

 **Cabinet Office**

**Cabinet Office**

**&**

**Equality and Human Rights Commission**

**FRAMEWORK DOCUMENT**

November 2019

# Framework Document

# 1. Introduction

* 1. This Framework Document has been drawn up by the Cabinet Office (the Department) in consultation with the Equality and Human Rights Commission (EHRC). This document sets out the broad framework within which the EHRC will operate. The document does not convey any legal powers or responsibilities. It is signed and dated by the Department and the EHRC. Copies of the document and any subsequent amendments have been placed in the Libraries of both Houses of Parliament and made available to members of the public on the EHRC’s website.
	2. Significant changes to this document will be cleared with HM Treasury and/ or the Cabinet Office as appropriate.
	3. The provisions and operation of this Framework Document will be reviewed jointly by the Department and EHRC at least every three years.

**2. Purpose of the EHRC**

* 1. The EHRC is a non-departmental public body (NDPB) established under the [Equality Act 2006](http://www.legislation.gov.uk/ukpga/2006/3/pdfs/ukpga_20060003_en.pdf) (the 2006 Act). Its statutory duties as expressed in the 2006 Act are:

*3 General Duty*

The Commission shall exercise its functions under this Part with a view to encouraging and supporting the development of a society in which—

(a) people’s ability to achieve their potential is not limited by prejudice or discrimination;

(b) there is respect for and protection of each individual’s human rights;

(c) there is respect for the dignity and worth of each individual;

(d) each individual has an equal opportunity to participate in society; and

(e) there is mutual respect between groups based on understanding and valuing of diversity and on shared respect for equality and human rights.

*8 Equality and diversity*

The Commission shall, by exercising the powers conferred by this Part—

(a) promote understanding of the importance of equality and diversity;

(b) encourage good practice in relation to equality and diversity;

(c) promote equality of opportunity;

(d) promote awareness and understanding of rights under the equality enactments,

(e) enforce the equality enactments;

(f) work towards the elimination of unlawful discrimination; and

(g) work towards the elimination of unlawful harassment.

 9 *Human Rights*

 The Commission shall, by exercising the powers conferred by this Part—

1. promote understanding of the importance of human rights through teaching, research and public awareness and educational programmes;
2. promoting awareness, understanding and protection of human rights and efforts to combat discrimination, especially through use of media channels;
3. making recommendations to Government, Parliament and other competent bodies, on existing and proposed laws and processes that will impact on human rights;
4. promoting the harmonisation of national law, policy and practice with international human rights law and standards;
5. encouraging public bodies to comply fully with the Human Rights Act.

 11 Monitoring the effectiveness of the law and advise HMG thereon;

 12 Identify changes in equality and human rights and publish a quinquennial report

 thereon – (Is Britain Fairer? / Is Wales Fairer? / Is Scotland Fairer?)

* 1. The EHRC does not carry out Government business or perform its functions on behalf of Government, and it is to operate independently of the Government. The Minister for Women and Equalities intends that this Framework Document is consistent with her obligation to have regard to the desirability of ensuring that the Commission is under as few constraints as reasonably possible in determining its activities, timetables, and priorities (as set out in paragraph 42(3) of Schedule 1 to the 2006 Act).
	2. The EHRC’s priorities and performance measures are set by its Board in light of its statutory functions, and are set out in the EHRC's published Strategic and Business Plans. The Minister for Women and Equalities shall lay the EHRC’s Strategic Plan before Parliament in accordance with the 2006 Act, and will endeavour to do so as soon as practicable after receipt. The EHRC’s and Ministers’ priorities will be regularly discussed at engagement meetings described below.

**3. Engagement**

* 1. The Department and the EHRC shall meet at least as often as specified in the following engagement calendar:
* Annual meeting between the Minister for Women and Equalities and the EHRC Chair and Chief Executive around the time of publication of the EHRC’s Annual Report and Accounts, to review the previous year’s performance;
* The Minister for Equalities will meet the EHRC Chair and Chief Executive quarterly;
* The Senior Sponsor (GEO Director) and the Chief Executive will meet monthly, or more frequently as necessary;
* Regular catch-up meetings between the Sponsorship Team in GEO, the Department’s Finance Team and EHRC to discuss current operational, spending and budgetary issues.

# 4. Governance and accountability

* 1. The EHRC is established as an independent body. It has a set of unique duties and powers which include:
* duties to promote and encourage equality, diversity and human rights; to monitor the effectiveness of the law, and to monitor progress in society, and
* powers for implementing its duties, including to provide information, to conduct inquiries, to enforce the Equality Act 2010 and to bring or intervene in proceedings relating to a breach of the rights in the European Convention on Human Rights.
	1. The EHRC’s functions, duties and powers are laid out in the 2006 Act. Schedule 1 sets out detailed provisions about its constitution. The EHRC also works closely with the Welsh Government and the Scottish Government, such as through its power - at section 11 (2)(c) and (2)(d) of the 2006 Act – to provide advice to the Welsh and Scottish Governments on specific issues.
1. **Ministerial responsibility**

