

**EQUALITY COMMISSION FOR NORTHERN  
IRELAND**

**MANAGEMENT STATEMENT AND FINANCIAL  
MEMORANDUM**

**July 2018**

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## DEFINITIONS

### **In this Management Statement and Financial Memorandum:**

“Body” means Equality Commission for Northern Ireland

“Commission” means Equality Commission for Northern Ireland (“The Commission”)

“C&AG” means Comptroller and Auditor General

“OCPA” means Office for the Commissioner for Public Appointments England and Wales

“DAO” means “Dear Accounting Officer” letter

“The Department” or “TEO” means “The Executive Office”

“DoF” means the “Department of Finance”.

“DPFO” means “Dear Principal Finance Officer” letter

“DCM” means “Dear Consolidation Manager” letter

“DCO” means “Dear Consolidation Officer” letter

“Executive” and “Assembly” shall also be taken to mean “the government” and “Parliament” respectively during direct rule

“MPMNI” means Managing Public Money Northern Ireland

“Ministers” means the Ministers of TEO. During the suspension of the Northern Ireland Assembly, all references to “the Ministers” should be taken to mean the relevant Direct Rule Minister with responsibility for TEO and the Commission.

“Grant” means – an unrequited payment to an individual or body, in the private or public sector to reimburse expenditure on agreed items or function

“MSFM” means the *Management Statement and Financial Memorandum* document

“NDPB” means Equality Commission for Northern Ireland

“NIO” means Northern Ireland Office

“PFO” means Principal Finance Officer

*"UK GAAP"* means generally accepted accounting practice

*"Voted"* means provision voted by the Northern Ireland Assembly

# 1. INTRODUCTION

## 1.1 This document

- 1.1.1 This Management Statement and Financial Memorandum (MSFM) has been drawn up by The Executive Office (TEO) in consultation with the Equality Commission for Northern Ireland<sup>1</sup> (the Commission). The document is based on a model prepared by the Department of Finance (DoF).
- 1.1.2 The terms and conditions set out in the combined Management Statement and Financial Memorandum may be supplemented by guidelines or directions issued by TEO and/or Ministers in respect of the exercise of any individual functions, powers and duties of the Commission.
- 1.1.3 A copy of the MSFM for the Body should be given to all Commissioners, senior Commission executive staff and departmental sponsor staff on appointment. Additionally the MSFM should be tabled for the information of Commissioners at least annually at a full meeting of the Board. Amendments made to the MSFM should also be brought to the attention of the full Commission on a timely basis.
- 1.1.4 Subject to the legislation noted below, this Management Statement sets out the broad framework within which the Commission will operate, in particular:
- the Commission's overall aim[s], objectives and targets in support of TEO's wider strategic aim[s] and the outcomes and targets contained in the current Programme for Government (PfG);
  - the rules and guidelines relevant to the exercise of the Commission's functions, duties and powers;
  - the conditions under which any public funds are paid to the Commission;
  - how the Commission is to be held to account for its performance.

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<sup>1</sup> Equality Commission for Northern Ireland, Equality House, 7 – 9 Shaftesbury Square, Belfast BT2 7DP



- 1.1.5 The associated Financial Memorandum sets out in greater detail the key aspects of the financial provisions which the Commission shall observe. However, the Management Statement and Financial Memorandum do not convey any legal powers or responsibilities.
- 1.1.6 The document shall be periodically reviewed by TEO in accordance with the timetable referred to paragraph 88 below.
- 1.1.7 The Commission, TEO, or the Ministers, may propose amendments to this document at any time. Any such proposals shall be considered in the light of evolving departmental policy aims, operational factors and the track record of the Commission itself. The guiding principle shall be that the extent of flexibility and freedom given to the Commission shall reflect both the quality of its internal controls to achieve performance and its operational needs. TEO, in consultation with the Commission, shall determine what changes, if any, are to be incorporated in the document. Legislative provisions shall take precedence over any part of the document. Significant variations to the document shall be cleared with DoF Supply following consultation with the Commission, as appropriate. (The definition of "significant" will be determined by TEO in consultation with DoF).
- 1.1.8 The MSFM is approved by DoF Supply, and signed and dated by TEO and the Chief Executive of the Commission.
- 1.1.9 Any question regarding the interpretation of the document shall be resolved by TEO in consultation with the Commission and, as necessary, with DoF Supply.
- 1.1.10 Copies of this document and any subsequent substantive amendments shall be placed in the Library of the Assembly. Copies shall also be available to members of the public on the Commission's website.

## **1.2 Founding legislation: status**

- 1.2.1 The Equality Commission for Northern Ireland, which has been in existence since 1 October 1999, is an executive Non-Departmental Public Body (NDPB)<sup>2</sup> established as a body corporate by Section 73 of the Northern Ireland Act 1998. The constitution of the Commission is set out in the Section 73 and Schedule 8 of the

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<sup>2</sup> An NDPB is a body which has a role in the processes of national government, but it is not a government department or part of one, and accordingly operates to a greater or lesser extent at arm's length from Ministers – source: *NDPBs: A Guide for Departments* (Cabinet Office 2000)

Northern Ireland Act 1998 The Commission does not carry out its functions on behalf of the Crown.

### **1.3 The functions, duties and responsibilities of the Commission**

1.3.1 The Northern Ireland Act 1998 and the other legislative provisions which underpin the Commission's powers and duties give the Commission the following duties, and functions.

#### **Duties:**

- to promote equality of opportunity;
- to promote affirmative action;
- to promote equality of opportunity and good relations between people of different racial groups generally;
- to work for the elimination of unlawful discrimination;
- to oversee the effectiveness of the statutory duties on public authorities;
- to keep under review the working of anti-discrimination and equality legislation and, when it is so required by the Department or otherwise thinks it necessary, draw up and submit to the Department proposals for amending legislation.

#### **Responsibilities**

The responsibilities of the Chief Commissioner and Commissioners are set out in the Northern Ireland Act 1998 and more fully in the Code of Practice for Commissioners agreed between the Department and the Commission.

Under the provisions of section 74 of the Northern Ireland Act 1998 the functions previously exercised by the Fair Employment Commission, the Equal Opportunities Commission for Northern Ireland, the Commission for Racial Equality for Northern Ireland and the Northern Ireland Disability Council shall instead be exercisable by the Equality Commission for Northern Ireland. Since the formation, of the Commission, the legislative framework has been extended to cover new grounds: age and sexual orientation; the existing grounds disability, race, sex (including marital and civil partner status), religious belief and political opinion, have been significantly extended.

Schedule 9 of the Northern Ireland Act 1998 sets out the Commission's responsibilities in relation to section 75 of the Act. These are to:-

- o keep under review the effectiveness of the duties imposed by section 75;
- o offer advice to public authorities and others in connection with those duties; and
- o carry out the other functions conferred on it by Schedule 9 in relation to the enforcement of the duties imposed by section 75.

## **1.4 Classification**

- 1.4.1 For policy/administrative purposes the Commission is classified as an executive non-departmental public body.
- 1.4.2 For national accounts purposes the Commission is classified to the central government sector.
- 1.4.3 References to Commission include, where they exist, all its subsidiaries and joint ventures that are classified to the public sector for national accounts purposes. If such a subsidiary or joint venture is created, there shall be a document setting out the arrangements between it and the Commission (paragraphs 63-64 of the Financial Memorandum refer).

## **2. AIM, OBJECTIVES AND OUTCOMES**

### **2.1 Overall aim**

- 2.1.1 Within the founding legislation the Ministers have approved the overall aim for the Commission as follows:-

#### **Vision\***

A society in Northern Ireland where there is: **Equality for all and a common understanding of the benefits of a more equal society.**

#### **Mission\***

To improve people's lives through the effective implementation of our statutory responsibilities.

\*Source: current ECNI Corporate Plan.

## **2.2 Objectives and key outcomes**

- 2.2.1 TEO approves the Commission's performance framework in the light of the Department's wider strategic aims and current Programme for Government (PfG) objectives and outcomes (paragraph 1.1.4). Ministers have agreed the objectives, key outcomes and performance measures within the Commission's corporate and business planning process (Section 4 below).

## **3. RESPONSIBILITIES AND ACCOUNTABILITY**

### **3.1 The Secretary of State for Northern Ireland**

- 3.1.1 The Secretary of State for Northern Ireland is the Minister responsible for making Commissioner appointments to and dismissals from the Equality Commission for Northern Ireland. Under the provisions of para 73 (2) of the Northern Ireland Act 1998, the Secretary of State appoints the members of the Commission. The Commission shall consist of not less than 14 or more than 20 Commissioners. From among the Commissioners the Secretary of State also appoints the Chief and at least one Deputy Chief Commissioner of the Equality Commission for Northern Ireland.

NIO is required to act on the Secretary of State's behalf to carry out the appointment of the Chief Commissioner, Deputy Chief Commissioner and Commissioners and shall, as far as practicable, secure that the Commissioners, as a group, are representative of the community in Northern Ireland.

The Secretary of State has no role in relation to the exercise by the Commissioners of their statutory powers, but TEO is legally obliged, under 5(3) of Schedule 8 of the Northern Ireland Act 1998, to submit the Commission's annual report to the Secretary of State, who is required by statute to lay a copy of the report before Parliament (5(4), Schedule 8). The Secretary of State is assisted in these duties by the Minister of State.

