E.6** Those with Assembly passes do not need to get daily passes at the East door/Main entrance, and are free to move about in the building unaccompanied once security cleared.

## Disabled access

**E.7** Disabled access to Parliament Buildings is via ramps at the front, east and west entrances. For any further information such as access to parking, contact should be made with the Clerk to the Committee.

## Getting to Parliament Buildings

If travelling by car, visitors are required to pass through a security facility at all entrances to the Estate. All visitors to Parliament Buildings are required to pass through a search facility.



Showing the location of Stormont Estate in relation to Belfast City Centre

### Getting there by Car

Parliament Buildings is situated in Stormont Estate which is on the east side of Belfast, on the Upper Newtownards Road (A20). When travelling out of Belfast along the Upper Newtownards Road, the large entrance to the Estate can be seen on the left hand side of the road, approximately 5 miles from the city centre.

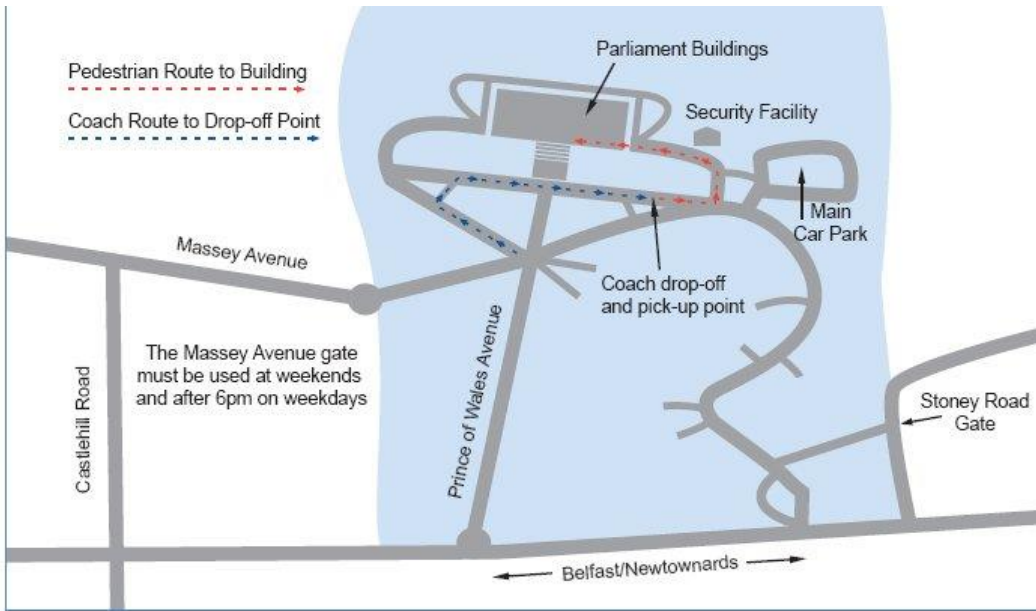
### The NI Assembly address is:

Northern Ireland Assembly  
Parliament Buildings  
Ballymiscaw  
Stormont  
Belfast  
BT4 3XX  
GPS: +54°36'13.02", -5°49'50.40"

### Getting there by Public Transport

There is a regular Metro bus service (3g, 3h and 7h) to and from Stormont Estate. There is also an Ulsterbus service from Bangor (4 and 6b). Please check the [Translink website](#) for up-to-date timetables and information.

Parliament Buildings Access and Parking







# Procedures to be followed in responding to Public Accounts Committee reports

F

## About this annex

**F.1** This annex provides guidance to departments or organisations who are required to prepare formal responses, set out in Memoranda of Reply (MoRs) to Public Accounts Committee (PAC) reports.

## Memoranda of Reply

**F.2** The Department of Finance (DoF) works with departments on the production of MoRs. It is the duty of the subject department's Accounting Officer to respond to each PAC recommendation and for that department's Minister to approve the text. When completed, MoRs are presented to the NI Assembly in the name of the Finance Minister, normally within eight weeks of the publication of a PAC report and is also subject to his/her approval.

