



Ministry of
JUSTICE



Framework Document

Ministry of Justice and the Judicial Appointments Commission

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1. Introduction

Status of this document

1.1. The Ministry of Justice (MoJ) and Judicial Appointments Commission (JAC) have drawn up this framework document, which replaces any earlier versions. This document sets out the broad framework within which the JAC will operate. This document does not convey any legal powers or responsibilities.

1.2. The document will normally be reviewed by the MoJ and JAC every three years, immediately after the Triennial review of the JAC's status (see section 5). The next document review will take place in 2014.

1.3. The document may, however, be reviewed at any other time. MoJ will manage the provision of amendments, which will be agreed with the JAC. Major changes or significant departures from the existing document will require the approval of the MoJ's Principal Accounting Officer (PAO) and, as required, Her Majesty's Treasury (the Treasury).

1.4. The document is signed and dated by the Director General on behalf of the Lord Chancellor and the Chairman of the JAC. Copies of the document and any subsequent amendments have been placed in the Libraries of both Houses of Parliament and on the JAC website.

2. Founding legislation and role of the JAC

Founding legislation and classification

2.1. The JAC is an Executive Non-Departmental Public Body (NDPB). It was created under the Constitutional Reform Act 2005 (herein referred to as the Act). Detailed provisions relating to the JAC are in Schedule 12 to the Act. The JAC is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown. For national accounts purposes, the JAC is classified as being within the central government sector.

Role

2.2. The JAC was established as an independent body to support the strategic aims of the Government. Its statutory duties are to:

- select candidates for judicial office and recommend them to the Lord Chancellor for appointment. The Lord Chancellor, in accordance with the provisions of the Act, makes the appointments or recommends the appointments to the Prime Minister for appointment to be made by The Queen; and
- be responsible for selections in relation to all judicial offices listed in Schedule 14 of the Act, as well as to the offices of the Lord Chief Justice, Heads of Division, Lords Justices of Appeal and High Court Judges. In selections for the Supreme Court a member of the Commission of the JAC is required to sit on the panel.

2.3. The JAC's strategic aims, as agreed with the Lord Chancellor to whom the JAC is accountable are to:

- select candidates for judicial office and recommend them to the Lord Chancellor for appointment; and
- deliver against a performance framework agreed with the Lord Chancellor and to reflect this in a business plan, progress being reviewed 6 monthly between the appropriate Director General and the JAC Chairman.

2.4. Under the Act, the JAC has very specific duties in regard to the selection of judges. These statutory responsibilities are:

- to select candidates solely on merit;
- to select only people of good character; and
- to have regard to the need to encourage diversity in the range of persons available for judicial selection.

3. Governance and responsibilities

Corporate governance

3.1. The composition of JAC is set out in the Act and requires a Chairman and 14 other Commissioners, who collectively form the Commission and the Board. They are appointed for a period of up to 5 years by HM the Queen, on the recommendation of the Lord Chancellor, with the possibility of reappointment for up to a maximum overall period in office of ten years. Appointments will comply with the principles of the Code of Practice of the Office of the Commissioner on Public Appointments, and be in line with the Cabinet Code of Practice of Corporate Governance in central Government departments.

3.2. The Commission appoints a Chief Executive Officer, with the approval of the Lord Chancellor, to act as the JAC's Consolidation and Accounting Officer.

MoJ Responsibilities

The Lord Chancellor

3.3. The Lord Chancellor is accountable to Parliament for the activities and performance of the JAC. This excludes financial accountability, which is the responsibility of the MoJ Accounting Officer. The Lord Chancellor's responsibilities include:

- approving the JAC's strategic objectives and targets, and the policy and performance framework within which it shall operate;
- keeping Parliament informed about the JAC's performance;
- carrying out responsibilities specified in the Act, including approving the appointment and terms and conditions of Commission members, approving the appointment of the Chief Executive, sending to the Comptroller and Auditor General the statement of accounts prepared by the JAC for each financial year and laying the annual report before Parliament;
- the discretionary power to issue procedural guidance to the JAC under Section 65 of the Act;
- considering and making decisions on recommendations for judicial appointments received from the JAC; and
- paying the JAC such sums, through grant-in-aid, grant or other funds, as deemed appropriate for meeting the JAC's expenditure and securing Parliamentary approval.

MoJ Principal Accounting Officer's specific accountabilities and responsibilities

3.4. The MoJ's Principal Accounting Officer (PAO) responsibilities are set out in Chapter 3 of Managing Public Money. The Permanent Secretary as PAO of the MoJ, is accountable to Parliament for the issue of any grant-in-aid to the JAC. The PAO also advises the responsible minister on:

- how the JAC's strategic aims and objectives contribute to the wider strategy and priorities of the MoJ and the Government;
- an appropriate budget for the JAC in the light of MoJ's overall public expenditure priorities; and

- how well the JAC is achieving its strategic objectives and whether it is delivering value for money.

3.5. Where the JAC is engaged in delegating activities within its remit to external providers, whether they be public sector or private providers, the PAO nonetheless retains ultimate accountability for the regularity, propriety and value for money of the application of public money.