### **3.2 The First Minister and deputy First Minister**

- 3.2.1 The Ministers are accountable to the Assembly for the activities and performance of the Commission. Their responsibilities include:

- approving the Commission's strategic objectives and the policy and performance framework within which the Commission will operate (as set out in this Management Statement and Financial Memorandum and associated documents);
- keeping the Assembly informed about the Commission's performance;
- approving the amount of grant-in-aid/grant/other funds to be paid to the Commission and securing Assembly approval; and
- carrying out responsibilities specified in Schedule 8 of the NI Act 1998 which includes approval of terms and conditions of staff and laying of the annual report and accounts before the Assembly.

### **3.3 The Accounting Officer of TEO**

3.3.1 TEO's principal Accounting Officer (the 'departmental Accounting Officer'), is responsible for the overall organisation, management and staffing of TEO and for ensuring that there is a high standard of financial management in the Department as a whole. The TEO Accounting Officer is accountable to the Assembly for the issue of any grant-in-aid to the Commission. The TEO Accounting Officer designates the Chief Executive of the Commission as the Commission's Accounting Officer, and may withdraw the Accounting Officer designation if he/she believes that the incumbent is no longer suitable for the role.

3.3.2 In particular, the departmental Accounting Officer of TEO shall ensure that:

- the Commission's strategic aim(s) and objectives support TEO's wider strategic aim[s] and current PfG objectives and outcomes;
- the financial and other management controls applied by TEO to the Commission are appropriate and sufficient to safeguard public funds and for ensuring that the Commission's compliance with those controls is effectively monitored ("public funds" include not only any funds granted to the Commission by the Assembly but also any other funds falling within the stewardship of the Commission);
- the internal controls applied by the Commission conform to the requirements of regularity, propriety and good financial management; and
- any grant-in-aid to the Commission is within the ambit and the amount of the Request for Resources and that Assembly authority has been sought and given.

3.3.3 The responsibilities of a departmental Accounting Officer are set out in more detail in Chapter 3 of *Managing Public Money Northern Ireland (MPMNI)*.

### 3.4 The sponsoring team in TEO

3.4.1 Within TEO, the Strategic Policy, Equality and Good Relations Directorate<sup>3</sup> provides the sponsoring team for the Commission. The Team, in consultation as necessary with the TEO Accounting Officer, is the primary source of advice to Ministers on the discharge of their responsibilities in respect of the Commission, and the primary point of contact for the Commission in dealing with TEO. The sponsoring team shall carry out its duties under the management of a senior officer, who shall have primary responsibility within the team for oversight of the Commission.

3.4.2 The sponsoring team shall advise Ministers on:

- an appropriate framework of objectives and outcomes for the Commission in the light of TEO's wider strategic aims and current PfG objectives and outcomes; and
- an appropriate budget for the Commission in the light of TEO's overall public expenditure priorities; and
- how well the Commission is achieving its strategic objectives and whether it is delivering value for money.

3.4.3 In support of the departmental Accounting Officer, the sponsoring team shall:

#### ***on performance and risk management -***

- monitor the Commission's activities on a continuing basis through an adequate and timely flow of information from the Commission on performance, budgeting, control, and risk management, including early sight of the Commission's Governance Statement;
- address in a timely manner any significant problems arising in the Commission, whether financial or otherwise, making such interventions in the affairs of the Commission as TEO judges necessary to address such problems;

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<sup>3</sup> Principally, the Equality & Human Rights DSC Unit within the Equality, victims, Human rights & DSC Directorate

- periodically carry out a risk assessment of the Commission's activities to inform TEO's oversight of the Commission; strengthen these arrangements if necessary; and amend the Management Statement and Financial Memorandum accordingly. The risk assessment shall take into account the nature of the Commission's activities; the public monies at stake; the body's corporate governance arrangements; its financial performance; internal and external auditors' reports; the openness of communications between the body and TEO; and any other relevant matters;

***on communication with the Commission -***

- inform the Commission of relevant Executive/Government policy in a timely manner; if necessary, advise on the interpretation of that policy; and issue specific guidance to the Commission as necessary;
- bring concerns about the activities of the Commission to the attention of the Commission and its Audit and Risk Committee, and obtain explanations and assurances from the Board and the Audit and Risk Committee that appropriate action has been taken.

### **3.5 The Commission's Board**

- 3.5.1 The Commissioners are appointed by an independent appointments process conducted by the NIO and which complies fully with the guidance issued by the Commissioner for Public Appointments for England and Wales.
- 3.5.2 The Commission's Board has corporate responsibility for ensuring that the Commission fulfils its legislative mandate, the aims and objectives set by the sponsor department and approved by the Ministers and for promoting the efficient, economic and effective use of staff and other resources by the Commission. To this end, and in pursuit of its wider corporate responsibilities, the Board shall:
- establish the overall strategic direction of the Commission within its legislative mandate and the policy and resources framework determined by the sponsor Ministers and Department.;
  - constructively challenge the Commission's executive team in their planning, target setting and delivery of performance;

- ensure that TEO is kept informed of any changes which are likely to impact on the strategic direction of the Commission or on the attainability of its outcomes, and determine the steps needed to deal with such changes;
- ensure that any statutory or administrative requirements for the use of public funds are complied with; that the Commission operates within the limits of its statutory authority and any delegated authority agreed with TEO, and in accordance with any other conditions relating to the use of public funds; and that, in reaching decisions, the Commission takes into account all relevant guidance issued by DoF and TEO;
- ensure that it receives and reviews regular financial information concerning the management of the Commission; is informed in a timely manner about any concerns about the activities of the Commission; and provides positive assurance to TEO that appropriate action has been taken on such concerns;
- demonstrate high standards of corporate governance at all times, including using its Audit and Risk Committee (see paragraph 4.7) to help the Board to address the key financial and other risks facing the Commission and;
- appoint a Chief Executive to the Commission and, in consultation with TEO, set performance objectives and remuneration terms linked to these objectives for the Chief Executive, which give due weight to the proper management and use of public monies.

3.5.3 Individual Board members shall act in accordance with their wider responsibilities as Members of the Board – namely to:

- comply at all times with the Code of Practice (see paragraph 3.6.5) that is adopted by the Commission and with the rules and guidance relating to the use of public funds and to conflicts of interest;
- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations; and to declare publicly and to the Board any private interests that may be perceived to conflict with their public duties;
- comply with the Board's rules on the acceptance of gifts and hospitality, and of business appointments; and



- act in good faith and in the best interests of the Commission.

3.5.4 TEO as the sponsor department shall have access to all Board meeting minutes.

### **3.6 The Chief Commissioner of the Commission**

3.6.1 The Chief Commissioner is appointed by the Secretary of State for Northern Ireland and the appointment is regulated by the Code of Practice issued by the Commissioner for Public Appointments for England and Wales. The term of office is for a period not exceeding five years, with the possibility of extension for a further term or terms to a maximum term in office of ten years, and on such terms and conditions as may be specified in the appointment.

3.6.2 Whilst the Secretary of State makes appointments to the Commission, it is funded by TEO. The Chief Commissioner is responsible to the Ministers of the TEO. The Chief Commissioner shall ensure that the Commission's policies and actions support the wider strategic policies of the Minister's; and that the Commission's affairs are conducted with probity. The Chief Commissioner shares with other Board members the corporate responsibilities set out in paragraph 3.5.2, and in particular for ensuring that the Commission fulfils its legislative mandate and the aims and objectives set by TEO and approved by Ministers.

3.6.3 The Chief Commissioner has a particular leadership responsibility on the following matters:

- formulating the Commission's strategy;
- ensuring that the Commission, in reaching decisions, takes proper account of guidance provided by Ministers and TEO;
- promoting the efficient, economic and effective use of staff and other resources;
- encouraging and delivering high standards of regularity and propriety;
- representing the views of the Commission to the general public; and

- ensuring that the Commission meets at regular intervals throughout the year and that the minutes of meetings accurately record the decisions taken and, where appropriate, the views of individual Commissioners.

#### **3.6.4 The Chief Commissioner shall also:**

- ensure that all members of the Board, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities, and receive appropriate induction training, including on the financial management and reporting requirements of public sector bodies and on any differences which may exist between private and public sector practice;
- advise the NIO and TEO of the needs of the Commission when Board vacancies arise, with a view to ensuring a proper balance of professional and financial expertise; and
- assess the performance of individual Board members. Board Members will be subject to ongoing performance appraisal, with a formal assessment being completed by the Chief Commissioner at the end of each year and prior to re-appointment of individual Members taking place. Members will be made aware that they are being appraised, the standards against which they will be appraised, and will have an opportunity to contribute to and view their report. The Chief Commissioner will also be appraised through an annual review meeting with the Director of Strategic Policy, Equality and Good Relations Directorate within TEO.

**3.6.5** The Chief Commissioner shall also ensure that a Code of Practice for Board Members is in place, based on the Cabinet Office's *Code of Practice for Board Members of Public Bodies*, (FD (DFP) 04/14 refers). The Code shall commit the Chief Commissioner and other Board Members to the Nolan "seven principles of public life", and shall include a requirement for a comprehensive and publicly available register of Board Members' interests.

