

**MANAGEMENT STATEMENT
AND FINANCIAL MEMORANDUM**

Between

Department for Infrastructure

And

Northern Ireland Water Limited (NIW)

Effective from 19 January 2017

Revised 24 April 2019

Management Statement and Financial Memorandum – NIW

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Definitions

The Alpha Subsidiaries means NI Water Clear Limited, Dalriada Water Holdings Limited, Dalriada Water Limited and NI Water Alpha Limited

NIW Ltd means Northern Ireland Water Ltd (“the parent company”)

NIW or the Group means Northern Ireland Water Limited and its subsidiary organisations

The Department means the Department for Infrastructure

The Order means The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I 2006 No.3336 (N.I. 21))

The Board means the board of NI Water Ltd

The Company means Northern Ireland Water Ltd

DoF means the Department of Finance

NDPB means Non Departmental Public Body

Minister means Minister of the Department for Infrastructure

Group Chief Executive means the most senior executive official of NIW

Group Accounting Officer means the Accounting Officer for NIW Ltd and its subsidiary companies

IFRS means International Financial Reporting Standards

MPMNI means Managing Public Money NI

CPANI means Commissioner for Public Appointments NI

PAU means Public Appointments Unit

Alpha PPP Contracts means the Common Terms Agreement, the Project Agreement, the Principal Sub Contract and the Facility Agreement together with related agreements and documents.

PSIAS means Public Sector Internal Audit Standards

PGN means Procurement Guidance Note

Part 1 - Management Statement

1. INTRODUCTION

1.1 *This Document*

- 1.1.1 This Management Statement and the Financial Memorandum included in Part 2 (known together as the MSFM) have been drawn up by the Department for Infrastructure (DfI) in consultation with Northern Ireland Water (NIW).
- 1.1.2 For the purposes of this MSFM NIW Ltd refers to Northern Ireland Water Ltd ("the parent company") and NIW means Northern Ireland Water Ltd and its subsidiary companies, NI Water Clear Ltd, Dalriada Water Holdings Ltd, Dalriada Water Ltd and NI Water Alpha Ltd.
- 1.1.3 The Management Statement sets out the broad framework within which NIW will operate and the associated Financial Memorandum sets out in greater detail certain aspects of the financial provisions which the Group will observe. This document sets out the broad framework within which NIW will operate, in particular:
- NIW's overall aims, objectives and targets in support of the Department's wider strategic aims and the outcomes and targets contained in the current Programme for Government (PfG);
 - the rules and guidelines relevant to the exercise of NIW's functions, duties and powers;
 - the conditions under which any public funds are paid to NIW; and
 - how NIW is to be held to account for its performance.
- 1.1.4 The MSFM replaces the Governance Letters previously issued to NIW by DfI and supersedes all previous versions of the MSFM. The MSFM is issued to NIW under Article 213(5)(b) of the Order which enables the Department to subject grants made in respect of the "initial period" (under Article 213(3) of the Order) to such conditions as the Department, with the approval of the Department of Finance (DoF), determines. This MSFM sets out the principles underpinning the relationship between NIW and DfI as Shareholder. It covers both the rights of the Shareholder and the guidelines by which those rights will be exercised.

- 1.1.5 The MSFM should be read in conjunction with the legal framework as set out in the Memorandum and Articles of Association, the Companies Act 2006 and other relevant legislation and law governing limited companies, and within the regulatory framework in which NIW operates. This document is intended to outline how the provisions of these documents and the NIW/Shareholder relationship works in practice.
- 1.1.6 The terms and conditions set out in the MSFM may be supplemented by guidelines or directions issued by the Department/Minister in respect of the exercise of any individual functions, powers and duties of NIW subject to Article 295 limitations. While NIW may propose amendments to this document at any time, the Department will determine what changes, if any, are to be incorporated in the document. Significant variations to the document will be cleared with DoF Supply after consultation with NIW, as appropriate. (The definition of “significant” will be determined by DfI in consultation with DoF).
- 1.1.7 A copy of the MSFM should be given to all newly appointed Board members of the Group, senior NIW executive staff and Departmental sponsor staff on appointment. Additionally, the MSFM should be tabled for the information of all Board members of the Group at least annually at a full meeting of each Board. Amendments made to the MSFM should also be brought to the attention of the Board members of the Group on a timely basis.
- 1.1.8 The document will be periodically reviewed by the Department (Section 19 below refers). This current version has been reviewed as at 1st April 2019.
- 1.1.9 The MSFM is approved by DoF Supply, and signed and dated by the relevant DfI Official and the Group Chief Executive Officer.
- 1.1.10 Any question regarding the interpretation of the document will be resolved by the Department after consultation with NIW and, as necessary, with DoF Supply.
- 1.1.11 Copies of this document and any subsequent substantive amendments will be placed in the Library of the Assembly. (Copies will also be made available to members of the public on NIW’s website – <http://www.niwater.com>).

1.2 Shareholder Principles

- 1.2.1 While there is still a formal Shareholder/Company relationship in place, the on-going level of government subsidy in lieu of domestic charges and the reclassification of NIW Ltd and its subsidiaries as Non Departmental Public Bodies (NDPB) for public expenditure (PE) purposes, have required different governance arrangements to be put in place other than

what was originally intended at this point in time. As a result NIW's commercial freedoms will be restricted by the constraints of the PE system. This document outlines how this works in practice.

- 1.2.2 High-level Shareholder Objectives have been agreed between DfI and NIW.
- 1.2.3 The term "Shareholder" is used interchangeably to refer to the Minister and the Department.

1.3 Founding Legislation; Status

- 1.3.1 NIW Ltd was established through the Water and Sewerage Services (NI) Order 2006 as a government owned company (GoCo) limited by shares, and the Company was appointed as the water and sewerage undertaker under Articles 13, 18 and 19 of the Order. The constitution of NIW Ltd and its subsidiary organisations is set out in each Company's Articles of Association. While they are classified as NDPBs, NIW Ltd and its subsidiary companies do not carry out their functions on behalf of the Crown.

1.4 The Functions, Duties and Powers of NIW

- 1.4.1 The functions, duties and powers of NIW Ltd as water and sewerage services undertaker for NI, are provided for by the Water and Sewerage Services (Northern Ireland) Order 2006.

1.5 PE Classification

- 1.5.1 NIW Ltd and its subsidiaries are classified as NDPBs for PE and national accounts, administration and policy purposes.
- 1.5.2 For Public Expenditure Accounts purposes, any subsidiary company or joint venture controlled or owned by NIW Ltd shall be consolidated with it in accordance with IFRS and HM Treasury Consolidated budgeting guidance.
- 1.5.3 References to NIW include NIW Ltd and 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 will be a document setting out the arrangements between subsidiaries and NIW Ltd.
- 1.5.4 Unless specifically agreed with the Department for Infrastructure, all such subsidiary companies and 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.

2 AIMS, OBJECTIVES AND TARGETS

2.1 Overall Aims

2.1.1 NIW will continue to contribute to the health and well-being of the community and the protection of the environment through the provision of modern, high quality water and sewerage services, at the most efficient cost. It will continue to focus on the provision of services, operations, asset management planning and the delivery of upgraded assets to meet quality, service and efficiency targets. It will continue investment and transformation of its core activities and culture to develop a high quality, efficient, sustainable and valuable company for all its stakeholders – customers, employees, and taxpayers (as ultimate owners).

2.2 Objectives and Key Targets

2.2.1 The DfI Minister determines NIW's overall performance framework in the light of DfI's wider strategic aims and current PfG commitments and targets. This is reflected in the Social and Environmental Guidance.

2.2.2 Performance is measured against a suite of Key Performance Indicator (KPI) Targets. The KPI targets are monitored on an ongoing basis by DfI (mainly through the bi-annual Shareholder Meeting (SM) process and other working meetings between the Shareholder Unit and NIW Ltd), the Utility Regulator and the environmental regulators. Further performance measuring is undertaken by the Utility Regulator and the Environmental Regulators.

2.2.3 The most recent Minister has agreed the following objectives, key targets and performance measures: NI Water Ltd will seek to achieve such objectives insofar as is practicable while adhering to the Alpha PPP Contracts.

- deliver substantially better quality services more efficiently and at a lower cost;
- manage the business within the financial parameters agreed over the Price Control period and the budget set by the Executive;
- achieve the maximum affordable improvements in environmental compliance in both wastewater treatment and drinking water quality;
- enhance Shareholder value and provide returns in line with the settlement for the Price Control period; and
- strive to meet the aims of the Social and Environmental Guidance.

3 RESPONSIBILITIES AND ACCOUNTABILITY

3.1 *The Minister*

3.1.1 The Minister is accountable to the Assembly for the performance of NIW. His and the Department's responsibilities include:

- approving NIW's strategic objectives and the policy and performance framework within which the Group will operate;
- keeping the Assembly informed about NIW's performance;
- approving the NIW Annual Budget and Operating Plan; and
- carrying out responsibilities specified in the Order and Articles of Association including, for example, appointments to the Board (**Annex 1** refers), approving the terms and conditions of Board members and appointment of the Chief Executive, approval of terms and conditions of staff, and laying of the NIW Annual Report and Accounts before the Assembly.

3.2 *The Accounting Officer of the Sponsor Department*

3.2.1 The DfI Permanent Secretary, as the Department's principal Accounting Officer (the 'Departmental Accounting Officer'), is responsible for the overall organisation, management and staffing of DfI and for ensuring that there is a high standard of financial management in DfI as a whole. The Departmental Accounting Officer is accountable to the Assembly for the issue of any subsidy or loan notes to NIW Ltd and the receipt of interest and dividend payments from the Company. These issues impact on the DfI Estimates cover voted by the Assembly.

3.2.2 The Departmental Accounting Officer designates the Chief Executive of NIW Ltd as the NIW Accounting Officer, and may withdraw the Accounting Officer designation if he/she believes that the incumbent is no longer suitable for the role. Paragraph 3.6 below refers.

3.2.3 The Departmental Accounting Officer is responsible for ensuring that:

- NIW's strategic aims and objectives support the Department's wider strategic aims and current PfG commitments and targets;
- the financial and other management controls applied by the Department to NIW are appropriate and sufficient to safeguard public funds and for ensuring that NIW's compliance with those controls is effectively monitored ("public funds" include not only any funds granted by the Assembly but also any other funds falling within the stewardship of NIW);

- the internal controls applied by NIW conform to the requirements of regularity, propriety and good financial management;
- any subsidy and loan notes provided to NIW Ltd are within the ambit and the amount of the Request for Resources and that Assembly authority has been sought and given; and that
- NIW lives within its approved Resource and Capital Delegated Expenditure Limit (DEL) and Annually Managed Expenditure (AME) budgets in any year.

3.3 The Sponsoring Team in the Department

3.3.1 As noted in 1.2.1 above, the Shareholder Unit (SU) as part of the Water and Drainage Policy Division (WDPD) is the sponsor branch responsible for managing both the formal Shareholder relationship and the governance arrangements with NIW as well as formalising the¹ appointment and terms and conditions of the NIW Ltd Chair and Non-Executive Directors (**Annex 1**), and appointments to the boards of the subsidiary companies.

3.3.2 SU's role is to provide advice and recommendations to the Minister, the DfI Permanent Secretary and the DfI Board. The Unit is led by the Director for WDPD who has primary responsibility within the branch for overseeing the activities of NIW.

