

Department for Culture, Media and Sport

And

The Office of Communications (OFCOM)

Framework Document

June 2016

Contents

Framework Document

1. Introduction
2. Governance and accountability
 - DCMS Accounting Officer's responsibilities
 - Ofcom's Accountable Officer's responsibilities
 - The Duties of the Ofcom Board
 - Publications and information
3. Auditing
 - Internal Audit
 - External Audit
4. Funding Arrangements
 - Budgets
 - Grant-in-Aid and any ring-fenced Grants
 - Business planning
 - Working Capital
 - Risk management
 - Reporting performance
5. OFCOM staff
6. Arrangements in the event that the OFCOM is wound up

Annexes

1. Accounting Officers' Responsibilities as set out in Managing Public Money
2. Delegated Financial Limits

Office of Communications (Ofcom) Framework Document

1. Introduction

- 1.1 This Document sets out the broad framework within which Ofcom operates in respect of the public funds it receives for the purpose of carrying out its statutory functions, duties and powers. The Document does not convey any legal powers or responsibilities. It is signed and dated by DCMS and Ofcom with copies placed in the Libraries of both Houses of Parliament and available to members of the public via the DCMS and Ofcom websites.
- 1.2 This Document does not prevent Ofcom from carrying out its statutory functions, duties and powers.
- 1.3 This Document does not cover Ofcom's activities under the Postal Services Act 2011, which is covered by a separate Framework Document between the Department for Business, Innovation and Skills (BIS) and Ofcom.
- 1.4 If, in practice, any of the - provisions contained in this Framework Document or related documents should be found by Ofcom to constrain it in the independent discharge of its statutory functions, the latter shall prevail and Ofcom and DCMS will review the relevant provisions as soon as is reasonably practical to seek to address any issues arising.

2. Governance and accountability

- 2.1 Ofcom is the UK's independent communications regulator. Ofcom is funded by fees and charges from industry for regulating broadcasting, communications networks and services and postal services, and by Grant-in-Aid from the UK Government for its functions not covered by these fees and charges, including but not limited to:
 - concurrent competition regulation;
 - spectrum management;

- community radio;
- nuisance calls;
- consumer protection;
- public interest tests;
- local media assessments.

In addition, Ofcom may also receive funding for special ring-fenced projects as set out in paragraph 4.3.

2.2 Established by the Office of Communications Act 2002 (the 'Ofcom Act') Ofcom shall manage its affairs, having regard:

to such general guidance concerning the management of the affairs of public bodies as Ofcom consider appropriate; and

subject to any such guidance and only to the extent that they may reasonably be regarded as applicable in relation to a statutory corporation, to generally accepted principles of good corporate governance.

Ofcom considers it appropriate to have regard to the standards, rules, guidance and advice in Managing Public Money.

The Department expects Ofcom to follow the standards, rules, guidance and advice in Managing Public Money. There will always be instances where it is not appropriate for a specific body to follow general guidance. Ofcom recognises that DCMS, as its sponsor department, has a legitimate interest in understanding which elements of that guidance it is inappropriate for Ofcom to follow and, in its judgement as an independent body, it believes the public interest is best served by taking a different approach. As such Ofcom agrees to notify DCMS if any such instance arises.

2.3 Ofcom operates under a number of Acts of Parliament and other legislation. These include (but are not limited to):

- Communications Act 2003;

- Wireless Telegraphy Act 2006;
- Broadcasting Acts 1990 and 1996;
- Digital Economy Act 2010;
- Postal Services Act 2011;
- Competition Act 1998;
- Enterprise Act 2002.

2.4 The Communications Act 2003 states that Ofcom's principal duty is to further the interests of citizens in relation to communications matters and to further the interests of consumers in relevant markets, where appropriate by promoting competition.

2.5 Sections 5 and 22 of the Communications Act provide for the Secretary of State to direct Ofcom in relation to its functions in respect of communications networks and services and the management of radio spectrum for certain specified purposes. Section 5 of the Wireless Telegraphy Act also provides for the Secretary of State to direct Ofcom on radio spectrum matters.