5.1 The Minister for Women and Equalities will account for the EHRC’s business in Parliament.

1. **The Department’s Accounting Officer’s specific accountabilities and responsibilities as Principal Accounting Officer (PAO)**
	1. The Principal Accounting Officer (PAO) of the Department has designated EHRC’s Chief Executive as Accounting Officer (AO) for the EHRC (The respective responsibilities of the PAO and accounting officers for ALBs are set out in Chapter 3 of *Managing Public Money* which is sent separately to the Accounting Officer on appointment).
	2. The PAO is accountable to Parliament for the issue of any grant-in-aid to EHRC. The PAO is also responsible for advising the responsible Minister:
* on the EHRC’s performance against its objectives and targets in the light of the Department’s wider strategic aims and priorities;
* on an appropriate budget for the EHRC, taking into consideration the Minister for Women and Equalities statutory duty under paragraph 38 of Schedule 1 to the 2006 Act and the department’s overall public expenditure priorities; and
* how well the EHRC is achieving its strategic objectives and whether it is delivering value for money.
	1. The PAO is also responsible for ensuring arrangements are in place in order to:
* provide oversight of the EHRC’s activities;
* address significant problems in the EHRC, making such interventions as are judged necessary, whilst also respecting the EHRC’s independence;
* periodically carry out an assessment of the risks both to the department and the EHRC’s objectives and activities;
* inform the EHRC of relevant government policy in a timely manner; and
* bring concerns about the activities of the EHRC to the full EHRC Board and, as appropriate, to the departmental board, requiring explanations and assurances that appropriate action has been taken.

**7 Responsibilities of the EHRC’s Chief Executive as Accounting Officer**

7.1 The Chief Executive as Accounting Officer is personally responsible for safeguarding the public funds for which he or she has charge; for ensuring propriety, regularity, value for money and feasibility in the handling of those public funds; and for the day-to-day operations and management of the EHRC. In addition, he or she should ensure that the EHRC 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 of Managing Public Money.

*Responsibilities for accounting to Parliament*

7.2 The Chief Executive’s accountabilities include:

* signing the accounts and ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any directions issued by the Minister for Women and Equalities;
* preparing and signing a Governance Statement covering corporate governance, risk management and oversight of any local responsibilities, for inclusion in the annual report and accounts;
* ensuring that effective procedures for handling complaints about the EHRC are established and made widely known within the EHRC;
* acting in accordance with the terms of *Managing Public Money* and any subsequent guidance issued by central Government. If, in practice, any of the guidance requirements should be found to constrain the EHRC in the discharge of its functions, the EHRC agrees to alert the Sponsorship Team who will liaise with the issuing department to consider the request to lift the requirement based on the evidence provided by EHRC. The Sponsorship Team to notify the EHRC of the outcome promptly; and
* giving evidence, normally with the PAO, when summoned before the Public Accounts Committee (PAC) on the EHRC’s stewardship of public funds.

Where appropriate and agreed with the Department, the EHRC will provide substantive answers to Parliamentary Questions directly by letter from the Chief Executive to the Member of Parliament. This will generally be appropriate where the Questions relate wholly to the EHRC’s own activities. In these cases, the Minister will table a written Answer indicating that the EHRC will write to the Member directly, and undertaking to place a copy of the EHRC’s reply in the Libraries of both Houses (as appropriate).

*Responsibilities to* the Department

7.3 Particular responsibilities to the Department include:

* keeping the department informed of the EHRC’s strategic and business plans as they are developed to ensure value for money;
* informing the department of progress in achieving the EHRC’s objectives and in demonstrating how resources are being used to achieve those objectives;
* ensuring that timely forecasts and monitoring information on performance and finance are provided to the department; that the department is notified promptly if over or under spends are likely and that corrective action is taken; and that any significant problems, whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the department in a timely fashion; and
* ensuring that where reasonably possible GEO receives near final versions of external EHRC announcements or public commentary, where this has implications for Government, 48 hours before issue for information only.

**8 Departmental Senior Sponsor responsibilities**

8.1 The Departmental Senior Sponsor will:

* act as the senior point of liaison between the EHRC and the Department and the Ministers for Women and Equalities;
* support the PAO in the discharge of his/her responsibilities;
* aid the flow of information and nurture relationships – the Department will facilitate EHRC’s relationships with officials in other Government Departments where reasonably possible;
* work collaboratively with the EHRC’s Chief Executive to facilitate the smooth operation of this Framework Document, in accordance with the 2006 Act and in line with the Paris Principles;
* ensure that where reasonably possible the EHRC’s Chief Executive has advance notice of wider Government announcements on equality, human rights and/or the EHRC;
* on behalf of the Minister for Women and Equalities, conduct an annual appraisal of the Chair of the EHRC against agreed objectives; and
* ensure requests for approval of expenditure are dealt with promptly and proportionately, and that approval is not unreasonably delayed and is not withheld for any reason except where the Minister for Women and Equalities reasonably considers that the proposed expenditure does not represent value for money.

8.2 Dispute Resolution:

Any disputes between the Department and the EHRC will be resolved in as timely a manner as possible. The Department and the EHRC will seek to resolve any disputes through an informal process in the first instance. If resolution is not achieved at this stage the following process will be followed:

* Both parties to produce a report on the issue, utilising Functional Leads (for example, finance) where appropriate for input and steer;
* Raise to the Senior Sponsor and EHRC Chief Executive;
* Where the Senior Sponsor is not a Director General, the issue should be referred upwards through the management chain up to this level. At this stage of the process, the Permanent Secretary’s (PS) and EHRC Chair’s offices should be made aware of potential issues;
* If this fails to resolve, the next step is for the PS and the EHRC Chair to agree an independent non-executive director (NED) on the Departmental Board to review the dispute. Views from EHRC on suitability of the NED will be taken into account;
* The NED will act as mediator between both parties and will have the option to seek supporting information when required. Findings and recommendations would then be referred to the PS;
* If mediation has resolved the issue and both parties have agreed further action to be taken, this can then be agreed by the PS;
* If neither party is able to agree on next steps, the NED will provide their findings and recommendations to the PS for their final approval;
* PS to make final decision based on NED’s findings. The final report and decision will be sent to both the EHRC and its Sponsor.

