

**MEMORANDUM OF UNDERSTANDING
INQUIRY INTO HISTORICAL INSTITUTIONAL ABUSE**

This Memorandum of Understanding has been signed and dated on behalf of OFMDFM and the Inquiry

Signed for OFMDFM on 17th January 2013



NOEL LAVERY
Departmental Accounting Officer

Signed for the Inquiry on 17th January 2013



ANDREW BROWNE
Secretary to the Inquiry

Effective Date and Signature Page

PART I - MANAGEMENT

| | |
|--|----|
| INTRODUCTION | 4 |
| Purpose of this document | 4 |
| Review, amendment, interpretation and publication of this document | 5 |
| | |
| THE INQUIRY INTO HISTORICAL INSTITUTIONAL ABUSE | 6 |
| Statutory Basis | 6 |
| Terms of Reference | 7 |
| Timetable | 7 |
| Classification | 7 |
| | |
| RESPONSIBILITY AND ACCOUNTABILITY | 8 |
| | |
| PLANNING, BUDGETING AND CONTROL | 14 |
| The Business Plan | 14 |
| Reporting Performance to OFMDFM | 14 |
| Budgeting Procedures | 14 |
| Internal Audit | 14 |
| Fraud | 15 |
| Register of Interests | 15 |
| | |
| STAFF MANAGEMENT | 16 |
| Selecting and Recruiting Staff | 16 |
| Managing Staff | 16 |
| Health and Safety | 17 |
| Security & Criminal Record Checks | 17 |
| | |
| DATA, RECORDS AND INFORMATION | 18 |
| Data Protection and Security | 18 |
| Destruction of Acknowledgement Forum Records | 18 |
| Restriction Orders | 18 |
| Disposal of Records at End of the Inquiry | 18 |
| | |
| INQUIRY CONDUCT AND PROCEDURE | 19 |
| | |
| MEETINGS | 19 |

PART II – FINANCIAL MATTERS

| | |
|--|----|
| INTRODUCTION | 20 |
| The Departmental Expenditure Limit (DEL) | 20 |
| Budgeting Procedures | 20 |
| General conditions for authority to spend | 21 |
| Monitoring and reporting expenditure | 22 |
| Best value for money | 22 |
| Timeliness in paying bills | 22 |
| Risk management | 22 |
| Fraud and theft | 23 |
| Staff costs | 23 |
| Pay and Conditions of Service for Inquiry staff | 23 |
| Panel members' contracts | 24 |
| Assessors | 24 |
| Capital Expenditure | 24 |
| Economic Appraisal | 24 |
| Lending, guarantees, indemnities, contingent liabilities and letters of comfort | 25 |
| Competition | 26 |
| Leasing | 26 |
| Hospitality and Gifts | 26 |
| Reimbursement of receipted travelling expenses for Victims and survivors giving testimony to the Acknowledgement Forum or the Inquiry Legal Team | 27 |
| Payment of Witness Expenses | 27 |
| Use of Consultants | 27 |
| Commercial Insurance | 28 |
| Loss and Third Party Claim | 28 |
| | |
| MANAGEMENT AND DISPOSAL OF ASSETS | 28 |
| Register of Assets | 28 |
| IT Assets | 28 |
| Equipment and Furniture | 29 |
| | |
| COMPLIANCE WITH INSTRUCTIONS AND GUIDANCE | 29 |
| Relevant Documents | 29 |
| | |
| Annex A – Delegated Limits | 31 |

PART 1 - MANAGEMENT

INTRODUCTION

- 1 This Memorandum of Understanding has been drawn up by the Office of the First Minister and Deputy First Minister (OFMDFM) in consultation with the Inquiry into Historical Institutional Abuse (the Inquiry). Its purpose is to ensure that clear roles and responsibilities are in place which will facilitate the smooth running of the Inquiry.
- 2 The Inquiry is an independent public inquiry. It is in the public interest for the Inquiry to be conducted at all times in a way that ensures:
 - The independence of the Chairperson and panel members in order to meet the Terms of Reference
 - That the Inquiry is conducted as economically and expeditiously as possible
- 3 None of the provisions in this Memorandum of Understanding or its annexes shall be read or applied in such a way as to derogate from or compromise these principles.
- 4 Within financial limits agreed by the First Minister (FM) and the deputy First Minister (dFM), OFMDFM will finance the Inquiry and pay certain witness expenses, having due regard to OFMDFM and the Inquiry securing value for public money, so as to enable the Inquiry to fulfil its Terms of Reference in an efficient and expeditious manner.

