

MANAGEMENT STATEMENT FOR THE LABOUR RELATIONS AGENCY

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Definitions

In this Memorandum:

“The Agency” means the Labour Relations Agency

“C&AG” means the Comptroller and Auditor General for Northern Ireland

“Chief Executive” means the senior executive official of The Labour Relations Agency

“DAO” means “Dear Accounting Officer” letter

“Department” means the Department for the Economy

“DoF” means the Department of Finance

“DPFO” means “Dear Principal Finance Officer” letter

“Grant” means any form of payment, of which “grant-in-aid” is a subset

“Minister” means the Minister for the Economy.

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

“OFMDFM” means the Office of the First Minister and Deputy First Minister

“PFO” means Principal Finance Officer

“Voted” means provision voted by the Northern Ireland Assembly

“Head of Department” means in the case of public appointments, the Minister

“legislation or relevant legislation” means the Industrial Relations (NI) Order 1992.

During the period of suspension, any reference to the NI Assembly in this document should be read as a reference to the United Kingdom Parliament.

INTRODUCTION

1.1 Founding legislation; status

1.1.1 The Agency was established under the Industrial Relations (Northern Ireland) Order 1976 which was re-enacted by the Industrial Relations (Northern Ireland) Order 1992. The constitution of the Agency is set out in Schedule 4 to the Industrial Relations (NI) Order 1992. The Agency does not carry out its functions on behalf of the Crown. The Agency shall not be regarded as a servant or agent of the Crown and as such the Department recognises the Agency in pursuance of its employment relations statutory duties and responsibilities is independent from Government where Government acts as an employer or as a party within the Northern Ireland employment relations system.

2.1 This document

2.1.1 This *Management Statement* and *Financial Memorandum (MSFM)* has been drawn up by the Department for the Economy ('the sponsor Department') in consultation with the Labour Relations Agency ('the Agency'), 2-16 Gordon Street, Belfast, BT1 2LG. The document is based on a model prepared by the Department of Finance ('DoF').

2.1.2 The terms and conditions set out in the combined *Management Statement* and *Financial Memorandum* may be supplemented by guidelines or directions issued by the sponsor Department/Minister in respect of the exercise of any individual functions, powers and duties of the Agency.

2.1.3 A copy of the MS/FM should be given to all newly appointed Board Members, senior Agency Executive Staff and departmental sponsor staff on appointment. Additionally, the MS/FM should be tabled for the information of Board Members at least annually at a full meeting of the Board. Amendments made to the MS/FM should also be brought to the attention of the full Board on a timely basis.

2.1.4 Subject to the legislation noted above, this *Management Statement* sets out the broad framework within which the Agency will operate, in particular:

- ensuring that the Agency's overall aims, objectives and targets are consistent with the Department's wider strategic objective of promoting good working practices, contained in the Programme for Government (PfG);
- the rules and guidelines relevant to the exercise of the Agency's functions, duties and powers;

- the conditions under which any public funds are paid to the Agency; and
- how the Agency is to be held to account for its performance.

2.1.5 The associated *Financial Memorandum* sets out in greater detail certain aspects of the financial provisions which the Agency shall observe. However, the *Management Statement* and *Financial Memorandum* do not convey any legal powers or responsibilities.

2.1.6 The document shall be periodically reviewed by the Department in accordance with the timetable referred to in Section 7 below.

2.1.7 The Agency, the sponsor Department, or the Minister, may propose amendments to this document at any time. Any such proposals by the Agency shall be considered in the light of evolving departmental policy aims, operational factors and the track record of the Agency itself. The guiding principle shall be that the extent of flexibility and freedom given to the Agency shall reflect both the quality of its internal controls to achieve performance and its operational needs. The sponsor Department 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 after consultation with the Agency, as appropriate. (The definition of “significant” will be determined by the sponsor Department in consultation with DoF).

2.1.8 The *MS/FM* is approved by DoF Supply, and signed and dated by the sponsor Department and the Agency’s Chief Executive.

2.1.9 Any question regarding the interpretation of the document shall be resolved by the sponsor Department after consultation with the Agency and, as necessary, with DoF Supply.

2.1.10 Copies of this document and any subsequent substantive amendments shall be placed in the Library of the Assembly. (Copies shall also be made available to members of the public on the Agency’s website).

2.2 The functions, duties and powers of the Agency

2.2.1 The overall duty of the Agency as laid down in Industrial Relations (NI) Order 1992 is to promote the improvement of industrial relations.

2.2.2 Functions

To achieve its overall purpose the Agency may:

- take steps to avoid trades disputes (Art 84);
- provide facilities for collective arbitration (Art 84 (2) (e));
- review arrangements for collective bargaining (Art 86);

- review industrial relations training (Art 87);
- conduct research into matters relating to industrial relations (Art 88);
- give and publish general advice on industrial relations matters (Art 89);
- publish Codes of Practice (Art 90);
- provide individual conciliation and individual arbitration under all relevant statutes (Art 84 & 96).

2.2.3 Duties

The Agency provides an impartial and confidential employment relations service to those engaged in industry, commerce, the voluntary sector and public services. Its main users are workers, employees, employers associations, trade unions and other organisations and individuals requiring the Agency's assistance. The Agency is active in resolving disputes through its conciliation, mediation and arbitration services. The Agency's services also include the provision of advice on good employment practices and assistance with the development and implementation of employment policies and procedures.

2.2.4 Powers

The powers of the Agency are laid out in Section 2, "Functions of the Labour Relations Agency", of its Corporate Governance Documents.