**3.6.6** Communications between the Commissioners, the Ministers and the Department shall normally be through the Chief Commissioner. The Chief Commissioner shall ensure that the other Commissioners are kept informed of such communications on a timely basis.

### **3.7 The Chief Executive's role as Accounting Officer**

- 3.7.1 The Chief Executive of the Commission is designated as the Commission's Accounting Officer by the Departmental Accounting Officer of TEO.
- 3.7.2 The Accounting Officer of the Commission is personally responsible for safeguarding the public funds for which she/he has charge; for ensuring propriety and regularity in the handling of those public funds; and for the day-to-day operations and management of the Commission.
- 3.7.3 As Accounting Officer, the Chief Executive shall exercise the following responsibilities in particular:

#### ***on planning and monitoring -***

- establish, in agreement with TEO, the Commission's corporate and business plans in line with its statutory remit and current PfG in support of the Department's wider strategic aims, objectives and outcomes.
- inform TEO of the Commission's progress in delivering its corporate objectives and in demonstrating how resources are being used to achieve those objectives;
- ensure that timely forecasts and monitoring information on performance and finance are provided to TEO; that TEO is notified promptly if overspends or underspends are likely and that corrective action is taken; and that any significant problems, whether financial or otherwise, and whether detected by internal audit or by other means, are notified to TEO in a timely fashion;

#### ***on advising the Board -***

- advise the Board on the discharge of its responsibilities as set out in this document, in the founding legislation and in any other relevant instructions and guidance issued by DoF or TEO;
- advise the Board on the Commission's performance compared with its aims and objectives;

- ensure that financial considerations are taken fully into account by the Board at all stages in reaching and executing its decisions, and that standard financial appraisal techniques are followed appropriately;
- take action in line with Section 3.8 of *Managing Public Money NI* if the Board, or its Chief Commissioner, is contemplating a course of action involving a transaction which the Chief Executive considers would infringe the requirements of propriety or regularity, or does not represent prudent or economical administration, efficiency or effectiveness;

***on managing risk and resources –***

- ensure that a system of risk management is maintained to inform decisions on financial and operational planning and to assist in achieving objectives and outcomes;
- ensure that an effective system of programme and project management and contract management is maintained;
- ensure compliance with Northern Ireland public procurement policy (see *Managing Public Money NI Annex 4.4*);
- ensure that all public funds made available to the Commission, including any income or other receipts, are used for the purpose intended by the Assembly, and that such monies, together with the Commission's assets, equipment and staff, are used economically, efficiently and effectively;
- ensure that adequate internal management and financial controls are maintained by the Commission, including effective measures against fraud and theft;
- maintain a comprehensive system of internal delegated authorities that are notified to all staff, together with a system for regularly reviewing compliance with these delegations;
- ensure that effective personnel management policies are maintained;

***on accounting for the Commission's activities -***

- sign the accounts and be responsible for ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with the Accounts Direction [any directions] issued by the Ministers, TEO or DoF;
- sign a Statement of Accounting Officer's responsibilities, for inclusion in the annual report and accounts;
- sign a Governance Statement regarding the Commission's system of internal control, for inclusion in the annual report and accounts;
- ensure that effective procedures for handling complaints about the Commission are established and made widely known within the Commission;
- act in accordance with the terms of this document and with the instructions and relevant guidance in *MPMNI* and other instructions and guidance issued from time to time by TEO and DoF - in particular, Chapter 3 of *MPMNI* and the DoF document, '*The Responsibilities of an NDPB Accounting Officer*', and the Treasury document, '*Regularity and Propriety and value for money*', both of which the Chief Executive shall receive on appointment. Section IX of the attached Financial Memorandum refers to other key guidance;
- give evidence, normally with the Accounting Officer of TEO, if summoned before the Public Accounts Committee on the use and stewardship of public funds by the Commission;
- ensure that "Lifetime Opportunities"<sup>4</sup> is taken into account; and
- ensure that the requirements of the General Data Protection Regulation (GDPR) and the Freedom of Information Act 2000 are complied with.

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<sup>4</sup> Lifetime opportunities: The Government's Anti-Poverty and Social Inclusion strategy for Northern Ireland [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/lifetime-opp-anti-poverty-and-social-inclusion-strategy.pdf](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/lifetime-opp-anti-poverty-and-social-inclusion-strategy.pdf)

### **3.8 The Chief Executive's role as Consolidation Officer**

- 3.8.1 For the purposes of Whole of Government Accounts, the Chief Executive of the Commission is normally appointed by DoF as the Commission's Consolidation Officer.

As the Commission's Consolidation Officer, the Chief Executive shall be personally responsible for preparing the consolidation information, which sets out the financial results and position of the Commission; for arranging for its audit; and for sending the information and the audit report to the Principal Consolidation Officer nominated by DoF.

- 3.8.2 As Consolidation Officer, the Chief Executive shall comply with the requirements of the Commission Consolidation Officer Letter of Appointment as issued by DoF and shall, in particular:

- ensure that the Commission has in place and maintains sets of accounting records that will provide the necessary information for the consolidation process;
- prepare the consolidation information (including the relevant accounting and disclosure requirements and all relevant consolidation adjustments) in accordance with the consolidation instructions and directions "Dear Consolidation Officer" (DCO) and "Dear Consolidation Manager" (DCM) letters, issued by DoF on the form, manner and timetable for the delivery of such information.

### **3.9 Delegation of duties**

- 3.9.1 The Chief Executive may delegate the day-to-day administration of the Accounting Officer and Consolidation Officer responsibilities to other employees in the Commission. However, the Chief Executive shall not assign absolutely to any other person any of the responsibilities set out in this document.

### **3.10 The Chief Executive's role as Principal Officer for Ombudsman cases**

- 3.10.1 The Chief Executive of the Commission is the Principal Officer for handling cases involving the Northern Ireland Public Services Ombudsman, and as Principal

Officer, shall inform the Permanent Secretary of TEO of any complaints about the Commission accepted by the Ombudsman for investigation, and about the Commission's proposed response to any subsequent recommendations from the Ombudsman.

### **3.11 Consulting Customers**

- 3.11.1 The Commission will work in partnership with its stakeholders and customers to deliver the services/programmes, for which it has responsibility, to agreed standards. It will consult regularly to develop a clear understanding of citizens' needs and expectations of its services and to seek feedback from both stakeholders and customers and will work to deliver a modern, accessible service.

## **4. PLANNING, BUDGETING AND CONTROL**

### **4.1 The Corporate Plan**

- 4.1.1 Consistent with the timetable for the NI Executive's Budget process reviews, the Commission shall submit to TEO a draft of the Commission's Corporate Plan [normally] covering three years ahead. The Commission shall have agreed with TEO the issues to be addressed in the plan and the timetable for its preparation.
- 4.1.2 While TEO approves the Commission's Corporate Plan, DoF reserves the right to ask to see and agree the Commission's Corporate Plan.
- 4.1.3 The plan shall reflect the Commission's statutory duties and, within those duties, priorities set from time to time by Ministers. In particular, the plan shall demonstrate how the Commission contributes to the achievement of TEO's strategic aims and PfG objectives and outcomes.
- 4.1.4 The Corporate Plan shall set out:
- the Commission's key objectives and associated key performance targets/ outcomes for the three forward years, and its strategy for achieving those objectives;
  - a review of the Commission's performance in the preceding financial year together with comparable outturns for the previous 2 years, and an estimate of performance in the current year;

- alternative scenarios to take account of factors which may significantly affect the execution of the plan, but which cannot be accurately forecast;
- a forecast of expenditure and income, taking account of guidance on resource assumptions and policies provided by TEO at the beginning of the planning round. These forecasts should represent the Commission's best estimate of all its available income not just any grant or grant-in-aid; and
- other matters as agreed between TEO and the Commission.

4.1.5 The main elements of the plan, including the key performance targets/outcomes, shall be agreed between TEO and the Commission in the light of TEO's decisions on policy and resources taken in the context of the Executive's wider policy and spending priorities and decisions.

## **4.2 The Business Plan**

4.2.1 Each year of the Corporate Plan, amplified as necessary, shall form the basis of the Business Plan for the relevant forthcoming year. A draft Business Plan shall be submitted to TEO by 31<sup>st</sup> January each year and officials will seek approval before the beginning of the new financial year. The Business Plan shall include key outcomes and milestones for the year immediately ahead and shall be linked to budgeting information so that resources allocated to achieve specific objectives can readily be identified by TEO.

4.2.2 DoF reserves the right to ask to see and agree the Commission's annual Business Plan.

4.2.3 Corporate and Business Plans will be formally approved by Ministers.

## **4.3 Publication of plans**

4.3.1 The Corporate and Business Plans shall be published/made available on the Commission's website. They shall be made available to staff.

## **4.4 Reporting performance to TEO**

4.4.1 The Commission shall operate management information and accounting systems which enable it to review in a timely and effective manner its financial and non-



financial performance against the budgets and outcomes set out in its agreed Corporate and Business Plans.

