WATERWAYS IRELAND

IMPLEMENTATION BODY

FINANCIAL MEMORANDUM

(agree with the Body, DCAL and DCRGA
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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 done on 8 March 1999

“Body” means Waterways Ireland Implementation Body

“Chief Executive” means the senior executive official of Waterways Ireland

“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 Irish Comptroller and Auditor General and the Comptroller and Auditor General for Northern Ireland

“DFP” means Department of Finance and Personnel in the North

“DOF” means Department of Finance in the South

“Finance Departments” means the Department of Finance and Personnel in the North and the Department of Finance in the South
“Finance Ministers” means the Minister of Finance and Personnel in the North and the Minister for Finance in the South

“FM” means Financial Memorandum

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

“NSMC” means the North-South Ministerial Council

“PAC” means the Public Accounts Committees in the respective jurisdictions

“Sponsor departments” means the Department of Culture, Arts and Leisure, the Department of Community, Rural, and Gaeltacht Affairs

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

**During the period of suspension, any reference to the NI Assembly in the Financial Memorandum should be read as a reference to the United Kingdom Parliament.**
BACKGROUND

The Good Friday/Belfast Agreement

On Good Friday, 10 April 1998, after multi-party negotiations, the British and Irish Governments agreed on a new way forward for Northern Ireland. The resulting Agreement provided for various new institutional and constitutional arrangements, including the Northern Ireland Assembly, the North/South Ministerial Council (NSMC), and implementation bodies.

North/South Ministerial Council (NSMC)

The NSMC was established in December 1999 on the entry into force of the British-Irish Agreement. It comprises Ministers of the Irish Government and the Northern Ireland Administration, working together to develop consultation, co-operation and action within the island of Ireland on matters of mutual interest, in a way that will prove mutually beneficial.

On 18 December 1998, a Joint Statement was issued by the First Minister (designate) and Deputy First Minister (designate), setting out areas for co-operation that would come under the auspices of the NSMC, as agreed by the two Governments. Consequently, six North/South Implementation Bodies (Inland Waterways, Food Safety, Trade and Business Development, Special EU Programmes, Language, and Aquaculture and Marine Matters) along with Tourism Ireland Limited were identified to come under the remit of the NSMC. One of the NSMC’s functions is to decide by agreement all-island policies and actions for implementation by the North/South Bodies.

NSMC Joint Secretariat

The Joint Secretariat is mandated by Strand 2 of the Agreement to support the NSMC. It has a co-ordinating and liaison function, and acts as a channel of communication between the body and sponsor and Finance departments.

It facilitates meetings between sponsor departments, “centre departments” (the Office of the First Minister and Deputy First Minister in the North, the Department of the Taoiseach and Department of Foreign Affairs in the
South, and the Finance departments North and South) and all of the Bodies, providing a forum at which the relevant parties can work together to achieve best practice in matters of corporate governance, and other issues affecting the business of the body.
COMMON INTRODUCTORY CHAPTER

Purpose of the Chapter

The purpose of this chapter is to set in context the operation of this Financial Memorandum and to provide 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. The body of the Memorandum sets out more detailed operational requirements.

Context

North/South bodies are unique in that they implement policies and actions on a cross-border and all-island basis and therefore must comply with statutory and accounting requirements in both jurisdictions. This Financial Memorandum 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.

Corporate Governance – Historical Perspective

Interest in corporate governance dates back to the early 1990s, following a series of financial scandals and related listed company failures in the UK. These led to the publication of a variety of reports, and to the production of codes of best practice for the governance of public bodies. Following on
from these flowed ‘The Seven Principles of Public Life’ (openness, integrity, accountability, objectivity, selflessness, leadership and honesty); provision of guidance on risk management and systems of internal control; establishment of audit committees; more regular performance reporting; and statutory access by the Comptrollers and Auditors-General in both jurisdictions to publicly funded bodies.

In 1997, the Department of Finance and Personnel in Northern Ireland issued guidance on codes of best practice for Board members of public bodies, and in 2003 legislation was introduced to extend access rights of the Comptroller and Auditor-General to public bodies. In the South, legislation was introduced in 1993 and 1998 in relation to the powers of the Comptroller and Auditor-General. This was followed in 2002 by the establishment of the Office of the Director of Corporate Enforcement, and the publication by the Minister for Finance of the Code of Practice for the Governance of State Bodies. This Code sets out a corporate governance best practice framework, which the Irish Government requires the State body sector to put in place.

**Accountability and Corporate Governance**

Corporate governance comprises the systems and procedures by which organisations are directed and controlled. In the interests of transparency and accountability, it is important that corporate governance of public bodies, including North/South bodies, operates to the highest standards. The concept of accountability requires that an individual or body should be accountable for, or be expected to report back on, their actions. It makes them personally responsible for their actions and decisions and subjects them to external scrutiny for their management of public funds and all
aspects of performance. It is therefore important that those in the accountability chain understand their remit and responsibilities within a clearly defined structure.

It is also clear that accountability within public bodies and those organisations funded by them has much wider implications today given the multiplicity of stakeholders, including customers, Ministers and the taxpayer. Such stakeholders exercise much greater levels of scrutiny than formerly in relation to performance and securing ‘value for money’ for the use of public resources.

**Implementation of Guidance**

North/South bodies are unique when compared to other public bodies in that the Governments of two jurisdictions have jointly established them. Whilst the bodies are treated as being analogous to NDPBs and Semi-State bodies and are required, in terms of corporate governance, accounting and accountability, to adhere to guidance and best practice applicable to those organisations, it is recognised that this can create difficulties where the two sets of guidance differ. Dear Accounting Officer (DAO) letters/Finance Circulars and similar guidance will be agreed by the Finance Departments, north and south, before being issued to departments for dissemination as appropriate to their relevant North/South body/bodies. If the Finance Departments agree that a DAO letter or DoF circular is applicable to a North/South body, the guidance will specifically state this. 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.
Departmental Accounting Officers

The core roles and responsibilities of Departmental Accounting Officers (Permanent Secretaries in the North and Secretaries General in the South) are set out in specific Departmental Accounting Officer Memoranda in each jurisdiction. Their roles and responsibilities in relation to North/South bodies are very similar and these are set out in the “Role of the Departmental Accounting Officers and Departments” section of this Financial Memorandum. To summarise, Departmental Accounting Officers in both jurisdictions have responsibilities in relation to the conditions of payment of grant from Voted moneys, and for ensuring that there is a clear framework and system for the control of and accountability for public funds in all bodies operating under the aegis of their departments.

In relation to monitoring, there is also considerable commonality. The Accounting Officer Memorandum in the South states that “it is the boards and Chief Executives of other public sector bodies, not the Accounting Officers of Government Departments and Offices, who are responsible for running those organisations and preparing their accounts”. In this respect, the role of the Departmental Accounting Officers is similar North and South.

