

A

ANNEX 2.3 TREASURY APPROVAL OF EXPENDITURE

This annex expands on the requirement for departments to obtain Treasury consent to their public expenditure. It includes advice on delegated authorities.

A.2.3.1 The requirement for Treasury approval for expenditure is one aspect of the long-standing convention that Parliament expects the Treasury to control all other departments in matters of finance and public expenditure. Accounting Officers are responsible (see first bullet of paragraph 3.3) for ensuring that prior Treasury approval is obtained in all cases where it is needed.

A.2.3.2 The need for Treasury approval embraces all the ways in which departments might make public commitments to expenditure, not just Estimates or legislation, important as they are. Box A2.3A identifies the main ways in which the need can arise. It may not be exhaustive.

box A.2.3A where Treasury approval is required

- Treasury agreement is needed for public statements or other commitments to use of public resources beyond the agreed budget plans
- guarantees, indemnities or letters of comfort creating contingent liabilities require Treasury agreement as if they were expenditure
- Treasury approval is required for any proposals outside the department's delegated limits
- all expenditure which is novel, contentious or repercussive, irrespective of size, requires Treasury approval even if it appears to offer value for money taken in isolation
- where Treasury approval has been overlooked, the case should immediately be brought to the Treasury's attention.

A.2.3.3 Treasury approval:

- must be confirmed in writing, even where initially given orally;
- cannot be implied in the absence of a reply;
- must be sought in good time to allow reasonable consideration before decisions are required.

Departmental ministers should be made aware when Treasury consent is required in addition to their own.

Delegation

A.2.3.4 Formally, Treasury consent is required for all expenditure or resource commitments. In practice, the Treasury delegates to departments authority to enter into commitments and to spend within predefined limits without specific prior approval from the Treasury (but see A.2.3.9 for exceptions). Delegated authorities may also allow departments to enter into commitments to spend (eg contingent liabilities) and to deal with special transactions (such as some write-offs) without prior approval.

A.2.3.5 Delegated authorities must strike a balance between the Treasury's need for control in order to fulfil its responsibilities to Parliament and the department's freedom to manage within its agreed budget limits and Parliamentary provision.

A.2.3.6 Departments should not take general Treasury approval of an Estimate as approval for specific proposals outside delegated limits even if provision for them is included in the Estimate.

Setting delegated authorities

A.2.3.7 The standard items for inclusion in delegated authorities are set out in box A.2.3B. It is best to set these out in a single document. Departments should appreciate that delegated authorities for certain kinds of expenditure can be modified or removed entirely if the Treasury is not satisfied that the department is using them responsibly.

A.2.3.8 In establishing delegated authorities, the Treasury will:

- agree with the department how it will take spending decisions (e.g. criteria and/or techniques for investment appraisal, project management and later evaluation);
- establish a mechanism for checking the quality of the department's decision-taking (e.g. by reviewing cases above a specified limit, or giving full delegation but requiring a schedule of completed cases of which a sample may be examined subsequently); and
- encourage delegation of authority within the department to promote effective financial management. In general, authority should be delegated to the point where decisions can be taken most efficiently. It is for the Accounting Officer to determine how authority should be delegated to individual managers.

box A.2.3B standard terms for delegated authorities

- a clear description of each item delegated
- the extent of each delegation, usually in financial terms, but potentially also in qualitative terms, eg all items of a certain kind to require approval
- any relevant authorities, eg the enabling legislation or letter from a Treasury minister
- the relevant budget provision
- the relevant part of the department's RfR
- any effective dates
- arrangements for review.

A.2.3.9 In turn departments should agree delegated authorities with their arm's length bodies. In some cases express Treasury agreement may be required for some of their expenditure, eg very large projects.

A.2.3.10 There are some areas of expenditure and resource commitments which the Treasury cannot delegate: see box A.2.3C.

box A.2.3C where authority is never delegated

- items which are novel, contentious or repercussive, even if within delegated limits
- items which could exceed the agreed budget and Estimate limits
- contractual commitments to significant spending in future years for which plans have not been set
- items requiring primary legislation (eg to write off NLF debt or PDC)
- any item which could set a potentially expensive precedent

A.2.3.11 Strictly, the Treasury cannot delegate its power of approval where there is a statutory requirement for Treasury approval. But in practice it can be acceptable to set detailed and objective criteria where Treasury approval can be deemed without specific examination of each case. This may be appropriate to avoid a great deal of detailed case-by-case assessment. The Treasury may ask for intermittent sampling to check that this arrangement is operating satisfactorily.

Failure to obtain Treasury authority

A.2.3.12 All expenditure which falls outside a department's delegated authority and has not been approved by the Treasury, is **irregular**. It cannot be charged to departmental RfRs or Funds. Similarly, any resources committed or expenditure incurred in breach of a condition attached to Treasury approval is irregular.

A.2.3.13 Where resource consumption or expenditure is **irregular**, the Treasury may be prepared to give retrospective approval if it is satisfied that:

- it would have granted approval had it been approached properly in the first place; and
- the department is taking steps to ensure that there is no recurrence.

A.2.3.14 If the Treasury does not give retrospective approval or authorise write-off of irregular expenditure, the department must inform the NAO. The Treasury may also draw the matter to the attention of the responsible Accounting Officer. The C&AG may then qualify his or her opinion on the account and the PAC may decide to hold an oral hearing. In the case of voted expenditure, the Treasury will present an excess vote to Parliament to regularise the situation.

A.2.3.15 It is **illegal** to commit resources or incur expenditure without Treasury consent, where such consent is required by statute. In such cases retrospective consent cannot confer legality. Such consumption cannot, therefore, be regularised.

A.2.3.16 In cases of illegal expenditure, the responsible Accounting Officer must note the department's resource account accordingly and notify the NAO. It will then be for the C&AG to decide whether to report on the matter to Parliament with the relevant account and whether to draw it to the attention of the PAC.

A.2.3.17 The C&AG and the Treasury cooperate closely on questions of authority for expenditure. The C&AG may bring a department's attention to any cases where the department:

- has ignored or wrongly interpreted a Treasury ruling;
- is attempting to rely on a mistaken delegated authority, eg where the delegation has been changed or where consent was given orally only;

- has committed resources or incurred expenditure which the Treasury might not have approved had it been consulted.

A.2.3.18 Departments should bring such cases to the attention of the Treasury, indicating clearly the NAO interest. The Treasury and NAO keep each other in touch with such cases.