2.3 Classification

2.3.1 For policy/administrative purposes the Agency is classified as an executive non-departmental public body.

2.3.2 For national accounts purposes the Agency is classified to the central government sector.

2.3.3 References to this Agency 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 Agency (paragraphs 66 - 67 of the Financial Memorandum refer).

3. AIMS, OBJECTIVES AND TARGETS

3.1 Overall aims

3.1.1 The Minister has approved the overall aims for the Agency as follows: to be the leading organisation in Northern Ireland for improving employment relations. It will contribute to organisational effectiveness by providing on a quality basis impartial and independent services for preventing and resolving disputes and promoting good employment practices.

3.2 Objectives and key targets

3.2.1 The sponsor Department determines the Agency's performance framework in the light of the Department's wider strategic aims and current PfG objectives and targets (paragraph 1.1.4). The Minister has agreed the objectives, key targets and performance measures as laid out in the Agency's corporate and business planning process (see section 4 below).

4. RESPONSIBILITIES AND ACCOUNTABILITY

4.1 The Minister

4.1.1 The Minister is accountable to the Assembly for the activities and overall performance of the Agency. His responsibilities include:

- ensuring the Agency's strategic objectives and the policy and performance framework within which the Agency will operate are consistent with the legislation referred to in paragraph 1.1.1 above (and as otherwise set out in this *Management Statement* and *Financial Memorandum* and associated documents);
- keeping the Assembly informed about the Agency's performance;
- approving the amount of grant-in-aid/grant/other funds to be paid to the Agency, and securing Assembly approval; and
- carrying out responsibilities specified in the Industrial Relations (NI) Order 1992, including appointments to the Board, approving the terms and conditions of Board members, approval of terms and conditions of staff, and laying of the annual report and accounts before the Assembly.

4.2 The Accounting Officer of the sponsor Department

4.2.1 The Permanent Secretary as the Departmental Accounting Officer (the “Departmental Accounting Officer”) is responsible for the overall organisation, management and staffing of the sponsor Department and for ensuring that there is a high standard of financial management in the sponsor Department as a whole. The Departmental Accounting Officer is accountable to the Assembly for the issue of any grant-in-aid to the Agency. The Departmental Accounting Officer designates the Chief Executive of the Agency as its Accounting Officer, and may withdraw the accounting officer designation if he/she is satisfied that the incumbent is no longer suitable for the role.

4.2.2. In particular, the Departmental Accounting Officer shall ensure that:

- the Agency’s strategic aims further its statutory obligations in the context of the Department’s wider strategic objective of promoting good working practices (contained in the PfG);
- the financial and other management controls applied by the Department to the Agency are appropriate and sufficient to safeguard public funds and for ensuring that the Agency’s compliance with those controls is effectively monitored (“public funds” include not only any funds granted to the Agency by the Assembly, but also any other funds falling within the stewardship of the Agency);
- the internal controls applied by the Agency conform to the requirements of regularity, propriety and good financial management; and
- any grant-in-aid to the Agency is within the ambit and the amount of the Request for Resources and that Assembly authority has been sought and given.

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

4.3 The sponsoring team in the Department

4.3.1 Within the sponsor Department, Employment Relations Policy and Legislation Branch is the sponsoring team for the Agency. The team, in consultation as necessary with the Departmental Accounting Officer, is the primary source of advice to the Minister on the discharge of his responsibilities in respect of the Agency, and the primary point of contact for the Agency in dealing with the sponsor Department. The sponsoring team shall carry out its duties under the management of a senior officer, who shall have primary responsibility within the team for overseeing the activities of the Agency.

4.3.2 The sponsoring team shall advise the Minister on:

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

4.3.3 In support of the Departmental Accounting Officer, the sponsoring team shall:

on performance and risk management -

- monitor the Agency's activities on a continuing basis through an adequate and timely flow of information from the Agency on performance, budgeting, control, and risk management, including early sight of the Agency's Statement on Internal Control;
- address in a timely manner any significant problems arising in the Agency, whether financial or otherwise, making such interventions in the affairs of the Agency as the sponsor Department judges necessary to address such problems;
- periodically carry out a risk assessment of the Agency's activities to inform the sponsor Department's oversight of the Agency; 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 Agency'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 the sponsor Department; and any other relevant matters;

on communication with the Agency -

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

4.4 The Agency's Board

4.4.1 The Board Members are appointed by the Minister for the Economy in line with the Code of Practice issued by the Commissioner for Public Appointments in Northern Ireland. Board Members are appointed for a three-year term, renewable for one further period of three years, subject to satisfactory performance.

4.4.2 The Board has corporate responsibility for ensuring that the Agency fulfils its aims and objectives set by the sponsor Department and approved by the Minister, and for promoting the efficient, economic and effective use of staff and other resources by the Agency. To this end, and in pursuit of its wider corporate responsibilities, the Board shall:

- establish the overall strategic direction of the Agency within the policy and resources framework determined by the Minister and Department;
- constructively challenge the Agency's executive team in their planning, target setting and delivery of performance.
- ensure that the sponsor Department is kept informed of any changes which are likely to impact on the strategic direction of the Agency or on the attainability of its targets, and determine the steps needed to deal with such changes;
- ensure that statutory or administrative requirements for the use of public funds are complied with; that the Board operates within the limits of its statutory authority and any delegated authority agreed with the sponsor Department, and in accordance with any other conditions relating to the use of public funds; and that, in reaching decisions, the Board takes into account all relevant guidance issued by DoF and the Department.
- ensure that the Board receives and reviews regular financial information concerning the management of the Agency; is informed in a timely manner about any concerns about the activities of the Agency; and provides positive assurance to the sponsor Department that appropriate action has been taken on such concerns;
- demonstrate high standards of corporate governance at all times, including using the independent audit committee, (see paragraph 4.7) to help the Board to address the key financial and other risks facing the Agency;
- appoint (after consultation with the sponsor Department) a Chief Executive to the Agency and, in consultation with the Department, 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.