However, it is recognised that their roles and responsibilities also differ in certain respects. For instance, if a North/South body’s Accountable Person were invited to appear before the Public Accounts Committee in Northern Ireland or at Westminster, the Permanent Secretary of the Sponsor Department would normally be expected to attend and could be questioned on issues directly affecting his/her Department or the North/South body. In the South, normally the Accountable Person would be expected to attend
alone. The Secretary-General would attend only if invited by the Oireachtas Committee to answer on matters for which he is responsible.

It is recognised, however, that the Public Accounts Committees may place a different emphasis on the oversight expected of the respective Departmental Accounting Officers in each jurisdiction.

**Delegations**

The use of delegations, whereby in a limited number of circumstances a sponsored body is required to obtain the approval of its Sponsor Departments and, on occasions, the Finance Departments, before committing to certain expenditure, operates in both jurisdictions in relation to NDPBs and Semi-State bodies. This practice has been extended to North/South bodies. Each body has a set of delegations, which have been approved by both of the Sponsor Departments. Departmental Accounting Officers will have available to them all supporting information relevant to expenditure decisions by the bodies and will be free to access whatever information they require to comply with normal procedures within each jurisdiction.

**Economic Appraisal**

Economic appraisal is a key tool for achieving ‘value for money’ and satisfying public accountability requirements. The principles of appraisal should apply to all decisions and proposals involving expenditure or resources. They 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.

As there is guidance on economic appraisal in both jurisdictions, North/South bodies should follow the guideline mentioned in the Implementation of Guidance section above, namely, that they will have to satisfy both Northern and Southern criteria.
Purpose of the Financial Memorandum

1. This Memorandum sets out the financial procedures and accountability arrangements which govern the financial relationship between the North/South Ministerial Council, Department of Culture, Arts and Leisure, the Department of Community, Rural, and Gaeltacht Affairs, Finance Departments and Waterways Ireland. Its provisions have been approved by the Department of Finance and Personnel (DFP) and the Department of Finance (DOF). 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 North and South, and other relevant guidance, including that referred to in this Memorandum. These financial procedures and accountability arrangements may be reviewed from time to time (see paragraph 97).

2. The Memorandum has been designed to ensure proper use of public monies and pays due regard to the Body’s status as a cross-border Body. It also reflects the Body’s dependence on financial support from the sponsor departments and sets out conditions for the sponsor departments to pay grants to the Body in support of its operations. Compliance with this Memorandum is a condition for receiving grants.

3. To ensure robust financial monitoring, the proper use of grant from the sponsor departments, and to stimulate the efficiency and effectiveness of its performance, the Body shall, for the purposes of this Memorandum, be treated as if it is a non-departmental public body
(North) and a non-commercial semi-State body (South) within the public service, as appropriate.

**Statutory Authority**

4. The statutory authority for the Body is the North-South Co-operation (Implementation Bodies) (Northern Ireland) Order, 1999 and the British-Irish Agreement Acts, 1999 and 2002. Provision for grant will be made by the sponsor departments from voted monies.

**Functions**

5. The main functions of the Body, and the arrangements by which they are exercised, are as set out in Part 1 of Annexes 1 and 2 of the Agreement.

**RELATIONSHIP BETWEEN BODY AND SPONSOR DEPARTMENTS**

**Role of Departmental Accounting Officers**

6. The sponsor departments’ 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 are set in accordance with this Memorandum;
(ii) ensure that accountability, financial and other management controls are appropriate and sufficient to safeguard the public funds provided to the Body in support of its operations;

(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 the 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) release grants to the Body only in accordance with conditions of grant, demonstrated need, and to monitor compliance with these conditions;

(vii) approve and monitor any borrowing;

(viii) approve and recommend, as appropriate, the Body’s corporate and business plans;
(ix) attend, if so requested, any related hearings of a Committee of the Northern Ireland Assembly or Committee or sub-Committee of either House or both Houses of the Oireachtas.

7. 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.

8. 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.

Parliamentary Accountability

9. As provided in paragraph 1.5 of Part 7 of Annex 2 of the Agreement, a member of the Body or of its staff will, if so requested, appear before or otherwise co-operate with

(i) a Committee of the Northern Ireland 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

(ii) the NSMC.
10. If a Body’s Accountable Person were invited to appear before the Public Accounts Committee in Northern Ireland or at Westminster, the Permanent Secretary of the sponsor department would normally be expected to attend and could be questioned on issues directly affecting his/her department or the Body. In the South, normally the Accountable Person would be expected to attend alone. The Secretary General would attend only if invited by the Oireachtas Committee to answer on matters for which he/she is responsible.

11. In answering/giving evidence to any Parliamentary Committee, neither the Accountable Person 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 of the Attorney General for Northern Ireland.

**Accountable Person for Body**

12. The Chief Executive shall be the Accountable Person responsible for the efficient and effective administration of the Body. 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 accordance with established procedures. There is no comparable procedure in the South.
Appointment and Responsibilities of the Chief Executive

13. NSMC appoints the Chief Executive.

14. Within the context of paragraph 9, the Chief Executive is answerable to the NSMC for the Body’s use of any resources made available to it. The Chief Executive has the authority and responsibility to manage the day-to-day operations of the Body and shall among other things:

(i) advise the sponsor departments and NSMC as and when appropriate;

(ii) ensure that public funds administered by the Body are used for the purposes stated by Dáil Éireann and the Northern Ireland Assembly and in accordance with the provisions of this Financial Memorandum;

(iii) ensure that the financial and other management controls to safeguard public funds are appropriate and conform to the requirements of propriety, regularity, and of good financial management;

(iv) ensure that all resources are safeguarded and are used economically, efficiently and effectively;
(v) ensure that the conditions set out in this Financial Memorandum are observed and that expenditure will be undertaken only to the extent and for the purposes authorised by the sponsor departments, and with the consent of the Finance Departments;

(vi) ensure that expenditure is contained within the approved budget, and ensure that specific approval for expenditure has been obtained in all cases where it falls outside the scope of any standing authority delegated by the sponsor departments of the Body (approved delegated expenditure arrangements are set out in Annexe 2);

(vii) ensure that appropriate personnel management policies are developed and observed, taking account of the statutory provisions relating to the determination of the pay, numbers, grading and other conditions of service of staff, and of the staffing principles agreed between the Finance Departments (see Annexe 4);

(viii) ensure that adequate internal expenditure controls are introduced and maintained;
(ix) ensure that financial considerations (including any issues of propriety, regularity or ‘value for money’ considerations) and the avoidance of extravagance or waste are taken fully into account in framing and reaching decisions and in their execution;

(x) sign the accounts and maintain supporting records, and in so doing accept personal responsibility for ensuring that the accounts are properly prepared in accordance with the relevant guidance;

(xi) sign a statement on internal control regarding the Body’s system of internal control for inclusion in the annual report and accounts;

(xii) keep under review the Body’s financial management systems and provide the sponsor departments with such periodic returns as the sponsor departments consider necessary to satisfy them as to the effectiveness of these systems;

(xiii) have the personal authority to write off losses and make special payments, subject to the delegated limits and conditions set out in Annexe 2 attached.