## Treasury Officer of Accounts role

**F.3** The Treasury Officer of Accounts (TOA) within DoF is responsible for promoting and sustaining a culture in which public money is handled responsibly, transparently and to high standards of accountability. As a MoR is presented to the NI Assembly as a DoF document, it falls to DoF to ensure that there is a consistent and high standard of accountability, that the responses are appropriate, that there is a consistency of style in responding to the PAC and that good practice is shared among departments. The TOA team therefore have a central role in relation to the production of MoRs.

**F.4** Specifically, the TOA's role is to ensure that:

- departments respond to the Committee's recommendations as fully and as positively as possible;
- departments adhere fully to TOA's timetable deadlines;
- departments have the required Accounting Officer and Ministerial approvals; and
- the MoR is published and presented to the Assembly to schedule.

## Memoranda of Reply Process

**F.5** Following the publication of a PAC report, the TOA team will write to the subject department's Accounting Officer, to commission responses to the recommendations contained in the PAC report. The letter will outline what is required, will refer them to this guidance and attach a template to be used in drafting the MoR. The letter will also set out dates for the production of responses that are to be forwarded to DoF, the need for certain approvals and contact details for the TOA team.

**F.6** Where a number of departments have an interest in a particular report, the TOA team will co-ordinate and collate the individual responses. While the TOA team will consider various inputs and check for consistency etc, in such instances, it is also advisable that departments liaise with each other to ensure consistency of approach.

### **Timetable and approvals**

**F.7** In accordance with the timescales for responding to Committee Reports, as detailed in the Departmental Guidance on Assembly Committees, MoRs are presented to the NI Assembly within eight weeks of the publication of a PAC report. The eight week period includes the time required to obtain all necessary approvals (Accounting Officer and Ministerial) and to meet printing deadlines. The timetable for completion and publication of MoRs is therefore tight and should be adhered to closely.

**F.8** The commissioning letter will provide information on the need for certain approvals (this will also be necessary for any departmental input to a MoR no matter how little) and dates for the return of draft responses to DoF. An outline timetable for the publication of a MoR is shown below:

- |  |           |
|--|-----------|
| ➤ First draft to DoF   | 3 weeks   |
| ➤ Subsequent drafts and liaison with DoF                                 | 3-5 weeks |
| ➤ Final draft agreed at official level with DoF (including TOA)          | 5 weeks   |
| ➤ Department seeks immediate Accounting Officer and Ministerial approval | 5 weeks   |
| ➤ DoF seeks Ministerial approval and arrange printing                    | 5-8 weeks |
| ➤ MoR presented to the NI Assembly                                       | 8 weeks   |

**F.9** It is unnecessary for initial drafts prepared by departments to be formally cleared by Accounting Officers and Ministers before being sent to DoF, particularly if doing so would endanger the timetable. If however, when considering their responses, departments foresee problems which will require discussion with DoF they should approach them straightaway, rather than leaving the discussion until the first draft is submitted. When the final text of the MoR has been agreed with DoF (which will include TOA agreement), it should be submitted by the department to the Accounting Officer and departmental Minister for approval. Any subsequent changes required by departments should be cleared with the TOA before the final draft is formally submitted to DoF for final clearance by the Finance Minister.

**F.10** The TOA team may consult with other DoF colleagues to review departmental responses in relation to their accuracy and to ensure that departments have not made financial commitments that have not been approved by DoF.

**F.11** If a department is finding difficulty in meeting any of the deadlines which could put the presenting date in jeopardy, they should contact the TOA team immediately who will be happy to discuss any difficult issues to assist and speed up the process.

## Response Content and Style

### Template

**F.12** In producing MoRs, departments are asked to use the template issued with the commissioning letter to provide their responses and are requested not to use alternative fonts, styles or sizes. Use of the template will assist in preparations for the printing process.

### Responses

**F.13** Departments' responses should follow the recommendation to which they relate. Exceptionally, it may be appropriate to provide a composite reply to two or more related recommendations. In these cases, the relevant recommendations should be grouped together, but each recommendation must be kept distinct and the response should cover every recommendation in the group.

