

MANAGEMENT STATEMENT

AND

FINANCIAL MEMORANDUM

**NORTHERN IRELAND JUDICIAL
APPOINTMENTS COMMISSION**

AND

**THE OFFICE OF THE FIRST
MINISTER AND THE DEPUTY FIRST
MINISTER**

TABLE OF CONTENTS

Part 1: MANAGEMENT STATEMENT

	Definitions	4
1.	Introduction	5
1.2.	Founding Legislation – Status	6
1.3	The functions, duties and powers of NIJAC	6
1.4	Classification	7
2	Aims, Objectives and Targets	8
2.1	Overall Aims	8
2.1	Objectives and Key targets	8
3	RESPONSIBILITIES AND ACCOUNTABILITY	
3.1	The First Minister and deputy First Minister	9
3.2	The Accounting Officer OFMDFM	9
3.3	The sponsor team in OFMDFM	10
3.4	The Northern Ireland Judicial Commission – Members	11
3.5	The Chairman of the Commission	13
3.6	The Chief Executive's role as Accounting Officer	15
3.7	The Chief Executive's role as Consolidation officer	17
3.8	Delegation of duties	18
3.9	The Chief Executive's role as Principal Officer for Northern Ireland Judicial Appointments Ombudsman cases	18
3.10	Consulting Customers	18
4	PLANNING, BUDGETING AND CONTROL	
4.1	The Corporate plan	18
4.2	The Business plan	19
4.3	Publication of Plans	20
4.4	Reporting performance to OFMDFM	20
4.5	Budget procedures	20
4.6	Internal Audit	20
4.7	Audit committee	21
4.8	Fraud	22
4.9	Additional Departmental access to NIJAC	22
5	EXTERNAL ACCOUNTABILITY	
5.1	The annual report and accounts	22
5.2	External audit	23
5.3	VFM examinations	23
6	STAFF MANAGEMENT	
6.1	General	24
7	REVIEWING THE ROLE OF NIJAC	25

PART II: FINANCIAL MEMORANDUM

I	Introduction	26
II	NIJAC's Income and Expenditure – General	26
III	NIJAC's Income	29
IV	Expenditure on Staff	32
V	Non-Staff Expenditure	33
VI	Management and Disposal of Fixed Assets	38
VII	Budgeting Procedures	39
VIII	Banking	40
IX	Compliance with Instructions and Guidance	41
X	Review of Financial Memorandum	42

Appendix A

1	Delegation Expenditure Limits	43
5	Capital projects	44
6	Disposal of surplus equipment	44
7	Lease and Rental Agreements	45
8	Approval of information technology Projects	45
9	Engagement of Consultants	46
10	Direct Award Contracts	47
11	Losses and special payments	47

DEFINITIONS

In this Management Statement and Financial Memorandum:

"NIJAC" means Northern Ireland Judicial Appointments Commission

"C&AG" means Comptroller and Auditor General

"DAO" means "Dear Accounting Officer" letter

"the Department" or "OFMDFM" means "Office of the First Minister and deputy First Minister"

"DFP" means the Department of Finance and Personnel.

"DPFO" means "Dear Principal Finance Officer" letter

"DCM" means "Dear Consolidation Manager" letter

"DCO" means "Dear Consolidation Officer" letter

"Executive" and "Assembly" shall also be taken to mean "the government" and "Parliament" respectively during direct rule

"MPMNI" means Managing Public Money Northern Ireland

"Ministers" means the Ministers of OFMDFM. During the suspension of the Northern Ireland Assembly, all references to "the Ministers" should be taken to mean the relevant Direct Rule Minister with responsibility for OFMDFM and the NICRC. "Grant" means any form of payment, of which "grant-in-aid" is a subset

"MSFM" means the *Management Statement and Financial Memorandum* document

"PFO" means Principal Finance Officer

"UK GAAP" means generally accepted accounting practice

"Voted" means provision voted by the Northern Ireland Assembly

Management Statement

1. INTRODUCTION

1.1 This document

- 1.1.1 This *Management Statement* and *Financial Memorandum* (MS/FM) has been drawn up by the Office of the First Minister and deputy First Minister (OFMDFM) in consultation with the Northern Ireland Judicial Appointments Commission (NIJAC), Headline Building, 10-14 Victoria Street, Belfast, BT1 3GG. It is based on a model template prepared by the Department of Finance and Personnel (DFP).
- 1.1.2 The terms and conditions set out in the combined Management Statement and Financial Memorandum may be supplemented by guidelines or directions issued by OFMDFM in respect of the exercise of any individual functions, powers and duties of NIJAC.
- 1.1.3 A copy of the MS/FM for NIJAC should be given to all newly appointed Commission Members, senior Commission executive staff and departmental sponsor staff on appointment. Additionally the MS/FM should be tabled for the information of NIJAC Members at least annually at a full meeting of the Commission. Amendments made to the MS/FM should also be brought to the attention of the full Commission on a timely basis.
- 1.1.4 Subject to the legislation noted below, this *Management Statement* sets out the broad framework within which NIJAC will operate, in particular:
- NIJAC's overall aims, objectives and targets in support of the OFMDFM's wider strategic aims and outcomes and targets contained in its current Programme for Government;
 - the rules and guidelines relevant to the exercise of NIJAC's functions, duties and powers;
 - the conditions under which any public funds are paid to NIJAC;
 - how NIJAC is to be held to account for its performance.
- 1.1.5 The associated *Financial Memorandum* sets out in greater detail certain aspects of the financial provisions which NIJAC shall observe. However, the Management Statement and Financial Memorandum do not convey any legal powers or responsibilities.
- 1.1.6 The document shall be periodically reviewed by OFMDFM in accordance with the timetable referred to in Section 7 below.

- 1.1.7 NIJAC, OFMDFM or FM/DFM, may propose amendments to this document at any time. Any such proposals by NIJAC shall be considered in the light of evolving departmental policy aims, operational factors and the track record of NIJAC itself. The guiding principle shall be that the extent of flexibility and freedom given to NIJAC shall reflect both the quality of its internal controls to achieve performance and its operational needs. OFMDFM shall determine what changes, if any, are to be incorporated in the document. Legislative provisions shall take precedence over any part of the document. Significant variations to the document shall be cleared with DFP Supply after consultation with NIJAC, as appropriate. (The definition of "significant" will be determined by OFMDFM in consultation with DFP).
- 1.1.8 The *MS/FM* is approved by DFP Supply, and signed and dated by the senior sponsor in OFMDFM and NIJAC's Chief Executive.
- 1.1.9 Any question regarding the interpretation of the document shall be resolved by OFMDFM after consultation with NIJAC and, as necessary, with DFP Supply.
- 1.1.10 Copies of this document and any subsequent substantive amendments shall be placed in the Library of the Assembly. (Copies shall also be made available to members of the public on NIJAC's website).

1.2 Founding legislation; status

- 1.2.1 The Justice (NI) Acts 2002 and 2004, as amended, provide for the establishment of a body corporate known as the Northern Ireland Judicial Appointments Commission (NIJAC). Under the Northern Ireland Act 2009 the Commission took on some new roles and for the first time became responsible for the appointment of applicants to many listed judicial offices. NIJAC does not carry out its functions on behalf of the Crown nor does it enjoy any status, immunity or privilege of the Crown.

1.3 The functions, duties and powers of NIJAC

- 1.3.1 The Justice (NI) Act 2002, as amended, and the Northern Ireland Act 2009 set out the Northern Ireland Judicial Appointments Commission's statutory responsibilities. The Commission's 5 key responsibilities are:-
- conduct the appointments process and select and appoint or recommend for appointment, applicants in respect of all listed judicial offices up to and including High Court Judge;
 - recommend applicants solely on the basis of merit;

- engage in a programme of action to secure, so far as it is reasonably practicable to do so, that appointments to listed judicial offices are such that those holding such offices are reflective of the community in Northern Ireland;
- engage in a programme of action to secure, so far as it is reasonably practicable to do so, that a range of persons reflective of the community in Northern Ireland is available for consideration by the Commission whenever it is required to select a person to be appointed, or recommended for appointment, to a listed judicial office; and
- publish an annual report setting out the activities and accounts for the past year.