2.6 Ofcom is accountable to Parliament. The Secretary of State for Culture, Media and Sport is the responsible Minister, except for postal services when it is the Secretary of State for Business, Innovation and Skills.

2.7 The Secretary of State for Culture, Media and Sport is responsible for appointing the Chairman and non-executive members of the Ofcom Board and for determining their terms of appointment (including remuneration, allowances, pensions and gratuities), in accordance with the provisions of the Ofcom Act. Where these appointments are made by Ministers, they comply with the Code of Practice of the Commissioner for Public Appointments.

2.8 In accordance with the Office of Communications (Membership) Order 2005, the Ofcom Board will consist of a maximum of 10 members, including the Chairman and non-executive members appointed by the Secretary of State.

- 2.9 Before appointing a person to be the Chairman or another non-executive member of the Ofcom Board, the Secretary of State will satisfy himself/herself that that person will have no such financial or other interest as is likely to affect prejudicially the carrying out by him/her of his/her functions as a member of Ofcom. The Secretary of State will also satisfy himself/herself from time to time with respect to the Chairman and every other non-executive member of the Ofcom Board that that member has no such interest.
- 2.10 The Chief Executive is appointed by the Chairman of Ofcom and other non-executive members of Ofcom, with the approval of the Secretary of State, on such terms and conditions (including terms and conditions as to remuneration) as the Chairman and other non-executive members may determine.
- 2.11 The Ofcom Board delegates the day-to-day running of the organisation to the Chief Executive and such other executive members and employees of Ofcom as it may determine from time to time. The Chief Executive and other executive members answer to the Ofcom Board on the running of Ofcom and the performance of its statutory functions and duties. The Chief Executive also fulfils the function of Ofcom's Accounting Officer, as set out in paragraphs 2.14 – 2.17 below.

DCMS Accounting Officer's responsibilities

- 2.12 The Permanent Secretary is the Accounting Officer for DCMS, and therefore is accountable to Parliament for the issue of public funds to Ofcom. Ofcom will provide such information and assistance as the Permanent Secretary may reasonably require in relation to the financial and management controls that Ofcom has in place to ensure the proper carrying out of its duties, appropriate assessment of risk, and the escalation of concerns to the Ofcom Board as appropriate.
- 2.13 A senior sponsor for Ofcom will be appointed within DCMS to:

- act as the senior point of liaison between Ofcom and DCMS and inform Ofcom of government policy in a timely manner;
- support the DCMS's Accounting Officer in the discharge of his/her responsibilities;
- work collaboratively with Ofcom's Chief Executive to facilitate the smooth operation of this Document, including ensuring that Ofcom is free to exercise its statutory functions independently.
- oversee a reciprocal 'no surprises' agreement between Ofcom and Government ensuring that where reasonably possible each organisation is notified of relevant external communications in a timely manner

Responsibilities of Ofcom's Chair

2.14 The Chair of Ofcom leads the Ofcom Board. The Ofcom Board is the main decision-making body of the organisation, with responsibility for ensuring that Ofcom acts in accordance with its statutory duties. [As described at paragraph 2.11, the Ofcom Board delegates the day-to-day running of the organisation to the Chief Executive, other executive members of the Ofcom Board, and other employees of Ofcom.]

Responsibilities of Ofcom's Accounting Officer

2.15 Ofcom's Accounting Officer is the executive member of Ofcom responsible for accounting to Parliament, to the Ofcom Board and its other stakeholders for stewardship of its resources and the management of Ofcom to ensure it operates effectively and to a high standard of probity.