Purpose of this document

- 5 Part 1 of this Memorandum of Understanding sets out the broad framework within which the Inquiry will operate and includes:
 - The Inquiry's Terms of Reference
 - The conditions under which any public funds are paid to the Inquiry
 - How expenditure associated with the Inquiry will be accounted for

- Staff management and security issues
- 6 Part 2 sets out in greater detail certain aspects of the financial provisions which the Inquiry shall observe. However, the Memorandum of Understanding does not convey any legal powers or responsibilities.

Review, amendment, interpretation and publication of this document

- 7 OFMDFM will review and update this document when the Inquiry into Historical Institutional Abuse (Northern Ireland) Act 2013 (the HIA Act) comes into effect.
- 8 OFMDFM will review this Memorandum of Understanding as necessary, including:
- By August 1, 2013 as part of the lead up to the implementation of the Judicial Inquiry
 - By December 1, 2015, in the approach to the winding up of the Inquiry
 - in the event of any amendment to the Terms of Reference or to the HIA Act
- 9 The Inquiry or OFMDFM may propose amendments to this document at any time. Any such proposals by the Inquiry shall be considered in the light of operational factors and the track record of the Inquiry. The guiding principle shall be that the extent of flexibility and freedom given to the Inquiry shall reflect 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.

- 10 This Memorandum of Understanding has been approved by OFMDFM and signed and dated by OFMDFM and the Inquiry Secretary.
- 11 Any question regarding the interpretation of the document shall be resolved by OFMDFM after consultation with the Inquiry.
- 12 Copies of this document and any subsequent substantive amendments shall be provided to the Inquiry Chairperson, panel members and staff and to relevant staff within OFMDFM and be placed by OFMDFM in the Library of the Assembly. The Inquiry will place this document and any subsequent substantive amendments on its website.

THE INQUIRY INTO HISTORICAL INSTITUTIONAL ABUSE

Statutory basis

- 13 The Inquiry into Historical Institutional Abuse Bill, when enacted, will provide for OFMDFM to establish and resource the Inquiry. It passed its Second Stage in the Assembly on June 25, 2012 and is expected to become law by mid-February 2013. When the Assembly passes the legislation, this Memorandum of Understanding will be amended and reissued.
- 14 The Terms of Reference say that under the guidance of the Panel, the Inquiry will make as many preparations as practicable prior to the passing of the relevant legislation; this includes the commencement of the research element and the Acknowledgement Forum.
- 15 This preparatory and interim work is supported by OFMDFM under the Budget Act (NI) 2012, Schedule 1 of which lists "costs associated with Historical Institutional Abuse" amongst the purposes for which sums of money are granted to OFMDFM.

Terms of Reference

- 16 The Inquiry Terms of Reference were agreed by the Executive and laid in the Assembly by FM and dFM acting jointly on 18 October 2012.
- 17 The Inquiry into Historical Institutional Abuse Bill allows FM and dFM acting jointly, and with the agreement of the Inquiry Chairperson and the Executive, to amend the Terms of Reference. In the event of any such amendments, this Memorandum of Understanding will be reviewed and if necessary amended and reissued.

Timetable

- 18 As stated in the Terms of Reference:
 - the Inquiry and Investigation will conclude within a two year six month period following the commencement of the legislation establishing the Inquiry's statutory powers
 - the Chairperson will provide a report to the Executive within a further six months
 - if additional time is required, the Chairperson will, with the agreement of the Panel, request an extension from FM and dFM which will be granted provided it is not unreasonable.

Classification

- 19 The Inquiry is within the Accounting Boundary of OFMDFM and its financial performance will be consolidated within OFMDFM's resource accounts.