1.4 Classification

1.4.1 For policy/administrative purposes NIJAC is classified as an executive non-departmental public body.

1.4.1 For national accounts purposes NIJAC is classified to the central government sector.

2. AIMS, OBJECTIVES AND TARGETS

2.1 Overall aims

2.1.1 The legislation provides for the overall aims of NIJAC as follows;

- conduct the appointments process and select and appoint, and recommend for appointment, applicants in respect of all listed judicial offices up to and including High Court Judge;
- recommend applicants solely on the basis of merit;
- engage in a programme of action to secure, so far as it is reasonably practicable to do so, that appointments to listed judicial offices are such that those holding such offices are reflective of the community in Northern Ireland;
- engage in a programme of action to secure, so far as it is reasonably practicable to do so, that a range of persons reflective of the community in Northern Ireland is available for consideration by the Commission whenever it is required to select a person to be appointed, or recommended for appointment, to a listed judicial office; and
- publish an annual report setting out the activities and accounts for the past year.

2.2 Objectives and key targets

2.2.1 OFMDFM determines the performance framework for the Commission. The Commission in consultation with the NI Courts and Tribunal Service and OFMDFM will set out its objectives and key targets having due regard to the priorities of the Executive and the available resources.

(See section 4)

3. RESPONSIBILITIES AND ACCOUNTABILITY

3.1 The First Minister and deputy First Minister

3.1.1 The First Minister and deputy First Minister (FM/DFM) are accountable to the Assembly for the activities and performance of NIJAC. Their responsibilities include:

- approving NIJAC's strategic objectives and the policy and performance framework within which NIJAC will operate (as set out in this *Management Statement and Financial Memorandum* and associated documents);
- keeping the Assembly informed about NIJAC's performance;
- approving the amount of grant-in-aid to be paid to NIJAC, and securing Assembly approval;
- carrying out responsibilities specified in the founding legislation including appointments to the Commission; determining salary or allowances payable to non-judicial members of the Commission; approval of number, salary and other terms of employment of staff; and laying of the annual report and accounts before the Assembly.

3.2 The Accounting Officer OFMDFM

3.2.1 OFMDFM's principal Accounting Officer (the Departmental Accounting Officer) is responsible for the overall organisation, management and staffing of OFMDFM and for ensuring that there is a high standard of financial management in the Department as a whole. The departmental Accounting Officer is accountable to the Assembly for the issue of any grant-in-aid to NIJAC. The departmental Accounting Officer designates the Chief Executive of NIJAC as NIJAC's Accounting Officer, and may withdraw the accounting officer designation if he believes that the incumbent is no longer suitable for the role.

3.2.2 In particular, the Departmental Accounting Officer of OFMDFM shall ensure that:

- NIJAC's strategic aims and objectives support OFMDFM's wider strategic aims and relevant Programme for Government (PfG) objectives;
- the financial and other management controls applied by OFMDFM to NIJAC are appropriate and sufficient to safeguard public funds and for ensuring that NIJAC's compliance with those controls is effectively monitored ("public funds" include not

only any funds granted to NIJAC by the Assembly but also any other funds falling within the stewardship of NIJAC);

- the internal controls applied by NIJAC conform to the requirements of regularity, propriety and good financial management; and
- any grant-in-aid to NIJAC is within the ambit and the amount of the Request for Resources and that Assembly authority has been sought and given.

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

3.3 The sponsoring team in OFMDFM

3.3.1 Within OFMDFM Central Management Branch within the Corporate Services Division is the sponsoring team for NIJAC. The Team, in consultation as necessary with the relevant departmental Accounting Officer, is the primary source of advice to the First Minister and deputy First Minister on the discharge of their responsibilities in respect of NIJAC, and the primary point of contact for NIJAC in dealing with OFMDFM. The sponsoring team shall carry out its duties under the management of the Director of Corporate Services, who shall have primary responsibility within the team for overseeing the activities of NIJAC.

3.3.2 The sponsoring team shall advise First Minister and deputy First Minister on:

- an appropriate framework of objectives and targets for NIJAC
- an appropriate budget for NIJAC in the light of OFMDFM's overall public expenditure priorities;
- how well NIJAC is achieving its strategic objectives and whether it is delivering value for money.

3.3.3 In support of the departmental Accounting Officer, the sponsoring team shall:

on performance and risk management -

- monitor NIJAC's activities on a continuing basis through an adequate and timely flow of information from NIJAC on

performance, budgeting, control, and risk management, including early sight of NIJAC's Statement on Internal Control;

- address in a timely manner any significant problems arising in NIJAC, whether financial or otherwise, making such interventions in the affairs of NIJAC as OFMDFM judges necessary to address such problems;
- periodically carry out a risk assessment of NIJAC's activities to inform OFMDFM's oversight of NIJAC; strengthen these arrangements if necessary; and amend the *Management Statement* and *Financial Memorandum* accordingly. The risk assessment shall take into account the nature of NIJAC's activities; the public monies at stake; the body's corporate governance arrangements; its financial performance; internal and external auditors' reports; the openness of communications between the body and OFMDFM; and any other relevant matters;

on communication with NIJAC -

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

3.4 The Northern Ireland Judicial Commission - Members

3.4.1 Section 3 of the Justice (Northern Ireland) Act 2002 describes the constitution of the Commission as follows:-

- The Lord Chief Justice (Chairman)
- a Lord Justice of Appeal
- a judge of the High Court
- a county court judge
- a resident magistrate
- a lay magistrate
- a barrister
- a solicitor
- five lay members.

3.4.2 The First Minister and deputy First Minister appoint the members of the Commission. The Lord Chief Justice nominates the five judicial members and the General Council of the Bar of Northern Ireland and

the Law Society each nominate a legal profession member.

- 3.4.3 Under the Justice (Northern Ireland) Act 2002, as amended the First Minister and deputy First Minister must so far as possible secure that the lay members (taken together) are representative of the community in Northern Ireland.
- 3.4.4 All Commission Members, with the exception of the Chairman, may not be appointed for more than five years at a time and the aggregate period of any appointment must not exceed ten years.
- 3.4.5 Appointment to NIJAC is made in line with the Code of Practice issued by the Commissioner for Public Appointments for Northern Ireland (CPA NI).
- 3.4.6 The Commission has corporate responsibility for ensuring that NIJAC fulfils the aims and objectives agreed with OFMDFM, and approved by the First Minister and deputy First Minister, and for promoting the efficient, economic and effective use of staff and other resources by NIJAC. To this end, and in pursuit of its wider corporate responsibilities, the Commission shall:
- establish the overall strategic direction of NIJAC within the legislation and the resources framework determined by FM/DFM and OFMDFM;
 - constructively challenge NIJAC's executive team in their planning, target setting and delivery of performance;
 - ensure that OFMDFM is kept informed of any changes which are likely to impact on the strategic direction of NIJAC or on the attainability of its targets, and determine the steps needed to deal with such changes;
 - ensure that any statutory or administrative requirements for the use of public funds are complied with; that the Commission operates within the limits of its statutory authority and any delegated authority agreed with OFMDFM, and in accordance with any other conditions relating to the use of public funds; and that, in reaching decisions, the Commission takes into account all relevant guidance issued by DFP and OFMDFM;
 - ensure that the Commission receives and reviews regular financial information concerning the management of NIJAC; is informed in a timely manner about any concerns about the activities of NIJAC; and provides positive assurance to OFMDFM that appropriate action has been taken on such concerns;

- demonstrate high standards of corporate governance at all times, including using the independent audit committee (see paragraph 4.7) to help the Commission to address the key financial and other risks facing NIJAC;
- appoint with the First Minister's and deputy First Minister's approval, a Chief Executive to NIJAC and, in consultation with OFMDFM, set performance objectives and remuneration terms linked to those objectives for the Chief Executive, which give due weight to the proper management and use of public monies.