4.4.3 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 that is adopted by the Agency (see paragraph 4.5.5) 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 Agency.

4.4.4 The sponsor Department shall have access to all Board meeting minutes once they have been agreed by the Board.

The Chairman of the Agency

4.5.1 The Chairman is appointed by the Minister in line with the Code of Practice issued by the Commissioner for Public Appointments in Northern Ireland. The Chairman is appointed for a three-year term, renewable for one further period of three years, subject to satisfactory performance.

4.5.2 The Chairman is responsible to the Minister of the sponsor Department. The Chairman shall ensure that the Agency’s policies and actions support the wider strategic policies of the Minister; and that the Agency’s affairs are conducted with probity. The Chairman shares with other Board members the corporate responsibilities set out in paragraph 3.4.2, and in particular for ensuring that the Agency fulfils the aims and objectives set by the sponsor Department and approved by the Minister.

4.5.3 The Chairman has a particular leadership responsibility on the following matters:

- establishing the Board’s strategy;
- ensuring that the Board, in reaching decisions, takes proper account of guidance provided by the Minister or the sponsor Department;
- 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 Board to the general public; and
- ensuring that the Board 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 Board members.

4.5.4 The Chairman 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 sponsor Department of the needs of the Agency 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 Chair of the Board at the end of each year and prior to any 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 Chair of the Board will also be appraised on an annual basis by the Departmental Accounting Officer.

4.5.5. The Chairman 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 Chairman 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.

4.5.6 Communications between the Board, the Minister and the Department shall normally be through the Chairman. The Chairman shall ensure that the other Board members are kept informed of such communications on a timely basis.

4.6 The Chief Executive's role as Accounting Officer

4.6.1 The Chief Executive of the Agency is designated as the Agency's Accounting Officer by the Accounting Officer of the sponsor Department.

4.6.2 The Accounting Officer of the Agency is personally responsible for safeguarding the public funds for which he/she 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 Agency.

4.6.3 As Accounting Officer, the Chief Executive shall exercise the following responsibilities in particular:

on planning and monitoring –

- establish, in agreement with the sponsor Department, the Agency's corporate and business plans and in support of the Department's wider strategic aims and current PfG objectives and targets;
- inform the sponsor Department of the Agency's progress in helping to achieve the Department's policy objectives and in demonstrating how resources are being used to achieve these objectives;
- ensure that timely forecasts and monitoring information on performance and finance are provided to the sponsor Department; that the sponsor Department 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 the sponsor Department 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 that may be issued from time to time by DoF, or the sponsor Department;
- advise the Board on the Agency'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 MPMNI if the Board, or its Chairman, 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 targets;
- ensure that an effective system of programme and project management and contract management is maintained;
- ensure compliance with the Northern Ireland Public Procurement Policy;
- ensure that all public funds made available to the Agency (including any income or other receipts) are used for the purpose intended by the Assembly, and that such monies, together with the Agency's assets, equipment and staff, are used economically, efficiently and effectively;
- ensure that adequate internal management and financial controls are maintained by the Agency, 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 Agency'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 any directions issued by the Minister, the sponsor Department, or DoF;
- sign a Statement of Accounting Officer's responsibilities, for inclusion in the annual report and accounts;
- sign a Statement on Internal Control regarding the Agency's system of internal control, for inclusion in the annual report and accounts;
- ensure that effective procedures for handling complaints about the Agency are established and made widely known within the Agency;

- 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 the Department, and DoF - in particular, Chapter 3 of *MPMNI* and the Treasury document, *Regularity and Propriety*, and *Value for Money* (a copy of which the Chief Executive shall receive on appointment). Section IX of the *Financial Memorandum* refers to other key guidance;
- give evidence, normally with the Accounting Officer of the sponsor Department, if summoned before the Public Accounts Committee on the use and stewardship of public funds by the Agency;
- ensure that an Equality Scheme is in place, reviewed and equality impact assessed as required by the Equality Commission and OFMDFM;
- ensure that Lifetime Opportunities is taken into account; and
- ensure that the requirements of the Data Protection Act 1998 and the Freedom of Information Act 2000 are complied with.

4.7 The Chief Executive's role as Consolidation Officer

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

4.7.2 As the Agency'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 Agency; for arranging for its audit; and for sending the information and the audit report to the Principal Consolidation Officer nominated by DoF.

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

ensure that the Agency has in place and maintains sets of accounting records that will provide the necessary information for the consolidation process; and

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.

4.8 Delegation of duties

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

4.9 The Chief Executive's role as Principal Officer for Ombudsman cases

4.9.1 The Chief Executive of the Agency is the Principal Officer for handling cases involving the Northern Ireland Commissioner for Complaints. As Principal Officer, he/she shall inform the Permanent Secretary of the Department of any complaints about the Agency accepted by the Ombudsman for investigation, and about the Agency's proposed response to any subsequent recommendations from the Ombudsman.

4.10 Consulting Customers

4.10.1 The Agency will work in partnership with its stakeholders and clients 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 clients, and will work to deliver a modern, accessible service.