3.3.3 SU will advise the Minister on, for example:

- an appropriate framework of objectives and targets for NIW in the light of DfI's wider strategic aims and current PfG commitments and targets;
 - an appropriate budget for NIW in the light of DfI's overall PE priorities; and
 - how well NIW is achieving its strategic objectives and whether it is delivering value for money.
- 3.3.4 In support of the Minister and the Departmental Accounting Officer, SU will ensure that:

DfI's investment in NIW is being managed effectively

- Scrutinises and agrees the NIW Annual Budget and Operating Plan with the Board each year;

¹ The process for the appointment of the Chair and Non-Executive directors to the Board of NI Water Ltd (up to and including the Minister's selection of the successful applicant) is managed separately by the Department's Public Appointments Unit (PAU).

- Recognises the Chief Executive's Accounting Officer role, and that the Board is accountable to the Shareholder for delivering the agreed Plan (the Price Control (PC) settlement determined by the Utility Regulator) and its projected improvements in quality and serviceability, efficiency targets and financial performance; and
- Ensures that the Board complies with Managing Public Money NI (MPMNI), subject to the derogations in **Annex 2**, in delivery of the Plan within the guidelines in this letter, the financial delegations, the Memorandum and Articles of Association, the Licence and the funding documents.

NIW's performance is on track and its risk management is effective

- While NIW primarily reports to the Utility Regulator on performance, SU will monitor performance to be assured that the Plan is on track i.e. in any given year within a PC period, that the Group is living within the approved NIW Annual Budget and Operating Plan and achieving the agreed performance targets. In circumstances where the Plan is not on track, or where the Board and/or the Shareholder have identified new risks to the delivery of projected Plan outcomes, these will be raised with the Board/Shareholder so that the Board can produce an appropriate management strategy (to be agreed with the Utility Regulator and the Shareholder) to address the matters identified. The Shareholder will also have early sight of the NIW Governance Statement and will receive mid-year and end-year assurance statements from the Group in line with Dfl deadlines.
- Addresses in a timely manner any significant problems arising in NIW whether financial or otherwise, making such interventions in the affairs of the Group as the Department judges necessary to address such problems.
- Periodically carries out a risk assessment of NIW's activities to inform the Department's oversight of the Group; strengthen these arrangements if necessary; and amend this document accordingly. The risk assessment will take into account the nature of NIW's activities; the public monies at stake; its corporate governance arrangements; its financial performance; internal and external auditors' reports; the openness of communications between NIW and the Department; and any other relevant matters.

Communication with NIW is effective

- Informs NIW of relevant Executive policy changes to funding or relevant government accounting rules/guidance in a timely manner; if necessary, advises on the interpretation of that policy; and issues specific guidance to NIW as necessary. This does not preclude NIW from ensuring that it keeps abreast of any generally accessible changes in government guidance as soon as they issue.

- Brings concerns about the activities of NIW to the attention of the full Board, and requires explanations and assurances from the Board and NIW Accounting Officer that appropriate action has been taken.

3.4 The NIW Ltd Board

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

- establish the overall strategic direction of NIW within the policy and resources framework determined by the Minister and Department;
- constructively challenge NIW Ltd's executive committee in its planning, target-setting and delivery of performance;
- provide the NIW Group level oversight role for the subsidiaries' boards.
- ensure that Dfl is kept informed of any changes which are likely to impact on the strategic direction of NIW or on the attainability of its targets, 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, including adherence to the subsidy Memorandum of Understanding (MOU) and terms specified in debt documents; that the NIW Ltd Board operates within the limits of its statutory authority and any delegated authority agreed with the Department (as outlined in **Annex 3**), and in accordance with any other conditions relating to the use of public funds; and that, in reaching decisions, the NIW Ltd Board takes into account all relevant guidance issued by DoF and the Department;
- take appropriate measures to ensure that NIW at all times conducts its operations as economically, efficiently and effectively as possible, with full regard to the relevant legislative provisions and guidance contained in MPMNI;
- ensure that the NIW Ltd Board receives and reviews regular financial information concerning the management of NIW is informed in a timely manner about any concerns about the activities of NIW; and provides positive assurance to the 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 to help the NIW Ltd Board to address the key financial and other risks facing NIW and

- appoint, with the Minister's approval, a Chief Executive to NIW Ltd 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.
- Appoint with the Minister's approval, members to the boards of the subsidiaries.

3.4.2 Individual Board members of the Group will act in accordance with their wider responsibilities as members of a Board, namely to:

- comply at all times with all legislation including but not limited to Companies Legislation, the Licence (where appropriate), the UK Corporate Governance code and DAO (DFP) 06/13 Corporate Governance in Central Government Departments: Code of Good Practice NI 2013 (where appropriate) and with the rules and guidance relating to the use of public funds, conflicts of interest, and other wider responsibilities such as those set out in Health and Safety, Employment and Freedom of Information Legislation;
- not misuse information gained in the course of its public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote individual private interests or those of connected persons or organisations, and to declare publicly and to the relevant Board any private interests that may be perceived to conflict with a Board member's public duties;
- comply with NIW Ltd's rules on the acceptance of gifts and hospitality, and of business appointments; and
- act in good faith and in the best interests of NIW.

3.4.3 The Department will receive all NIW Board meeting minutes as soon as they have been agreed by the respective Board.

3.5 The Chair of NIW Ltd

3.5.1 As with other non-executive Board appointments, the Chair is appointed by the Minister following a recruitment competition regulated by the Commissioner for Public Appointments NI (CPANI) and carried out by DfI's Public Appointments Unit (PAU) in line with the CPANI Code of Practice. The appointment will last for four years and the appointee may be appointed for a second term, with the Minister's consent, in line with para 4.1 of the CPANI Code of Practice for Ministerial Appointments in Northern Ireland Version JL2 issued June 2016. SU will ratify the appointment and the terms and conditions associated with it. The DfI Public Appointments Unit organises and manages the appointment process taking advice from WDPD as necessary.

3.5.2 The Chair is responsible to the Minister and must ensure that NIW's policies and actions support the wider strategic policies of the Minister; and that the Group's affairs are conducted with probity. The Chair shares corporate responsibility with Board members, particularly for ensuring that NIW fulfils the aims and objectives set by the Department and approved by the Minister.

3.5.3 The Chair has a particular leadership responsibility which includes the following matters:

- formulating the Board's strategy;
- ensuring that the Board, in reaching decisions, takes proper account of guidance provided by the Minister or the 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 NIW Ltd 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.

3.5.4 The Chair will:

- 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, governance and reporting requirements of a regulated water company operating as a NDPB and on any differences which may exist between private and public sector practice;
- advise DfI of the needs of NIW when Board vacancies arise, with a view to ensuring a proper balance of professional, financial and governance expertise; and
- assess the performance of individual Board members. Board members will be subject to on-going performance appraisal, with a formal assessment being completed by the Chair at the end of each year and prior to any application in open competition for 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 they will have an opportunity to contribute to and view their appraisal report. The Chair will also be appraised on an annual basis by the Departmental Accounting

Officer or an official acting on his/her behalf, such as a Senior Non-Executive Director’;

- 3.5.5 The Chair will also ensure that a Code of Practice for all Board members is in place, based on “Codes of Conduct for Board Members of Public Bodies in Northern Ireland”, (FD (DFP) 04/14 refers). The Code commits the Chair and other Board members to the Nolan “seven principles of public life”, and includes a requirement for a comprehensive and publicly available register of Board members’ interests. The register should, as a minimum, list direct and indirect pecuniary interests which members of the public might reasonably think could influence Board members’ judgement. Board members are required to register pecuniary and non-pecuniary interests that relate closely to the relevant Board’s activities and interests.
- 3.5.6 Communications between the NIW Ltd Board, the Minister and DfI will normally be through the Chair. The Chair will ensure that the other Board members are kept informed of such communications on a timely basis. Nevertheless, an individual member has the right of access to the Minister on any matter which he/she believes raises important issues relating to his or her duties as a member of the NIW Ltd Board. In such cases, the agreement of the rest of the Board should normally be sought.

3.6 The Chief Executive’s role as Group Accounting Officer and Consolidation Officer for Whole of Government Accounts

- 3.6.1 The Chief Executive of NIW Ltd is designated as the NIW Ltd Accounting Officer by the Departmental Accounting Officer of DfI. In this role he/she 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 NIW.
- 3.6.2 The overall responsibilities of the NIW Ltd Accounting Officer are outlined in the NIW Chief Executive Designation Letter. The responsibilities of Accounting Officers are set out in Chapter 3 of MPMNI. The NIW Chief Executive is therefore expected to adhere to the principles of MPMNI, which set out the duties of an Accounting Officer as being responsible for safeguarding public funds, ensuring that they are applied only to the purposes for which they were voted and, more generally, for efficient and economical administration.
- 3.6.3 As Group Accounting Officer, the Chief Executive will exercise the following responsibilities:

On planning and monitoring

- Establish, in agreement with the Utility Regulator, the Department and other relevant stakeholders, NIW's Plan and, each year within the Plan, NIW's Annual Budget and Operating Plan in support of DfI's wider strategic aims and current PfG commitments and targets;
- Inform the Department of progress in helping to achieve DfI's policy 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 the Department; that the Department is notified promptly if there is any risk of over spends or under spends 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 Department, and the Departmental Accounting Officer if appropriate, in a timely fashion.
- Ensure that a Report on Performance and current issues facing the Group is included in the six monthly Shareholder Monitoring pack.
- Participate in bi-monthly stock-take meetings with the DfI Deputy Secretary.

On advising the Boards of NIW and its subsidiaries

- Advise the Boards on the discharge of their responsibilities as set out in the Water and Sewerage Services (Northern Ireland) Order 2006, the Licence and in any other relevant instructions and guidance that may be issued from time to time by DoF or the Department;
- Advise the Boards on NIW's performance compared with its aims and objectives;
- Ensure that financial considerations are taken fully into account by the Boards at all stages in reaching and executing their decisions, and that standard financial appraisal techniques are followed appropriately; and
- Subject to relevant Companies Legislation, take action in line with Section 3.8 of MPMNI if any NIW Board member, or the Chair, 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 Utilities Contracts Regulations (2006) and DoF Central Procurement guidance NIW must be able to defend any deviation from the latter.
- Ensure that all public funds made available to NIW (including any income or other receipts) are used for the purpose intended by the Assembly, and that such monies, together with NIW's assets, equipment and staff resources, are used economically, efficiently and effectively;
- Ensure that adequate internal management and financial controls are maintained by NIW, 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; and
- Ensure that effective personnel management policies are maintained.

On accounting for NIW's Activities

- Sign the NIW Ltd, and NI Water subsidiary companies, annual report and accounts and be responsible for ensuring that proper records are kept relating to the accounts and that the annual report and accounts are properly prepared and presented in accordance with the Companies Act 2006, International Financial Reporting Standards (IFRS), the Regulatory Accounting Guidelines, any directions issued by the Minister, the Department, or DoF as applicable to NIW;
- Sign a Governance Statement regarding the NIW's system of internal control for inclusion in the annual report and accounts;
- Ensure that effective procedures for handling complaints about NIW are established and made widely known within the Group
- Act in accordance with the terms of this document and with the relevant Companies Legislation, IFRS, Regulatory Accounting Guidelines, MPMNI, 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 18 of this document refers to other key guidance;

- Give evidence, normally with the Departmental Accounting Officer, if summoned before the Public Accounts Committee on the use and stewardship of public funds by NIW;
- Ensure that regard is given to equality matters;
- Ensure that Lifetime Opportunities is taken into account; and
- Ensure compliance with the requirements of the Data Protection Act 1998 and the Freedom of Information Act 2000.

