



Department
for Culture,
Media & Sport

Cultural Freedom Bodies' Freedoms Charter

May 2023

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BACKGROUND

The 'Operational Freedoms' are a set of exemptions from, or modifications to, a discrete number of financial and operating requirements applying to a group of Arm's Length Bodies¹ ('ALBs'). These 'Freedoms Bodies' have been granted these flexibilities in recognition of their distinct public-facing role and hybrid public/commercial funding model.

The following set of Freedoms was approved by HM Treasury and Cabinet Office on 26 April 2023. This document is an updated version of the Charter that was previously agreed by those parties and the Freedoms Bodies' Sponsor Departments² in Q1 2022/23.

It will be reviewed in Q3 2024/25, or at the next Spending Review, whichever is sooner. The Freedoms are extended at HM Government's discretion and may be paused or withdrawn where circumstances dictate.

FREEDOMS - AT A GLANCE

Financial Freedoms:

1. Freedom to maintain and spend reserves of self-generated income.
2. Freedom to invest non-grant income.
3. Exemption from the requirement to use the Government Banking Service.
4. The power to borrow through voted loans from sponsoring departments.
5. Favourable consideration of requests for Departmental Expenditure Limit (DEL) cover to meet exceptional depreciation charges.
6. Freedom to offer pay awards in excess of caps set out in the Pay Remit Guidance.
7. Freedom to opt out of the Principal Civil Service Pension Scheme for new starters.

Spend Control Freedoms:

8. Flexibility to opt in or out of central procurement on a case by case basis.
9. Exemption from advertising, marketing, and communications spend controls.
10. Exemption from the commercial spend control.
11. Exemption from property spend controls.
12. Exemption from facilities management spend controls.

Increases to Delegated Limits

13. Digital and Technology spend.
14. Self-funded capital projects (HMT delegated limit for DCMS Freedom Bodies only).

¹ Refer to Schedule 1 at the end of this document

² Refer to Schedule 2 at the end of this document

FINANCIAL FREEDOMS

1. Freedom to maintain and spend reserves of self-generated income.

HM Treasury will provide Freedoms Bodies with budgetary cover (for both Resource and Capital spend) for the required use of reserves. It will be based on Freedom Body forecasts and made via Supplementary Estimates. The use of reserves in excess of the allocation will be considered an overspend for which Bodies must alert DCMS / relevant department as early as possible.

2. Freedom to invest non-grant income

Freedoms Bodies are free to invest non grant income in line with the relevant Charity Commission guidance on investments.

3. Exemption from the requirement to use the Government Banking Service

Freedoms Bodies are exempt from the requirement to use the Government Banking Service (GBS). They will continue to provide DCMS / relevant department [“The Department”] with the normal monthly forecasts including the amount of cash held in their bank accounts. They should also continue to seek help and guidance from the GBS to help negotiate value for money banking contracts.

Where Freedoms Bodies elect to open non-GBS accounts, formal HM Treasury approval is not required, but Bodies must inform The Department and provide them with balances held in these accounts at set times during the year as communicated to them by the Department.

4. The power to borrow through voted loans from sponsoring departments

Freedom Bodies have the power to borrow to access seed funding which can be used for cost savings measures and to develop revenue raising projects.

Loans will be made available to Freedom Bodies by The Department up to a limit of £60m per year (across all Freedoms Bodies) and no longer than 25 years in length.

DCMS will include all requests within its Supplementary Estimates return to HM Treasury. Freedoms Bodies may request loans during each financial year up until the Supplementary Estimates return is submitted. Cash can however be made available ahead of Supplementary Estimates as HMT approval at Supplementary Estimates is assumed if DCMS provides the necessary approval to the loan request.

Loan requests from Freedoms Bodies will require a single-stage business case submission to be approved by The Department. If the loan request forms part of a larger business case, the request should be incorporated into an appropriate business case stage (although no earlier than Outline Business Case) . The Department will review any loan requests at an appropriate Committee that aligns with the value of the request.

5. Favourable consideration of requests for additional budgetary cover to meet exceptional depreciation charges

In exceptional circumstances, the impact of depreciation may result in a breach of the HM Treasury ring-fenced budgetary total. The Department will ensure it retains sufficient cover for any known depreciation charges and will explore avenues to manage exceptional depreciation charges within the delegated control totals. It may be for example that requests for additional budgetary cover can be made outside of the supplementary estimates window.

In the unlikely event that this is not possible, the Department would ask HM Treasury to look favourably on any breach caused by these circumstances.

Freedoms Bodies should proactively notify their Department if such an event is anticipated, so that HMT can be informed and remedies can be explored.

6. Freedom to offer average pay awards in excess of caps set out in the Pay Remit Guidance

Freedom Bodies are not subject to the Pay Remit Guidance (“PRG”). However they shall continue to engage with their Sponsor Department during the process of making a pay remit application, particularly prior to completion. They shall also continue to provide outturn data to HM Treasury and adhere to all other Civil Service Pay guidance issued by HM Treasury and the Cabinet Office. This freedom can include multi-year pay settlements as long as they are affordable and this does not prejudice future spending reviews.