MoJ's responsibilities as sponsor

3.6. The Sponsorship Team in the Justice Policy Group in the MoJ is the primary contact for the JAC. The sponsor is the main source of advice and support to the responsible minister and the PAO on the discharge of their responsibilities in respect of the JAC. The sponsor oversees the working relationship between the MoJ and the JAC and, with other MoJ teams, secures the necessary financial, management and operational information required to monitor the JAC's performance. In particular, the sponsor will:

- monitor the JAC's activities on a continuing basis, ensuring that such monitoring is relevant and proportionate to the risks posed to MoJ by the JAC's business;
- address significant problems in the governance or management of the JAC making such interventions as are judged necessary. More information on the criteria for intervention is provided at paragraphs **4.26 and 4.27**. Where urgent issues or difficulties arise in the relationships or other activities between the MoJ and the JAC, the sponsor will work with relevant officials to resolve matters satisfactorily. Where the issues cannot be fully resolved, matters will be escalated to the relevant Director General in the MoJ;
- support the development of positive and effective working relationships between the JAC and all parts of MoJ, ensuring that the sponsorship relationship is tailored and proportionate to the needs of both organisations;
- jointly with the JAC, periodically carry out an assessment of the risks both to the MoJ and JAC objectives and activities. The risk assessment must take into account the public money at stake, the JAC's corporate governance arrangements; its financial performance; internal and external auditors' reports; the openness of communications between the MoJ and the JAC and any other relevant matters;
- ensure that they have a good understanding of how the activities and priorities of the JAC impact upon the MoJ and on the relevant business needs of Her Majesty's Courts and Tribunals Service (HMCTS);
- inform the JAC of any significant departmental risks, including those of HMCTS, which are relevant to the JAC;
- assess at least once a year the performance of the Chairman against objectives for each year of the appointment and linked to the performance of the JAC. The appraisal will be carried out by a person of appropriate level within the MoJ, normally the sponsor Director General
- have access to final reports on internal and external audits and may call for additional inspection or audit in respect of a particular matter;
- be given copies of any Memorandums of Understanding (MoUs) that the JAC has with internal service providers and those that it has with other sponsored bodies. The Sponsorship Team should be informed if there are significant issues that arise in relation to these MoUs. It shall also be the main point of contact on annual reports and other corporate documents;
- inform the JAC of relevant Government policy in a timely manner, determining how ministerial policies in relation to the JAC's activities can best be delivered in terms of policy and strategy implementation. In doing so MoJ will work closely with the JAC who will determine how policy can best be delivered in terms of frontline services; and

- bring concerns about activities of the JAC to the attention of the Chief Executive, and in serious, repeated or unresolved cases, to the Commission, and require explanations and assurances that appropriate action has been taken where necessary.

3.7. Accountability meetings will take place every 6 months between the sponsor and the JAC to discuss financial management and progress against the JAC's strategic aims and objectives. Any potential conflicts between policy and operational delivery should immediately be brought to the attention of the PAO via the sponsor.

JAC responsibilities

Responsibilities of the Commission

3.8. The Commission has responsibility for ensuring that the JAC fulfils its role under the Act. It should also ensure that effective systems and arrangements are in place to provide assurance on risk management, governance and internal control. The Commission must set up an Audit & Risk Committee chaired by a lay Commissioner, which should include an independent non-executive member to provide independent advice. The Commission, through its Chairman, shall also:

- establish and take forward the strategic aims and objectives of the JAC consistent with its overall strategic direction and within the policy and resources framework determined by the Lord Chancellor;
- inform the Lord Chancellor of any changes likely to impact on the JAC's strategic direction, the attainability of its targets or the reputation of the MoJ, determining the steps needed to deal with such changes;
- ensure compliance with any statutory or administrative requirements for the use of public funds. The JAC must operate within the limits of its statutory authority and any delegated authority agreed with the MoJ, as well as in accordance with any other conditions relating to the use of public funds. In reaching decisions, the Commission must take into account guidance issued by the MoJ;
- regularly review financial information about the management of the JAC, ensuring it is informed in a timely manner about any concerns about the activities of the JAC, assuring MoJ that appropriate action has been taken on such concerns;
- demonstrate high standards of corporate governance;
- appoint, with the Lord Chancellor's approval, a Chief Executive in consultation with the MoJ and with appropriate Permanent Secretary approval. Job objectives should be linked to those of the JAC, and remuneration should be consistent with that of similar appointees across MoJ, demonstrably provide value for money in the use of public resources and be no more than is necessary to attract, retain and motivate able staff, on a sustainable basis, to deliver public functions;
- ensure that the JAC complies with the requirements of the Security Policy Framework and relevant Information Assurance Standards; and
- ensure that the JAC complies with the requirements of the Transparency Agenda with regards to spend, procurement and staff data.

The Chairman's personal responsibilities

3.9. The Chairman is responsible to the Lord Chancellor. Communications between the JAC and the Lord Chancellor should normally take place through the Chairman. He or she should ensure that policies and actions support the Lord Chancellor's wider strategic policies and that the JAC's affairs are conducted with probity. Where appropriate, these policies and actions should be clearly communicated and disseminated throughout the JAC. The Chairman and other Commission members share the corporate responsibilities set out in paragraph 3.8. In addition, the Chairman has the following leadership responsibilities:

- formulating the Commission's strategy for delivering the overall aim of the JAC;

- ensuring that the Commission complies with its duties, under Sections 63 and 64 of the Act, to select persons for appointment: solely on merit; of good character; and to have regard to the need to encourage diversity in the range of persons available for selection for appointments;
 - ensuring that the Commission, in reaching decisions, takes proper account of guidance provided by the Lord Chancellor or the MoJ;
 - promoting the efficient and effective use of staff and other resources;
 - delivering high standards of regularity and propriety; and
 - representing the views of the Commission to the general public.
- 3.10. The Chairman shall also ensure that:
- the work of the Commission and its members is reviewed and is working effectively;
 - the Commission has a balance of skills appropriate to directing the JAC's business, as set out in the Government Code of Good Practice on Corporate Governance;
 - Commission members, when taking up office, are fully briefed on terms of appointment, duties, rights and responsibilities and see that they receive appropriate induction training. This should include training on the financial management and reporting requirements of public sector bodies and on any differences that may exist between private and public sector practice;
 - he or she advises the Lord Chancellor and selection panel on the needs of the Commission when Commission vacancies arise;
 - assessments of individual Commission members are carried out at least once a year throughout the term of appointment, to ensure an individual continues to develop and add value to the organisation. Assessments will be linked to objectives for each year of the appointment and to the performance of the JAC; and
 - there is a code of practice for board members in place, consistent with the Cabinet Office model Code.