3.6.4 As NIW Consolidation Officer for Whole of Government Accounts, the Chief Executive will be personally responsible for preparing the consolidation information which sets out the financial results and position of NIW, for arranging its audit and for sending the information and the audit report to the Principal Consolidation Officer nominated by DoF.

3.6.5 As Consolidation Officer, the Chief Executive will comply with the requirements of the Consolidation Officer Memorandum as issued by DoF, in particular:

- ensure that NIW has in place and maintains a set 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 issued by DoF on the form, manner and timetable for the delivery of such information.

3.7 Delegation of Duties

3.7.1 The Chief Executive may delegate the day-to-day administration of an Accounting Officer's responsibilities to other employees in NIW. However, the Accounting Officer will not assign absolutely to any other person any of the responsibilities set out in this document.

3.8 The Chief Executive's Role as Principal Officer for Complaints

3.8.1 The Chief Executive of NIW Ltd is the Principal Officer for handling complaints against the organisation in the first instance. The Utility Regulator is responsible for investigating complaints against NIW under Articles 30, 35 and 243 of the Order, while the Consumer Council for Northern Ireland ("the Consumer Council") has a statutory role to investigate consumer complaints under Article 55 of the Order.

3.8.2 The Chief Executive of NIW Ltd is the Principal Officer for handling cases involving the Consumer Council. As Principal Officer, the Chief Executive will report to the Department (through the monthly NIW Ltd Board report), the number of Stage II complaints.

3.9 The role of the Finance Director/Director of Finance and Regulation

3.9.1 The role of the Finance Director is set out in Annex A.4.1 of MPMNI.

3.10 Consulting Customers

3.10.1 NIW Ltd will work in partnership with its stakeholders and customers to deliver the services/programmes, for which it has responsibility, to agreed standards set by the Utility Regulator. It will consult regularly to develop a clear understanding of the needs and expectations of its customers and to seek feedback from both stakeholders and customers in order to deliver a modern, accessible service.

3.10.2 A programme of stakeholder engagement is in place with customer representatives including the Consumer Council. Quarterly customer satisfaction surveys are undertaken by an independent third party to assist in monitoring and improving customer service.

4 PLANNING, BUDGETING AND CONTROL

The Department shall avoid conditions in terms of planning, budgeting and control that would or could lead to the Alpha Subsidiaries being in breach of any of the Project Alpha PPP Contracts

4.1 The NIW Plan (the NIW Corporate Plan set under Price Determination (PC))

4.1.1 Consistent with the timetable for the Plan set by the Utility Regulator, NIW will submit to the Department a draft of its updated Plan covering the years specified within the PC period. NIW will have agreed with the Department the issues to be addressed in the plan and the timetable for its preparation.

4.1.2 The NIW Ltd Board is responsible for developing a draft Plan to secure the success of NIW and to deliver agreed performance objectives in conjunction with the Utility Regulator and the Department.

- 4.1.3 The Plan will reflect NIW's statutory and regulatory duties and, within those duties, the priorities set from time to time by the Minister. In particular, the Plan will demonstrate how NIW contributes to the achievement of DfI's strategic aims and PfG commitments and targets.
- 4.1.4 The Plan will outline:
- NIW's key objectives and associated key performance targets for the PC period, and its strategy for achieving those objectives;
 - a review of NIW's performance in the present PC period and an estimate of performance in the upcoming PC period;
 - 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 income and expenditure, taking account of guidance on resource assumptions and policies provided by the Department at the beginning of the planning round (these forecasts should represent NIW's best estimate of all its available income); and
 - other matters as agreed between the Utility Regulator, the Department and NIW.
- 4.1.5 The main elements of the Plan, including the key performance targets, will be agreed between the Utility Regulator, DfI, NIEA, the Drinking Water Inspectorate (DWI), the Consumer Council and NIW in the light of the DfI's decisions on policy and resources taken in the context of the Executive's wider policy and spending priorities and decisions.
- 4.1.6 The primary focus of the Plan as determined by the Utility Regulator and approved by the Minister, and the subsequent reviews, will be the future business success of NIW, the value sustained and created for the Shareholder and the risks involved in achieving this. Approval will be based on a professional assessment of the strategic, quality/serviceability, and financial and operational performance merits of the Plan.
- 4.1.7 The specific KPIs on which the health of the business is to be judged will be derived from the Plan and will be regularly monitored to inform discussions between the Board and the Shareholder.
- 4.1.8 Arrangements have been put in place, following discussion between NIW, the Shareholder and the economic and environmental regulators, to cover any proposed changes to the Plan, both operationally and in terms of financing, as required as part of the annual review process. Such arrangements will be in accordance with the terms of the MOU and Consequent Written Agreement which exist between DfI and the Utility Regulator to address variations within a year, and the associated

approval process. NIW's Financial Delegations Policy provides the approval process for individual items of expenditure.

- 4.1.9 NIW will publish a summary version of the Plan on its website. The full Plan is available on the Utility Regulator's website www.uregni.gov.uk.

4.2 The NIW Annual Budget and Operating Plan

- 4.2.1 Subject to PE budget allocations, each year of the Plan will form the basis of the NIW Annual Budget and Operating Plan for the relevant forthcoming year. The NIW Annual Budget and Operating Plan will include key targets and milestones for the forthcoming year and will be accompanied by budgeting information so that resources allocated to achieve specific objectives can readily be identified by the Department.

- 4.2.2 The Shareholder will approve the NIW Annual Budget and Operating Plan. It reflects a more detailed articulation (including monthly and quarterly estimates of phasing) of NIW's proposed actions and expected quality, operational and financial performance for the year ahead. It is expected that the NIW Annual Budget and Operating Plan approval process will usually be conducted in the quarter preceding the commencement of the relevant financial year.

- 4.2.3 Following scrutiny by SU, the NIW Annual Budget and Operating Plan is formally approved, subject to any conditions (if required) by the Minister.

4.3 Reporting Performance to Dfl (Annex 4 refers)

- 4.3.1 NIW will 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 Plan and, in any given year, in its NIW Annual Budget and Operating Plan.

- 4.3.2 NIW is required to inform the Department about any external factors that could impact on the achievement of the Plan or the NIW Annual Budget and Operating Plan or which may require a change to the budget or objectives as set out in the Plan or the NIW Annual Budget and Operating Plan.

- 4.3.3 NIW's performance in helping to deliver Departmental policies, including the achievement of key objectives, will be reported to Dfl on a monthly basis. Performance will be formally reviewed quarterly by Dfl officials.

Monitoring Forums

- 4.3.4 The SU will scrutinise NIW through a series of high and working level meetings and processes. The main forum for monitoring the NIW's performance is the six-monthly Shareholder Meeting (SM) which is attended by NIW Ltd Board members and Senior Officials from the Department/representatives of the Shareholder. The SM is chaired by the DfI Permanent Secretary or his/her Deputy.
- 4.3.5 These meetings will be strategically focused and forward looking and provide a formal context for the Shareholder to challenge the Chair, CEO and other NIW Ltd Board members on the Company's progress in addressing its key strategic challenges etc.
- 4.3.6 The NIW Chair and CEO will brief the Minister on its performance on an annual basis following publication of the Annual Report and Accounts.

4.4 Budgeting Procedures

- 4.4.1 Section 15 below refers.
- 4.4.2 NIW will hold an initial planning meeting with SU in October of each year.
- 4.4.3 NIW will share a first draft with the WSU in mid-January for consideration and discussion.
- 4.4.4 Further meetings will be organised as required leading up to NIW's submission of a final draft to the Department by the end of February.
- 4.4.5 Following further scrutiny, WSU will seek the Minister's approval to enable the Minister to convey approval (with conditions or otherwise) to NIW in advance of the new financial year.
- 4.4.6 The process outlined above may be affected by the timetable for the Executive Budget, in which case NIW and WDPD will maintain close contact in order for an appropriate timeframe to be agreed for obtaining Ministerial Approval.

4.5 Internal Audit

- 4.5.1 NIW has established and maintains arrangements for internal audit in accordance with the Public Sector Internal Audit Standards (PSIAS) (DAO (DoF) 02/17 refers). An in-house internal audit team has been recruited for this purpose.
- 4.5.2 The Department has taken account of DAO (DFP) 01/10 "Internal Audit Arrangements between Departments and Arm's Length Bodies". As a result DfI requires NIW to:

- facilitate the Department's input to NIW's planned internal audit coverage;
- ensure that NIW's Internal Audit Strategy and Annual Plans are prepared on a risk based approach;
- consult with WSU on the above documents to ensure that shared assurance requirements are built into the plans where required;
- have arrangements in place for the sharing of audit reports on a timely basis and no later than two weeks after they are cleared by the NIW Audit Committee;
- provide DfI with copies of the final version of the NIW Audit Strategy, Audit Plans, Audit Committee Internal Audit Progress reports and the Internal Auditors Annual Report including the Head of Internal Audit's opinion on risk management, control and governance on a timely basis;
- have arrangements in place for the completion of Internal and External Assessments of NIW's Internal Audit function against PSIAS (the Department reserves a right of access to carry out its own independent reviews of NIW's Internal Audit function) ; and
- ensure that the Department has the right of access to all documents prepared by and for NIW's Internal Audit.

4.5.3 NIW will consult the Department to ensure that it is satisfied with the competence and qualifications of the NIW Head of Internal Audit and that the requirements for approving the appointment are in accordance with PSIAS and relevant DoF guidance.

4.5.4 The Department will review NIW's terms of reference/charter for internal audit service provision. NIW will notify the Department of any subsequent changes to NIW's Internal Audit's terms of reference/charter.

4.6. The Audit Committee

4.6.1 The NIW Audit Committee will operate in accordance with the Audit and Risk Assurance Committee Handbook (NI) DAO (DFP) 05/14 insofar as it is consistent with the Boards responsibilities under the Companies Legislation as opposed to the 'advisory Board' framework. It is noted that the NIW Audit Committee will report to the Board as distinct from the Accounting Officer. This should in no way undermine the role of the Accounting Officer as outlined in MPMNI. NIW must be able to defend any other deviations from the Companies Legislation.

4.6.2 The department will attend all NIW Audit Committee Meetings as an observer, and all papers and Internal Audit reports will be shared with SU in a timely manner.

4.6.3 The department will have access to the minutes of all Audit Committee Meetings. NIW will ensure that the minutes provide a full and comprehensive record of discussions and decisions made.

4.6.4 Where appropriate, any information requested from the NIW Audit Committee by the Dfl Audit Committee will be provided in a timely manner.