GEO Report

GEO Sponsor

**Dispute**

Escalation?

EHRC Report

EHRC CEO

Yes

Permanent Secretary

NED Findings & Recs Final Report

Escalation?

Cabinet Office DG

Yes

Non-Exec Director

Chair EHRC

Permanent Secretary **Decision**

Approval of NED

**Dispute resolution process**

**9. The EHRC Board**

9.1 Chair and Board members’ appointments will be made by the Minister for Women and Equalities in accordance with Part 1 of Schedule 1 to the 2006 Act and the Governance Code for Public Appointments and have regard to the Paris Principles. There must be between 10 and 15 Commissioners including a Chair; Deputy Chair; Scotland Commissioner; Wales Commissioner; and a Commissioner who is or has been disabled. The appointments to the roles of Scotland / Wales Commissioner are made in agreement with the relevant Minster in the Scottish / Welsh Governments.

9.2 The 2006 Act states Commissioners should be appointed for between 2 and 5 years. As best practice, Commissioner tenure - where practicable - should be discussed with the EHRC in advance of appointments being advertised and should continue to be a minimum of 3 years for future appointments, in line with the Tailored Review and to meet National Human Rights Institution accreditation best practice. Commissioners are appointed on the basis of merit and to reflect the skills balance and diversity needs of the Board.

9.3 Where Parliament wishes to conduct a pre-appointment hearing with the Minister for Women and Equalities’ chosen candidate for the position of Chair of the EHRC, the Department will support Parliament in any such hearing.

**10. The EHRC Board responsibilities**

10.1In line with good practice in corporate governance, the Board should ensure that effective arrangements are in place to provide assurance on risk management, governance and internal control.

* 1. The Board has set up an Audit and Risk Assurance Committee (chaired by a Commissioner) and will ensure this remains in place for the duration of this Framework Document. The Audit and Risk Assurance Committee supports the Board and Accounting Officer by providing advice and assurance on risk management, governance and internal control.
	2. The Board is specifically responsible for:
* establishing the strategic direction of the EHRC and ensuring it discharges its statutory duties set out in the 2006 Act and within the resources framework available;
* determining the steps necessary to deal with any developments which are likely to affect the EHRC’s ability to discharge its statutory functions and keeping Minister for Women and Equalities informed if any such developments arise;
* ensuring that any statutory or other agreed requirements for the use of public funds are complied with;
* ensuring that the EHRC operates within the limits of its statutory authority and any delegated authority agreed with the Department, and in accordance with any agreed conditions relating to the use of public funds and that, in reaching decisions, the Board acts in accordance with *Managing Public Money* and any subsequent guidance issued by central Government. If, in practice, any of the guidance requirements should be found to constrain the EHRC in the discharge of its functions, the EHRC agrees to alert the Sponsorship Team who will liaise with the issuing department to consider the request to lift the requirement based on the evidence provided by EHRC. The Sponsorship Team to notify the EHRC of the outcome promptly;
* determining the EHRC’s performance metrics and monitoring performance against them;
* ensuring that it receives and reviews regular financial information concerning the management of the EHRC; is informed in a timely manner about any concerns about the activities of the EHRC; and provides positive assurance to the Department that appropriate action has been taken on such concerns;
* demonstrating high standards of corporate governance at all times, including using its Audit and Risk Assurance Committee to help it to address key financial and other risks;
* appointing, with the consent of the Minister for Women and Equalities, a Chief Executive and setting remuneration terms linked to performance against objectives for the Chief Executive.

**11. The Chair’s personal responsibilities**

11.1 The Chair is responsible to the Department for ensuring that the EHRC fulfils its statutory purpose as set out in the 2006 Act, and that the EHRC’s affairs are conducted with probity.

The 2006 Act sets out the role of the Chair as to:

* preside over meetings of the EHRC;
* perform such functions as may be specified in the terms of his/her appointment; and
* perform such other functions as may be assigned to him/her by the EHRC.

11.2 The Chair has particular responsibility for ensuring the Board operates effectively to fulfil its responsibilities, makes collegiate and inclusive decisions, and provides effective strategic leadership.

11.3 The Minister for Women and Equalities will normally invite the Chair of the EHRC to chair Commissioner appointment selection panels and to be involved in the recruitment process by:

* acting as Chair of the selection panel for new EHRC Commissioners;
* agreeing the selection criteria and skills required by the Board;
* signing-off the Panel Report at the end of the competition.

11.4 The GEO will continue to adhere to the principles set out in the Cabinet Office’s Code on Public Appointments when making Commissioner appointments, which are regulated by the independent Commissioner for Public Appointments. Under the Code there is scope for Ministers to appoint without a competition in exceptional circumstances subject to the approval of the Commissioner for Public Appointments. Such exceptional circumstances may be when a Commissioner resigns and it is important that the post is filled immediately to continue crucial work, for example. In the event of the above, the EHRC Chair will not be required to take part in the process, however, the Department will endeavour to consult with the Chair where possible and, where it is not, it shall provide an explanation to the EHRC Chair.

11.5 The opinion of the Chair will be taken into account when Commissioner re-appointments are being considered.

**12. Individual Board members’ responsibilities**

12.1 Individual Board members should:

* work with the Chair and Chief Executive to set the strategic direction of the EHRC;
* scrutinise the EHRC's performance, and support the Chair in holding the Chief Executive to account;
* comply at all times with the Cabinet Office *Code of Conduct for Board Members of Public Bodies* and with the rules relating to the use of public funds and to conflicts of interest set out in *Managing Public Money*;
* 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 or those of connected persons or organisations;
* comply with the EHRC’s rules on conflicts of interest and the acceptance of gifts and hospitality;
* comply with the EHRC’s Governance Manual and their terms and conditions of appointment; and
* act in good faith and in the best interests of the EHRC.