This Freedom may be paused under extraordinary future circumstances, and should be reviewed as part of Spending Reviews.

7. Freedom to opt out of the Principal Civil Service Pension Scheme for new starters

Bodies may close, or amend the eligibility criteria to restrict access to the Civil Service Pension Schemes (CSPS) for new members. Current active and non-contributory members will be allowed to continue to accrue and receive their respective benefits. The CSPS closes completely once the last active scheme employee leaves the organisation.

The decision to use this Freedom will be taken by the Body’s Board of Trustees.

To take advantage of this Freedom, Bodies should first consult with The Department, setting out the case for the proposed course of action. They must also confirm that:

- (a) relevant statutory requirements have been followed;
- (b) agreed Trade Union/Management negotiating processes have been undertaken as part of the consultation with staff;
- (c) a reasonable number of alternative pension providers have been considered to ensure good value.

Following this process, the Freedom Body will need to liaise with the Cabinet Office and Government Actuarial Department (GAD). The decision to close, or

restrict access to the CSPA to new starters may incur an “exit charge”. This charge will be determined by the GAD, based on the particular circumstances of the Freedom Body, and will take into account current and future scheme liabilities and the impact on the CSPA. The presumption is that the Freedom Body will pay the exit charge from its own funds and/ or reserves, although they may be able to access the voted loans fund for this purpose.

SPEND CONTROL FREEDOMS

8. Flexibility to opt in or out of central procurement

Freedom Bodies may decide whether or not to use central procurement for all items of expenditure on a case by case basis. Where centralised procurement deals exist, Freedom Bodies should satisfy themselves that any contract outside of these arrangements demonstrates better whole life value for money.

9. Exemption from advertising, marketing, and communications spend control

Freedom Bodies are exempt from the Cabinet Office’s central advertising, marketing and communications (AME) spending control.

10. Exemption from the commercial spend Control

Freedom Bodies are exempt from the Cabinet Office’s Commercial spend control approval processes. This does not, however, supersede the requirement to adhere to the Government Functional Standard and other Cabinet Office guidance for those Bodies that make grants using public funding.

11. Exemption from property spend controls

Freedom Bodies are exempt from the control on property spend, including the requirement to seek approval for all new facilities management contracts and contract extensions.

12. Exemption from facilities management spend controls

Freedom Bodies are exempt from the spend control on facilities management, enabling them to procure specialist services, and to do so independently and at pace.

INCREASES TO DELEGATED LIMITS (NEW)

13. Approval for Digital and Technology spend

All public bodies are required to record all spend in a digital and technology pipeline as part of a joint Cabinet Office / departmental assurance review process.

The control applies to digital spend over £100,000 and technology spend over £1 million.

For Freedoms Bodies, this threshold is increased to £10m for both digital and technology spend. This threshold will be reviewed as part of review of wider freedoms - in Q3 2024/25, or at the next Spending Review, whichever is sooner.

14. Approval for self-funded capital projects [DCMS Freedom Bodies only]

HM Treasury has increased DCMS' Delegated Capital Expenditure Limit from £30m to £60m for majority-self-funded ALB capital projects. This avoids the requirement of Treasury Approval Points for any projects below £60m, but does not negate the requirement for DCMS approval.

FREEDOMS RETIRED

The final group of Freedoms may be more accurately described as 'service level agreements' (SLAs). They were intended to help streamline the process of complex approvals processes for Freedoms Bodies. Following a review of these commitments, they were found to be largely redundant or irrelevant. As such they will be replaced in the manner described below.

- HM Treasury commitment to respond to capital business cases within 28 days, and training to ensure business cases are proportionate and cost-effective.
 - To be replaced with departmental-led guidelines which clarify businesses case clearance processes, roles and responsibilities; these may include response time Service Level Agreements (SLAs).
- Cabinet Office commitment to respond to redundancy and restructuring applications within two business days.
 - To be replaced with departmental-led process maps which clarify roles and responsibilities; these may include response time SLAs.
- Pre-application guidance from HM Treasury to reduce the administrative burden from severance payment business cases and to achieve quicker decisions.
 - To be replaced with departmental-led process maps which clarify roles and responsibilities; these may include response time SLAs.

Schedule 1: List of Freedom Bodies

The Department for Culture, Media & Sport (DCMS)

British Museum
Horniman Museum and Gardens
Imperial War Museums
Museum of the Home
National Gallery
National Museums Liverpool
National Portrait Gallery
Natural History Museum
Royal Armouries
Royal Museums Greenwich
Science Museum Group
Sir John Soane's Museum
Tate Gallery
V&A Museum
Wallace Collection
British Film Institute
Historic England
British Library
Churches Conservation Trust

Department for the Environment, Food and Rural Affairs (Defra)

Royal Botanic Gardens Kew

Ministry of Defence (MOD)

National Army Museum
National Museum of the Royal Navy
Royal Air Force Museum

Schedule 2: List of Sponsor Departments

The Department for Culture, Media & Sport (DCMS)
The Department for the Environment, Food & Rural Affairs (Defra)
The Ministry of Defence (MOD)