RESPONSIBILITY AND ACCOUNTABILITY

20 **FM and dFM acting jointly** are accountable to the Assembly for the funding and support of the inquiry. They may designate their Junior Ministers to assist them in the discharge of these duties.

21 The responsibilities of **FM and dFM acting jointly** include:

- Setting the Terms of Reference and announcing them in the Assembly having agreed them with the Chairperson and the Executive
- Making and achieving Assembly agreement to any amendments to the Terms of Reference, having first agreed them with the Chairperson and the Executive
- Appointing the Chairperson of the Inquiry
- Appointing panel members, having first consulted the Chairperson
- Approving the amount of financial support to the Inquiry
- Reporting as appropriate to the Executive and to the Assembly on matters relating to the Inquiry
- Receiving the Inquiry report, laying it in the Assembly as soon as practicable after it is published and referring it to the Executive Committee

22 **OFMDFM** is responsible for:

- providing financial and other resources to the Inquiry
- meeting certain witness expenses, in accordance with the Inquiry into Historical Institutional Abuse legislation (when enacted) and the Inquiry Rules, which are subordinate legislation
- publishing within a reasonable time after the end of the Inquiry, the total amount it has paid or remains liable to pay in respect of the Inquiry

23 **OFMDFM's Departmental Accounting Officer**, in the context of his wider responsibilities for the standard of financial

management in OFMDFM as a whole, is accountable to the Assembly for expenditure by or in relation to the Inquiry. He designates the Inquiry Secretary as the Inquiry's Accountable Officer and may withdraw the Accountable Officer designation if he believes the incumbent is no longer suitable for the role.

- 24 In particular, **OFMDFM's Departmental Accounting Officer** shall ensure that:
- the financial and other management controls applied by OFMDFM are appropriate and sufficient to safeguard public funds
 - the Inquiry's compliance with these controls is effectively monitored
 - the internal controls applied by the Inquiry conform to the requirements of regularity, propriety and good financial management
 - appropriate action is taken, in line with the Inquiry into Historical Institutional Abuse legislation, if the Inquiry operates outwith its terms of reference
- 25 Within OFMDFM, **HIA Inquiry Sponsor Division** is the Sponsor Team for the Inquiry. The Team, in consultation as necessary with the OFMDFM Departmental Accounting Officer and others, is the main source of advice to FM and dFM on the discharge of their duties in respect of the inquiry, and the primary OFMDFM contact for the Inquiry.
- 26 The Sponsor Team shall carry out its duties under the management of a senior officer, who shall have primary responsibility within the team for overseeing the financial accountability of the Inquiry.
- 27 The Sponsor Team will advise FM and dFM on
- the agreed budget forecast of the Inquiry and its performance against it
 - progress being made by the Inquiry in respect of its Terms of Reference

- issues that the Inquiry would like brought to the attention of FM and dFM

28 In support of the OFMDFM Departmental Accounting Officer, the Sponsor Team will:

- Continuously monitor the Inquiry's financial activities through an adequate and timely flow of information from the Inquiry on budgeting, control, and risk management, including early sight of the Inquiry's Governance Statement
- Meet the Inquiry Secretary each month to keep abreast of the Inquiry's plans, progress and expenditure, and to address issues arising from the Inquiry's Terms of Reference, legislation or financial approvals
- Address in a timely manner any significant problems concerning the Inquiry's finances or other resources
- When reviewing the Memorandum of Understanding (and more often if necessary), assess the risk associated with the Inquiry's activities, the public money at stake, its governance arrangements, the openness of communication and/or other relevant issues; if necessary, strengthen the oversight arrangements and/or amend this document
- Inform the Inquiry of relevant OFMDFM and DFP policy and procedures on financial management in a timely manner, advise as necessary on the interpretation of that policy; and issue specific guidance to the Inquiry as necessary

29 **The Chairperson and the Inquiry Panel Members** are appointed in writing by FM and dFM in line with the legislation and according to the terms and conditions set out in their respective letters of offer.