3.4.7 Individual Commission Members shall act in accordance with their wider responsibilities as Members of the Commission - namely to:

- comply at all times with the Code of Practice (see paragraph 3.5.5) that is adopted by NIJAC and with the rules relating to the use of public funds and to conflicts of interest;
- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations; and to declare publicly and to the Commission any private interests that may be perceived to conflict with their public duties;
- comply with Commission's rules on the acceptance of gifts and hospitality, and of business appointments; and
- act in good faith and in the best interests of NIJAC.

3.4.8 OFMDFM shall have access to all the Commission's plenary meeting minutes.

3.5 The Chairman of the Commission

3.5.1 The Chairman of the Northern Ireland Judicial Appointments Commission is an ex officio position. The Commission is chaired by the Lord Chief Justice of Northern Ireland as set out in the Justice (NI) Act 2002. The tenure of the position is for the period as incumbent. If the Office of the Lord Chief Justice is vacant, or he is not available, the senior Lord Justice of Appeal who is available will act as Chairman. The Lord Justice of Appeal does not have to be a member of the Commission to act as Chairman.

3.5.2 The Chairman is responsible for ensuring that NIJAC's policies and affairs are conducted with probity. The Chairman shares with other Commission members the corporate responsibilities set out in

paragraph 3.4.6, and in particular for ensuring that NIJAC fulfils the aims and objectives agreed by OFMDFM.

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

- formulating the Commission's strategy;
- ensuring that the Commission, in reaching decisions, takes proper account of guidance provided by the First Minister and deputy First Minister or OFMDFM;
- promoting the efficient, economic and effective use of staff and other resources;
- encouraging and delivering high standards of regularity and propriety;
- representing the views of the Commission to the general public; and
- ensuring that 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 Commission members.

3.5.4 The Chairman shall also:

- ensure that all members of the Commission, 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 OFMDFM of the needs of NIJAC when Commission vacancies arise, with a view to ensuring a proper balance of professional and financial expertise; and
- assess the performance of individual Commission Members. Commission Members will be subject to ongoing performance appraisal, with a formal assessment being completed by the Chair of the Commission 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.

3.5.5 The Chairman shall also ensure that a Code of Practice for Board Members is in place, based on the Cabinet Office's Code of Practice for Board Members of Public Bodies, (FD (DFP) 03/06 refers). The Code shall commit the Chairman and other Commission Members to the Nolan "seven principles of public life", and shall include a requirement for a comprehensive and publicly available register of Commission Members' interests.

3.5.6 Communications between the Commission and the First Minister and deputy First Minister and OFMDFM shall normally be through the Chairman. The Chairman shall ensure that the other Commission members are kept informed of such communications on a timely basis.

3.6 The Chief Executive's role as Accounting Officer

3.6.1 The Chief Executive of NIJAC is designated as Accounting Officer by the departmental Accounting Officer of OFMDFM.

3.6.2 The Accounting Officer of NIJAC is personally responsible for safeguarding the public funds for which he/she has charge; for ensuring propriety and regularity in the handling of those public funds; and for the day-to-day operations and management of NIJAC.

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

on planning and monitoring -

- establish, in agreement with OFMDFM, NIJAC's corporate and business plans in pursuance of its statutory functions and wider strategic aims and relevant PfG objectives and targets;
- inform OFMDFM of how NIJAC's resources are being used to achieve agreed objectives;
- ensure that timely forecasts and monitoring information on performance and finance are provided to OFMDFM; that OFMDFM is notified promptly if overspends or underspends are likely and that corrective action is taken; and that any significant problems, whether financial or otherwise, and whether detected by internal audit or by other means, are notified to OFMDFM in a timely fashion;

on advising the Commission -

- advise the Commission on the discharge of its responsibilities as set out in this document, in the founding legislation and in any other

relevant instructions and guidance that may be issued from time to time by DFP or OFMDFM;

- advise the Commission on NIJAC's performance compared with its aims and objectives;
- ensure that financial considerations are taken fully into account by NIJAC at all stages in reaching and executing its decisions, and that standard financial appraisal techniques are followed appropriately;
- take action in line with Section 3.8 of MPMNI if the Commission, or its Chairman, is contemplating a course of action involving a transaction which the Chief Executive considers would infringe the requirements of propriety or regularity, or does not represent prudent or economical administration, efficiency' or effectiveness;

on managing risk and resources -

- ensure that a system of risk management is maintained to inform decisions on financial and operational planning and to assist in achieving objectives and targets;
- ensure that an effective system of programme and project management and contract management is maintained;
- ensure compliance with the Northern Ireland Public Procurement Policy;
- ensure that all public funds made available to NIJAC including any income or other receipts are used for the purpose intended by the Assembly, and that such monies, together with NIJAC's assets, equipment and staff, are used economically, efficiently and effectively;
- ensure that adequate internal management and financial controls are maintained by NIJAC, including effective measures against fraud and theft;
- maintain a comprehensive system of internal delegated authorities that are notified to all staff, together with a system for regularly reviewing compliance with these delegations;
- ensure that effective personnel management policies are maintained;

on accounting for NIJAC's activities -

- sign the accounts and be responsible for ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any directions issued by the First Minister and deputy First Minister, OFMDFM, or DFP;
- sign a Statement of Accounting Officer's responsibilities, for inclusion in the annual report and accounts;
- sign a Statement on Internal Control regarding NIJAC's system of internal control, for inclusion in the annual report and accounts;
- ensure that effective procedures for handling complaints about NIJAC are established and made widely known within NIJAC;
- act in accordance with the terms of this document and with the instructions and relevant guidance in *MPMNI* and other instructions and guidance issued from time to time by OFMDFM 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). Section IX of the *Financial Memorandum* refers to other key guidance;
- give evidence, normally with the Accounting Officer of OFMDFM, if summoned before the Public Accounts Committee on the use and stewardship of public funds by NIJAC;
- ensure that the requirements of the Data Protection Act 1998 and the Freedom of Information Act 2000 are complied with.

3.7 The Chief Executive's role as Consolidation Officer

- 3.7.1 For the purposes of Whole of Government Accounts, the Chief Executive of NIJAC is normally appointed by DFP as NIJAC's Consolidation Officer.
- 3.7.2 As NIJAC's Consolidation Officer, the Chief Executive shall be personally responsible for preparing the consolidation information, which sets out the financial results and position of NIJAC; for arranging for its audit; and for sending the information and the audit report to the Principal Consolidation Officer nominated by DFP.
- 3.7.3 As Consolidation Officer, the Chief Executive shall comply with the requirements of NIJAC Consolidation Officer Letter of Appointment as issued by DFP and shall, in particular:

- ensure that NIJAC has in place and maintains sets of accounting records that will provide the necessary information for the consolidation process;
- prepare the consolidation information (including the relevant accounting and disclosure requirements and all relevant consolidation adjustments) in accordance with the consolidation instructions and directions ["Dear Consolidation Officer" (DCO) and "Dear Consolidation Manager" (DCM) letters] issued by DFP on the form, manner and timetable for the delivery of such information.

3.8 Delegation of duties

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

3.9 The Chief Executive's role as Principal Officer for NI Judicial Appointments Ombudsman cases

- 3.9.1 NIJAC is subject to the jurisdiction of the Northern Ireland Judicial Appointments Ombudsman. The Chief Executive of NIJAC is the Principle Officer for handling cases involving the Northern Ireland Judicial Ombudsman. As Principal Officer, he/she shall inform the Permanent Secretary of OFMDFM of any complaints about NIJAC accepted by the Ombudsman for Investigation, and about NIJAC's proposed response to any subsequent recommendations from the Ombudsman.

3.10 Consulting Customers

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

4. PLANNING, BUDGETING AND CONTROL

4.1 The corporate plan

- 4.1.1 Consistent with the timetable for the NI Executive's Budget process reviews, NIJAC shall submit to OFMDFM a draft NIJAC corporate plan covering three years ahead. NIJAC shall have agreed with OFMDFM

the issues to be addressed in the plan and the timetable for its preparation.

