



RELATIONSHIP DOCUMENT

NORTHERN IRELAND LAW COMMISSION

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1. INTRODUCTION

1.1 This document

1.1.1 This Relationship Document (*"this instrument"*) has been drawn up by the Department of Justice ('the DoJ') in consultation with the Northern Ireland Law Commission ('the Commission') of Linum Chambers, Bedford Square, Bedford Street, Belfast. The Commission's remit is set out in the Justice (Northern Ireland) Act 2002 as amended by the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 ('the 2002 Act'). Under the 2002 Act the Commission must keep under review the law of Northern Ireland with a view to its systematic development and reform and this includes the reform of both the criminal and civil law. The Commission is funded by the DoJ. Having regard to the standard Government classifications which have been published by the Cabinet Office, which operate for administrative (and not legal) purposes only, the Commission is regarded as an Advisory Non-Departmental Public Body (NDPB). Its corporate governance and accountability fall to the DoJ but the Commission's advisory functions for Northern Ireland law reform are to all the Departments of the Northern Ireland Executive and (where appropriate) to Government Departments at Westminster (where any proposed law reform relates to an excepted or reserved matter). The Reports of the Commission must be laid before the Northern Ireland Assembly ('the Assembly') and, where appropriate as above, before each House of Parliament. Where this document refers to 'the Sponsoring Unit' this should be taken as referring to the Criminal Justice Policy and Legislation Division (CJPLD) of the DoJ.

1.1.2 Bearing in mind the context rehearsed above, this instrument sets out the broad framework within which the Commission will operate, subject at all times to its statutory and operational independence and the due discharge of its statutory duties and functions. This instrument also notes and records the Commission's overall aims, objectives and targets in support of the DoJ's wider strategic aims, including in particular:

- the delivery of a fair and impartial system of justice to the community in Northern Ireland;
- the delivery of justice effectively and efficiently; and
- the development of the law of Northern Ireland to ensure that it remains appropriate, fair and accessible to the community.
- the rules and guidelines relevant to the exercise of the Commission's functions, and duties;
- the conditions under which any public funds are paid to the Commission; and
- how the Commission is to be held to account for its performance.

This instrument does not alter or detract from any legal powers or responsibilities of the Commission.

1.1.3 The associated financial controls set out in greater detail certain aspects of the financial provisions which the Commission shall observe.

1.1.4 This instrument shall be periodically reviewed by the parties hereto in accordance with the timetable specified in Section 7 below.

1.1.5 Either the Commission or DOJ may propose amendments to this instrument at any time. Any such proposals by the Commission shall be considered in the light of the Commission's operational independence and the DoJ's evolving departmental policy aims, operational factors and the track record of the Commission itself. The guiding principles shall be that :

- the Commission shall adhere to DoJ financial controls and all proper policies for recruitment, procurement and 'Value for Money'
- subject thereto the extent of flexibility and freedom given to the Commission shall reflect both the quality of its internal controls and its operational needs.

The DOJ shall determine after consultation with the Commission what changes, if any, are to be made to this instrument and the Commission's consent shall not be unreasonably withheld. Legislative provisions shall

take precedence over this instrument. Significant variations of this instrument shall, where agreed necessary, be notified to the Department of Finance & Personnel (DFP).

- 1.1.6 This instrument will be executed by a duly authorised signatory of DOJ and by the Chairman of the Commission.
- 1.1.7 Any question regarding the interpretation of this instrument shall be resolved bilaterally, following consultation with DFP if agreed necessary.
- 1.1.8 Copies of this instrument and any subsequently amended version shall be placed in the Library of the Northern Ireland Assembly and in the libraries of the Houses at Westminster . Same will also be published on the Commission's website.

1.2 Status

- 1.2.1 The legal status of the Commission is governed by the 2002 Act. The Commission was established on 16 April 2007 in accordance with sections 50 to 52 of and Schedule 9 to the 2002 Act . Its formal inauguration occurred, following the appointment of the Commissioners, in April 2008.
- 1.2.2 The Commission is not to be regarded as the servant or agent of the Crown or enjoying any status, immunity or privilege of the Crown.

1.3 Functions, Responsibilities and Duties

- 1.3.1 The functions, responsibilities and duties of the Commission are statutory in nature and are set out in the 2002 Act. These provisions make clear that the Commission is an independent public body and must keep under review (with a view to systematic development and reform) the criminal and civil law of Northern Ireland, including procedure and practice, with a view to making recommendations for reform, codification, simplification and consolidation of the law. For that purpose the Commission will:

- produce a Programme of Law Reform to be approved by the DoJ in consultation with the Attorney General for Northern Ireland (and where appropriate the Secretary of State);
- undertake pursuant to such Programme the independent examination and formulation of proposals for reform (by means of draft legislation or otherwise);
- prepare at the request of the DoJ comprehensive programmes for the consolidation and repeal of legislation and undertake the preparation of draft legislation pursuant to any such programme approved by DoJ;
- provide independent advice and information to and receive remits from Northern Ireland Departments of the Executive;
- with the consent of the DoJ , provide independent advice and information to and receive remits from Departments of Government of the United Kingdom and other authorities or bodies concerned with proposals for the reform or amendment to any branch of the law of Northern Ireland;
- obtain information from the legal systems of other countries to assist it to fulfil its duties;
- consult with the Law Commissions in England and Wales, Scotland and the Law Reform Commission of the Republic of Ireland in performing its duties;
- report annually on how it has performed its duties;
- send its Reports to the DoJ who must lay them before the Assembly (and where appropriate send them to the Secretary of State who must lay them before each House of Parliament);
- after the Reports have been so laid, publish the Reports and make them widely and readily available; and
- publish an Annual Report of its activities, present that report to the DoJ, for laying before the Assembly (and where appropriate send such Report to the Secretary of State who must lay it before each House of Parliament).

