

# **WATERWAYS IRELAND FINANCIAL MEMORANDUM**

# WATERWAYS IRELAND – FINANCIAL MEMORANDUM

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## DEFINITIONS

In this Memorandum:

“Agreement” means the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing Implementation Bodies, dated 8 March 1999.

“Accountable Person” means the Chief Executive of a North/South Implementation Body.

“the Assembly” means the Northern Ireland Assembly.

“Board” means the Board Members of the Body appointed by the North/South Ministerial Council. **[For Bodies with Boards.]**

“Body” means North/South Implementation Body or Tourism Ireland Limited.

“Chief Executive” means the senior executive official of the Body.

“Committees of the Assembly” means committees of Members of the Northern Ireland Assembly, whether ad hoc or statutory.

“Committees of the Oireachtas” means committees or sub-committees of either House or both Houses of the Oireachtas.

“Comptrollers and Auditors General” means the Comptroller and Auditor General of Ireland and the Comptroller and Auditor General for Northern Ireland.

“Departmental Accounting Officers” means the Permanent Secretary of the Sponsor Department in Northern Ireland and the Secretary General of the Sponsor Department in Ireland.

“External Consultants” means consultants.

“Finance Departments” means the Department of Finance in Northern Ireland and the Department of Public Expenditure and Reform in Ireland. Except where the contrary expressly appears, all such references should be interpreted as meaning the Finance Departments acting jointly on foot of agreement.

“Finance Ministers” means the Finance Minister in Northern Ireland and the Minister for Public Expenditure and Reform in Ireland.

“Grant(s)” means any form of payment of which “grant-in-aid” is a subset.

“ICS” means Irish Civil Service.

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“Legislation” means The North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 and the British-Irish Agreement Act 1999, as amended.

“NCSA” means Non-commercial State Agency.

“NDPB” means Non-Departmental Public Body.

“NICS” means Northern Ireland Civil Service.

“NSMC” means the North/South Ministerial Council.

“NSMC Joint Secretariat” means the secretariat to the North/South Ministerial Council.

“Sponsor Departments” means the Sponsor Departments in Northern Ireland and Ireland who pay grants to the Body. Except where the contrary expressly appears, all such references should be interpreted as meaning the Sponsor Departments acting jointly on foot of agreement.

“Voted” means provision voted by the Northern Ireland Assembly and/or either House or both Houses of the Oireachtas.

## **BACKGROUND**

### **The Good Friday/Belfast Agreement**

1. The British-Irish Agreement ('the Agreement') was agreed by the British and Irish Governments on Good Friday 10 April 1998. The Agreement provided for various new institutional and constitutional arrangements, including the Northern Ireland Assembly, the North/South Ministerial Council (NSMC), and Implementation Bodies. The Agreement was given legal effect by the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 and the British-Irish Agreement Act 1999, as amended.

### **North/South Ministerial Council (NSMC)**

2. The North/South Ministerial Council (NSMC), which comprises Ministers of the Northern Ireland Executive and the Irish Government, was established under the Belfast/Good Friday Agreement (1998), to develop consultation, co-operation and action within the island of Ireland - including through implementation on an all-island and cross-border basis - on matters of mutual interest and within the competence of the Administrations, North and South.
3. Six North/South Implementation Bodies (Waterways Ireland, Food Safety Promotion Board, Trade and Business Development, Special EU Programmes, Language, and the Loughs Agency) along with Tourism Ireland Limited come under the remit of the NSMC. While having clear operational remits, these bodies come under the overall policy direction of the NSMC.

### **NSMC Joint Secretariat**

4. The work of the NSMC is supported by a standing Joint Secretariat, staffed by members of the Northern Ireland Civil Service and the Irish Civil Service. The Secretariat, which is based in Armagh, is headed by two Joint Secretaries who are appointed by the Administrations, North and South. The Joint Secretariat supports and facilitates the NSMC in developing consultation, co-operation and action within the island of Ireland on matters of mutual interest within the competence of both administrations.

## **INTRODUCTION**

### **Purpose of the introduction**

5. The introduction sets in context the operation of this Financial Memorandum (FM) and provides an overview of the key principles of corporate governance and how they affect North/South bodies. It also highlights a number of common issues that are unique to North/South bodies and suggests how these should be handled.

### **Context**

6. North/South Bodies are unique in that they implement policies and actions on an agreed cross-border and all-island basis. For the financial arrangements set out in this FM to be effective, the Bodies and concerned Departments in each jurisdiction need to work in partnership and have a relationship based on trust. It is important that good communication and consultation between all those involved is maintained. This FM seeks to strike a balance between the need to allow the Bodies sufficient autonomy to carry out their agreed functions in an efficient and effective manner, and the need for the Bodies to account properly to their stakeholders and other interested parties for the stewardship of public funds, in line with the core principles of corporate governance. In the spirit of cross border cooperation the overarching principle within this document is that Finance Departments and Sponsor Departments should consult with their respective counterparts in the other jurisdiction, to ensure that decisions are made jointly and communicated to the Bodies.
7. In circumstances where this is not possible there should be a clear rationale and basis set out for any unilateral decision taken.

### **Implementation of guidance**

8. North/South Bodies are unique when compared to other public bodies in that the Governments of two jurisdictions have jointly established them. In 2011 the Office for National Statistics (ONS) and the Central Statistics Office, Ireland (CSO) agreed that North South Bodies are classified in both Ireland and the UK as part of the respective Central Government Sectors. In practice, the Bodies are treated as Non-Departmental Public Bodies (NDPBs) in Northern Ireland and Non-commercial State Agencies (NCSAs) in Ireland and are required, in terms of corporate governance, accounting and accountability, to adhere to

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guidance and best practice applicable to those organisations, as far as is practicable. It is recognised that this can create difficulties where the two sets of guidance differ. Where Northern and Southern guidance exists on a particular issue, a Body will be expected to satisfy both Northern and Southern criteria. If a Body experiences any difficulties in this regard it should contact its Sponsor Departments, which will, if necessary seek advice from the Finance Departments.

9. The general principle for issuing guidance to North/South Bodies is that both Finance Departments and Sponsor Departments should work together collaboratively to provide joint guidance, as is the case for business planning and financial reporting guidance. Each jurisdiction (Finance Departments and Sponsor Departments) however retain the right to issue specific guidance to Bodies where required. In such instances the “issuing” Department should consult with their relevant counterparts prior to doing so. Sponsor Departments should also discuss the implementation of any guidance issued.

## **FINANCIAL MEMORANDUM**

### **Purpose of the Financial Memorandum (FM)**

10. The legislation establishing the Body states that “The Body will comply with the provisions of a Financial Memorandum drawn up for the Body by the Northern Ireland and Irish Departments paying grants to the Body and the Finance Departments. It will prescribe the detailed financial arrangements, including those in relation to accounts, the accounting year and currency, to be complied with by the Body.”
11. Owing to developments in sponsorship arrangements between government departments and their sponsored bodies, the Financial Memorandum is now in two parts - firstly a Management Statement which sets out the governance and accountability arrangements, and secondly the Financial Memorandum which sets out the financial relationship and specifically certain roles and responsibilities of the North South Ministerial Council (NSMC) and the Finance Departments in relation to the Bodies. It should be read in conjunction with the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing Implementation Bodies and the related legislation in the two jurisdictions.

### **Implementation of the Financial Memorandum (FM)**

12. The terms and conditions set out in this FM may be supplemented by guidelines or directions agreed and issued by the NSMC, the Sponsor Departments (acting jointly where possible) or Finance Departments (acting jointly where possible).
13. The Body shall satisfy the conditions and requirements set out in the combined document together with such other conditions as the NSMC, Sponsor Departments or Finance Departments may direct.
14. Sponsor Departments and Finance Departments will respond to the Body’s business requests within a reasonable timeframe (within four weeks or less where possible) in order to facilitate the effective operation of the Body’s business.
15. A copy of this FM should be given to all newly appointed Audit Committee members, senior executive staff in the Body and Departmental Sponsor staff on appointment.

### **Statutory authority**

16. The statutory authority for the Body is the establishing legislation i.e. North-South Co-operation (Implementation Bodies) (Northern Ireland) Order, 1999 and the British-Irish Agreement Acts, as amended from time to time.

### **Functions**

17. The main functions of the Body and the arrangements by which they are to be exercised are set out in Part [1] paras 1.1 – 1.7 of Annex 1 and Parts [1] Paras 1.1 – 1.7 and [7] paras 1.1 – 8 of Annex 2 of the British-Irish Agreement, dated 8 March 1999.

# MANAGEMENT STATEMENT

## **ROLES AND RESPONSIBILITIES**

### **The Ministers**

18. The Sponsor Departments' Ministers are accountable to the Assembly/Dáil Éireann, as appropriate, for the activities and performance of the Body. His/her responsibilities include:
- (i) Approving the Body's strategic objectives and the policy and performance framework within which the Body will operate (as set out in this Financial Memorandum and associated documents).
  - (ii) Keeping the Assembly/Dáil Éireann informed about the Body's performance as required.
  - (iii) Securing approval for the amount of grant to be paid to the Body.

### **The North South Ministerial Council**

19. The NSMC will take an overview of co-operation on the island and of the North South institutions and responsibilities will include:
- (i) Make decisions on policies and action to be implemented by the North South Bodies and agree the aims and objectives of the Bodies within the confines of the establishing legislation.
  - (ii) Appoint the Chief Executive.
  - (iii) Approve the Corporate and Business Plans which includes the Body's budget.
  - (iv) Approve the remuneration, grading, number and other conditions of service of the Body's staff members.
  - (v) The Council will meet in plenary format twice a year; in specific sectoral formats on a regular and frequent basis; and in an institutional format to consider cross-sectoral matters and to resolve disagreement as required.

## **The Accounting Officers of the Sponsor Departments**

20. The core roles and responsibilities of the Departmental Accounting Officers (Permanent Secretaries/Secretaries General as appropriate) are set out in specific Memorandum for Accounting Officers in each jurisdiction.
21. The Sponsor Departments' Departmental Accounting Officers are responsible for the propriety and regularity of all resources voted to the Sponsor Departments by the respective legislatures. In line with existing custom and practice in both jurisdictions, it is the responsibility of the Accounting Officers of the Sponsor Departments to:
  - (i) ensure that the Body's strategic aims and objectives support the Sponsor Departments' wider strategic aims.
  - (ii) ensure that financial, accountability and other management controls applied by the Sponsor Department to the Body are appropriate to safeguard the public funds provided to the Body in support of its operations and for ensuring that the Body's compliance with these controls is effectively monitored;
  - (iii) satisfy themselves that the financial and managerial systems will provide accurate and timely information to the Sponsor Departments;
  - (iv) ensure that controls being applied by the Body conform to the requirements of economy, propriety and good financial management;
  - (v) ensure that accounts for the Body are submitted to Sponsor Departments, as appropriate, and that accounting systems and organisational arrangements of the Body are adequate for the proper administration of the public monies of the Body;
  - (vi) ensure that the release of grants to the Body is in accordance with the approved amount for that time period, the conditions of grant and demonstrated financial need, and that compliance with these conditions is monitored;
  - (vii) monitor expenditure and borrowing;
  - (viii) ensure that corporate and business plans are submitted by the Body in accordance with the terms of this Memorandum and any requirements stipulated by the Sponsor Departments, acting jointly, and that these are considered in the context of overall policy priorities prior to being submitted firstly for Finance Ministers approval and then for ultimate approval to the NSMC for decision; and
  - (ix) attend, as is appropriate, any relevant hearings of a Committee of the Assembly or Committee or sub-Committee of either House or both Houses of the Oireachtas.