(xiv) ensure that effective internal audit is established in accordance with paragraph 51;
(xv) make appropriate written representation to the sponsor departments (copying it to the Departmental Accounting Officers) if he/she receives instructions which he/she regards as conflicting with his/her duties, and ensure that conflicts of interest are avoided;

(xvi) ensure that the Body observes any general guidance issued by the sponsor departments and the Finance Departments and puts into effect any relevant recommendations of the relevant Committee of the Northern Ireland Assembly or Committee or sub-Committee of either House or both Houses of the Oireachtas where accepted by the Irish Government and the Northern Ireland administration, and;

(xvii) be amenable to a Committee of the Northern Ireland Assembly or a Committee or sub-Committee of either House or both Houses of the Oireachtas, including attendance at their meetings, if so requested, in relation to:

(a) the regularity and propriety of the transactions required to be recorded in any account subject to audit by the Comptrollers and Auditors General;

(b) the economy and efficiency of the Body in the use of its resources;
(c) the systems procedures and practices employed by the Body for the purpose of evaluating the effectiveness of its operations; and

(d) 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 Northern Ireland Assembly.

15. The Chief Executive may delegate authority to other senior staff within their Body as he/she sees fit. However, he/she cannot delegate their full responsibility to other staff. The Chief Executive may delegate authority or allocate resources as he/she considers necessary according to priorities, subject to the corporate plan 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.

16. The Chief Executive has particular responsibility to ensure that appropriate advice is tendered to the NSMC on all matters of financial propriety and regularity and on all considerations of prudent and economic administration. In tendering such advice, the Chief Executive shall, where necessary, make reference to the sponsor departments’ obligations to account to a relevant Committee of the Northern Ireland Assembly or Committee or sub-Committee of either House or both Houses of the Oireachtas for the Body’s use of all resources made available to it by the sponsor departments.

17. Should a course of action be contemplated which the Chief Executive
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, he/she shall be obliged to draw the matter to the attention of the NSMC in writing and side copy to the Departmental Accounting Officers. In such circumstances, the relevant course of action shall not be pursued pending consideration of and adjudication on the matter by the NSMC and the Departmental Accounting Officers.

18. The functions of the Chief Executive may be performed during his/her absence or when the position of the Chief Executive is vacant by such member of the staff of the Body as may from time to time be designated for that purpose by the NSMC.

FINANCIAL AND BUSINESS PLANNING FRAMEWORK

Sources of Funding

19. The Body will receive grants from money voted by the Northern Ireland Assembly and Dáil Éireann. NSMC, with the approval of the Finance Ministers, will make recommendations as to the amount of such grants, in accordance with the budgetary cycle table at Annex 1.

20. The total approved annual expenditure budget of the Body must not exceed the aggregate of the amount voted to it by the respective legislatures, including supplementary estimates, together with income accruing to the Body (see paragraph 21 below), consistent with the agreed corporate and business plan as approved by NSMC. 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. Particular care should be taken to ensure that correct procedures, in accordance with any relevant guidance, are observed in relation to any proposal which, while not leading to immediate expenditure, could involve a contingent liability on the Body or the Exchequer/Treasury. The Chief Executive will also 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.

Other Sources of Funding

21. 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 81-83.
Payments of Grant to the Body

22. The sponsor departments may pay to the Body grants conditional upon need. The grant will be approved and payments made subject to the conditions outlined in this Memorandum. Any 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.

23. Claims for grant payment shall be formulated having regard to the level of the Body’s funds and to the forecast level of its payments and other receipts over the period of the claim. Any part of the grant provision in respect of a particular financial year which has not been paid to the Body by the end of that year shall lapse. Unspent grants in the hands of the Body may be subject to surrender.

24. Applications for advances of grant should be submitted to the sponsor departments as required and must set out the purpose for which it will be used. All applications must be in the form prescribed by the sponsor departments and must be signed by the Chief Executive or a person notified in advance to the sponsor departments as having delegated authority to sign applications. The applications must be accompanied by a certificate to the effect that the conditions applying to this and previous grants have been duly observed to date and that further grant is now required. When drawing down grant, the Body should submit a copy of its bank statement or bank reconciliation as evidence that excessive balances are not being held.
**Disbursement of Funds**

25. 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 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.

26. The sponsor departments 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 also suspend the payment of grant if they are not satisfied that the Body’s systems for control of its resources are adequate.

27. Unless and until the UK adopts the euro, the grant to the Body from the Northern department will be paid in sterling, and the grant to the Body from the Southern department will be in euro.

**Economic Appraisal**

28. 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. (Please refer to the delegated limits in Annexe 2)

29. The Chief Executive of the Body should ensure that the guidelines from the sponsor and Finance departments are being complied with. Information should be maintained on the project from inception to completion in a form which can be submitted to the sponsor departments if required, and which conforms to requirements for audit and ‘value for money’ scrutiny.

**Payment of Grants to Third Parties**

30. 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 grant. These criteria shall be agreed with the sponsor departments. The Body must be even-handed in deciding what payments are made and must maintain accurate and timely records of the reasons for the decisions made.

31. A condition of payment of grant shall be that the recipient allows officials of the Comptroller and Auditor General for Northern Ireland and the Irish 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.
32. The Body must first receive the prior approvals of NSMC and Finance Ministers for the arrangements of paying such a grant.

**Corporate/Management Planning Process**

33. In order to service the information needs of the sponsor departments and the Finance Departments in respect of both budgeting and overall management, the Body will be required to prepare a 3-year corporate plan every three years and an annual business plan, drawn from the corporate plan.

34. The corporate and business plans are subject to the approval of NSMC, including Finance Ministers. The plans will include activities of benefit to both administrations and will in principle, over an agreed number of years, be in broad proportion to their proposed respective contributions.

35. The level of contributions of the two jurisdictions may be reviewed by the sponsor departments in the light of major currency fluctuations or other significant factors.

36. The corporate plan should also include such other information and targets and indicators against which the Body’s performance may be measured, as may be required by the sponsor departments and the Finance Departments.

37. The detailed business plan should be prepared annually. It will include a description of the proposed activities and the associated
funding implications for consideration in the context of the annual Departmental Estimates discussions and will form the basis of consideration of resource requirements by the two administrations, North and South. This business plan will also include projected budget figures and associated staffing for the two years following the year of the business plan.

38. Even though the sponsor and Finance departments approve the Business Plan, this does not obviate the Body’s need to seek the sponsor departments’ and Finance departments’ approvals for projects costing over the relevant delegated limits (see Annexe 2).

**Budgeting Arrangements**

39. The budget for the Body will be determined by the process set out in the table at Annexe 1.

40. In November/December each year, the Governments North and South shall make provision for the recommended contributions based on Ministers’ recommendations in the processes of the Estimates in the South and Budget in the North.