- 4.4.2 The Commission shall take the initiative in informing TEO of changes in external conditions, which make the achievement of objectives more or less difficult, or which may require a change to the budget or objectives as set out in the Corporate or Business Plans.
- 4.4.3 The Commission's performance in helping to deliver its statutory remit, including the achievement of key objectives, shall be reported to TEO on a three-monthly basis. Performance will be formally reviewed quarterly by TEO officials. Ministers shall meet with the Board formally each year to discuss the Commission's performance, its current and future activities, and any policy developments relevant to those activities.
- 4.4.4 The Commission's performance against key outcomes shall be reported in the Commission's annual report and accounts [see Section 5.1 below]. Arrangements for the validation of reported performance will be agreed between The Commission and TEO.

#### **4.5 Budgeting procedures**

- 4.5.1 The Commission's budgeting procedures are set out in the Financial Memorandum.

#### **4.6 Internal audit**

- 4.6.1 The Commission shall establish and maintain arrangements for internal audit in accordance with the Treasury's *Public Sector Internal Audit Standards (PSIAS) updated by DAO (DoF) 02/17 published on 5 May 2017*.
- 4.6.2 TEO should outline the arrangements that they have determined appropriate for the Commission taking account of the current DAO on Internal Audit Arrangements between Departments and Arm's Length Bodies. This will include specifying the TEOs requirements in terms of:
- having input to the Commission's planned internal audit coverage;
  - arrangements for the receipt of audit reports, assignment reports, the Head of Internal Audit's annual report and opinion etc;

- arrangements for the completion of Internal and External Assessments of the Commission's internal audit function against PSIAS including advising that TEO reserves a right to access and carry out its own independent reviews of internal audit in the Commission;
  - the right of access to all documents prepared by the Commission's internal auditor, including where the service is contracted out. Where the Commission's audit service is contracted out the Commission should stipulate this requirement when tendering for the services.
- 4.6.3 The Commission shall consult TEO to ensure that the latter is satisfied with the competence and qualifications of the Head of Internal Audit and that the requirements for approving the appointment are in accordance with PSIAS and relevant DoF guidance.
- 4.6.4 TEO will review the Commission's terms of reference for internal audit service provision. The Commission shall notify TEO of any subsequent changes to internal audit's terms of reference.
- 4.7 Audit and Risk Committee**
- 4.7.1 The Commission shall set up an Audit and Risk Committee as a committee of its Board, in accordance with the Cabinet Office's *Guidance on Codes of Practice for Public Bodies* (FD(DFP) 04/14 refers) and in line with the *Audit and Risk Committee Handbook* DAO (DFP) 03/18.
- 4.7.2 TEO should specify the arrangements it has determined appropriate for the Commission which may include the need for:
- attendance by TEO representatives at the Commission Audit and Risk Committee meetings;
  - access to the Audit and Risk Committee papers and minutes;
  - any input required from the Commission Audit and Risk Committee to the Department's own Audit and Risk Committee.
- 4.7.3 TEO will review the Commission's Audit and Risk Committee terms of reference. The Commission shall notify TEO of any subsequent changes to the Audit and Risk Committee's terms of reference.

## **4.8 Fraud**

- 4.8.1 The Commission shall report immediately to TEO all frauds (proven or suspected), including attempted fraud. TEO shall then report the frauds immediately to DoF and the C&AG. In addition the Commission shall forward to TEO the annual fraud return, commissioned by DoF, on fraud and theft suffered by the Commission.
- 4.8.2 TEO will review the Commission's Anti-Fraud Policy and Fraud Response Plan. The Commission shall notify TEO of any subsequent changes to the policy or response plan.

## **4.9 Additional Departmental access to the Commission**

- 4.9.1 In addition to the right of access referred to in paragraph 4.6.2 above, TEO shall have a right of access to all the Commission's records and personnel for purposes such as sponsorship audits, operational investigations and the comprehensive reviews.

# **5. EXTERNAL ACCOUNTABILITY**

## **5.1 The annual report and accounts**

- 5.1.1 After the end of each financial year the Commission shall publish as a single document an annual report of its activities together with its audited annual accounts. The report shall also cover the activities of any corporate bodies under the control of the Commission. TEO may wish to agree a timeframe or specific dates for the publication of the annual report and accounts. A draft of the report (including the Governance Statement on Internal Control) shall be submitted to TEO in line with faster closing timescales. TEO will notify the Commission of applicable faster closing dates once agreed with NIAO, on an annual basis. The Department will also require confirmation/agreement of grant-in-aid balances from the Commission's external auditors in line with faster closing timescales as previously notified.
- 5.1.2 The report and accounts shall comply with the most recent version of the Government Financial Reporting Manual (FRm) issued by DoF. (NOTE: This guidance is updated every year). The accounts shall be prepared in accordance with any relevant statutes and the specific Accounts Direction issued by TEO.

- 5.1.3 The report and accounts shall outline the Commission's main activities and performance during the previous financial year and set out in summary form the Commission's forward plans. Information on performance against key financial targets shall be included in the notes to the accounts, and shall therefore be within the scope of the audit.
- 5.1.4 The report and accounts shall be laid before the Assembly and made available, in accordance with the guidance on the procedures for presenting and laying the combined annual report and accounts as prescribed in the relevant FD letter issued by DoF and schedule 8 of the Northern Ireland Act 1998.
- 5.1.5 Due to the potential accounting and budgetary implications, any changes to accounting policies or significant estimation techniques underpinning the preparation of annual accounts requires the prior written approval of TEO.

## **5.2 External audit**

- 5.2.1 The Comptroller and Auditor General (C&AG) audits the Commission's annual accounts then passes the accounts to TEO, which lays them before the Assembly, together with the Commission's annual report. For the purpose of audit, the C&AG has a statutory right of access to relevant documents as provided for in Articles 3 and 4 of the Audit and Accountability (Northern Ireland) Order 2003.
- 5.2.2 The C&AG will liaise with the Commission on the arrangements for the completing of the audit of the Commission's accounts. This will either be undertaken by staff of the NIAO or a private sector firm appointed by the C&AG to undertake the audit on his behalf. The final decision on how such audits will be undertaken rests with the C&AG, who retains overall responsibility for the audit.
- 5.2.3 The C&AG has agreed to share with sponsor Departments relevant information identified during the audit process including the report to those charged with governance at the end of the audit. This shall apply, in particular, to issues which impact on the Department's responsibilities in relation to financial systems within the NDPB. The C&AG will also consider, where asked, providing Departments and other relevant bodies with reports which Departments may request at the commencement of the audit and which are compatible with the independent auditor's role.

### **5.3 VFM examinations**

- 5.3.1 The C&AG may carry out examinations into the economy, efficiency and effectiveness with which the Commission has used its resources in discharging its functions. For the purpose of these examinations the C&AG has statutory access to documents as provided for under Articles 3 and 4 of the Audit and Accountability (Northern Ireland) Order 2003. Where making payment of a grant, or drawing up a contract, the Commission should ensure that it includes a clause which makes the grant or contract conditional upon the recipient or contractor providing access to the C&AG in relation to documents relevant to the transaction. Where subcontractors are likely to be involved, it should also be made clear that the requirements extend to them.

## **6. STAFF MANAGEMENT**

### **6.1 General**

- 6.1.1. Within the arrangements approved by the Ministers and DoF, the Commission shall have responsibility for the recruitment, retention and motivation of its staff. To this end, the Commission shall ensure that:
- its rules for the recruitment and management of staff create an inclusive culture in which diversity is fully valued; where appointment and advancement is based on merit; and where there is no discrimination on grounds of gender, marital status, domestic circumstances, sexual orientation, race, colour, ethnic or national origin, religion, disability, political opinion or age;
  - the level and structure of its staffing, including grading and numbers of staff, are appropriate to its functions and the requirements of efficiency, effectiveness and economy;
  - the performance of its staff at all levels is satisfactorily appraised and the Commission's performance measurement systems are reviewed from time to time;

- its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the Commission's objectives;
- proper consultation with staff takes place on key issues affecting them;
- adequate grievance and disciplinary procedures are in place;
- whistle-blowing procedures consistent with the Public Interest (Northern Ireland) Order 2003 are in place; and DAO (DFP) 02/15 Whistle Blowing in the Public sector – A good practice guide for workers and employers.
- a code of conduct for staff is in place based on Annex 5A of Public Bodies: A Guide for NI Departments (available at [www.finance-ni.gov.uk/publications/anti-fraud-guidance](http://www.finance-ni.gov.uk/publications/anti-fraud-guidance)).

## **7. REVIEWING THE ROLE OF THE COMMISSION**

- 7.1 The Commission shall be reviewed periodically, in accordance with the business needs of TEO and the Commission. Reference should be made to Chapter 9 of Public Bodies: a Guide for Northern Ireland Departments.
- 7.2 If the Commission is to be wound up, TEO shall, in good time before the Commission is to be wound up:
- ensure that procedures are in place in the Commission to gain independent assurance on key transactions, financial commitment, cash flows and other information needed to handle the wind-up effectively and to maintain the momentum of work that is to be inherited by any residuary body;
  - specify the basis for the valuation and accounting treatment of the Commission's assets and liabilities at wind-up, distinguishing between actual and potential assets and liabilities, in order to provide a clear basis for assessing the Commission's financial legacy; and
  - if necessary, secure representation on the Commission's Board to ensure that the wind-up is conducted in a proper and satisfactory manner.

- 7.3 The Commission shall provide TEO with full details of all agreements where the Commission or its successors have a right to share in the financial gains of developers. It should also pass to TEO details of any other forms of claw back due to the Commission.