## **Role of Sponsor Departments for North/South Bodies**

22. Departmental Accounting Officers will be assisted in undertaking these responsibilities by their departmental officials. The departmental officials, in consultation with the Departmental Accounting Officer, are the primary source of advice to the Minister on the discharge of his/her responsibilities in respect of the Body, and the primary point of contact for the Body in dealing with the Sponsor Department. These officials shall advise the Minister on:

- an appropriate framework of objectives and targets for the Body in the light of the Department's wider strategic aim[s] and current objectives.
- an appropriate budget for the Body in the light of the Department's overall public expenditure priorities.
- how well the Body is achieving its strategic objectives and whether it is delivering value for money.

23. In support of the Departmental Accounting Officer, these officials shall:

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

- provide sponsorship oversight of the Body's activities.
- address in a timely manner any significant problems arising in the Body.
- monitor the Body's activities on a risk basis and strengthen oversight arrangements if necessary; and advise in consultation with Finance Departments whether amendments are required to the FM accordingly. Any such amendments should be agreed by Sponsor and Finance Departments North and South.

### **on communication with the Body**

inform the Body of relevant government policy in a timely manner; if necessary, advise on the interpretation of that policy; and issue specific guidance to the Body as necessary.

## **Accountable person for the Body**

24. The Chief Executive Officer shall be the Accountable Person responsible for the efficient and effective administration of the Body.

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25. With regard to the Northern Ireland Assembly, the Accountable Person shall be designated by the Departmental Accounting Officer and shall report to him/her in his/her Accountable Person capacity in accordance with established procedures.
26. In Ireland, the Memorandum for Accounting Officers sets out that it is the Boards and Chief Executives of public sector bodies or in this case North/South Bodies, who are responsible for running their organisations and preparing their accounts.
27. In the event of any hearing in respect of the Body by any Committee of the Northern Ireland Assembly the Chief Executive will appear if summoned as accompanying witness with the relevant Departmental Accounting Officer. In the event of any hearing in respect of the Body by any Committee or sub-committee of either House or both Houses of the Oireachtas, the Chief Executive will appear if summoned, in his/her own right.

### **Appointment and responsibilities of the Chief Executive**

28. The Chief Executive of Waterways Ireland is appointed by the NSMC. An interim/emergency Chief Executive will also be appointed by the NSMC if required.
29. The Chief Executive is personally responsible for safeguarding the public funds for which he/she has charge; for ensuring propriety, regularity and value for money in the handling of those public funds; for the avoidance of extravagance or waste and for the day to day operation and management of the Body.
30. The Chief Executive shall exercise the following responsibilities in particular:

#### **on planning and monitoring:**

- establish, in agreement with the Sponsor Departments, and the NSMC the Body's corporate and business plans in support of the Departments' wider strategic aim[s];
- inform the Sponsor Departments of the Body's progress in helping to achieve (where relevant) the Departments' wider strategic aims 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 Sponsor Departments and the NSMC; that the Sponsor Departments are notified promptly if overspends or

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underspends are likely and that corrective action is taken; and that any significant problems, whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the Sponsor Departments in a timely fashion; and

- ensure that the conditions set out in this Memorandum are observed and that expenditure will be undertaken only to the extent and for the purposes jointly authorised by the Sponsor Departments and where appropriate with the consent of the Finance Departments.

Should the Chief Executive receive an instruction which he/she considers would infringe the requirements of propriety or regularity or the provisions of this Memorandum, or does not represent prudent or economic administration, or efficiency or effectiveness, or value for money, he/she shall be obliged to draw the matter to the attention of the Sponsor Departments (where appropriate) and the NSMC Joint Secretariat in writing and side copy to the Departmental Accounting Officers. In such circumstances, in the North, it would usually be the Chief Executive (together with Sponsor Department representatives as necessary) who would be primarily responsible for defending the position at any subsequent enquiry including attendance at the relevant departmental committee. Ultimately, the Minister may also be required to attend. If a Public Accounts Committee (PAC) hearing is being held, then usually the Chief Executive and the Sponsor Department's Permanent Secretary will attend.

### **on managing risk and resources:**

- ensure that an internal control and risk management system is implemented, monitored and 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;
- keep under review the Body's financial management systems and provide the Sponsor Departments with such periodic returns as they consider necessary to satisfy themselves as to the effectiveness of these systems;
- ensure that specific approval for expenditure has been obtained from the proper authorities in all cases where this is necessary and that expenditure is contained within the approved budget;
- ensure compliance with EU Public Procurement Directives or relevant NI Procurement Policy;
- ensure that all public funds made available to the Body [including any income or other receipts] are used for the purpose intended by the Assembly/Dáil Éireann, and that such monies, together with the Body's

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assets, equipment and staff, are used economically, efficiently and effectively;

- ensure that adequate internal management and financial controls are appropriate and conform to the requirements of propriety, regularity and good financial management and include effective measures against fraud and theft;
- maintain a comprehensive system of internal delegated authorities that are notified to all staff, together with a system for regularly reviewing compliance with these delegations;
- ensure that conflicts of interests are avoided where possible or managed appropriately in the actions or advice of its staff;
- ensure that the Body will develop and observe appropriate personnel policies and non-pay terms and conditions (applicable to its staff in the jurisdiction in which they are based), and make any adjustments to these policies and terms and conditions, taking into account those which apply to civil servants in the ICS or NICS and legislative requirements; and
- ensure that the Body will, with the approval of the NSMC and the Finance Ministers, determine the remuneration, grading, numbers and other conditions of service of the Chief Executive and other staff of the Body.

### **on accounting for the Body's activities:**

- be responsible for ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any directions jointly issued by the Minister, the Sponsor Departments, or the Finance Departments;
- sign the appropriate statements and reports for inclusion within the annual reports and accounts in line with the relevant guidance issued jointly by the Finance Departments;
- ensure that effective procedures for handling complaints about the Body are established and made widely known within it;
- act in accordance with the terms of this document and with the instructions and relevant guidance issued from time to time by the NSMC, the Irish Government, the Northern Ireland Administration, Sponsor Departments or Finance Departments and puts into effect any relevant recommendations of the relevant Committee of the Assembly where accepted by the Northern Ireland Administration or Committee or sub-Committee of either House or both Houses of the Oireachtas where accepted by the Irish Government;
- give evidence, if summoned before the Public Accounts Committee on the use and stewardship of public funds by the Body;

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- be available to a Committee of the Assembly or a Committee or sub-Committee of either House or both Houses of the Oireachtas, including for attendance at their meetings, if so requested, in relation to:
  - the regularity and propriety of the transactions required to be recorded in any account subject to audit by the Comptrollers and Auditors General;
  - the economy and efficiency of the Body in the use of its resources;
  - the systems procedures and practices employed by the Body for the purpose of evaluating the effectiveness of its operations; and
  - any matter affecting the Body referred to in a report of the Comptrollers and Auditors General that is laid before Dáil Éireann and/or the Assembly;
- advise the Sponsor Departments and the NSMC Joint Secretariat on any significant issues, as appropriate;
- ensure the Body acts in accordance with the Freedom of Information Code of Practice for Bodies which has been approved by the NSMC (see also page 38); and
- ensure that the Body complies with relevant Equality Legislation.

### **Delegation of Chief Executive's Duties**

31. The Chief Executive may delegate responsibilities to other senior staff within the Body as he/she sees fit. However, he/she cannot delegate their full responsibility to other staff. The Chief Executive may delegate responsibilities or allocate resources as he/she considers necessary according to priorities, subject to the corporate and annual plans agreed by NSMC. He/she shall keep the operational activities of the Body under review and hold regular management meetings to monitor expenditure and performance.
32. When the Chief Executive is absent for a short period of time and cannot readily be contacted, another senior official should deputise. If a significant absence of more than four weeks is likely to occur, the Body should contact the Sponsor Departments, who will consult with NSMC Joint Secretariat, to consider alternative arrangements.
33. The Body will have a seal, the application of which will be authenticated by the signature of
  - a. the Chief Executive of the Body or of an agency of the Body; or
  - b. another member of the staff of the Body authorised in that behalf by the Chief Executive of the Body or of an agency of the Body.

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34. The Seal is not required when signing the Annual Accounts for Waterways Ireland. In the event the use of the Seal is requested for any Accounting Documentation the purpose of the Seal will be reviewed in each individual case and relevant advice taken before use.

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

35. The Body is within the jurisdiction of the Northern Ireland Public Services Ombudsman and the Irish Ombudsman who will liaise and consult with each other. The Chief Executive of the Body is the Principal Officer for handling cases involving either the Northern Ireland or Irish Ombudsman. As Principal Officer he/she shall inform the Accounting Officers of the Sponsor Departments of any complaints about the Body accepted by either Ombudsman for investigation and about the Body's proposed response to any subsequent recommendations by an Ombudsman.

## **Parliamentary Accountability**

36. A member of the Body or of its staff will, if so requested, appear before or otherwise co-operate with
- (a) a Committee of the Assembly or a Committee or sub-Committee of either House or both Houses of the Oireachtas, in accordance with normal practice and relevant legislation within each jurisdiction, and
  - (b) the NSMC.
37. In the event of any hearing in respect of the Body by any Committee of the Assembly or a Committee or sub-Committee of either House or both Houses of the Oireachtas, the Chief Executive will, if summoned, appear, either in his/her own right or where appropriate as accompanying witness with the relevant Departmental Accounting Officer.
38. In the North, if a Body's Accountable Person is invited to appear before the Public Accounts Committee the Permanent Secretary of the Sponsor Department would normally be expected to attend such hearings and could be questioned on issues directly affecting his/her Department or the North/South Body. In the South, normally the Chief Executive attends PAC as the Accountable Officer for the Body. The Secretary-General would attend only if invited by the Oireachtas Committee to answer on matters for which he/she is responsible.
39. In answering/giving evidence to any Parliamentary Committee, neither the Chief Executive nor any member of staff of the Body shall question or express an opinion on the merits of any policy or the merits of objectives of such a policy of the Irish Government or Northern Ireland Administration, or the NSMC, or a Minister of the Irish Government or of the Northern Ireland Administration or of the NSMC or of the Attorney-General of Ireland or Attorney-General for Northern Ireland.