5. PLANNING, BUDGETING AND CONTROL

5.1 The corporate plan

5.1.1 Consistent with the timetable for the NI Executive's Budget process reviews, the Agency shall submit to the Department a draft of the Agency's corporate plan covering three years ahead. The Agency shall have agreed with the Department the issues to be addressed in the plan and the timetable for its preparation, together with a timeframe for submission and agreement of the Corporate Plan.

5.1.2 DoF reserves the right to ask to see and agree the Agency's corporate plan.

5.1.3 The plan shall reflect the Agency's statutory duties and, within those duties, the priorities set from time to time by the Minister. In particular, the plan shall demonstrate how the Agency contributes to the achievement of the Department's strategic aims and PfG objectives and targets.

5.1.4 The corporate plan shall set out:

- the Agency's key objectives and associated key performance targets for the three forward years, and its strategy for achieving those objectives;
- a review of the Agency's performance in the preceding financial year together with comparable outturns for the previous 2-5 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 the Department at the beginning of the planning round. These forecasts should represent the Agency's best estimate of all its available income, not just any grant or grant-in-aid; and
- other matters as agreed between the Department and the Agency.

5.1.5 The main elements of the plan, including the key performance targets, shall be agreed between the Department and the Agency in the light of the Department's decisions on policy and resources taken in the context of the Executive's wider policy and spending priorities and decisions.

5.2 The business plan

5.2.1 Each year of the corporate plan, amplified as necessary, shall form the basis of the business plan for the relevant forthcoming year. The Agency should submit the business plan to the Department by the end of February each year. The business plan shall include key targets 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 the Department.

5.2.2 DoF reserves the right to ask to see and agree the Agency's annual business plan.

5.2.3 Corporate and business plans will be formally approved by the Department's Director of Strategy, European and Employment Relations Division.

5.3 Publication of plans

5.3.1 The corporate and business plans shall be published and made available to the public.

5.4 Reporting performance to the Department

- 5.4.1 The Agency 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 targets set out in its agreed corporate and business plans.
- 5.4.2 The Agency shall take the initiative in informing the Department 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.
- 5.4.3 The Agency's performance in helping to deliver Departmental policies, including the achievement of key objectives, shall be reported to the Department on a quarterly basis. Performance will be formally reviewed twice a year by officials of the Department. The Minister shall meet the Board formally each year to discuss the Agency's performance, its current and future activities, and any policy developments relevant to those activities.
- 5.4.4 The Agency's performance against key targets shall be reported in the Agency's annual report and accounts (see section 5.1 below). Arrangements for the validation of reported performance will be agreed between the Agency and the Department.

5.5 Budgeting procedures

- 5.5.1 The Agency's budgeting procedures are set out in the *Financial Memorandum*.

5.6 Internal audit

- 5.6.1 The Agency shall establish and maintain arrangements for internal audit in accordance with, the Treasury's Government Internal Audit Standards (GIAS) and DAO (DFP) 01/10, entitled Internal Audit Arrangements between a Sponsoring Department and Arm's Length Bodies.
- 5.6.2 The Department should outline the arrangements that it has determined as appropriate for the Agency, taking account of DAO (DFP) 01/10 Internal Audit Arrangements between Departments and Arm's Length Bodies.) This will include specifying the Department's requirements in terms of:
- having input to Agency 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 Agency internal audit function against GIAS, including advising that the Department reserves a right of access to carry out its own independent reviews of internal audit in the Agency; and
- the right of access to all documents prepared by the Agency's internal auditor, including where the service is contracted out. Where the Agency's audit service is contracted out, the Agency should stipulate this requirement when tendering for the services.

5.6.3 The Agency shall consult the Department to ensure that the latter is satisfied with the competence and qualifications of the Agency's Head of Internal Audit, and that the requirements for approving the appointment of an auditor are in accordance with GIAS and relevant DoF guidance.

5.6.4 The Department will review the Agency's terms of reference for internal audit service provision. The Agency shall notify the Department of any subsequent changes to internal audit's terms of reference.

5.7 Audit Committee

5.7.1 The Agency shall set up an independent audit 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 Committee Handbook DAO (DoF) 03/18.

5.7.2 The Department will:

- send an appropriate Departmental representative to Agency Audit Committee meetings;
- have access to the Audit Committee papers and minutes, as well as audit reports, assignment reports, the Head of Internal Audit's annual report and opinion, and all other documents prepared by the Agency's internal auditor, including where the service is contracted out; and
- be provided with any input required by the Agency Audit Committee to the Department's own Audit Committee etc.

5.7.3 The Department will review the Agency's audit committee terms of reference. The Agency shall notify the Department of any subsequent changes to the audit committee's terms of reference.

5.8 Fraud

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

5.9 Additional Departmental access to the Agency

- 5.9.1 In addition to the right of access referred to in paragraph 4.6.2 above, the Department shall have a right of access to all the Agency's records and personnel for purposes such as sponsorship audits, operational investigations and for any other necessary purposes. (See also paragraphs 3.4.4 and 4.7.2 access to Board and Audit Committee minutes).

6. EXTERNAL ACCOUNTABILITY

6.1 The annual report and accounts

- 6.1.1 After the end of each financial year, the Agency 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 Agency, including expenditure by the Agency in providing administrative support for the Certification Officer (the Certification Officer is required to submit a separate report of his/her activities in line with Article 69 of the Industrial Relations (Northern Ireland) Order 1992). A draft of the Agency report shall be submitted to the Department two weeks before the proposed publication date, although it is expected that the Department and the Agency will have had extensive pre-publication discussion on the content of the report prior to formal submission to the Department.
- 6.1.2 The report and accounts shall comply with the most recent version of the Government Financial Reporting Manual (FREM) 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 the Department.