2.16 Ofcom's Accounting Officer should ensure that Ofcom meets appropriate standards in terms of governance, decision-making and financial management and should take account of statutory provisions intended to safeguard independence. As set out in paragraph 2.2 above, the Department expects Ofcom's Accounting Officer to follow the standards, rules, guidance and advice in *Managing Public Money*, notifying DCMS if there are instances where he or she

believes the public interest is best served by taking a different approach. In particular, Ofcom's Accounting Officer shall:

- ensure that, in respect of its financial responsibilities, Ofcom operates within the terms of the statute and this Document and such other applicable terms and conditions attaching to public funds;
- ensure Ofcom's expenditure is controlled so that value for money is achieved through the economical, efficient and effective use of Ofcom's resources, and that all systems necessary to achieve this are in place;
- ensure Ofcom's financial and other management controls conform with the requirements of regularity, propriety and good financial management and include effective measures against fraud and theft;
- ensure an effective system of risk management is in place in accordance with corporate governance best practice;
- sign the Annual Report and Accounts, ensuring that proper records are kept and that the Annual Report and Accounts are properly prepared and presented in accordance with HMT guidance and any directions issued by the Secretary of State;
- ensure adequate arrangements are in place for internal audit;
- ensure that accurate and timely payments are made to the Secretary of State or to the Consolidated Funds as required under any relevant legislation;
- ensure that any excess of Ofcom's revenues for any financial year over the sums required by them for that year for meeting their obligations and carrying out their functions is dealt with in accordance with Ofcom's applicable statutory obligations;
- ensure that effective procedures for handling complaints brought against Ofcom are established and made widely known within the body; and
- give evidence when summoned before the Public Accounts Committee and Select Committees as appropriate.

2.17 Particular responsibilities to the Ofcom Board are:

- if the Ofcom Board, or its Chairman, is contemplating a course of action involving a transaction which Ofcom's Accounting Officer considers would infringe the requirements of propriety or regularity or does not represent prudent or economical administration, efficiency or effectiveness, questionable feasibility, or is unethical, Ofcom's Accounting Officer should advise the Ofcom Board accordingly. If that advice is overruled, Ofcom's Accounting Officer should make his or her reservations clear, preferably in writing. If the Ofcom Board decides nevertheless to proceed, Ofcom's Accounting Officer should seek a written instruction to comply with it, and also inform HM Treasury and DCMS and communicate all papers to the Comptroller and Auditor General as Ofcom's external auditors without delay.

2.18 Ofcom's Accounting Officer is responsible for ensuring that appropriate banking arrangements for control of its working balances and its transmission of funds are in place. Such banking arrangements shall:

- safeguard public funds;
- be carried out efficiently, economically and effectively; and
- be kept separate and distinct from the banking arrangements of any other person or organisation.

The Duties of the Ofcom Board

2.19 The Ofcom Board provides strategic direction for Ofcom. The Ofcom Board meets regularly. Agendas and notes of meetings are published regularly on the Ofcom website.

2.20 The Ofcom Board has a central governance function with oversight over the fulfilment of Ofcom's general duties and specific statutory responsibilities as well as its adherence to the ethos of a public service organisation and its duties in relation to equality as a public body. The Ofcom Board also has oversight of Ofcom's overall funding and expenditure.

- 2.21 The Ofcom Board has agreed that certain matters are reserved to the Ofcom Board. These currently include, but are not limited to, the following:
- approval of Ofcom's annual budget, financial policy and the delegation of financial authorities from the Ofcom Board to individuals within Ofcom (Ofcom's Financial Authorities Framework);
 - approval of Ofcom's Annual Report and Accounts;
 - approval of any contract values above an agreed threshold as set out in the Ofcom Financial Authorities Framework (noting that lower value contracts are also approved in accordance with Ofcom's Financial Authorities Framework);
 - approval of Ofcom's annual plan, long term objectives and overall strategic policy framework;
 - definition of Ofcom's risk appetite;
 - decisions on major changes to the structure of Ofcom; and
 - undertaking a formal, regular review of the Ofcom Board's own performance and that of Ofcom Board Committees.

2.22 The Ofcom Board has discretion to revise these as it thinks appropriate from time to time. In the event that these are significantly revised Ofcom will communicate these changes to the Department in an appropriate manner.

- 2.23 Matters decided by Ofcom Board Committees currently include the following:
- ensuring maintenance of a sound system of internal control and risk management;
 - appointment of the Chief Executive (subject to the approval of the Secretary of State) and approval of the terms and conditions of service of the Chief Executive together with the appointments of executive Board members;
 - monitoring and approving the on-going appropriateness of Ofcom's remuneration policies;
 - reviewing Ofcom's overall corporate governance arrangements and the findings of the internal audit activity; and
 - major changes to the rules of Ofcom's pension scheme or changes to trustees.