**F.14** Departments should provide clear, direct and succinct responses to the Committee's recommendations and the opening line should state only whether a recommendation has been accepted, partially accepted, is in the process of being implemented or has already been implemented, or is not accepted. Clear explanations should then be given of the actions that the Department has taken, or will take, to implement those recommendations which are accepted together with, if appropriate, target dates/time frames for their implementation. Departments should refrain from including text that is not relevant to the recommendation(s).

**F.15** A recommendation may be split into a number of parts. Where a department cannot accept one or more parts, it should state that the recommendation is 'partially accepted' and then explain firstly what part of the recommendation is being accepted and refer to the action to be taken on the part(s) accepted; and then secondly why, in the department's view, a part(s) cannot be accepted and provide alternative actions including any timeframe where appropriate. Disagreement with a recommendation or a matter of fact or opinion should be soundly based and the reasons and evidence for that disagreement should be clearly set out. Any disagreement with the Committee should be expressed with respect for the Committee's role and responsibilities.

**F.16** Departments should avoid disagreeing with the Committee more generally in a way which would raise questions on the evidence provided at the original PAC hearing. Neither should departments be argumentative or appear to set the Northern Ireland Audit Office (NIAO) against the Committee by implying that rejection or criticism of a Committee recommendation is justified because it was not reflected in the NIAO report that gave rise to the original hearing. It is important that the language used in MoR should show proper regard for the authority of the Committee. Departments should not comment on the NIAO report in their response to the PAC report.

**F.17** Statements should not be included in MoRs unless they accurately reflect the position at the **time of publication**. Where at the time of drafting a statement needs to be confirmed, or further action is anticipated by the date of presenting to the Assembly, it should appear in square brackets in the draft with a short drafting note to explain the position. Departments should inform the TOA team of any later information that may need to be added to the text, so that this is not overlooked in the final run-up to publication.

**F.18** Departments should therefore ensure that responses to each recommendation:

- indicates whether a recommendation has been accepted, partially accepted, is in the process of being implemented or has already been implemented, or is not accepted;
- contains a description of the actions to be taken to address the recommendation;
- has been **fully** answered **specific** to the recommendation;
- does **not** add information that is **not** relevant to the recommendation; and
- includes, where appropriate, relevant time frames to deliver the recommendation.

**F.19** The lead official drafting and co-ordinating the responses to individual recommendations should ensure that the Finance Director is engaged where necessary and copied into drafts for any funding implications.

### Introductory Paragraph

**F.20** Introductory paragraphs of general material, not connected to specific recommendations, may be included in the MoR only in exceptional circumstances if it helps set the context for the responses: for instance where there has been a change in organisation or policy since the time of the NIAO report or the hearing which affects the reply. An example would be where responsibility for the subject of the report has been transferred from one Department to another. However, in cases where the opening paragraphs of the PAC report contain summary conclusions or recommendations, DoF will also be willing to consider the inclusion of responses addressing these points prior to the response to the detailed recommendations. However, if the opening “main points” can be covered in the responses to the detailed recommendations, that should be the approach. If you wish to include an introductory paragraph, it is advisable to discuss this with the TOA team early in the process.

### Drafting Conventions

**F.21** The following style conventions should be employed:

A department, body, etc should be identified in full, followed by the initials in brackets, the first time it is referred to in the response. Thereafter the initials should be used

- TEO (not “the TEO”).
- TEO is/the Committee is (not are).
- The Committee (not “the PAC”).
- £xx million (not m).

- 2019-20 (not 2019/20).
- ‘Per cent’ in words.
- The figures “one’ to “nine” should be written in words, 10 and above in figures.
- Do not use the terms I, we or our – use the name of the body.
- Bullet points should be used sparingly and not as an alternative to providing full paragraphed text.
- Use italics without quotation marks for titles of publications/consultations etc – for example: *Managing Public Money Northern Ireland*.
- The term “government” should not be used to refer to the regional administration in phrases such as “government policy”. Policies or decisions should be attributed to a department or to the Executive as appropriate. When referring to national governments, the case convention set out above for departments should be applied (i.e. lower case for governments generally, initial capital for a particular Government).