4.7 *Fraud and Whistleblowing*

4.7.1 NIW will report immediately to the Department all frauds (proven or suspected), including attempted fraud. The Department will then report the frauds immediately to DoF and the Comptroller and Auditor General (C&AG). NIW will also report all fraud related Whistleblowing allegations and proposed actions to the Department in line with the Whistleblowing policy and DAO (DFP) 02/15 (Whistleblowing Guidance). NIW will provide quarterly updates to WSU on the progress of fraud investigations and also advise when it is appropriate to close a fraud case. In addition, NIW will forward to the Department the annual fraud return, commissioned by DoF, on fraud and theft suffered by the Group..

4.7.2 The Department will periodically review NIW's Anti-Fraud Policy and Fraud Response Plan. NIW will notify the Department of any subsequent changes to the Policy or the Response Plan.

4.7.3 NIW will adhere with DAO (DFP) 06/11 (Managing the Risk of Fraud Guide).

4.8.0 *Additional Departmental Access to NIW*

4.8.1 In addition to the right of access referred to above, the Department will have a right of access to all NIW's records and personnel for purposes such as operational investigations and any purpose considered appropriate by Dfl.

5 EXTERNAL ACCOUNTABILITY

5.1 *The Annual Report and Accounts*

- 5.1.1 After the end of each financial year NIW will publish an Annual Report of its activities together with its audited annual statutory and regulatory accounts (the regulatory accounts may, with the permission of the Utility Regulator be published as a separate document from the Annual Report). The annual report will represent the consolidated ' NIW Group' accounts. Individual subsidiary accounts will be prepared. A draft of the report/reports will be submitted to the Department at least two weeks before the proposed publication date although SU and NIW will have had extensive pre-publication discussion on the content of the report prior to formal submission to DfI. The report (including the separate publication of the Regulatory Accounts, if applicable) will be delivered to the Utility Regulator each year in accordance with Condition F of the Licence.
- 5.1.2 The Annual Report and Accounts will comply with Companies Legislation, the Regulatory Accounting Guidelines issued by the Water Services Regulation Authority insofar as these are relevant to the regulatory environment in Northern Ireland and Water Regulation (WR) letters issued by the Utility Regulator. Other relevant guidance, including that issued by DoF, will, where relevant, be applied.
- 5.1.3 The Annual Report and Accounts will outline NIW's main activities and performance during the previous financial year and set out in summary form NIW's forward plans. Information on performance against key financial targets will be included in the Annual Report, and will therefore be considered by the auditors for consistency with the accounts.
- 5.1.4 In accordance with Article 276 of the Water and Sewerage (NI) Order 2006, DfI will lay the Annual Report and Accounts in the Assembly, in accordance with the guidance on the procedures for presenting and laying the combined Annual Report and Accounts as prescribed in the relevant Finance Director letter issued by DoF. The date of laying will be dependent on the submission date of the regulatory accounts to the Utility Regulator as contained in the Licence.
- 5.1.5 Notwithstanding the requirements of the Licence, NIW will comply with all financial information requests made by the Department. NIW will work with the Department to provide draft Statutory Accounts and a draft Governance Statement for the purposes of the timetable imposed by the "DoF Faster Closing Initiative". NIW's internal management reporting is required to adhere to the submission date for accounting information as set out in Condition F of the Licence and relevant WR letters.
- 5.1.6 Due to the potential accounting and budgetary implications, any changes to accounting policies or significant estimation techniques underpinning the preparation of annual accounts will be discussed with the external auditors and will require prior consultation with DfI.

5.2 External Audit

5.2.1 NIW's accounts are audited by auditors appointed by the NIW Ltd Board subject to the SU's consent in accordance with Article 3.1(t) of the Articles of Association. The Auditors are responsible for the audited the consolidated accounts of the NI Water Group. The accounts of NIW will be open to the inspection of the C&AG. NIW will submit the audited accounts to DfI who are responsible for laying the accounts, together with the annual report, in the Assembly Library and in the Assembly. Where appropriate, DfI may commission from the external auditor additional reports if further assurance is required in relation to NIW's financial systems. NIW will facilitate the provision of such reports (for example assurance on subsidy claims).

5.3. *VFM Examinations*

5.3.1 The C&AG may carry out examinations into the economy, efficiency and effectiveness with which NIW 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, NIW 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 sub-contractors are likely to be involved, it should also be made clear that the requirements extend to them also.

6 CONFIDENTIALITY CLAUSES

6.1. *Seven Principles of Public Life*

As per 3.5.5, the NIW Boards are committed to the Nolan "Seven Principles of Public Life". As such, NIW must seek DfI and DoF approval prior to including confidentiality clauses in settlement agreements where NIW is in dispute with third parties (whether or not legal proceedings have actually issued) and is seeking to settle such disputes by agreement between the parties.

7. STAFF MANAGEMENT

7.1. *Employee Recruitment, Retention & Motivation*

Within the arrangements approved by the Minister and DoF, NIW will have responsibility for the recruitment, retention and motivation of its employees. To achieve this, NIW will ensure that:

- its rules for the recruitment and management of employees 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 levels and structure of its staffing, including grading and numbers of employees, are appropriate to its functions and the requirements of efficiency, effectiveness and economy;
- the performance of its employees at all levels is satisfactorily appraised and NIW's performance measurement systems are reviewed from time to time;
- its employees are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve NIW's objectives;
- proper consultation with employees and their respective Trade Unions 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 and DAO (DFP) 11/08 and DAO (DFP) 02/15 are in place; and
- code of ethics and gifts and hospitality policies are in place.

7 REVIEWING THE ROLE OF NIW

Reviews

The role and operation of NIW will be reviewed periodically, in accordance with the provisions of the Water and Sewerage Services (Northern Ireland) Order 2006 and the Licence.

Part 2 - Financial Memorandum

8 INTRODUCTION

- 8.1 MPMNI requires departments to put in place a clear framework of strategic controls for each sponsored body which is appropriate in the light of:
- the legislative relationship with the body;
 - the specific risks presented by its underlying business activities;
and
 - the level of government funding consumed.
- 8.2 This Financial Memorandum sets out certain aspects of the financial framework within which NIW is required to operate.

9 INCOME AND EXPENDITURE – GENERAL

9.1 The Departmental Expenditure Limit (DEL) & Annually Managed Expenditure (AME)

- 9.1.1 For NIW, the majority of its Resource and Capital expenditure forms part of the Department's Resource DEL and Capital DEL respectively.
- 9.1.2 In addition, the remaining elements of NIW expenditure are classified as AME.

9.2 *Expenditure not proposed in the Budget*

- 9.2.1 NIW will not, without prior written Departmental approval, enter into any undertaking to incur any expenditure which falls outside NIW's delegations or which is not provided for in the NIW Annual Budget and Operating Plan, as adjusted via the monitoring round process, and as approved by the Department.

9.3 *Procurement*

- 9.3.1 NIW is a Centre of Procurement Expertise (CoPE). NIW's procurement policies and procedures for the purchase of all capital works, goods and services will, as a utility company, comply with the Utilities Contracts Regulations (2006) (and subsequent replacements)

and DoF's Central Procurement guidance. NIW must be able to defend any deviation from the latter.

- 9.3.2 In the event that NIW requires a derogation from a PGN it will be required to submit all relevant information to the Department to enable WSU to secure the Dfl Accounting Officer's approval to the request.
- 9.3.3 NIW will provide procurement statistical information to Dfl in accordance with the requirements detailed in the Public Procurement Policy – Management Information Guide required deadlines. NIW will also monitor its performance on social inclusion clauses in construction contracts and provide 6 monthly progress reports to WDPD.
- 9.3.4 Periodic reviews of NIW's procurement activity should be undertaken in accordance with Condition F1 of the Licence. The results of any such review will be shared with the Department.
- 9.3.5 The Department will represent NIW's views to the Procurement Board and insofar as possible seek the NIW position for reporting.

9.4 *Competition*

- 9.4.1 NIW must be able to demonstrate clearly that contracts are placed on a competitive basis and tenders accepted from suppliers who provide best value for money overall.
- 9.4.2 NIW will comply with CPD and any related supplementary Dfl guidance on the "Award of Contracts without a Competition" (Direct Award Contracts² (DACs)). All DACs with a value exceeding £5K will be subject to NIW Accounting Officer approval, and all DACs with a value exceeding £50k will be subject to NIW Ltd Board approval, in accordance with agreed delegations. NIW will provide assurance for the Departmental Accounting Officer that the use of a DAC above £5k is legitimate and justified in a particular case (the delegation in **Annex 3** to this document refers) and in line with CPD Guidance. Further information is published in CPD Procurement Guidance Note 03/11 on the 'Award of Contracts without a Competition' (<http://www.cpdni.gov.uk/index/guidance-for-purchasers/guidance-notes.htm>).
- 9.4.3 NIW will send a report each month to Dfl listing DACs with a value exceeding of £5k and above awarded in the previous month and confirm that each award has been made in compliance with the Utilities Contracts Regulations (2006) (and subsequent replacements) and CPD Procurement Guidance Note 03/11.

² DACs are also known as Single Tender Actions (STAs) for the purpose of NIW's internal guidance.

9.5 Best Value for Money

- 9.5.1 Procurement by NIW of works, supplies and services will be based on best value for money, i.e. the optimum combination of whole life cost and quality (or fitness for purpose) to meet NIW's requirements. A proportionate economic appraisal or business case will always be carried out before procurement decisions are taken.

9.6 Timeliness in Paying Bills

- 10.6.1 NIW will pay all matured and properly authorised invoices in accordance with Annex 4.6 of MPMNI and guidance issued by DoF DAO (DFP) 04/13 or the sponsor Department. NIW will adhere to the Executive's prompt payment policy.

9.7 Novel, contentious or repercussive proposals

- 9.7.1 NIW will obtain the approval of the Department, and DoF, through WSU in respect of any matter which:

- incurs any expenditure for any purpose which is or might be considered novel or contentious, or which has or could have future cost implications, including on staff benefits;
- makes any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by Dfl; or
- makes 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.

- 9.7.2 Dfl will advise on what constitutes "significant" in this context.

9.8 Risk and Fraud Management

- 9.8.1 NIW will 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 will develop a risk management strategy, in accordance with HM Treasury's guidance "Management of Risk: A Strategic Overview" (The "Orange Book"). NIW will 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.
- 9.8.2 NIW will adopt and implement policies and practices to safeguard itself against fraud and theft, in line with DoF's guide "Managing the Risk of Fraud".

- 9.8.3 All cases of attempted, suspected or proven fraud shall be reported to WDPD who will arrange through Dfl Finance Division for the reporting of cases to DoF and the NIAO. All cases will be reported as soon as they are discovered, irrespective of the amount involved. Section 4.7 of the Management Statement refers.
- 9.8.4 SU is required to carry out a number of actions in relation to the monitoring and reporting of fraud and whistleblowing cases. These are set out in the Department's 'Anti-fraud policy and Fraud Response Plan' and 'Reporting Wrongdoing ('Whistleblowing') Policy and Procedures'. NIW is required to have in place Fraud Response Plans equivalent to the Department's Plan and is required to report frauds to WSU promptly; and to provide any information that the Department may require in accordance with the processes [and timelines] set out in Annex A of the 'Anti-Fraud Policy and Fraud Response Plan'.

9.9 Wider Markets

- 9.9.1 In accordance with the wider markets policy NIW will seek to maximise receipts from non-Consolidated Fund sources, provided that this is consistent with NIW's main functions and its Plan as agreed with the Department and the Utility Regulator. Dfl will confirm with the DoF Supply Officer that such proposed activity is appropriate.