- 2.24 These may be subject to revision from time to time. In the event they are significantly revised Ofcom will communicate these changes to the Department in an appropriate manner.
- 2.25 The Ofcom Board has set up a Risk and Audit Committee chaired by a non-executive member of the Ofcom Board. The Risk and Audit Committee supports the Ofcom Board and Ofcom's Accounting Officer by providing independent advice and assurance on risk management, governance and internal control. The Cabinet Office's Guidance on Code of Practice for Public Bodies and the HM Treasury Audit Committee Handbook provide guidance in respect of the functions of an audit committee of a public body.
- 2.26 The Ofcom Board has set up a Remuneration Committee, chaired by a non-executive member of the Ofcom Board, with oversight over all matters relating to the remuneration of the Chief Executive and members of the Executive Committee (together called "the senior management team"). It approves Ofcom's overall remuneration approach and policy.
- 2.27 The Chairman of the Ofcom Board has an obligation to ensure that:
- the Ofcom Board and its members are reviewed and are working effectively;
 - the Ofcom Board has a balance of skills appropriate to directing Ofcom's business;
 - Ofcom Board members are fully briefed on terms of appointment, duties, rights and responsibilities;
 - the responsible Minister is advised of Ofcom's needs when non-executive Board vacancies arise; and
 - he or she assesses the performance of individual Ofcom Board members when being considered for re-appointment; and
 - there is a code of practice for Ofcom Board members in place. The Cabinet Office Code of Conduct for Board Members of Public Bodies provides guidance in this regard.

2.28 Individual Ofcom Board members should:

- **comply at all times with the Ofcom Board Members' Code of Practice and with the policy on conflicts of interest and the acceptance of gifts and hospitality;**
- **not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests of those of connected persons or organisations; and**
- **act in good faith and in the best interests of Ofcom.**

2.29 The Chairman of the Ofcom Board and Ofcom's Accounting Officer should hold regular discussions with the Secretary of State and other relevant Ministers in order to:

- **exchange views, analysis and advice relating to the communications sector**
- **discuss shared risks and issues; and**
- **maintain good working relations.**

Publications and information

2.30 Ofcom applies the principles of the model publication scheme for non-departmental public bodies so that certain types of information are available to the public, as set out in Ofcom's Guide to Information.

2.31 As required by the Ofcom Act, Ofcom shall prepare in respect of each financial year a statement of accounts in such form as the Secretary of State may direct. The statement of accounts shall be audited by the Comptroller and Auditor General.

2.32 As required by the Ofcom Act, Ofcom shall prepare a report on its activities as soon as possible after the end of the financial year, containing such information as the Secretary of State may direct. The Secretary of State is required to lay a copy of the report before each House of Parliament before the summer recess. In

the interests of public accountability, the Annual Report shall also contain a copy of the full audited accounts together with the Comptroller and Auditor General's Statement of Accounts. Ofcom is also one of the group of bodies who contribute to the DCMS Consolidated Accounts and is required to provide DCMS with the data to enable production of these accounts by the date laid down in legislation. Ofcom will share its Annual Report with the Secretary of State in accordance with an agreed timetable.

2.33 Ofcom shall, in response to reasonable requests and timeframes, provide timely and accurate information required for Parliamentary Questions, responses by Chief Executives to Parliamentary Questions and contributions to Ministerial and public correspondence. Ofcom will be responsible for responding to requests under the Freedom of Information Act within the statutory time limit.

2.34 Ofcom has set in place a protocol on the pre-disclosure of regulatory information to government in the light of Ofcom's statutory framework, principles of independent economic regulation and other relevant best practice.

3. Auditing

Internal Audit

3.1 Ofcom should:

- establish and maintain arrangements for internal audit, including the appointment of a Head of Internal Audit and a Risk and Audit Committee of the Ofcom Board; and effective controls to prevent fraud and theft.

