

**HUMAN FERTILISATION AND  
EMBRYOLOGY AUTHORITY**

**MANAGEMENT STATEMENT**

*Statement drawn up jointly by the Department of Health and the  
Human Fertilisation and Embryology Authority, May 2010.*



# **HUMAN FERTILISATION AND EMBRYOLOGY AUTHORITY: MANAGEMENT STATEMENT**

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## **SECTION 1: INTRODUCTION**

1.1. This Management Statement has been drawn up by the Department of Health (the Department) in consultation with the Human Fertilisation and Embryology Authority (HFEA) and taking account of advice from the devolved administrations in Scotland, Wales and Northern Ireland. The Management Statement sets out the broad framework within which the HFEA will operate, in particular:

- the principles and guidelines relevant to the exercise of the HFEA's functions, duties and powers
- the payment of public funds to the HFEA
- how the HFEA will be held to account for its performance.

1.2. Annex A, the Financial Memorandum, sets out in greater detail, the financial provisions to be observed by the HFEA.

1.3. The Department will review the Management Statement, in consultation with the HFEA, at least every third year (this is subject to paragraph 1.4 below and arrangements for the Financial Management and Policy Review set out in Section 11).

1.4. The Management Statement and Financial Memorandum do not convey any legal powers. The Secretary of State for Health, the Department or the HFEA may propose amendments to this document at any time. The Secretary of State for Health, in consultation with HFEA, as appropriate, will determine what changes (if any) are to be made. Legislation will take precedence over any part of this document.

1.5. The Department will work with the HFEA to resolve questions that arise with regard to the interpretation of this document.

1.6. Copies of this document, and any subsequent substantive amendments, will be placed in the Libraries of both Houses of Parliament and of Scottish Parliament, Welsh Assembly Government and Northern Ireland Assembly, and on the Department's and the HFEA's websites ([www.dh.gov.uk](http://www.dh.gov.uk) and [www.hfea.gov.uk](http://www.hfea.gov.uk)). Hard copies will also be made available to members of the public on request from the HFEA.

1.7. This Management Statement should be read alongside *Managing public money* (HM Treasury)<sup>1</sup>, *Public Bodies: A Guide for Departments* (Cabinet Office), *Regularity, Propriety and Value for Money* (HM Treasury)<sup>2</sup>, the annual formal statement of financial provision issued by the Department to the HFEA (Section 6.5) and the other documents listed in Section 13 and the *Directory of Civil Service Guidance* (Cabinet Office)<sup>3</sup>.

## SECTION 2: THE HFEA'S STATUS AND FUNCTIONS

### Status

2.1. The HFEA is a UK wide body with the same functions in each country. It was established under section 5 of the Human Fertilisation and Embryology Act 1990, as amended<sup>4</sup>, (the 1990 Act). The HFEA's principal task is to license and monitor centres that carry out in vitro fertilisation (IVF), donor insemination (DI) and human embryo research. The HFEA also regulates the storage of gametes (sperm and eggs) and embryos. Its remit was extended in July 2007, by the Human Fertilisation and Embryology (Quality and Safety) Regulations 2007, to become the Competent Authority for the regulation of activities covered by Directive 2004/23/EC of the European Parliament and Counsel on setting standards of quality and safety for the donation, procurement, testing, processing, preservation, storage and distribution of human reproductive cells for human application.

2.2. The HFEA does not carry out its functions on behalf of the Crown. It is an executive non-departmental public body (NDPB), which for national accounts purposes is classified to the Department of Health. Its members are appointed by the Appointments Commission on behalf of the Secretary of State for Health.

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<sup>1</sup> [http://www.hm-treasury.gov.uk/documents/public\\_spending\\_reporting/governance\\_risk/psr\\_managingpublic\\_money\\_publication.cfm](http://www.hm-treasury.gov.uk/documents/public_spending_reporting/governance_risk/psr_managingpublic_money_publication.cfm)

<sup>2</sup> [http://www.hm-treasury.gov.uk/documents/public\\_spending\\_reporting/governance\\_risk/psr\\_governance\\_valueformoney.cfm](http://www.hm-treasury.gov.uk/documents/public_spending_reporting/governance_risk/psr_governance_valueformoney.cfm)

<sup>3</sup> [http://www.cabinetoffice.gov.uk/upload/assets/www.cabinetoffice.gov.uk/propriety\\_and\\_ethics/csg-vol1.pdf](http://www.cabinetoffice.gov.uk/upload/assets/www.cabinetoffice.gov.uk/propriety_and_ethics/csg-vol1.pdf)

<sup>4</sup> The Human Fertilisation and Embryology Act 1990, is amended and updated by the Human Fertilisation and Embryology Act 2008. The 2008 Act amendments come into force on 1<sup>st</sup> October 2009. The references in this statement refer to the amended version of the 1990 Act.

## **Functions, duties and powers**

2.3. The purpose of the HFEA is to meet its statutory objectives as described in the 1990 Act:

- consider applications from centres required to be licensed under the 1990 Act, and grant, vary, suspend and revoke licences in accordance with the provisions of the Act (section 9A, 11, 12, 13, 13A, 14, 14A, 15, 16, 18, 18A, 19, 19A, 19B, 19C, 20, 20A, 20B)
- discharge the functions of granting, variation, suspension and revocation of licences (section 9A)
- raise fees from licensed centres, to meet the cost of carrying out its statutory obligations (section 8, 31ZF, 33D, 35B)
- inspect licensed centres and centres applying to be licensed (section 38A, Schedule 3B)
- deal promptly and efficiently in promoting compliance with the 1990 Act and the Code of Practice (section 8.1 (cb))
- prepare and keep up to date a Code of Practice for centres (section 25)
- set up, maintain and develop an accurate register of information about treatment provided by licensed centres since August 1991 (section 31)
- provide to people aged 18 or over, on request, a statement indicating whether they may have been born as a result of licensed treatment using donated gametes or embryos, and, also, to people aged under 18 on request, a statement indicating whether they may be related to someone they intend to marry, enter into a civil partnership with or enter into an intimate physical relationship with (section 31ZA, 31ZB)
- provide to people who have been gamete or embryos donors information about the use made in treatment of their donation and, also, that a person, conceived using their donation, has sought identifying information about them (section 31ZC, 31ZD)
- keep under review information about embryos and development of embryos and provision of treatment services governed by the Act and advise the Secretary of State for Health on request (section 8)
- publicise the services provided by the HFEA (section 8)
- provide advice and information as necessary to centres carrying out activity under the 1990 Act, to patients and to donors (section 8)

Where anything contained in this Management Statement is not in accordance with a proper interpretation of the 1990 Act, the Act shall take precedence for the avoidance of doubt.

## **SECTION 3: PURPOSE AND PRINCIPLES**

3.1. The 1990 Act provides for the regulation of centres offering assisted conception involving the manipulation of sperm, eggs or embryos outside the human body (e.g. IVF and DI), the donation, procurement, testing, processing, preservation, storage and distribution of sperm, eggs or embryos and research involving human embryos. The HFEA aims to take account of the interests of patients, children, gamete/embryo donors, donor-conceived people, doctors, scientists, the wider public and future generations, and will:

- provide efficient, effective, economic and fair regulation of centres to promote good practice and maintain the highest ethical standards and standards of patient safety
- provide centres with clear and comprehensive guidance to promote high standards in the services they offer
- provide relevant information and advice to centres, people receiving treatment services, gamete and embryo donors and members of the public in an open and accessible way
- help centres to tackle and resolve any difficulties which may arise in relation to patient safety and care, and to ensure proper regard is given to ethical procedures
- identify the ethical and social implications of developments in research and treatment and to develop policy accordingly

## **SECTION 4: OBJECTIVES AND KEY TARGETS**

4.1 The HFEA's objective is to carry out efficiently and cost effectively the functions set out in the 1990 Act.

4.2 Key performance targets relating to this objective are to be set out in the HFEA's Corporate and Business Plans. The targets and performance against these targets will be reported each year in the HFEA's Annual Report.



## **SECTION 5: CORPORATE PLANNING AND ANNUAL BUSINESS PLAN**

### **Corporate Plan**

5.1. The Department will discuss and agree with the HFEA the issues to be addressed in the HFEA's Corporate Plan and set the timetable for its preparation. The HFEA will submit the draft Corporate Plan to the Department for discussion at the annual accountability review.

5.2. The HFEA Corporate Plan will cover three to five years, as agreed. The Corporate Plan will be agreed with the Department.

5.3. The Corporate Plan should set out the HFEA's strategic objectives with regard to its statutory obligations, responsibilities and duties. In particular, it will include:

- the role of HFEA
- key objectives and associated key performance targets for the three to five forward years and the strategy for achieving these objectives
- a forecast of income and expenditure. This should take account of guidance on resource assumptions at the beginning of the planning round and policies provided by the Department. The forecast should represent the HFEA's best estimate of its available income (including grant-in-aid and fees from licensed centres)
- the plans for setting levels of fees to be raised from licensed centres
- contingency plans with costing estimates and how these will support the achievement of the HFEA's key objectives and/or an analysis of the sensitivity of the overall strategy to variations in the underlying assumptions, both financial and non-financial
- details of capital investment plans
- proposed targets and objectives for efficiency gains and service improvements
- staffing, organisational and other supporting strategies to meet the HFEA's key longer term objectives

5.4. The Department and the HFEA will discuss the main elements of the Corporate Plan in the decisions on policy, the estimate by the HFEA of the level of fees likely to be raised from licensed clinics, discussions between the Sponsoring Department (the Department of Health) and the HFEA as to the level of Government funding available and the purposes for which this funding is provided.

## **Annual Business Plan**

5.5. The HFEA will produce and submit to the Department for approval a Business Plan in accordance with guidance issued by the Department. The Business Plan will set out the specific objectives, targets and performance measures for the forthcoming financial year and the way in which these will be met. It is the definitive document against which the HFEA's performance will be assessed.

