

Treasurer's Direction

TD24-12 Charter of Independence for NSW integrity agencies

Tuesday, 6 August 2024

TD24-12 Charter of Independence for NSW integrity agencies

Object:

The object of this Direction is to safeguard the independence of the integrity agencies when engaging with The Cabinet Office, Premier's Department and Treasury concerning their financial arrangements and management practices.

Commencement:

This Direction takes effect on Tuesday, 6 August 2024.

Application:

This Direction applies to The Cabinet Office, Premier's Department and Treasury when engaging with the integrity agencies concerning their financial arrangements and management practices.

Section 2.5(2) of the *Government Sector Finance Act 2018* (GSF Act) provides that a separate GSF agency (and the accountable authority for the agency and its government officers) are each not required to comply with a provision of a Treasurer's Direction if the accountable authority considers that the requirement is not consistent with the exercise of the statutory functions of the agency. Integrity agencies are defined as separate GSF agencies under the GSF Act.

Summary:

The NSW Government has adopted a budget management model to safeguard the independence of integrity agencies and ensure the delivery of their statutory objectives, specifically:

- the exclusion of integrity agencies from the Premier's Department and The Cabinet Office financial management processes

- not imposing efficiency dividends on integrity agencies
- a specialist integrity agency unit within Treasury to manage representations for budget and supplementary funding and provide the integrity agencies with information on funding outcomes
- integrity agencies are invited to review Treasury's advice to the Expenditure Review Committee of Cabinet (ERC) on integrity agency funding bids and provide their own advice directly to ERC
- the integrity agencies, and the relevant parliamentary oversight committees, will be provided with funding decisions in writing, and, if relevant, reasons for variation from a funding bid
- including contingency funding for the integrity agencies in annual Appropriation Acts, in addition to appropriations for the ordinary services of the integrity agencies. Expenditure of contingency funds may be approved by the Treasurer on request, with the request and response also provided to the relevant parliamentary oversight committee.

This Direction makes provision for:

- compliance with the new arrangements by The Cabinet Office, Premier's Department and Treasury
- the making of applications by the integrity agencies to the Treasurer for the expenditure of contingency funding.

Interpretation:

Defined terms

Except as indicated below, terms used in this Direction have the same meaning as in the GSF Act.

In this Direction:

Head of the integrity agency means in respect of the –

- Audit Office of New South Wales – the Auditor-General
- Independent Commission Against Corruption – the Chief Commissioner of the Independent Commission Against Corruption
- Law Enforcement Conduct Commission – the Chief Commissioner of the Law Enforcement Conduct Commission
- New South Wales Electoral Commission – the Electoral Commissioner
- Ombudsman's Office – the Ombudsman.

Integrity agency means the

- Audit Office of New South Wales
- Independent Commission Against Corruption
- Law Enforcement Conduct Commission
- New South Wales Electoral Commission
- Ombudsman's Office.

Integrity agencies' contingencies appropriation means a sum appropriated to the Treasurer by an annual Appropriation Act for contingencies in relation to integrity agencies.

NSW Performance and Wellbeing Framework means the reporting framework to be released as part of the 2024-25 Budget.

Relevant parliamentary oversight committee means in respect of the –

- Audit Office of New South Wales – the Public Accounts Committee
- Independent Commission Against Corruption – the Committee on the Independent Commission Against Corruption
- Law Enforcement Conduct Commission – the Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission
- New South Wales Electoral Commission – the Joint Standing Committee on Electoral Matters
- Ombudsman’s Office – the Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission.

Direction:

Recognition of integrity agency independence

An integrity agency is independent and not subject to the control or direction of the Executive Government.

1. Engagement by Treasury, The Cabinet Office and Premier’s Department with integrity agencies
 - a. The Secretary of Treasury must establish and maintain a specialised unit within Treasury with appropriate training on and understanding of the statutory functions and status of integrity agencies.
 - b. The principal function of the unit referred to in paragraph 1(A) is to ensure that the independence of integrity agencies is preserved during the budget process.
 - c. The Secretary of The Cabinet Office or the Secretary of the Premier’s Department must nominate a representative to liaise with integrity agencies and the specialised unit within Treasury during the budget process.
2. Exclusion from The Cabinet Office and Premier’s Department financial management processes
 - a. The Secretary of The Cabinet Office, Secretary of the Premier’s Department and the Secretary of Treasury must not require an integrity agency:
 - i. to submit budget proposals as part of The Cabinet Office or Premier’s Department financial management process; or
 - ii. to report on activities and outcomes as part of the NSW Performance and Wellbeing Framework.
3. Exclusion from efficiency dividends
 - a. The Secretary of The Cabinet Office, Secretary of the Premier’s Department and the Secretary of Treasury must take account of the Government’s policy that efficiency dividends and other savings measures are not imposed on integrity agencies.
4. Consideration by the Expenditure Review Committee of Cabinet
 - a. An integrity agency may submit budget proposals to Treasury for the consideration of the Expenditure Review Committee of Cabinet (ERC) in accordance with Cabinet

conventions as part of Treasury's preparation of the annual Budget, relevant Budget Papers and the annual Appropriation Acts.

- b. A reasonable time prior to any ERC meeting that is scheduled to consider a budget proposal submitted by an integrity agency, the Secretary of Treasury must inform the relevant integrity agency of the date of the relevant ERC meeting.
- c. The Secretary of Treasury must provide a copy of Treasury's final advice to ERC on budget proposals submitted by an integrity agency to that agency a reasonable time prior to the relevant ERC meeting.
- d. The integrity agency may respond to Treasury's advice to ERC and/or prepare separate advice to ERC.
- e. The Secretary of Treasury is to provide any advice prepared by an integrity agency to ERC without amendment.

5. Funding decisions

- a. The Secretary of Treasury must prepare correspondence for the Treasurer to the head of an integrity agency, copying the Chair of the relevant parliamentary oversight committee:
 - i. confirming the funding decisions of the NSW Government with respect to the integrity agency
 - ii. providing reasons, if relevant, for varying from an integrity agency's budget proposal.

6. Contingency funding

- a. An integrity agency may make an application to the Treasurer, in writing, for the payment of a sum from the integrity agencies' contingencies appropriation for an expenditure or reduction in revenue (a contingency funding application).
- b. A contingency funding application must include an attestation by the head of the integrity agency that the expenditure or reduction in revenue is urgent and unforeseen, and any relevant or supporting information.
- c. The Secretary of Treasury must prepare correspondence for the Treasurer providing the integrity agency with written notice of a decision on the contingency funding application.
- d. The Secretary of Treasury must prepare correspondence for the Treasurer providing copies of a contingency funding application and decision under this clause to the relevant parliamentary oversight committee.

This is a Direction made under section 3.1 of the Government Sector Finance Act 2018 (NSW).

End date or review date for this Direction:

This Direction is to be reviewed on or before Friday, 24 April 2026

Related Documents:

(Legislative) References:

Section 3.1 of the *Government Sector Finance Act 2018* (NSW)

Daniel Mookhey MLC

Treasurer

Tuesday, 6 August 2024