Individual board member responsibilities

- 3.11. Individual board members should:
- comply at all times with the Code of Conduct for Judicial Appointments Commissioners in accordance with paragraph 17 of Schedule 12 to the Act, particularly with requirements relating to the use of public funds and to conflicts of interest. The Code of Conduct is based on the Cabinet Office's model Code of Practice for Board Members of Public Bodies. The Code commits the Chairman and other Commissioners to the seven principles of public life¹ and includes a requirement for a comprehensive and publicly available register of Commissioners' interests, which is updated every six months;
 - not misuse information gained in the course of their public service for personal gain or political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
 - comply with the JAC's rules on the acceptance of gifts and hospitality, and of business appointments; and
 - act in good faith and in the best interests of the JAC.

Responsibilities of the JAC Chief Executive as Accounting Officer

3.12. The PAO has designated the Chief Executive as the JAC's Accounting Officer (AO) with responsibilities as set out in Chapter 3 of Managing Public Money. As AO, the Chief Executive is personally responsible for safeguarding the public funds for which he

¹ Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, Leadership.

or she has charge; for ensuring propriety and regularity in the handling of those public funds; and for the day-to-day operations and management of the JAC. In addition, he or she should ensure that the JAC as a whole is run on the basis of the standards, in terms of governance, decision-making and financial management, that are set out in Box 3.1 to Managing Public Money.

3.13. In particular, where the JAC has decided to delegate activities within its remit to external providers, whether they be public sector or private providers, the Chief Executive shall ensure that such delegation is subject to a robust governance regime, seeking to provide the following:

- clearly defined outcomes for the activity in question;
- robust and transparent mechanisms for information about performance and financial management which permit the provider to be held to account for the regularity, propriety and value for money of the activity delegated;
- where appropriate, a single, recognised Senior Responsible Owner for the activity delegated with a reporting line to the AO;
- clear decision-making lines, allocating authority appropriately in the context of the AO's responsibility to the PAO;
- a clear system for dealing promptly with failure, including the advance definition of the triggers for intervention; and
- a funding allocation process that is explicit and independently audited, supported by a thorough evaluation of outcomes.

3.14. In providing the above, the Chief Executive shall ensure that any such regime is supported by a process of regular review and monitoring, to ensure that governance arrangements are current and fit for purpose.

AO as Consolidation Officer

3.15. For the purposes of Whole of Government Accounts, the Chief Executive of the JAC is normally appointed by the Treasury as the JAC's Consolidation Officer. For the purposes of consolidation of the JAC's accounts into the MoJ's Group Accounts, the JAC shall provide to the MoJ such information as required for the Clear Line of Sight project. The JAC shall comply with the Finance and Commercial Instruction on the quarterly MoJ Departmental Accounts, specifying its reporting requirements for consolidation, issued to the JAC every quarter by MoJ Corporate Finance, or as required.

Delegation of duties

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

Responsibilities for accounting to Parliament

- 3.17. As AO, the Chief Executive's responsibilities to Parliament include:
- signing the accounts, and ensuring that proper records are kept relating to the accounts, ensuring they are properly presented in accordance with any directions issued by the Lord Chancellor, with the consent of Treasury; and prepared according to paragraphs **4.30 to 4.32** of this document and presented to the Comptroller and Auditor General for examination, certification and reporting; and laying the annual report before Parliament within the agreed timescale;
 - signing a Remuneration Report, Governance Statement and Statement of Financial Position for inclusion in the annual report and accounts;
 - ensuring that effective procedures for handling complaints about the JAC are established and made widely known within the organisation;

- acting in accordance with the terms of this document, Managing Public Money and other instructions and guidance issued from time to time by MoJ, the Treasury and the Cabinet Office; and
- giving evidence, normally with the PAO of the MoJ, when summoned before the Public Accounts Committee, on the JAC's stewardship of public funds.

Responsibilities to the MoJ

3.18. Particular responsibilities to the MoJ include:

- establishing, in agreement with the MoJ, the JAC's business plan in the light of the MoJ's wider strategic aims;
- informing the MoJ of progress in helping to achieve its policy objectives and in demonstrating how resources are being used to achieve those objectives;
- ensuring MoJ is provided with timely forecasts and monitoring information on performance and finance, and is notified of likely over or underspends (and of corrective action taken) or of any other significant financial or other risks, which could include significant personal data incidents, whether detected by internal audit or by other means;
- providing MoJ, when requested, with contributions for its annual Security Risk Management Overview return to the Cabinet Office, and for its Governance Statement;
- notifying MoJ at the earliest opportunity if there is a risk of legal challenge against the NDPB; and
- ensuring that recommendations addressed to the JAC in reports from the PAC or NAO, and recommendations made to the JAC in Management Letters, are submitted to the MoJ with a copy of the Audit Completion Report from its external auditors, and responded to, addressed and acted upon in a timely manner to ensure that they are cleared promptly. The MoJ will work with the JAC to support it in this task.

3.19. If any responsibilities are delegated outwith the JAC to another public or private organisation, they will be so delegated under a robust, monitored and documented system of governance.