**F.22** Departments may wish to consider examples of previous MoR which are available on the Accountability and Financial Management section of the DoF website.

**F.23** Once the MoR has been cleared by the relevant departmental Minister and submitted formally to DoF, the TOA team will arrange for approval by the Finance Minister and for the MoR to be printed and presented to the NI Assembly, and for it to be uploaded to the DoF website.

### **Communication**

**F.24** The MoR is embargoed until the time of publication. Departments will receive written confirmation from the TOA team of the dates of presenting to the Assembly in the form of an Alert Notice.

**F.25** The purpose of the Alert Notice is to inform all relevant Ministers, Accounting Officers and departmental Press Officers of the forthcoming presenting of a MoR. Whilst it is the responsibility of individual departments to determine what level of publicity to give to the publication and presenting of a MoR, a press release/statement is not normally issued at this time.

# Public Accounts Committee consideration of DoF Memoranda of Reply

G

## About this annex

**G.1** This annex provides information on protocols for the Committee's consideration of Memoranda of Reply (MoRs).

## Guiding Principles

**G.2** Both the Department of Finance (DoF) and the Public Accounts Committee (PAC) regard MoRs as an integral part of the public accountability cycle. The protocols outlined below for the Committee's consideration of MoRs are underpinned by the following guiding principles:

- there is strong alignment and shared interest between the PAC and DoF in working in partnership with regard to the stewardship of public money;
- MoRs provide clear, direct and succinct responses to PAC recommendations; and
- DoF will ensure that departments respond to Committee recommendations as fully and as positively as possible.

## PAC Consideration of Memoranda of Reply

**G.3** Once a MoR has been presented to the Assembly, the PAC will consider each one to satisfy itself that the relevant department(s) has/have responded to the Committee's recommendations as outlined in the relevant DoF guidance. This will normally be done at one of the Committee's weekly meetings – it will not normally be necessary for the Treasury Officer of Accounts (TOA) to attend such meetings.

**G.4** After its initial consideration of a MoR, should the Committee decide that it requires further information, it will seek the information in line with the 'handling procedure' as set out in the attached handling procedures table.

**G.5** These protocols set out an agreed set of parameters within which the Committee and DoF will work. Whilst it is accepted that these are general protocols, this is notwithstanding the powers of committees under Standing Orders of the Assembly and the Northern Ireland Act 1998.

## Follow-up correspondence from the Public Accounts Committee on Memoranda of Reply & suggested handling procedures

Type of PAC follow-up	Suggested handling procedure
<b>Requests for annual update on implementation of Committee's accepted or partially accepted recommendations contained in a MOR</b>	PAC Chair to write directly to the relevant departmental Accounting Officer (normally after 1 year).
<b>Requests for copies of DoF guidance</b>	PAC Clerk to liaise with TOA team.
<b>Requests for published factual information in the public domain e.g. departmental policy/code of conduct etc</b>	PAC Clerk to liaise with relevant departmental contact.
<b>Requests for additional information that is not in public domain e.g. internal working papers</b>	PAC Clerk to liaise with relevant departmental contact.
<b>Requests for clarification on individual responses or supplementary information on how a response is to be implemented</b>	<p>Following the Committee's consideration of a MOR and where clarification is required, the Chair/Clerk will write to the TOA to request a written response. The TOA will seek the information from the relevant department(s) and provide a response to the Committee.</p> <p>If the Committee is still not satisfied, it may wish to request, through the TOA, if the relevant Accounting Officer is able to provide further information to address the Committee's concerns.</p> <p>If the Committee's concerns are still not addressed to its satisfaction, it may consider it necessary to raise the matter with the relevant Minister.</p>



# H Monitoring the implementation of commitments given to Public Accounts Committee

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## About this annex

**H.1** This annex provides advice and guidance on monitoring the implementation of commitments given to the Public Accounts Committee (PAC).