**13. Publications and information strategy**

13.1The EHRC has responsibility for contributing to the system of democratic accountability by making information available to the public on the quality and productivity of its services, value for money, performance, and progress on delivery. The EHRC will:

* be responsible for responding to requests under the Freedom of Information Act within the statutory time limit;
* prepare and publish an annual report of its activities together with its audited resource accounts after the end of each financial year. The EHRC will provide the Department with its finalised (audited) accounts.

13.2 The EHRC Annual Report must:

* cover any corporate, subsidiary or joint ventures under EHRC’s control;
* comply with the Treasury’s *Financial Reporting Manual* (FReM);
* contain a governance statement, setting out the ways in which the Accounting Officer has managed and controlled the resources used in the organisation during the course of the year, demonstrating how well the organisation is managing risks to the achievement of its aims and objectives; and
* outline the main activities and performance during the previous financial year.

13.3 The Department shall lay the annual report and accounts in Parliament and will endeavour to do so in a timely manner as soon as practicable after receipt. The EHRC will make them available on its website, in accordance with the guidance in the FReM. The EHRC will aim to submit a draft of the report to the Department in May/early June. The final version should be made available to the Minister for Women and Equalities for information at least three weeks before the proposed publication date. The accounts should be prepared in accordance with the relevant statutes and any specific accounts direction issued by the Department as well as the FReM.

13.4 Additionally, the EHRC will publish information relating to the performance of its statutory functions that will help the public to: (i) see progress against activity which the EHRC has made a public commitment to deliver; (ii) judge if the services and/or outputs offer value for money; and (iii) consider whether the way in which the EHRC operates gives rise to any issues around fairness.

13.5 Where the EHRC conducts or commissions social or economic research, relevant professional standards should be applied to ensure that research is impartial, of sufficient quality, legal and ethical. The EHRC should develop good relations with the Department’s Evidence and Analysis Unit and exchange relevant documentation for information purposes.

14 **Financial allocations**

14.1The Minister for Women and Equalities and the Cabinet Office Accounting Officer are ~~is~~ responsible for allocating funding to EHRC on an annual basis**.** The settlement letter will confirm the current year allocation and also the allocations for the remainder of the current Spending Review period. Before determining the amount and classification of the annual budgetary provision she considers reasonably sufficient for the EHRC to discharge its functions, the ~~Secretary of State~~ Minister for Women and Equalities shall seek representations from the EHRC in relation to the amount by classification the EHRC considers necessary for it to discharge its functions effectively. The Minister for Women and Equalities will notify HMT of EHRC’s budget once the Minister for Women and Equalities has determined an appropriate allocation. As set out in *Consolidated Budgeting Guidance*, classification changes within this allocation will require approval from HMT.

15 **Management and financial responsibility**

15.1Funding is made available to the EHRC subject to normal public sector spending controls. A list of delegated financial limits is set out in greater detail at Annex B. The purpose of the spending controls is to ensure that value for money for the taxpayer is achieved and these controls will not be applied in a way which constrains operational decision making. If, in practice, any of the controls contained in this Framework Document or related documents should be found to constrain the EHRC in the discharge of its functions, the EHRC agrees to alert the Department, and the Department agrees to consider the request to lift the relevant controls based on the evidence provided and to notify EHRC of the outcome promptly.

15.2 Once the budget has been approved by the Minister for Women and Equalities and the Cabinet Office Accounting Officer, the EHRC shall have authority to incur expenditure approved in the budget without further reference to the Department, with the following conditions and exceptions:

* The EHRC will comply with the delegated financial limits set out in Annex B. These delegations shall not be altered without the prior agreement of the Department. EHRC will refer all expenditure above these delegations to the Department’s finance team via the sponsorship team, for prior approval;
* EHRC will comply with *Managing Public Money* regarding novel, contentious or repercussive proposals, referring proposals in this category to the Department’s finance team via the sponsorship team;
* The EHRC will comply with changes to spending controls, delegated authorities, and authorisations on procurement and leases as notified to them by HMT/ Cabinet Office. In cases where this constrains the EHRC in the discharge of its functions, the EHRC will bring it to the attention of the Department’s Sponsorship Team as per paragraph 15.1.

15.3 The EHRC will follow the Cabinet Office spending controls set out at:

<https://www.gov.uk/government/publications/cabinet-office-controls> The Cabinet Office will respond to requests for approval of marketing and advertising spend within 28 days - as set out in the service level agreement for spend controls at <https://www.gov.uk/guidance/service-level-agreements-slas-for-spend-controls-version-4>

15.4 Expenditure against resource and capital budgets must be recorded and monitored by the EHRC in accordance with the Treasury’s *Consolidated Budgeting Guidance* (or its successor). These are the net expenditure limits for the EHRC in each year - including any use of reserves for which budgetary cover has been given - and must be adhered to. Net expenditure above these limits may not be committed until or unless a revised budget has been agreed in writing by the Department.

15.5 The EHRC will not breach the component parts of the capital and resource budgets. Agreement will be sought in advance and in writing if the EHRC wishes to spend more in one category and less in another. In all these matters, the Department may be required to refer a decision to the Treasury before granting approval.

15.6 Grant-in-aid is the amount payable by the Department to the EHRC in each year and is independent of the budget figures, although derived from them. It does not include depreciation or any budgetary cover allocated by the Department for the EHRC’s use of its own reserves.