## Consulting Customers

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

## BUSINESS PLANNING PROCESS

41. The Finance Departments issue annual guidance on the business planning process. It is important that the annual business plan and three-year corporate plan are prepared in accordance with the agreed timetables and that throughout the business planning process, good communication and consultation between all those involved is maintained.

### The Three-Year Corporate Plan

42. The Body is required to prepare a three-year Corporate Plan which sets out the activities of the Body to support the delivery of its vision, strategies and business objectives, and demonstrate how these contribute to the Sponsor Department's aims, objectives and targets. It should also detail specific targets and measurable performance indicators for each business objective and activity along with the budget and staffing plans of the Body. Reference should be made to the guidance issued by the Finance Departments when preparing the three-year Corporate Plan.

### Annual Business Plan

43. The Body is required to prepare an annual Business Plan which will include a description of the proposed outcomes of the Body and the proposed funding implications. Reference should be made to the guidance issued by the Finance Departments when preparing the annual Business Plan.
44. **The business plan must be prepared and submitted in adequate time to enable approval by the Sponsor Departments, Finance Ministers and NSMC before the start of the year to which they relate.**

## **Approvals**

45. Draft corporate and business plans should be submitted to the Sponsor Departments in sufficient time to comply with the timetable established annually by the Finance Departments. The annual business plan and the three-year corporate plan must be approved by the Sponsor Departments' Ministers, the Finance Ministers and the NSMC.
46. Approval of corporate and annual business plans does not obviate the Body's need to seek the Sponsor Departments' and Finance Departments' approvals for projects/expenditure over the relevant delegated limits.

## **Co-operation**

47. It is important that throughout the planning process, good communication and consultation between all those involved is maintained. Sponsor and Finance Departments should consult with their respective counterparts in the other jurisdiction.

## **Publication of Plans**

48. The agreed corporate and business plans shall be made publically available.

## **INTERNAL GOVERNANCE**

### **Risk Management**

49. The Body will operate an appropriate risk management process which will meet the requirements of the Sponsor Departments and will be in line with guidance issued by the two Finance Departments.
50. The Body should have in place a formal risk management strategy which addresses how risks will be identified and managed. It will also maintain an appropriate risk register.
51. The Body shall take proportionate and appropriate steps to assess the financial and economic standing of any organisation or other body with which it intends to enter into a contract or to which it intends to give grant or grant-in-aid.

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### **Fraud and Theft**

52. The Body shall comply with guidance and best practice in both jurisdictions on preventing and detecting theft and fraud. The Body shall take all necessary measures to safeguard against fraud and theft.
53. As a minimum, the Body will put in place
- An anti-fraud policy;
  - An anti-fraud response plan; and
  - The provision of anti-fraud training for appropriate staff.
54. All cases of attempted<sup>1</sup>, suspected or proven fraud shall be reported to the Sponsor Departments as soon as they are discovered, irrespective of the amount involved. These will be reported to the Finance Departments by the Sponsor Departments.
55. The Sponsor Departments will periodically review the Body's anti-fraud policies and response procedures. The Body shall notify the Sponsor Departments of any subsequent changes to the policy or response plan.

### **Internal Audit**

56. The Body shall establish an effective internal audit function which shall operate and report in accordance with relevant guidance issued by both Finance Departments.
57. Sponsor Departments should:
- have sight of the Body's draft Audit Strategy before final sign-off;
  - have sight of all Audit Reports whether carried out by Internal or External Auditors; and
  - reserve the right of access to carry out their own independent reviews of Internal Audit in the Body.
58. The Body shall consult the Sponsor Departments to ensure that the latter is satisfied with the competence and qualifications of the Head of Internal Audit and that the requirements for approving the appointment are in accordance with the Internal Audit Standards operating in both jurisdictions.

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<sup>1</sup> This should not include phishing, spam emails etc.

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59. The Sponsor Departments will review the Body's terms of reference for internal audit service provision. The Body shall notify the Sponsor Departments of any subsequent changes to internal audit's terms of reference.

### **Audit Committee<sup>2</sup>**

60. The Body shall set up an independent Audit Committee. The Audit Committee's purpose/role is to advise the Accountable Person on issues on governance, risk management and control. This Committee will operate in line with guidance issued by the Finance Departments and should meet at least four times per year.
61. Sponsor Departments should as a matter of routine:-
- have sight of all Agendas and Audit Reports prior to Audit Committee Meetings and to the final Minutes following Meetings; and
  - periodically be represented by an official, in an observer capacity, at Audit Committee Meetings.
62. Sponsor Departments will, from time to time, request information/assurance from the Chair of the Audit Committee on matters affecting the Body. This should be provided in a timely manner
63. The Annual Assurance Statement by the Chair of the Audit Committee to the Accounting Officer for the Body should be copied to the Sponsor Departments.
64. The Sponsor Departments will review the Body's Audit Committee terms of reference. The Body shall notify the Sponsor Department of any significant changes to the Audit Committee's terms of reference.

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<sup>2</sup> The term Audit Committee encompasses Audit Committees, Audit and Risk Committees and Audit and Risk Assurance Committees.

## **REPORTING FINANCIAL PERFORMANCE**

### **General**

65. The Body will submit a report on its activities in each year to the NSMC at such time and in such form as the NSMC may direct. A copy of the report will be laid before the Assembly and both Houses of the Oireachtas (see Para 73).
66. The Body will provide the NSMC or a relevant Minister with such other reports and information as the NSMC or the Minister may from time to time require. In addition, the Body has a general duty to provide the Sponsor Departments with such financial information relating to income, expenditure and outturn in such a form and at such times as they and the Finance Departments may require.
67. At the regular Ministerial meetings of the NSMC, the Body, normally represented by the Chief Executive, will report to Ministers on its performance, its current and future activities, and any policy developments relevant to those activities. The Body's performance in achieving its key objectives shall be reported to the Sponsor Departments on a regular basis between these meetings.
68. The Body must inform the Sponsor Departments of any significant changes in the financial management system throughout the year. The Sponsor Departments must also be informed at once if it becomes apparent at any time that an over or underspend of the approved budget is likely to occur or that key performance targets are not going to be achieved.

### **Provision of Information to Sponsor Departments**

69. The Body shall provide the Sponsor Departments with such returns of information relating to its proceedings or undertakings as the Sponsor Departments may from time to time require, and for such purposes shall permit any person authorised by the Sponsor Departments to inspect and make copies of their accounts, books, documents, data and records and shall afford such explanation as that person or the Sponsor Departments may require. The Sponsor Departments should only ask for information which is necessary and should provide a clear rationale for any such requests.
70. The Sponsor Departments will agree with the Chief Executive of the Body a programme of regular liaison and review meetings to facilitate the mutual

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exchange of information and the monitoring of performance against key targets. Such meetings will be held quarterly or more often if required.

71. The Body will also provide financial information to the Sponsor Departments.

### **Annual Accounts**

#### **Financial Year**

72. The Financial Year for accounting purposes for the Body will be the calendar year.

#### **Format of Accounts**

73. The Body will keep proper accounts and financial records and will prepare a statement of accounts in respect of each year. Accounts should be prepared in accordance with the joint Finance Departments' direction. Accounts should be prepared in the main operating currency of the Body and translated to the second currency under standard accounting practices. The accounts of the Body will be presented to the legislatures in sterling and euro.
74. The Body should prepare the annual report and accounts as set out in the North/South Implementation Bodies Annual Reports and Accounts Guidance as amended from time to time.

### **AUDIT**

#### **External Audit**

75. The Body shall submit its annual accounts for audit to the Comptrollers and Auditors General as soon as possible after the end of the Body's Financial Year but no later than 1 April of the following year. The Comptrollers and Auditors General shall, in co-operation, examine and certify the accounts. The Body may also be subject to examinations by the Comptrollers and Auditors General of the economy, efficiency and effectiveness with which the Body has used its resources in discharging its functions ("Value for Money Examinations"). Both Comptrollers and Auditors General shall carry out their duties in a co-operative

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manner based on working methods agreed between them (see the audit protocols, as set out in Annex D).

76. The Body shall permit audit officials access to all documents, records and data, as may be required to carry out the above examinations and in accordance with The Audit and Accountability (Northern Ireland) Order 2003 and the Comptroller and Auditor General (Amendment) Act 1993 as amended from time to time. Reference to audit officials in these paragraphs includes auditors not directly employed in the offices of either Comptroller and Auditor General, but undertaking work on behalf of one or both Comptrollers and Auditors General.

### **Laying of Reports and Accounts**

77. The Comptrollers and Auditors General shall submit their report(s) on the accounts together with a copy/copies of the accounts to the Body. The Body shall without delay furnish the reports together with the audited accounts and the annual report of the Body to the relevant Ministers and NSMC. Copies of the reports of the Comptrollers and the Auditors General, copies of the audited accounts and copies of the annual report of the Body shall be laid before the Assembly and the Houses of the Oireachtas, simultaneously to the greatest extent possible, as soon as possible but not later than three months after receipt of them (or by 30 June, whichever is the earlier). The joint Finance Guidance on the Submission and Laying of Accounts and Reporting on Activities is attached at Annex E.
78. Reports of value for money examinations, having been prepared in a co-operative manner by both Comptrollers and Auditors General, shall be laid, simultaneously to the greatest extent possible, before the Assembly and the Houses of the Oireachtas.

### **Review of the Body**

79. The Sponsor Departments may arrange to have periodic financial/governance reviews carried out. The Body must provide adequate access to, and collaborate with, the Sponsor Departments in the conducting of these reviews.

### **Access to Documents**

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80. The Body shall permit the nominated representatives of the Accounting Officers of the Sponsor Departments, access to all records as may be required to enable the Accounting Officers of the Sponsor Departments to fulfil their responsibilities.

## **STAFFING**

### **Introduction**

81. In accordance with the provisions on staffing arrangements in Annex 2, Part 7, section 3.2 of the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 and the corresponding British-Irish Agreement Act the remuneration, grading, numbers and other conditions of service of the Chief Executive and other staff of the Body are subject to the approval of NSMC and the Finance Ministers.
82. This section on staffing should be read in conjunction with the Staffing Principles in Annex A.

### **Advisory Procedure**

83. Should a Body seek advice on a staffing matter, it should put this in writing to its Sponsor Department in the relevant jurisdiction, who will if appropriate liaise with the Finance Department in that jurisdiction, and then respond to the Body. The Body should not contact the Finance Departments directly.

### **Chief Executive's Responsibilities**

84. The Chief Executive shall ensure that the Body is organised and staffed on a sound basis and in conjunction with the Staffing Principles, to provide for proper delegation and segregation of duties and to promote good management including the promotion of economy, efficiency and effectiveness in the use of the resources available to the Body.
85. The Chief Executive is responsible for managing and controlling pay, grading, recruitment and pension arrangements for the Body's staff in line with the relevant ICS and NICS policies and legislative requirements. The Chief Executive shall ensure that the Body complies fully with all employment law, which is relevant to the jurisdiction in which its staff are based, and which is applicable to the types of staff in its employment. While not an exhaustive list, this includes employment law in either jurisdiction applicable to, for example, apprentices, agency workers, contract workers, part-time workers, and staff with indefinite, temporary, casual, fixed-term and permanent employment status.