Responsibilities to the Commission

3.20. The Chief Executive is responsible for:

- advising the Commission on the discharge of the JAC's responsibilities as set out in this document, the founding legislation or in any other relevant instructions and guidance that may be issued from time to time;
- advising the Commission on the JAC's performance against its aims and objectives;
- assisting the Commission in the development of and oversight of the JAC's strategic direction;
- ensuring that financial considerations are taken fully into account by the Commission at all stages in reaching and executing its decisions, and that financial appraisal techniques are followed; and
- taking action as set out in paragraph 3.7.5 of Managing Public Money if the Commission, or its Chairman, is contemplating a course of action involving a transaction which the Chief Executive considers would infringe the requirements of propriety or regularity or does not represent prudent or economical administration, efficiency or effectiveness, is of questionable feasibility, or is unethical.

Sustainable development

3.21. The Government wants to mainstream sustainable development so that it is central to policy making and delivery, estate management and the purchasing of goods and services. The JAC will comply with policies and guidance issued by the MoJ, the Treasury or other relevant bodies in relation to sustainable development, contributing to the Government's vision for Mainstreaming Sustainable Development and to MoJ's results under Greening Government Commitments Operations and Procurement.

4. Financial planning and reporting

MoJ requirements

4.1. Unless otherwise agreed by the MoJ and, as necessary, the Treasury, the JAC shall follow the principles, rules, guidance and advice in Managing Public Money, referring any difficulties or potential bids for exceptions to the sponsorship team in the MoJ in the first instance. A list of guidance and instructions with which the JAC should comply is attached at Appendix 1, including the requirements of the Financial Memorandum as set out in Appendix 2.

4.2. In particular the JAC shall comply with the requirements placed on the Department by the Efficiency and Reform Group Spending Controls as though they were addressed directly to it, unless there is an overriding policy reason for not doing so.

4.3. The JAC has been established as a Non Departmental Public Body. As such, it is not part of the MoJ VAT group and is not eligible for refunds of VAT under section 41(3) of the Value Added Tax Act 1994; but is instead subject to normal VAT rules and requirements.

4.4. Corporation Tax provisions apply to the JAC.

Budgeting procedures

4.5. Each year, in the light of decisions by the MoJ on the JAC's business plan, the MoJ will send to the JAC as close to the end of the financial year as possible:

- a formal statement of the annual budgetary provision allocated by the MoJ in the light of competing priorities across the MoJ and of any forecast income approved by MoJ. The MoJ will aim to provide this at least one month before the target date for the draft business plan. This budget allocation will set out the JAC's net expenditure limits within Resource Departmental Expenditure Limits (DEL) (split by administration and programme spend), Capital DEL, Resource Annually Managed Expenditure (AME) and (if relevant) Capital AME. A limit will also be set on cash spend. While the JAC remains an NDPB this cash payment will be made in the form of grant-in-aid; and
- a statement of any planned change in policies affecting the JAC.

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

Grant-in-aid and any ring-fenced grants

4.7. The MoJ Estimate will include the resource and capital provision of the JAC within its voted budgetary limits. For the purposes of the JAC cash requirement, the Estimate

will remove this provision and replace it with a cash grant-in-aid (GiA) requirement within the Estimate and be subject to Parliamentary control.

4.8. The GiA will normally be paid in quarterly instalments on the basis of written applications showing evidence of need. The JAC will comply with the general principle, that there is no payment in advance of need. Cash balances accumulated during the course of the year from GiA or other Exchequer funds shall be kept to a minimum level consistent with the efficient operation of the JAC. GiA not drawn down by the end of the financial year shall lapse. Subject to approval by Parliament of the relevant Estimates provision, where GiA is delayed to avoid excess cash balances at year-end, the MoJ will make available in the next financial year any such GiA that is required to meet any liabilities at the year end, such as creditors. The application shall certify that the conditions applying to the use of grant-in-aid have been observed to date and that further grant-in-aid is now required for purposes appropriate to the JAC's functions.

4.9. In the event that MoJ provides the JAC separate grants for specific (ring-fenced) purposes, it would issue the grant as and when the JAC needed it on the basis of a written request. The JAC would provide evidence that the grant was used for the purposes authorised by the MoJ. The JAC shall not have uncommitted grant funds in hand, nor carry grant funds over to another financial year.

4.10. Once the budget has been approved by the MoJ and subject to any restrictions imposed by statute, the responsible minister's instructions, or this document, the JAC shall have authority to incur expenditure approved in the budget without further reference to the MoJ, on the following conditions:

- the JAC shall comply with the delegations and Financial Transaction Limits set out in the prevailing Budget Variation (BV) letter. These shall not be altered without the prior agreement of the MoJ;
- the JAC shall comply with the principles set out in Managing Public Money, especially with regarding to regularity, propriety, value for money and in respect of any proposed payments which may be deemed as novel, contentious, repercussive or which raise doubts about the effectiveness of existing systems;
- inclusion of any planned and approved expenditure in the budget shall not remove the need to seek formal departmental approval where any proposed expenditure is outside the delegated limits or is for new schemes not previously agreed;
- the JAC shall provide the MoJ with such information about its operations, performance, individual projects or other expenditure as the MoJ may reasonably require; and
- If the JAC is in any doubt as to how best to apply the conditions set out above, they should, without delay, contact their sponsorship team to identify an appropriate way forward.

Capital

4.11. If any capital expenditure is needed, this must be agreed in advance and be included as part of the MoJ's capital allocation included in its Supply Estimate. The approval of the MoJ Finance Management Committee will be sought for any requests for capital spend above the JAC's financial transaction limit based on a submitted business case for this spend.

Cash holding

4.12. The JAC will use the services of the Government Banking Service (GBS). No more than one quarter's cash should be held in reserve or be available at year end. Provided that GiA paid into a GBS account is not swept into a commercial bank account to earn interest, it will not be considered as payment in advance for the purposes of the JAC's cash management performance, even if it is received and held in advance of when

it is required. The MoJ will carry out a check of the JAC's cash holding at the end of each financial year.