5.6. The Business Plan will cover the financial year from the 1<sup>st</sup> April to 31<sup>st</sup> March following and will include:

- its objectives, key targets and associated performance indicators and measures
- its operating context
- its partnerships
- key achievements in the previous financial year
- priorities for the coming year
- relationship to the Corporate Plan - strategic themes
- goals and priority areas of work for each theme
- key targets for the coming year, with milestones and performance measures for each target
- a description of risks to the delivery of the plan and an assessment of those risks
- the proposed budget for supporting each element of the plan
- forecasts of financial and staffing requirements to meet demand and deliver objectives
- analysis of quality standards to be achieved

## **Publication of Corporate Plan and Business Plan**

5.7. The HFEA's Corporate Plan and Business Plan will be published, as soon as practicable after approval. The Corporate Plan and Business Plan will be made available to the public on request from the HFEA and on the HFEA website.

## **SECTION 6: PERFORMANCE MANAGEMENT**

6.1. The Department and the HFEA will maintain a good relationship characterised by openness and regular contact. In the main, the Department will liaise with the HFEA on behalf of the other UK countries but the other UK countries will be involved as appropriate.

### **Performance against key targets**

6.2. The HFEA will operate management information and accounting systems, which allow it to review its financial and other performance against agreed budgets and targets set out in the Corporate Plan and the Business Plan.

6.3. The HFEA will report performance, using an agreed template, to the Department against key targets on a three-monthly basis, for discussion or as circumstances dictate. The scorecard should be the one the HFEA uses for its own purposes.

6.4. The Secretary of State for Health has agreed that the sponsor Minister for the HFEA will be the Minister of State for Public Health. The Department will hold an annual accountability review meeting with the HFEA to discuss its performance, current and future activities and any policy developments relevant to those activities.

6.5. The HFEA's performance against key targets will be reported in its annual report and accounts (see Section 9 below).

### **Budgeting Procedures**

6.6. In advance of the start of each financial year, the Department will send the HFEA a formal statement of its financial provision. The notified provision will form part of the Department's overall expenditure limit.

6.7. Taking account of its notified provision, the HFEA will prepare a budget of estimated accrued income and expenditure, including a profile of expected capital and revenue expenditure and grant-in-aid and other income over the year. This budget will be part of its Business Plan.

6.8. Subject to approval of the Business Plan, the HFEA has authority to incur approved budget expenditure without further reference to the Department on the following conditions:

- the HFEA complies with the delegations set out in Annex B of this document. These delegations may not be altered without the prior agreement of the Department
- the HFEA complies with conditions set out in paragraph 18 (on proposals with novel, contentious or significant future costs) of the Financial Memorandum at Annex A

- inclusion of any planned and approved expenditure in the HFEA's budget does not remove the need to seek formal Departmental approval where any proposed expenditure is outside the delegated limits or is for new plans not previously agreed
- the HFEA provides the Department with information about its operations, performance on individual elements of its work programme or expenditure as the Department may reasonably require
- the HFEA provides immediate, formal, notification to the Department where it becomes apparent (at any time) that its expenditure (as voted by Parliament) is likely to be insufficient to support agreed activity over the financial year
- the HFEA notifies the Department, as soon as possible, if it is likely to under spend its total grant-in-aid by more than the equivalent of 2 per cent

6.9. The HFEA will also provide the Department with:

- a financial statement every 3 months or such other frequency as agreed, showing, for each main budget heading, the costs payable and the income receivable in the year to date. It should also show the accumulated net payments to date and the balance of cash available for the remainder of the year
- a analysis of financial outturn against income and expenditure budgets, indicating proposed action where necessary
- details of the estimated outturn for the full financial year for each main budget heading

### **Internal Audit**

6.10. The HFEA will establish and maintain arrangements for internal audit, in accordance with the objectives, standards, scope and practices set out in HM Treasury's *Government Internal Audit Standards*<sup>5</sup>.

6.11. The Department will assess the effectiveness of the HFEA's internal audit arrangements through periodic peer review by the Department's internal audit service and through scrutiny of the reports and plans on future and past activity prepared by the HFEA's internal audit. Following approval of these plans by the HFEA's Accounting Officer, they should be sent as soon as possible (in each financial year) to the Senior Departmental Sponsor (the senior policy official at the Department).

6.12. The Department reserves a right of access to carry out independent reviews of internal audit.

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<sup>5</sup> [http://www.hm-treasury.gov.uk/documents/public\\_spending\\_reporting/governance\\_risk/psr\\_governance\\_gia\\_guidance.cfm](http://www.hm-treasury.gov.uk/documents/public_spending_reporting/governance_risk/psr_governance_gia_guidance.cfm)

6.13. The HFEA should establish an Audit Committee in accordance with its Standing Orders, Annex 7.4 of *Managing public money* and paragraph 2.5.1 of Chapter 4 of *Public Bodies: A Guide for Departments* (Cabinet Office)<sup>6</sup>.

## **SECTION 7: HUMAN RESOURCES**

7.1. Under the provisions of the 1990 Act the HFEA is responsible for the recruitment, retention and training of its staff within any terms and conditions and under any arrangements as agreed and approved by HM Treasury (the Treasury) and the Secretary of State for Health. The HFEA must ensure:

- recruitment of staff is based on fair and open competition and equal opportunities
- the level and structure of its staffing (including number of staff) is appropriate to its functions and the requirements of efficiency, effectiveness and economy
- arrangements for satisfactory performance appraisal of its staff, particularly where this involves performance pay arrangements
- staff have the appropriate professional, management and other expertise to achieve the HFEA's objectives
- proper consultation with staff takes place
- that adequate grievance and disciplinary procedures are in place
- that staff have access to an HFEA code of guidance based on the Cabinet Office *Model Code for Staff of Executive NDPBs*
- it operates an employment policy of equal opportunities

## **SECTION 8: ACCOUNTABILITY**

### **The Secretary of State for Health**

8.1. The Secretary of State for Health is answerable to Parliament for the activities and performance of the HFEA. As such, the Secretary of State for Health or the Minister of State for Public Health on his/her behalf will:

- approve the policy and performance framework within which the HFEA will operate
- determine the amount of grant-in-aid to be paid to the HFEA

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<sup>6</sup> <http://www.civilservice.gov.uk/about/public/bodies.asp>

- approve the plans for raising fee income
- approve the HFEA's annual work programme
- provide information to Parliament about the HFEA as required
- undertake those responsibilities specified in Schedule 1 to the 1990 Act, namely the appointment of the HFEA's members, by delegation of appointments to the Appointments Commission, and in section 7(3), the laying of the HFEA's reports submitted to him before Parliament. (The HFEA's annual report and accounts will be laid before Parliament by arrangement with the National Audit Office.)

### **The Permanent Secretary**

8.2. As the Departmental Accounting Officer and Principal Accounting Officer for Vote 2/requests for resources (RfR), the Permanent Secretary is accountable for the issue of grant-in-aid to the HFEA. The Permanent Secretary will ensure that this is within the ambit and the amount of Vote 2/RfR.

8.3. The Permanent Secretary will ensure:

- advances have been applied to the purposes for which they have been authorised
- that the financial and other management controls applied by the Department to the HFEA are appropriate and sufficient to safeguard public funds. (Public funds include not only any funds granted to the HFEA but also any other funds within the stewardship of the HFEA.)
- effective monitoring of the HFEA's compliance with these controls
- that the HFEA's internal controls conform to the requirements of regularity, propriety and good financial management

8.4. The responsibilities of the Departmental Accounting Officer are set out in more detail in Chapter 3 of *Managing public money*.

### **The Senior Departmental Sponsor and the Departmental Sponsor Team**

8.5. The Senior Departmental Sponsor (SDS) is responsible for ensuring good working relationships between the Department and the HFEA as an arm's length body and for liaison with the other UK countries. In discharging their responsibilities, the SDS will ensure:

- that the HFEA is aware of Ministerial and Department objectives and priorities and that HFEA objectives contribute to the effective delivery of these
- that the HFEA accounts for the effective and efficient delivery of its objectives

- that appropriate links, at operational level, are made and maintained between HFEA and the Department, and where appropriate other UK countries, other arm's length bodies, other Government Departments and statutory bodies
- effective communications between HFEA and the Department

8.6. The SDS will also work, in consultation the Appointments Commission, with the HFEA Chair on the appointment of members of the HFEA.

8.7. The SDS is supported by the Department sponsor team which will:

- provide the HFEA's first point of contact and advice. It will communicate relevant Government and other UK country policies to the HFEA and advise on the interpretation of those policies
- support the SDS in advising on an appropriate budget for the HFEA, within the Department's overall public expenditure provision, and on appropriate performance targets for the HFEA
- ensure that effective Departmental performance management arrangements are in place to monitor and review the HFEA's performance against targets and against its total financial provision
- issue specific guidance to the HFEA, as necessary
- manage, in liaison with the Appointments Commission, the process of appointments and re-appointments to the HFEA in accordance with guidance issued by the Commissioner for Public Appointments

### **The Chair of the HFEA**

8.8. The Chair of the HFEA is appointed by the Appointments Commission on behalf of Secretary of State for Health.

8.9. The Chair is responsible to the Secretary of State for Health for the efficient management and overall performance of the HFEA. Day to day responsibility for these matters, however, rests with the Chief Executive. The Chair and Members shall at all times comply with the requirements of the HFEA Code of Conduct for Authority Members, a copy of which is reproduced at Annex C.