4.1.2 DFP reserves the right to ask to see and agree NIJAC's corporate plan.

4.1.3 The plan shall reflect NIJAC's statutory duties and, within those duties any wider strategic priorities. In particular, the plan shall demonstrate how NIJAC contributes to the achievement of the wider strategic aims and PFG objectives and targets.

4.1.4 The corporate plan shall set out:

- NIJAC's key objectives and associated key performance targets for the three forward years, and its strategy for achieving those objectives;
- a review of NIJAC's performance in the preceding financial year together with comparable outturns for the previous 3, years and an estimate of performance in the current year;
- alternative scenarios to take account of factors which may significantly affect the execution of the plan, but which cannot be accurately forecast;
- a forecast of expenditure and income, taking account of guidance on resource assumptions and policies provided by OFMDFM at the beginning of the planning round. These forecasts should represent NIJAC's best estimate of all its available income not just any grant or grant-in-aid;
- other matters as agreed between OFMDFM and NIJAC.

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

4.2 The business plan

4.2.1 Each year of the corporate plan, amplified as necessary, shall form the business plan for the relevant forthcoming year. The business plan shall include key targets and milestones for the year immediately ahead and shall be linked to budgeting information so that resources allocated to achieve specific objectives can readily be identified by OFMDFM.

4.2.2 DFP reserves the right to ask to see and agree NIJAC's annual business plan.

Corporate and business plans will be formally approved by the Director of Corporate Services as the senior sponsor within OFMDFM.

4.3 Publication of plans

- 4.3.1 The corporate and business plans shall be made available on the Internet and a summary version shall be made available to staff.

4.4 Reporting performance to OFMDFM

- 4.4.1 NIJAC shall operate management information and accounting systems which enable it to review in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in its agreed corporate and business plans.
- 4.4.2 NIJAC shall take the initiative in informing OFMDFM of changes in external conditions, which make the achievement of objectives more or less difficult, or which may require a change to the budget or objectives as set out in the corporate or business plans.
- 4.4.3 NIJAC's performance, including the achievement of key objectives, shall be reported to the Department on a three-monthly basis. Performance will be formally reviewed quarterly by officials of OFMDFM. The Ministers shall meet the Commission formally each year to discuss the NDPB's performance, its current and future activities, and any policy developments relevant to these activities.
- 4.4.4 NIJAC's performance against key targets shall be reported in NIJAC's annual report and accounts (see Section 5.1 below).

4.5 Budgeting procedures

- 4.5.1 NIJAC's budgeting procedures are set out in the *Financial Memorandum*.

4.6 Internal audit

- 4.6.1 NIJAC shall establish and maintain arrangements for internal audit in accordance with the Treasury's Government Internal Audit Standards (GIAS).
- 4.6.2 The audit strategy and annual audit plan should be prepared on a risk based approach in line with GIAS. OFMDFM shall receive and if necessary have input to NIJAC's planned internal audit coverage to ensure that areas considered being of high risk by OFMDFM are covered. This in no way supersedes the role of NIJAC's management, audit committee, commissioners or accounting officer in developing and approving their audit plan.

- 4.6.3 NIJAC will provide OFMDFM with regular updates on the progress against the audit plan, and forward to OFMDFM on a timely basis copies of all internal audit report including Head of Internal Audit's interim and annual report; the output of internal and external assessments by the internal audit function. OFMDFM will forward copies of all reports to the Departments HIA for information.
- 4.6.4 Under GIAS an internal audit function should be subject to internal assessment, with an external assessment being carried out by a qualified independent reviewer at least every five years (GIAS standard 1312).OFMDFM reserves a right of access to carry out its own independent reviews of NIJAC's internal audit function.
- 4.6.5 OFMDFM shall also have the right of access to all documents prepared by NIJAC's internal auditor, including where the service is contracted out. Where the audit service is contracted out NIJAC should stipulate this requirement when tendering for the services.
- 4.6.6 NIJAC shall consult OFMDFM to ensure that the latter is satisfied with the competence and qualifications of the Head of Internal Audit and that the requirements for approving the appointment are in accordance with GIAS and relevant DFP guidance.
- 4.6.7 OFMDFM will review NIJAC's terms of reference for internal audit provision. NIJAC shall notify OFMDFM of any subsequent changes to internal audit's terms of reference.

4.7 Audit Committee

- 4.7.1 NIJAC shall set up an independent audit committee as a committee of its Commission, in accordance with the Cabinet Office's Guidance on Codes of Practice for Public Bodies (FD(DFP) 03/06 refers) and in line with the Audit Committee Handbook DAO (DFP) 07/07.
- 4.7.2 OFMDFM has determined the following arrangements in respect of NIJAC as follows: -
- OFMDFM sponsorship representatives will attend NIJAC Audit Committee meetings in an observer capacity;
 - OFMDFM will have access to the Audit Committee papers and minutes;
 - NIJAC's Audit Committee through their sponsor branch will forward to the Department's Audit Committee any concerns they have in relation to NIJAC's governance control or risk management;
 - Stewardship statements should be a standing agenda item at all Audit Committee meetings. To ensure that any areas where significant issues regarding internal control exist are identified

and appropriate action to minimise the impact of risks identified has been taken into account when completing the stewardship statement;

- A sponsor team representative shall attend all Audit and Risk Committee meeting as observers.

4.7.3 OFMDFM will review NIJAC's audit committee terms of reference. NIJAC shall notify OFMDFM of any subsequent changes to the audit committee's terms of reference.

4.8 Fraud

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

4.8.2 OFMDFM will review NIJAC's Anti Fraud Policy and Fraud Response Plan. NIJAC will notify OFMDFM of any subsequent changes to the fraud policy and response plan.

4.9 Additional Departmental access to NIJAC

4.9.1 In addition to the right of access referred to in paragraph 4.6.5 above, OFMDFM shall have a right of access to all NIJAC's records and personnel for purposes such as sponsorship audits, operational investigations etc. (See also paragraphs 3.4.9 and 4.7.2 access to Commission and Audit Committee minutes).

5. EXTERNAL ACCOUNTABILITY

5.1 The annual report and accounts

5.1.1 After the end of each financial year NIJAC shall publish as a single document an annual report of its activities together with its audited annual accounts. The report shall also cover the activities of any corporate bodies under the control of NIJAC. A draft of the report shall be submitted to OFMDFM as soon as the NIAO has completed its annual audit. It is expected that OFMDFM and NIJAC will have had extensive pre publication discussion on the content of the report prior to formal submission to the department.

5.1.2 The report and accounts shall comply with the most recent version of the Government Financial Reporting Manual (FReM) issued by DFP. The accounts shall be prepared in accordance with any relevant statutes and the specific Accounts Direction issued by OFMDFM.

- 5.1.3 The report and accounts shall outline NIJAC's main activities and performance during the previous financial year and set out in summary form NIJAC's forward plans. Information on performance against key financial targets shall be included in the notes to the accounts, and shall therefore be within the scope of the audit.
- 5.1.4 The report and accounts shall be laid before the Assembly and made available, in accordance with the guidance on the procedures for presenting and laying the combined annual report and accounts as prescribed in the relevant FD letter issued by DFP.
- 5.1.5 Due to the potential accounting and budgetary implications, any changes to accounting policies or significant estimation techniques underpinning the preparation of annual accounts, requires the prior written approval of OFMDFM.

5.2 External audit

- 5.2.1 The Comptroller and Auditor General (C&AG) audits NIJAC's annual accounts. NIJAC will pass the audited accounts to OFMDFM who shall lay them before the Assembly together with NIJAC's annual report. For the purpose of audit the C&AG has a statutory right of access to relevant documents as provided for in Articles 3 and 4 of the Audit and Accountability (Northern Ireland) Order 2003.
- 5.2.2 The C&AG will liaise with NIJAC on the arrangements for completing the audit of NIJAC's accounts. This will either be undertaken by staff of the NIAO or a private sector firm appointed by the C&AG to undertake the audit on his behalf. The final decision on how such audits will be undertaken rests with the C&AG, who retains overall responsibility for the audit.
- 5.2.3 The C&AG has agreed to share with OFMDFM relevant information identified during the audit process including the report to those charged with governance at the end of the audit. This shall apply, in particular, to issues which impact on the Department's responsibilities in relation to financial systems within NIJAC. The C&AG will also consider, where asked, providing Departments and other relevant bodies with reports which Departments may request at the commencement of the audit and which are compatible with the independent auditor's role.