9.10 Fees and Charges

- 9.10.1 Fees or charges for any services supplied by NIW will be determined in accordance with conditions B and D of the Licence and set out in the NIW annual Charges Scheme.

10. INCOME

10.1 Grant-in-Aid

- 10.1.1 This section is not applicable to NIW.

10.2 Subsidy

- 10.2.1 Any Government subsidy provided for in the Legislation, the Licence, the Plan and, in any given year in the Plan period, the NIW Annual Operating Plan and Budget will be paid to NIW in accordance with the subsidy MOU. In this context, the Board is responsible for ensuring, and subsequently assuring Dfl as paying authority as required, that the Company's subsidy amounts have been determined in accordance with the subsidy MOU.
- 10.2.2 NIW should have regard to the general principle enshrined in Annex 5.1 of MPMNI that it should seek subsidy and loan draw-downs according to need.

10.2.3 Whilst recognising the PPP Project agreement regarding specific cash balances to be held in the subsidiaries, NIW should ensure cash balances accumulated during the course of the year will be kept at the minimum level consistent with the efficient operation of the Group.

10.3 *Fines and taxes as receipts*

10.3.1 This section is not applicable to NIW.

10.4 *Receipts from sale of goods or services*

10.4.1 Receipts from the sale of goods and services (including certain licences), rent of land and dividends normally provide additional DEL spending power. If NIW wishes to retain a receipt or utilise an increase in the level of receipts from outside the Group, it must gain the prior approval of the Department unless expressly specified by the Department. NIW will work with the Department to manage any pressures on DEL caused by forecasted land sales being more or less than anticipated. Section 14.2 below refers.

10.4.2 If there is any doubt about the correct classification of a receipt, NIW will consult the Department, which may consult DoF as necessary.

10.4.3 NIW will also adhere to the requirements within Condition K of the Licence relating to Ring Fencing and Disposals of Land. The materiality amount in the Licence is £500,000. In the case of a disposal to an associated company, materiality is set at £250,000.

10.5 *Interest Earned*

10.5.1 As agreed with the Department, NIW Group may earn interest on Group cash balances. Such interest may be retained by the Group to potentially finance additional expenditure by NIW and its subsidiaries if the necessary budget cover is in place.

10.6 *Un-forecast changes in In-Year Income*

10.6.1 Un-forecast changes in in-year income will be managed in accordance with the provisions of the MOU between the Department and the Utility Regulator. Such income may only be retained by the Company to potentially finance additional expenditure if the necessary budget cover is in place.

10.7 *Build-up and draw down of Bank Deposits*

10.7.1 NIW must ensure that it has the necessary budget provision for any expenditure financed by the draw-down of bank deposits.

10.8 *Proceeds from Disposal of Assets*

10.8.1 Disposals of land and buildings are dealt with in Section 14 below.

10.9 Gifts and Bequests Received

10.9.1 Subject to the delegation noted in Annex 3 to this document, NIW will comply with DAO 10/06 (and update 09/09).

10.10 Financial Gains/Claw backs

10.10.1 In advance of any agreements being signed-up to, and not withstanding condition K of the Licence, NIW will provide the Department with full details of all agreements where NIW or its successors have a right to share in the financial gains of developers and it will also pass to DfI details of any other planned forms of claw back due to NIW. This is important as such arrangements could have a PE budgetary impact.

10.11 Borrowing

10.11.1 NIW Ltd borrowing requirements are satisfied by drawing down on facilities provided by DfI and only DfI (DfI facilities include NIW Ltd accessing Northern Bank (trading as Danske Bank) banking facilities in accordance with the terms of the debt facilities agreed between NIW Ltd and DfI or as otherwise agreed with the Department). Borrowing facilities will be made available to NIW Ltd in accordance with the relevant Debt Documents entered into between DfI and the company. NIW Ltd's Board is responsible for ensuring, and subsequently assuring DfI as lender as required, that all borrowings are drawn down and serviced in accordance with the terms specified in the debt documents. NIW should seek to service any inherited bank borrowings as a result of "Project Alpha" in accordance with external bank's requirements.

10.11.2 NIW must ensure that it has the necessary budget provision for any expenditure financed by borrowing.

10.11.3 The terms and conditions of NI Water "Project Alpha" subsidiaries borrowings with external banks are outlined in PPP Project Alpha agreements. Acceptance of external borrowings was agreed as part of the requirements of the purchase of "Project Alpha"

10.12 New Borrowings facilities

10.12.1 NIW must not enter into any debt funding arrangements without the express approval of DfI and DoF as borrowing scores gross in budgets and requires DEL budget cover in all cases.

10.12.2 Intercompany borrowings is permitted between the group companies subject to para 11.11.2. Any new borrowings for Group companies must be approved by DfI.

10.13 Existing Borrowing facilities

10.13.1 Subject to NIW Ltd having appropriate budget provision in place (under the Debt documents entered into by NIW and Dfl) NIW Ltd has the following borrowing facilities in place:

- £1.28bn Capital Loan Note instrument effective to 31 March 2016;
- £600m Capital Loan Note instrument in effect to 31 March 2021; and a
- £20m Working Capital Facility

10.13.2 The Capital Loan Note instruments provide long-term funding based on capital expenditure incurred by the Company. Borrowings taken on this facility commit NIW to long-term borrowings. The Company is required to pay interest on the terms stated in the Instrument Agreements or as agreed between Dfl and NIW Ltd.

10.13.3 The Working Capital Facility provides short-term funding to meet NIW Ltd's working capital requirements and operates as an overdraft facility. This is purely linked to the timing of cash payments and has no DEL or AME budgetary impact.

10.13.4 The Dfl has obtained DoF's approval to provide the £20m working capital facility and the use of the capital loan note facility to 31 March 2021. It has been agreed that the capital loan note may be used to facilitate emergencies. The Dfl has also obtained DoF's approval in principle to the subsidy agreement being amended to deal with emergencies.

10.13.5 Alpha PPP companies third party borrowings are outlined in the Alpha PPP Contracts. Any variation to the terms and conditions of the banking arrangements must be approved by DFI.

11 EXPENDITURE ON STAFF

11.1 Staff Costs

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

11.2 Pay and Conditions of Service

11.2.1 The staff of NIW, whether on permanent or temporary contract, will be subject to levels of remuneration and terms and conditions of service (including pension) as approved by NIW, the Department and DoF.

11.2.2 NIW will be required to submit a Pay Remit in accordance with Executive policy each year for approval by Dfl and DoF (FD (DFP) 08/14 for 2014/15). The Trade Unions and where appropriate the

- Department and DoF will be consulted in relation to any proposed changes to the terms and conditions.
- 11.2.3 Subject to the Executive's pay policy, NIW Ltd will operate a performance related pay scheme which will form part of the Pay Remit submitted for approval to the Department and DoF. The Alpha PPP companies currently operate an annual incentive plan and performance pay scheme.
- 11.2.4 Current terms and conditions for staff of NIW are those set out in the relevant Employee handbook and other existing collective agreements or written terms and conditions
- 11.2.5 The travel expenses of Non-Executive Board Members will be no more than the Civil Service mileage and subsistence rates.
- 11.2.6 NIW is required to comply with the Executive's policy on senior executive's remuneration, and obtain the required DfI and DoF approval.
- 11.2.7 NIW will comply with the EU directive on contract workers (Fixed Term Employees Regulations (Prevention of Less Favourable Treatment)).

11.3 Pensions; Redundancy/Compensation

- 11.3.1 The NIW pension scheme (the 'Scheme') is a separate legal entity with NIW having the role of "Principal Employer". The Scheme was set up with a benefits structure which was a 'mirror image' of the Civil Service Scheme in April 2007. Following the acquisition of Kelda Water Services' holdings in a number of companies, Northern Ireland Water Alpha Limited was admitted as an associated employer to the Scheme in March 2018 to provide access to a defined benefit pension arrangement for four individuals. The four individuals were admitted to the Scheme on special terms with service counting from 19 November 2017
- 11.3.2 Any proposal to pay any redundancy or compensation for loss of office in relation to a Board Member requires the approval of the Department and DoF. Any new arrangements must be approved by DoF. Redundancy payments in line with Terms and Conditions do not require DfI approval.
- 11.3.3 Given the ongoing level of public subsidy being paid to NIW as the Principal Employer, the Trustees must take account of Executive policy in managing the Scheme or in proposing any changes to the Terms and Conditions. If required, they should liaise with the Department through WSU. The NIW Board is required to notify the Trustees where

there are changes in Executive policy and/or changes to Terms and Conditions.

12 NON STAFF EXPENDITURE

12.1 *Economic Appraisal*

- 12.1.1 NIW 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 proportionately applied irrespective of whether the relevant PE or resources:
- involve Resource or Capital spending, or both;
 - are large or small; or
 - are above or below the delegated limits (see Annex 3).
- 12.1.2 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.
- 12.1.3 General guidance on economic appraisal (also applying to NIW) is as follows:
- DoF's online guide "The Northern Ireland Guide to Expenditure Appraisal and Evaluation" ("NIGEAE"). <http://www.finance-ni.gov.uk/eag>; and
- 12.1.4 Departmental guidance (DAO (DFP) 06/12) requires a database to be maintained containing details of all expenditure projects. NIW maintains a full record of projects on its Capital Programme Monitoring and Reporting system and DfI is satisfied that the information included on this system fulfils the obligations outlined in DAO (DFP) 06/12.
- 12.1.5 Commensurate Post Project Evaluations should be completed for all projects, policies and programmes undertaken. They should be completed in accordance with the principles set out in NIGEAE and provide lessons learnt that should be shared within the organisation and if required with DfI. NIW will adhere to DAO (DFP) 06/12 in respect of Post Project Evaluation requirements.

12.2 Capital Expenditure

- 12.2.1 NIW capital expenditure is funded out of the Department's DEL and NIW must ensure that it manages its capital budget in order to avoid any significant under/over spends at year-end given the current lack of end-year flexibility.
- 12.2.2 In cash terms, the NIW capital budget is primarily funded through a combination of loans drawn down from the Department and any build-up of cash via the subsidy or non-domestic income. Regardless of cash source, capital spend is limited to the level of the PE budget allocation for the Group in any year.
- 12.2.3 Subject to being above an agreed capitalisation threshold, all expenditure on the acquisition or creation of fixed assets will be capitalised on an accruals basis in accordance with relevant accounting standards. Expenditure to be capitalised will 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. NIW has developed internal guidance on capitalisation which is available on the NIW intranet.
- 12.2.4 Proposals for large-scale individual capital projects or acquisitions will be considered as part of the process to agree or review the Plan and, in any year within the Plan, the NIW Annual Budget and Operating Plan in conjunction with the Utility Regulator, the environmental regulators and DfI. Applications for approval within the Plan or, in any year within the NIW Annual Budget and Operating Plan will 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 will be submitted to the Department.
- 12.2.5 Approval of the Plan or, in any year within the Plan, NIW's Annual Budget and Operating Plan, does not obviate NIW's responsibility to abide by the economic appraisal process.
- 12.2.6 Subject to the constraints of the Plan or, in any year within the Plan, NIW's Annual Budget and Operating Plan, NIW will, as indicated in Annex 3 to this document, have delegated authority to spend specified amounts on any individual capital project or acquisition. Beyond those delegated limits, DfI/DoF prior approval must be obtained before expenditure on an individual project or acquisition is incurred.
- 12.2.7 Where the main contract within a capital project has not started, and it becomes likely that project timings, costs or specifications breach the relevant tolerance limits from that for which approval was originally granted, the project must be re-appraised and the necessary approvals

sought. Expenditure must not be incurred until relevant Dfl/DoF approvals have been obtained. NIW has authority to operate within existing contractual arrangements as long as any DEL/AME Budget impacts have been agreed with the Department in advance.