41. The Body has authority to spend the amount as approved in the respective year’s business plan. The Body shall seek the approval of the sponsor departments if it wishes to spend any unforeseen in-year income.
REPORTING

General

42. The Body will submit a report on its activities in each year to the NSMC at such date and in such form as the NSMC may direct. In addition, the Body has a general duty to provide the sponsor departments and the Finance Departments with such financial information relating to income, expenditure and outturn in such form and at such times as the sponsor departments and the Finance Departments may require.

43. The Body must also provide to the NSMC or relevant Minister or Department:

(i) Such other reports and information as the NSMC or relevant Minister may from time to time require;

(ii) An annual statement of assurance signed by the Chief Executive that the Body’s financial systems are adequate and effective and that the terms of this Memorandum are being complied with.

44. The sponsor departments may arrange to have periodic financial reviews carried out. The Body must provide adequate access to and collaborate with the sponsor departments in the conducting of these reviews.
45. 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 under-spend of the approved budget is likely to occur.

**Financial Year**

46. The financial year for accounting purposes for the Body will be the calendar year.

**Format of Accounts**

47. While the operating currency of the Body is subject to paragraph 70, the accounts of the Body will be presented to the legislatures in sterling and euro. If and when the UK adopts the euro, they will be presented in euro only. The accounts will be on an accruals basis and will be prepared in a form directed by the sponsor departments with the approval of the Finance Departments. The form of accounts will take account of available guidance for North/South bodies.

**AUDIT**

**External Audit**

48. The Body shall submit its annual accounts for audit to the Comptrollers and Auditors General as soon as possible after the end of the 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 shall 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 cooperative manner based on working methods agreed between them. The two C&AGs will use the Audit Protocols, as set out in Annexe 3 of this FM.

Access

49. 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. 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 Accounts and Reports

50. 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 Northern Ireland Assembly and the Houses of the Oireachtas.

Internal Audit
51. The Body shall establish an effective internal audit function, which shall operate and report in accordance with relevant financial guidance (e.g. “Internal Audit Standards” issued by the DOF and the “Government Internal Audit Standards” (GIAS) issued by DFP).

52. The Body shall review its internal audit function once every three years at least.

FINANCIAL MANAGEMENT AND CONTROLS

Supervisory Functions

53. 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.

Delegations

54. Any proposed expenditure which might be considered novel or atypical must be referred for prior approval to the sponsor departments and the Finance departments. 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 any standing authority which has been delegated by the sponsor departments to the Body with the approval of the Finance departments. These delegations are set out in Annexe 2 attached.
Receipts

55. 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

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

Virement

57. The Body may not vire funds between current and capital expenditure in its budget without prior agreement with the sponsor departments.

Fraud and Theft

58. The Body shall comply with any guidance provided by the sponsor departments including the adoption of a Fraud Policy Statement and Fraud Response plan, which must be circulated to all staff, and take all necessary measures to safeguard against fraud and theft. All cases of attempted, suspected or proven fraud shall be reported to the sponsor departments and other relevant authorities as appropriate as soon as they are discovered, irrespective of the amount involved.

Losses and Special Payments
59. Waterways Ireland has delegated authority to write off losses and to make special payments subject to the limits set out in Annexe 2. 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

60. 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. An illustration of “advanced payments” are payments made to contractors before the customer has received the equivalent value in return. An advance payment provides a contractor with working capital to enable commitments under the terms of the contract to be fulfilled. Advance payments are usually sought in return for a price discount.

Financial Liabilities, Guarantees, et cetera

61. The Body must obtain approval from the sponsor departments and Finance departments before incurring/issuing financial liabilities, guarantees, indemnities, letters and statements of comfort, et cetera.

Gifts
62. 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.

63. The Body shall not accept a gift if the conditions attached to it would be inconsistent with its functions.

64. The Body shall maintain a register containing details of all gifts received and made, and their estimated value. For gifts received, the register should also record what happened to them (i.e. retained, disposed of, et cetera.).

65. The Body may make gifts up to the value of €150. If the Body wishes to make any gift over this value, it must seek the approvals of the sponsor and Finance departments.

**Banking**

66. The Body’s banking arrangements are to be subject to competitive tendering at least every five years. They shall also be subject to the approval of the sponsor departments, and the consent of the Finance Departments, and shall be kept under regular review by the Body. The Chief Executive is responsible for ensuring that the arrangements are in accordance with relevant financial guidelines, and carried out efficiently, economically, and effectively, and that the Body’s banking arrangements safeguard public funds. The Chief Executive will provide information about the Body’s banking arrangements as required by the sponsor departments and the Finance Departments.
67. Any interest earned should be netted off from the Body’s budget for that year.

**Credit Cards and Hospitality**

68. The Body will develop credit card guidelines and hospitality guidelines, which it will agree with the sponsor departments in line with the relevant guidance North and South.

**Borrowing**

69. The Body may borrow for the purposes of its functions subject to the prior approvals of the sponsor departments and the Finance departments.

**Currency**

70. The Chief Executive shall have discretion as to the normal operating currency of the Body, having due regard to the main place of business, and normal ‘value for money’ considerations.

**Fees and Charges**

71. Fees and charges for goods and services should be set, where appropriate, having regard to the full economic cost of such services, and shall be determined in accordance with all relevant guidance and legislation. Any fee or other charge paid to the Body shall be retained
by it for the purpose of the performance of its functions, subject to the approvals of the sponsor departments and the Finance departments.

**Purchasing**

72. The Body shall ensure that all purchases of works, equipment, and goods and services, are based on ‘value for money’ - i.e. quality (or fitness for purpose) and delivery against price. Goods and services should be acquired by competition unless there are convincing reasons to the contrary. The thresholds specified in Annexe 2 should be adhered to at all times.

**Contracts**

73. The Body shall ensure that any contract, let for either administrative purposes or as part of a project, should be let on a competitive basis and conform with all relevant guidance and requirements under UK, Irish, and EU law concerning the advertisement, letting and reporting of contracts and tenders. The Body must follow best public sector practice in placing any contract.

74. To ensure transparency and to avoid any question of impropriety, the Body should record detailed reasons whenever a contract is awarded to a tenderer other than the lowest. The Body should take reasonable steps to assess the financial and economic standing of any organisation with which it intends to enter a contract.

75. 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 require.

Payments

76. The Body is subject to the Late Payment legislation in both
jurisdictions. The Body should include a statement of its prompt
payment policy and its performance in its annual report and/or the
foreword to its accounts.

77. All bills and other outgoings should be checked and validated before
payment is made. They should be supported by evidence that the
goods and services have been supplied.

Overpayments

78. Overpayments should be recorded immediately and recovery action
pursued in accordance with relevant financial guidance. The Body
should, as a general rule, regard payment of grants, whether to persons
or corporate bodies, as business transactions, and seek full refund of
any overpayments made.