1.4 Classification

1.4.1 For policy and administrative purposes the Commission is classified as an independent Advisory Non-Departmental Public Body under the sponsorship of the DoJ. It is recognised that the Commission also owns statutory duties (as above summarised) to: Northern Ireland Departments, Departments of Government of the United Kingdom and other authorities or bodies concerned with proposals for the reform or amendment to any branch of the law of Northern Ireland .

1.4.2 The Commission may not create subsidiaries.

2. AIMS, OBJECTIVES AND TARGETS

2.1 Strategic aim

2.1.1 The strategic aim of the Commission is a mirror image of its statutory functions and responsibilities. It is to, *inter alia*, review both criminal and civil law in Northern Ireland with a view to its systematic development and reform and to simplify and modernise it.

2.2 Objectives and key targets

2.2.1 The objectives and key targets of the Commission will be set out in its Programmes of Law Reform as approved by the DoJ in accordance with the 2002 Act and in its Annual Business Plans.

3. RESPONSIBILITIES AND ACCOUNTABILITY

3.1 The Minister of Justice/Department of Justice (DoJ)

3.1.1 The Minister of Justice is accountable to the Assembly with regard to the following matters:

- funding the work of the Commission;
- approving the Commission's strategic objectives;
- approving in accordance with the proper criteria for such controls the performance framework within which the Commission will operate (as set out in this instrument and annexes);
- keeping the Assembly informed about the Commission's performance, as necessary;
- appointing the Chairman and Commissioners subject to the consultation duties set out in the 2002 Act ;
- approving the Commission's Programmes of Law Reform in consultation with the Attorney General for Northern Ireland (and where appropriate with the Secretary of State);
- laying of a copy of all Commission Reports and Programmes of Law Reform before the Assembly; and
- approving staffing complement, their salary and terms of employment (*et alia*), subject to any necessary DFP approvals.

3.2 The Accounting Officer of the DoJ

3.2.1 The Permanent Secretary, as the sponsor Department's Principal Accounting Officer, is responsible for the overall organisation, management and staffing of the DoJ and for ensuring that there is a high standard of financial management in the Department as a whole. As the Commission is classified as a Non-Departmental Advisory Body within the sponsorship of the DoJ, the DoJ Accounting Officer is accountable to the Assembly for spending by the Commission.

3.2.2 In particular the DoJ Accounting Officer shall ensure that:

- the Commission's strategic aims and objectives support DoJ's wider strategic aims, subject to the Commission's statutory and operational independence ;
- the financial and other management controls applied by the DoJ to the Commission are appropriate and sufficient to safeguard public funds and for ensuring that the Commission's compliance with those controls is effectively monitored; and
- the internal controls applied by the Commission conform to the requirements of regularity, propriety and good financial management.
 - The responsibilities of a Departmental Accounting Officer are set out in more detail in *Managing Public Money NI*.
 - The responsibilities of the Accounting Officer for the Commission are set out in more detail in *Managing Public Money NI* and in the letter of appointment of the Accounting Officer.

3.3 The Sponsoring Unit

3.3.1 The DoJ's Criminal Justice Policy and Legislation Division (CJPLD) is the primary source of advice to the Minister of Justice on the discharge of his/the DoJ responsibilities in respect of the Commission, and the primary point of contact to the Commission as Sponsoring Unit. The Sponsoring Unit will consult with the DoJ's Accounting Officer, as necessary.

3.3.2 The Sponsoring Unit shall advise the Minister of Justice on:

- an appropriate framework of objectives and targets for the Commission, including the Commission's Programmes of Law Reform,;
- an appropriate budget for the Commission, in the light of the Department's overall public expenditure priorities; and
- how well the Commission is achieving its strategic objectives and whether it is delivering value for money.