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### **Pay**

#### **Introduction**

86. Pay rates and practices should be guided by the Body's business requirements, but they should generally be no more generous than those applied to comparable posts in the public service in the same jurisdiction. Proposals to use higher rates than are generally paid in the public service will, for reasons of propriety, need to be supported by clear evidence that such rates are necessary and be approved by the Sponsor Departments, then the Finance Ministers and then the NSMC.

#### **Pay for Staff other than the Chief Executive**

87. Any general pay adjustments/reviews which apply to civil servants in the ICS or NICS will apply, as appropriate, to its staff, other than the Chief Executive, in the jurisdiction in which they are based. The Finance Ministers agreed this arrangement on the understanding that the Sponsor Departments would only notify the Body of any pay adjustments/reviews following receipt of the relevant sanction or notification from the Finance Departments.

#### **Chief Executive's Pay**

88. Any pay adjustments/reviews for the Chief Executive shall be subject to the approval of the Finance Ministers. The Sponsor Departments should only notify the Body of any pay adjustments/reviews following receipt of the relevant sanction or notification from the Finance Departments.

### **Grading**

#### **Introduction**

89. The Finance Departments will, via the Sponsor Departments, provide the Body with grading advice on a case-by-case basis in accordance with the job evaluation and grading policy pertaining to the ICS or NICS.
90. The overriding principle is that the upgrading of a post does not automatically mean the upgrading of the incumbent post holder.

**Job Evaluations and Organisational Reviews**

91. Southern public service pay policy generally precludes a Body from commissioning a job evaluation of a southern post for grading purposes, or from commissioning an organisational grading review of its southern posts. However, in exceptional circumstances, where a Body proposes to commission a job evaluation of a southern post or an organisational grading review of southern posts, the approval of the Sponsor Departments and the Finance Departments is required. If approval is given in principle, Sponsor Departments must then also approve the use of grading experts, and should consult the Finance Departments with regards to obtaining the Finance Departments' input to the terms of reference for the exercise.
92. Where a Body proposes to commission a job evaluation of a northern post or an organisational grading review of northern posts, the Sponsor Departments must approve the Body's business case, must approve the use of grading experts, and should consult the Finance Departments with regards to obtaining the Finance Departments' input to the terms of reference for the exercise.

**Procedure**

93. Should a Body propose to upgrade a post, its proposal should be supported by a business case and grading recommendations, and it must adhere to the agreed procedures outlined in the NSMC framework called the "Framework for Filling Permanent Vacancies in North/South Implementation Bodies & Tourism Ireland Including the Upgrading of Posts".
94. Furthermore, should a Body propose to re-grade a post through either upgrading or downgrading, it must also adhere to the appropriate approval process as outlined in the NSMC framework called the "Framework for the Regrading of Posts in North/South Implementation Bodies Including Tourism Ireland". For the purposes of the aforementioned Framework, the reference to "Director-level" refers only to those second tier management posts which report to the CEO and which are graded at a level that is analogous to or above Principal Officer (Higher) grade in the ICS and Grade 7 (Principal) in the NICS.

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### **Recruitment**

#### **Introduction**

95. The Chief Executive shall ensure that the Body operates within its NSMC approved staffing complement. The approval of the Sponsor Departments, then the Finance Ministers and then the NSMC must be sought to increase or decrease this number of posts.

#### **Procedure**

96. Should a Body be filling a permanent vacancy, it must adhere to the agreed guidance outlined in the NSMC framework called the “Framework for Filling Permanent Vacancies in North/South Implementation Bodies & Tourism Ireland Including the Upgrading of Posts”.

#### **New Posts beyond complement**

97. Where the creation of new posts will cause the Body to exceed its NSMC approved complement, the approval of the Sponsor Departments, then the Finance Departments and then the NSMC must be sought to create the new posts and to determine their grades and pay scales.

#### **Starting pay on appointment for staff other than the Chief Executive**

98. ICS and NICS policies on starting pay on appointment is that starting salary will normally be at the minimum of the pay scale for the grade.
99. The ICS policy is that starting pay for all appointments from open competitions is at the minimum of the pay scale for the grade, except where the specific sanction of DPER has been given.
100. The comparative NICS policy is that starting salary should be at the minimum pay scale for the grade. A higher starting salary may be considered only where there are justifiable business reasons, but should be set as close to the minimum as possible and should be used sparingly and exceptionally.
101. In determining the starting salary for staff recruited to the Body other than the Chief Executive, where possible the Body should therefore set this at the minimum unless there are compelling reasons for doing otherwise, in

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accordance with the ICS and NICS policies and the appropriate approval process as outlined in the NSMC framework called the “Framework For Determination Of Starting Salaries Of Staff In North/South Implementation Bodies/Tourism Ireland (Except Chief Executives)” and at either paragraph (ii) or paragraph (d) of the sectoral NSMC decisions accompanying this framework.

### **Chief Executive’s starting pay on appointment and contract terms**

102. The starting pay on appointment for the Chief Executive shall be subject to the approval of the Finance Ministers and then the NSMC, which is the appointing authority for the Chief Executive, in advance of the launch of the recruitment process. The starting salary will normally be at the minimum of the Chief Executive’s pay scale in accordance with the ICS and NICS policies on starting pay on appointment. Where a Body determines that a starting salary in excess of the minimum is required, it must submit a supporting business case and seek the prior approval of the Sponsor Departments, then the Finance Departments and then the NSMC.
103. The Body must also seek the approval of the Sponsor Departments, then the Finance Departments and then the NSMC in relation to Chief Executive’s contract terms and the recruitment process itself. Prior to seeking approval, the Body may seek the view of the Sponsor Departments, who may in turn seek the view of the Finance Departments, on any matter related to the contract terms and/or recruitment process.
104. The Body is required to seek the approval of the Sponsor Departments, then the Finance Departments and then the NSMC in relation to the Chief Executive’s contract terms, including, but not limited to:
  - Contract type (for example, whether a permanent or fixed-term contract);
  - Contract length, having regard to both ICS and NICS policies on Chief Executive appointments in the jurisdiction in which they are based (for example, a standard contract length of five years in the ICS or four years in the NICS for a fixed-term contract, and a standard policy of no automatic rolling contracts or automatic contract extensions); and,
  - Any contract variations between appointments (for example, a change from a permanent to a fixed-term contract or a change to the length of the fixed-term contract on the appointment of a new Chief Executive).
105. In advance of the launch of the recruitment process, the Body is required to agree the advertisement timeline, the recruitment providers who will run the

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competition (for example, the Public Appointments Service), the agencies who will advertise it, and the competition documents (for example, the job description/specification and candidate information booklet) with the Sponsor Departments, who will in turn inform and seek the review and approval, where appropriate, of the Finance Departments.

106. After the Body has selected its preferred candidate and before the contract of employment is signed, the Body is required to seek the approval of the Sponsor Departments and then the Finance Departments to the draft contract of employment. Since the NSMC is the appointing authority for the Chief Executive, the Body is also then required to seek approval from the NSMC to appoint its preferred candidate as its new Chief Executive.
107. At the conclusion of the recruitment process, the Body is required to inform the Sponsor Departments and the Finance Departments of the new Chief Executive's name and appointment date, and to provide the Sponsor Departments and the Finance Departments with a copy of the signed contract of employment.

### **Starting pay on promotion**

108. ICS and NICS policy on starting pay on promotion is that staff being promoted will normally move to the minimum of the pay scale for the higher grade. In determining the pay for staff being promoted within the Body, the Body should set pay on promotion terms in accordance with the starting pay on promotion policy pertaining to the ICS or NICS.

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### **Terms & Conditions of Service**

#### **Introduction**

109. The Body is responsible for its own personnel policies and for the non-pay terms and conditions of service relating to its own staff. The Body will develop and observe appropriate personnel policies and non-pay terms and conditions (applicable to its staff in the jurisdiction in which they are based), and make any adjustments to these policies and terms and conditions, taking into account those which apply to civil servants in the ICS or NICS and legislative requirements.
110. For comparison purposes and to help inform their own policies and terms and conditions, the Body is expected to keep abreast of the comparative ICS and NICS policies and terms and conditions, which are published by way of an ICS Circular at <http://circulars.gov.ie/> and at <https://www.finance-ni.gov.uk/> under Working in the Northern Ireland Civil Service, NICS HR policies, then Northern Ireland Civil Service handbook.

#### **Procedure**

111. As the employer, the Body reserves the responsibility and flexibility to develop its own personnel policies and non-pay terms and conditions without being subject to the approval of the NSMC and the Finance Ministers. In developing these policies, the Body should be mindful to avoid introducing terms and conditions that are significantly at odds with those which apply to civil servants in the ICS or NICS.
112. The Body may also be required to introduce certain terms and conditions as part of specific legislative requirements, public service policy developments, public service agreements or collective agreements in either jurisdiction.
113. Where the Body, on an exceptional basis, proposes to introduce non-pay terms and conditions that could be considered substantively different from the ICS or NICS norms, the Body shall consult with its Sponsor Departments in the first instance.
114. Where appropriate, the Body should seek the approval of its Sponsor Departments, then the Finance Departments and then the NSMC by submitting

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a clear business case demonstrating the need for the introduction of such a change.

### **Pensions; Redundancy/Compensation**

115. The Body's staff shall be eligible for a pension provided by the North South Pension Scheme
116. Northern staff may opt out of the occupational pension scheme provided by the Body. However they will be auto-enrolled into the scheme every 3 years. All eligible Southern staff must join the occupational pension scheme provided by the Body.
117. Any proposal by the Body to move from the existing pension arrangements requires the approval of the Sponsor Departments, then the Finance Departments and then the NSMC.
118. Any proposal by the Body to pay any redundancy or compensation for loss of office must be based on the existing arrangements approved by the Finance Department in each jurisdiction.
119. Proposals on severance payments require the approval of the Finance Departments and, where appropriate, the scheme manager.
120. The accounting arrangements for the pension scheme in the North/South Bodies should be laid out according to current accounting guidelines, as amended from time to time.

### **Conduct**

121. The Chief Executive and other staff of the Body should act at all times in a way which conforms with this Memorandum and with the high standards expected of those who handle public finance. The Body should have a Code of Conduct for its staff. This should be subject to regular review. Any significant changes are subject to the approval of NSMC.

## **Whistleblowing**

122. The Body will introduce and maintain a whistleblowing policy in accordance with best practice and any guidance issued by the Finance Departments.
123. When one of the Sponsor Departments receives a Whistleblowing allegation relating to Waterways Ireland, that Department will inform the co-Sponsor Department then;
  - take action in accordance with its Departmental Whistleblowing Policy;
  - inform the Chair of the WI Audit Committee of the Whistleblowing allegation;
  - keep the co-Sponsor Department informed of progress/developments; and
  - share the final report with the co-Sponsor Department and the Chair of the WI Audit Committee.
124. When a Whistleblowing allegation is received simultaneously by both Sponsor Departments, the Senior Sponsors will jointly agree how it will be taken forward and which Department will take the lead in the process as outlined above.