8.10. The Chair will through effective leadership:

- ensure that the HFEA has an effective strategy for discharging its statutory duties
- encourage high standards of propriety among Members of the HFEA and in the HFEA's work
- promote the HFEA's efficient and effective use of staff and other resources
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- ensure that the HFEA, in reaching decisions, takes proper account of guidance provided by the Secretary of State for Health
- ensure effective presentation of the HFEA's views to licensed clinics and the general public
- attend at the request of the Public Accounts Committee and Health Select Committee and also accompany the Secretary of State for Health and/or the Permanent Secretary or Ministers in attendance at their request
- attend at the request of the Welsh Assembly Government Audit Committee and also accompany the Assembly Secretary in attendance at his request (similarly other UK countries on request)
- provide advice, as requested by the Secretary of State for Health, to the Appointments Commission on those to be considered for first appointment to the HFEA and an assessment of individual Members of the HFEA when they are being considered for reappointment

8.11. The Chair should also ensure that all HFEA Members, on taking up office, are fully briefed as to the terms of the appointment and on their duties, rights and responsibilities.

### **The HFEA**

8.12. The Members of the HFEA are appointed by the Appointments Commission on behalf of the Secretary of State for Health.

8.13. HFEA Members have a corporate responsibility to ensure that the HFEA complies with any statutory or administrative requirements on the use of public funds. Members must also:

- ensure that high standards of corporate governance are observed at all times
- set the overall strategic direction of the HFEA within the policy and resources framework agreed with the Secretary of State for Health
- ensure that the HFEA operates within the limits of its statutory authority and any delegated authority agreed with the Secretary of State for Health/Department; and in accordance with any other conditions relating to the use of public funds
- ensure that the HFEA, in reaching decisions, has taken into account any guidance issued by the Secretary of State for Health and other relevant central departments
- appoint with the approval of Secretary of State for Health, a Chief Executive

8.14. The HFEA (including the Chair) must not give the Chief Executive instructions which conflict with his/her duties as the HFEA's Accounting Officer.



## The Chief Executive

8.15. The HFEA's Chief Executive is the HFEA's designated Accounting Officer and, as such, accountable to Parliament and the Secretary of State for Health for:

- safeguarding the public funds for which he/she has been charged
- handling those public funds ensuring propriety and regularity
- the day-to-day operations and management of the HFEA

8.16. The Chief Executive, in his role as accounting officer, should act in accordance with:

- directions to the HFEA issued by the Secretary of State for Health
- the terms of this document
- instructions and guidance in *Managing public money*
- other instructions and guidance issued by the Department, other UK countries, the Treasury and the Cabinet Office – in particular the Treasury's specimen *NDPB Framework Document*, Appendix to Annex 7.5 of *Managing public money and Regularity, Propriety and Value for Money* (copies of both documents to be made available to the Chief Executive on appointment).

8.17. In particular, in his role as accounting officer, the Chief Executive should:

- advise the HFEA on the discharge of its responsibilities as set out in this document and any other relevant instructions or guidance that may be issued from time to time
- ensure that the HFEA observes any general guidance issued by the Treasury or the Cabinet Office and puts into effect any recommendations, accepted by Government, of the Public Accounts Committee, or other Parliamentary Select Committees or Parliamentary authority
- ensure that all public funds made available to the HFEA are used for the purpose intended by Parliament and that such funds, together with the HFEA's assets, equipment and staff, are used economically, efficiently and effectively
- attend at the request of the other UK countries' Audit Committee with the HFEA Chair
- ensure that the Department is provided with timely monitoring information and forecasts in accordance with a timetable agreed with the Department

- keep attributable expenditure (cash drawings) within the sums allotted, receipts from clinics and other receipts
- ensure that corrective action is taken to avoid potential overspends and that, where these are likely, the Department is promptly notified
- ensure that the HFEA, in all stages in reaching its decisions, takes full account of financial considerations (including, where practical, the use of standard financial appraisal techniques)
- ensure that the HFEA maintains adequate internal management and financial controls, including effective measures against fraud and theft
- prepare a statement on internal controls for inclusion in the HFEA's annual report and accounts
- maintain a comprehensive system of internal delegated authorities, that are notified to all HFEA staff, together with a system for the regular review of compliance with these delegations
- ensure the maintenance of appropriate personnel management policies
- ensure that the annual accounts are prepared in accordance with any direction made by the Secretary of State for Health with the approval of the Treasury
- sign the HFEA accounts and ensure that proper records are kept in relation to these; ensure that the accounts are properly prepared and presented to the Secretary of State for Health; and sign a Statement of Accounting Officer's responsibilities for inclusion in the annual report and accounts
- take action as set out in paragraphs 3.7.5 of *Managing public money* if the HFEA or the Chair contemplates a course of action that the Chief Executive considers would infringe propriety or regularity or which does not represent prudent or economical administration or efficiency or effectiveness
- give evidence, with the Departmental Accounting Officer, when summoned before the Public Accounts Committee on the HFEA's use and stewardship of public funds
- attend, on request, the Health Select Committee with the HFEA Chair or the Secretary of State for Health, as necessary

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

## **SECTION 9: EXTERNAL AUDIT AND REPORTING ARRANGEMENTS**

### **Annual Report and Accounts**

9.1. Section 6 of the 1990 Act provides for the HFEA to prepare an annual statement of accounts and to send them to the Secretary of State for Health and the Auditor and Comptroller General (C&AG) not later than 5 months after the end of each accounting year. The HFEA will also send a copy of its accounts to the other UK countries.

9.2. Section 7 of the 1990 Act requires the HFEA to prepare an annual report dealing with its activities in that period and the proposed activities in the following twelve months. The report will be prepared and laid before Parliament in accordance with the reporting requirements set out by the Treasury in its *Financial Reporting Manual (FreM)*.

### **External Audit**

9.3. The C&AG will audit the HFEA's expenditure and receipts; examine their regularity and propriety.

9.4. In accordance with the National Audit Act 1983, the C&AG will have access to the HFEA's books and records for the purpose of carrying out examinations into the economy, efficiency and effectiveness with which the HFEA has used its resources in discharging its functions.

### **External Audit Procedures**

9.5. Before being laid before Parliament the Annual Report and Accounts will be submitted to the Department for comment by the Secretary of State for Health and other UK Ministers where appropriate.

9.6. The form and content of the accounts, the information to be contained in the statements, the manner in which the information is to be presented and the principles supporting the preparation of statements, will be as determined by the Secretary of State for Health. This will take account of relevant statutes and compliance with the Treasury's *Financial Reporting Manual (FreM)* and Accounts and will be set out in an Accounts Direction issued by the Department to the HFEA.

9.7. Information on performance against key financial targets is to be included in the notes to the accounts and will, therefore, be within the scope of the audit.

## **SECTION 10. ANNUAL REVIEW**

10.1. The Minister of State for Public Health or, if unavailable, the Senior Departmental Sponsor will chair the annual accountability review of the HFEA's performance and its future short and medium-term plans. The HFEA Chair and the Chief Executive will attend the meeting. The Department will agree the date of the annual accountability review with the HFEA.

## **SECTION 11: REVIEWING THE ROLE OF THE HFEA**

11.1. In accordance with Government policy, the Department will undertake a Financial Management and Policy Review at such intervals as the Department may determine.

11.2. An initial stage will focus on the continuing need for the HFEA and whether its functions are being delivered in the most effective way. The review will include a thorough examination of whether the HFEA should continue as an executive NDPB and the case for abolition or the transfer of its functions to another body.

11.3. If it is decided that the HFEA should continue, the Review will focus on the efficiency and effectiveness with which the HFEA carries out its activities and its financial and other management systems.

11.4. The Review will also look at the efficiency and effectiveness of the Department's procedures for monitoring the HFEA's activities.

## **SECTION 12: OPENNESS**

12.1. In accordance with the Government's requirement that NDPBs are more open and accountable, the HFEA must:


- publish its Annual Report and Accounts
- ensure that stakeholders, including the public, Parliament, licensed clinics, voluntary bodies and other interested groups are given the opportunity to discuss with the HFEA its activities and future objectives
- follow the recommendations of the Cabinet Office guidance on open HFEA meetings
- make arrangements to consult patients, the wider public, the NHS and other relevant organisations on those of its activities agreed with the Department
- comply with the requirements of the Freedom of Information Act 2000, including establishing a public contact point for queries

- make arrangements for addressing complaints about the HFEA, members of the HFEA and its staff

## SECTION 13: INSTRUCTIONS AND GUIDANCE

13.1. The HFEA will comply with:

- the Management Statement and its annexes
- other relevant financial instructions and guidance issued by the Department, the Treasury, other UK countries and other central departments
- recommendations made by the Public Accounts Committee or other Parliamentary authority which have been accepted by the Government and are relevant to the HFEA
- the following documents:
  - *Managing public money* (HM Treasury)
  - *Public Bodies – A Guide for Departments* (Cabinet Office)
  - *Departmental Banking: A Manual for Government Departments* (HM Treasury)
  - *Executive NDPBs: Annual Reports and Accounts Guidance* (HM Treasury)
  - *Dear Accounting Officer (DAO) letters*
  - *Regularity, Propriety & Value for Money* (HM Treasury)
  - *Financial Reporting Manual [FreM]* (HM Treasury)

Signed..........

Date.....28.5.2010.....  
On behalf of the Department of Health

Signed..........

Date.....3 June 2010.....  
On behalf of the Human Fertilisation & Embryology Authority

## **HUMAN FERTILISATION AND EMBRYOLOGY AUTHORITY: FINANCIAL MEMORANDUM**

### **INTRODUCTION**

1. This Financial Memorandum supplements, and should be read in conjunction with, the Management Statement. It sets out in greater detail certain aspects of the financial framework within which the Human Fertilisation and Embryology Authority (the HFEA) is required to operate.
2. The terms and conditions set out in this Memorandum may be supplemented by guidelines or directions issued by the Secretary of State for Health, and where appropriate by the other UK countries, in respect of the exercise of the HFEA's individual functions, powers and duties.
3. The HFEA must satisfy the conditions and requirements set out in this Memorandum and the Management Statement, together with any other conditions that the Secretary of State for Health may, from time to time, impose in order for the HFEA to be entitled to grant-in-aid or any other form of Exchequer subvention.