Asset Register

79. The Body shall establish and maintain an asset register.

Retention of Records
80. The Body shall retain safely all records, financial or otherwise, until the expiry of seven years, or later if appropriate (e.g. for ‘value for money’ examinations or PFI contracts), after the end of the year of account to which they relate.

Disposal of Assets

81. The proceeds from the sale of, or income on, any assets or intellectual property of the Body shall only be utilised by the Body for the purposes approved by the sponsor departments with the consent of the Finance departments.

82. The Body shall not sell or develop any property or rights of the Body without the prior approval of the sponsor departments and the consent of the Finance departments, and, where appropriate, until the amount of clawback due to the department/s and any other funders has been agreed.

83. The Body must obtain the best price possible for the disposal of any asset. 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.

Insurance

84. The Body shall not take out any commercial insurance without the prior approvals of the sponsor departments and Finance departments unless there is a legal requirement to do so. The Body should adhere to all other relevant guidance in relation to insurance.
85. The Body shall ensure that decisions on whether or not to insure commercially are taken only after the risks and likely costs involved have been adequately identified, and that cost effectiveness and adequacy of commercial insurance to cover risks have been considered.

86. The Body shall ensure that there is adequate insurance cover (either commercial or Governmental) for the assets of the organisation.

87. The Body shall ensure that a risk management strategy is developed to ensure that the risks it faces are formally identified and dealt with in an appropriate manner. The strategy should be embedded by regular review and updated as objectives and risks change.

PERSONNEL

Staffing

88. This section on staffing should be read in conjunction with the Staffing Principles in Annexe 4 attached.

89. Within the resources available to the Body, it will be the responsibility of the Chief Executive to 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. The Chief Executive is responsible for managing and controlling pay and pension arrangements and for handling all
conduct and related matters subject to the approval of the NSMC and Finance Ministers.

90. Care should be taken to avoid actual and potential conflicts of interest when employing consultants and staff.

91. The Body shall ensure that it adheres to the rules and disclosure requirements governing the use of consultants by central Government departments.

**Pay**

92. In accordance with the provisions on staffing arrangements in Annex 5, Part 7, section 3.2 of the Agreement, remuneration, grading, numbers and other conditions of service of the Chief Executive and other staff of the Body are subject to the approval of the NSMC and Finance Ministers. 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. 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.

93. Following NSMC approval, the sponsor departments are content that the responsibility for determining the starting salary of new recruits is vested in the Chief Executive. The determination of the starting salary is to be governed by public sector recruitment policy, best practice and ‘value for money’ considerations and should draw heavily upon the “Checklist” as designed by the Finance departments. As required by
NSMC, the Chief Executive will provide monitoring information to the sponsor departments on at least an annual basis.

94. Where necessary, the Body shall refer to the sponsor departments for guidance in regard to starting salaries.

Conduct

95. 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 standards expected of those who handle public finance. The Body has drawn up a code of conduct for its staff, which is to be approved by the NSMC.

CONCLUSION

96. Any queries relating to the interpretation of this Financial Memorandum should be referred to the sponsor departments.

97. The sponsor departments and the Finance Departments may from time to time amend any of the provisions of this Memorandum, in consultation with the Body, and shall notify the Body of any amendments. The FM should be formally reviewed by the Body and sponsor departments at least every five years.
98. This revised Memorandum comes into effect from the date of signature of the Chief Executive of Waterways Ireland and it supersedes the version that was in operation from 2 December 1999.

______________________ Date ______________
John Martin
Chief Executive, Waterways Ireland

______________________ Date ______________
Nigel Carson
Department of Culture, Arts & Leisure

______________________ Date ______________
Joseph Hamill
Department of Community, Rural and Gaeltacht Affairs
## PROCESS FOR AGREEING CORPORATE PLANS FOR 2005-2007 AND BUSINESS PLANS AND BUDGETS FOR 2005 FOR NORTH/SOUTH BODIES
(where FULL Business Plans are submitted by mid-July)

<table>
<thead>
<tr>
<th>ACTION</th>
<th>RESPONSIBILITY</th>
<th>TIMETABLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Working Group meeting ¹</td>
<td>NSMC Joint Secretariat</td>
<td></td>
</tr>
<tr>
<td>2. Issue of Guidance re Budget Process etc</td>
<td>Finance Depts</td>
<td>W/C 10 May W/C 10 May</td>
</tr>
<tr>
<td>3. Prepare and agree draft <strong>Corporate Plan</strong> and firm budget requirements for 2005 (including indicative projections for 2006 and 2007)</td>
<td>Bodies in association with Sponsor Depts and copied for info. To Joint Secretariat</td>
<td>1 July</td>
</tr>
<tr>
<td>4. Prepare and agree draft <strong>Business Plan</strong> with firm funding implications for 2005 (including indicative projections for 2006 and 2007)</td>
<td>Bodies in association with Sponsor Depts and copied for info. To Joint Secretariat</td>
<td>15 July</td>
</tr>
<tr>
<td>5. Proposed North/South funding contributions, to be agreed between sponsor Depts</td>
<td>Sponsor Depts, in consultation with Bodies</td>
<td>15 July</td>
</tr>
<tr>
<td>6. Draft Corporate Plan and Business Plans / Budget / Contributions to be agreed at official level with Finance Depts</td>
<td>Finance Depts</td>
<td>22 July 10 August</td>
</tr>
<tr>
<td>7. Sponsor Depts to agree draft IP paper with Finance Depts, with recommended Budget proposals for 2005 (including North/South contributions), and indicative budgets for 2006 and 2007</td>
<td>Sponsor and Finance Depts</td>
<td>3 August 13 August</td>
</tr>
<tr>
<td>8. Draft Plans and IP paper to be cleared with Ministers in Sponsor Departments</td>
<td>Sponsor Depts and copied for info. To Joint</td>
<td>9 August 20 August</td>
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</tbody>
</table>