5.3 VFM examinations

- 5.3.1 The C&AG may carry out examinations into the economy, efficiency and effectiveness with which NIJAC has used its resources in discharging its functions. For the purpose of these examinations the C&AG has statutory access to documents as provided for under

Articles 3 and 4 of the Audit and Accountability (Northern Ireland) Order 2003. Where making payment of a grant, or drawing up a contract, NIJAC should ensure that it includes a clause which makes the grant or contract conditional upon the recipient or contractor providing access to the C&AG in relation to documents relevant to the transaction. Where subcontractors are likely to be involved, it should also be made clear that the requirements extend to them.

6. STAFF MANAGEMENT

6.1 General

6.1.1. Within the arrangements approved by the First and Deputy First Minister and DFP, NIJAC shall have responsibility for the recruitment, retention and motivation of its staff. To this end NIJAC shall ensure that:

- its rules for the recruitment and management of staff create an inclusive culture in which diversity is fully valued; where appointment and advancement is based on merit; and where there is no discrimination on grounds of gender, marital status, domestic circumstances, sexual orientation, race, colour, ethnic or national origin, religion, disability, community background or age;
- the level and structure of its staffing, including grading and numbers of staff, are appropriate to its functions and the requirements of efficiency, effectiveness and economy;
- the performance of its staff at all levels is satisfactorily appraised and NIJAC's performance measurement systems are reviewed from time to time;
- its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve NIJAC's objectives;
- proper consultation with staff takes place on key issues affecting them;
- adequate grievance and disciplinary procedures are in place;
- whistle blowing procedures consistent with the Public Interest (Northern Ireland) Order 2003 are in place;
- a code of conduct for staff is in place based on Annex 5A of Public Bodies: A Guide for NI Departments (available at <http://www.afmdni.gov.uk/>).

7. REVIEWING THE ROLE OF NIJAC

- 7.1** NIJAC shall be reviewed periodically, in accordance with the business needs of OFMDFM and NIJAC. Reference should be made to Chapter 9 of the Public Bodies: a Guide for Northern Ireland Departments.
- 7.2** OFMDFM will engage with NIJAC regularly to review the work of the commission.

Financial Memorandum for the Northern Ireland Judicial Appointments Commission

I. INTRODUCTION

1. This *Financial Memorandum* sets out certain aspects of the financial framework within which NIJAC is required to operate.
2. The terms and conditions set out in the combined *Management Statement and Financial Memorandum* may be supplemented by guidelines or directions issued by OFMDFM in respect of the exercise of any individual functions, powers and duties of NIJAC.
3. NIJAC shall satisfy the conditions and requirements set out in the combined document, together with such other conditions as OFMDFM may from time to time impose.

II. NIJAC's INCOME AND EXPENDITURE - GENERAL

The Departmental Expenditure Limit (DEL)

4. NIJAC's current and capital expenditure form part of OFMDFM's Resource Departmental Expenditure Limits (DEL) and Capital DEL respectively.

Expenditure not proposed in the budget

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

Procurement

6. NIJAC'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. NIJAC's procurement activity should be carried out by means of a Service Level Agreement with CPD or another recognised Centre of Procurement Expertise (CoPE) – this will ensure compliance with relevant UK, EU and international procurement rules.

- 7 Periodic reviews of NIJAC's procurement activity should be undertaken. The results of any such review will be shared with the sponsor department.

Competition

- 8 Contracts shall be placed on a competitive basis and tenders accepted from suppliers who provide best value for money overall.
9. Direct Award Contracts (DAC) are contracts awarded to a supplier or contractor without competition. NIJAC shall follow the procedure outlined in OFMDFM Summary of Policy and Procedures for approval of Departmental Expenditure in force (currently Revision 2 CG01/12 issued on 22 June 2012):
- Any proposal to procure through a Direct Award Contract (DAC) must be supported by a business case, setting out the rationale and justification for doing so, and supported by CPD advice or a value for money assessment as set out in PGN 04/12 Procurement Control Limits and Basis for Contract Awards, prior to any commitment being made;
 - NIJAC's Accounting Officer can approve their own DAC up to their delegated limit (currently £30,000) with the exception of external consultancy DACs;
 - Direct Award Contracts above this limit and all external consultancy, will be subject to approval by the Departmental Accounting Officer;
 - NIJAC shall seek advice from Central Procurement Directorate or a Centre of Expertise in Procurement, or their legal advisor to provide assurance for the Accounting Officer that the use of DAC is legitimate in a particular case

Guidance within CPD's Procurement Guidance Notes set out a number of exceptions to the procurement control limits. These will not be regarded as DAC and therefore neither AO approval nor CPD advice is required. Further information is published in Procurement Guidance Notes on the Award of Contracts without a Competition (currently (PGN) 04/12) <http://ofmdfm.intranet.nigov.net/index/staff-guidance.htm>

10. NIJAC shall send to the Department after each financial year a report of that year explaining any contracts in which competitive tendering was not employed. Details of all Direct Award Contracts entered into by NIJAC must be tabled at their Audit and Risk Committee and reported on a quarterly basis to the Department in an annex to their stewardship statements.

(See Appendix A for additional guidance where a Direct Award Contracts involves a consultancy assignment).

Best Value for money

- 11 Procurement by NIJAC 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 NIJAC's requirements. Where appropriate, a full option appraisal shall be carried out before procurement decisions are taken.

Timeliness in paying bills

- 12 NIJAC 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 OFMDFM

Novel, contentious or repercussive proposals

- 13 NIJAC shall obtain the approval of OFMDFM, 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 OFMDFM;
 - 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. (OFMDFM will advise on what constitutes "significant" in this context).

Risk Management/Fraud

- 14 NIJAC shall ensure that the risks it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and shall develop a risk management strategy, in accordance with the Treasury guidance *Management of Risk: A Strategic Overview* (The "Orange Book").
- 15 NIJAC shall take proportionate and appropriate steps to assess the financial and economic standing of any organisation or other body with which it intends to enter into a contract or to which it intends to give grant or grant-in-aid.

- 16 NIJAC shall adopt and implement policies and practices to safeguard itself against fraud and theft, in line with DFP's guide *Managing the Risk of Fraud*.
- 17 All cases of attempted, suspected or proven fraud shall be reported to OFMDFM who shall report it to DFP and the NIAO (see section 4.8 in the Management Statement) as soon as they are discovered, irrespective of the amount involved.

Wider markets

- 18 NIJAC shall seek to maximise receipts from non-Consolidated Fund sources, provided that this is consistent with (a) NIJAC's main functions (b) its corporate plan as agreed with OFMDFM. OFMDFM will confirm with the DFP Supply Officer that such proposed activity is appropriate.

Fees and charges

- 19 Fees or charges for any services supplied by NIJAC shall be determined in accordance with Chapter 6 of MPMNI.

III. NIJAC'S INCOME

Grant-in-aid

- 20 Grant-in-aid will be paid to NIJAC in monthly instalments, on the basis of a written application from NIJAC showing evidence of need. The application shall certify that the conditions applying to the use of grant-in-aid have been observed to date and that further grant-in-aid is now required for purposes appropriate to NIJAC's functions.
- 21 NIJAC should have regard to the guidance in DAO (DFP) 04/03 and to the general principle enshrined in Annex 5.1 of Managing Public Money Northern Ireland that it should seek grant-in-aid according to need.
- 22 Cash balances accumulated during the course of the year shall be kept at the minimum level consistent with the efficient operation of NIJAC. Grant-in-aid not drawn down by the end of the year shall lapse. However, where draw-down of grant-in-aid is delayed to avoid excess cash balances at year-end, OFMDFM will make available in the next financial year (subject to approval by the Assembly of the relevant Estimates provision) any such grant-in-aid required to meet any liabilities at year end, such as creditors.