- 6.1.3 The report and accounts shall outline the Agency's main activities and performance during the previous financial year, and set out in summary form the Agency'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.
- 6.1.4 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.
- 6.1.5 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 the Department.

6.2 External audit

- 6.2.1 The Comptroller and Auditor General (C&AG) audits the Agency's annual accounts and lays them before the Assembly, together with the Agency'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.
- 6.2.2 The C&AG will liaise with the Agency on the arrangements for completing the audit of the Agency'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.
- 6.2.3 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 Agency. The C&AG will also consider, where asked, providing the Department 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.

6.3 VFM examinations

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

7. STAFF MANAGEMENT

7.1 General

7.1.1. Within the arrangements approved by the Minister and DoF, the Agency shall have responsibility for the recruitment, retention and motivation of its staff. To this end the Agency 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, community background, 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 Agency'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 Agency'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 Disclosure (Northern Ireland) Order 1998 (and associated subordinate legislation) are in place; and
- a code of conduct for staff is in place based on Annex 5a of ‘Public Bodies – A Guide for Northern Ireland Departments’ (available at www.aasdni.gov.uk)

8. REVIEWING THE ROLE OF THE AGENCY

- 8.1 The Agency shall be reviewed periodically, in accordance with the business needs of the Department and the Agency. Reference should be made to Chapter 9 of the Public Bodies: a Guide for Northern Ireland Departments.
- 8.2 The next review of the Agency will take place in the financial year 2015/16.
- 8.3 The Department shall, in good time before an Agency is to be wound up:
- ensure that procedures are in place in the Agency to gain independent assurance on key transactions, financial commitments, cash flows and other information needed to handle the wind-up effectively and to maintain the momentum of work that is to be inherited by any residuary body;
 - specify the basis for the valuation and accounting treatment of the Agency’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 Agency’s financial legacy; and
 - if necessary, secure representation on the Agency’s Board to ensure that the wind-up is conducted in a proper and satisfactory manner.
- 8.4 The Agency shall provide the Department with full details of all agreements where the Agency or its successors have a right to share in the financial gains of developers. It should also pass to the Department details of any other forms of claw-back due to the Agency.

FINANCIAL MEMORANDUM FOR EXECUTIVE AGENCIES

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I. INTRODUCTION

1. This *Financial Memorandum* sets out certain aspects of the financial framework within which the Labour Relations Agency ('the Agency') 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 the Department for the Economy ('the Department') in respect of the exercise of any individual functions, powers and duties of the Agency.
3. The Agency shall satisfy the conditions and requirements set out in the combined document, together with such other conditions as the Department may from time to time require.

II. THE AGENCY'S INCOME AND EXPENDITURE - GENERAL

The Departmental Expenditure Limit (DEL)

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

Expenditure not proposed in the budget

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

Procurement

6. The Agency'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 Agency's procurement activity should be carried out by means of a Service Level Agreement between the Department and CPD or another recognised Centre of Procurement Expertise (CoPE) – this will ensure compliance with relevant UK, EU and international procurement rules.
7. Periodic reviews of the Agency's procurement activity should be undertaken. The results of any such review will be shared with the Department.

Competition

8. Contracts shall be awarded on a competitive basis and tenders accepted from suppliers who provide best value for money overall.
9. Single tender action is the process where a contract is awarded to an economic operator (i.e. suppliers, contractors and service suppliers) without competition. The prior approval of the Permanent Secretary of the Department is required when it is intended to award a contract for external consultants without competition. All other single tender actions are subject to Agency Accounting Officer approval. Single Tender Actions over £5,000 should be subject to further approval by the Agency Board, with those over £10,000 requiring Departmental Accounting Officer approval. This approval limit will remain under review. The Agency should seek advice from the Head of Procurement and, where appropriate, their legal adviser, to provide assurance for the Accounting Officer that the use of single tender action is legitimate in a particular case. Further information is published in Procurement Guidance Note 03/11 on the "Award of Contracts without a Competition". www.cpdni.gov.uk/index/guidance-for-purchasers/guidance-notes.htm
10. The Agency shall send to the Department at regular intervals throughout the year, following a request by the Department, a list of all contracts in which competitive tendering was not employed.

Best value for money

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

Timeliness in paying bills

12. The Agency 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 (MPMNI)* and any guidance issued by DoF or the Department.

Novel, contentious or repercussive proposals

13. The Agency shall obtain the approval of the Department 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 the Department; or
- 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. (The Department will determine what constitutes “significant” in this context).

Risk management/Fraud

14. The Agency 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 Agency shall take proportionate and appropriate¹ 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 Agency 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*.
17. All cases of attempted, suspected or proven fraud shall be reported to DEL (who shall then report it to DoF and the NIAO), and other relevant authorities (see section 4.8 in the Management Statement) as soon as they are discovered, irrespective of the amount involved.

Wider markets

18. The Agency shall seek to maximise receipts from Non-Consolidated Fund sources, provided that this is consistent with (a) the Agency’s main functions (b) its corporate plan as agreed with the Department. The Department 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 Agency shall be determined in accordance with Chapter 6 of MPMNI.