¹ To agree nature and terms of decision needed.
<table>
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<tr>
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<tr>
<td></td>
<td></td>
<td>Corporate Plan</td>
</tr>
<tr>
<td>9. Contact OFMDFM for advice on consultation with Advisers/POLITICAL</td>
<td>Sponsor Depts</td>
<td>10 August</td>
</tr>
<tr>
<td>10. (If appropriate) Consult Advisers/POLITICAL</td>
<td>OFMDFM</td>
<td>17 August</td>
</tr>
<tr>
<td>11. Draft Plans and IP paper submitted to Finance Depts</td>
<td>Sponsor Depts</td>
<td>17 August</td>
</tr>
<tr>
<td>12. Draft Plans and IP paper cleared with Finance Ministers</td>
<td>Finance Depts</td>
<td>25 August</td>
</tr>
<tr>
<td>13. Finance Depts advise Sponsor Depts when Minister has cleared draft</td>
<td>Finance Depts and copied for</td>
<td>25 August</td>
</tr>
<tr>
<td>Plans and IP papers</td>
<td>info. To Joint Secretariat</td>
<td></td>
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<tr>
<td>14. IP Paper to NSMC Joint Secretariat</td>
<td>Sponsor Depts</td>
<td>26 August</td>
</tr>
<tr>
<td>15. NSMC Joint Secretariat submit IP Papers to relevant Ministers</td>
<td>NSMC Joint Secretariat</td>
<td>26 August</td>
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<tr>
<td>North and South</td>
<td></td>
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<tr>
<td>16. Ministers sign and return signed Interim procedures Papers to</td>
<td>NSMC Joint Secretariat</td>
<td>3 September</td>
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<tr>
<td>NSMC Joint Secretariat</td>
<td></td>
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<tr>
<td>17. Issue Record of Decision to Sponsoring Depts and Joint Chairs</td>
<td>NSMC Joint Secretariat</td>
<td>3 September</td>
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<tr>
<td>of North South Centre Group</td>
<td></td>
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<tr>
<td>18. Inform Sponsor Depts and Body of decision by letter from Joint</td>
<td>NSMC Joint Secretariat</td>
<td>3 September</td>
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<tr>
<td>Secretaries</td>
<td></td>
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<tr>
<td>19. Governments North and South make provision for recommended</td>
<td>Finance Depts</td>
<td>September</td>
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<tr>
<td>contributions based on Ministers recommendations in Estimates (South)</td>
<td></td>
<td>(Draft Budget)</td>
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<tr>
<td>/Budget (North) processes</td>
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2 Copied to OFMDFM, DFA and Joint Chairs of North South Centre Group
### PROCESS FOR AGREEING CORPORATE PLANS FOR 2005-2007 AND BUSINESS PLANS AND BUDGETS FOR 2005 FOR NORTH/SOUTH BODIES
(where OUTLINE Business Plans are submitted by mid-July)

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<tr>
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<td>Corporate Plan: W/C 10 May; Business Plan and Budget: W/C 10 May</td>
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<td>Bodies in association with Sponsor Depts and copied for info. To Joint Secretariat</td>
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<tr>
<td>5. Proposed North/South funding contributions, to be agreed between Sponsor Depts</td>
<td>Sponsor Depts, in consultation with Bodies</td>
<td>Business Plan and Budget: 15 July</td>
</tr>
<tr>
<td>6. Draft <strong>Corporate Plan and outline Business Plans / Budget / Contributions</strong> to be agreed at <strong>official level</strong> with Finance Depts</td>
<td>Finance Depts</td>
<td>Corporate Plan: 22 July; Business Plan and Budget: 10 August (outline plan based on firm funding implications)</td>
</tr>
<tr>
<td>7. Sponsor Depts to agree draft IP paper with Finance Depts, with recommended Budget proposals for 2005 (including North/South contributions), and indicative budgets for 2006 and 2007</td>
<td>Sponsor and Finance Depts</td>
<td>Corporate Plan: 3 August; Business Plan and Budget: 13 August</td>
</tr>
<tr>
<td>8. Draft Plans and IP paper to be cleared with Ministers in Sponsor Depts</td>
<td>Sponsor Depts and copied for info. To Joint Secretariat</td>
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</tr>
<tr>
<td>9. Contact OFMDFM for</td>
<td>Sponsor Depts</td>
<td>Corporate Plan: 10 August; Business Plan and Budget: 23 August</td>
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1 To agree nature and terms of decision needed.
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<td>NSMC Joint Secretariat</td>
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<tr>
<td>18. Inform Sponsoring Depts and Body of decision by letter from Joint Secretaries</td>
<td>NSMC Joint Secretariat</td>
<td>3 September</td>
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<tr>
<td>19. Governments North and South make provision for recommended contributions based on Ministers recommendations in Estimates (South)/Budget (North) processes</td>
<td>Finance Depts</td>
<td>September (Draft Budget)</td>
</tr>
<tr>
<td>20. Prepare and agree draft final Business Plan with firm funding implications</td>
<td>Bodies in association with sponsor Depts and Joint Secretariat</td>
<td></td>
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<tr>
<td>21. Depts to agree draft Plan</td>
<td>Sponsor and</td>
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</table>

4 Copied to OFMDFM, DFA and Joint Chairs of North South Centre Group

5 Funding implications should be as stated in the outline Business Plan
<table>
<thead>
<tr>
<th>ACTION</th>
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</thead>
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<tr>
<td>and IP paper at <strong>official</strong> level with Finance Depts.</td>
<td>Finance Depts</td>
<td></td>
</tr>
<tr>
<td>22. Draft Plan and IP paper to be cleared with Ministers in Sponsor Depts</td>
<td>Sponsor Depts / Sponsor Ministers</td>
<td>5 October</td>
</tr>
<tr>
<td>23. Contact OFMDFM for advice on consultation with Advisers/Political Parties</td>
<td>Sponsor Depts</td>
<td>8 October</td>
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<td>24. (If appropriate) Consult Advisers/Political Parties</td>
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<tr>
<td>29. NSMC Joint Secretariat submit IP Paper to relevant Ministers North and South</td>
<td>NSMC Joint Secretariat</td>
<td>15 October</td>
</tr>
<tr>
<td>30. Ministers sign and return signed IP Paper to NSMC Joint Secretariat</td>
<td>NSMC Joint Secretariat</td>
<td>18 October</td>
</tr>
<tr>
<td>31. Issue Record of Decision to Sponsoring Depts and Joint Chairs of North South Centre Group</td>
<td>NSMC Joint Secretariat</td>
<td>20 October</td>
</tr>
<tr>
<td>32. Inform Sponsor Depts and Body of decision by letter from Joint Secretaries</td>
<td>NSMC Joint Secretariat</td>
<td>20 October</td>
</tr>
<tr>
<td>33. Recommended contributions (in the form of grant payments/vote provisions) subject to approval of Parliament and Dail Eireann</td>
<td>Finance Depts</td>
<td></td>
</tr>
</tbody>
</table>

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6 Copied to OFMDFM, DFA and Joint Chairs of North South Centre Group
DELEGATED EXPENDITURE ARRANGEMENTS

[DN: All Euro figures below have been calculated at £1:€1.5]

Delegated Authority

Waterways Ireland’s delegated limits have been jointly agreed by the Sponsoring Departments and the Departments of Finance as follows:

1. **Construction Work**
   Expenditure on construction work and projects including engineering consultancy charges up to STG£2m/€3m.

2. **Maintenance Work**
   Expenditure on maintenance of the waterways and associated structures and property including purchase and/or maintenance of any necessary plant and equipment up to the amount granted to it.