15.7 Both the grant-in-aid provided by the Department and the overall budgets set by it for the year in question will be voted in the Department’s Supply Estimate and be subject to parliamentary control.

15.8 The grant-in-aid will normally be paid in monthly instalments on the basis of written applications showing evidence of expenditure required. EHRC 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 the EHRC. Grant-in-aid not drawn down by the end of the financial year shall lapse. 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 Department 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 and accruals.

15.9 As a minimum, the EHRC shall continue to provide the Department with monthly

information through its grant-in-aid claims that will enable the Department satisfactorily to monitor:

* the EHRC’s cash management;
* its draw-down of grant-in-aid;
* forecast outturn; and
* other data required for the Treasury’s On-line System for Central Accounting and Reporting (OSCAR) or its successor.

15.10 In the event of changes to Machinery of Government (MoG), a clear plan for resolving finances for the Commission will be agreed and set out by way of a Memorandum of Understanding (MoU) between the importing and exporting departments. The Sponsorship Team should ensure EHRC is supported in making relevant contacts to enable a smooth transition following MoG changes.

16. **Capital projects**

16.1 The EHRC abides by the [Treasury’s Green Book](https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-governent) processes for capital projects, whether already underway or beginning during the period of operation of this Framework Document. Any capital expenditure that exceeds the EHRC’s delegated capital limit will be referred to the Department’s Finance Business Partners for approval at three stages of development, as set out in the Green Book guidance. The figure used in calculating whether the costs exceed the delegated limit is the lifetime cost of the capital project, including non-exchequer funding and any increased running costs ensuing from it.

16.2 Where projects are reliant on donations or sponsorship that have yet to be confirmed, demonstration of a staggered approach to completion (i.e. that takes account of the funds secured to date before proceeding with each stage) will be more likely to receive approval to proceed.

16.3 When considering the case for capital projects, the EHRC will use the Treasury’s Green Book methodology. This is the case for evaluating a capital project regardless of whether the project requires Departmental approval. The EHRC will provide to the Department on request copies of business cases for projects below the EHRC’s delegated limit or elements of them, such as the Net Present Value calculation.

17 **Procurement**

17.1 The EHRC agrees:

* to comply with current requirements on additional spending controls, delegated authorities and authorisations on procurement and leases as set out in this agreement or agreed with the Department;
* as a “Contracting Authority” comply with the Public Contracts Regulations 2015 (PCR) and Directive 2014/24/EU in its procurement activities.

18 **Internal audit**

18.1 The EHRC will:

* establish and maintain arrangements for internal audit in accordance with the Treasury’s Public Sector Internal Audit Standards (PSIAS);
* maintain an Audit and Risk Assurance Committee of its Board in accordance with good practice suggested in the Cabinet Office and Treasury’s *Corporate governance in central government departments:* [*Code of good practice*](https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017) *2017* and the Treasury’s *Audit and risk assurance committee handbook*;
* forward the audit strategy, periodic audit plans and annual audit report to the Department;
* have effective controls to prevent fraud and theft; and
* report all cases of attempted, suspected or proven fraud, irrespective of the amount involved, and notify the Department of any unusual, novel or major incidents (for example, incidents where impropriety or illegality is suspected) as soon as they are discovered, irrespective of the amount involved.

18.2 The Department’s internal audit service has a right of access to all EHRC documents, including where the EHRC internal auditor service is contracted out, for the purpose of obtaining assurance as to the EHRC’s handling of public funds and effectiveness of financial controls, except where they relate to an action taken against a Government department and it is clear that access to the documents could compromise the ability of the EHRC to exercise that function independently of Government influence or interference. Access will also be refused where section 6 of the 2006 Act prohibits disclosure of the information.

19 **External audit**

19.1 In accordance with Schedule 1 to the 2006 Act, the Comptroller & Auditor General (C&AG) audits the EHRC’s annual accounts. The audited accounts are included with the EHRC’s Annual Report in a single document, which is laid before Parliament by the Department.

19.2 Any proposal by EHRC to set up a subsidiary company will need the approval of the Department and Treasury.

19.3 In the event that the EHRC has set up and controls subsidiary companies, the EHRC will, in the light of the provisions in the Companies Act 2006, ensure that the C&AG is appointed auditor of those company subsidiaries that it controls and/or whose accounts are consolidated within its own accounts. The EHRC shall discuss with the Department the procedures for appointing the C&AG as auditor of the companies.

The C&AG:

* will consult the Department and the EHRC 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;
* 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 EHRC;
* will share with the Department 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 impacting on the Department 's responsibilities in relation to financial systems within the EHRC; and
* 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.

19.4 The C&AG may carry out examinations into the economy, efficiency, and effectiveness with which the EHRC 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 EHRC 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.

20 **Risk management**

20.1 The EHRC has (and will continue to have) and will enforce a risk management strategy in accordance with best practice in corporate governance and act in accordance with relevant Treasury guidance to ensure that risks are managed appropriately.

20.2 It 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*. 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 to give grant or grant-in-aid.

20.3 As part of its approach to risk management and information assurance, the EHRC should ensure the robustness of its cyber security to protect itself against data breaches, service disruption, loss, and reputational damage. The level of provision should be proportionate to the EHRC’s size and the level of risk it carries in terms of cyber vulnerability.

20.4 A range of relevant Government advice and guidance can be found at:

https://www.gov.uk/government/collections/cyber-security-guidance-for-business.