Fines and taxes as receipts

- 23 Most fines and taxes (including levies and some licences) do not provide additional DEL spending power and should be surrendered to OFMDFM.

Receipts from sale of goods or services

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

Interest earned

- 26 Interest earned on cash balances cannot necessarily be retained by NIJAC. Depending on the budgeting treatment of this receipt, and its impact on the NIJAC's cash requirement, it may lead to commensurate reduction of grant-in-aid or be required to be surrendered to the NI Consolidated Fund via OFMDFM. If the receipts are used to finance additional expenditure by NIJAC, OFMDFM will need to ensure it has the necessary budget cover.

Unforecast changes in in-year income

- 27 If the negative DEL income realised or expected to be realised in-year is less than estimated, NIJAC shall, unless otherwise agreed with OFMDFM, ensure a corresponding reduction in its gross expenditure so that the authorised provision is not exceeded. [NOTE: For example, if NIJAC is allocated £100 resource DEL provision by OFMDFM and expects to receive £10 of negative DEL income, it may plan to spend a total of £110. If income (on an accruals basis) turns out to be only £5 NIJAC will need to reduce its expenditure to £105 to avoid breaching its budget. If NIJAC still spends £110 OFMDFM will need to find £5 of savings from elsewhere within its total DEL to offset this overspend].
- 28 If the negative DEL income realised or expected to be realised in the year is more than estimated, NIJAC may apply to OFMDFM to retain the excess income for specified additional expenditure within the current financial year without an offsetting reduction to grant-in-aid. OFMDFM shall consider such applications, taking account of competing demands for resources, and will consult with DFP in relation to any significant amounts. If an application is refused, any grant-in-aid

shall be commensurately reduced or the excess receipts shall be required to be surrendered to the NI Consolidated Fund via OFMDFM.

Build-up and draw-down of deposits

- 29 NIJAC shall comply with the rules that any DEL expenditure financed by the draw-down of deposits counts within DEL and that the build-up of deposits may represent a saving to DEL (if the related receipts are negative DEL in the relevant budgets).
- 30 NIJAC shall ensure that it has the necessary DEL provision for any expenditure financed by draw-down of deposits.

Proceeds from disposal of assets

- 31 Disposals of land and buildings are dealt with in Section VI below.

Gifts and bequests received

- 32 NIJAC is free to retain any gifts, bequests or similar donations, subject to paragraph 33. These shall be capitalised at fair value on receipts and must be notified to OFMDFM. [NOTE: A release from the donated assets reserve should offset depreciation in the operating cost statement. The latest FReM requirements should be applied.]
- 33 Before accepting a gift, bequest, or similar donation, NIJAC shall consider if there are any associated costs in doing so or any conflicts of interests arising. NIJAC shall keep a written record of any such gifts, bequests and donations and of their estimated value and whether they are disposed of or retained.

Borrowing

- 34 Under the provisions of the Justice (Northern Ireland) Act 2002, Schedule 2 (14) the NIJAC may not engage in borrowing of any kind.

IV. EXPENDITURE ON STAFF

Staff costs

- 35 Subject to its delegated levels of authority NIJAC 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

- 36 The staff of NIJAC 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 OFMDFM and DFP. NIJAC has no delegated power to amend these terms and conditions

- 37 Civil Service terms and conditions of service apply to the rates of pay and non-pay allowances paid to NIJAC's staff and to any other party entitled to payment in respect of travelling expenses or other allowances. Payment shall be made in accordance with the Civil Service Management Code except where prior approval has been given by the OFMDFM and DFP to vary such rates.
- 38 Annual pay increases of NIJAC 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 OFMDFM and the Minister for Finance before implementation.
- 39 The Commission must pay to or in respect of each non-judicial member of the Commission any such salary or allowances as the First Minister and deputy first minister, acting jointly, may determine.
- 40 The travel expenses of Commission Members shall be tied to NICS rates. Reasonable actual costs shall be re-imbursed.
- 41 NIJAC shall operate a performance-related pay scheme which shall form part of the annual aggregate pay budget approved by OFMDFM and DFP.
- 42 NIJAC shall comply with the EU directive on contract workers [Fixed Term Employees Regulations (Prevention of Less Favourable Treatment)].

Pensions; redundancy/compensation

- 43 NIJAC's staff will normally be eligible for a pension provided by membership of the Principal Civil Service Pension Scheme (Northern Ireland) (PCSPS (NI)).

Staff may opt out of the occupational pension scheme provided by the NIJAC. However, the employer's contribution to any personal pension arrangement, including a stakeholder pension, shall normally be limited to the national insurance rebate level. [NOTE: the exception is for NDPBs covered by the PCSPS (NI) Partnership arrangement, and for NDPBs with PCSPS(NI) by-analogy versions, where a contribution regime has been agreed. NDPBs with other pension arrangements which are considering contributing to a stakeholder-type arrangement where staff opt out, must consult DFP with a formal proposal based on actuarial advice].

- 44 Any proposal by NIJAC to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the approval of OFMDFM and DFP. Proposals on severance payments must comply with DAO (DFP) 17/05. Where the PCSPS(NI) is the relevant pension scheme, NIJAC must conform with the procedures for early retirement/severance which apply to the NICS and ensure that the level of benefits are the standard applicable under the Civil Service Compensation Scheme (Northern Ireland) (CSCS(NI)) rules. OFMDFM is responsible for ensuring that NIJAC does this.
- 45 OFMDFM is responsible for ensuring that NIJAC continues to meet the criteria for membership of the PCSPS(NI), where this is the pension scheme applicable.

V. NON-STAFF EXPENDITURE

Economic appraisal

- 46 NIJAC 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).
- 47 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.

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

- 48 Subject to being above an agreed capitalisation threshold, all expenditure on the acquisition or creation of fixed assets shall be capitalised on an accruals basis in accordance with relevant accounting standards. Expenditure to be capitalised shall include the (a) acquisition, reclamation or laying out of land; (b) acquisition, construction, preparation or replacement of buildings and other structures or their associated fixtures and fittings; and (c) acquisition, installation or replacement of movable or fixed plant, machinery, vehicles and vessels.
- 49 Proposals for large-scale individual capital projects or acquisitions will normally be considered within NIJAC's corporate and business planning process. Subject to paragraph 51, applications for approval within the corporate/business plan by OFMDFM and, DFP if necessary, shall be supported by formal notification that the proposed project or purchase has been examined and duly authorised by the Commission. Regular reports on the progress of projects shall be submitted to OFMDFM.
- 50 Approval of the corporate/business plan does not obviate NIJAC's responsibility to abide by the economic appraisal process.
- 51 Within its approved overall resources limit NIJAC shall, as indicated in the attached Appendix on delegations, have delegated authority to spend up to £10,000 on any individual capital project or acquisition. Beyond that delegated limit, OFMDFM's and where necessary, DFP's prior authority must be obtained before expenditure on an individual project or acquisition is incurred.

Transfer of funds within budgets

- 52 Unless financial provision is subject to specific Departmental or DFP controls (e.g. where provision is ring-fenced for specific purposes) or delegated limits, transfers between budgets within the total capital budget, or between budgets within the total revenue budget, do not need Departmental approval. The one exception to this is that, due to HM Treasury controls, any movement into, or out, of depreciation and impairments within the resource budget will require departmental and possibly DFP approval. [NOTE: Under resource budgeting rules, transfers from capital to resource budgets are not allowed.]

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

- 53 NIJAC shall not, without OFMDFM'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.