¹ Guidance at http://www.dfpni.gov.uk/index/finance/eag/eag-what-is/eag_appropriate_and_proportionate_effort.htm

III. THE AGENCY'S INCOME

Grant-in-aid

20. Grant-in-aid will be paid to the Agency in monthly instalments, on the basis of a written application from the Agency 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 Agency's functions.
21. The Agency 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 Agency. 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 excluding accruals at year-end, the Department 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 the Department.

Receipts from sale of goods or services

24. Receipts from the sale of goods and services (including certain licences), rent of land and dividends normally provide additional DEL spending power. If the Agency wishes to retain a receipt or utilise an increase in the level of receipts, it must gain the prior approval of the Department.
25. If there is any doubt about the correct classification of a receipt, the Agency shall consult the Department, which may consult DoF as necessary.

Interest earned

26. Interest earned on cash balances cannot necessarily be retained by the Agency. Depending on the budgeting treatment of this receipt, and its impact on the Agency'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 the Department. If the receipts are used to finance additional expenditure by the Agency, the Department will need to ensure it has 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 Agency shall, unless otherwise agreed with the Department, ensure a corresponding reduction in its gross expenditure so that the authorised provision is not exceeded. [NOTE: For example, if the Agency is allocated £100 resource DEL provision by the Department 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 Agency will need to reduce its expenditure to £105 to avoid breaching its budget. If the Agency still spends £110 the Department 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 Agency may apply to the Department to retain the excess income for specified additional expenditure within the current financial year without an offsetting reduction to grant-in-aid. The Department 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 the Department.

Build-up and draw-down of deposits

29. The Agency 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 receipts are negative DEL in the relevant budgets).
30. The Agency 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 Agency 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 the Department. (NOTE: Donated assets do not attract a cost of capital charge, and a release from the donated assets reserve should offset depreciation in the operating cost statement.)

33. Before accepting a gift, bequest, or similar donation, the Agency shall consider if there are any associated costs in doing so or any conflicts of interests arising. The Agency 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 Agency will not be allowed to borrow, but when doing so the Agency shall observe the principles set out in Chapter 5 and the associated annexes of MPMNI when undertaking borrowing of any kind. The Agency shall seek the approval of the Department 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

36. Subject to its delegated levels of authority, the Agency shall ensure that the creation of any additional posts, or significant changes to posts, does not incur forward commitments which will exceed its ability to pay for them.

Pay and conditions of service

37. The Staff of the Agency, whether on permanent or temporary contract, shall be subject to levels of remuneration and terms and conditions of service (including superannuation) as approved by the Department and DoF. The Agency has no delegated power to amend these terms and conditions.
38. Civil Service terms and conditions of service apply to the rates of pay and non-pay allowances paid to the Agency's 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 the Department and DoF to vary such rates.
39. Annual pay increases of Agency 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 the Department and the Minister for Finance before implementation.
40. The travel expenses of Board Members shall be tied to the rates allowed to senior staff of the Agency. Reasonable actual costs shall be reimbursed.

41. The Agency shall operate a performance-related pay scheme which shall form part of the general pay structure approved by the Department and DoF.
42. The Agency shall comply with the EU Directive on contract workers (Fixed Term Employees Regulations (Prevention of Less Favourable Treatment Regulations (NI) 2002 (as amended))).

Pensions; redundancy/compensation

43. The Agency's staff shall be eligible for a pension provided by membership of the Principal Civil Service Pension Scheme (Northern Ireland) (PCSPS(NI)).
44. Staff may opt out of the occupational pension scheme provided by the Agency. 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.]
45. Any proposal by the Agency to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the approval of the Department and DoF. Proposals on severance payments must comply with Annex 4.13 of MPMNI. Where the PCSPS(NI) is the relevant pension scheme, the Agency must conform with the procedures for early retirement/severance which apply to the main Department and ensure that the level of benefits are the standard applicable under the Civil Service Compensation Scheme (Northern Ireland) (CSCS(NI)) rules. The Department is responsible for ensuring that the Agency does this.
46. The Department is responsible for ensuring that the Agency continues to meet the criteria for membership of the PCSPS(NI), where this is the pension scheme applicable.

V. NON-STAFF EXPENDITURE

Economic appraisal

47. The Agency 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:

- involve capital or current spending, or both;
 - are large or small;
 - are above or below delegated limits (see Appendix A).
48. 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.
49. General guidance on economic appraisal that applies to NDPBs can be found in:
- The DoF's on-line Guide, *The Northern Ireland Practical Guide to Expenditure Appraisal and Evaluation* ("NIGEAE", 2009). See
 - The HM Treasury Guide, *The Green Book: Appraisal and Evaluation in Central Government* (2003).

Capital expenditure

50. 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 normally 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.
51. Proposals for large-scale individual capital projects or acquisitions will normally be considered within the Agency's corporate and business planning process. Subject to paragraph 55 of this section below, applications for approval within the corporate/business plan by the Department 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 the Department.
52. Approval of the corporate/business plan does not obviate the Agency's responsibility to abide by the economic appraisal process.

53. Within its approved overall resources limit the Agency shall, as indicated in the attached **Appendix A** on delegations, have delegated authority to spend up to £50,000 on any individual capital project or acquisition. Beyond that delegated limit, the Department'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

54. Unless financial provision is subject to specific Departmental 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 Departmental 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

55. The Agency shall not, without the Department'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

56. 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 the Department, and where necessary, DoF. If grants or loans are to be made under a continuing scheme, statutory authority is likely to be required.
57. 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 Agency, the Department and the C&AG.
58. See also below under the heading *Recovery of grant-financed assets* (Section V1 paragraphs 81-83).