The Department expects Ofcom to follow the standards, rules and guidance in the Treasury's Public Sector Internal Audit Standards (PSIAS). There will always be instances where it is not appropriate for a specific body to follow general guidance. Ofcom recognises that DCMS, as its sponsor department, has a legitimate interest in understanding which elements of that guidance it is inappropriate for Ofcom to follow and, in its judgement as an independent body,

it believes the public interest is best served by taking a different approach. As such Ofcom agrees to notify DCMS if any such instance arises.

3.2 Ofcom shall:

- as part of a shared service approach for Internal Audit (Level 1), forward the audit strategy, periodic internal audit plans, the Ofcom's Head of Internal Audit's opinion on risk management, control and governance to DCMS's Head of Internal Audit and such other document as may reasonably be requested which gives sufficient transparency about Ofcom's risk management, financial controls and internal governance; and
- keep records of, and prepare and forward to DCMS an annual report on fraud and theft suffered by Ofcom, and notify DCMS of any unusual or major incidents at an appropriate point.

External Audit

3.3 The Comptroller & Auditor General (C&AG) examines, certifies and reports on Ofcom's Annual Accounts under the Office of Communications Act 2002.

3.4 In the event that Ofcom has set up and controls subsidiary companies, Ofcom will liaise with DCMS in relation to the following matters:

- the designation of the company as either profit making or non-profit making;
- where HM Treasury determines that the company is non-profit making, it will be (or will have been) included in a GRAA Order, which will make (or will have made) the C&AG its statutory auditor;
- where HM Treasury has determined that the company is non-profit making, the company should appoint the C&AG as auditor by agreement until such time as the GRAA Order is issued; and
- where HM Treasury determines that the company is profit making, it should either appoint the C&AG when its audit contract next comes up for renewal or, where they are required to go out to tender for audit services, the C&AG should be invited to compete. Where the C&AG is not appointed, the

company must clearly explain the reasons for selecting a different auditor to DCMS.

3.5 The C&AG:

- will consult the DCMS and Ofcom on the composition of the audit team that shall undertake the audit work on behalf of the C&AG. At the C&AG's discretion this may include commercial auditors;;
- has a statutory right of access to relevant documents, including those held by another party;
- will provide to Ofcom (to be shared with DCMS) information identified during the audit process and the audit report (together with any other outputs) at the end of the audit, in particular on issues concerning Ofcom's financial management of public funds in accordance with this Framework Document; and
- subject to the C&AG's separate agreement, will 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.

3.6 In addition, Ofcom 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.

4. Funding Arrangements

Budgets

4.1 Once the overall expenditure cap has been agreed by DCMS (in conjunction with HMT), and subject to any restrictions imposed by statute, Ofcom shall have authority to

set a budget within this expenditure cap and to incur expenditure within the budget in connection with the exercise of Ofcom's functions, on the following conditions:

- Ofcom shall comply with Managing Public Money regarding novel, contentious or repercussive proposals;
- 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 of the agreed overall expenditure cap for the organisation as a whole or is for a new activity for which Ofcom has not previously been allocated funds.

4.2 Government sets delegated limits for departments and some other bodies, where expenditure above a certain threshold on certain items requires authorisation by a Department.

4.3 Ofcom will make DCMS aware of any spending proposals with sufficient advance notice that would breach relevant delegated limits. The relevant limits are at Annex 2. The application of delegated limits is without prejudice to Ofcom's independence in the management of its affairs, summarised at paragraph 2.2 of this Agreement.

4.4 Ofcom shall also provide DCMS with such information about its operations, performance, individual projects or other expenditure as the Department may reasonably require.

Grant-in-Aid and any ring-fenced Grants

4.5 Ofcom receives ring-fenced funding for special projects, for example the clearance of spectrum. The remainder of its funding is subject to an overall expenditure cap. Within this, there is a further cap for expenditure on spectrum management, which Ofcom manages on behalf of Government. Having taken account of DCMS's views on spectrum priorities and those of other stakeholders in regard to Ofcom's wider statutory duties, Ofcom may determine the level of funding devoted to its functions, in accordance with those caps.