### **Fees and charges**

4. Section 16 (**from 1<sup>st</sup> October 2009 section 35B**) of the Human Fertilisation and Embryology Act 1990, as amended, (the 1990 Act) provides for the payment of a fee by centres on application to the HFEA for a licence. The fee should be fixed, from time to time, by the HFEA with the approval of the Secretary of State for Health and HM Treasury (the Treasury). The fee should reflect the cost of providing the service to the centre. The costs attributable to centres should cover regulatory and may cover other costs. Different fees may be fixed for different circumstances and the fees are not repayable. Fees and charges will be made by the HFEA in accordance with Chapter 6 of *Managing public money* (HM Treasury).

### **Financial Provision - Grant-in-Aid**

5. Funding provided by the Department of Health (the Department) will be financed by supply voted by Parliament. The HFEA will operate under net cost control.
6. Grant-in-aid will be paid to the HFEA by the Department in instalments, on the basis of the HFEA's written application showing evidence of need. The application is to be signed by the HFEA's Finance Director or a person notified by him/her to the Department as authorised to sign on his/her behalf. The application should certify that the conditions applying to the use of grant-in-aid have been observed to date and that further grant-in-aid is required for purposes appropriate to the HFEA's functions.

7. The Department will notify the HFEA of the grant-in-aid to be provided in the year ahead and the notification letter will include a statement of the activities covered by the funding, including any special projects. The remaining activities should be funded by income from clinics.

#### **Management and Accounting systems**

8. The Chief Executive is responsible for providing the necessary management and accounting systems to support the achievement of the HFEA's functions. This includes providing regularly the financial and management information needed to control and assess performance against objectives to monitor actual expenditure against budget and to produce annual statements of account in accordance with directions issued by the Secretary of State for Health with the approval of the Treasury

9. The Chief Executive will collect data on the resources used in each of the HFEA's main areas of activity. The data collected should be sufficient to enable him/her to determine the costs of its main functions, to identify both direct and indirect costs and to provide details of any apportionment of these costs

#### **Gifts and Bequests received**

10. The HFEA is free to retain any gifts, bequests or similar donations. These will be treated as receipts. The HFEA must keep a written record of gifts, bequests and donations given and received, their estimated value and whether these have been disposed of or retained.

### **HFEA EXPENDITURE: GENERAL PRINCIPLES**

#### **Expenditure not proposed in the budget**

11. The HFEA shall not, without prior written Departmental approval, enter into any undertaking to incur expenditure not provided for in the annual Business Plan and Budget approved by the Department.

#### **Value for Money**

12. Procurement of works, equipment, goods and services should be based on value for money (i.e. in terms of fitness for purpose) and delivery against price. Where appropriate, a full options appraisal should be carried out before procurement decisions are taken (Gateway review procedures should be followed).

13. Contracts should be placed on a competitive basis. The Department must be consulted beforehand and approve any proposal to let a single tender valued at over £25,000, as set out in Annex B, Appendix 2. Where HFEA seeks the Department's approval to such a proposal, the Department will take all reasonable steps to respond in good time to that request. This is subject to the HFEA also taking reasonable steps to provide the Department with proper notice and the required information concerning its request for approval.

14. The HFEA shall send to the Department not later than three months after the end of the financial year an exception report for that year. The report shall list, with reasons, those cases with a cost of under £25,000 and above £10,000 in which competitive quotations were not obtained.

15. Wherever practicable, the HFEA shall arrange for activities undertaken by its own employees to be exposed to and contracted out to outside competition where this would provide improved value for money.

### **Prudence**

16. The HFEA shall take all reasonable steps to appraise the financial standing of any company or other body with which it intends to enter into a contract.

### **Timeliness in Paying Bills**

17. The HFEA should collect receipts and pay all matured and properly authorised invoices in accordance with the terms of contracts or within 30 days, as provided for in Annex 4.6, paragraph A4.6.3 of *Managing public money*. The HFEA shall comply with the British Standard for Achieving Good Payment Performance in Commercial Transactions (BS 7890). The HFEA's attention is also drawn to the DAO(GEN) 5/98 which provides advice in relation to the Late Payments of Commercial Debts (Interest) Act 1998.

### **Novel, Contentious or Repercussive Proposals**

18. The HFEA must obtain the Department's approval before:

- incurring any expenditure for purposes which are or might be considered novel or contentious, or which could have significant future cost implications (including staff benefits)
- making any significant change in the scale of operation or funding of any initiative previously approved by the Department
- making changes in policy and or practice which have wider financial implications (for example, because this may have repercussions for other public sector bodies) or which may significantly affect the future level of resources required



For the above purposes, significant is £25,000 or 5%, whichever is the greater. Other cases where the Department and the Treasury's approval are required are set out at Annex B, Appendix 1.

## **STAFF EXPENDITURE**

### **Staff Costs**

19. Subject to delegated levels of authority, the HFEA will ensure that the creation of additional posts does not incur forward commitments that will exceed its ability to pay for them.

### **Pay and Conditions of Service**

20. Current terms and conditions for the HFEA staff are to be set out in the HFEA's Staff Handbook. The HFEA will provide the Department with a copy of the Handbook and subsequent amendments.

21. HFEA will operate a single, consistent policy for the reimbursement of travel expenses for both HFEA Members and staff.

22. The HFEA may operate a performance related pay scheme.

### **Redundancy/Payment of Compensation**

23. Any proposal by the HFEA to pay redundancy or compensation for loss of office requires the approval of the Department.

## **OTHER EXPENDITURE**

### **Capital**

24. Funding for capital investment will be considered within the framework of an approved investment programme included in the Corporate and Business Plans. Individual projects will be evaluated using standard Government investment criteria.

25. Capital expenditure is defined as expenditure on new construction, land, extensions or alterations to existing buildings and the purchase of any other fixed assets (e.g. machinery and plant) including vehicles with an expected working life of more than one year.

26. The Department's approval should be secured before capital expenditure is incurred, in line with delegations in Annex B, Appendix 2. Applications to the Department for approval of large-scale projects should be supported by a formal notification that it has been examined and authorised by the HFEA. Regular reports on the progress of such projects should be submitted to the Department.

## **Borrowing, lending, guarantees, indemnities and contingent liabilities (including letters of comfort)**

27. The HFEA has no power to borrow money.

28. The HFEA shall not without the Department's written consent lend any money, charge any asset or security, give any guarantee or indemnities or letters of comfort, or incur any other contingent liability (as defined in Annex 5.5 of *Managing public money*) whether or not in a legally binding form, except when a liability is of a standard type which is given in the course of normal commercial business dealings.

29. An individual Member of the HFEA who has acted honestly and in good faith will not have to meet out of his or her personal resources any personal civil liability which is incurred in the execution or the purported execution of his or her board functions, save where the member has acted recklessly, as set out in box A.5.5B, standard indemnity for board members, of *Managing public money*.

## **Leasing**

30. Before entering into any lease, the HFEA must demonstrate that it offers better value for money than purchase.

## **Commercial Insurance**

31. The HFEA shall not take out any insurance without the prior approval of the Department, other than as a statutory obligation. The Chief Executive shall ensure that the HFEA does not undertake any insurance without the prior approval of the Department. The HFEA's attention is drawn to the commercial insurance guidance in paragraph 4.4 and Annex 4.5 of *Managing public money*. The existing agreement shall endure until the DH advises to the contrary. Also see guidance in Annex B.

## **Financial Investments**

32. The HFEA shall not make any financial investments without the prior written approval of the Department nor shall it build up cash balances or reserves in excess of those limits agreed with the Department

## **BANKING**

33. The Chief Executive is responsible for ensuring that the HFEA's banking arrangements are in accordance with the requirements of *Managing public money* and are carried out efficiently, economically and effectively. He or she should ensure:

- that arrangements are suitably structured and represent value for money

- that arrangements are reviewed at least every two years. A more comprehensive review (usually leading to competitive tendering) should be undertaken at least every three to five years
- that sufficient information about the HFEA's banking arrangements is provided to the Departmental Accounting Officer to enable him to discharge his own responsibilities
- that the HFEA's banking arrangements are kept separate and distinct from those of any other person, body or organisation

## **CASH MANAGEMENT**

### **Cash Balances**

34. Cash balances accumulated during the course of the year from grant-in-aid or other Exchequer funds should be kept to a minimum level consistent with the efficient operation of the HFEA. The HFEA should endeavour to hold under £750,000 in its account at any one time or such other figure as agreed in writing.

## **ASSET MANAGEMENT**

### **Register of Assets**

35. The HFEA shall maintain an accurate and up-to-date register of its assets. The register will include all tangible assets valued at £5,000 or more.

### **Disposal of Assets**

36. The Chief Executive shall be responsible for reviewing on a regular basis all the HFEA's assets. Surplus assets should be disposed of as quickly as possible and in a manner that fully complies with all relevant legislation and instructions including the advice provided in Annex 4.8 of *Managing public money*.

37. Normally, the HFEA may retain receipts derived from the sale of assets provided that:

- these are used to finance other capital spending
- the Department receives prior notification of individual sales over £50,000
- total sales in any financial year do not exceed the specified limit (i.e. 3 per cent of total grant-in-aid)

38. However, where HFEA disposes of assets that have been purchased, improved or developed with Exchequer funds and the receipts amount to more than £500,000 or where the disposal has unusual features of which Parliament should be aware, Parliamentary approval will be required for re-investment of receipts. These receipts should be surrendered to the Department. The Department will then seek approval for the receipts to be appropriated-in-aid by the Department with a corresponding increase in the HFEA's grant-in-aid.