- 12.2.8 Where the main contract within a capital project has started and changes or extensions to the project are required, NIW will balance the potential for contractual penalties for stopping work on site against the need to seek prior approval from Dfl for such changes or extensions. In such circumstances, NIW will inform and seek approval from Dfl. Where it is not possible to obtain immediate approval, NIW will inform Dfl at the next available opportunity. This does not override the delegated authority levels for capital projects set out in **Annex 3**
- 12.2.9 With regard to projects that have not started, at the start of each PC period, NIW will revisit all capital projects in the programme and resubmit AOs/A1s for those that are now out of scope, time, or costs.

12.3 Transfer of Funds within Budgets

- 12.3.1 NIW will comply with the requirements of HM Treasury Consolidated Budgeting Guidance. In general, transfers between budgets within NIW's total capital budget, or between budgets within NIW's total revenue budget, do not need Departmental approval. However, an 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 DoF approval. Transfers from capital to resource budgets and from resource to capital budgets are only allowable subject to Executive approval.

12.4 Lending, guarantees, indemnities; contingent liabilities; letters of comfort

Subject to the arrangements already in place under the Alpha PPP Contracts

- 12.4.1 NIW will 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).

12.5 Grant or Loan Schemes

- 12.5.1 Unless covered by a delegated authority, all proposals by NIW 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 will be subject to prior approval by Dfl and where necessary DoF. If grants or loans are to be made under a continuing scheme, statutory authority is likely to be required.
- 12.5.2 The terms and conditions of a grant or loan to a third party will 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 NIW, Dfl and the C&AG.
- 12.5.3 See also below under the heading Recovery of Grant-Financed Assets (paragraph 14.3).

12.6 Gifts made, Write-offs, Losses and other Special Payments

- 12.6.1 Proposals for making gifts or other special payments (including issuing write-offs) outside the delegated limits set out in Annex 3 to this document must have the prior approval of the Department and where necessary DoF.
- 12.6.2 Losses will not be written-off until all reasonable attempts to make a recovery have been made and proved unsuccessful.
- 12.6.3 Gifts by management to staff are subject to the requirements of DAO (DFP) 05/03.

12.7 Leasing

- 12.7.1 Subject to NIW assuring the value for money principle is achieved (see 12.7.2) Departmental approval is not required for leases other than those which fall outside the delegations listed in Annex 3. NIW must have Capital DEL provision for finance leases and other transactions which are, in substance, borrowing and which could have a Capital DEL impact.
- 12.7.2 Before entering into any lease (including an operating lease), NIW will demonstrate that the lease offers better value for money than purchase.

12.8 Public/Private Partnerships

- 12.8.1 While NIW will seek opportunities to enter into Public/Private Partnerships where this offers better value for money than

conventional procurement, it must obtain DfI/DoF approval in advance in line with the delegation in Annex 3 to this document.

- 12.8.2 Any partnership controlled by NIW will be treated as part of NIW in accordance with IFRS and Regulatory Accounting Guidelines. Where the judgment over the level of control is difficult the Department will consult DoF (who may need to consult with ONS over national accounts treatment).

12.9 *Working with others*

New Services

- 12.9.1 This would normally relate to Central Government Departments only. Specific Assembly consent (via WSU) is required if NIW requires to engage in any new services unrelated to its normal business. Further guidance is available in Chapter 2 and Annex A.6.1 of MPMNI.

Spare capacity

- 12.9.2 In accordance with Condition K of the Licence, NIW is obliged to limit its land and property holdings to the minimum required for the performance of its present, and clearly foreseen, responsibilities and adopt best practice in disposal of property. In identifying and declaring land surplus for disposal, NIW must ensure that such disposal will not have an adverse impact on current or future provision of water and sewerage services. NIW must keep its land holdings under continual review with a view to disposing of surplus land with the least possible delay, taking account of:

- the need to achieve best price and full value;
- prevailing property and financial market conditions; and
- professional property advice from its advisors.

- 12.9.3 Section 14 below refers to the budgetary implications/constraints to be considered in this context.

Subsidiary companies and joint ventures:

- 12.9.4 NIW will not establish subsidiary companies or joint ventures without the express approval of the Department and DoF.
- 12.9.5 For PE accounts purposes any subsidiary company or joint venture controlled or owned by NIW Ltd will be consolidated with it in accordance with IFRS and Regulatory Accounting Guidelines. The Accounting Policy will be determined by the Directors and reviewed by the External Auditors. Where the judgment over the level of control is difficult, the Department will consult DoF (who may need to consult with ONS over national accounts treatment). Unless specifically agreed with the Department and DoF, such subsidiary companies or joint

ventures will be subject to the controls and requirements set out in this document, and to the further provisions set out in supporting documentation.

Shared services

12.9.6 If relevant, to maximize value for money in the use of public funds, NIW should consider sharing services with other public funded bodies where:

- responsibilities overlap;
- where both operate in the same geographical areas or with the same client groups (arrangements loosely categorised as joined-up government); or
- where both share a common services or a common building.

Such arrangements offer opportunities to reduce costs overall while each party plays to its strengths.

12.9.7 Further guidance on working with others is contained in Chapter 7 of MPMNI.

12.10. Financial Investments

12.10.1 NIW will not make any investments in traded financial instruments without the prior written approval of the Department, and where appropriate DoF. Investments in equity shares in ventures which further the objectives of NIW will equally be subject to Departmental and DoF approval unless covered by a specific delegation.

12.11 Unconventional Financing

12.11.1 NIW will not enter into any unconventional financing arrangement without the approval of the Department and DoF.

12.12 Commercial Insurance

12.12.1 As NIW does not have access to government resources in the event of a large claim, nor has it Crown Immunity, NIW is required to carry its own public liability risk and supplements this with additional insurance, to minimise its exposure to excessive claim settlements. The Company will adhere to the principles outlined in FD (DFP) 16/11. NIW's insurance programme should be designed to minimise the cost of risk through a combination of risk transfer and risk treatment. NIW will review its insurances in consultation with its insurance brokers and seek NIW Ltd Board approval as appropriate to the renewal premiums. NIW will advise DfI of the insurance cover in place when required.

12.13 Payment / Credit Cards

12.13.1 NIW currently uses company payment or credit cards (excepting fuel cards) for company purchases. This facility is provided for in the borrowing facility agreements between the Department and NIW. Where this facility is implemented, in consultation with the Department, NIW will ensure that a comprehensive set of guidelines on the use of payment cards (including credit cards) is in accordance with DAO (DFP) 24/02.

12.14 Hospitality

12.14.1 NIW, in consultation with the Department, will ensure that a comprehensive set of guidelines on the provision of hospitality is in place. NIW's Policy Document should take account of DAO (DFP) 10/06 (Revised), FD (DFP) 19/09 subject to delegations outlined in Annex 3.

12.15 Use of Consultants

12.15.1 NIW Group will adhere to the guidance issued by the Department in relation to the Use of Professional Services including External

Consultants FD (DFP) 07/12. Delegated limits set out in Annex 3 of this document refer.

- 12.15.2 NIW will ensure that anything that falls within the agreed definition of "external consultancy" must be approved by the Minister and is subject to the delegated limit outlined in Annex 3.
- 12.15.3 On a quarterly and annual basis, NIW will provide the Department with standard Use of External Consultancy returns or additional information on external consultancy, if requested, within reasonable timeframes agreed between the Department and NIW. To facilitate such returns NIW will utilise the standard departmental monitoring template.
- 12.15.4 Care should always be taken to avoid actual, potential, or perceived conflicts of interest when employing consultants.

13 MANAGEMENT AND DISPOSAL OF FIXED ASSETS

13.1 Register of Assets

- 13.1.1 NIW will maintain accurate and up-to-date registers of fixed assets under IFRS (Statutory Accounting) and UK GAAP (Regulatory Accounting).

13.2 Disposal of Assets

- 13.2.1 Subject to paragraphs 13.2.2-13.2.3 below, NIW will dispose of assets that are surplus to its requirements. Assets will be sold for best price, taking into account any costs of sale. Generally assets will be sold by auction or competitive tender unless otherwise agreed by the Department, and in accordance with the principles in MPMNI and Condition K of the Licence. Condition K requires NIW to obtain the Utility Regulator's approval to dispose of land valued at more than £500k.
- 13.2.2 In the context of the current governance arrangements, NIW cannot benefit from the proceeds of sale of assets unless appropriate budgetary (DEL) cover is secured in advance. NIW must therefore ensure that it has the correct budget DEL cover in advance in order to be able to score and make use of those receipts. Under PE rules, income receipts from the sale of properties are split between Net Book Values (NBVs) and profit/loss on disposal. In budgeting terms, assuming there is DEL cover for any anticipated receipts, NIW will only be able to retain and utilise the NBV of any capital asset sale as an addition to its Capital budget. Any profit would have to be surrendered as a reduced requirement through the monitoring round process and any loss would have a negative DEL impact against the Resource budget.

13.2.3 NIW should only plan to retain monies that it knows can be spent in the relevant year to avoid any significant year-end under spend.

13.3 Recovery of Grant-Financed Assets

13.3.1 This section is not applicable to NIW.

14 BUDGETING PROCEDURES

14.1 Setting the NIW Group Annual Operating Plan and Budget

14.1.1 Section 4.2 above refers.

14.1.2 NIW will normally hold an initial planning meeting with WSU/WDPD in October of each year.

14.1.3 NIW will normally share a first draft with the SU in mid-January for consideration and discussion.

14.1.4 Further meetings will be organised as required leading up to NIW's submission of a final draft to the Department by the end of February.

14.1.5 Following further scrutiny, SU will seek the Minister's approval to enable the Minister to convey approval (conditionally or otherwise) normally in advance of the new financial year.

14.2 General Conditions for Authority to Spend

14.2.1. Once NIW's Annual Budget and Operating Plan has been approved by the Minister, subject to any restrictions or conditionality imposed by Statute, the Executive, the Minister, the Utility Regulator and NIW own financial delegations, NIW will be required to manage its Resource (Opex) and Capital (Capex) spend (DEL and AME) to avoid any overspend or significant under spends at financial year-end.

14.2.2 NIW will also manage the drawdown of cash from the Department through the subsidy and loans arrangements as voted by the Assembly through the Estimates process.

14.3 Providing monitoring information to the sponsor Department

14.3.1 Section 4.3 above and Annex 4 to this document refer.

14.3.2 As a minimum NIW Group will provide the Department with information on a monthly basis that will enable the Department to satisfactorily monitor:

- NIW's cash management;

- its draw down of any subsidy or loan notes;
- the expenditure for that month;
- forecast outturn by resource headings; and
- other data required for the DoF Outturn and Forecast Outturn Returns (e.g. dividend and interest).