3. **Procurement of Goods/Services and Construction/Works**
   It is a basic principle of Government contracting and procurement that competitive tendering should be used except in exceptional circumstances. This principle is reflected in the EU Procurement Directives, which prescribe legally binding rules and procedures for the award of contracts above certain thresholds. While the body will comply with these requirements it is recognised that much of its work will be carried out by its own workforce using its own equipment and that a substantial number of work orders and contracts for relatively small amounts of money will require to be issued. Accordingly, the following arrangements may be applied by the Body:

   [DN: These have been applied to all North/South Bodies:]

<table>
<thead>
<tr>
<th>THRESHOLDS</th>
<th>NUMBER/TYPE OF TENDER REQUIRED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to £1,000/€1,500</td>
<td>1 or 2 Oral Quotations depending on the need to have a price comparison (fax or e-mail confirmation should be obtained)</td>
</tr>
<tr>
<td>£1,000/€1,500 - £10,000/€15,000</td>
<td>3 Quotations</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>&gt; £10,000/€15,000 - £30,000/€45,000</td>
<td>4 Selected Tenders</td>
</tr>
<tr>
<td>&gt; £30,000/€45,000 – EC Thresholds</td>
<td>Publicly advertised open or restricted tender competition</td>
</tr>
</tbody>
</table>

Where departure from the above limits is necessary or where competition is not feasible, e.g. the maintenance/servicing of equipment by the supplier who holds the copyright to the software incorporated in the equipment, the Chief Executive must authorise it and record the reasons in writing.

Orders must not be split so as to avoid the need for competitive tendering.

4. **Provision/construction of office accommodation**

Waterways Ireland must obtain the approval of the Sponsor Departments in advance of seeking tenders for the provision/construction of office accommodation. The tendering thresholds set out in paragraph 3 will apply. A detailed business case will be required to support all requests to the sponsor departments for approval – see paragraph 7 below. Waterways Ireland will engage the services of the Construction Service in Northern Ireland or the Office of Public Works in the South to prepare the design brief for office accommodation projects.

Waterways Ireland may enter into a lease and/or rental agreement for the provision of accommodation and services. Where the annual value of the lease or rental agreement exceeds £25,000/€37,500 the prior approval of the sponsor departments will be required. Such arrangements should be open to competitive tendering as far as possible unless there are convincing reasons to the contrary.

5. **Engagement of Professional Services for Construction Projects and Services**

Waterways Ireland has delegated sanction to engage consultants and professional services for construction and maintenance projects including parts thereof and for specialist elements such as Environmental Assessment/Statements, archaeological matters, etc and other work related services subject to compliance with the public
procurement procedures referred to in paragraph 3 above and the procurement justification requirements set out in paragraph 7.

6. **Engagement of Management Consultants**

Appointment of management consultants is subject to prior notification to the Sponsor Departments of the nature of the consultancy and the applicable Terms of Reference. Where the cost is likely to exceed £50,000 / €75,000 the prior approval of the sponsor Departments is required before tenders are sought or the Terms of Reference finalised.

In all cases where the consultancy assignment exceeds £10,000/€15,000 a business case must be completed. (See paragraph 7 below).

Waterways Ireland will provide the sponsor departments with an annual statement on the status of all management consultancies completed and/or started in the financial year.

7. **Procurement Justification / Economic Appraisal**

The principles of economic appraisal should be applied in all cases where expenditure is proposed, whether the proposal involves capital or recurrent expenditure, or both. The effort put into the economic appraisal should be commensurate with the size or importance of the resources under consideration. Projects costing in excess of £10,000/€15,000 require a pro forma Business Case to be prepared and those costing in excess of £250,000/€375,000 require a comprehensive economic appraisal. The Chief Executive has delegated authority to approve the business case/economic appraisal up to the following thresholds*:

<table>
<thead>
<tr>
<th>Category</th>
<th>Threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>OFFICE ACCOMMODATION</td>
<td>No delegation</td>
</tr>
<tr>
<td>OTHER CAPITAL WORKS AND SERVICES</td>
<td>£2m/€3m</td>
</tr>
<tr>
<td>MANAGEMENT CONSULTANCY</td>
<td>£50k/€75k</td>
</tr>
<tr>
<td>IT PROJECTS</td>
<td>£250k/€375k</td>
</tr>
</tbody>
</table>

*This excludes projects which were already approved by the Southern Government under the National Development Plan.

The business cases for projects exceeding these thresholds must be submitted to the sponsor departments for approval.
8. The principles of economic appraisal are contained in

- HM Treasury *Green Book* and the *NI Practical Guide to the Green Book*, and

- The Department of Finance’s *Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector* (July 1994) and *Proposed Working Rules for Cost-Benefit Analysis* (June 1999).

9. **Property Acquisition / Compulsory Purchase Order (CPO)**

All cases for acquisition of land / real estate by CPO must be submitted to the sponsor departments and NSMC for approval in line with legislative requirements.

The prior approval of the sponsor departments and the Finance Departments will be required if expenditure on acquisition of other property exceeds £150,000/€225,000.

10. **Office Communication Equipment, etc**

WI has delegated sanction to provide, maintain and replace all necessary office and stores equipment and supplies, subject to the tendering arrangements set out in paragraph 3 above.

11. **Losses and Special Payments**

Waterways Ireland has delegated authority to write off losses or make special payments up to the limits detailed below:

(a) Cash losses – up to £5,000/€7,5000 per case/incident

(b) Stores/Equipment losses – up to £50,000/€75,000 per case/incident

(c) Constructive losses and fruitless payments – up to £15,000/€22,500 per case.

(d) Compensation payments

   i. Made under legal obligation, e.g. by Court Order – up to £100,000/€150,000 per case plus reasonable legal expenses
ii. For damage to personal property of WI staff – up to £10,000/€15,000 per case

iii. Where written legal advice is that WI should not fight a court action because it is unlikely the Body would win – up to £100,000/€150,000 per case

(e) Claims abandoned or waiver of claim – up to £100,000/€150,000 per case

(f) Extra contractual payments – up to £100,000/€150,000 per case

(g) Ex gratia payments – up to £10,000/€15,000 per case. (Pensions payments not covered by this threshold).

(h) Extra statutory and extra regulatory payments – no delegation, all proposals must be submitted to the sponsor departments for approval.

Guidance on interpretation of these losses and special payments is contained below.

All cases of attempted, suspected or proven fraud shall be reported to the Departments and other relevant authorities as soon as they are discovered, irrespective of the amount involved. In cases where criminal offences including theft and fraud are suspected Waterways Ireland must report the incident immediately to the Police/Garda.

The Departments shall also be informed immediately of any loss caused, or substantially contributed to, by gross carelessness or negligence by a Waterways Ireland employee.

Losses shall not be written off until all reasonable attempts to make a recovery have been made and proved unsuccessful.

The Chief Executive may sub-delegate in writing to specified Officers of Waterways Ireland authority to approve the write off of losses and special payments within the delegated limits referred to above.

A full statement of the facts must accompany any request to the Departments for approval to write off losses.

Details of all losses and special payments should be recorded in a Losses and Special Payments Register which will be available to auditors. The Register should be kept up to date and should show evidence of the approval by the Chief Executive and the Sponsor Departments where appropriate.
All losses and certain special payments require to be notated in Waterways Ireland’s accounts.