4.6 Those of Ofcom's functions which cannot properly be funded through fees and charges will be financed by DCMS as Grant in Aid and score against the Department's resource budgets. The funding that DCMS is able to provide for these functions is limited by the Treasury; however, Ofcom will continue to be empowered

to spend above the level of the budgets available to DCMS (as set out in its settlement letter) unless or until such time as DCMS notifies Ofcom that it must cease. It is not anticipated that funding will cease; however, should it do so, DCMS is responsible for urgently determining with Ofcom and HM Treasury the practical implications and steps to be taken as a result. Ofcom should continue to report its expenditure and forecast expenditure in these areas on a monthly basis. Grant-in-Aid is derived from Ofcom's budget figures, is voted in DCMS's Supply Estimate and will be subject to Parliamentary control.

- 4.7 At the start of each financial year, Ofcom will provide an estimate of the total costs that are likely to be incurred in the course of fulfilling its statutory duties and functions but which cannot be recouped through fees and charges: for example, in support of ex post competition cases. These forecasts will be broken down by activity and updated on a monthly basis, enabling DCMS to work with HMT to manage this liability.

Whilst Ofcom will not undertake regulatory action gratuitously and in disregard of the possible consequences, it is important that Ofcom should not be dissuaded from taking the actions they believe to be necessary due to fears about the possible financial consequences should they lose any subsequent legal challenge. The arrangements in the event of extraordinary legal costs or damages incurred by Ofcom pursuant to the discharge of its regulatory functions were set out in the letter of 26 June 2003 from Lord McIntosh to Lord Puttnam and placed in the libraries of both Houses

- 4.8 The Grant-in-Aid will normally be paid in monthly instalments on the basis of written applications showing evidence of need. Ofcom 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 Grant-in-Aid or other Exchequer funds shall be kept to a minimum level consistent with the efficient operation of Ofcom. Grant-in-Aid received by Ofcom during the financial year and not

required in respect of costs for that financial year shall be returned to DCMS or used to defray costs in the next financial year, as directed by DCMS.

4.9 Subject to approval by Parliament of the relevant Estimates provision, where Grant-in-Aid is delayed to avoid excess cash balances at the year-end, the DCMS will make available in the next financial year any such Grant-in-Aid that is required to meet any liabilities at the year end, such as creditors.

4.10 As a minimum, Ofcom shall continue to provide DCMS with monthly information via its Grant-in-Aid claims that will enable DCMS satisfactorily to monitor:

- its draw-down of Grant-in-Aid; and
- forecast outturn.

Business Planning

4.11 To operate its business effectively, Ofcom should produce appropriate management planning information in respect of future periods. These may take the form of strategic or corporate plans, and should include an Annual Plan for the forthcoming financial year. Ofcom's Annual Plan sets out Ofcom's strategic purposes, its proposed priorities and work programme for the coming year. This includes an update on Ofcom's progress on any financial or efficiency commitments in any given government spending review period and an explanation of initiatives to minimise the regulatory burden. The Annual Plan is published in draft for consultation with stakeholders before being finalised and is publically available.

4.12 As set out in the government's recent command paper "Scotland in the United Kingdom: An enduring settlement" (cmd 8990), a Memorandum of Understanding between the UK Government, Scottish Government, the Scottish Parliament and Ofcom will commit Ofcom to consulting the UK Government, the Scottish Government and the Scottish Parliament on their draft annual plan, which sets out Ofcom's strategic priorities for the year ahead. Similar arrangements will be put in place for Wales and Northern Ireland.

4.13 Along with all public bodies, Ofcom is expected to abide by the principle that cash will not be drawn down from the Exchequer in advance of need. DCMS recognizes that Ofcom will need to retain an amount of working capital commensurate with the perceived risks around its cashflow and the Department will maintain an emergency draw-down procedure in the event that Ofcom faces an urgent and unforeseen need for additional cash during the month. Under this procedure, Ofcom may apply to DCMS and will receive a same-day CHAPS payment to cover such an emergency. Ofcom will seek to minimise the cash balances that it holds and DCMS will ensure the prompt payment of cash to meet Ofcom's legitimate needs.