3.3.3 In support of the DoJ Departmental Accounting Officer, the Sponsoring Unit shall:

on performance and risk management -

- monitor the Commission's activities on a continuing basis through quarterly meetings attended by representatives of the Sponsoring Unit and the Chief Executive. The Chairman will normally attend one such meeting each year. These meetings will facilitate an adequate and timely flow of information from the Commission on performance, budgeting, control and risk management, and ensuring internal systems are in place;
- raise with the Commission (Chief Executive) in a timely manner any significant problems which appear to be arising in the Commission;

- if considered necessary carry out a risk assessment of the Commission's activities to inform the Sponsoring Unit's oversight of the Commission; strengthen these arrangements if necessary; and amend the relationship document accordingly, in liaison with DFP as necessary. The risk assessment shall take into account the nature of the Commission's activities; the public monies at stake; the body's corporate governance arrangements; its financial performance; internal and external auditors' reports, the openness of communications between the Commission and the Sponsoring Department; and any other relevant matters;

on staffing for the Commission -

- the Sponsoring Unit shall liaise with the Commission, Personnel & Office Services Division (DoJ), DFP and HRConnect as necessary to advise on the appointment and terms and conditions of staff;

on communication with the Commission -

- inform the Commission of relevant Government policy and procedures in a timely manner; and issue specific guidance to the Commission as necessary; and
- bring any concerns about the activities of the Commission to the attention of the Chief Executive – the Commission's Accounting Officer - and require explanations and assurances from them that appropriate action has been taken.

3.4 The Chairman

- 3.4.1 The 2002 Act requires the Justice Minister to appoint a **Chairman** to the Commission (a High Court Judge) and four Commissioners in consultation with the Attorney General for Northern Ireland and the First Minister and

deputy First Minister. They are appointed in line with the Code of Practice issued by the Commissioner for Public Appointments in Northern Ireland.

3.4.2 The Commission is responsible to, but independent of, the DoJ. Under the 2002 Act, it also has responsibilities, where relevant, to the Secretary of State, Northern Ireland Departments, Departments of Government of the United Kingdom and other authorities or bodies concerned with proposals for the reform or amendment to any branch of the law of Northern Ireland.

3.4.3 The Commission, in the discharge of its statutory functions and responsibilities, shall consult in accordance with its statutory obligations and other relevant principles, guidelines and standards.

3.4.4 The **Chairman** has a particular leadership responsibility in the following matters:

- formulating the Commission's strategy;
- ensuring that Commission, in reaching decisions, takes proper account of guidance provided by the Minister/DoJ;
- encouraging and delivering high standards of regularity and propriety;
- representing the views of the Commission to the general public; and
- ensuring that the board of the Commission meets at regular intervals throughout the year and that the minutes of meetings accurately record the decisions taken and, where appropriate, the views of individual Commissioners.

3.4.5 The **Chairman** shall also:

- ensure that Commissioners, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities, and receive appropriate induction training, including on the financial management and reporting requirements of public sector bodies and on any differences which may exist between private and public sector practice;

- advise the DoJ of the needs of the Commission when Commissioner vacancies arise, with a view to ensuring a proper balance of expertise, including professional and financial expertise; and
- assess the performance of individual Commissioners, who will be subject to ongoing performance appraisal, with a formal assessment completed by the Chairman at the end of each year and prior to any re-appointment of individual Members taking place. Members will be made aware that they are being appraised, the standards against which they will be appraised, and will have an opportunity to contribute to and view their report. The Chairman will also be appraised on an annual basis by the Director, Justice Policy Directorate, acting on behalf of the Departmental Accounting Officer.

3.4.6 The **Chairman** shall also ensure that a Code of Practice for Commissioners is in place, based on the Cabinet Office's *Code of Practice for Board Members of Public Bodies*, (FD (DFP) 03/06 refers). The Code shall commit the **Chairman** and the Commissioners to the Nolan "Seven Principles of Public Life", and shall include a requirement for a comprehensive and publicly available register of Commissioners' interests.

3.5 The Chief Executive

3.5.1 The Chief Executive will act at all times in accordance with the contractual terms of appointment, the aforementioned Nolan Principles and such specific governance principles as may be adopted by the Board (in consultation with the DOJ and notified to DFP) from time to time. The **Chief Executive**, as Accounting Officer for the Commission, shall ensure that the Commission's policies and actions fulfil the Commission's statutory functions and responsibilities and that the Commission's affairs are conducted with probity.

3.5.2 Leadership Responsibilities

The **Chief Executive** has a particular leadership responsibility, which must be discharged within and in accordance with the contractual terms of appointment, in the following matters particularly:

- ensuring the efficient and effective use of staff and other resources;
- ensuring high standards of propriety;
- ensuring that the Minister of Justice and the Sponsoring Unit are kept informed of any changes or developments within the organisation;
- ensuring that any statutory or administrative requirements for the use of public funds are complied with;
- ensuring that all staff within the Commission are subject to annual appraisal as part of the performance management arrangements;
- ensuring that the Commission operates financially within the limits of its remit and any delegated authority agreed with the DoJ, and in accordance with any other conditions relating to the use of public funds; and
- demonstrating high standards of corporate governance at all times.