GUIDANCE ON THE INTERPRETATION OF LOSSES AND SPECIAL PAYMENTS

(a) Cash Losses

1. Loses by theft, burglary, fraud, arson or gross carelessness (every effort must be made to secure full recovery, and prosecution must be undertaken in all appropriate cases).

2. Physical losses of cash, e.g. by fire (other than arson) and counter losses.

3. Losses of equivalents of cash, e.g. stamps.

4. Book-keeping losses –
   * due to unvouched or incompletely vouched payments.
   * charges to accounts to clear an inexplicable debit balances. *(where fraud is not suspected and it is not possible to explain how the debit arose).*

5. Irrecoverable losses resulting from overpayments of pay, allowances and pensions to member of staff due to
   * miscalculation;
   * misinterpretation of regulations;
   * unauthorised issues (e.g. where wages, salaries, pensions, allowances or other payments not allowed under the regulations have been paid).
   * The full facts not being available.

6. Losses due to fluctuations in exchange rates or revaluation of currencies.

(b) Stores Losses

Stores losses include:
- A loss arising from theft, arson or other culpable cause including repairable damage caused maliciously or otherwise, to buildings or items of equipment or stores

- Accidental losses beyond the control of any reasonable person

- Losses due to deterioration in stores

- Stocktaking discrepancies

- Losses caused by natural causes.

(c) **Constructive Losses and Fruitless Payments**

A payment which is unavoidable, in that the recipient is entitled to it although nothing useful is received in return, may be classified as a “fruitless payment” or a “constructive loss”. The vital distinction here is whether or not liability was constructively incurred. Thus a “fruitless payment” is a payment for which, strictly speaking, liability ought not to have been incurred, or could have been cancelled in time to avoid liability. Examples are forfeitures under contract as a result of error/negligence by the Body or goods wrongly ordered or accepted. On the other hand, a “constructive loss” may arise out of a payment for which liability was properly or constructively incurred and maintained. For example, stores/services may have been correctly ordered, delivered or provided but owing to an unavoidable error of judgement or change in policy which cannot be attributed to culpable cause, they prove not to be needed or to be less useful than when the order was placed.

(d) **Compensation Claims**

Compensation payments include payments made under legal obligation i.e. by court or tribunal order or payments made where court proceedings have been instigated and Counsel recommends settlement for an agreed sum in advance of the court hearing.

(e) **Claims Abandoned and Waiver of Claims**

Waiver of a claim implies a voluntary decision, taken for a proper reason not to present or pursue a claim which could be properly made. Abandonment of a claim arises in any other case where a claim can properly be made and where payment is not received.

A claim which would entail notation in the Accounts as “abandoned” is a claim resting on Waterways Ireland’s right to receive money for credit to a receipts heading. Broadly this means:
a. a claim made (or which should have been made) for services rendered, or other consideration given;

b. a claim arising from an actual or believed contractual or other legal obligation of a contractor or other person to Waterways Ireland, whether or not it is in fact pursued (e.g. under “default” or “liquidated damages” clauses of contracts).

It follows that, if Waterways Ireland’s claim for a refund of an “overpayment” fails or is waived, the loss involved should not be classified as a “claim abandoned” for the purpose of notation, but as a “cash loss” of the amount which if received in time would have been credited to a debit subhead.

(f) Extra-Contractual Payments

1. An extra-contractual payment is one which, although not legally due under the original contract or subsequent amendments, appears to be an obligation of Waterways Ireland which the Courts might uphold. Such an obligation would usually be attributed to Waterways Ireland action or inaction in relation to the contract. A payment is regarded as extra-contractual even where there is doubt whether or not Waterways Ireland is liable to make it, e.g. where the contract provides for arbitration, but a settlement is reached without recourse to arbitration.

2. Where a claim is settled “out of arbitration”, it will not be regarded as extra-contractual if the professional advice is that it has been resolved within the terms of the original contract. If there is any doubt the sponsor departments should be consulted.

(g) Ex-gratia Payments

1. These would generally arise in circumstances where Waterways Ireland is not legally obliged to make a payment but where there is a strong moral obligation to pay compensation for hardship or damage caused by Waterways Ireland or its employees.

2. Ex-gratia payments to staff for the loss of, or damage to, their personal property may be made where:

   a. the incident occurs in the course of the performance of official duties;
b. the articles lost or damaged are such as might reasonably be carried in the performance of those duties;

c. the loss or damage is not due to the officer’s own negligence;

d. the loss or damage arises from fault or carelessness on the part of Waterways Ireland and the member of staff is not insured.

3. The payment made should cover either the actual cost of repairing the article or, if lost or damaged beyond repair, the value immediately before the incident, i.e. replacement cost less depreciation.

4. If, exceptionally, Waterways Ireland decides that a claim which is statute barred is justified because there are records to prove that payment would otherwise be in order, such a payment would be classified as ex-gratia.

(h) Extra-statutory and Extra-regulatory Payments

These are payments which are considered to be within the broad intention of the statute or statutory regulation, but which go beyond the strict interpretation of its terms. Extra-statutory or extra-regulatory payments must not be classified as ex-gratia to bring them within the scope of a Chief Executive’s delegated powers to make ex-gratia payments. In cases of doubt the sponsor departments should be consulted.
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; in the case of bodies with Executive Boards (ITI and FCILC), the Chief Executive should have obtained approval from the Board for the accounts to be signed on its behalf.

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:

(i) Unqualified audit certificate (no report).
(ii) Unqualified audit certificate (but a report is attached by the C&AGs).
(iii) 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.

10. 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**

11. 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.

12. 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.

13. 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.

Issue of audited accounts and reports

14. 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.

15. 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])

16. The NI sponsor Minister shall lay the certified statement of accounts and any related report by the C&AGs before the NI Assembly.

17. 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.
ANNEXE 4

STAFFING PRINCIPLES OF
NORTH/SOUTH IMPLEMENTATION BODIES

1. The Bodies will recruit and manage staff on the merit principle and within the legal requirements of the relevant jurisdictions.

2. In arriving at decisions on those staff who will transfer from either civil service on a permanent basis to the new Bodies, management will take the views of those staff fully into account and explore the option, where it is feasible, for seconding them for an initial period, before final decisions are taken. In the event of a dispute, staff will have access to the grievance procedure in their department.

Essential staff, other than those transferred or those seconded as an interim measure until their status is determined finally, will be provided initially on secondment terms from both civil services or from bodies with associated functions, where appropriate. These seconded staff will be selected under the following principles:

a. staff identified as key to the successful establishment of the Body;
b. other posts will be offered by a competitive process.

3. Staff will be recruited direct (at the outset where time permits or longer term) according to the requirements of the Body.

4. Transferred and directly recruited staff will not be civil servants, but employees of the Body.
5. Seconded staff will retain the terms and conditions of their employer.

6. The personnel policies of the Bodies will take account of and be informed by legislative requirements and best practice pertaining in both jurisdictions.

7. The Bodies will establish machinery for the resolution of grievances.

8. The Bodies will be responsible for their own industrial relations.