## **PART II:**

# **EQUALITY COMMISSION FOR NORTHERN IRELAND**

## **FINANCIAL MEMORANDUM**



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## **I. INTRODUCTION**

1. This Financial Memorandum sets out certain aspects of the financial framework within which the Commission is required to operate.
2. The terms and conditions set out in the combined Management Statement and Financial Memorandum may be supplemented by guidelines or directions issued by TEO/ Ministers in respect of the exercise of any individual functions, powers and duties of the Commission.
3. The Commission shall satisfy the conditions and requirements set out in the combined document, together with such other conditions as TEO/ Ministers may from time to time impose.

## **II. THE COMMISSION'S INCOME AND EXPENDITURE - GENERAL**

### **The Departmental Expenditure Limit (DEL)**

4. The Commission's current and capital expenditure form part of TEO's Resource Departmental Expenditure Limits (DEL) and Capital DEL respectively.

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

5. The Commission shall not, without prior written TEO approval, enter into any undertaking to incur any expenditure which falls outside the Commission's delegations or which is not provided for in the Commission's annual budget as approved by TEO.

### **Procurement**

6. The Commission's procurement policies shall reflect the public procurement policy adopted by the Northern Ireland Executive in May 2002 (refreshed May 2009); Procurement Guidance Notes; and any other guidelines or guidance issued by Central Procurement Directorate (CPD) and the Procurement Board. The Commission's procurement activity should be carried out by means of a Service Level Agreement with CPD or another recognised Centre of Procurement Expertise (CoPE) – this should ensure compliance with relevant UK, EU and international procurement rules.

7. Periodic reviews of the Commission's procurement activity should be undertaken. The results of any such review will be shared with TEO.

### **Competition**

8. Contracts shall be awarded on a competitive basis and tenders accepted from suppliers who provide best value for money overall.
9. Direct Award Contracts (DAC) are contracts awarded to a supplier or contractor without competition. Commission shall follow the procedure outlined in TEO's ***Summary of Policy and Procedures for the Approval of Departmental Expenditure*** currently in force (CG 01/18 issued on 1 March 2018):
- Any proposal to procure goods and services with a combined cost greater than £5,000 through a Direct Award Contract (DAC) must be supported by a business case, setting out the rationale and justification for doing so, and supported by CPD advice, prior to any commitment being made;
  - Commission's Accounting Officer can approve their own DAC up to their delegated limit (currently £30,000) with the exception of external consultancy DACs;
  - Direct Award Contracts above this limit and all external consultancy, will be subject to approval by the Departmental Accounting Officer;
  - Guidance within CPD's Procurement Guidance Notes set out a number of exceptions to the procurement control limits. These will not be regarded as DACs and therefore neither AO approval nor CPD advice is required. Further information is published in Procurement Guidance Notes on the Award of Contracts without a Competition (currently (PGN) 03/11) (PGN 04/12 [www.finance-ni.gov.uk/topics/procurement/](http://www.finance-ni.gov.uk/topics/procurement/)).
10. The Commission shall send to TEO after each financial year a report for that year explaining all contracts in which competitive tendering was not employed. Details of ***all*** such Direct Award Contracts entered into by Commission must be tabled at their Audit and Risk Committee and reported on a quarterly basis to the Department in an annexe to their Assurance Statement.

### **Best Value for money**

11. Procurement by the Commission of works, supplies and services shall be based on best value for money, ie the optimum combination of whole life cost and quality (or fitness for purpose) to meet the Commission's requirements. Where appropriate, a full option appraisal shall be carried out before procurement decisions are taken.

### **Timeliness in paying bills**

12. The Commission shall collect receipts and pay all matured and properly authorised invoices in accordance with Annex 4.5 and 4.6 of *Managing Public Money Northern Ireland* and any guidance issued by DoF or TEO.

### **Novel, contentious or repercussive proposals**

13. The Commission shall obtain the approval of TEO, and DoF, before:
  - incurring any expenditure for any purpose which is or might be considered novel or contentious, or which has or could have significant future cost implications, including on staff benefits;
  - making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by TEO;
  - making any change of policy or practice which has wider financial implications (e.g. because it might prove repercussive among other public sector bodies) or which might significantly affect the future level of resources required. TEO will advise on what constitutes "significant" in this context).

### **Risk management / Fraud**

14. The Commission shall ensure that the risks it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and shall develop a risk management strategy, in accordance with the Treasury guidance *Management of Risk: A Strategic Overview (The "Orange Book.")*
15. The Commission shall take proportionate and appropriate steps to assess the financial and economic standing of any organisation or other body with which it intends to enter into a contract or to which it intends to give grant or grant-in-aid.

16. The Commission shall adopt and implement policies and practices to safeguard itself against fraud and theft, in line with DoF's guide '*Managing the Risk of Fraud*' DAO (DFP) 06/11 refers.
17. All cases of attempted, suspected or proven fraud shall be reported to TEO who shall report it to DoF and the NIAO (see section 4.8 in the Management Statement) as soon as they are discovered, irrespective of the amount involved.

#### **Wider Markets**

18. The Commission shall seek to maximise receipts from non-Consolidated Fund sources, provided that this is consistent with (a) the Commission's main functions (b) its corporate plan as agreed with TEO. TEO will confirm with the DoF Supply Officer that such proposed activity is appropriate.

#### **Fees and charges**

19. Fees or charges for any services supplied by the Commission shall be determined in accordance with Chapter 6 of *Managing Public Money Northern Ireland*.

### III. THE COMMISSION'S INCOME

#### Grant-in-aid

- 20 Grant-in-aid will be paid to the Commission in monthly instalments, on the basis of a written application from the Commission showing evidence of need. The application shall certify that the conditions applying to the use of grant-in-aid have been observed to date and that further grant-in-aid is now required for purposes appropriate to the Commission's functions.
- 21 The Commission should have regard to the general principle enshrined in Annex 5.1 of *Managing Public Money Northern Ireland* that it should seek grant-in-aid according to need.
- 22 Cash balances accumulated during the course of the year shall be kept at the minimum level consistent with the efficient operation of the Commission. Grant-in-aid not drawn down by the end of the year shall lapse. However, where draw-down of grant-in-aid is delayed to avoid excess cash balances at year-end, TEO will make available in the next financial year (subject to approval by the Assembly of the relevant Estimates provision) any such grant-in-aid required to meet any liabilities at year end, such as creditors.

#### Fines and taxes as receipts

- 23 Most fines and taxes (including some levies and licences) do not provide additional DEL spending power and should be surrendered to TEO.

#### Receipts from sale of goods or services

- 24 Receipts from the sale of goods and services (including certain licences where there is a significant degree of service to the individual applicant), rent of land, and dividends are classified as negative public expenditure in National Accounts and are therefore normally offset against the DEL (ie: they provide additional DEL spending power). If Commission wishes to retain a receipt or utilise an increase in the level of receipts, it must gain the prior approval of TEO.
- 25 If there is any doubt about the correct classification of a receipt, the Commission shall consult TEO, which may consult DoF as necessary.



## **Interest earned**

- 26 Interest earned on cash balances cannot necessarily be retained by the Commission. Depending on the budgeting treatment of this receipt, and its impact on the Commission's cash requirement, it may lead to commensurate reduction of grant-in-aid or be required to be surrendered to the NI Consolidated Fund via TEO. If the receipts are used to finance additional expenditure by the Commission, TEO will need to ensure it has the necessary budget cover.

## **Unforecast changes in in-year income**

- 27 If the negative DEL income realised or expected to be realised in-year is **less** than estimated, the Commission shall, unless otherwise agreed with TEO, ensure a corresponding reduction in its gross expenditure so that the authorised provision is not exceeded. [NOTE: For example, if the Commission is allocated £100 resource DEL provision by TEO and expects to receive £10 of negative DEL income, it may plan to spend a total of £110. If income (on an accruals basis) turns out to be only £5 the Commission will need to reduce its expenditure to £105 to avoid breaching its budget. If the Commission still spends £110 TEO will need to find £5 of savings from elsewhere within its total DEL to offset this overspend.]
- 28 If the negative DEL income realised or expected to be realised in the year is **more** than estimated, the Commission may apply to TEO to retain the excess income for specified additional expenditure within the current financial year without an offsetting reduction to grant-in-aid. TEO shall consider such applications, taking account of competing demands for resources, and will consult with DoF in relation to any significant amounts. If an application is refused, any grant-in-aid shall be commensurately reduced or the excess receipts shall be required to be surrendered to the NI Consolidated Fund via TEO.

## **Build-up and draw-down of deposits**

- 29 The Commission shall comply with the rules that any DEL expenditure financed by the draw-down of deposits counts within DEL and that the build-up of deposits may represent a saving to DEL (if the related receipts are negative DEL in the relevant budgets).

- 30 The Commission shall ensure that it has the necessary DEL provision for any expenditure financed by draw-down of deposits.

#### **Proceeds from disposal of assets**

- 31 Disposals of land and buildings are dealt with in Section VI below.