## **Conflicts of Interest**

125. The Body will operate suitable arrangements for declaring and handling conflicts of interest in accordance with best practice and any guidance issued by the Finance Departments.

## **OTHER ISSUES**

### **Retention of Records**

126. The Body shall retain safely all records, financial or otherwise, until the expiry of seven years, or later if appropriate (e.g. for VFM examinations or PFI contracts), after the end of the year of account to which they relate. Where a Body has been the subject of an investigation which has led to significant criticism or prosecution, the relevant records should be retained for at least 10 years from the date of the conclusion of the investigation.

### **Freedom of Information**

127. Under the legislation establishing the North/South Implementation Bodies responsible Ministers in Ireland and Northern Ireland are required to draw up a Code of Practice on access to information for the North/South Implementation Bodies for approval by NSMC.
128. The primary objective of this Code is to facilitate access by members of the public to information held by the North/South Implementation Bodies and Tourism Ireland Limited leading to greater openness and accountability and increased public confidence in the workings of the North/South Bodies; and improvement in the quality of decision making by the North/South Bodies.
129. In preparing this Code of Practice, the responsible Ministers in Ireland and Northern Ireland have had regard to respective Freedom of Information Acts (as amended from time to time) in the United Kingdom and Ireland and other standards and best practice in the area of access to information (Freedom of Information Act 2014 in Ireland and the Freedom of Information Act 2000 in the United Kingdom).
130. The Body should take measures to implement and to promote public awareness of the Code and should ensure that they follow the legislation and the most up-to-date Code as issued by the NSMC Joint Secretariat.

## **Data Protection Legislation**

131. The Body shall be subject to the data protection legislation applicable in each jurisdiction, in accordance with the legislation which establishes the North/South Bodies.

# FINANCIAL MEMORANDUM

## **SOURCES OF FUNDING**

### **Grant**

132. The Body will receive grants from money voted by the Assembly and Dáil Éireann. NSMC will, with the approval of the Finance Ministers, make recommendations as to the amount of such grants. Approval to the amount of grant should be sought in accordance with the Business Plan guidance and timetable issued by the Finance Departments annually. The grant cannot be used for any other purposes other than those voted for by the Assembly and Dáil Éireann.
133. The Sponsor Departments may pay grants to the Body conditional upon need and taking into account any support from other parties in either the public or private sector.
134. The grant will be approved and payments made subject to the conditions outlined in this Memorandum. Any voted grant paid must only be used by the Body for the purposes for which it has been given. Separate records must be kept of funds received and payments made in this respect.
135. Any part of the grant provision in respect of a particular financial year not applied for by the Body by the end of that year shall lapse.
136. Drawdown arrangements will be determined in advance, and in consultation and agreement with the Sponsor Departments.
137. The Sponsor Departments, acting jointly, reserve the right to modify existing conditions or attach new conditions to the payment of grant in the course of a spending year. The Sponsor Departments may, in extraordinary circumstances, suspend the payment of grants if they are substantively/sufficiently concerned that the Body's system for control of its resources is inadequate.

### **Disbursement of Funds**

138. Where necessary because of different budgetary cycles in the two jurisdictions, disbursements of funds by the sponsor departments to the Body in the period January to March will be the primary responsibility of the appropriate Southern department, payments in the period April to September will be shared between the two departments on an agreed basis, and the appropriate Northern

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department will carry the primary responsibility for payments in October to December, with contributions as necessary from the Southern department to ensure that overall spending is financed in accordance with previously agreed shares.

### **Other sources of finance**

139. Waterways Ireland may obtain additional funding from sources such as

(i) Charges for use of waterways and associated property, eg:

Lockages

Permits

Wayleaves

Licences

Leases; and

(ii) Disposal of assets and/or

Sale of property,

subject to the conditions applying in paragraphs 181 – 183.

### **Receipts**

140. The Chief Executive is responsible for ensuring that there are adequate systems for collecting and accounting for receipts. He/she should ensure that money owed to the Body is collected promptly and that outstanding claims are followed up at frequent and regular intervals.

### **Balances**

141. The Body should keep cash and bank balances at the minimum consistent with efficient operation.

### **Borrowing**

142. The Body may borrow for the purposes of its functions subject to the prior approval of the Sponsor Departments and Finance Departments.

## **Budgeting**

143. Sponsor Departments must jointly develop and agree budgets for the Body in accordance with the Corporate Plan and annual Business Planning guidance issued jointly by the Finance Departments.
144. The Body's Corporate Plan will include indicative budgets for three years. The annual Business Plan, which must be approved by the Sponsor Department's Ministers, the Finance Ministers and the NSMC, will contain firm budget allocations for that year.
145. The agreed provision for the relevant contributions North and South respectively will be included in the budget of the Sponsor Department in the relevant jurisdiction and will be subject to further approval as part of the Budget process for Northern Ireland Departments and the Irish Budgetary process.
146. The total annual expenditure budget, in the operating currency of the Body, shall not exceed the resources (including cash grant approved) available to the Body up to the end of that year. It will be the Chief Executive's responsibility to ensure that this limit is not exceeded, and to inform the Sponsor Departments at the earliest opportunity of any circumstances which might compromise the Body's ability to remain within the limit.
147. Sponsor Departments should ensure they do not pay over grant in excess of the level approved for each specific timeframe.
148. The Body shall seek the approval of the Sponsor Departments if it wishes to spend any unforeseen in-year income. The Chief Executive will be responsible for providing such ongoing monitoring information, including projections of income and expenditure as may be determined by the Sponsor Departments. The Body must inform the Sponsor Departments of all funding arrangements entered into with other bodies.
149. If the income realised or expected to be realised in-year is less than estimated, the Body shall, unless otherwise agreed with the Sponsor Departments, ensure a corresponding reduction in its gross expenditure.

### **Proportionality of Funding**

150. Proportionality of funding (i.e. ratio of funding North and South) for each Body was agreed when the Bodies were established in 2001, on the basis of the assessed benefit at that time to each jurisdiction of the activities of the Body. The contributions of the two jurisdictions may be reviewed periodically by the Sponsor and Finance Departments and a revised contribution recommended in the light of significant factors underlying the proposed change. Any change to the ratio of funding will be subject to the necessary approvals. If no such factors are identified, the ratio of funding North and South should remain unchanged.

## **EXPENDITURE**

### **Procurement**

151. The Body shall comply with EU Public Procurement Directives and should follow best practice for public sector procurement.
152. The Body shall ensure that all purchases of works, equipment, and goods and services, are based on best value for money – i.e. the most advantageous combination of cost, quality and sustainability. Goods and services should be acquired by competition unless exceptionally there are convincing reasons to the contrary, as a competitive process carried out in an open, objective, fair and transparent manner can achieve best value for money. A proportionate option appraisal should be carried out before procurement decisions are taken. The Body should adhere to the procurement thresholds set out in Annex C.

### **Contracts**

153. The Body shall ensure that any contract, awarded for either administrative purposes or as part of a project, should be awarded on a competitive basis and conform to all requirements under UK, Irish and EU law as appropriate concerning the advertisement, awarding and reporting of contracts and tenders. The Body must follow best public sector practice in awarding any contract.
154. The Body should ensure contracts are only awarded to the tenderer who offers the most economically advantageous tender. The most economically advantageous tender takes account of criteria that reflect qualitative, technical and sustainable aspects of the tender submission, as well as price when reaching an award decision. The Body should take reasonable steps, in

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proportionate effort, to assess the financial and economic standing of any organisation with which it intends to enter a contract.

155. The Body has a general duty to provide the Sponsor Departments with such information about its competitive tendering activities and associated financial affairs in such form and at such times as the Sponsor Departments may reasonably require.

### **Contracts Awarded Without Competition**

156. Contracts awarded without competition are contracts that are awarded to a contractor without an open competition. In light of their exceptional nature, all such contracts should comply with relevant procurement law and be subject to the Body's Accountable Person's approval. Clear records should be kept of the rationale for awarding such contracts and evidence of the appropriate approvals being sought and given. Contracts awarded without competition should be subject to further approval by the Body's Sponsor Departments Accounting Officer where applicable, in line with the thresholds set out in Annex C.

### **Lease and Rental Agreements**

157. The Body may enter into lease and/or rental agreements for the provision of goods and services. Lease and rental agreements for the provision of goods and services, having established that this is the most cost-efficient way of acquiring them, should be open to competitive tendering in the same way as purchases unless there are convincing reasons to the contrary. Prior approval from the Sponsor Departments must be secured for all property and finance leases as laid out in Annex B.

### **Public/Private Partnerships**

158. The Body may wish to seek opportunities to enter into Public/Private Partnerships where this offers better value for money than conventional procurement. PPP solutions should only be considered for projects with a capital value above the limit set out in Annex B.

## **Subsidiary Companies & Joint Ventures**

159. The Body shall not establish subsidiary companies or joint ventures, other than those outlined in the Annual Business Plan or Corporate Plan, without the express approval of the Sponsor Departments, Finance Departments and NSMC. Where such an entity is being established, the North/South Body should consult with the Sponsor and Finance Departments regarding appropriate governance arrangements and accounting treatment.

## **Timeliness in Making Payments**

160. The Body shall pay all matured and properly authorised invoices in accordance with guidance issued by the Finance Departments.

161. The Body is subject to Late Payment legislation and any guidance issued, in both jurisdictions.

## **Financial Investments and Unconventional Financing**

162. The Body shall not make any investments in traded financial instruments or enter into any unconventional financing arrangement without the prior written approval of the Sponsor Departments and the Finance Departments.

## **General Conditions for Authority to Spend**

163. Once the Body's Business Plan (which includes the budget) has been approved by the NSMC [and subject to any restrictions imposed by Statute/this FM], the Body shall have authority to incur expenditure to the level of that contained in the budget in the Business Plan without further reference to the Sponsor Departments, on the following conditions:

- the Body shall comply with the delegations set out in Annex B of this document. These delegations shall not be altered without the prior agreement of the Sponsor Departments and Finance Departments.
- the Body shall comply with the conditions set out in the paragraph regarding novel, contentious or repercussive proposals.
- inclusion of any planned and approved expenditure in the Body's budget shall not remove the need to seek formal Sponsor Departmental [and where

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necessary, Finance Departments] approval where such proposed expenditure is above the delegated limits set out in Annex B or is for new schemes not previously agreed.

- the Body shall provide the Sponsor Departments with such information about its operations, performance individual projects or other expenditure as the Sponsor Departments may reasonably require; The Sponsor Department should only ask for information which is necessary and should provide a clear rationale for any such requests.
- the Body shall comply with EU Public Procurement Directives as appropriate and should follow best practice guidance on public sector procurement. The options available for the Body to carry out procurement are as follows:
  - via Construction and Procurement Delivery (CPD) in Northern Ireland.
  - via Office of Government Procurement in Ireland.