39. If the above criteria are not met, the receipts will be dealt with in line with arrangements on surplus in year receipts set out in paragraphs 11 and 12 above.

## **REVIEW OF FINANCIAL MEMORANDUM**

40. This Financial Memorandum as part of the Management Statement will be reviewed at least every three years.

## **FINANCIAL AUTHORITIES DELEGATED TO THE HFEA**

### **INTRODUCTION**

1. These delegations form part of the Management Statement of the Human Fertilisation and Embryology Authority (HFEA). They will become effective from 1<sup>st</sup> April 2009.

### **DELEGATION OF RESPONSIBILITIES**

2. The schedule of delegations from the Department of Health (the Department) to the HFEA is based on the schedule of delegations given to the Department by HM Treasury (the Treasury).

3. The delegated limits are the maximum limits within which HFEA may operate.

4. HFEA is able to set local limits within these and is encouraged to delegate to the point where decisions can be taken more efficiently. In all cases, there must be adequate appropriate budgetary provision available.

5. It is for the Accounting Officer to determine how authority should be delegated at the various management levels within the organisational hierarchy.

6. The delegations instituted by the Department on the HFEA can only be exceeded where specific prior approval has been obtained (in writing) from the Director General for Finance and Chief Operating Officer of the Department.

7. All staff, individually and collectively, are responsible for:

- avoiding loss
- exercising economy and efficiency in the use of resources
- operating within the limitations on delegation of authorities to them

8. All staff are responsible for the proper stewardship of the resources delegated to them. They must:

- abide by all conditions of the delegation
- ensure that they, their staff, and all new appointees are aware of their responsibilities within these delegations and understand them

- ensure that proper financial control arrangements are in place in their teams, including as appropriate the formal appointment of budget managers, budget managing staff, and those who have authority to commit expenditure and/or authorise payment against the budgets

## **GENERAL RESPONSIBILITIES**

9. The power to carry out a programme of work, to provide a service, or to commit resources, is assigned to the ministerial head of the Department.

10. The funds required by central government are voted by Parliament to the Crown. In practice, Ministers act on behalf of the Crown. Under Parliamentary and Treasury rules, requests by Department of Health Ministers for resources cover money for programmes specifically approved by Parliament and for the administration of the Department.

11. The Treasury is the principal representative of the Crown in matters of public finance. As such, it is to the Treasury that Parliament grants authority to incur and to enter into financial commitments. This authority is then delegated by the Treasury to the Department, who in turn makes appropriate delegations to HFEA. Delegation is within defined limits – spending within certain categories must still receive specific Treasury approval.

12. It follows that no expenditure can properly be incurred without the approval of the Treasury. The same applies to commitments to spend (whether or not these have conditions attached). Any expenditure, which falls outside the coverage of Parliament’s approval, and/or HFEA’s/ Department’s delegated authorities, is “irregular” unless a specific approval has been given by the Treasury. Irregular expenditure cannot legally be met from funds granted by Parliament.

## **CAPITAL EXPENDITURE**

13. Department funded capital expenditure must be funded from resources allocated for that purpose. In particular, Grant in Aid (GIA) revenue allocations (whether Departmental admin or programme) cannot be used to fund the purchase or creation of fixed assets.

## MANAGING PUBLIC MONEY

14. This document must be read in conjunction with *Managing Public Money* (MPM), which was issued by the Treasury under cover of DAO 04/07 (updated DAO 06/08) and replaced the *Government Accounting Manual* (GAM) from October 2007. It can be found at the Treasury website on hm-treasury.gov.uk.

## LOSSES AND SPECIAL PAYMENTS

15. The Treasury retains specific controls over certain write-offs and payments known collectively as “losses and special payments”:

- “**losses**” cover any case where full value has not been obtained for money spent or committed, including for example cash losses, losses due to errors by staff
- “**special payments**” cover any compensation payments, extra-contractual or ex-gratia payments, and any payment made without specific identifiable legal power for the Department/HFEA to make the payment

16. Full details can be found in MPM chapter 4 and, for ease of reference, the process for approval is identified in the attached Appendix 4 to this Annex.

## INSURANCE

17. As indicated in Paragraph 31 of the Financial Memorandum at Annex A, the Government has a presumption against the use of commercial insurance. The reason for this is set out in MPM Annex 4.5.

18. Before any contract for commercial insurance is taken up, a cost-benefit analysis, which shows justification on a cost basis, should be carried out by and agreed by the HFEA’s Accounting Officer.

19. Insurance for clinical and non-clinical cover (with the exception of Motor Vehicle insurance) can be arranged through the NHS Litigation Authority.

## **APPENDICES**

20. The following appendices form part of this document:

1. Delegated Limits and Categories of Expenditure Requiring Treasury and/or Department Approval
2. Delegations to commit expenditure
3. Other delegations
4. Losses and Special Payments Guidance
5. Terminology



## Appendix 1

### **DELEGATED LIMITS AND CATEGORIES OF EXPENDITURE REQUIRING HM TREASURY AND DEPARTMENT OF HEALTH APPROVAL**

**The following items require direct HM Treasury approval and therefore have a zero delegated limit. These provide a primary limitation to all delegations.**

- Items which are novel
- Items which are contentious
- Requires Treasury approval under the relevant statute
- Would breach specific agreements with the Treasury e.g. ring fencing of funds for specific purposes
- Does not have, or goes beyond, existing statutory powers
- Items which could exceed the agreed budgets and estimate limits of the sponsoring department
- Contractual commitments to significant spending in future years for which plans have not yet been set
- Special severance payments
- Involves a gift (except for token or protocol gifts)
- Any other item which could set a potentially expensive precedent or otherwise be repercussive on others

**Asset Management and Accommodation Proposals requiring HM Treasury  
and Department of Health approval  
(See Managing Public Money Annex 4.8).**

- Proposals to acquire land or buildings in and/or extend, modify or replace the existing estate, in London, the South East and the East of England require the approval of the Chief Secretary to the Treasury– see Office of Government Commerce (OGC) website [www.ogc.gov.uk](http://www.ogc.gov.uk).
- Proposals to acquire land or buildings in and/or extend, modify or replace the existing estate out side London, the South East and the East of England require the Department’s approval as per delegations in Annex 2
- Treasury approval is required if HFEA wants to retain receipts from disposal of major assets (such as land and buildings) purchased out of grants

<p style="text-align: center;"><b>Contingent Liabilities requiring HM Treasury Approval</b> <b>(see Managing Public Money Annex 5.5)</b></p>
--

- Any liability contingent on a future event (including guarantees, letters of comfort etc) is subject to special controls by agreed by the Treasury.
- The rules for notifying Parliament of liabilities are very similar to those for public expenditure:
  - there is no need to tell Parliament about:
    - new liabilities arising under statutory powers unless the legislation calls for it;
    - liabilities taken on in the normal course of business, except for those not in standard form and above £250,000;
  - departments should notify Parliament of:
    - statutory liabilities, in the form expected by the legislation;
    - any liability outside the normal course of business and above £250,000, or of a non-standard kind undertaken in the normal course of business;
    - any liability which is novel, controversial or significant in relation to the organisation's (or the particular programme) expenditure, which is large and unquantifiable.

Where notification to Parliament is required, a standard form of minute should be used, details of which are in MPM (Annex 5.5C). In such cases, HFEA should consult with its Senior Departmental Sponsor.

### Delegated Authority to Commit Expenditure

1. The following are set limits on the use of resources, and cannot be exceeded except with specific written authority from the Department or in certain circumstances the Treasury.
2. For clarity all amounts exclude VAT.
3. The Accounting Officer is responsible for ensuring that there is the necessary legal, Treasury and Senior Departmental Sponsor authority for expenditure or resource consumption; and that the resource and funds for which they are responsible are applied only for the purposes intended by Parliament.
4. Within the delegation limits, he/she has the authority to commit, authorise, incur and make payments and certify expenditure necessary for the running of the organisation's business. He/she may delegate these authorities, and give authority to named individuals for the sub-delegation of these powers up to the limits quoted in this Schedule. Such delegations or authorities should be in writing.
5. Only in exceptional circumstances, and where urgent action is needed, can these limits be exceeded. Any such departure must not exceed the delegation limits set by the Treasury. In such circumstances, the authority of the Member of the Authority (the Board) or the Chief Executive of the HFEA should normally be obtained before action is taken. A report identifying the action taken and the reasons for it must be sent to the Director General for Finance & Chief Operating Officer immediately.
6. **The limits are specifically assigned to the Accounting Officer/Board.** HFEA is free to delegate below these levels in line with its own internal policies and procedures.

## Appendix 2 (cont)

<b>Delegated Authority to Commit Expenditure</b>	
To sign contract, authorise purchase order, or otherwise commit expenditure for <sup>7</sup>	
	<b>Accounting Officer and Board</b>
<b>Grants to voluntary bodies</b>	Unlimited, within a budget allocated by the Department specifically for this purpose
<b>Sign contract with supplier (except as below)</b>	Unlimited within the budget set at the start of year
<b>Contracts for professional services</b> “Professional services” are defined as consultancy services i.e. an arrangement where an individual or organisation is engaged to perform a specific one off task or set of tasks involving skills or perspectives which would not normally be expected to reside within the HFEA	Up to £250,000 per tender N.B. Over £250,000 a business case must be submitted to the Senior Departmental Sponsor as Ministerial approval is required
<b>Single tender contracts for professional services</b>	£25,000, subject to EU procurement requirements.
<b>Single tender contracts for other expenditure</b>	Unlimited, subject to EU procurement requirements
<b>Capital Investment (includes any revenue costs eg leases). All subject to Business Case Guidance for ALBs, issued by Capital Investment Branch (CIB)</b>	<£1m whole life costs <sup>8</sup> £1m - £5m whole life costs approval required from Senior Departmental Sponsor <sup>9</sup> >£5m whole life costs, approval required from the Senior Departmental Sponsor and CIB <sup>10</sup>
<b>Commit to purchase under existing contract</b>	Unlimited within the budget set at the start of year
<b>Reimbursement of Business Expenses</b>	Unlimited
<b>Items to be purchased as gifts</b>	Token/Protocol gifts only
<b>Give guarantees, accept liabilities</b>	In the course of normal business: unlimited

<sup>7</sup> All policies which commit expenditure of over £40 million per annum, or £200 million over five years, should be subject to an independent review of the financial cost estimates by the Revenue Investment Branch (RIB). Policies that require HM Treasury approval must also be subject to a RIB review prior to submission to HM Treasury.