## Department of Finance database

**H.2** It is important that departments implement any commitments given in response to PAC reports in Memoranda of Reply (MoRs) as they are generally aimed at either improving value for money or improving governance. Departments should therefore ensure that they regularly monitor and report on their progress on fulfilling commitments, until they are deemed to be complete.

**H.3** To enable departments to take a consistent approach, the Treasury Officer of Accounts (TOA) team in the Department of Finance (DoF) developed and implemented an Accountability Grids database to enable departments to record and monitor their progress against commitments. The database contains the Accountability Grids for all departments and provides direct user access for nominated staff within departments to enable them to update and monitor their progress in fulfilling commitments. Access on a 'read only' basis has also been set up for key individuals, generally departmental Accounting Officers, Finance Directors and Heads of Internal Audit within departments.

**H.4** The TOA team in DoF manages the database and arranging for new departmental contacts to be given access as appropriate. It also creates all new commitments on the database once MORs have been published, and agrees these with departments usually through departmental Finance Directors. It is then the responsibility of departments to update the grids on a regular basis although it is recommended that they are updated quarterly. As responsibility for the ongoing review of progress resides with departmental Accounting Officers, the final position at the end of each update (or quarter) should be cleared personally by them and it is up to departments to put in place the appropriate procedures to ensure this happens. DoF rolls the database forward at the end of each quarter at which time any commitments which have been achieved during that quarter will be archived and no longer show as outstanding.

## Internal Audit/Audit and Risk Assurance Committee/Board's role

**H.5** To support Accounting Officers in their role it is recommended that internal audit programmes should include the review of progress against PAC commitments. Accounting Officers should also consider an oversight role for departmental audit and risk committees and Boards where appropriate. Good practice would indicate that progress on fulfilling commitments given to PAC should be a regular item on the agenda of departmental audit and risk committees to enable discussion and robust challenge to take place. Departments should also consider the potential role for Boards, in particular with regards to those recommendations

which remain outstanding on a longer term basis. It is up to departments to put in place the appropriate procedures to allow this to happen.

### **Northern Ireland Audit Office annual impact assessment exercise**

**H.7** The Northern Ireland Audit Office (NIAO) annual impact assessment exercise is an important measure of the return on investment that the NI Assembly and the taxpayer has received from its activities. Impact statistics are an important factor in demonstrating the value of the NIAO's work and in supporting its funding requirements to the Assembly's Audit Committee. It is therefore important that, through sound audit judgement, all significant impacts, both financial and non-financial, which can be legitimately attributed to NIAO's work are identified, monitored and evaluated.

**H.8** This is normally carried out every February/March. In order to inform this exercise, the TOA team in DoF provide a copy of the most recent recorded position in the form of accountability grids to NIAO to help minimise the amount of queries to departments. DoF will liaise with departments to ensure the Grids are up-to-date before reporting to NIAO.

# Media Protocols

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## About this annex

**I.1** The purpose of this annex is to provide advice to Accounting Officers on the protocols that should be applied when dealing with the media on Northern Ireland Audit Office (NIAO) and Public Accounts Committee (PAC) reports, including commenting on matters under consideration by the PAC.

## General

**I.2** On occasions, there can be a lack of balance and perspective in media reporting during the various stages of the public audit process with headlines that can be sensationalist in nature or not evidence-based, leading to public misconception. These protocols outline how to address any issues that arise, and provide guidance on dealing with media queries. Accounting Officers should ensure that appropriate arrangements are put in place within their department, agencies and other sponsored bodies for handling such issues/requests.

## General Principle

**I.3** The general principle is that no comment should be made, or that comments should be restricted until the audit and, where relevant, the Assembly process is complete. However, it is recognised that, on occasions, the headlines and criticisms portrayed in the media are not always evidence-based and do not always provide a fair and balanced view. It is therefore appropriate that departments and public bodies may, on these occasions, make some public comment. This is acceptable, provided that the protocols below are observed. Any comment made is likely to be specifically drawn to the attention of the PAC.