Grant or loan schemes

- 54 Unless covered by a delegated authority, all proposals to make a grant or loan to a third party, whether one-off or under a scheme, together with the terms and conditions under which such grant or loan is made shall be subject to prior approval by OFMDFM, and where necessary DFP. If grants or loans are to be made under a continuing scheme, statutory authority is likely to be required.
- 55 The terms and conditions of a grant or loan to a third party shall include a requirement on the receiving organisation to prepare accounts and to ensure that its books and records in relation to the grant or loan are readily available for inspection by NIJAC, OFMDFM and the C&AG.
- 56 See also below under the heading Recovery of grant-financed assets (paragraphs 77-79).

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

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

Leasing

- 60 Prior Departmental approval must be secured for all property and finance leases. NIJAC must have capital DEL provision for leases and other transactions which are, in substance, borrowing (Paragraph 34 above).

- 61 Before entering into any lease (including and operating lease) NIJAC shall demonstrate that the lease offers better value for money than purchase.

Public/Private Partnerships

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

Subsidiary companies and joint ventures

- 64 NIJAC shall not establish subsidiary companies or joint ventures without the express approval of OFMDFM and DFP. In judging such proposals OFMDFM will have regard to wider strategic aims, objective and current Programme for Government.
- 65 For public expenditure accounts purposes any subsidiary company or joint venture controlled or owned by NIJAC shall be consolidated with it in accordance with guidance in the FReM subject to any particular treatment required by the FReM. Where the judgment over the level of control is difficult, OFMDFM will consult DFP (who may need to consult with the Office of National Statistics over national accounts treatment). Unless specifically agreed with OFMDFM and DFP, such subsidiary companies or joint ventures shall be subject to the controls and requirements set out in this Management Statement and Financial Memorandum, and to the further provisions set out in supporting documentation.

Financial investments

- 66 NIJAC shall not make any investments in traded financial instruments without the prior written approval of OFMDFM, and where appropriate DFP, nor shall it aim to build up cash balances or net assets in excess of what is required for operational purposes. Funds held in bank accounts or as financial investments may be factors for consideration when grant-in-aid is determined. Equity shares in ventures which

further the objectives of NIJAC shall equally be subject to OFMDFM and DFP approval unless covered by a specific delegation.

Unconventional financing

- 67 NIJAC shall not enter into any unconventional financing arrangement without the approval of OFMDFM and DFP.

Commercial insurance

- 68 NIJAC shall not take out any insurance without the prior approval of OFMDFM 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.
- 69 In the case of a major loss or third-party claim OFMDFM shall liaise with the NIJAC about the circumstances in which an appropriate addition to budget out of OFMDFM's funds and/or adjustment to the NIJAC's targets might be considered. OFMDFM will liaise with DFP Supply where required in such cases.
- 70 A Certificate of Exemption for Employer's Liability Insurance has been issued to the NIJAC.

Payment/Credit Cards

- 71 NIJAC in consultation with OFMDFM, shall ensure that a comprehensive set of guidelines on the use of payment cards (including credit cards) is in place. Reference should be made to DAO (DFP) 24/02.

Hospitality

- 72 NIJAC in consultation with OFMDFM shall ensure that a comprehensive set of guidelines on the provision of hospitality is in place. Reference should be made to DAO (DFP) 10/06 Revised.

Use of Consultants

- 73 NIJAC shall adhere to the guidance issued by DFP, as well as any produced by OFMDFM in relation to the use of consultants. Please see the delegated limits set out in Appendix A.
- 74 NIJAC will provide OFMDFM with quarterly statement on the status of all consultancies completed and/or started in each financial year.

- 75 Care should be taken to avoid actual, potential or perceived conflicts of interest when employing consultants.

VI. MANAGEMENT AND DISPOSAL OF FIXED ASSETS

Register of assets

- 76 NIJAC shall maintain an accurate and up-to-date register of its fixed assets.

Disposal of assets

- 77 NIJAC shall dispose of assets which are surplus to its requirements. Assets shall be sold for best price, taking into account any costs of sale. Generally assets shall be sold by auction or competitive tender [unless otherwise agreed by OFMDFM], and in accordance with the principles in MPMNI.
- 78 All receipts derived from the sale of assets (including grant financed assets, see below) must be declared to OFMDFM, which will consult with DFP on the appropriate treatment.

Recovery of grant-financed assets

- 79 Where NIJAC has financed expenditure on capital assets by a third party, NIJAC shall set conditions and make appropriate arrangements to ensure that any such assets individually above a value of £50 are not disposed of by the third party without NIJAC's prior consent.
- 80 NIJAC shall therefore ensure that such conditions and arrangements are sufficient to secure the repayment of the NI Consolidated Fund's due share of the proceeds of the sale, in order that funds may be surrendered to OFMDFM.
- 81 NIJAC shall ensure that if the assets created by grants made by NIJAC cease to be used by the recipient of the grant for the intended purpose, a proper proportion of the value of the asset shall be repaid to NIJAC for surrender to OFMDFM. The amounts recoverable under the procedures in paragraphs 77-79 shall be calculated by reference to the best possible value of the asset and in proportion to the NI Consolidated Fund's original investment(s) in the asset.

VII. BUDGETING PROCEDURES

Setting the annual budget

- 82 Each year, in the light of decisions by OFMDFM on NIJAC's corporate plan (Section 4.1 of the Management Statement), OFMDFM will send to NIJAC:
- a formal statement of the annual budgetary provision allocated by OFMDFM in the light of competing priorities across OFMDFM and of any forecast income approved by OFMDFM;
 - and
 - a statement of any planned change in policies affecting NIJAC.
- 83 NIJAC's approved annual business plan will take account both of its approved funding provision and of any forecast receipts, and will include a budget of estimated payments and receipts together with a profile of expected expenditure and of draw-down of any OFMDFM funding and/or other income over the year. These elements will form part of the approved business plan for the year in question (Section 4.1 of the Management Statement.)
- 84 Any grant-in-aid provided by OFMDFM for the year in question will be voted in OFMDFM's Estimate and will be subject to Assembly control.

General conditions for authority to spend

- 85 Once NIJAC's budget has been approved by OFMDFM and subject to any restrictions imposed by Statute, the First Minister and deputy First Minister in this MSFM, NIJAC shall have authority to incur expenditure approved in the budget without further reference to OFMDFM, on the following conditions:
- NIJAC shall comply with the delegations set out in Appendix A of this document. These delegations shall not be altered without the prior agreement of OFMDFM and DFP;
 - NIJAC shall comply with the conditions set out in paragraph 13 above regarding novel, contentious or repercussive proposals;
 - inclusion of any planned and approved expenditure in NIJAC's budget shall not remove the need to seek formal OFMDFM and where necessary, DFP approval where such proposed expenditure is above the delegated limits set out in Appendix A or is for new schemes not previously agreed; and

- NIJAC shall provide OFMDFM with such information about its operations, performance individual projects or other expenditure as OFMDFM may reasonably require (see paragraph 84 below).
- NIJAC shall comply with NI Procurement Policy and carry out procurement via CPD or another recognised CoPE.

Providing monitoring information to OFMDFM

86 NIJAC shall provide OFMDFM with, as a minimum, information on a monthly basis which will enable the satisfactory monitoring by OFMDFM of:

- NIJAC's cash management;
- its draw-down of any grant-in-aid;
- the expenditure for that month;
- forecast outturn by resource headings; and
- other data required for the DFP Outturn and Forecast Outturn Return.

VIII. BANKING

Banking arrangements

87 NIJAC's Accounting Officer is responsible for ensuring that NIJAC's banking arrangements are in accordance with the requirements of Annex 5.7 of MPMNI. In particular, he/she shall ensure that the arrangements safeguard public funds and that their implementation ensures efficiency, economy and effectiveness.

88 He/she shall therefore ensure that:

- these arrangements are suitably structured and represent value-for-money, and are reviewed at least every two years, with a comprehensive review, usually leading to competitive tendering, at least every three to five years;
- sufficient information about banking arrangements is supplied to OFMDFM's Accounting Officer to enable the latter to satisfy his/her own responsibilities (Section 3.2 of the Management Statement);

- NIJAC's banking arrangements shall be kept separate and distinct from those of any other person or organisation; and
- adequate records are maintained of payments and receipts and adequate facilities are available for the secure storage of cash.