<sup>8</sup> All accommodation business cases should be referred to DH/ALB Property Asset Management Board (PAMB) for information only.

<sup>9</sup> All accommodation business cases also require PAMB approval

<sup>10</sup> All accommodation business cases also require PAMB approval



## Appendix 2 (cont)

<b>Delegated Authority to Commit Expenditure</b>	
	<b>Accounting Officer and Board</b>
<b>Staff Recruitment</b>	Unlimited
<b>Staff pay: pay systems, use of pay flexibilities and annual settlements</b>	Unlimited within Treasury and Cabinet Office pay remit procedures and guidance
<b>Staff Redundancy</b>	Unlimited – subject to procedures and limits placed by Department’s Governance Assurance Committee (GAC). For limits see Appendix 4

## Appendix 3

### Other Delegations

1. The limits are those specifically assigned to the Accounting Officer/ Board. HFEA is free to delegate below these levels in line with its own internal policies and procedures.

Other Delegations		
		Accounting Officer and Board
LOSSES	Delegation Group 1 – Managing Public Money Annex 4.10	£75,000 (subject to guidance in Appendix 4)
	Delegation Group 2 – Managing Public Money Annex 4.10	£50,000 (subject to guidance in Appendix 4)
SPECIAL PAYMENTS Authorisation of payments without normal prior commitment of the expenditure, and/or certification of receipt of goods/services Subject to Managing Public Money and guidance set out in Appendix 4	Ex gratia payments including compensation payments, extra statutory and extra regulatory payments and extra contractual payments to contractors	£20,000 (excluding payments that are novel, contentious, repercussive or special severance payments)
	Prepayments Arising in the normal course of business and subject to MPM (annex 4.6)	Unlimited
ASSET DISPOSAL	Dispose of assets including formal write-off of value	£500,000
LOANS and IMPRESTS	Imprests to staff in advance of travel expenses	£50,000
	Loans to staff for specified purposes <sup>2</sup>	£50,000
	Other loans	£50,000
INCOME Subject to Managing Public Money (Annex 5.3)	Commit to contract (or tender) to provide goods or services to non-DH organisations	Unlimited – subject to agreement from sponsoring team within the Department

**Payments in excess of the limits or restrictions stated require prior approval by the Department and HM Treasury, where applicable.**

<sup>2</sup> The specified purposes are: for house purchase, for season ticket purchase, and for bicycle purchase

## Losses and Special Payments

### How to identify when Treasury and/or Department approval is required for Losses and Special Payments

#### 1. Introduction

1.1 This document is an outline of when Treasury or Department approval for losses and special payments is required but must be read in conjunction with *Managing Public Money (MPM)*, where full details are set out in Chapter 4 and its annexes. This document was issued by the Treasury under cover of DAO 04/07 and it replaced the *Government Accounting Manual (GAM)* from October 2007. The MPM can be found at the Treasury website on hm-treasury.gov.uk.

1.2 HFEA must rigorously follow the procedures laid down in MPM and should have its own robust procedures for dealing with losses and special payments.

#### 2. Treasury Approval

2.1 Losses and special payments are items that Parliament would not have contemplated when it agreed funds for the health service or passed legislation. By their nature, they are items that ideally should not arise. They are therefore subject to special control procedures compared with the generality of payments, and special notation in the accounts to draw them to the attention of Parliament.

#### 3. Reporting to the Department

3.1 A requirement of the delegation by the Treasury to the Department is that the Department's Audit Committee annually reviews a report on the use of this delegation and that the report made to them is copied to the Treasury. All cases requiring Department or Treasury approval must be submitted to the Department in advance of payment for special payments and as they arise for losses.

3.2 Where losses and special payments are within a HFEA delegated limit, the Department requires the HFEA to report these to it in accordance with the format and timetable set out in Annex B, to this Appendix.

#### 4. Special Payments (as per Managing Public Money – Annex 4.13)

4.1 In voting money or passing specific legislation, Parliament does not and cannot approve special payments outside the normal range of departmental activity. Such transactions are therefore subject to greater control than other payments.



4.2 HFEA should authorise special payments only after careful appraisal of the facts and when satisfied that the best course has been identified. It is good practice to consider routinely whether particular cases reveal concerns about the soundness of the control systems; and whether they have been respected as expected. It is also important to take any necessary steps to put failings right.

4.3 HFEA should always consult the Department about special payments unless there are specific agreed delegation arrangements. So HFEA should seek the Department's approval, in advance, for any special payment for which it has no delegated authority, or which exceeds its authority. In turn, the Department may need to consult the Treasury.

4.4 All cases which are novel, contentious or repercussive and/or that relate to special severance payments must be referred to the Treasury.

4.5 The special payments on which the Treasury may need to be consulted are shown below. The list is not exclusive. If in doubt, the Department should be consulted.

- **extra-contractual payments:** payments which, though not legally due under contract, appear to place an obligation on a public sector organisation which the courts might uphold. Typically these arise from the organisation's action or inaction in relation to a contract. Payments may be extra-contractual even where there is some doubt about the organisation's liability to pay, e.g. where the contract provides for arbitration but a settlement is reached without it. (A payment made as a result of an arbitration award is contractual.)
- **extra-statutory and extra-regulatory payments** are within the broad intention of the statute or regulation, respectively, but go beyond a strict interpretation of its terms.
- **compensation payments** are made to provide redress for personal injuries (except for payments under the Civil Service Injury Benefits Scheme), traffic accidents, damage to property etc, suffered by civil servants or others. They include other payments to those in the public service outside statutory schemes or outside contracts.
- **special severance payments** are paid to employees, contractors and others beyond above normal statutory or contractual requirements when leaving employment in public service whether they resign, are dismissed or reach an agreed termination of contract.
- **ex gratia payments** go beyond statutory cover, legal liability, or administrative rules, including:
  - payments made to meet hardship caused by official failure or delay
  - out of court settlements to avoid legal action on grounds of official inadequacy



- payments to contractors outside a binding contract, eg on grounds of hardship.

## 5. Treasury / Department Approval Process

### Step 1

5.1 Follow internal approval process. Ascertain if the special payment is novel, contentious or repercussive and/or relates to special severance payments. If yes, then it must be referred to the Treasury for approval, via the ALB Finance team.

### Step 2

5.2 If not then ascertain if the special payment is within the delegated limits. If the loss or write-off is within delegated limits, then the HFEA's internal approval process is sufficient.

### Step 3

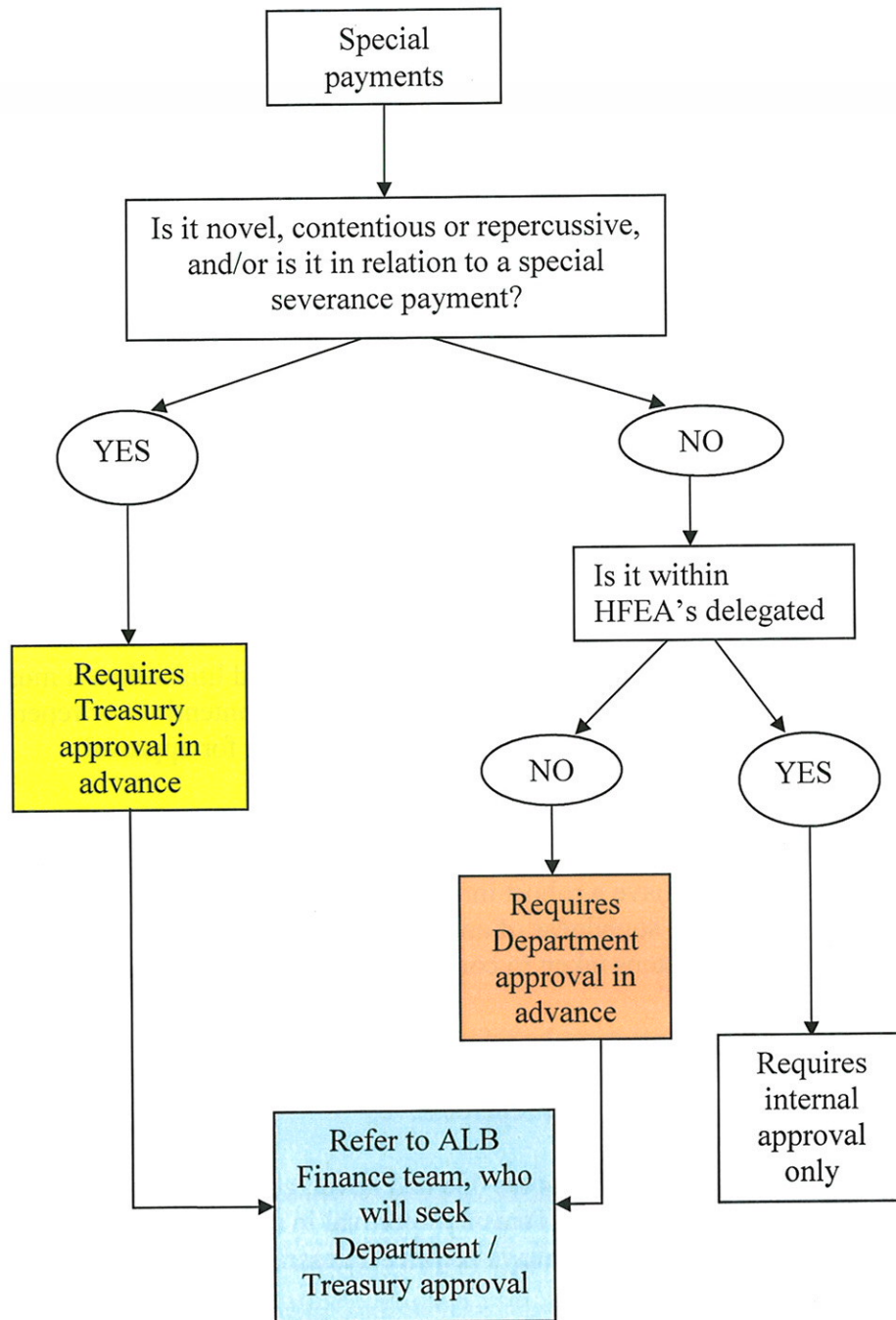
5.3 If the value of the loss or write exceeds the delegated limits then it must be referred to the Department for approval. If it is novel, contentious or repercussive, then the Department will need to refer it to the Treasury for approval.