With the prior approval of Sponsor Departments:

- via a service level agreement with another recognised Centre of Procurement Expertise (CoPE) in NI.
  - via a contract/service level agreement with another suitably qualified procurement expert.
- The Body shall not, without written approval from the two Sponsor Departments enter into any undertaking to incur any expenditure which falls outside the Body's delegations or which is not provided for in the Body's annual budget as developed and agreed by the Sponsor Departments.

### **Providing Performance Monitoring Information to Sponsor Department**

164. The Body shall provide the Sponsor Department with, as a minimum, information on a quarterly basis which will enable the satisfactory monitoring by the Sponsor Department of;
- performance against agreed strategic objectives and
  - expenditure against the approved budget.

### **Novel, Contentious or Repercussive Proposals**

165. The Body shall obtain the approval of the Sponsor Departments and Finance Departments, before taking action on any proposed activity which might be interpreted as being novel or contentious or falling outside the remit of the Body.

## **Delegations**

166. The Chief Executive is responsible for ensuring that specific approval for expenditure has been obtained in all cases where it falls outside the scope of the authority delegated by the Sponsor Departments to the Body as part of the approval process for its annual Business Plan. While authority is granted to the Body to spend an annual budget on the basis of the expenditure programme set out in its annual business plan, further approval may be required from the Sponsor Departments in relation to expenditure/projects above the delegated limits as set out in the attached annex.
  
167. The delegated expenditure limits in respect of the Body are set out in the attached Annex B.

## **OTHER FINANCIAL ISSUES**

### **Currency**

168. The normal operating currency of the Body will be Euro. Any changes to the operating currency should be approved by the Sponsor Departments and Finance Departments.

### **Virement**

169. The Body shall refer to its Sponsor Departments if it wishes to vire funds.

### **Write-offs, Losses and Special Payments**

170. Proposals to make special payments outside of the delegated limits must have prior approval of the Sponsor Departments and where necessary the Finance Departments. The Body shall keep a register of all losses and special payments, and the Sponsor Departments shall have the right to inspect the register at any time. Losses shall not be written off until all reasonable attempts to make a recovery have been made and proved unsuccessful. The Chief Executive shall ensure that attention is drawn to such losses and special payments by suitable notation in the Body's accounts and by notifying the Sponsor Departments.

### **Advance/Deferred Payments**

171. The Body shall seek the approval of the Sponsor Departments and Finance Departments if it wishes to make an advance payment or defer a payment.

### **Lending, Guarantees, Indemnities; Contingent Liabilities; Letters of Comfort**

172. The Body must obtain approval from the Sponsor Departments and Finance Departments before incurring/issuing financial liabilities, guarantees, indemnities, letters and statements of comfort etc.

## **Overpayments**

173. Overpayments should be recorded immediately and recovery action pursued in accordance with relevant financial guidance.

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### **Banking**

174. The Chief Executive is responsible for ensuring that banking arrangements are in accordance with relevant guidance, and carried out efficiently, economically, and effectively, and that the Body's banking arrangements safeguard public funds.
175. The Body's banking arrangements should be subject to competitive tendering which should be carried out at least every five years.
176. Any interest earned should be netted off against the Body's required drawdown of funds from the Sponsor Departments. The Chief Executive shall provide information about the Body's banking arrangements as required by the Sponsor Departments and Finance Departments.

### **Accumulation of Reserves**

177. The audited balance sheet of the Body will be reviewed annually by the Sponsor Departments to determine, in consultation with the Body, whether in light of the corporate and business objectives and operating environment of the Body any element of reserves should be surrendered.

### **Payment of Grants to Third Parties**

178. For the purposes of its functions, the Body may provide financial assistance to any Body or person whether directly or indirectly in accordance with arrangements which must be approved by the NSMC and Finance Ministers. Such assistance may be any description of investment or lending or by making grants.
179. The Body must ensure that it has adequate procedures in place so as to ensure that entitlement to grant can be clearly established and documented. Payments should only be made to those who meet the criteria for receiving grants. Finance and Sponsor Departments will review grant criteria as required and jointly issue such guidance as appropriate to the Body. The Body must be even handed in deciding what payments are made and must maintain accurate records of the reasons for the decisions made.
180. A condition of the payment of grant shall be that the recipient allows officials of the Comptroller and Auditor General for Northern Ireland and the Irish

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Comptroller and Auditor General access to all records as may be required in the course of:

- (i) the audit and certification of the accounts of the Body; and
- (ii) the performance of any value-for-money examination of the Body.

## **MANAGEMENT AND DISPOSAL OF ASSETS**

### **Asset Register**

181. The Body shall maintain an up-to-date register of its fixed assets.

### **Disposal of Assets**

182. The Body shall dispose of assets which are surplus to its requirements following approval from NSMC where appropriate. The proceeds from the sale of, or income on, any tangible or intangible assets (including intellectual property rights) of the Body must be declared to the Sponsor Departments and shall be utilised by the Body only for the purposes approved by the Sponsor Departments and the Finance Departments.

183. The Body shall not sell or develop any assets or rights of the Body without the prior approval of the Sponsor Departments and the consent of the Finance Departments and until the amount of claw-back due to the Sponsor Department and any other funders has been agreed.

184. The Body must obtain the best price possible for the disposal of any asset unless disposing of it by other means or scrapping it can be shown to be more economically advantageous. Specific prior approval must be obtained from the Sponsor Departments, with the consent of the Finance Departments, for any proposals to sell assets at less than market value.

### **Recovery of Grant-Financed Assets**

185. Where the Body has financed expenditure on capital assets by a third party, the Body shall set conditions and make appropriate arrangements to ensure that any such assets individually above the value laid out in Annex B are not disposed of by the third party without the Body's prior consent.

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186. The Body shall ensure that if the assets created by grants made by it cease to be used by the recipient of the grant for the intended purpose, a proper proportion of the value of the asset shall be repaid to the Body for surrender to the Sponsor Departments.

## **OTHER ISSUES**

### **Fees and Charges**

187. The Body may charge fees and impose other charges in respect of the performance of its functions subject to the agreement of the Sponsor Departments and Finance Departments. Fees and charges for goods and services should be set, where appropriate. When setting fees and charges, consideration should be given to the full economic cost of such goods and services, and to the benefits derived from the service, whichever is more appropriate. Fees and charges should be determined in accordance with relevant guidance.

### **Economic Appraisal**

188. The principles of economic appraisal apply equally to policies, programmes and projects and should be applied with appropriate and proportionate effort to all decisions and proposals for spending or saving public money, including EU funds, and any other decisions or proposals that involve changes in the use of public resources. For example, appraisal must be applied irrespective of whether the relevant public expenditure or resources:
- a. involve capital or current spending, or both;
  - b. are large or small;
  - c. are above or below delegated limits (see Annex B).
189. 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.

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190. Information should be maintained on all projects from inception to completion in a form which is readily available for examination, which can be submitted to Sponsor Departments if required and which conforms to requirements for audit, test drilling and 'value for money' scrutiny.
191. The Body shall comply with guidance issued by the two Finance Departments as appropriate.

### **Capital Expenditure**

192. Proposals for large-scale individual capital projects or acquisitions will normally be considered within the Body's Corporate and Business planning process. Regular reports on the progress of projects shall be submitted to the Sponsor Departments.
193. Approval of the Corporate/Business Plan does not obviate the Body's responsibility to abide by guidance agreed jointly by the Finance Departments.

### **Insurance**

194. The Body can take out insurance where there is a legal requirement to do so. Where the Body deems it necessary to have additional insurance, approval should be sought from the Sponsor Departments and Finance Departments. The Body should adhere to all relevant guidance in relation to insurance.
195. In the case of a major loss or third party claim, the Sponsor Departments will liaise with the Body to discuss how it should be handled and the implications for the Body's budget.

### **Gifts Offered to the Body**

196. The Body may accept any gifts, bequests or similar donations up to the value as laid out in Annex B subject to the conditions below. Any gifts above this value are subject to the approval of the Sponsor and Finance Departments.
197. Before accepting a gift, bequest or similar donation, the Body shall consider if there are any associated costs in doing so or any conflicts of interest arising.

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198. The Body may, subject to the approval of the Sponsor and Finance Departments, accept gifts of money, land or other property upon such trusts or conditions (if any) as may be specified by the donor, unless a conflict of interest arises.
199. If circumstances surrounding the receipt of a gift give cause for concern, the Body should seek advice from Sponsor and Finance Departments.
200. The Body shall not accept a gift if the conditions attached to it would be inconsistent with its functions.
201. The Body shall keep a written record of any gifts, bequests and donations and of their estimated value and whether they are disposed of or retained.

### **Gifts Made by the Body**

202. The Body may make individual gifts up to the value as laid out in Annex B. If the Body wishes to make any gift over this value, it must seek the approval of the Sponsor and Finance Departments. The Body shall maintain a register containing details of all gifts made and their value.

### **Hospitality**

203. The Body, in consultation with the Sponsor Departments, shall ensure that a comprehensive set of guidelines on the acceptance and provision of hospitality is in place. Reference should be made to established guidance North and South. The Body will also maintain a hospitality register.

### **Use of External Consultants**

204. The Body shall adhere to guidance issued by the Finance and Sponsor Departments in relation to the use of external consultants<sup>3</sup>. Care should be taken to avoid actual, potential, or perceived conflicts of interest when employing external consultants.

### **Payment/Credit Cards**

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<sup>3</sup> Finance Departments to work towards developing joint guidance on use of external consultants

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205. The Body may use Payment/Credit Cards provided it adheres to the guidance for the use of such instruments in place for the Sponsor Departments. The Departments may periodically review the use of such cards as they deem appropriate. The Body, with the agreement of Sponsor Departments, may also introduce procedures in relation to the use of Procurement Cards where such is of benefit to/or improves the efficiency of the organisation.

### **REVIEW, INTERPRETATION AND AMENDMENT OF FM**

206. The Finance Departments, the Sponsor Departments or the Body may propose amendments to this document at any time. Any such proposals shall be considered in the light of evolving governmental or departmental policy aims, operational factors and the track record of the Body itself. The Finance Departments in consultation with the Sponsor Departments shall determine what changes, if any, are to be incorporated in the document. Legislative provisions shall take precedence over any part of the document.
207. Any question regarding the interpretation of this Financial Memorandum shall be resolved by the Sponsor Departments after consultation with the Body and, as necessary, with the Finance Departments.
208. The FM should be formally reviewed by the Body and Sponsor Departments at least every five years.
209. This FM shall be made available on the Body's website.
210. This revised FM came into operation with effect from 1<sup>st</sup> August 2021 and supersedes the version that was in operation from 1 January 2005.

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This revised Memorandum came into effect, with the agreement of all parties, from 1 August 2021. It supersedes the version that was in operation from January 2005.