Procurement

4.13. The JAC shall:

- ensure its procurement policies are consistent with the Cabinet Office (Government Procurement) and MoJ procurement guidelines and policies;
- ensure spend in Government Procurement central categories is direct through Government Procurement mandated contracts with Cabinet Office;
- comply with all legal obligations, including those under the European Community's Procurement rules and other international agreements;
- ensure that its staff are aware of relevant procurement policies and guidance and, in particular, relevant delegations and Financial Transaction Limits;
- put in place a procurement framework (as set out in the JAC Financial Management Guide) which sets out its procurement structure, organisation, processes and control mechanisms. The MoJ will provide JAC with a statement of delegated authority for general procurement;
- provide reports of spend against central contracts and other spend metrics as requested by MoJ Procurement for ongoing reporting to the Cabinet Office; and
- periodically and if necessary undertake benchmarking against best practice elsewhere.

4.14. The Internal Auditors will have recourse to MoJ procurement as required to fulfil their functions on behalf of the JAC.

4.15. Procurement services will be provided by MoJ at no charge to the JAC.

Delegated thresholds

4.16. The JAC's delegated thresholds and Financial Transaction Limits are set out in the prevailing BV letter and its Annexes. The JAC shall obtain the MoJ's prior written approval before exceeding or varying any of its delegations or Financial Transaction Limits.

The Business Plan and performance

4.17. The JAC shall submit to the MoJ a draft business plan covering the spending review period, with updates being submitted by the end of March annually. The JAC and MoJ shall agree the issues to be addressed in the plan and the timetable for its preparation. The plan shall reflect the JAC's statutory duties and, within those duties, the priorities set from time to time by the Lord Chancellor (including decisions taken on policy and resources in the light of wider public expenditure decisions). The plan shall demonstrate how the JAC contributes to the achievement of the MoJ's or the Government's wider strategic aims.

4.18. The business plan shall describe progress towards meeting objectives and shall be linked to budgeting information so that resources allocated to achieve specific objectives can readily be identified by the MoJ. Subject to any commercial considerations, the business plan should be published by the JAC on the JAC's website and separately made available to staff. Copies should also be made available to Parliament as required by the relevant legislation.

4.19. The following key matters should be included in the plans:

- key objectives and associated key elements and timescales towards meeting those objectives and the strategy for so doing;

- an assessment of the risk factors that may significantly affect the execution of the plan but that cannot be accurately forecast; and
- other matters as agreed between the MoJ and the JAC.

Risk management

4.20. The JAC shall ensure that the risks that it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance. The JAC shall also develop a risk management strategy, in accordance with the Treasury guidance, Management of Risk: Principles and Concepts (http://www.hm-treasury.gov.uk/d/orange_book.pdf). For security and information risk, ensuring the strategy meets the requirements of the Government's Security Policy Framework, Information Standard 6 (IS6) and associated MoJ policies. These standards apply where the JAC exchanges information with MoJ (or other departments) in order to carry out a business role or in delivering services on behalf of Government. A specific reference to the management of security and information risks should be included in the Governance Statement. The JAC will also be responsible for its management of health and safety. Risks should be subject to regular review at accountability meetings and, where the risk is capable of impacting on the MoJ itself, escalated to MoJ business group or departmental risk registers as appropriate.

4.21. The JAC should adopt and implement policies and practices to safeguard itself against fraud and theft, in line with the Treasury's guide: Managing the Risk of Fraud (http://www.hm-treasury.gov.uk/...fraud_guide_for_managers.pdf). It should also take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract or give grant or grant-in-aid.

4.22. The JAC should maintain an effective business continuity plan, to MoJ standards, which should be reviewed in relation to threats and vulnerabilities at least on a quarterly basis, and regularly tested. The JAC may, by agreement, make use of MoJ command and control structures and service solutions (for property and IT), and shall report on impact and any risks to MoJ during emergencies, via their sponsor team.

Reporting performance to MoJ

4.23. The JAC shall operate relevant systems that enable timely and effective reviews of financial and non-financial performance against the budgets and milestones set out in the business plan. The JAC, in relation to its remit under the Act, shall report to MoJ on a quarterly basis on the achievement of objectives. The JAC shall take the initiative in informing the MoJ of changes in external conditions which create a significant variation in its ability to achieve its objectives, or which may require a significant change to the budget or objectives set out in the business plan.

4.24. The JAC's performance shall be formally reviewed by the MoJ twice a year. The Lord Chancellor will, unless other arrangements have been agreed, meet the Chairman of the JAC at least once a year to discuss the JAC's performance and current issues.

Providing financial monitoring information to the MoJ

4.25. The monitoring information required will be proportionate to the JAC's activities and the risks posed to the MoJ. As a minimum, however, the JAC shall provide MoJ with information on a monthly basis that will enable the MoJ satisfactorily to monitor:

- the JAC's cash management;
- its draw-down of grant-in-aid;
- forecast outturn by resource headings; and
- other data required for the Combined On-line Information System (COINS).

JAC/MoJ working level liaison arrangements

4.26. Officials of the sponsor team in the MoJ will liaise regularly with JAC officials to review JAC financial performance against plans, achievement against JAC targets, and JAC expenditure against its DEL and AME allocations. All parties agree to communicate openly and often on an informal basis, ensuring 'no surprises' in their dealings with each other. Arrangements for dealing with urgent issues and problems will be agreed between the MoJ and the JAC, with the sponsor team being kept informed of any developments in this regard.

4.27. MoJ representatives from the MoJ Sponsorship team in the Justice Policy Group, along with a member of Internal Audit, may attend the JAC's Audit and Risk Committee and Board meetings at a frequency to be agreed with the JAC.