### Key points

- HFEA should have a robust internal process in place to consider all special payments. The soundness of and adherence to control systems should be reviewed and steps taken to correct any failings.
- Special Payments must be referred to the Department for approval in advance of payment if the amount exceeds the delegated limit of the HFEA or if they are novel, contentious or repercussive.
- Where Special Payments are deemed novel, contentious or repercussive, the Department has to seek Treasury approval in advance of payment. **Special severance payments always require Treasury approval.**
- In all cases, Department/Treasury approval must be sought in advance of any payments made. If payments are made and approval is not obtained then accounts may be qualified.
- Where appropriate, cases must be referred to the Governance and Assurance Committee (GAC). Please refer to the GAC Submission Guidance. Again, this should be done in advance of any payments being made.
- HFEA must report all cases within their delegated limits to the Department in accordance with the format and timetable in Annex B to this Appendix.

See workflow diagram 1 below for a quick reference guide

**Workflow 1 - How to identify what approval is required for Special Payments**



**NB** Prior to approval by Treasury, Ex Gratia payments over £20k require approval by the Governance and Assurance Committee (GAC)

All novel, contentious or repercussive cases should be reported to GAC for information

## 6. Losses and Write offs

6.1 As set out in MPM Annex 4.10 (box A410.a) losses and write offs are classified as follows

Type	Description	Delegation group
<b>A</b>	<b>Losses</b>	
i.	Cash losses. Physical losses of cash and equivalents (e.g. bank notes, credit cards, electronic transfers, payable orders).	1
ii.	<b>Bookkeeping losses:</b>	
	<ul style="list-style-type: none"> <li>• unvouched or incompletely vouched payments, including missing items;</li> </ul>	1
	<ul style="list-style-type: none"> <li>• charges to RfRs to clear inexplicable or erroneous debit balances.</li> </ul>	1
iii.	<b>Exchange rate fluctuations.</b> Losses due to fluctuations in exchange rates or revaluations of currencies.	1
iv.	<b>Losses of pay, allowances and superannuation benefits</b> paid to civil servants, members of the armed forces and members of staff of non-departmental public bodies:	
	<ul style="list-style-type: none"> <li>• overpayments due to miscalculation, misinterpretation or missing information</li> </ul>	1
	<ul style="list-style-type: none"> <li>• unauthorised issues, e.g. inadmissible payments</li> </ul>	1
	<ul style="list-style-type: none"> <li>• losses arising from other causes, e.g. non-disclosure of full facts by the beneficiary, short of proven fraud.</li> </ul>	2
v.	<b>Losses arising from overpayments</b> of social security benefits, grants, subsidies, etc. arising from miscalculation, misinterpretation, or missing information.	2
vi.	<b>Losses arising from failure to make adequate charges</b> for the use of public property or services.	2
<b>B</b>	<b>Losses of accountable stores:</b>	
i.	Proven or suspected fraud, theft, arson or sabotage, or any other deliberate act (including repairable damage caused maliciously to buildings, stores, etc. even where a legal claim is not possible)	1
ii.	losses arising from other causes.	1
<b>C</b>	<b>Fruitless payments and constructive losses</b>	1
<b>D</b>	<b>Claims waived or abandoned</b>	2

## **7. Treasury / Department Approval Process**

### **Step 1**

7.1 Follow internal approval process. Ascertain if the value of the loss or write-off is within the delegated limits.

### **Step 2**

7.2 If the loss or write-off is within delegated limits, ascertain if it is novel, contentious or repercussive. If it is then it must be referred to Treasury for approval, via the ALB Finance team. If not then the HFEA's internal approval process is sufficient.

### **Step 3**

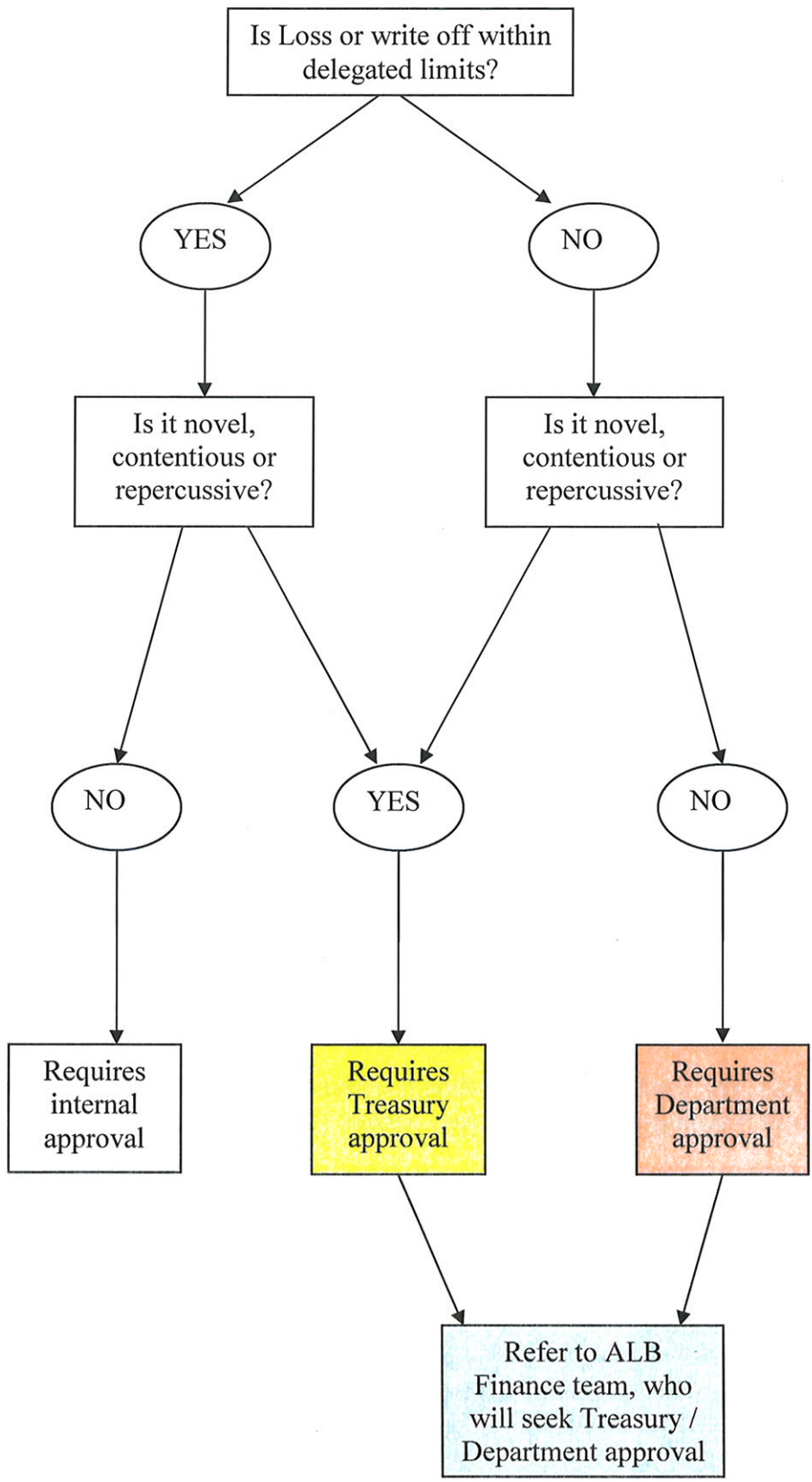
7.3 If the value of the loss or write exceeds the delegated limits then it must be referred to the Department for approval. If it is novel, contentious or repercussive, then the Department will need to refer it to Treasury for approval.

### **Key points**

- HFEA can approve losses and write offs that are within its delegated limits and are not novel, contentious or repercussive
- Losses and write offs that are outside HFEA delegated limits require Department approval. Those that are novel, contentious or repercussive, require Treasury approval
- All cases requiring Department or Treasury approval must be sent to the ALB Finance team: ALB finance@dh.gsi.gov.uk. The Treasury will not accept cases sent directly to them. Cases should be referred to Department as soon as HFEA has details of them
- All cases requiring Treasury or Department approval should contain the information set out in Annex A
- HFEA must report all cases within their delegated limits to the Department in accordance with the format and timetable in Annex B to this Appendix

See workflow diagram 2 below for a quick reference guide

**Workflow 2 -How to identify what approval is required for Losses & Write Offs**



**SPECIAL PAYMENTS**

To obtain Treasury or Department approval, the following information is required

Is Payment novel, contentious repercussive

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

or a special severance payment?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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Explain the nature and circumstances of the case, including any scope for reference to a tribunal, with its potential consequences.