30 They are accountable for the proper management of resources and expenditure on Inquiry business. That accountability will normally be through the Inquiry Secretary, in his capacity as Accountable Officer, to OFMDFM's Departmental Accounting Officer.

31 **The Chairperson** is responsible for formulating the Inquiry's strategy to ensure fulfilment of the Inquiry Terms of Reference. He will ensure that panel members are fully briefed as to their duties, responsibilities and involvement.

32 The Chairperson will direct the procedure and conduct of the Inquiry. As required under the HIA legislation in making any decision as to the procedure or conduct of the Inquiry, the Chairperson must act with fairness and with regard also to the need to avoid any unnecessary expense, whether to public funds, witnesses or others. The legislation confers upon the Chairperson certain powers to assist him in the conduct of the Inquiry.

33 **The Chairperson and Inquiry Panel Members** are responsible for:

- Carrying out the inquiry
- Ensuring the work of the inquiry is in line with its Terms of Reference
- Regular and efficient, economic and effective use of the Inquiry's resources, including funds, staff, equipment and other resources
- Delivering high standards of regularity, propriety, probity and impartiality

34 **The Inquiry Secretary** is the Accountable Officer for the inquiry and as such is responsible to the Departmental Accounting Officer for:

- Preparing a 3 year outline plan and resource profile and the Inquiry's annual business plans and forecast of expenditure and communicating the profiles to OFMDFM
- Ensuring that all public funds made available to the inquiry are used for the purpose intended by the Assembly
- Ensuring that such monies, together with the inquiry's assets, equipment and staff, are used economically, efficiently and effectively

- Ensuring that the inquiry's affairs are conducted with probity and in line with Managing Public Money NI and with relevant OFMDFM and DFP guidance and requirements
- 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
- Ensuring that robust internal management and financial controls are maintained by the inquiry, including effective measures against fraud and theft
- Ensuring that the inquiry operates within the limits of its remit and any delegated authority agreed by the OFMDFM Departmental Accounting Officer, and in accordance with any other conditions relating to the use of public funds indicated by the OFMDFM Departmental Accounting Officer or by DFP
- Providing OFMDFM with timely forecasts and monitoring information on performance and finance and notifying it promptly if overspends or underspends are likely or any other significant management or financial problems and whether detected by Internal Audit or other means
- 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
- Taking corrective or other appropriate action as necessary in response to likely overspends or other adverse financial risks
- Implementing risk management and other relevant financial or management guidance issued by DFP
- Signing a governance statement regarding the Inquiry's system of internal control
- Signing a quarterly stewardship report prepared in line with OFMDFM requirements

- Ensuring that effective procedures for handling complaints about the Inquiry are in place and widely known within the Inquiry
 - Giving evidence, normally with the OFMDFM Departmental Accounting Officer, if summoned before the Public Accounts Committee on the use and stewardship of public funds by the Inquiry
 - Ensuring compliance with the requirements of the Data Protection Act 1998
 - Ensure that effective personnel management policies are maintained
 - Act in accordance with the terms of this document. Also act in accordance with the instructions and relevant guidance in Managing Public Money NI (particularly Chapter 3), the Treasury document Regularity and Propriety and Value for Money, and other instructions and guidance issued from time to time by OFMDFM and by DFP
- 35 As Accountable Officer, the Inquiry Secretary is personally responsible for safeguarding the public funds for which he has charge; for ensuring propriety and regularity in the handling of those public funds; and for the day-to-day operations and management of the Inquiry.
- 36 **The inquiry Chairperson, Panel and Staff** 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
 - not misuse information gained in the course of their appointment 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 board any private interests that may be perceived to conflict with their public duties
 - act in good faith and in the best interests of the inquiry.

PLANNING, BUDGETING AND CONTROL

The business plan

- 37 The purposes of planning are to enable the Inquiry to fulfill its Terms of Reference and to enable OFMDFM to plan its financial support of the Inquiry.
- 38 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.
- 39 DFP reserves the right to ask to see and agree the Inquiry's annual business plan.