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

59. 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 the Department and, where necessary, DoF.

60. Losses shall not be written off until all reasonable attempts to make a recovery have been made and proved unsuccessful.
61. Gifts by management to staff are subject to the requirements of DAO (DFP) 05/03.

Leasing

62. Prior Departmental approval must be secured for all property and finance leases. The Agency must have capital provision for finance leases and other transactions which are, in substance, borrowing (paragraph 34 above).
63. Before entering into any lease (including an operating lease) the Agency shall demonstrate that the lease offers better value for money than purchase.

Public/Private Partnerships

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

Subsidiary companies and joint ventures

66. The Agency shall not establish subsidiary companies or joint ventures without the express approval of the Department and DoF. In judging such proposals, the Department will have regard to the Department's wider strategic aims, objectives and contribution to current Public Service Agreement.
67. For public expenditure accounts purposes, any subsidiary company or joint venture controlled or owned by the Agency shall be consolidated with it in accordance with guidance in the FREM subject to any particular treatment required by FREM. Where the judgement over the level of control is difficult, the Department will consult DoF (who may need to consult with the Office of National Statistics over national accounts treatment). Unless specifically agreed with the Department 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 investments

68. The Agency shall not make any investments in traded financial instruments without the prior written approval of the Department, and where appropriate DoF, nor shall it build up cash balances or net assets in excess of what is required for operational purposes. *[Unless specifically provided for]*. 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 Agency shall equally be subject to Departmental and DoF approval unless covered by a specific delegation.

Unconventional financing

69. The Agency shall not enter into any unconventional financing arrangement without the approval of the Department and DoF.

Commercial insurance

70. The Agency shall not take out any insurance without the prior approval of the Department 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.
71. In the case of a major loss or third-party claim, the Department shall liaise with the Agency about the circumstances in which an appropriate addition to budget out of the Department's funds and/or adjustment to the Agency's targets might be considered. The Department will liaise with DoF Supply where required in such cases.

Payment/Credit Cards

72. The Agency, in consultation with the Department, 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

73. The Agency, in consultation with the Department, 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

74. The Agency shall adhere to guidance issued by DoF, as well as any produced by the Department, in relation to the Use of Consultants. Please see the delegated limits set out in Appendix A.

75. The Agency shall send to the Department, quarterly and at ad hoc intervals, where it proves necessary, an update to and a list of all additional external consultancies which have been entered into.

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

78. The Agency shall maintain an accurate and up-to-date register of its fixed assets.

Disposal of assets

79. The Agency 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 the Department), and in accordance with the principles in MPMNI.
80. All receipts derived from the sale of assets (including grant financed assets, see below) must be declared to the Department, which will consult with DoF on the appropriate treatment.

Recovery of grant-financed assets

81. Where the Agency has financed expenditure on capital assets by a third party, the Agency shall set conditions and make appropriate arrangements to ensure that any such assets individually above a value of £1,000 are not disposed of by the third party without the Agency's prior consent.
82. The Agency 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 the Department.
83. The Agency shall ensure that if the assets, created by grants made by the Agency, 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 Agency for surrender to the Department. The amounts recoverable under the procedures in paragraphs 81 - 82 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

84. Each year, in the light of decisions by the Department on the Agency's corporate plan (Section 5.1 of the *Management Statement*), the Department will send to the Agency:
- a formal statement of the annual budgetary provision allocated by the Department in the light of competing priorities across the Department and of any forecast income approved by the Department; and
 - a statement of any planned change in policies affecting the Agency.
85. The Agency'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 the Departmental funding and/or other income over the year. These elements will form part of the approved business plan for the year in question (See section 5.2 of the *Management Statement*).
86. Any grant-in-aid provided by the Department for the year in question will be voted in the Department's Estimate and will be subject to Assembly control.

General conditions for authority to spend

87. Once the Agency's budget has been approved by the Department [and subject to any restrictions imposed by Statute/the Minister/this MSFM], the Agency shall have authority to incur expenditure approved in the budget without further reference to the Department, on the following conditions:
- the Agency shall comply with the delegations set out in Appendix A of this document. These delegations shall not be altered without the prior agreement of the sponsor Department and DoF;
 - the Agency 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 the Agency's budget shall not remove the need to seek formal Departmental (and, where necessary, DoF) approval where such proposed expenditure is above the delegated limits as set out in Appendix A, or is for new schemes not previously agreed;
 - the Agency shall provide the Department with such information about its operations, performance, individual projects or other expenditure as the Department may reasonably require (see paragraph 88 below); and

- The Agency shall comply with NI Procurement Policy and carry out procurement via CPD or another recognised CoPE.

Providing monitoring information to the Department

88. The Agency shall provide the Department with, as a minimum, information on a monthly basis which will enable the satisfactory monitoring by the Department of:
- the Agency'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

89. The Agency's Accounting Officer is responsible for ensuring that the Agency'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.
90. He/she 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 the Department's Accounting Officer to enable the latter to satisfy his/her own responsibilities (See Section 4.2 of the *Management Statement*);
 - the Agency'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

91. The Agency 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;
 - *Government 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/OFMDFM) including Procurement Board and CPD Guidance;
 - Specific instructions and guidance issued by the Department; and
 - 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 Agency.

X. REVIEW OF FINANCIAL MEMORANDUM

92. The *Management Statement* and *Financial Memorandum* will normally be reviewed at least every five years or following a review of the Agency's functions as provided for in Section 8 of the *Management Statement*.
93. DoF Supply will be consulted on any significant variation proposed to the *Management Statement* and *Financial Memorandum*.