Procurement

4.14 Ofcom procures in accordance with all applicable UK and EU law and ensures value for money is achieved whilst minimising commercial and legal risk. This is underpinned by clear and robust procurement processes.

Ofcom shall ensure good procurement practice using fair and open procurement processes and having regard to relevant aspects of best practice and Treasury guidance. Ofcom also participates and collaborates with other public sector organisations including Crown Commercial Services. Ofcom will notify DCMS of any departure from this approach.

Risk management

4.15 Ofcom shall take appropriate action to secure that it has good quality internal governance and sound financial management. Appropriate delegation of responsibilities and effective mechanisms for internal reporting are intended to ensure that performance can be kept on track. Ofcom should follow good practice in procuring and managing resources and assets; hiring and managing staff; and deterring waste, fraud and other malpractice.

- 4.16 Ofcom shall ensure that the risks that it faces are dealt with in an appropriate manner, and in accordance with its risk management strategy, having regard to relevant aspects of best practice in corporate governance, . Ofcom should adopt policies and practices to safeguard itself against fraud and theft, having regard to the relevant Treasury guidance, and take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract or to give grant or Grant-in-Aid.
- 4.17 There will always be instances where it is not appropriate for a specific body to follow general guidance. Ofcom recognises that DCMS, as its sponsor department, has a legitimate interest in understanding which elements of that guidance it is inappropriate for Ofcom to follow and, in its judgement as an independent body, it believes the public interest is best served by taking a different approach. As such Ofcom agrees to notify DCMS if any such instance arises.
- 4.18 Ofcom has authority to deal with all losses, unless there are specific delegations put in place. Ofcom should consult with DCMS and HM Treasury when considering whether to write-off any debt of £100,000 or over, or any debt write-off which contain lessons which might be of wider interest or are novel, contentious or repercussive as defined in Managing Public Money.

Reporting performance

- 4.19 Ofcom shall operate management information and accounting systems that enable it to review, in a timely and effective manner, its financial and non-financial performance against its budgets and targets in a format that is most appropriate.
- 4.20 Ofcom should only consider accepting losses and write-offs after careful appraisal of the facts, including whether all reasonable action has been taken to effect recovery, and should be satisfied that there is no feasible alternative. In dealing with individual cases, Ofcom must always consider the soundness of their

internal control systems and the efficiency with which they have been operated, and take any necessary steps to put the failings right.

5. OFCOM staff

- 5.1 Ofcom is responsible for the recruitment, retention and the terms and conditions of its staff including the provision of pension arrangements. Ofcom will notify DCMS of any material change in good time to enable DCMS to determine what effect, if any, a change has on the government's central reporting and other requirements.
- 5.2 Ofcom shall not remunerate employees via special purpose companies or by means of any other tax avoidance devices.

6. Arrangements in the event that OFCOM is wound up

- 6.1 DCMS shall put in place arrangements to ensure that, if Ofcom is ever wound up, this shall be done in an orderly manner. In particular DCMS should ensure that in the event of this the assets and liabilities of the body 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 DCMS. To this end, DCMS in conjunction with Ofcom shall:
- ensure that procedures are in place within Ofcom 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;
 - where a body is audited by the National Audit Office; ensure that arrangements are in place to prepare closing accounts and pass to the C&AG for external audit and that funds are in place to pay for such audits;

- arrange for the most appropriate person to sign the closing accounts. In the event that another ALB takes on the role, responsibilities, assets and liabilities, the succeeding ALB Accounting Officer should sign the closing accounts. In the event that the Department inherits the role, responsibilities, assets and liabilities, the Permanent Secretary should sign.

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

Signed by:

The Secretary of State for Culture, Media and Sport

Handwritten signature of John Whittingdale in blue ink.

Chairman of the Office of Communications

Handwritten signature of Patricia Hodgson in black ink.

Accounting Officer of the Office of Communications

Handwritten signature of the Accounting Officer in black ink.

Date

23rd June 2016