Reporting performance to OFMDFM

- 40 The Inquiry 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 business plan.
- 41 The Inquiry Secretary shall take the initiative in informing OFMDFM of changes in external conditions, which make the achievement of the Terms of Reference more or less difficult, or which may require a change to the budget or objectives as set out in the business plan.

Budgeting procedures

- 42 The Inquiry's budgeting procedures are set out in Part 2 of this Memorandum which deals with financial matters.

Internal Audit

- 43 The administration, financial and governance function of the Inquiry shall fall within OFMDFM's internal audit arrangements and will be audited in accordance with the Government Internal Audit Standards (GIAS). Copies of all final audit reports will be copied to OFMDFM's Departmental Accounting Officer.

- 44 All the Inquiry's procedures and processes should comply with audit requirements. Auditors should be given access to the Inquiry's management and financial records, but not to records concerning the evidence obtained by the Inquiry, the analysis or interpretation of that evidence, the decisions of the Panel, the Inquiry's dealings with witnesses and other parties to the Inquiry or any other records where this would conflict with the overriding principal of independence outlined at paragraph 2 above.

Fraud

- 45 In consultation with OFMDFM, the Inquiry will put in place an Anti-Fraud Policy and a Fraud Response Plan. The Inquiry shall notify OFMDFM of any subsequent changes to the Policy or to the Response Plan. The Anti-Fraud Policy and the Fraud Response Plan will be reviewed by OFMDFM as necessary.
- 46 The Inquiry shall report immediately to OFMDFM all frauds (proven or suspected) including attempted fraud. OFMDFM shall then report the frauds immediately to DFP and the Comptroller and Auditor General. In addition the Inquiry shall forward to OFMDFM an annual fraud return commissioned by DFP, on fraud and theft suffered by the Inquiry.

Register of interests

- 47 The Inquiry shall maintain a written register of interests and provide a copy of that document and any changes to it, to OFMDFM. Panel members, Inquiry staff and others engaged on Inquiry business (including Counsel for the Inquiry, Assessors, consultants and contractors) must declare any interest they have in respect of the nature of the Inquiry.
- 48 A record should be kept of any financial interest by panel members or inquiry staff in any company or consultant engaged in connection with the Inquiry.
- 49 A record should be kept if an Inquiry panel member or member of the Inquiry staff knows any of the parties or witnesses to Judicial element of the Inquiry.

STAFF MANAGEMENT

Selecting and recruiting staff

- 50 Where a post has been approved by the OFMDFM Departmental Accounting Officer, OFMDFM HR will advise on appropriate recruitment methods and processes and their timescales, in line with NICS recruitment policies.
- 51 The Inquiry Secretary will agree with OFMDFM HR the recruitment route and timetable, and will provide to OFMDFM HR full documentation, including job descriptions, appropriate to the agreed route and timetable.
- 52 The Inquiry Secretary will be responsible for ensuring that processes, procedures and panel composition to reflect good practice, including all matters in relation to equal opportunities.

Managing staff

- 53 Within the arrangements approved by OFMDFM, the Inquiry shall be responsible for managing and motivating its staff. To this end the Inquiry Secretary shall ensure that:
 - its rules for the management of staff create an inclusive culture in which diversity is fully valued 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
 - its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the Inquiry's objectives
 - proper consultation with staff takes place on key issues affecting them

- appropriate and adequate grievance, disciplinary and attendance management procedures are in place
- whistle blowing procedures consistent with the Public Interest (Northern Ireland) Order 2003 are in place
- staff are aware of the implications of the Inquiry into Historical Institutional Abuse legislation
- a code of conduct for staff is in place and that this includes conduct in relation to victims and survivors and witnesses, including the need to protect privacy and maintain confidentiality
- staff are aware of their responsibilities under the Official Secrets Act 1989

Health and safety

- 54 The Inquiry Secretary must ensure that all necessary risk assessments are carried out and that all necessary health and safety and fire safety policies, procedures, practices and arrangements are in place. In so doing he will consult OFMDFM, the Health and Safety Executive and others as necessary.
- 55 The Inquiry Secretary will engage Carecall to put in place counselling arrangements for Inquiry staff, including introductory interviews, and will encourage staff to use the service. Welfare Services will also be available for NICS staff.
- 56 The Inquiry Secretary will ensure staff avail of advice and training which will contribute to their health and safety and to that of those coming to the Inquiry.