20.5 As a minimum, the EHRC should take steps to ensure it has basic cyber security controls in place. These should be at least at the level set out in the Cyber Essentials scheme. Further details of this scheme can be found at:

www.cyberstreetwise.co.uk/cyberessentials.

**21 Business planning**

21.1In accordance with section 4 of the 2006 Act, the EHRC will prepare and publish a strategic plan or any revised version, and will submit it to the Department for Minister for Women and Equalities to lay it before Parliament. The strategic plan must be reviewed by the EHRC every three years as well as during each three year period.

21.2 Each year of the three-year plan, amplified as necessary, will form the basis of the EHRC’s annual business plan. The business plan should include a forecast of expenditure for the year, classification by activity and key objectives, and clear success indicators. EHRC Business Plans should be sent to Ministers, the Women and Equalities Select Committee and the Joint Committee on Human Rights and the Scottish Government Equality Minister and Welsh Assembly Equality Minister and their respective departments.

21.3 The strategic and business plans will be published by the EHRC on its website and made available to staff.

**22. Right of access**

22.1The EHRC will allow reasonable access by the Department to EHRC records and personnelwhere this is necessary for the proper discharge of the responsibilities of the Ministers for Women and Equalities in respect of the EHRC to Parliament, except where they relate to an action taken against a Government department and it is clear that access to the documents could compromise the ability of the EHRC to exercise that function independently of Government influence or interference. Access will also be refused where section 6 of the 2006 Act prohibits disclosure of the information.

**23. EHRC staff**

23.1Within the arrangements determined by the EHRC and approved by the Minister for Women and Equalities under paragraph 7(3) of Schedule 1 to the 2006 Act, the EHRC has responsibility for the recruitment, retention and motivation of its staff and for determining individuals' levels of pay and reward.

23.2 The broad responsibilities toward its staff are to 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 because of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation;
* 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 EHRC’s performance measurement or appraisal systems are reviewed from time to time;
* its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the EHRC’s objectives;
* proper consultation with staff and their representatives 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 2010 are in place; and
* it has in place a staff code of conduct in line with the *Model Code for Staff of Executive Non-Departmental Public Bodies*.
	1. Any proposal by the EHRC to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office under the Civil Service Compensation Scheme or an analogous scheme, requires the prior approval of the Cabinet Office. Proposals on severance must comply with the rules in chapter 4 of *Managing Public Money* and will require Treasury approval.
	2. EHRC staff are subject to levels of remuneration and terms and conditions of service (including pensions) within the general arrangements approved by the Minister for Women and Equalities.
	3. EHRC staff terms and conditions will be subject to an agreed annual pay negotiating remit and must be in line with the current public sector pay policy guidelines issued by the Treasury. The remit will be subject to the agreement of the Department. The EHRC has no delegated power to amend these terms and conditions.
	4. The EHRC will not remunerate employees through special purpose companies or by means of any other tax avoidance devices.

**24. Arrangements in the event that Parliament should legislate for the EHRC to be wound up.**

* 1. In the event that Parliament should pass primary legislation for the EHRC to be wound up as a legal entity, and its powers and duties passed to one or more successor organisations, the EHRC will wind up its affairs as soon as practicable and put in place a plan for its closure. This will include arrangements for the handover of its residual business and assets and liabilities.
	2. The EHRC will send the draft wind-up plan to the Department as soon as practicable.
	3. The Department will put in place arrangements to ensure that, when the EHRC is wound up, this is done in an orderly manner. In particular, the Department will ensure that the assets and liabilities of the EHRC are passed to any successor organisation and accounted for properly (in the event that there is no successor organisation, the assets and liabilities will revert to the Department). To this end, the Department, in conjunction with the EHRC, will:
* ensure that procedures are in place in the EHRC 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;
* 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; and
* 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.
	1. The EHRC will provide the Department with full details of all agreements where it or its successors have a right to share in the financial gains of developers. It will also pass to the Department details of any other forms of claw-back due to the EHRC.
	2. In the event that the EHRC is wound up, and/or the work and responsibilities of the

EHRC transfer fully or in part to another organisation/s, the Department and EHRC will work together to implement any relevant legislation and guidance that is in force at the time; including, but not limited to TUPE; Machinery of Government Changes; Good Practice for Managing Consequences of Outsourcing and the Cabinet Office Statement of Practice on Staff Transfers. Where appropriate, in line with relevant legislation and guidance, the Department and EHRC will use reasonable endeavours to ensure that EHRC employees transfer with their work to the new organisation/s.

24.6 In the event that the EHRC is wound up, and/or the work and responsibilities of the EHRC transfer fully or in part to another organisation/s, and it is not appropriate for all of some of the EHRC’s employees to transfer to the new organisation/s; the EHRC and Department will work together to mitigate redundancy risks, by following the 2016 Protocol – Civil Service Redundancy Principles, or any protocol that supersedes these.

**25. Reporting performance to the Department**

25.1The EHRC will operate management information and accounting systems that enable it to review in a timely and effective manner its financial and non-financial performance against the budgets and performance measures set out in its Strategic and Business Plans. It will supply to the Department the information specified in Annex C. The EHRC’s performance will be reviewed by the Department periodically in accordance with the engagement calendar set out at Section 3 of this Framework Document.

**26. Review of the EHRC**

* 1. The EHRC will be reviewed in line with the arrangements set out in the Cabinet Office’s *Tailored Reviews: Guidance on the Review of Public Bodies* and the EHRC will participate in future reviews. The last review of the EHRC took place in July/August 2018 and the Department and EHRC will implement the recommendations of the Tailored Review as set out in the action plans.