14.3.3 In addition, NIW:

- will notify DfI as early as possible if there is any risk of a significant year-end over or under spend against budget; and
- may seek to amend its budget during the course of a financial year in the light of changing circumstances by engaging with the Department at in-year monitoring rounds.

14.3.4 The following information is required as part of the wider government reporting and budgeting process (i.e. it will not normally form part of the Shareholder monitoring process). This is consistent with existing arrangements between DfI and NIW and includes the following:

- Capital DEL, Resource DEL and other information required for PE and Departmental budget purposes – budget and actual information to be provided in accordance with Departmental budget timetable and requirements;
- monthly expenditure reporting and
- forecast outturn against PE lines by the 5th last working day of the month to facilitate the monthly reports to DoF;
- timely inputs to in-year monitoring rounds, capital (Net Lend) re-profiling, updates to capital commitments;
- timely inputs to all DfI/NI Civil Service financial exercises, the timetable for which is normally conveyed as part of the NIW Annual Operating Plan and Budget approval process;
- Investment Strategy NI updates as required;
- retention of documentation relating to EU programmes for audit inspection (NIW will need to retain EU files and make them available for access for some time to come (documentation in respect of the 2000-2006 programme will need to be retained until at least 2015)); and
- Monthly management accounts of NI Water Group.
- Other ad hoc returns as requested.

15 BANKING

15.1 Banking Arrangements

Subject to the arrangements already in place and approved under the Alpha PPP

15.1.1 NIW's Accounting Officer is responsible for ensuring that the banking arrangements for the Group are in accordance with the requirements of Annex 5.7 of MPMNI or as otherwise agreed with the Department, and if necessary DoF. In particular, he/she will ensure that the arrangements safeguard public funds and that their implementation ensures efficiency, economy and effectiveness and comply with PPP contract requirements re external funders.

15.1.2 He/she will ensure that:

- the arrangements are suitably structured and represent value for money in safeguarding public funds;
- where transactional banking arrangements are obtained other than through the NICS CPD contract for banking services that they 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 him/her to satisfy his/her own responsibilities (Section 3.2 of the Management Statement);
- NIW's banking arrangements will 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.

16 DIVIDEND POLICY

Subject to the terms of the Alpha PPP contracts

16.1 One of the Executive's primary objectives is for the NIW Ltd Board to manage DfI's investment in NIW for long-term sustainable value and returns. This includes the setting of specific expectations for the level of interest and dividends as part of the process leading to the determination of the Plan by the Utility Regulator. Within these Plans it should be assumed that all dividends are paid out of in-year profits, with some normal margin of retained profit in all years to provide NIW with the potential for financial flexibility and to reduce the risk of non-payment of any dividend if it becomes self-financing in the future. Once the Company is self-financing, there will be a requirement for a

mechanism to be put in place linked to actual payment of dividends compared to the agreed Plan within any incentive scheme for the NIW Ltd Board.

- 16.2 The process of declaring and paying a dividend requires a Board to consider their fiduciary responsibilities and the solvency of the relevant business. These conditions apply as normal to NIW.
- 16.3 NIW is required to declare a dividend following the completion of its Annual Report and Accounts and provide SU with a written resolution as agreed by the NIW Ltd Board. The timing of the payment of the dividend will be agreed by NIW and SU/WDPD.

17 COMPLIANCE WITH INSTRUCTIONS AND GUIDANCE

The Department will accommodate the provisions of the Alpha PPP contracts when applying instructions and guidance.

17.1 Relevant Documents

NIW will comply with the following (subject to any deviations identified within this document):

- relevant legislation e.g. Companies Act 2006;
- the Licence granted to NIW by DfI on 23 March 2007 as modified by the Utility Regulator;
- this document (both the Management Statement and the Financial Memorandum);
- Memorandum of Understanding between the DfI and the Utility Regulator (November 2010) including the subsequent written agreement;
- Regulatory Accounting Guidelines issued by the Water Services Regulation Authority insofar as these are relevant to the regulatory environment in Northern Ireland and WR letters issued by the Utility Regulator;
- IFRS issued by the International Accounting Standards Board;
- the Accounting Officer Letter;
- MPMNI (30 June 2008) & Annexes (4 January 2013), memo to Accounting Officers (1 December 2010) issued by DFP, subject to the derogations listed in Annex 2;
- Financial Reporting Council's "UK Corporate Governance Code" (April 2016);

- Financial Reporting Council's Reporting Statement "Operating and Financial Review" (January 2006);
- Financial Reporting Council's "Guidance on Board Effectiveness" (March 2011);
- Financial Reporting Council's "Guidance on Audit Committees" (April 2016);
- Financial Reporting Council's "Guidance on Risk Management, Internal Control and Financial and Business Reporting" (September 2014);
- Financial Reporting Council's "Boards and Risk" (September 2011);
- other relevant guidance from Financial Reporting Council;
- DAO (DFP) 06/13 Corporate Governance in Central Government Departments: Code of Good Practice NI 2013;
- "Public Bodies: A Guide for NI Departments" (November 2010) issued by DoF;
- NIGEAE;
- HM Treasury's The Orange Book - Management of Risk - Principles and Concepts October 2004;
- "Public Sector Internal Audit Standards" (PSIAS) 2016 DAO (DFP) 06/16;
- the document "Managing the Risk of Fraud" (December 2011) and "Annual Theft and Fraud Report" (February 2013) 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" (November 2004) issued by HM Treasury;
- "Audit and Risk Assurance Committee Handbook (NI)" (March 2014);
- other relevant instructions and guidance issued by the central Departments (DoF/The Executive Office (TEO)) including Procurement Board and CPD Guidance;
- relevant Northern Ireland Audit Office and National Audit Office Reports;
- specific instructions and guidance issued by the sponsor 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 NIW.

18 REVIEW OF MSFM

- 18.1 The MSFM will normally be reviewed at least every three years or following a review of the NIW's functions as provided for in Section 8 of the Management Statement. It will also need to be reviewed if there is any change to the Executive's policy on charging which may lead to a change of status.
- 18.2 DoF Supply will be consulted on any significant variation proposed to either the Management Statement or the Financial Memorandum.

Signed: 

Date: 20/12/19

On behalf of NI Water Limited

Signed: 

Date: 10/1/2020

On behalf of Department for Infrastructure

Appointment of NIW Board Members and Remuneration

The Board members are appointed as follows:

- the Shareholder appoints the Chair and all other non-executive Board members and participates in and approves the appointment of all executive Directors to any NIW Board; and
- the Shareholder intends to utilise these rights against a shared view between the Shareholder and the Chair about NIW Ltd Board composition (including size, balance of experience and background) and succession. The NIW Ltd Board will ensure that suitably rigorous annual appraisals are made of the effectiveness of the Chair and the Board, in line with the requirements of good corporate governance. These appraisals/Board Effectiveness Reviews will be made available to the Shareholder and will inform discussions with the Chair on NIW Ltd Board composition. The scope of these reviews will be expanded to include the board members of NIW subsidiary companies and the senior management team to provide an additional channel for communication of the Board's assessment of the evolving and changing leadership resource requirements of NIW in the context of the challenging independent economic and environmental regulatory regime.
- The Shareholder also approves appointments to the board of the NIW Ltd subsidiary companies, NI Water Clear Ltd, Dalriada Water Ltd and NI Water Alpha Ltd.

The following steps outline how the Shareholder rights are manifested in relation to the NIW Ltd Board appointment process:

- the Shareholder and the Chair should agree the size, shape and balance of the NIW Ltd Board to reflect the experience and capability required oversee the organisation and to enable NIW to meet the Shareholder's objectives;
- DfI and the Chair will agree on NIW Ltd Board composition and any succession issues at least each year in the light of the requirements of the Plan and the future actual performance of NIW;
- in accordance with good corporate governance, and with Ministerial consent, the appointments process for non executive Board members should result in planned orderly rotation and avoid coterminous appointments where all non executive Board members' terms of appointment end at the same time;

- each year, the Chair will discuss with DfI any proposed changes to the NIW Ltd Board membership;
- DfI officials will meet with the Chair of the Nomination and Remuneration Committee or relevant non-executive Director as necessary to discuss any proposed NIW Ltd Board changes before they become subject to the formal consent procedure – this will include approving the necessary specifications for any additions to the NIW Ltd Board;
- The Department's Public Appointments Unit will manage the appointments process for non-executive Board members taking advice from the Shareholder Unit as and when required. (The Shareholder Unit will ratify and confirm the appointments of non-executive Board members after the competition has been completed and the Minister's decision has been made.) The selection panel for appointments to the NIW Ltd Board, will include the Chair, in line with the advice in the CPANI Code of Practice for Ministerial Public Appointments and will be established by PAU to conduct the short-listing and appointments process, making recommendations to the Minister who is responsible for approving non-executive Board appointments;
- the NIW Chair or relevant non-executive Director and the NIW Nomination and Remuneration Committee will manage the appointments process for NIW Ltd executive Board members in active consultation with and participation of the Shareholder Unit at all stages of the appointments process;
- a panel including a NIW representative and a senior DfI official will be established by NIW to conduct the short-listing and appointments process, making recommendations to the NIW Ltd Board who will in turn make a recommendation to the Minister who is responsible for approving executive Board appointments;
- the NIW Ltd Board will be responsible for conducting the recruitment process for non-Board level members of the NIW executive team, although it will keep WSU apprised in a timely manner of any such plans and activity; and

Appointment of non-executive Directors

- appointment of non-executive Directors is normally for a period of 4 years. A second term is not automatic however in line with the Code of Practice issued by the CPANI non-executive board member may be reappointed, with the Minister's consent, and may be considered subject to evidence of an appropriate standard of performance having been achieved during the initial period in office and evidence of continued adherence to the 7 principles of public life; and
- the appointment process of non-executive Directors is in line with the Code of Practice issued by the Commissioner for Public Appointments Northern Ireland (CPANI).

NIW Ltd Board Remuneration

- The Shareholder and DoF will retain approval rights for the reward arrangements for all Directors on the NIW Ltd Board, including incentive schemes for the Board. The Shareholder will retain approval rights over amendments to all other incentive schemes.
- In a normal Company/Shareholder relationship, the Shareholder's interest is primarily to ensure that remuneration levels and incentive schemes for the Board and senior management appropriately reflect the operational and commercial challenges facing NIW and as a result are sufficient to attract and motivate the high calibre individuals needed to drive the delivery of the Plan. However, the NIW Ltd Board must be mindful of the environment in which NIW is operating and therefore take account of the NI Executive's remuneration policy. The Shareholder is also interested to ensure that the principles underpinning other staff incentive schemes approved by the NIW Ltd Board are designed and implemented to reinforce the incentives agreed between the Board and the Shareholder for the NIW Ltd Board.
- However, as NIW Ltd and its subsidiaries continue to be classified as NDPBs, wider government pay policy will apply and NIW will be required to submit a Pay Remit in accordance with NI Executive policy each year for approval by DfI/DoF.
- It is recognised best practice that executive rewards be tied closely to performance. In the case of NIW, this will be measured by meeting a limited number of quality, operational and financial targets (both short and long term) related to the delivery of the Plan and as agreed on an annual basis. In agreeing salaries in the past, the Shareholder acknowledged the need to pay appropriate market rates for success but would consequently expect the Chair and non-executives to hold Directors and senior management to account for material failures in delivering the Plan.
- The NIW Nomination and Remuneration Committee or relevant non-executive Director will recommend proposals for NIW Ltd Board and Shareholder approval taking into account feedback from the Shareholder on business performance, the Board's assessment of business performance against the Plan, up-to-date remuneration market benchmarks and the constraints of public sector pay policy. The Chair of the Nomination and Remuneration Committee and the NIW Chair will discuss these proposals at an early stage with DfI. In approving incentive payments, the Shareholder may in exceptional circumstances approve the Nomination and Remuneration Committee or relevant non-executive Director exercising discretion to override a mechanical interpretation of performance against targets to allow for unexpected changes in factors outside management control (e.g. changes in Policy). Such discretion will only be exercised in consultation with the Nomination and Remuneration Committee or relevant non-executive Director and with the advance approval of the Shareholder.