*John J. Donaghy*

Date July 20<sup>th</sup> 2021

John J. Donaghy  
Chief Executive,  
Waterways Ireland

*Bernie Lacey*

Date 6 September 2021

Bernie Lacey  
Senior Sponsor  
Department for Infrastructure

*Niall O'Donnchú*

Date 6/9/2021

Niall O'Donnchú  
Senior Sponsor  
Department of Housing Local Government and Heritage

**ANNEX A – STAFFING PRINCIPLES OF NORTH/SOUTH IMPLEMENTATION  
BODIES**

1. The Bodies will recruit and manage staff on the merit principle and within the legislative requirements of the relevant jurisdictions.
2. Staff will be recruited direct according to the requirements of the Body.
3. Directly recruited staff will not be civil servants, but employees of the Body.
4. Seconded staff will retain the terms and conditions of their employer.
5. The Bodies are responsible for their own personnel policies and for the non-pay terms and conditions of service relating to their own staff. These policies and terms and conditions will take account of and be informed by those which apply to civil servants in the ICS or NICS and legislative requirements.
6. The Bodies are responsible for their own industrial relations.

## **ANNEX B – DELEGATED EXPENDITURE LIMITS**

**[All Euro figures have been calculated at £1:€1.15\*]**

### **General**

These delegated expenditure limits have been agreed by the Sponsor Departments and the Department of Finance and the Department of Public Expenditure & Reform. The prior approval of the Sponsor Departments must be obtained for amounts above these values. Where Finance Department(s) approval is required, this should be sought via the relevant Sponsor Department(s).

They can be reviewed and amended from time to time subject to agreement with Sponsor Departments and Finance Departments.

### **Accountable person**

The Chief Executive as Accountable Person for the Body is responsible for ensuring that expenditure incurred in running the Body is contained within the approved budget and in accordance with the delegated limits set out below.

### **Novel/Contentious expenditure**

In Northern Ireland, any novel and/or potentially contentious projects, regardless of the amount of expenditure, require the approvals of the Sponsor Department and the Department of Finance.

\*<sup>1</sup> Planning Rate for 2021 [€1 = £0.87/£1 = €1.149] with Euro amount rounded to €1.15.

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### Other Delegations

The prior approval of the Sponsor Departments must be obtained for amounts above the following values.

		<b>Amount</b>
<b>Types of Delegations across Bodies [Bodies to insert in operating currency]</b>		
Economic Appraisal		>£250,000/€287,500
Capital Projects		The Chief Executive [appropriate officer as notified to the Sponsor Departments] may authorise capital expenditure on discrete capital projects up to £2m/€2.3m.  Above £2m/€2.3m to be approved by Sponsor Departments.  Above £2m/€2.3m will/may require approval by Finance Departments.
Transfer or Disposal of Surplus Equipment/Assets – see page 52		At less than market value requires the approval of Sponsor Departments.
Lease and rental Agreements <sup>4</sup>		Prior approval from Sponsor Departments must be secured for all property and finance leases.
Office Accommodation		No Delegation
Approval of IT Projects		The Body's delegated limit for individual IT project is £250k/€287.5k

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<sup>4</sup> DoF is currently reviewing its arrangements in this area and clarification of this issue will be provided by the Finance Departments.

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		<p>Projects above this require approval by the Sponsor Departments.</p> <p>Those above £1m/€1.15m require the approval of the Finance Departments.</p>
Engagement of External Consultants		<p>£10k/€11.5k</p> <p>NI Executive policy projects over £10,000 require Ministerial approval.</p> <p>Also NI policy agreed by Ministers projects over £75,000 require DoF approval. This should be sought via NI Sponsor department.</p>
Losses and Special Payments <i>Guidance on the interpretation of losses and special payments is detailed in the table attached below at C1</i>	Losses	N/A
	Special Payments	N/A
Losses  <i>Guidance on the interpretation of losses and special payments is detailed in the table attached below at C1</i>	Cash Losses	£5k/€5.75k
	Stores/Equipment Losses	£50k/€57.5k
	Fruitless Payments and Constructive Losses	£15k/€17.25k
	Claims Waivered or Abandoned	£100k/€115k
Special Payments – see page 50	Extra Contractual Payment	£100k/€115k
	Extra Statutory and Extra Regulatory Payments	No Delegation
	Compensation Payments <ul style="list-style-type: none"> <li>• Legal Obligation</li> <li>• Damage to Personal Property</li> <li>• Legal Advice WI unlikely to win</li> </ul>	<p>£100k/€115k</p> <p>£10k/€11.5k</p> <p>£100k/€115k</p>
	Special Severance	No Delegation

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	Ex gratia payments. (Pensions payments are not covered by this threshold.)	£10k/€11.5k
	Financial Remedy Payments	No Delegation
Gifts – see <i>paras 196-202</i>	Gifts made	£250/€287.50
	Gifts received	£250/€287.50
Advanced/Deferred Payments – see page 50		Requirement to seek approval from Finance Departments.
<b>Body specific delegations [Sponsor departments to identify any delegations specific to the individual Body for inclusion in this section]</b>		

## Losses and Special Payments

The Chief Executive [appropriate officer as notified to the Sponsor Departments], will have the authority to write off losses and make special payments up to the values detailed in the table above. The prior approval of the Sponsor Departments must be obtained for amounts above these values.

All losses and certain special payments require to be notated in Waterways Ireland's accounts.

## Public/Private Partnerships

PPP solutions should only be considered for projects with a capital value of £50 million or more.

## Recovery of Grant-Financed Assets

Where the Body has financed expenditure on capital assets by a third party, the Body shall set conditions and make appropriate arrangements to ensure that any such assets are not disposed of by the third party without the Body's prior consent.

## Engagement of External Consultants

The Body has authority to appoint external consultants for a **single contract** without recourse to the Sponsor Departments up to a **total** cost as shown in the table above, subject to any guidance as may be issued by the Sponsor Departments or Finance Departments. However, where the cost is likely to exceed the Sponsor Departments delegated limits, the prior approval of the Sponsor Departments is required before tenders are sought or the terms of reference finalised.

In all cases where the external consultancy assignment exceeds Stg £10k a proportionate business case should be prepared in line with the procedures detailed in current appraisal guidance referred to above.

The Body will provide the Sponsor Departments with an annual statement on the status of all external consultancies undertaken in each financial year. An assessment of the performance of the external consultants engaged must be provided except in cases where the cost of a project does not exceed Stg £10,000.

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The term “external consultancy” encompasses all contracts, including research but excluding housekeeping/domestic services which are made on behalf of, or for, the Body. If in doubt the Body should consult Departments and seek clarification on individual contracts.

Care should be taken to avoid actual, potential, perceived or perceivable conflicts of interest when employing external consultants and staff. The Body shall ensure that it adheres to the rules and disclosure requirements government the use of external consultants by central Government Departments.

**Table C1 – Losses Includes**

<b>1. Losses - includes</b>
<b>cash losses:</b> physical losses of cash and its equivalent (e.g. bank notes, credit cards, electronic transfers, payable orders).
<b>bookkeeping losses:</b> <ul style="list-style-type: none"> <li>• unvouched or incompletely vouched payments, including missing items.</li> <li>• charges to RfRs to clear inexplicable or erroneous debit balances.</li> </ul>
<b>exchange rate fluctuations:</b> losses due to fluctuation in exchange rates or revaluations of currencies.
<b>losses of pay, allowances and superannuation benefits</b> paid to Body's employees. <ul style="list-style-type: none"> <li>• overpayments due to miscalculation, misinterpretation, or missing information.</li> <li>• unauthorised issues, e.g. inadmissible payments.</li> <li>• losses arising from other causes, e.g. non-disclosure of full facts by the beneficiary, short or proven fraud.</li> </ul>
<b>losses arising from overpayments</b> of social security benefits, grants, subsidies, etc arising from miscalculation, misinterpretation or missing information. DoF approval required.
<b>losses arising from failure to make adequate charges</b> for the use of public property services. DoF approval required.
<b>2. Losses of accountable stores include:-</b>
<ul style="list-style-type: none"> <li>• proven or suspected fraud, theft, arson or sabotage, or any other deliberate act (including repairable damage caused maliciously to buildings, stores, etc even where a legal claim is not).</li> <li>• losses arising from other causes.</li> </ul>
<b>3. Fruitless Payments and Constructive Losses</b>
<b>4. Claims Waivered or Abandoned</b>
<b>5. Special Payments:</b>
<ul style="list-style-type: none"> <li>• <b>extra-contractual payments:</b> payments which, though not legally due under contract, appear to place an obligation on a public sector organisation which the courts might uphold. Payments may be extra-contractual even where there is some doubt about the organisation's liability to pay, e.g. where the contract provides for arbitration but a settlement is reached without it. (A payment made as a result of an arbitration award is contractual).</li> <li>• <b>extra-statutory and extra-regulatory payments</b> are within the broad intention of the statute or regulation, respectively, but go beyond a strict interpretation of its terms.</li> <li>• <b>compensation payments</b> are made to provide redress for personal injuries (except for payments under section 11 of the Principal Civil Service Pension Scheme (NI)), traffic accident, damage to property etc, suffered by civil servants or others. They include other payments to those in the public service outside statutory schemes or outside contracts.</li> <li>• <b>special severance payments</b> are paid to employees, contractors and other beyond above normal statutory or contractual requirements when leaving employment in public service whether they resign, are dismissed or reach an agreed termination of contract.</li> <li>• <b>ex gratia payments</b> go beyond statutory cover, legal liability, or administrative rules, including: <ul style="list-style-type: none"> <li>- payments made to meet hardship caused by official failure or delay</li> <li>- out of court settlements to avoid legal action on grounds of officials adequacy</li> <li>- payments to contractors outside a binding contract, e.g. on grounds of hardship.</li> </ul> </li> </ul>

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**ANNEX C – PROCUREMENT THRESHOLDS FOR PURCHASING GOODS AND SERVICES**

**Delegated Authority for the Purchase of Goods and Services**

North/South Bodies must comply with EU Public Procurement Directives or relevant NI Procurement Policy depending on whether they operate in the North or South. The following table lays out the current thresholds for North/South Bodies public sector procurement of goods and services. The thresholds contained within this Annex of the FM may be updated from time to time as agreed jointly by both Finance Departments.