## Northern Ireland Audit Office Reports

**I.4** NIAO reports are agreed reports and comment should therefore generally be confined to quoting material contained in the report itself (including expressions of departmental views), and correcting any mis-statements of fact or interpretation in media coverage. Any comments in these circumstances should also observe the long-standing convention that immediate comment should not be controversial. However, Ministers have the right to respond publicly to criticisms of policy as robustly as seems appropriate.

**I.5** In addition, in a situation where there is a critical headline which focuses on one issue of the report without any attempt to offer a balanced assessment of the totality of issues being considered, Ministers should feel free to make comment in order to ensure that there is balance and perspective reflected in the media.

**I.6** It remains important that any immediate comment on NIAO reports should not pre-empt or pre-judge any evidence which might be given at a subsequent PAC hearing. Likewise, comments should not anticipate what Ministers may say in response to any subsequent PAC report.

## Public Accounts Committee Evidence Sessions and Consideration

**I.7** While matters are under consideration by the PAC, the guiding principle again is that no comment should be made that might be considered to pre-empt or pre-judge either the PAC report or the subsequent Ministerial response.

**I.8** However, if an Accounting Officer considers that, as a result of either adverse publicity such as that outlined above, or the demands of departmental business or a Ministerial decision, such comment is necessary they should discuss the matter immediately with the Treasury Officer of Accounts (TOA) in DoF. Accounting Officers for agencies, Non-Departmental Public Bodies and other Arm's Length Bodies (ALBs) should first consult with their departmental Accounting Officer before contacting DoF.

## Public Accounts Committee Reports

**I.9** As with a NIAO report, any comment should not pre-empt or pre-judge the final and considered reply to any report, which must first be given to the Assembly. Again however, in instances where publicity surrounding PAC reports appears to seek to sensationalise certain aspects of these reports rather than provide a balanced view of the Committee's deliberations, there are mis-statements of facts, or where conclusions have been drawn which are not evidence-based, Ministers should feel free to amend/challenge these robustly when they consider them to be unjustified or overstated.

## Conclusion

**I.10** While this provides flexibility for departments to make comments in the media on public audit business, it still remains broadly in line with the principles laid out in 1990 in HM Treasury which NI have followed. At the time, the then Lord President wrote to the chairman of the Liaison Committee in Parliament setting out the UK Government's understanding of the position (which still remains the formal position). In that, he stated:

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

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

**I.11** If Accounting Officers or officials have any particular areas of concern about the media handling of public audit business, the TOA team will provide advice and will be happy to discuss possible responses to individual issues with departments and ALBs.

## J Useful Reading

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### About this annex

**J.1** This annex provides details of further useful reading material. The reading material below may be accessed and downloaded from the Accountability and Financial Management section of the DoF website unless otherwise stated.

#### Further reading

##### [Managing Public Money Northern Ireland](#)

DoF guidance setting out the main principles for dealing with taxpayers' resources in NI public sector organisations. It describes the fiduciary duties of those involved in handling public resources to work to high standards of probity expected by the Assembly and the public. Chapter 3 sets out the personal responsibilities of Accounting Officers in central government.

##### [Regularity, Propriety and Value for Money](#)

Published by HM Treasury, it is designed for Accounting Officers of United Kingdom central government organisations and members of their boards who have a role in ensuring that these organisations operate with probity, propriety and regularity.

##### [Corporate Governance in central government departments: NI Code of good Practice](#)

Published by DoF, the code seeks to promote good corporate governance in central government departments and sets out the roles and functions of departmental boards and incorporate best practice in the public and private sectors.

##### [Supply Estimates in Northern Ireland: Guidance Manual](#)

Published by DoF, the manual is intended as a practical reference guide for anyone with direct or indirect responsibility for the control of public spending in general and for the Supply Estimates process in particular. It is aimed principally at officials in government departments but should also be of use to those in Arm's Length Bodies.

##### [DoF guidance on expenditure appraisal and evaluation](#)

Published by DoF, this guidance is for public sector bodies on how to appraise proposals before committing funds to a policy, programme or project. New guidance published in November is titled Better Business Cases NI, while the former guidance was NI Guide to Expenditure Appraisal and Evaluation.