Consequences of failure to comply with MoJ requirements

4.28. The routine accountability meetings between the JAC and the MoJ are the means by which performance, financial performance and the financial position of the JAC are evaluated. This monitoring framework and the application of MoJ risk management procedures by the JAC should be sufficient to avoid the need for MoJ intervention in the affairs of the JAC. There may, however, be a need for intervention in circumstances where:

- there are early indications that a risk of material failure may occur in the JAC and the judgement of the MoJ is that additional input is needed to prevent the risk materialising;
- external or MoJ decisions mean that the activities of the JAC need to be transferred, altered or stopped quickly;
- operational performance is compromised and the risk to the MoJ requires urgent intervention;
- the financial performance of the JAC is deteriorating and there are concerns within corporate finance over financial control; or
- broadly, an adverse situation arises and it appears that the attention of the NAO is likely – this could include a situation beyond poor financial control, poor performance or issues relating to regularity or propriety.

4.29. In such circumstances the MoJ sponsor and Corporate Finance teams will discuss with relevant officials in the JAC, escalating to senior levels within MoJ and the JAC as appropriate.

Annual report and accounts

4.30. The JAC must deliver an annual report of its activities together with its audited accounts after the end of each financial year to the Lord Chancellor. The Comptroller and Auditor General is responsible for laying the audited accounts along with his report thereon, and the Lord Chancellor is responsible for laying the annual report before Parliament. In practice, the laying takes place jointly in a single annual report and accounts document. The JAC shall provide the MoJ sponsor and Corporate Finance teams with its finalised (audited) accounts in line with the timetable set out in MoJ Finance and Commercial Instructions for the production of the Consolidated Departmental Accounts. It shall also submit a draft report to the sponsor at least four weeks before the proposed publication date.

4.31. The annual report must:

- cover any corporate, subsidiary or joint ventures under its control;
- be delivered against Finance and Commercial Instruction requirements;

- comply with the Treasury's Financial Reporting Manual (FReM) and any requirements set out in the founding legislation;
- set out any major control risks; and
- outline main activities and performance during the previous financial year and set out in summary form forward plans.

4.32. The report and accounts shall be laid in Parliament and made available on the JAC website, in accordance with the guidance in the FReM. The accounts should be prepared in accordance with the relevant statutes and specific accounts direction issued by the MoJ as well as the FReM.

Internal Audit

4.33. The JAC's Accounting Officer is responsible for making arrangements for the provision of internal audit services for the JAC in accordance with Government Internal Audit Standards and best practice set by the Treasury. Under the MoJ's Operating Model, this will be carried out by the MoJ as a shared service.

4.34. The MoJ Audit Committee, which operates in accordance with the standards and best practice set by the Treasury, will support the JAC Accounting Officer and advise on the JAC's governance, risk and control systems.

JAC Audit Committee

4.35. The JAC will appoint an Audit Committee in accordance with standards and best practice set by the Treasury, to support the Chief Executive as Accounting Officer and advise on the JAC's corporate governance, and risk and control systems.

4.36. The Committee will be chaired by a non-executive member who will ensure that effective arrangements for communication with the MoJ's Audit Committee are maintained.

4.37. The MoJ's internal audit service has a right of access to all documents prepared by the JAC's internal auditor, including where the service is contracted out.

External Audit

4.38. The Comptroller & Auditor General (C&AG) audits the JAC annual accounts.

4.39. The C&AG may:

- consult the MoJ and the JAC on who – the NAO or a commercial auditor – shall undertake the audit(s) on his behalf, though the final decision rests with the C&AG. For audit purposes, the C&AG has a statutory right of access to relevant documents including by virtue of section 25(8) of the Government Resources and Accounts Act 2000, those held by another party in receipt of payments or grants from the JAC; and
- share with MoJ at the end of the audit, information identified during the audit process and the audit report (together with any other outputs), in particular on issues impacting on the MoJ's responsibilities in relation to financial systems within the JAC. The C&AG may, where asked, provide departments and other relevant bodies with Regulatory Compliance Reports and other similar reports which departments may request at the commencement of the audit and which are compatible with the independent auditor's role.

4.40. The C&AG may carry out examinations into the economy, efficiency and effectiveness with which the JAC has used its resources in discharging its functions. For the purpose of these examinations, the C&AG has statutory access to documents as

provided for under section 8 of the National Audit Act 1983. In addition, the JAC shall provide, in conditions to grants and contracts, for the C&AG to exercise such access to documents held by grant recipients and contractors and sub-contractors as may be required for these examinations; and shall use its best endeavours to secure access for the C&AG to any other documents required by the C&AG which are held by other bodies.

5. Organisation management

Broad responsibilities for JAC staff

5.1. Subject to the provisions of the Act and within the arrangements approved by the Lord Chancellor, the JAC is responsible for the recruitment, retention and motivation of its staff. To this end the JAC will ensure that:

- the rules for recruitment and management of staff create an inclusive culture in which diversity is fully valued; appointment and advancement is based on merit; there is no discrimination on grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex or sexual orientation;
- there is an effective equality and diversity policy and statement in place. Equality is embedded into business planning processes and it can demonstrate how the JAC is meeting the legal duty to pay due regard to the public sector equality duty including carrying out proportionate equality impact assessments where appropriate;
- it complies with the statutory requirements to publish information and set equality objectives as required by the Equality Act 2010 (Specific Duties) Regulations 2011;
- it complies with the requirements of the Security Policy Framework;
- the level and structure of its staffing, including grading and staff numbers, are appropriate to its functions and the requirements of economy, efficiency and effectiveness;
- the performance of its staff at all levels is satisfactorily appraised and the JAC performance measurement systems are reviewed from time to time;
- its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the JAC's objectives;
- proper consultation with staff takes place on key issues affecting them;
- adequate grievance and disciplinary procedures are in place;
- whistle-blowing procedures consistent with the Public Interest Disclosure Act 1998 are in place; and
- a code of conduct for staff is in place based on the Cabinet Office's Model Code for Staff of Executive Non-departmental Public Bodies
http://www.civilservice.gov.uk/wp-content/uploads/2011/09/5_public_body_staffv2-word_tcm6-3414.doc.