3.6 Other Responsibilities of the Chief Executive

3.6.1 The Chief Executive shall, on behalf of the Commission, exercise the following responsibilities in particular:

on planning and monitoring -

- prepare for the approval of the Board, the Commission's business plan

- inform the Sponsoring Unit of the Commission's progress in achieving its policy objectives and in demonstrating how resources are being used to achieve those objectives;
- ensure that timely forecasts and monitoring information on performance and finance are provided to the Sponsoring Unit and the Financial Services Division (FSD) of the DoJ; that FSD is notified promptly if overspends or underspends are likely and that corrective action is taken; that any significant problems, whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the Sponsoring Unit and FSD in a timely fashion; and that FSD will keep DFP notified of such financial matters; and
- provide for the approval of the Board a risk register for the office.

on advising the Chairman and Commissioners -

- advise the Chairman and Commissioners on the discharge of their responsibilities as set out in this Document and in any other relevant instructions and guidance that may be issued from time to time;
- advise the Chairman and Commissioners on the Commission's performance compared with its aim and objectives;
- ensure that financial considerations are taken fully into account by the Chairman and Commissioners, and that standard financial appraisal techniques are followed as far as this is practicable;
- communicate timeously, frequently and fully with the Chairman and board at all times;

on managing risk and resources –

- ensure that a system of risk management is maintained to inform decisions on financial and operational planning and to assist in achieving objectives and targets;
- ensure that all public funds made available to the Commission are used for the performance of the Commission’s statutory duties, and that such monies, together with the Commission’s assets, equipment and staff, are used economically, efficiently and effectively;
- ensure that secure and appropriate protocols and procedures are in place and complied with regarding ad hoc departmental and other referrals and/or joint projects with its counterpart Law Commissions;
- ensure that adequate internal management and financial controls are maintained by the Commission, including effective measures against fraud and theft;
- maintain a comprehensive system of internal delegated authorities which are notified to all staff, together with a system for regularly reviewing compliance with these delegations; and
- ensure that effective personnel management policies are maintained.

on accounting for the Commission’s activities –

- ensure that effective procedures for handling complaints about the Commission as approved by the Board are established and made widely known within and without the Commission;
- act in accordance with the terms of this Document and with the instructions and relevant guidance in *Managing Public Money NI (MPMNI)* and other instructions and guidance issued from time to time by the sponsor Department and DFP - in particular, Chapter 3 of

MPMNI and the Treasury document *Regularity and Propriety and Value for Money* (a copy of which the Chief Executive shall receive on appointment);

- give evidence, normally with the Accounting Officer of the DoJ, if summoned before the Public Accounts Committee on the use and stewardship of public funds by the Commission;
- ensure that an Equality Scheme as approved by the Board is in place, reviewed and equality impact assessed as required by the Equality Commission and OFMDFM;
- ensure that Lifetime Opportunities is taken into account;
- ensure that the requirements of the Data Protection Act 1998 and the Freedom of Information Act 2000 are complied with; and
- act as the Principal Officer for handling cases involving the Northern Ireland Commissioner for Complaints. As Principal Officer, he/she shall inform the Board and the Permanent Secretary of DoJ of any complaints about the Commission accepted by the Ombudsman for investigation, and about the Commission's proposed response to be approved by the Board to any subsequent recommendations from the Ombudsman.

3.7 The Chair, Commissioners, Chief Executive Officer and Staff of the Commission

3.7.1 The Chair, Commissioners, Chief Executive Officer and staff of the Commission and those engaged to support the Commission shall act in accordance with their wider responsibilities to:

- comply at all times with the rules relating to the use of public funds and to conflicts of interest;

- have heed to any relevant paragraphs on impartiality and conflicts of interest in their terms and conditions;
- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
- comply with the relevant NICS (government sector)/DoJ guidance on the acceptance of gifts, hospitality and events, and of business appointments (which can be found in the NICS Staff Handbook).
- act in good faith and in the best interests of the Commission.

3.7.2 Commissioners must ensure that the Commission observes high standards of governance at all times and work corporately in developing and implementing Programmes of Law Reform prepared by the Commission. They should also develop effective working relationships and contacts with other stakeholders including other Law Commissions and representative bodies, and those potentially impacted by projects being promoted by the Commission. Commissioners must act at all times within the statutory authority of the Commission as well as ensuring that the Commission's activities deliver value for money.

4. PLANNING, BUDGETING AND CONTROL

4.1 Programme of Law Reform

4.1.1 Consistent with the timetable for public spending reviews, the Commission shall submit under section 51(2) (b) of the 2002 Act each Programme of Law Reform to the Sponsoring Unit for the approval of DoJ under section 51(3). (The Commission's Programme of Law Reform will act as the Commission's Corporate Plan).

4.1.2 Every such Programme shall reflect the performance of the Commission's statutory functions and duties. It should also demonstrate how the Commission contributes to the achievement of the Department's and Executive's wider strategic aims but without prejudice to the statutory and operational independence of the Commission.

4.1.3 Each Programme shall set out:

- the Commission's rolling Programme of Law Reform and its strategy for delivering that programme;
- a review of the Commission's performance in the period of the preceding Programme; and
- other matters as appear appropriate to the Commission.

4.1.4 In monitoring progress, the Sponsoring Unit shall aim to give the Commission greater planning certainty by observing the principles set out in appropriate DFP guidance concerning planning.

4.2 The Business Plan

4.2.1 The Commission shall produce an annual business plan. The business plan shall include key targets and milestones for the year immediately ahead and

shall be linked to budgeting information so that resources allocated to achieve specific objectives including those relevant to its Programme of Law Reform can readily be identified by the Sponsoring Unit.