Date: **November 2019**

Signed by:

****

**Elysia McCaffrey, Interim Director - Government Equalities Office.**



**Rebecca Hilsenrath, Chief Executive and Accounting Officer for the Equality and Human Rights Commission.**

**Annex A: Compliance with guidance and instructions**

The EHRC follows the following general guidance documents and instructions. Where the EHRC considers there may be difficulties, or exceptions required, the EHRC will bring this to the attention of the Department before expenditure is incurred:

* Appropriate adaptations of sections of the Corporate Governance Code for Central Government Departments;

 <https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-Departments>

* EHRC must comply with Managing Public Money:

 <https://www.gov.uk/government/publications/managing-public-money>

* EHRC must follow the Cabinet Office spending controls set out at:

<https://www.gov.uk/government/publications/cabinet-office-controls> with the exceptions set out in 15.4.1

* Consolidated Budgeting Guidance (updated annually);

https://www.gov.uk/government/publications/consolidated-budgeting-guidance-2015-to-2016

* Government Internal Audit Standards;

<https://www.gov.uk/government/publications/public-sector-internal-audit-standards>

* Appropriate adaptations of the Audit Committee Handbook;

https://www.gov.uk/government/publications/audit-committee-handbook

* Management of Risk: Principles and Concepts;

https://www.gov.uk/government/publications/orange-bookTreasury guidance on Managing the Risk of Fraud;

 http://webarchive.nationalarchives.gov.uk/20100407010852/http://www.hm-treasury.gov.uk/psr\_managing\_risk\_of\_fraud.htmGovernment Financial Reporting Manual (FReM);

 https://www.gov.uk/government/collections/government-financial-reporting-manual-frem

* If applicable, the Charities SORP;

<http://www.charitycommission.gov.uk/Charity_requirements_guidance/Accounting_and_reporting/Preparing_charity_accounts/sorpfront.aspx>

* Fees and Charges Guide, Chapter 6 of MPM;

https://www.gov.uk/government/publications/managing-public-moneyBanking guidance, annex 5.7 of MPM;

 https://www.gov.uk/government/publications/managing-public-money

* Relevant Dear Accounting Officer letters;

<https://www.gov.uk/government/publications/managing-public-money>

* Regularity, Propriety and Value for Money;

[http://webarchive.nationalarchives.gov.uk/20130129110402/http:/www.hm-treasury.gov.uk/psr\_governance\_valueformoney.htm](http://webarchive.nationalarchives.gov.uk/20130129110402/http%3A/www.hm-treasury.gov.uk/psr_governance_valueformoney.htm)

* The Parliamentary Ombudsman’s Principles of Good Administration;

<http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples/principles-of-good-administration>

* Relevant Freedom of Information Act guidance and instructions;

 https://ico.org.uk/for-organisations/guide-to-freedom-of-information/

* Model Code for Staff of Executive Non-Departmental Public Bodies: Chapter 5 of Public Bodies: A Guide for Departments (Cabinet Office);

 https://www.gov.uk/government/publications/public-bodies-information-and-guidance

* Other relevant guidance and instructions issued by the Treasury in respect of Whole of Government Accounts;

 https://www.gov.uk/government/collections/whole-of-government-accounts

* Guidance on major projects issues by the Infrastructure and Projects Authority;

 https://www.gov.uk/government/organisations/infrastructure-and-projects-authority

* The Statistics and Registration Service Act 2007;

<http://www.legislation.gov.uk/ukpga/2007/18/contents>

* The Code of Practice for Official Statistics;

<http://www.statisticsauthority.gov.uk/assessment/code-of-practice/>

* Recommendations made by the Public Accounts Committee, or by other Parliamentary authority, that have been accepted by the Government and relevant to the EHRC.

**Annex B: Delegated financial limits**

**ALL DELEGATIONS ARE SUBJECT TO THE REQUIREMENT THAT SPENDING PROPOSALS FALLING WITHIN MANAGING PUBLIC MONEY Para. A.2.23.12. EXPENDITURE AND RESOURCE COMMITMENTS WHICH THE TREASURY CANNOT DELEGATE SHOULD BE REFERRED TO THE DEPARTMENT. These are:**

|  |
| --- |
| * 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 (e.g. to write off NLF debt or PDC)
* Any item which could set a potentially expensive precedent
* Where Treasury consent is a specific requirement of legislation
 |

1. CAPITAL EXPENDITURE

|  |  |
| --- | --- |
| Expenditure on new construction, land, extensions of, and alterations to, existing buildings and the purchase of any other fixed assets (e.g. machinery, plant, and vehicles) with an expected working life of more than one year. Also includes exchanges of fixed assets. | £2m |
| Expenditure on the signing of new leases, renewals of existing leases, the non-exercise of lease break options, any new property acquisitions (including those made through a Public Finance Initiative provider), new build developments, sale and leaseback, and any freehold sales as part of national property controls.  | £100,000Approval for leases over £100,000 can only be given by the Chief Secretary to the Treasury and must provide value for money for Government as a whole or demonstrate exceptional circumstances. |

2. GIFTS\*

|  |  |
| --- | --- |
| 1. gifts received by the EHRC | Unlimited |
| 2. gifts given in a financial year, any one gift or total of gifts to one person/organisation | £1,000 |

\* EHRC shall record all gifts given and received in a Gifts Register.

3. NON-STATUTORY CONTINGENT LIABILITIES Up **to £100,000**

4. LOSSES AND SPECIAL PAYMENTS

The write-off of losses or approval of special payments should only be carried out by staff authorised to do so by and on behalf of EHRC’s Accounting Officer.

|  |  |  |
| --- | --- | --- |
| Losses, special payments, guaranteesand indemnities† ∞ | Resource and Capital | **£100,000** |

† Special severance payments are novel and contentious and always require HMT approval.