Staff costs

5.2. Subject to its delegated authorities, the JAC shall ensure that the creation of any additional posts does not incur forward commitments that will exceed its ability to pay for them.

5.3. The MoJ may direct the JAC to join MoJ and/or Government shared services (such as for finance and IT) to make the best use of resources, following discussion of the consequences and any cost changes being reflected in the financial allocation made to the JAC. These would be within a defined framework according to arrangements agreed between the JAC and MoJ.

Pay and conditions of service

5.4. JAC staff are subject to levels of remuneration and terms and conditions of service (including pensions) within the general pay structure approved by the MoJ. The JAC has no delegated power to amend these terms and conditions.

5.5. The JAC's pay strategy should be submitted for approval by MoJ.

5.6. In line with the current policy outlined in the Treasury Civil Service pay remit guidance, any pay remit of the JAC will be subject to the approval of the Lord Chancellor and will be determined in line with the current year Treasury Pay remit guidance.

5.7. Staff terms and conditions should be set out in the JAC Intranet. Details should be provided to the MoJ on request.

Pensions, redundancy and compensation

5.8. JAC staff shall normally be eligible for a pension provided by the appropriate civil service pension scheme. Staff may opt out of the scheme provided by the JAC. Employers' contribution to any personal pension arrangement, including stakeholder pension, shall normally be limited to the national insurance rebate level.

5.9. Any proposal by the JAC to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the prior approval of MoJ. Proposals on severance must comply with the rules in chapter 4 of Managing Public Money.

Corporate service provision

5.10. A number of support functions may be provided to the JAC by the MoJ. Such functions may include:

- Legal services;
- Information and Communications Technology (ICT);
- Human Resources;
- Finance;
- Facilities;
- Procurement;
- Estates;
- Information Assurance; and
- Data incident handling (for significant incidents involving personal data).

5.11. Some of these support functions, for example, facilities, estates and ICT, will include the management of aspects of risk on behalf of the JAC, notably elements of health and safety, fire safety and security risk management. The sharing of risk will depend on the particular mix of support provided. The JAC will remain responsible for its operational and people-related risks but may obtain specialist advice from MoJ where it lacks technical competence.

5.12. The MoJ and JAC will discuss provision and management of the service as appropriate. In doing so, the functions of the JAC and the need for the services to be fit for purpose and cost effective will be taken into account in determining the extent of take-up of services.

Complaints and litigation

5.13. The JAC will have a complaints process, as required by the Act, for handling complaints received from candidates. Where complaints are received about the JAC or

matters within the JAC's remit, the MoJ will refer these to the JAC to deal with. MoJ retains the authority, however, to manage a complaints process directly in the most serious cases. Complaints about the personal conduct of the Chairman will be considered by the Lord Chancellor. If the Lord Chancellor decides the complaint should be investigated, he will appoint an independent person to investigate the issues and make recommendations to him about the complaint resolution.

5.14. Responsibility for handling any matters concerning the JAC's services will fall to the JAC Chief Executive. The Chief Executive of the JAC should ensure appropriate learning and feedback mechanisms are in place and that difficult or contentious cases are brought to the attention of the MoJ at an appropriate stage.

5.15. Candidates who are dissatisfied with the JAC's response to their complaint may take it further to the Judicial Appointments and Conduct Ombudsman.

5.16. The JAC will manage any litigation arising from its operational activities, involving MoJ lawyers or the Treasury Solicitor and other officials at the earliest appropriate stage.

Access

5.17. Subject to the provisions of s.139 of the Act, the MoJ will have a right of access to all the JAC's records and personnel as required to discharge the obligations of the MoJ and the PAO and for any other purpose including, for example, sponsorship audits and operational investigations.

Security and information assurance

5.18. The JAC is required to comply with Government standards for the management of security and information risk as set out in the Government Information Standards where they exchange information with the MoJ or other departments in carrying out a business role, or in delivering a service on behalf of Government. If requested by the MoJ, information relating to any significant weakness in meeting these standards will be provided for inclusion in the MoJ's annual Security Risk Management Overview return to the Cabinet Office and if particularly serious in the MoJ's Governance Statement. MoJ's Departmental Security Officer and Senior Information Risk Owner will commission supporting details from the JAC having regard to the assessed level of risk.

Occupational Health and Safety

5.19. The JAC should determine and operate its own Occupational Health and Safety (OHS) policies and documentation, ensuring the proportionate management of OHS risks across the JAC. In doing so the JAC should comply with relevant legislation and MoJ corporate Health and Safety policy. The JAC's overarching governance arrangements should include:

- determining documentation and operating its own OHS policies (local delivery plans) and arrangements for the proportionate management of OHS risks across their own organisation in order to meet its legal duties (using the MoJ corporate Health and Safety policy as the overarching policy);
- appointing and/or having access to a competent person with the JAC (to assist duty holders) and to advise on health and safety management. This person may obtain specialist advice from MoJ, as necessary;
- nominating and training local Health and Safety co-ordinators to assist in/undertake local activity based risk assessments, provide scheduled updates on OHS Risk Registers to MoJ Corporate Health and Safety (in line with approved MoJ assurance processes), and establishing/maintaining arrangements for appointment of local floor wardens for fire and evacuation purposes, and ensuring that there are adequate arrangements for first aid;

- developing procedures for addressing specific health and safety concerns affecting the JAC's business and the health and safety of all its service users and visitors;
- undertaking self regulatory health and safety audits and providing annual assurance on compliance to the JAC Accounting Officer, copied to MoJ Corporate Health and Safety for inclusion in the assurance reports to the Permanent Secretary; and
- collecting and maintaining a system of incident reporting relating to health and safety accident/incident/near miss reports, investigating and ensuring RIDDOR reporting as appropriate and managing the impact of work related lost time absences.