4.2.2 The plan shall reflect the Commission's duties and objectives.

4.2.3 The business plan shall set out:

- the Commission's key objectives and associated key performance targets relating to its rolling Programme of Law Reform for the forward year, and its strategy for achieving those objectives;
- a review of the Commission's performance in the preceding financial year and an estimate of performance in the current year;
- plans for managing risks to take account of factors which may significantly affect the execution of the plan but which cannot be accurately forecast; and
- other matters as agreed between the Sponsoring Unit and the Commission.

4.3 Publication of the business plan

4.3.1 The business plan, once completed and agreed with the DoJ, shall be made publicly available.

4.4 Reporting performance to the Department

4.4.1 The Commission shall operate management information and accounting systems which enable it to review in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in its agreed Programme of Law Reform and business plans.

4.4.2 The Commission shall take the initiative in informing the Sponsoring Unit of changes in external conditions which make the achievement of objectives more or less difficult, or which may require a change to the budget or objectives set out in the Programme of Law Reform or business plans.

4.4.3 The Commission's performance against key targets, including progress on its Programmes of Law Reform shall be reported in the Commission's annual report.

4.5 Budgeting procedures

4.5.1 The Commission's budgeting procedures are set out in the financial controls (Annex A).

4.6 Internal audit

4.6.1 The Commission shall participate in internal audits arranged by the DoJ's Head of Internal Audit as part of the Department's wider audit programme.

4.6.2 The Chief Executive shall be responsible for overseeing the audit process.

4.6.3 The Commission shall report immediately to the DoJ all frauds (proven or suspected), including attempted fraud. The DoJ shall then report the frauds immediately to DFP and the C&AG. In addition the Commission shall forward to the DoJ the annual fraud return, commissioned by DFP, on fraud and theft suffered by the Commission.

4.6.4 The DoJ will review the Commission's Anti Fraud Policy and Fraud Response Plan. The Commission shall notify the DoJ of any subsequent changes to the policy or response plan.

4.6.5 In addition, the Commission shall forward to the Sponsoring Unit an annual report on fraud and theft suffered by the Commission; notify any unusual or major incidents as soon as possible; and notify any changes to internal audit's terms of reference, or the Commission's Fraud Policy and Response Plan.

4.7 Additional Departmental access to the Commission

4.7.1 In addition to the right of access referred to in paragraph 4.6.3 above, the Sponsoring Unit shall have a right of access on its own behalf to all the Commission's relevant records and personnel for purposes such as sponsorship audits and operational investigations. The Sponsoring Unit shall not have access to records which relate solely to the Commission's role where the integrity and confidentiality of those records is crucial to its independence.

5. EXTERNAL ACCOUNTABILITY

5.1 The annual report

5.1.1 The Commission shall publish an annual report after the end of the financial year.

5.1.2 The report shall outline the Commission's main activities and performance during the previous financial year and set out in summary form the Commission's forward plans.

5.1.3 The report shall be laid before the Assembly and then published by the Commission and made available on the Commission's website.

5.2 External audit

5.2.1 The Commission's accounts will be audited within the scope of the DoJ accounts.

5.3 VFM examinations

5.3.1 The Comptroller and Auditor General Northern Ireland (C&AGNI) may carry out examinations into the economy, efficiency and effectiveness with which the Commission has used its resources in discharging its functions. For the purpose of these examinations the C&AGNI has statutory access to documents as provided for under Articles 3 and 4 of the Audit & Accountability (NI) Order 2003. In addition, the Commission shall provide, in conditions to contracts, for the C&AGNI to exercise such access to documents held by grant recipients and contractors and sub-contractors as may be required for these examinations; and shall use its best endeavours to secure access for the C&AGNI to any other documents required by the C&AGNI which are held by other bodies.

6. STAFF MANAGEMENT

6.1.1 The Chief Executive, in liaison with the Sponsoring Unit, Personnel & Office Services Division of the DoJ, DFP and HR Connect and, further, in accordance with the Commission's Principles of Governance, will have responsibility for the recruitment, retention, allocation, motivation and Health & Safety of Commission staff. To this end, the Chief Executive will ensure that:

- there is no discrimination on grounds of gender, marital status, sexual orientation, race, colour, ethnic or national origin, religion, disability, community background or age;
- the level and structure of its staffing, including grading and numbers of staff, is appropriate to its functions and the requirements of efficiency, effectiveness and economy;
- the performance of its staff at all levels is satisfactorily appraised, performance management systems are in place where appropriate, and that the principles of the performance management system are correctly applied to the staff covered by such a scheme;
- its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the Commission's objectives;
- proper consultation with staff takes place on key issues affecting them;
- adequate grievance and disciplinary procedures are in place;
- staff are aware of whistleblowing procedures;
- a code of conduct for staff is in place based on Annex 5A of Public Bodies: A Guide for NI Departments (also see Annex B attached).