IX. COMPLIANCE WITH INSTRUCTIONS AND GUIDANCE

Relevant documents

89 NIJAC 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 and 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 OFMDFM;
- Recommendations made by the Public Accounts Committee, or by other Assembly authority, which have been accepted by the Government and which are relevant to NIJAC

X. REVIEW OF FINANCIAL MEMORANDUM

- 90 The Management Statement and Financial Memorandum will normally be reviewed at least every five years or following a review of NIJAC's functions as provided for in Section 7 of the Management Statement.
- 91 DFP Supply will be consulted on any significant variation proposed to the Management Statement and Financial Memorandum.

Signed: _____

On behalf of NIJAC

Name:

Chief Executive &
Accounting Officer

Date:

Signed: _____

On behalf of OFMDFM

Name:

Head of Corporate Services

Date:

APPENDIX A

DELEGATED EXPENDITURE LIMITS

General

These delegated expenditure limits have been agreed by OFMDFM and the Department of Finance and Personnel. Adherence to these limits will be verified through regular test drilling by the Department.

1. Arm's Length Bodies' Guidance on Delegated Limits

Table 1 OFMDFM's Arm's Length Bodies may approve expenditure up to the following limits without recourse to the Department.

Arm's Length Body	Goods and Services (£k)	Capital (£k)	IT Projects (£k)	Consultancy (£k)	Direct Award Contracts (£k)
NI Judicial Appointments Commission	30	10	10	5	30

2. PURCHASING ALL GOODS, SERVICES AND WORKS

Table 2 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)	Staff Officer or Deputy Principle
> £1,500 < £10,000	4 Selected Tenders	Deputy Principle or G7
> £10,000 < £30,000	5 Selected Tenders	G7 or Chief Executive
> £30,000 < EU Thresholds	Publicly advertised tender competition	Chief Executive and prior approval from OFMDFM

3. Economic Appraisal

The principles of economic appraisal should be applied in all cases where expenditure is proposed, whether the proposal involves capital or current expenditure, or both. The effort put into economic appraisal should be commensurate with the size or importance of the needs or resources under consideration. However, the NIJAC should undertake a comprehensive business case of all projects involving expenditure of **£250,000** and over.

4. Where the minimum number Of Quotation/Tenders is not obtained

Where NIJAC is unable to obtain a sufficient number of tenders, it must advise OFMDFM of the situation and supply reasons for insufficient numbers of tenders giving been sought/obtained.

For any purchase or contract where the minimum number of quotations/tenders was not obtained, NIJAC may permit the purchase to proceed if satisfied that every attempt has been made to obtain competitive offers and that value for money will be achieved. In these cases a report should be submitted to OFMDFM. Records of all correspondence are to be retained on file including any justification given and/or approvals obtained.

5. CAPITAL PROJECTS

The Chief Executive may authorise capital expenditure on discreet capital projects of up to £10,000. Capital projects over this amount require the approval of OFMDFM, and may be subject to quality assurance by the Department of Finance and Personnel if requested.

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

6. DISPOSAL OF SURPLUS EQUIPMENT

NIJAC shall maintain an accurate and up-to-date register of its fixed assets.

NIJAC shall dispose of assets which are surplus to its requirements. Once Assets have been identified for disposal, the assets shall be sold for best price, taking into account any costs of sale. Generally, assets shall be sold by auction or competitive tender (unless otherwise agreed by OFMDFM).

All receipts derived from the sale of assets (including grant-financed assets, see below) must be declared to OFMDFM, who will consult with DFP on the appropriate treatment.

7. LEASE AND RENTAL AGREEMENTS

NIJAC may enter into lease and/or rental agreements for the provision of goods and services. Lease and rental agreements for the provision of goods and services should be open to competitive tendering in the same way as purchases unless there are convincing reasons to the contrary. The delegations established at paragraph 1 will also apply to lease and rental agreements with the cash values relating to the annual cost of the arrangements, OFMDFM's approval must be obtained for any leasing and/or rental agreement of a value of £25,000 or more per annum

8. APPROVAL OF INFORMATION TECHNOLOGY PROJECTS

The appraisal of Information Technology (IT) projects should include the staffing and other resource implications.

The principles of appraisal, evaluation and management apply equally to proposals supported by information communication technology (ICT) as to all other areas of public expenditure. ICT-enabled projects should be appraised and evaluated according to the general guidance in the Northern Ireland Guide to Expenditure Appraisal and Evaluation (*NIGEAE*) and managed using the new *Successful Delivery (NI)* guidance which was issued in June 2009.

The purchase of IT equipment and systems should be in line with the guidance on Procedures and Principles for Application of Best Practice in Programme/Project Management (PPM), (available at www.dfpni.gov.uk/successful-delivery) and be subject to competitive tendering unless there are convincing reasons to the contrary. The form of competition should be appropriate to the value and complexity of the project, and in line with the Procurement Control Limits in Table 2. Delegated authority for each IT project is set out in Table 3.

Table 3 Delegation Arrangements for Information Technology Projects, Systems and Equipment
(All costs exclude VAT)

THRESHOLDS	NUMBER/TYPE OF TENDER REQUIRED	AUHTORISATION
Up to £500	2or 3 Oral Quotations (fax or e-mail confirmation should be obtained)	Grade 7
£500-£5000	Out line business case required 4 Selected Tenders	The Chief Executive
£5000-£10,000	Full business case required 5 Selected Tenders	The Chief Executive
Projects over £10,000	Full economic appraisal and business case. Publicly advertised open or restricted tender competition	The Chief Executive plus advice and prior approval from OFMDFM

9. ENGAGEMENT OF CONSULTANTS

General

NIJAC has authority to appoint consultants for a single contract without recourse to the sponsor Department up to a total cost of £5,000, and subject to any guidance as may be issued by DFP or OFMDFM. Adherence to theses limits will be verified through regular test drilling by the Department.

Economic appraisal

A full business case should be prepared for all consultancy assignments expected to exceed £10,000. A proportionate business case should be prepared for all assignments below this threshold. Section 5 of the guidance note attached to FD (DFP) 04/09 (updated by FD(DFP) 21/09 and 22/09 available on <http://www.afmdni.gov.uk>) explains the nature of the required business case.

Business cases proposing expenditure of £10,000 or more on external consultants also require Ministerial and DFP approval. These business cases must be cleared by the Departments Economists before being passed to the Departments Accounting Officer and Ministers for approval. The consultancy support cannot commence until further DFP approval has been secured.

Any proposals to procure goods and services with a combined cost of greater than £5000 through a DAC must be supported by CPD advice. NIJAC must seek CPD advice, using DAC1 from, from OFMDFM's contact. Central Management Branch will advise.

Details of all DAC entered into by NIJAC must be tabled at their Audit and Risk Committee and reported on a quarterly basis to OFMDFM in an annexe to their stewardship statements.

10. Direct Award Contracts

Any proposal to procure consultancy support through **Direct Award Contracts** must be supported by a business case to NIJAC's Accounting Officer setting out the rationale and justification for doing so. Departmental Accounting Officer approval is required any Direct Award Contracts outside the agreed delegation limits above.

All business cases for Direct Award Contracts for external consultancy require the approval of both the NIJAC Accounting Officer and OFMDFM Departmental Accounting Officer.

Business cases proposing expenditure of £10,000 or more on external consultants also require Ministerial and DFP approval. These business cases must be cleared by the Departments Economists before being passed to the Departments Accounting Officer and Ministers for approval. The consultancy support cannot commence until further DFP approval has been secured.

11. LOSSES AND SPECIAL PAYMENTS

If NIJAC identify losses and write-offs they shall immediately advise OFMDFM irrespective of any delegated authorities of the amount of money concerned.

The Chief Executive, with prior approval from OFMDFM will have the authority to write off losses and make special payments up to:

- (a) Cash losses – up to £1000 per case/incident
- (b) Stores/Equipment losses – up to £1000 per case/incident
- (c) Constructive losses and fruitless payments – up to £1000 per case.