Freedom of Information and Data Protection

5.20. Subject to the provisions of s.130 of the Act, the JAC will carry out its obligations under the Freedom of Information (FOI) Act, the Data Protection Act (DPA) and the Environmental Information Regulations, including ensuring requests are answered in a timely way and are compliant with the relevant legislation.

5.21. Additionally, the JAC will maintain a central monitoring record of FOI and DPA requests received. The MoJ may require this information for inclusion in the departmental statistics.

Parliamentary Business

Parliamentary Questions

5.22. MoJ Ministers are responsible for answering Parliamentary Questions about the JAC. In discharging this responsibility, the relevant Minister or Departmental officials may seek advice and information from the JAC. When replying to a Parliamentary Question or speaking in a Parliamentary debate on an issue that falls within the remit of the JAC, the Minister will make it clear that they are answering on behalf of the JAC and on the basis of information supplied by the JAC. The JAC will provide such information and, where necessary, advice in a timely manner and to the best of its ability.

Ministerial correspondence

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

Parliamentary Select Committees

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

Review of JAC status

5.25. The JAC will be subject to Triennial Reviews. The next review will be in 2014.

Arrangements in the event that the JAC is abolished

5.26. If the JAC were to be altered or abolished as a result of primary legislation, the MoJ shall put in place arrangements to ensure the orderly conduct of this process. In particular it should ensure that the assets and liabilities of the JAC are passed to any successor organisation and accounted for properly. (In the event that there is no successor organisation, the assets and liabilities should revert to the MoJ). To this end, the MoJ shall:

- ensure that procedures are in place in the JAC to gain independent assurance on key transactions, financial commitments, cash flows and other information needed to handle the wind-up effectively and to maintain the momentum of work inherited by any residuary body;
- specify the basis for the valuation and accounting treatment of the JAC's assets and liabilities;
- ensure that arrangements are in place to prepare closing accounts and pass these to the C&AG for external audit, and that funds are in place to pay for such audits. It shall be for the C&AG to lay the final accounts in Parliament, together with his or her report on the accounts;
- arrange for the most appropriate person to sign the closing accounts. In the event that another NDPB takes on the role, responsibilities, assets and liabilities, the MoJ's PAO should sign; and
- make arrangements for the appropriate transfer or retention of cases, records and other information relevant to the JAC's activities.

5.27. The JAC shall provide MoJ with full details of all agreements where the JAC or its successors have a right to share in the financial gains of developers. It should also pass to the MoJ details of any other forms of claw-back due to the JAC.

Signed by:



Helen Edwards
Director General
Ministry of Justice



Christopher Stephens
Chairman
Judicial Appointments Commission

Appendix 1

Compliance with Government-wide corporate guidance and instructions

The JAC shall comply with the following general guidance documents and instructions:

- this document;
- appropriate adaptations of sections of Corporate Governance in Central Government Departments: Code of Good Practice http://www.hm-treasury.gov.uk/d/corporate_governance_good_practice_july2011.pdf
- Managing Public Money (MPM);
- Government Internal Audit Standards, http://www.hm-treasury.gov.uk/psr_governance_gia_guidance.htm;
- Management of Risk: Principles and Concepts: http://www.hm-treasury.gov.uk/d/orange_book.pdf;
- Managing the Risk of Fraud, http://www.hm-treasury.gov.uk/...fraud_guide_for_managers.pdf;
- Government Financial Reporting Manual (FReM), www.hm-treasury.gov.uk/frem_index.htm;
- Fees and Charges Guide, Chapter 6 of MPM;
- Departmental Banking: A Manual for Government Departments, Annex 5.7 of MPM;
- relevant Dear Accounting Officer letters;
- Regularity, Propriety and Value for Money, www.hm-treasury.gov.uk/psr_governance_valueformoney.htm;
- The Parliamentary and Health Service Ombudsman's Principles of Good Administration <http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples/principles-of-good-administration>;
- Consolidation Officer Memorandum, and relevant DCO letters;
- relevant Freedom of Information Act guidance and instructions (Ministry of Justice);
- Model Code for Staff of Executive Non-departmental Public Bodies (Cabinet Office);
- other relevant guidance and instructions issued by the Treasury in respect of Whole of Government Accounts;
- other relevant instruction and guidance issued by the central Departments;
- specific instructions and guidance issued by the MoJ as sponsor department;
- recommendations made by the PAC, the JAC's external auditors, or by other Parliamentary authority, that have been accepted by the Government or the MoJ and are relevant to the JAC.

Appendix 2

Financial Memorandum

The JAC, though not required to comply with Governmental policies and guidelines to the same extent as the MoJ itself, is strongly encouraged to regard such policies and guidelines as best practice, and endeavour to observe them where possible.

In addition, the MoJ requires the JAC to observe and comply with its own policies, where relevant to the JAC and its activities, in particular in the following areas:

Finance Policy

Please see the material available on the MoJ intranet under finance.

HR

Please see the material available on the MoJ intranet under HR.

Procurement

Please see the material available on the MoJ intranet under Procurement.

Risk Management

Please see the material available on the MoJ intranet under risk.

Should access to the MoJ intranet be an issue for the JAC, the finance governance team would be happy to forward electronic copies of any document required. Please email MoJFinanceQueries@justice.gsi.gov.uk