<b>NI Threshold</b>	<b>ROI Threshold Goods &amp; Services</b>	<b>ROI Threshold Works Related (professional) Services (1)</b>	<b>ROI Threshold Works (2)</b>
<b>Up to £10,000</b> Provide evidence that 2 prices have been sought, where this is possible.	<b>Less than €5,000</b> One or more quotes required.		
<b>£10,000 - £50,000</b> 3 Written Quotations are sought, where this is possible.	<b>€5,000 - under €50,000</b> A Minimum of 3 Written Quotations is required.	<b>Less than €50,000</b> Seek a <b>minimum of 5 Written Tenders</b> from interested and competent contractors	<b>Less than €200,000</b> Seek a <b>minimum of 5 Written Tenders</b> from interested and competent contractors
<b>£50,000 - NI Threshold</b> Advertise on <a href="http://www.etendersni.gov.uk">www.etendersni.gov.uk</a>	<b>€50,000 - EU Threshold</b> Advertise on <a href="http://www.etenders.gov.ie">www.etenders.gov.ie</a>	<b>€50,000 – EU Threshold</b> Public tender with a Contract Notice published on <a href="http://www.etenders.gov.ie">www.etenders.gov.ie</a>	<b>€200,000 – EU Threshold</b> Public tender with a Contract Notice published on <a href="http://www.etenders.gov.ie">www.etenders.gov.ie</a>
<b>Above NI Threshold</b> Advertise on <a href="http://www.etendersni.gov.uk">www.etendersni.gov.uk</a> and find a Tender service.	<b>Above EU Threshold</b> Public tender (open or restricted) with a Contract Notice published on <a href="http://www.etenders.gov.ie">www.etenders.gov.ie</a> and in the OJEU	<b>Above EU Threshold</b> Public tender (open or restricted) with a Contract Notice published on <a href="http://www.etenders.gov.ie">www.etenders.gov.ie</a> and in the OJEU	<b>Above EU Threshold</b> Public tender (open or restricted) with a Contract Notice published on <a href="http://www.etenders.gov.ie">www.etenders.gov.ie</a> and in the OJEU

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**NI FAQs:** [FAQs for PPN 04/21 Procurement Control Limits - NI Dept of Finance](#)

**eTendersNI:** [Find a Tender \(Central Digital Platform/UK Procurement Act\) guidance June 2025](#)

*Use of compliant Framework Agreements as a procedure may be permitted with prior written approval of WI Procurement*

**ROI FAQs:** [FAQs for Circular 05/2023 - gov.ie](#) (extract below):

For contracts valued between €5,000 and €50,000, buyers have multiple options. Contracts can be awarded based of the following competitive processes:

- Responses to written specifications (including by email) that were sent to at least three suppliers,
- Responses to at least three quotations obtained using the electronic request for quotes facility on eTenders, or
- A more formal tendering process by advertising on eTenders.

(1) Works Related Services contracts cover the broad range of professional consultants required to successfully deliver a Works project. EU Threshold is the same as Supplies/Services below.

(2) A list of activities under Works contracts (e.g. Construction, Site Preparation, Demolition, Installation/Plumbing works) is set out in Schedule 1 of [S.I. No. 284/2016 - EU \(Award of Public Authority Contracts\) Regs 2016](#)

### **Value close to upper end of threshold/range**

If the estimated value of the purchase is close to the upper limit of a threshold the number of quotations/tenders required in the next band should be applied. The Body is expected to combine repeat purchases to increase buying power. Orders must not be split so as to avoid the need for competitive tendering.

### **Minimum number of quotation/tenders not obtained**

For any purchase or contract where the minimum number of quotations/tenders is not obtained, the purchase may proceed if the accountable person is satisfied that every attempt has been made to obtain competitive offers and that value for money will be achieved. In these cases a report should be completed by the Accountable Person and records of all correspondence should be retained on file including any justification given and/or approvals obtained.

### **Contracts awarded without competition**

Contracts awarded without competition over £30,000/€34,500 require Sponsor Departments Accounting Officer approval.

## **ANNEX D – AUDIT PROTOCOLS**

### **Implementation of accounts/audit requirements in respect of North/South Implementation Bodies (other than the Language Body and Tourism Ireland Limited), by the bodies, Sponsor Ministers and Departments, Finance Departments, North/South Ministerial Council and Comptrollers and Auditors General**

Note: Statutory requirements are set out in the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 and the British-Irish Agreement Act 1999.

#### **Statement of Accounts (Annex 2, part 7, paragraph 2.4 of Implementation Bodies Agreement)**

1. The Sponsor Departments shall, with the approval of the Finance Departments, issue to the Body an accounts direction specifying the information to be contained in the statement of accounts and the form of that statement. The Body shall prepare a statement of accounts in respect of each year. The statement of accounts shall contain information and be in the form set out in the accounts direction.

#### **Audit of Accounts (Annex 2, part 7, paragraph 2.5 of the Implementation Bodies Agreement)**

2. The statement of accounts shall be submitted by the Body to the Comptrollers and Auditors General (C&AGs), and to the North/South Ministerial Council (NSMC). The accounts should be signed by the Chief Executive
3. The accounts should be sent for information to the Sponsor Departments.
4. The C&AGs shall in co-operation examine and certify the statement of accounts provided by each Body.
5. On the completion of the audit fieldwork there are three possible outcomes:
  - Unqualified audit certificate (no report).
  - Unqualified audit certificate (but a report is attached by the C&AGs).
  - Qualified audit certificate.

These situations are considered below.

**(i) Unqualified audit certificate (no report)**

6. In this situation, no material error or irregularity has been found. The C&AGs are therefore able to sign an unqualified audit certificate to attach to the accounts. This unqualified certificate confirms that, in the opinion of the C&AGs, the accounts give a true and fair view of the Body for the period of account and that income and expenditure have been applied to purposes intended by the Assembly and Dáil Éireann.

**(ii) Unqualified audit certificate (but a report is attached by the C&AGs)**

7. No material error or irregularity has been found but the C&AGs have identified an issue or issues which they wish to bring to the attention of the Assembly and Dáil Éireann as they merit a public report. In this case, the C&AGs will attach an unqualified audit certificate to the accounts as above, but will prepare a report to accompany the accounts to go to the Assembly and Dáil Éireann.
8. The report will be prepared initially in draft form by the C&AGs and given to the Chief Executive of the Body for comment and, if the C&AGs consider it appropriate, to the two Sponsor Departments and the Finance Departments for information.
9. The C&AGs shall take the views of the Body into account together with any comments from the Sponsor Departments in finalising the report. The unqualified audit certificate will then be signed by the C&AGs and the audit certificate and report attached to the accounts.

**(iii) Qualified audit certificate**

10. Material irregularity or error has been found. In this case, the C&AGs will qualify their opinion in the audit certificate, either because in some respect the accounts do not give a true and fair view of the Body for the period of account, or because the income and expenditure in the period of account have been applied to purposes not intended by the Assembly and Dáil Éireann. The C&AGs may also prepare a report to be included with the accounts that will fully explain the circumstances giving rise to the audit qualification.
11. As detailed above, the report will be prepared initially in draft form by the C&AGs and be given to the Chief Executive of the Body for comment, and if the C&AGs consider it appropriate to the two Sponsor Departments and the Finance Departments for information.

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12. The C&AGs shall take the views of the Body into account together with any comments from the Sponsor Departments in finalising the report. The qualified audit certificate will be signed by the C&AGs and attached to the accounts along with their report.

### **(iv) Issue of audited accounts and reports**

13. The audited statement of accounts and any report shall be issued by both C&AGs to the Chief Executive of the Body. The Chief Executive shall transmit a copy to the Sponsor Departments and the Finance Departments.
14. The Sponsor Ministers shall submit a copy of the audited statement of accounts and any report to NSMC.

### **Laying of Accounts (Annex 2, Part 7, paragraph 2.6 of the Implementation Bodies Agreement [and relevant legislation North and South])**

15. The Northern Ireland Sponsor Minister shall lay the certified statement of accounts and any related report by the C&AGs before the Assembly.
16. The Irish Sponsor Minister shall lay the certified statement of accounts and any related report by the C&AGs before both Houses of the Oireachtas.

## **ANNEX E – LAYING ACCOUNTS AND REPORTING ACTIVITIES**

### **GUIDANCE NOTE FOR NORTH/SOUTH IMPLEMENTATION BODIES AND TOURISM IRELAND LTD ON THE SUBMISSION AND LAYING OF ACCOUNTS AND REPORTING ON ACTIVITIES**

#### **1. Background**

The North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 ('the 1999 Order'); the British-Irish Agreement Act 1999 ('the Act') and the Financial Memorandum for each of the North/South Implementation Bodies (the Bodies) sets out certain conditions and financial requirements that the bodies must adhere to.

This guidance note considers the:

- submission of accounts to the Comptrollers and Auditors General (C&AGs) and the North South Ministerial Council (NSMC);
- reporting by the Bodies on their activities each year to NSMC; and
- laying of the Bodies' annual report and accounts before the Assembly and both Houses of the Oireachtas.

#### **2. Submission of Accounts to C&AGs and NSMC**

Each Body is required to prepare a statement of accounts annually and to submit this to both the NSMC and the C&AGs. This statement of 'unaudited' accounts should be submitted to the C&AGs for audit and to the NSMC for noting, as soon as possible after the end of the Financial Year to which they relate (which in the case of North/South Bodies is 31 December), but no later than 1 April of the following year. (In the case of the Language Body, it is the consolidated 'unaudited' statement of accounts that should be submitted).

(Note: in this context, 'submitted' means submitted to the relevant NSMC sectoral meeting).

#### **3. Submission of Annual Report on Activities to the NSMC**

The legislation also states that each of the bodies should submit a report on its activities in each year to NSMC. Accordingly, bodies should submit their Annual Report for noting, at the same time as they submit their unaudited account to the NSMC. The Annual Report will be laid when the accounts have been certified – see below. (Note: the Annual Report must be the same report that is laid with the certified accounts before the Assembly and both Houses of the Oireachtas.)

#### **4. Laying of Annual Report and Accounts before the Northern Ireland Assembly and Houses of the Oireachtas**

When the accounts have been certified by the C&AGs, the Ministers of the Sponsor Departments for each North/South Implementation Body are required to lay a copy of its:

- annual report;
- audited accounts; and
- any report by the C&AGs on the audited accounts.

before the Assembly and both Houses of the Oireachtas.

The certified accounts should be laid 'simultaneously to the greatest extent possible' North and South and as soon as possible, but not later than three months after the audit certificates have been signed off by the C&AGs or by 30 June, whichever is the earlier.

As Bodies are required to incorporate the audited accounts into their annual report and publish this as a single document, it is this document, the Annual Report and Accounts that should be laid by Sponsor Ministers before the Assembly and both Houses of the Oireachtas.

The NSMC Secretariat and Sponsor Departments should be kept advised of progress and informed if bodies consider that they will not be able to complete this process within the prescribed timetable.

The normal procedure for laying of documents before the Assembly and both Houses of the Oireachtas will apply.

It is important to note that documents to be laid before both Houses of the Oireachtas should not be published before being so laid. A breach of this is a serious infringement of parliamentary privilege.

#### **Sequence of Events**

- 1) Statement of Accounts submitted to the C&AGs for audit and to the NSMC for noting. This should happen as soon as possible after the end of the bodies' financial year to which they relate but no later than 1 April of the following year.**
- 2) Annual Report of activities submitted with the Statement of Accounts to the NSMC.**

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- 3) **Following certification of the Accounts by the C&AGs, the Annual Report and Certified Accounts (including any report by the C&AGs) are then laid simultaneously before the Assembly and both Houses of the Oireachtas. Usual Parliamentary procedures to apply.**
- 4) **Annual Report and Accounts published.**