∞ All redundancy payments outside contractual terms, require the Department’s and Cabinet Office permission in all cases.

5. CONTRACTS

For contracts generally, or specific types, e.g. consultancy, information technology, land & buildings etc. Unlimited, subject to the following exceptions:

* ICT contracts over £5m and specifically ICT contracts over £1m on systems that support administration, including HR, finance or procurement activities or upgrades and hosting contracts for such systems will require approval from the Efficiency and Reform Group in the Cabinet Office.
* All advertising, marketing and communications expenditure that is considered essential will require approval on value for money grounds from the Department (apart from where the exceptions apply as at paragraph 15.4) and if over £100,000 by the Efficiency and Reform Group in the Cabinet Office.
* New consultancy expenditure, except where approval is required under Cabinet Office Spending controls guidance.

6. GRANTS **Unlimited**

7. DISPOSAL OF ASSETS

Land and Buildings purchased wholly or mainly with Exchequer money or National Lottery funds. **£1,000,000**

1. DEPARTMENTAL REFERRAL PROCESS

EHRC must refer all expenditure which exceeds the EHRC delegation levels detailed in this annex, or for which Treasury cannot delegate authority, to the Department’s sponsor team as a business case covering:

* The nature and circumstances of the case;
* The amount involved;
* The legal advice (where appropriate);
* The management procedures which have been followed (including recovery procedures where the case is for a write-off);
* An assessment of the value for money argument;
* Any non-financial aspects such as presentational sensitivity;
* Whether there could be wider impact from the case.

GEO sponsorship will inform EHRC of the outcome of Departmental referrals promptly.

**Annex C: Management Information Table - grouped in order of frequency**

These may be subject to change depending on future information requirements.

|  |  |  |  |
| --- | --- | --- | --- |
| **Timescale** | **What** | **How** | **Purpose** |
| Monthly As agreed with the Department | Grant-in-Aid requests | By email to nominated contact(s) in the Department finance team | To get ALBs’ latest forecast income and expenditure for reporting to Board and HMT. Also the mechanism for paying GIA to ALBs. |
| Monthly | Spend over £500 | On EHRC’s website | Transparency: to inform public how public money is spent. |
| Monthly | Staffing return | By email to Sponsor Team or nominated Department contact | To enable Cabinet Office to keep track of the number and cost of staff. |
| Monthly | Consultancy return (including nil returns) | By email to nominated contact(s) in Department’s finance team | To enable Cabinet Office to keep track of the number of public sector consultancy contracts. |
| Quarterly | Operational and financial performance report | By email to nominated contact(s) in Department’s finance team | To provide summary of performance and progress against business plan. |
| Quarterly | Exchequer funds held in commercial bank accounts | By email to nominated contact(s) in Department’s finance team | To supply Treasury with details of how much government funding is held outside GBS. |
| Quarterly | Procurement expenditure with SMEs | By email to nominated Department’s contact | Provision of data on economic effect of spend by Departments and ALBs |
| Six-monthly | Publication of senior salaries and organograms | On EHRC website or hosted on the Department’s website | Transparency: to inform public how public money is spent. |
| Annually - Early May | Provisional Outturn for the Public Expenditure Outturn White Paper (PEOWP) | By email to nominated contact(s) in Department’s finance team | HM Treasury requirement. Feeds into the PEOWP and presented to Parliament. |
| Annually - Mid August | Final Outturn | By email to nominated contact(s) in the Department’s finance team | HM Treasury requirement – give bodies chance to bring data in line with Audited accounts. |
| Annually | Annual report and accounts  | By email to nominated contact in finance team and relationship manager as per timetable  | Statutory obligation. |
| Annually | Alignment/WGA | Alignment consolidation packs, WGA transactions and balances exerciseBy e-mail to nominated contact(s) in Department’s finance team | Alignment: to consolidate ALBs’ resource accounts within the Departments’ resource accountsWGA: to gather counter-party details for consolidation. Any ALBs’ not in alignment to supply resource accounts for publication by HMT. |
| Annually | Pay Remit and outturn | By e-mail to nominated Department HR contact | To ensure spend on pay is aligned across Government. |
| Annually | Total size of office estate (m2) | Directly to Cabinet Office or nominated Department contact | For Cabinet Office to compile data on public sector office occupation. |
| Annually | Total cost of office estate (£) | Directly to Cabinet Office | For Cabinet Office to compile data on public sector office occupation. |
| Annually | Cost per FTE (£) | Directly to Cabinet Office | For Cabinet Office to compile data on public sector office occupation. |
| Annually | Cost per m2 (£) | Directly to Cabinet Office | For Cabinet Office to compile data on public sector office occupation. |
| Annually | EU public procurement statutory return (Schedule 1 or Schedule 2 as appropriate) | Email to Cabinet Office | Legal requirement to provide data on number of tenders advertised in the European Journal. |
| Annually | Publication of salaries over £150k | By email to Sponsorship Team (for publication on Cabinet Office website) | Transparency: to inform public how public money is spent. |
| Ad hoc immediate as detected | Total identified fraud (£) | By e-mail to nominated contact(s) in Department’s finance team | To enable dissemination of fraud cost information to the authorities. |
| Ad hoc immediate as detected | Total prevented fraud (£) | By e-mail to nominated contact(s) in Department’s finance team | To enable dissemination of fraud cost information to the authorities. |
| On request | Sharing of audit strategy, periodic audit plans and annual audit report. | To sponsorship team on request. | Assurance of financial management. |