- the Commission shall establish arrangements for compliance with all relevant Health & Safety (H&S) legislation including the development of appropriate policies which (while the Commission is based at Linum Chambers) reflect the collaborative management of fire and security systems by the Public Prosecution Service Premises Officer for Linum Chambers. The Commission will arrange appropriate H&S awareness training for its staff. Reports shall be provided to the Sponsoring Unit on any significant H&S incidents that might occur.

7. REVIEWING THE ROLE AND WORK OF THE COMMISSION

7.1.1 The Commission shall be the subject of an independent, external review periodically, in which it will be fully consulted and will participate actively.

Signed on behalf of the DoJ

Date 04/09/2012

Mr Justice McCloskey /Ken Millar

Chairman /Acting CEO/AO

Signed on behalf of the NILC

Date 04/09/2012

Financial Controls for the Northern Ireland Law Commission

INCOME AND EXPENDITURE - GENERAL

The Departmental Expenditure Limit (DEL)

- 1 The Commission's current and capital expenditure form part of the sponsoring Department's Resource Departmental Expenditure Limits (DEL) and Capital DEL respectively.
- 2 The Chief Executive shall be responsible for ensuring that the budget for the year is not exceeded and that all financial commitments made by the Commission can be met. The Chief Executive will be responsible for ensuring that profiles are revised as necessary and that variances are explained to Justice Strategy Division, that all spending is monitored, and that resource accounting rules are followed
- 3 The principles of economic appraisal should be applied in all cases where expenditure is proposed, whether the proposal involves capital or current expenditure, or both. The effort put into economic appraisal should be commensurate with the size or importance of the needs or resources under consideration.

Expenditure not proposed in the budget

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

Procurement

- 5 The Commission's procurement policies shall reflect the public procurement policy adopted by the Northern Ireland Executive in May 2002 (refreshed May 2009); Procurement Guidance Notes; and any other guidelines or guidance issued by Central Procurement Directorate (CPD) and the Procurement Board. The Commission's procurement activity should be carried out by means of a Service Level Agreement with CPD through the DoJ – this should ensure compliance with relevant UK, EU and international procurement rules. It is advisable that the Commission seek an assurance from CPD/CoPE, or their legal adviser, to provide assurance for the Accounting Officer that the use of single tender action is legitimate in a particular case. Further information is published in Procurement Guidance Note 03/11 on the 'Award of Contracts without a Competition'. www.cpdni.gov.uk/index/guidance-for-purchasers/guidance-notes.htm]

Competition

- 6 Contracts shall be awarded on a competitive basis and tenders accepted from suppliers who provide best value for money overall.
- 7 Single tender action is the process where a contract is awarded to an economic operator (i.e. supplier, contractor) without competition. In light of their exceptional nature, all single tender actions should be subject to DOJ Accounting Officer approval.

Value for money

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

Timeliness in paying bills

- 9 The Commission shall collect receipts and pay all matured and properly authorised invoices in accordance with Annex 4.5 and 4.6 of Managing Public Money Northern Ireland and any guidance issued by DFP or the sponsor Department.

Novel, contentious or repercussive proposals

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

Risk management/Fraud

- 11 The Commission shall comply with guidance issued on Risk Management and Fraud.

Staff costs

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

Pay and conditions of service

- 13 The staff of the Commission, whether on permanent or temporary contract, shall be subject to levels of remuneration and terms and conditions of service (including superannuation) within the general NICS pay structure as approved by the sponsor Department and DFP. The Commission has no delegated power to amend these terms and conditions.
- 14 Civil Service terms and conditions of service apply to the rates of pay and non-pay allowances paid to the Commission's staff and to any other party entitled to payment in respect of travelling expenses or other allowances.
- 15 Annual pay increases of Commission staff must be in accordance with the annual FD letter on Pay Remit Approval Process and Guidance issued by DFP. Therefore, all proposed pay awards must have prior approval of the sponsor Department and the Minister for Finance before implementation.
- 16 The travel expenses of Law Commissioners shall be tied to the rates allowed to senior staff of the Commission/Departmental rates. Reasonable actual costs shall be re-imbursed.
- 17 The Commission may operate a performance-related pay scheme which shall form part of the general pay structure approved by the sponsor Department and DFP.
- 18 The Commission shall comply with the EU directive on contract workers [Fixed Term Employees Regulations (Prevention of Less Favourable Treatment)].
- 19 The Commission's staff shall be eligible for a pension provided by membership of the Principal Civil Service Pension Scheme (Northern Ireland) (PCSPS(NI)).

NON-STAFF EXPENDITURE

Economic appraisal

20. The Commission is required to apply the principles of economic appraisal, with appropriate and proportionate effort, to all decisions and proposals concerning spending or saving public money, including European Union (EU) funds, and any other decisions or proposals that involve changes in the use of public

resources. For example, appraisal must be applied irrespective of whether the relevant public expenditure or resources:

- a. involve capital or current spending, or both:
- b. are large or small,
- c. are above or below delegated limits (see Appendix A)

21. 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.
22. General guidance on economic appraisal that apply to NDPBs can be found in:
 - DFP's on-line guide *The Northern Ireland Guide to Expenditure Appraisal and Evaluation* ("NIGEAE", 2009). See <http://www.dfpni.gov.uk/eag>
 - The HM Treasury Guide, *The Green Book: Appraisal and Evaluation in Central Government* (2003).