#### **Gifts and bequests received**

- 32 The Commission is free to retain any gifts, bequests or similar donations, subject to paragraph 33. These shall be capitalised at fair value on receipt and must be notified to TEO. NOTE: A release from the donated assets reserve should offset depreciation in the operating cost statement. The latest FReM requirements should be applied.
- 33 Before accepting a gift, bequest, or similar donation, the Commission shall consider if there are any associated costs in doing so or any conflicts of interests arising. The Commission shall keep a written record of any such gifts, bequests and donations and of their estimated value and whether they are disposed of or retained.

#### **Borrowing**

- 34 Normally the Commission will not be allowed to borrow, but when doing so the Commission shall observe the principles set out in Chapter 5 and the associated annexes of *MPMNI* when undertaking borrowing of any kind. The Commission shall seek the approval of TEO and, where appropriate, DoF, to ensure that it has any necessary authority and budgetary cover for any borrowing or the expenditure financed by such borrowing. Medium or long term private sector or foreign borrowing is subject to the value for money test in *Section 5.7 of MPMNI*.

### **IV. EXPENDITURE ON STAFF**

#### **Staff costs**

35. Subject to its delegated levels of authority the Commission shall ensure that the creation of any additional posts does not incur forward commitments which will exceed its ability to pay for them.

## **Pay and conditions of service**

36. The staff of the Commission, whether on permanent or temporary contract, shall be subject to levels of remuneration and terms and conditions of service (including superannuation) within the general NICS pay structure as analogous to TEO. The Commission has no delegated power to amend these terms and conditions relating to expenditure.
37. Civil Service terms and conditions of service apply to the rates of pay and non-pay allowances paid to Commission staff and to any other party entitled to payment in respect of travelling expenses or other allowances. Payment shall be made in accordance with the Civil Service Management Code except where prior approval has been given by TEO and DoF to vary such rates.
38. Annual pay increases of Commission staff must be in accordance with the annual FD letter on Pay Remit Approval Process and Guidance issued by DoF. Therefore, all proposed pay awards must have prior approval of TEO and the Minister of Finance before implementation.
39. The travel expenses of Board Members shall be tied to the rates allowed to senior staff of Commission in line with NICS rates. Reasonable actual costs shall be reimbursed.
40. The Commission shall operate a performance-related pay scheme which shall form part of the general pay structure approved by TEO and DoF.
41. The Commission shall comply with the EU directive on contract workers Fixed Term Employees Regulations (Prevention of Less Favourable Treatment).

## **Pensions; redundancy/compensation**

42. The Commission's staff shall be eligible for a pension provided by:
- membership of the Principal Civil Service Pension Scheme (Northern Ireland) (PCSPS(NI));
43. Staff may opt out of the occupational pension scheme provided by the Commission. However, the employer's contribution to any personal pension arrangement, including a stakeholder pension, shall normally be limited to the national insurance rebate level. [NOTE: the exception is for NDPBs covered by the PCSPS (NI)]

Partnership arrangement and for NDPBs with PCSPS (NI) by-analogy versions, where a contribution regime has been agreed. NDPBs with other pension arrangements which are considering contributing to a stakeholder-type arrangement where staff opt out, must consult DoF with a formal proposal based on actuarial advice].

- 43 Any proposal by the Commission to move from the existing pension arrangements, or to pay any additional redundancy or compensation for loss of office, requires the approval of TEO and DoF. Proposals for severance payments must comply with MPMNI Annex 4.13. Where the PCSPS(NI) is the relevant pension scheme, the NDPB must conform with the procedures for early retirement / severance which apply to the main Department and ensure that levels of benefits are standard applicable under the Civil Service Compensation Scheme (Northern Ireland) (CSCS(NI)) rules. TEO is responsible for ensuring that Commission does this.
- 44 TEO is responsible for ensuring that Commission continues to meet the criteria for membership of the PCSPS (NI).

## **V. NON-STAFF EXPENDITURE**

### **Economic appraisal**

- 45 Commission is required to apply the principles of economic appraisal, with appropriate and proportionate effort, to all decisions and proposals concerning spending or saving public money, including European Union (EU) funds, and any other decisions or proposals that involve changes in the use of public resources. For example, appraisal must be applied irrespective of whether the relevant public expenditure or resources:
- a. involve capital or current spending, or both;
  - b. are large or small;
  - c. are above or below delegated limits(see Appendix A).
- 46 Appraisal itself uses up resources. The effort that should go into appraisal and the detail to be considered is a matter for case-by-case judgement, but the general principle is that the resources to be devoted to appraisal should be in proportion to the scale or importance of the objectives and resource consequences in question.

Judgement of the appropriate effort should take into consideration the totality of the resources involved in a proposal.

General guidance on economic appraisal that applies to Commission can be found in:

- DoF's on-line guide *The Northern Ireland Guide To Expenditure Appraisal and Evaluation* ('NIGEAE', 2009). See <http://www.finance-ni.gov.uk/topics/finance/northern-ireland-guide-expenditure-appraisal-and-evaluation-nigeae>
- The HM Treasury Guide, *The Green Book: Appraisal and Evaluation in Central Government* (2003). Updated July 2011.

### Capital expenditure

- 47 Subject to being above an agreed capitalisation threshold, all expenditure on the acquisition or creation of fixed assets shall be capitalised on an accruals basis in accordance with relevant accounting standards. Expenditure to be capitalised shall include the (a) acquisition, reclamation or laying out of land; (b) acquisition, construction, preparation or replacement of buildings and other structures or their associated fixtures and fittings; and (c) acquisition, installation or replacement of movable or fixed plant, machinery, vehicles and vessels.
- 48 Proposals for large-scale individual capital projects or acquisitions will normally be considered within the Commission's corporate and business planning process. Subject to paragraph 50, applications for approval within the Corporate/Business Plan by TEO and, DoF if necessary, shall be supported by formal notification that the proposed project or purchase has been examined and duly authorised by the Board. Regular reports on the progress of projects shall be submitted to TEO.
- 49 Approval of the Corporate/Business Plan does not obviate the Commission's responsibility to abide by the economic appraisal process.
- 50 Within its approved overall resources limit the Commission shall, as indicated in the attached Appendix on delegations, have delegated authority to spend up to £30k on any individual capital project or acquisition. Beyond that delegated limit, TEO's and where necessary, DoF's prior authority must be obtained before expenditure on an individual project or acquisition is incurred.

## **Transfer of funds within budgets**

- 51 Unless financial provision is subject to specific TEO or DoF controls (e.g. where provision is ring-fenced for specific purposes) or delegated limits, transfers between budgets within the total capital budget, or between budgets within the total revenue budget, do not need TEO approval. The one exception to this is that, due to HM Treasury controls, any movement into, or out, of depreciation and impairments within the resource budget will require departmental and possibly DoF approval. [NOTE: Under resource budgeting rules, transfers from capital to resource budgets are not allowed.]

## **Lending, guarantees, indemnities; contingent liabilities; letters of comfort**

- 52 The Commission shall not, without TEO's and where necessary, DoF's prior written consent, lend 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 MPMNI*), whether or not in a legally binding form.

## **Grant or loan schemes**

- 53 Unless covered by a delegated authority, all proposals to make a grant or loan to a third party, whether one-off or under a scheme, together with the terms and conditions under which such grant or loan is made shall be subject to prior approval by TEO, and where necessary DoF. If grants or loans are to be made under a continuing scheme, statutory authority is likely to be required. Under resource budgeting rules, transfers from capital to resource budgets are not allowed.
- 54 The terms and conditions of a grant or loan to a third party shall include a requirement on the receiving organisation to prepare accounts and to ensure that its books and records in relation to the grant or loan are readily available for inspection by the Commission, TEO and the C&AG.
- 55 See also below under the heading *Recovery of grant-financed assets* (paragraphs 77-79).

### **Gifts made, write-offs, losses and other special payments**

- 56 Proposals for making gifts or other special payments (including issuing write-offs) outside the delegated limits set out in the Appendix A of this document must have the prior approval of TEO and where necessary DoF.
- 57 Losses shall not be written off until all reasonable attempts to make a recovery have been made and proved unsuccessful.
- 58 Gifts by management to staff are subject to the requirements of DAO (DFP) 10/06.

### **Leasing**

- 59 Prior TEO approval must be secured for all property lease and finance leases. In addition to Departmental approval, DoF approval is also required for all expenditure associated with lease extensions and the take up of new leases (supported by appropriate business cases). The Commission must have capital DEL provision for finance leases and other transactions which are, in substance, borrowing (paragraph 34 above).
- 60 Before entering into any lease (including an operating lease) the Commission shall demonstrate that the lease offers better value for money than purchase.

### **Public/Private Partnerships**

- 61 The Commission shall seek opportunities to enter into Public/Private Partnerships where this would be more affordable and offer better value for money than conventional procurement. Where cash flow projections may result in delegated spending authority being breached, the Commission shall consult TEO. The Commission should also ensure that it has the necessary budget cover.
- 62 Any partnership controlled by the Commission shall be treated as part of the Commission in accordance with guidance in the FReM and consolidated with it subject to any particular treatment required by the FReM. Where the judgment over the level of control is difficult TEO will consult DoF (who may need to consult with the Office of National Statistics over national accounts treatment).

### **Subsidiary companies and joint ventures**

- 63 The Commission shall not establish subsidiary companies or joint ventures without the express approval of TEO and DoF. In judging such proposals TEO will have

regard to TEO's wider strategic aims, objectives and current Programme for Government.