Signed: 
LRA Accounting Officer

Date: 7 October 2019

On behalf of the Agency

Signed: 

Date: 7 October 2019

On behalf of the Department

DELEGATED EXPENDITURE LIMITS

[NOTE: This section is a GUIDE to what may be included in a delegated limits appendix. It should be amended as necessary for the Body in question, except for Table 1 which has been agreed centrally by Central Procurement Directorate, DoF.]

General

These delegated expenditure limits have been agreed by the Department and the Department of Finance.

1. PURCHASING ALL GOODS AND SERVICES

Table 1 Delegated Authority for the Purchase of Goods and Services
(All costs exclude VAT)

THRESHOLDS	PROCEDURE	AUTHORISATION
Up to £5,000	Must demonstrate that value for money has been secured ² .	The Chief Executive or the appropriate officer as notified to the Department.
£5,000 to £30,000	A minimum of two tenders invited by the Chief Executive in accordance with a Service Level Agreement (SLA) with a CoPE.	The Chief Executive

² Purchases under £5,000 will be classified as procurement expenditure but they are not subject to the full range of procurement rules. All purchases below £5,000 are subject to normal value for money considerations and must be in compliance with Managing Public Money Northern Ireland. A price check with at least two suppliers must be carried out to ensure value for money has been achieved. Price checks should be documented and retained on file for audit purposes.

£30,000 to £50,000	Advertise on eSourcingNI. Tender process must be conducted in line with Procurement Guidance Note 05/12: procurement of goods, works and services over £30,000 and below EU thresholds.	The Chief Executive
£50,000 < EU Thresholds	Advertise on eSourcingNI. Tender process must be conducted in line with Procurement Guidance Note 05/12: procurement of goods, works and services over £30,000 and below EU thresholds.	The Chief Executive with prior approval from the Department.

Economic Appraisal

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 Agency should undertake a comprehensive business case of all projects involving expenditure of £500,000 and over.

Where the minimum number of quotation/tenders is not obtained

For any purchase or contract where the minimum number of quotations/tenders was not obtained, the Agency 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 and the Agency's Director of Corporate Services for approval and noting on file. 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 £50,000. Capital projects over this amount require the approval of the Department, and may be subject to quality assurance by the Department of Finance if requested.

Any novel and/or potentially contentious projects, regardless of the amount of expenditure, require the approvals of the Department and DoF.

3. DISPOSAL OF SURPLUS EQUIPMENT

The Agency should regularly review its assets and appropriately dispose of any surplus identified.

Normally, where assets acquired, improved or created by the use of Government grants are disposed of, the proceeds, or an appropriate proportion of proceeds, if the grant accounted for less than the whole cost of acquisition, improvement or creation, should be surrendered to the Department.

However, for the purposes of accounting, the Agency may consider any proceeds arising from the disposal of assets as 'receipts', to be reinvested in the work of the Agency in accordance with Section 3, paragraph 7, of this Memorandum.

4. LEASE AND RENTAL AGREEMENTS

The Agency shall consult the Department at the earliest opportunity prior to negotiating a lease or rental agreement, and shall seek the approval of the Department's Accounting Officer prior to completing a lease or rental agreement.

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 *Successful Delivery (NI)* guidance which was issued in June 2009.

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 <https://www.finance-ni.gov.uk/publications/procurement-guidance-note-0109-best-practice-programme-and-project-management>) 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 1. Delegated authority for each IT project is set out in Table 2.

Table 2 Delegation Arrangements for Information Technology Projects, Systems and Equipment

(All costs exclude VAT)

[NOTE: The Agency and the Department may wish to have fewer or more thresholds, with different authorisation requirements, than those suggested in this sample table]

THRESHOLDS	AUTHORISATION
Up to £50,000	The Chief Executive
Projects over £50,000	The Chief Executive, plus advice and prior approval from the Department.

6. ENGAGEMENT OF CONSULTANTS

General

The Agency has authority to appoint consultants for a **single contract** without recourse to the Department up to a **total** cost of £10,000, and subject to any guidance as may be issued by DoF or the Department.

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. Refer to FD (DoF) 08/17 for guidance.

7. LOSSES AND SPECIAL PAYMENTS

The Chief Executive, with prior approval from the Department, will have the authority to write off losses and make special payments up to £3,000 in the categories specified below, subject to an aggregate of £10,000 in any financial year.

- (a) Cash losses.
- (b) Stores/Equipment losses.
- (c) Constructive losses and fruitless payments.
- (d) Compensation payments
 - i. Made under legal obligation, e.g. by Court Order plus reasonable expenses
 - ii. For damage to personal property of staff
 - iii. Where written legal advice is that the Agency should not fight a court action because it is unlikely that it would win.
- (e) Claims abandoned or waiver of claim.
- (f) Extra contractual payments.
- (g) Ex gratia payments.

Pensions payments are not covered by this threshold.

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

Where total losses exceed £10,000 in any financial year, an explanatory note should be included in the Agency'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, with the prior approval of the Department.

The Agency should consult the Department (which may in turn contact the Department of Finance) if it identifies losses and write-offs (irrespective of any delegated authorities or the amount of money concerned) which are found to:

- involve important questions of principle;
- raise doubts about the effectiveness of existing systems;
- contain lessons which might be of wider interest;
- are novel or contentious;
- might create a precedent for other Departments in similar circumstances;
- or
- arise because of obscure or ambiguous instructions issued centrally.