Capital expenditure

23. Within its approved overall resources limit the Commission shall, as indicated in the attached Appendix on delegations, have no delegated authority to spend on any individual capital project or acquisition. The sponsor Department's and where necessary, DFP's prior authority must be obtained before expenditure on an individual project or acquisition is incurred.

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

24. The Commission shall not, without the sponsor Department's and where necessary, DFP's prior written consent, lend money, charge any asset or security, give any guarantee or indemnities or letters of comfort, or incur any other contingent liability (as defined in Annex 5.5 of MPMNI), whether or not in a legally binding form.

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

25. Proposals for making gifts or other special payments (including issuing write-offs) outside the delegated limits set out in the Appendix A of this document must have the prior approval of the sponsor Department and where necessary DFP.
26. Losses shall not be written off until all reasonable attempts to make a recovery have been made and proved unsuccessful.

27. Gifts by management to staff are subject to the requirements of DAO (DFP) 05/03.

Leasing

28. Prior Departmental approval must be secured for all property and finance leases. The Commission must have capital DEL provision for finance leases and other transactions which are, in substance, borrowing.

29. Before entering into any lease (including an operating lease) the Commission shall demonstrate that the lease offers better value for money than purchase.

Subsidiary companies and joint ventures

30. The Commission shall not establish subsidiary companies or joint ventures without the express approval of the sponsor Department and DFP. In judging such proposals the sponsor Department will have regard to the Department's wider strategic aim[s] objective and current Public Service Agreement.

Unconventional financing

31. The Commission shall not enter into any unconventional financing arrangement without the approval of the sponsor Department and DFP.

Commercial insurance

32. The Commission shall not take out any insurance without the prior approval of the sponsor Department and DFP, other than third party insurance required by the Road Traffic (NI) Order 1981 (as amended) and any other insurance which is a statutory obligation or which is permitted under Annex 4.5 of MPMNI.

33. In the case of a major loss or third-party claim the sponsor Department shall liaise with the Commission about the circumstances in which an appropriate addition to budget out of the sponsor Department's funds and/or adjustment to the Commission's targets might be considered. The sponsor Department will liaise with DFP Supply where required in such cases.

Hospitality

34. The Commission shall ensure that it complies with Departmental policy on the provision and acceptance of hospitality.

Use of Consultants

35. The Commission shall ensure that it complies with Departmental guidance on Use of Consultants, and that Delegated Limits are adhered to. Care should be taken to avoid actual, potential, or perceived conflicts of interest when employing consultants. The Commission will provide DOJ with a quarterly statement on the status of all consultancies completed and/or started in each financial year.

FIXED ASSETS

Register of assets

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

Disposal of assets

37. The Commission, in conjunction with DFP Properties Division and IT Assist shall dispose of assets which are surplus to its requirements. The DoJ's policy on Fixed Assets shall apply.

COMPLIANCE WITH INSTRUCTIONS AND GUIDANCE

Relevant documents

38. The Commission shall comply with the following general guidance documents:
- This document (both the Financial Memorandum and the Management Statement);
 - Managing Public Money Northern Ireland (MPMNI);
 - Public Bodies - a Guide for NI Departments issued by DFP;
 - Government Internal Audit Standards, issued by DFP;
 - The document Managing the Risk of Fraud issued by DFP;
 - The Treasury document The Government Financial Reporting Manual (FReM) issued by DFP;
 - Relevant DFP Dear Accounting Officer and Finance Director letters;
 - Relevant Dear Consolidation Officer and Dear Consolidation Manager letters issued by DFP;

- Regularity, Propriety and Value for Money, issued by Treasury;
- The Consolidation Officer Letter of Appointment, issued by DFP;
- Other relevant instructions and guidance issued by the central Departments (DFP/OFMDFM) including Procurement Board and CPD Guidance;
- Specific instructions and guidance issued by the sponsor Department;
- Recommendations made by the Public Accounts Committee, or by other Assembly authority, which have been accepted by the government and which are relevant to the NDPB.