- 64 For public expenditure accounts purposes any subsidiary company or joint venture controlled or owned by the Commission shall be consolidated with it in accordance with guidance in the FReM subject to any particular treatment required by the FReM. Where the judgment over the level of control is difficult, TEO will consult DoF (who may need to consult with the Office of National Statistics over national accounts treatment). Unless specifically agreed with TEO and DoF, such subsidiary companies or joint ventures shall be subject to the controls and requirements set out in this Management Statement and Financial Memorandum, and to the further provisions set out in supporting documentation.

### **Financial investment**

- 65 The Commission shall not make any investments in traded financial instruments without the prior written approval of TEO, and where appropriate DoF, nor shall it build up cash balances or net assets in excess of what is required for operational purposes. Funds held in bank accounts or as financial investments may be a factor for consideration when grant-in-aid is determined. Equity shares in ventures which further the objectives of the Commission shall equally be subject to TEO and DoF approval unless covered by a specific delegation.

### **Unconventional financing**

- 66 The Commission shall not enter into any unconventional financing arrangement without the approval of TEO and DoF.

### **Commercial insurance**

- 67 The Commission shall not take out any insurance without the prior approval of TEO and DoF, other than third party insurance required by the Road Traffic (NI) Order 1981 (as amended) and any other insurance which is a statutory obligation or which is permitted under *Annex 4.5 of MPMNI*.
- 68 In the case of a major loss or third-party claim TEO shall liaise with the Commission about the circumstances in which an appropriate addition to budget out of TEO's funds and/or adjustment to the Commission's outcomes might be considered. TEO will liaise with DoF Supply where required in such cases. A Certificate of Exemption for Employers Liability Insurance has been issued to Commission.



### **Payment/Credit Cards**

- 69 The Commission, in consultation with TEO, shall ensure that a comprehensive set of guidelines on the use of payment cards (including credit cards) is in place. Reference should be made to FD (DoF) 11/16.

### **Hospitality**

- 70 The Commission, in consultation with TEO, shall ensure that a comprehensive set of guidelines on the provision of hospitality is in place. Reference should be made to DAO (DFP) 10/06 Revised.

### **Use of Consultants**

- 71 The Commission shall adhere to the guidance issued by DoF, as well as any produced by TEO in relation to the use of consultants. Please see the delegated limits set out in Appendix A.
- 72 Commission will provide TEO with a quarterly statement on the status of all consultancies completed and /or started in each financial year.
- 73 Care should be taken to avoid actual, potential or perceived conflicts of interest when employing consultants.

## **VI. MANAGEMENT AND DISPOSAL OF FIXED ASSETS**

### **Register of assets**

- 74 Commission shall maintain an accurate and up-to-date register of its fixed assets.

### **Disposal of assets**

- 75 The Commission shall dispose of assets which are surplus to its requirements. Assets shall be sold for best price, taking into account any costs of sale. Generally assets shall be sold by auction or competitive tender unless otherwise agreed by TEO, and in accordance with the principles *in MPMNI*.
- 76 All receipts derived from the sale of assets (including grant financed assets, see below) must be declared to TEO, which will consult with DoF on the appropriate treatment.

## **Recovery of grant-financed assets**

- 77 Where the Commission has financed expenditure on capital assets by a third party, the Commission shall set conditions and make appropriate arrangements to ensure that any such assets individually above a value of £50 are not disposed of by the third party without the Commission's prior consent.
- 78 The Commission shall therefore ensure that such conditions and arrangements are sufficient to secure the repayment of the NI Consolidated Fund's due share of the proceeds of the sale, in order that funds may be surrendered to TEO.
- 79 The Commission shall ensure that if the assets created by grants made by the Commission cease to be used by the recipient of the grant for the intended purpose, a proper proportion of the value of the asset shall be repaid to the Commission for surrender to TEO. The amounts recoverable under the procedures in paragraphs 77-78 above shall be calculated by reference to the best possible value of the asset and in proportion to the NI Consolidated Fund's original investment(s) in the asset.

## **VII. BUDGETING PROCEDURES**

### **Setting the annual budget**

- 80 Each year, in the light of decisions by TEO on the Commission's Corporate Plan Section 4.1 of the *Management Statement*), TEO will aim to send to the Commission before the beginning of the new financial year:
- a formal statement of the annual budgetary provision allocated by TEO in the light of competing priorities across TEO and of any forecast income approved by TEO; and
  - a statement of any planned change in policies affecting the Commission.
- 81 The Commission's approved annual Business Plan will take account both of its approved funding provision, where this applies, and of any forecast receipts, and will include a budget of estimated payments and receipts together with a profile of expected expenditure and of draw-down of any TEO funding and/or other income over the year. These elements will form part of the approved business plan for the year in question (Section 4.1 of the *Management Statement*.)

- 82 Any grant-in-aid provided by TEO for the year in question will be voted in TEO's Estimate and will be subject to Assembly control.

#### **General conditions for authority to spend**

- 83 Once the Commission's budget has been approved by TEO and subject to any restrictions imposed by Ministers or in this *MSFM*, the Commission shall have authority to incur expenditure approved in the budget without further reference to TEO, on the following conditions:

- the Commission shall comply with the delegations set out in Appendix A of this document. These delegations shall not be altered without the prior agreement of TEO and DoF;
- the Commission shall comply with the conditions set out in paragraph 13 above regarding novel, contentious or repercussive proposals;
- inclusion of any planned and approved expenditure in Commission's budget shall not remove the need to seek formal TEO, and where necessary, DoF approval where such proposed expenditure is above the delegated limits set out in Appendix A or is for new schemes not previously agreed; and
- the Commission shall provide TEO with such information about its operations, performance individual projects or other expenditure as TEO may reasonably require (see paragraph 84 below); and
- the Commission shall comply with NI Procurement Policy and carry out procurement via CPD or another recognised CoPE.

#### **Providing monitoring information to TEO**

- 84 The Commission shall provide TEO with information, as a minimum, on a monthly basis which will enable the satisfactory monitoring by TEO of:
- the Commission's cash management;
  - its draw-down of any grant-in-aid;
  - the expenditure for that month;

- forecast outturn by resource headings; and
- other data required for the DoF Outturn and Forecast Outturn Return.

## VIII. BANKING

### Banking arrangements

- 85 Commission's Accounting Officer is responsible for ensuring that the Commission's banking arrangements are in accordance with the requirements of Annex 5.7 of *MPMNI*. In particular, he/she shall ensure that the arrangements safeguard public funds and that their implementation ensures efficiency, economy and effectiveness.
- 86 The Accounting Officer shall therefore ensure that:
- these arrangements are suitably structured and represent value-for-money, and are reviewed at least every two years, with a comprehensive review, usually leading to competitive tendering, at least every three to five years;
  - sufficient information about banking arrangements is supplied to TEO's Accounting Officer to enable the latter to satisfy his/her own responsibilities (Section 3.3 of the *Management Statement*);
  - the Commission 's banking arrangements shall be kept separate and distinct from those of any other person or organisation; and
  - adequate records are maintained of payments and receipts and adequate facilities are available for the secure storage of cash.

## IX. COMPLIANCE WITH INSTRUCTIONS AND GUIDANCE

### Relevant documents

- 87 The Commission shall comply with the following general guidance documents:
- This document (both the *Financial Memorandum* and the *Management Statement*);
  - *Managing Public Money Northern Ireland (MPMNI)*;
  - *Public Bodies - a Guide for NI Departments* issued by DoF;

- Public Sector Internal Audit Standards, issued by DoF;
- The document *Managing the Risk of Fraud* issued by DoF;
- The Treasury document *The Government Financial Reporting Manual (FReM)* issued by DoF;
- Relevant DoF *Dear Accounting Officer* and *Finance Director* letters;
- Relevant Dear Consolidation Officer and Dear Consolidation Manager letters issued by DoF;
- *Regularity, Propriety and Value for Money* issued by Treasury;
- The Consolidation Officer Letter of Appointment, issued by DoF;
- Other relevant instructions and guidance issued by the central Departments (DoF/TEO) including Procurement Board and CDP Guidance; Specific instructions and guidance issued by TEO Recommendations made by the Public Accounts Committee, or by other Assembly authority, which have been accepted by the Government and which are relevant to the Commission.

## **X. REVIEW OF FINANCIAL MEMORANDUM**

88. The Management Statement and Financial Memorandum will normally be reviewed at least every 3 years or following a review of the Commission's functions as provided for in Section 7 of the Management Statement.
89. DoF Supply will be consulted on any significant variation proposed to the Management Statement and Financial Memorandum.

Signed: 

Date: 25/7/18

**Print Name: Dr Evelyn Collins CBE**

**Position: Chief Executive**

**On behalf of the Equality Commission for Northern Ireland**

Signed: 

Date: 15/6/18.

**Print name: Dr Mark Browne**

**Position: Accounting Officer**

**On behalf of The Executive Office**

**GENERAL**

These delegated expenditure limits have been agreed by TEO and DoF. Adherence to these limits will be verified through regular test drilling by the Department.