Set out the amount proposed as settlement; also identify what your legal costs would be if settlement agreed

Summarise the legal advice, including the assessment of the organisation's chances of winning or losing the case. Attach a copy of legal advice received

**Assess the value for money offered by the possible settlement. It is useful to identify the maximum and minimum amounts claimant could win if successful, plus your costs if case defended i.e. your legal fees and estimate of management costs.**

--

**Confirm that the relevant management procedures have been followed. Identify any other options considered and reasons not pursued.**

**Bring out any non-financial considerations, e.g. where it is desirable to end someone's employment but dismissal is not warranted**

**Explain whether the case in question could have wider impact, e.g. for a group of potential tribunal cases**

**Confirm that special payment is not a soft option in order to avoid normal management procedures, disciplinary action, unwelcome publicity or damage to reputation**

**Ensure that applications for retrospective approval contain the same level of detail as if the case had been brought to the Treasury in advance.**

**Please note that although important, the VFM case is not the only thing Treasury consider, the processes, management and wider message are equally important.**



## Appendix 4, Annex B

### Reporting to Department of Health

A requirement of the delegation is that the Department's Audit Committee annually reviews a report on the use of this delegation and that the report made to them is copied to the Treasury. Where losses and special payments are within HFEA's delegated limits, the Department requires HFEA to report these to it in accordance with the following timetable.

- April to December by following 25 January in line with 'hard close' of 9 months accounts, and
- April to March (full year) by following 25 April

The following information will be collected and a form will be included in the appropriate monitoring returns

#### Losses

(See Managing Public Monies for full details)

Type	Description	Under £1,000		£1,000 to £9,999		£10,000 plus	
		no of cases	£000s	no of cases	£000s	no of cases	£000s
A	Losses						
i	Cash Losses						
ii	Book keeping losses						
iii	Exchange rate fluctuations						
iv	Losses of pay, allowances and superannuation benefits						
v	Losses arising from overpayments						
vi	Losses arising from failure to make adequate charges						
B	Losses of accountable stores						
i	Proven or suspected fraud, theft etc						
ii	Other causes						
C	Fruitless payments & constructive losses						
D	Claims waived or abandoned						

#### Special Payments

(See Managing Public Monies for full details)

Description	Under £1,000		£1,000 to £9,999		£10,000 plus	
	no of cases	£000s	no of cases	£000s	no of cases	£000s
Extra-contractual payments						
Extra-statutory and extra-regulatory payments						
Severance Payments						
Compensation payments						
Ex gratia payments						

## Appendix 5

### Terminology

These are explanations of the terms used in these delegations

<b>Accounting Officer</b>	An official of the HFEA appointed by the Secretary of State to be responsible for ensuring the proper management of the HFEA's resources, and for the preparation of the relevant accounts.
<b>Authorising Officer</b>	A member of staff who has been given written authority to authorise commitments or payments for specific budgets over which the budget manager has authority
<b>Sponsoring Department Board</b>	The Department of Health
<b>Board</b>	The Members of the Authority. Where these delegations refer to the Board, this includes other Committees with specific delegated authority
<b>Budget</b>	A resource, expressed in financial terms, allocated for the purpose of carrying out, for a specific period, specified functions of the HFEA
<b>Director General and Chief Operating Officer of the Department of Health</b>	The Department's Finance Director (who is one of the Department's Directors General). Currently the role of Finance Director is combined with that of Chief Operating Officer
<b>Finance Directorate</b>	The Director General for Finance & Chief Operating Officer and those staff accountable to him/her for financial management and control
<b>Capital Investment Branch</b>	The Department of Health's Capital Investment Branch perform independent reviews of the financial implications of all significant policies
<b>Revenue Investment Branch</b>	The Department of Health's Revenue Investment Branch perform independent reviews of the financial implications of all new significant revenue investments
<b>Governance Assurance Committee</b>	The Governance and Assurance Committee main remit is to ensure appropriate governance of redeployment, redundancy and associated processes for redundancies with capitalised costs over £100k, Ex-Gratia payments, Payments In Lieu of Notice, Financial incentives and retention payments.
<b>Property Asset Management Board</b>	The Property Asset Management Board's purpose is to develop and implement an effective Estates and Facilities Management strategy by considering the best solutions for achieving efficient and effective use of the Department of Health estate within the High Performing Property Asset Management Framework.
<b>Staff</b>	Employees of the HFEA, including, where the context permits, employees of third parties contracted to the HFEA when acting on behalf of the HFEA



**HUMAN FERTILISATION AND EMBRYOLOGY  
AUTHORITY  
("the Authority")**

**CODE OF CONDUCT FOR AUTHORITY MEMBERS**

All members of the Authority **UNDERTAKE** to:-

- have regard to the functions and duties of the Authority set out in sections 8 and 8ZA of the Human Fertilisation and Embryology Act 1990 (as amended) ("the Act") and which are annexed to this Code, when undertaking the business of the Authority or a committee of the Authority;
- comply with the Standing Orders and relevant protocols and policies approved by the Authority when undertaking the business of the Authority or a committee of the Authority;
- follow and support by example the principles published by the Committee on Standards in Public Life (the Nolan Principles) which are annexed to this Code;
- comply with the statement of general principles published by the Authority in accordance with Section 8(ca) (ii) of the Human Fertilisation and Embryology Act 1990 (as amended) which are annexed to this Code;
- ensure that actions taken in a personal capacity do not bring the Authority into disrepute;
- be alert to the possibility of any conflicts of interest, and to declare any potential conflicts as soon as practicable;
- in the event of a potential conflict of interest, consult and follow the Authority's Guidance on Conflicts of Interests;
- ensure that entries relating to them in the register of interests maintained by the Authority are accurate, complete and up-to-date;
- declare any hospitality received which may be relevant to their work as an Authority member in the register of interests maintained by the Authority for that purpose;
- only discuss Authority and committee papers at formal meetings of the Authority or committee to which the papers relate;

- keep the deliberations of the Authority or committee meetings which are not open to the public confidential, and not to disclose such deliberations to any external party (save in accordance with the Authority’s publication policy or where required to by a Court, or by law);
- use any information acquired solely by virtue of their membership of the Authority or a committee of the Authority only for the purpose of Authority or committee proceedings, and not to use such information for personal gain;
- comply with the provisions of section 33A of the Human Fertilisation and Embryology Act 1990 (as amended) and to uphold strictly the confidentiality of any patient identifying information that may be revealed to them as members of the Authority or a committee of the Authority;
- make no public comment on behalf of the Authority without first obtaining approval from the Chair of the Authority;
- when providing media interviews or commenting in public, make it clear that they are speaking in a private capacity or as a member of the Authority;
- make every effort to attend all meetings, hearings and training sessions at which their presence is required;
- once diaries have been checked and meetings scheduled, only cancel their attendance under exceptional and wholly unavoidable circumstances;
- take all reasonable steps to give advance warning of absence to the Chair of the Authority or committee of which they are a member in the event that they are unable to attend a scheduled meeting or hearing;
- prepare for any meeting or hearing by reading any papers sent to them beforehand; and
- undertake periodic training provided or organised by the Authority

I hereby declare that I have read and understood this document and undertake to abide by the principles set out in this Code and to support these principles by example.

NAME: .....

SIGNATURE:..... DATE:.....

## **ANNEX-GENERAL FUNCTIONS AND DUTIES OF THE AUTHORITY**

### **Section 8 General functions of the Authority.**

The Authority shall—

- (a) keep under review information about embryos and any subsequent development of embryos and about the provision of treatment services and activities governed by this Act, and advise the Secretary of State, if he asks it to do so, about those matters,
- (b) publicise the services provided to the public by the Authority or provided in pursuance of licences,
- (c) provide, to such extent as it considers appropriate, advice and information for persons to whom licences apply or who are receiving treatment services or providing gametes or embryos for use for the purposes of activities governed by this Act, or may wish to do so,
- (ca) maintain a statement of the general principles which it considers should be followed—
  - (i) in the carrying-on of activities governed by this Act, and
  - (ii) in the carrying-out of its functions in relation to such activities,
- (cb) promote, in relation to activities governed by this Act, compliance with—
  - (i) requirements imposed by or under this Act, and
  - (ii) the code of practice under section 25 of this Act, and
- (d) perform such other functions as may be specified in regulations.

### **Section 8ZA Duties in relation to carrying out its functions**

- (1) The Authority must carry out its functions effectively, efficiently and economically.
- (2) In carrying out its functions, the Authority must, so far as relevant, have regard to the principles of best regulatory practice (including the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed).

## **ANNEX- THE SEVEN PRINCIPLES OF PUBLIC LIFE**

### **Selflessness**

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

### **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

### **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

### **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

### **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

### **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

### **Leadership**

Holders of public office should promote and support these principles by leadership and example.

**ANNEX - STATEMENT OF GENERAL PRINCIPLES  
PUBLISHED BY THE AUTHORITY IN ACCORDANCE WITH  
SECTION 8(ca) (ii) OF THE HUMAN FERTILISATION AND  
EMBRYOLOGY ACT 1990 (AS AMENDED)**

*Purpose*

*We are the UK's independent regulator of treatment using eggs and sperm, and of treatment and research involving human embryos. We set standards for, and issue licences to, centres. We provide authoritative information for the public, in particular for people seeking treatment, donor conceived people and donors. We determine the policy framework for fertility issues, which are sometimes ethically and clinically complex*

*Principles*

*We treat people and their information with sensitivity, respect and confidentiality*

*We observe the highest standards of integrity and professionalism in putting into effect the law as it governs our sector*

*We consult widely, listening to and learning from those with an interest in what we do*

*We keep abreast of scientific and clinical advances*

*We exercise our functions consistently, proportionately, openly and fairly.*