DELEGATED EXPENDITURE LIMITS

Areas requiring DFP approval regardless of level of expenditure

Details	Footnote
Fraud – any departure from immediate reporting (FD 10/10 and FD 10/08 and further DFP Guidance at: Fraud Management Guidance (FMG): FIAP Publications AASDNI)	1
Estimates – form and content of Main and Supplementary Estimates, Vote on Account, Statement of Excess and virement	
Banking – Proposals to open foreign currency accounts.	
Banking – Requests for indemnities from a bank other than “formal undertakings”	
Economic appraisals for spending proposals above delegated limits in line with FD 20/09.	
Assets - Transfer of assets at less than best consideration reasonably obtainable	
Assets – to appropriate any sums realised as a result of selling an asset	
Assets – to allow an NDPB to retain receipts arising from the sale of assets funded by grant or grant-in-aid	
Insurance – decision to use commercial insurance	
Payments – advance payments	
Receipts – repayment of CFERs from the Northern Ireland Consolidated Fund	
Interdepartmental Transactions – where the transaction may require legislative procedures or where DFP agreement is required under statute	
Chargeable Services – as set out in existing guidance on fees and charges.	
Loans – proposals to make voted loans.	
Loans – on borrowing from the Northern Ireland Consolidated Fund	
Loans- write offs	
Loans – premature repayment.	
Borrowing on terms more costly than those usually available to government.	
Borrowing – foreign borrowing.	
Liabilities – Depts seeking statutory authority to accept liabilities should consult DFP.	
Letters of comfort & general statements of support.	
Reporting a contingent liability in confidence	
Reporting a liability outside Assembly sessions	
Uninsured losses – where expenditure to replace or repair an asset or meet a claim falls outside the department’s delegated limits	
Banking – Any proposed changes to Banking pool arrangements.	
Banking – Proposals to open accounts with commercial banks other than approved UK clearing banks.	
Any proposals to negotiate contracts in foreign currencies other than the euro, yen or US \$.	
Recoupment of overpayments of grants	
Losses due to failure to make adequate charges for the use of public property or services.	
Waiving recovery of a collective overpayment.	
All PFI/PPP projects.	
Appointment of an Accounting Officer for a trading fund (TF).	
Appointment of an Accounting Officer for a departmental estimate, Additional Accounting Officers for RfRs and any Accounting Officer for “joined-up government” operations.	

Details	Footnote
The letter of appointment to posts which will carry the responsibilities of an agency Accounting Officer.	
Accounts Directions on form & content of statement of accounts and annual reports for NDPBs	
All Management Statements and Financial Memorandums (MSFM)	
The termination of an NDPB	
Agency framework documents and the methods of financing an agency	
Remuneration and Allowances of an assessor	2
The establishment and operation of a Trading Fund	

- 1) FD 10/10 and FD 10/08 and further DFP Guidance at: [Fraud Management Guidance \(FMG\): FIAP Publications | A A S D N I](#)
- 2) Schedule 12(7) of the Criminal Justice Act 1988

Areas requiring approval with delegated limits in place

<i>Details</i>	<i>Delegated Limit (£)</i>
All gifts	100
Non-statutory guarantees and liabilities	0
Foreign Exchange transactions, where these are to be channelled through any institution other than the Northern Bank.	0
Use of consultants.	0
IT projects	0
Extra Statutory and extra-regulatory payments.	0
Recoupment of overpayments of pay, pensions and allowances.	10,000
Waived or Abandoned claims.	10,000
Individual extra-contractual and ex-gratia payments.	0
Individual compensation claims settled out of court unless legal advice is that the department will not win the case if contested in court.	0
Individual compensation claims settled out of court where the legal advice is that the department will not win the case if contested in court.	0
Individual compensation payments made as a result of court decision.	0
Consolatory Payments.	500
All expenditure under the EU Programmes for which the Special EU Programmes Body is responsible – currently Peace II and Interreg IIIa.	0
Consultancy assignments co-sponsored by the Strategic Investment Board.	0
All other losses, write offs and special payments not covered elsewhere in this letter.	0
All other capital projects (non IT) including purchase of land & property	0
Legal Fees	0
Grants	0
Contract Variations	0

Delegated Authority for the Purchase of Goods, Services and Works
(All costs exclude VAT)

THRESHOLDS	NUMBER/TYPE OF TENDER REQUIRED	AUTHORISATION
Up to £1,500	2 or 3 Oral Quotations (fax or e-mail confirmation should be obtained)	The appropriate officer as notified to the sponsor Department
> £1,500 < £10,000	4 Selected Tenders	The appropriate officer as notified to the sponsor Department
> £10,000 < £30,000	5 Selected Tenders	The appropriate officer as notified to the sponsor Department
> £30,000 < EU Thresholds	Publicly advertised tender competition	The appropriate officer as notified to the sponsor Department

Where the Commission is unable to obtain a sufficient number of tenders, it must seek advice from CPD to ensure propriety in the procurement process.

STAFF MANAGEMENT MEMORANDUM

Performance Management

Secondees

The Commission may be staffed by secondees from either the DoJ; other NICS Departments; the NI Courts & Tribunals Service or Academia, as such they will be subject to DoJ/their parent Department/Organisation's performance management procedures and reporting arrangements which are detailed in the relevant Staff Handbooks.

Direct recruits

Directly recruited staff of the Commission will be subject to performance management procedures and arrangements based upon those of DFP, subject to any amendments made in agreement with the Department.

Appeals

Seconded staff will have access to their parent Department's/Organisation's appeals procedure if they wish to appeal.

Directly recruited staff will have access to the Commission's own appeals procedure [– based upon those of DFP/HR Connect, subject to any amendments made in agreement with the Department].

Procedures

The CEO, in liaison with the Sponsoring Unit will ensure that direct recruits are provided with the necessary training in the performance management system as it applies to them.

Staff Training

Staff of the Commission are eligible to attend training courses paid for from the Commission's training budget. The Commission is responsible for identifying, booking and funding training related to staff needs. The Sponsoring Unit will provide advice on access to the Centre for Applied Learning as necessary.