Derogations from MPMNI

The arrangements are consistent with the DoF model document in most respects except where there are conflicts resulting from NIW's need to comply with the requirements of Companies Legislation. The key areas requiring change include the following:

- **Board** – NIW Ltd's Board ("the Board") and those of its subsidiaries, operate under the requirements of Companies Legislation as opposed to the 'advisory Board' framework operating within other parts of the public sector. NIW's Boards are therefore required to undertake their duties, functions and liabilities in accordance with the statutory requirements of Companies Legislation. Advisory Boards are not subject to these statutory requirements.
- **Board Sub-Committees** – The sub-committees of the Boards, and in particular the Audit Committee and the Risk Committee, are structured in the format that is consistent with the NIW Board responsibilities under the Companies Legislation as opposed to the 'advisory Board' framework.
- **Insurance** - NIW has insurance arrangements in place to manage the risks associated with the absence of Crown Immunity. NIW uses commercial insurance policies covering public and employer's liability. This is in addition to the limited circumstances envisaged under MPMNI under which commercial insurance would be used (e.g. vehicles under the Road Traffic Acts). Further details are provided under section 13.12 of the Financial Memorandum 'Commercial Insurance'.
- **Taxation** – NIW is subject to the tax regimes in force by HM Revenue and Customs. Corporation tax paid by the company is a building block in determining the tariffs levied on customers and subsidies received by NIW. The company therefore seeks to organise its tax arrangements in such a way as to legitimately mitigate the potential tax charge. MPMNI does not generally recommend the use of tax planning schemes for public sector bodies (not structured as companies) as apparent savings can only be made at the expense of other tax payers.
- **Loans** – part of the company's cash requirement to fund capital expenditure is facilitated through the draw-down of loans from DfI. This is part of the GoCo arrangements which continue to apply pending any formal change to the status of NIW.
- **Intercompany loans**- Intercompany loan arrangements are being established within the Group to manage working capital positions in the companies within the cash pooling arrangement. This is within the overall

- basis that any spend funding by the borrowing must be within the PE cover available for the spend.
- **Regulatory environment** – NIW, as a monopoly supplier of water and sewerage services, is, subject to economic regulation by the Utility Regulator. NIW is required to operate in accordance with its Instrument of Appointment – the ‘Licence’. This places considerable regulatory compliance requirements on the Company, adds complexity to the governance relationship with DfI, and requires close interaction between NIW, NIAUR and DfI.
 - **Subsidy** – While the Executive continues to defer the full introduction of a comprehensive water and sewerage charging regime, the Department pays customer bills on their behalf. This money is paid to NIW through annual subsidies under Article 213 of the 2006 Order. The basis upon which the subsidies are paid, the arrangements for payment and the amounts invoiced are met in the annual subsidy Memorandum of Understanding (MOU) which is between the Department and the Company.

FINANCIAL DELEGATIONS TO NIW

	£m
Capital Expenditure (including engineering consultant spend incurred after the project has received appropriate approval) ³	10.0
IT Projects	1.0
Direct Award Contracts ³ (DACs) (excluding Consultancy)	0.25
Land Disposal – In accordance with Licence Provisions (£0.25m in the case of disposals to Associated Companies)	0.5
Acquisitions or disposals (cost/proceeds)	2.5

The following areas will continue to require DfI / DoF approval:

- expenditure that could create pressures which could lead to a breach:
 - i. in DEL or AME;
 - ii. in administration cost limits, resource limits, capital limits and capital grant limits; and
 - iii. the Department's Estimates provision;
- expenditure that would entail contractual commitments to significant levels of spending in future years for which plans have not been set;
- expenditure which could set a potentially expensive precedent;
- all proposals to engage external consultants that fall within the agreed definition of "external consultancy", greater than the Executive set threshold of 10k, will require the prior approval of the Minister for Infrastructure;
- DoF approval will be required for all external consultant costs on individual projects expected to cost in excess of £75k;
- all PFI/PPP projects;
- all gifts in excess of £500 (a Register of Gifts should be maintained by NIW for all gifts in excess of £100 with approvals obtained in accordance with internal policies);

³ DACs are also known as Single Tender Actions (STAs) for the purpose of NIW's internal guidance
³ DOF confirmation 23rd September 2014

- Foreign Exchange transactions greater than £500k;
- consolatory payments over £500 (excluding any Guaranteed Standards Scheme compensation payments awarded by the Utility Regulator);
- waiving recovery of accumulated debtor balances in excess of £500k;
- write-offs in excess of £500k;
- claims waived or abandoned in excess of £100,000;
- extra-contractual and ex gratia payments in excess of £100,000;
- extra-statutory and extra-regulatory payments in excess of £100,000;
- certain private expenses of employees made necessary because of their public duties;
- compensation payments as follows:
 - individual compensation claims above £100,000 (except where under legal obligation);
 - individual compensation claims above £100,000 where the legal advice is that NIW will not win the case if contested in court; and
 - compensation payments for severance or inefficiency are calculated in accordance with scheme and terms and conditions. Any additional monies in excess of these calculations are deemed 'novel and contentious' and as such will require DfI/DoF approval.
- guarantees, indemnities or letters or general statements of comfort which could create a contingent liability;
- public statements which might imply a willingness on the part of the NIW to commit resources or incur expenditure beyond agreed levels;
- any policy or expenditure which could be considered either novel, contentious or repercussive, irrespective of size, requires DoF approval even if it appears to offer value for money taken in isolation. This includes non-standard payments in kind and unusual financing transactions, especially those with lasting commitments. NIW will obtain the approval of the Department, and DoF, through WSU in respect of any matter identified in the Articles of Association 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 DfI; 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.

Dfl will advise on what constitutes “significant” in this context.

- any case where the need for DoF approval has been overlooked should immediately be brought to DoF's attention.
- adherence to DoF/Dfl approvals requirements as set out in MPMNI A.4.10 “Losses and Write-offs” subject to the delegations noted above.
- All leases for office accommodation (including supplying storage and warehousing) both new and existing extension or renewal beyond breaking points.

Monitoring process

The following outlines the broad approach that the Shareholder intends to follow and the standard it expects NIW to achieve as its reporting systems continue to develop.

Performance Reporting

- (a) copies of the Board pack, KPIs and management accounts (P&L, BS and cash flow budget, actual and quarterly reforecast)
- (b) monitoring spend and performance in delivery of the agreed Capital Works Programme and projected outputs;
- (c) assessment against key strategic and transformation initiatives (including significant procurement / asset investment projects);
- (d) Six monthly Shareholder Meetings (SM) with NIW Ltd Board – meetings to be held bi-annually following the relevant Board meeting;
- (e) SM ground clearing meetings, two to be held in advance of each SM and two in remaining quarters;
- (f) Statutory accounts – draft statutory accounts to be submitted to DfI in line with the requirements of the DfI Faster Closing Strategy. Whole of Government Accounts consolidation pack to be submitted to DfI in accordance with the DoF timetable;
- (g) Regulatory Accounts – to be copied to DfI as they are submitted to the Utility Regulator;
- (h) Risk register and risk management action plan – copy of NIW's risk register and action plan to be provided on a quarterly basis;
- (i) The annual report of the Audit Committee to the NIW Ltd Board, including key findings from internal and external auditors – copied to the Shareholder annually once the Board has reviewed and agreed as final;
- (j) A quarterly Output Review Group (ORG) meeting is convened by WDPD to facilitate NIW's briefing for all stakeholders on the company's performance.

NIW will provide monthly and quarterly reports as required by the Shareholder. The format for the reports will continue to be developed in consultation with NIW.

The Corporate Governance Code 2016 requires the Departmental Board to monitor the performance of its Arms length Bodies. The Shareholder Unit will therefore provide Bi-annual reports to the Departmental Board (in November and June unless otherwise requested) on the performance monitoring of NI Water.

NIW audit arrangements

The Shareholder will be represented at the meetings of the NIW Audit Committee. All papers and internal audit reports should be shared with the Department.

The Chair of the NIW Audit Committee will meet with the DfI Senior Finance Director and the Director of the Water and Drainage Policy every six months.

NIW's Internal Audit Strategy and Annual Plans should be prepared on a risk based approach. The Shareholder should be consulted on these documents to ensure that shared assurance requirements are built into the plans where required.

This is consistent with DAO 11/12 which issued on 17 December 2012 (to come into force from 1 April 2013 onwards). The Shareholder will keep these arrangements under review in the event of any further recommendations in respect of internal audit arrangements in the context of departmental relationships with arm's length bodies.

The External Auditor's opinion contained in the NIW's Annual Report and Accounts should include an opinion on regularity. This is in addition to the requirements of the Companies Act 2006 and any other relevant legislation.

Departmental financial reporting, budgets and controls

The following information is required as part of the broader Government reporting and budgeting process (i.e. it will not normally form part of the Shareholder Monitoring process). This is consistent with existing arrangements between DfI and NIW.

Capital Departmental Expenditure Limits (DEL), Resource DEL and other information required for Public Expenditure and Departmental budget purposes – budget and actual information to be provided in accordance with Departmental budget timetable and requirements:

- i. Monthly expenditure reporting and forecast outturn against PE lines in order to facilitate monthly reports to DoF;
- ii. Timely inputs to in-year monitoring rounds, capital (net lend) re-profiling, updates to capital commitments;
- iii. Timely inputs to all DfI/NICS financial exercises, the timetable for which is normally conveyed as part of the budget approval process;
- iv. Updates to Investment Strategy Northern Ireland as required; and
- v. Retention of documentation relating to EU programmes for audit inspection. NIW will need to retain EU files and make them available for access for some time to come. Documentation in respect of the 2014-20 Programme will need to be retained until at least 2029.

General access to information

As a result of the Freedom of Information (FOI) Act, Environmental Information Regulations (EIR), and as a result of Government ownership, there may be ad hoc requirements for NIW to provide access to information as requested by the Shareholder. NIW will satisfy all such requests within a reasonable turn-around time. As a guiding principle, the Shareholder would not expect to answer FOI or AQ type questions on matters relating to NIW performance outside its Shareholder role. In the normal course of business, FOI/AQ type requests relating to business activities and operations would be passed to NIW to process and respond in the normal timescales. There may be exceptions to this principle, and these should be discussed with the Shareholder Unit and the NIW Ltd Board to avoid surprises and maintain transparency.