**Table 1 – Summary Table of Delegated Limits**

<b>Arm's Length Body</b>	<b>Goods and Services (£k)</b>	<b>Capital (£k)</b>	<b>IT Projects (£k)</b>	<b>Consultancy (£k)</b>	<b>Direct Award Contracts (£k)</b>
<b>Commission</b>	30	30	10	5	30

**1. Purchasing All Goods, Services and Works**

**Table 2 - Delegated Authority for the Purchase of Goods, Services and Works**

**(All costs exclude VAT)**

<b>THRESHOLDS</b>	<b>NUMBER/TYPE OF TENDER REQUIRED</b>	<b>AUTHORISATION</b>
<b>Up to £1,500 *</b>	In first instance use an existing framework if available for use. In absence of available framework price check should be carried out with at least 2 contractors / suppliers and documented	DP or other appropriate member of staff as identified by Director/Head of Division

<b>£1,500 and up to £5,000 *</b>	In first instance use an existing framework if available for use.  In absence of available framework price check should be carried out with at least 2 contractors / suppliers and documented	Director (Grade7)
<b>£5,000 - £10,000 **</b>	Invitations to tender to be issued to a minimum 2 suppliers (3 suppliers when existing supplier is being invited to retender).	Director (Grade 7)
<b>&gt;£10,000 - &lt; £30,000 **</b>	Invitations to tender to be issued to a minimum 2 suppliers (3 suppliers when existing supplier is being invited to retender).	Head of Division
<b>&gt; £30,000 &lt; EU Thresholds ***</b>	Procurement to be carried out by CPD	Chief Executive, with prior approval from TEO

\* Annex A of PGN 4/12 (revised May 2016) applies for purchases up to £5,000. Please refer for guidance.

\*\* Please refer to guidance 'CPD Advice To Clients And Staff On The Procurement Of Goods And Services Below £30,000' issued August 2012 by CPD. See Annex B

\*\*\* PGN 5/12 (revised May 2016) applies. Please refer for guidance.



## **Support for Assisted Cases**

A scale of fees will be set and be subject to annual review. The Commission will implement a systematic procedure for the approval of legal fees.

## **ECONOMIC APPRAISALS**

The principles of economic appraisal should be applied in all cases where expenditure is proposed, whether the proposal involves capital or current expenditure, or both. The effort put into economic appraisal should be commensurate with the size or importance of the needs or resources under consideration. However, the Commission should undertake a comprehensive business case of all projects involving expenditure of **£250,000** and over.

Where the NDPB is unable to obtain a sufficient number of tenders, it must advise TEO of the situation and supply reasons for insufficient number of tenders having been sought. Records of all correspondence are to be retained on file including any justification given and/or approvals obtained.

- 1.4 In order to obtain the required minimum number of quotations/tenders, purchasing officers should always aim to invite more than the stipulated number. In the case of the level up to £5,000 every attempt should be made to obtain more than one quotation.
- 1.5 If the estimated value of the purchase is close to the upper limit then it would be advisable to invite the number of quotations/tenders required in the next level. The possibility of combining repeat purchases to increase buying power should be explored. Orders must not be split so as to avoid the need for competitive tendering.
- 1.6 For any purchase or contract above £5,000 where the minimum number of quotations/tenders was not obtained, Commission may permit the purchase to proceed if satisfied that every attempt has been made to obtain competitive offers and that value for money will be achieved. In these cases a report should be submitted to the Chief Executive. Records of all correspondence are to be retained on file including any justification given and/or approvals obtained.

## **2. CAPITAL PROJECTS**

The Chief Executive may authorise capital expenditure on discreet capital projects of up to £30,000. Capital projects over this amount require the approval of TEO, and may be subject to quality assurance by DoF if requested. Any novel and/or potentially contentious projects, regardless of the amount of expenditure, require the approval of TEO and DoF.

## **3. DISPOSAL OF SURPLUS EQUIPMENT**

The Commission should follow the guidance in accordance with *MPMNI, Annex 4.8*.

## **4. LEASE AND RENTAL AGREEMENTS**

The Commission may enter into lease and/or rental agreements for the provision of goods and services. Lease and rental agreements for the provisions of goods and services should be open to competitive tendering in the same way as purchases unless there are convincing reasons to the contrary. The delegations established at paragraph 1 will also apply to lease and rental agreements with the cash values relating to the annual cost of the arrangement. TEO's approval must be obtained for any leasing and/or rental agreement of a value of £25,000 or more per annum. As per paragraph 59 and 60 of the Financial Memorandum, DoF and TEO approval must be secured for all expenditure associated with property lease extensions and the take up of new property leases (supported by appropriate business cases).

## **5. APPROVAL OF INFORMATION TECHNOLOGY PROJECTS**

The appraisal of Information Technology (IT) projects should include the staffing and other resource implications.

The principles of appraisal, evaluation and management apply equally to proposals supported by information communication technology (ICT) as to all other areas of public expenditure. ICT-enabled projects should be appraised and evaluated according to the general guidance in the Northern Ireland Guide to Expenditure Appraisal and Evaluation (*NIGEAE*) and managed using the new Programme and Project Management and Assurance processes.

The purchase of IT equipment and systems should be in line with the guidance on Procedures and Principles for Application of Best Practice in Programme/Project Management (PPM), (available at [www.finance-ni.gov.uk/topics/programme-and-](http://www.finance-ni.gov.uk/topics/programme-and-)

project-management-and-assurance) and be subject to competitive tendering unless there are convincing reasons to the contrary. The form of competition should be appropriate to the value and complexity of the project, and in line with the Procurement Control Limits in Table 2. Delegated authority for each IT project is set out in Table 3.

**Table 3 - *Delegated Authority for Information Technology Projects, Systems and Equipment***

**(All costs exclude VAT)**

<b>THRESHOLDS</b>	<b>AUTHORISATION</b>
Up to £500	ICT Manager
>£500 to £5000	Head of Corporate Services
>£5000 to £10,000	The Chief Executive
>£10,000 to £25,000	The Chief Executive, plus advice and with prior approval from TEO
>£25,000 to £50,000	The Chief Executive, plus advice and with prior approval from TEO
>£50,000(When over the EC threshold observe the EC threshold guidelines).	The Chief Executive, plus advice and with prior approval from TEO

## 6. ENGAGEMENT OF CONSULTANTS

### General

The Commission has authority to appoint consultants for a **single contract** without recourse to TEO up to a total cost of **£5,000**. Appointment above this level will be subject to any guidance as may be issued by DoF or TEO.

The Commission shall provide TEO with a quarterly statement on the status of all consultancies completed and/or started in each financial year. Care should be taken to avoid actual, potential, or perceived conflicts of interest when employing consultants.

### Economic appraisal

A full business case should be prepared for all consultancy assignments expected to exceed **£10,000**. A proportionate business case should be prepared for all assignments below this threshold. Section 5 of the guidance note attached to FD (DFP) 07/012 explains the nature of the required business case.

Business cases for all consultancy assignments shall be prepared in line with the guidance at **Appendix 2 (*Approval process flow diagrams – ALB expenditure*)** of the CG01/18 *Summary of Policy and Procedures for the Approval of Departmental Expenditure* guidance issued by TEO on 1 March 2018.

### Direct Award Contracts

Direct Award Contracts (DACs) should be avoided and advice from CPD sought. Paragraphs 8-10 of the Financial Memorandum refer.

The Commission Accounting Officer can approve DACs up to the Commission's delegated limit (currently £30,000), with the exception of external consultancy DACs. Direct Award Contracts above the delegated limit and all external consultancy must also be approved by the Departmental Accounting Officer.

Any proposal to procure goods and services with a combined cost of greater than £5,000 through a Direct Award Contract must be supported by CPD advice and a business case setting out the rationale and justification for doing so. The relevant Accounting Officer(s) approval is required before awarding any contract through a direct award contract.

Details of all Direct Award Contracts (above £5,000) entered into by the ALB must be tabled at their Audit Committee and reported on a quarterly basis to the Department in an annexe to their assurance statements.

## **7. LOSSES AND SPECIAL PAYMENTS**

The Chief Executive will have the authority to write off losses and make special payments:

- a. Cash losses – up to £1,000 per case/incident.
- b. Stores/Equipment losses – up to £1,000 per case/incident.
- c. Constructive losses and fruitless payments – up to £1,000 per case;
- d. Compensation payments – up to £1,000 per case.
  - (i) Made under legal obligation, e.g. by Court Order – up to £1,000 per case plus reasonable legal expenses
  - (ii) For damage to personal property of staff – up to £1,000 per case
  - (iii) Where written legal advice is that the Commission should not fight a court action because it is unlikely that it would win – up to £1,000 per case.
- e. Claims abandoned or waiver of claim – up to £1,000 per case.
- f. Extra contractual payments – up to £1,000 per case.
- g. Ex gratia payments – up to £1,000 per case (Pensions payments are not covered by this threshold).
- h. Extra statutory and extra regulatory payments – no delegation, all proposals must be submitted to TEO for approval.

The prior approval of TEO must be obtained for amounts above these values.

Where total losses and Special Payments exceed £5,000 in any financial year, an explanatory note should be included in the Commission's accounts.

Details of all losses and special payments should be recorded in a Losses and Special Payments Register, which will be available to auditors. The Register should be kept up-to-date and should show evidence of the approval by the Chief Executive and TEO as necessary.



CPD advice to  
clients and staff on