Security and criminal record checks

- 57 The Inquiry Secretary will ensure that all staff and panel members (and if necessary Counsel) have AccessNI clearance.

DATA, RECORDS AND INFORMATION

Data protection and security

- 58 The Inquiry will ensure that data security policies are in place and that it adheres to relevant provisions of the Inquiry into Historical Institutional Abuse legislation, the Public Record Act (NI) 1923 and the Data Protection Act 1998.
- 59 The only electronic equipment that should be used in relation to the Inquiry is that issued by OFMDFM or Enterprise Shared Services. Under no circumstances should personal computers or other unauthorised electronic equipment be used for this work.

Destruction of Acknowledgement Forum records

- 60 In relation to the Acknowledgement Forum, the Inquiry will be responsible for ensuring, as required by the Terms of Reference, that all records will be destroyed after the Inquiry is concluded. Also that the records will not be used for any other purpose than that for which they were intended.

Restriction Orders

- 61 The Act will bestow on the Chairperson the power to make Orders imposing restrictions on the disclosure or publication of any evidence or documents given, produced or provided to the Inquiry. It will bestow on OFMDFM, after the end of the Inquiry, the power to revoke any such Orders which are still in force, or to remove or relax any of their restrictions.
- 62 Before the end of the inquiry, the Inquiry Solicitor must provide to OFMDFM a list of all Restriction Orders which will remain in force after the end of the Inquiry, together with an indication of why the disclosure restrictions should remain in force and when they should be reviewed.

Disposal of records at the end of the Inquiry

- 63 OFMDFM will make Rules as to the return or keeping, after the end of the Inquiry, of documents given to or created by the Inquiry. It will consult the Inquiry early in the drafting process.

INQUIRY CONDUCT AND PROCEDURE

- 64 The Inquiry will discuss as early as practicable with OFMDFM any plans to advertise or hold hearings in another jurisdiction. OFMDFM will liaise as appropriate with other authorities to help ensure protocol is observed, to garner support and to facilitate the work of the Inquiry.

MEETINGS

- 65 The Head of the Sponsor Team will convene monthly meetings with the Inquiry Secretary to keep abreast of the Inquiry's plans, progress and expenditure, and to address issues arising from the Inquiry's Terms of Reference, legislation or financial approvals
- 66 The Head of the Sponsor Team will ensure that an appropriate record of the meeting is made and agreed with the Inquiry Secretary.

PART 2 - FINANCIAL MATTERS

INTRODUCTION

- 67 This Part of the Memorandum of Understanding sets out certain aspects of the financial framework within which the Inquiry is required to operate.
- 68 The terms and conditions set out in the combined Memorandum of Understanding may be supplemented by guidelines or directions issued by OFMDFM.
- 69 The Inquiry shall satisfy the financial conditions and requirements set out in the Memorandum of Understanding, together with such other conditions as OFMDFM may impose.

The Departmental Expenditure Limit (DEL)

- 70 The Inquiry's current and capital expenditure form part of OFMDFM's Resource Departmental Expenditure Limits (DEL) and Capital DEL respectively.

Budgeting procedures

- 71 The Inquiry will provide to OFMDFM a 3 year outline plan and resource profile for the achievement of the Inquiry Terms of Reference.
- 72 By an agreed date each year, the Inquiry will propose to OFMDFM its annual business plan for agreement and a proposed expenditure profile for the coming year.
- 73 By an agreed date each year, OFMDFM will provide to the Inquiry a formal statement of the budget which has been allocated to the Inquiry for implementation of its agreed business plan over the coming year. OFMDFM has been allocated no resource funding for the Inquiry. OFMDFM will have to bid for this funding in the in-year monitoring rounds and will confirm the outcome with the Inquiry.
- 74 In determining the Inquiry's budget, OFMDFM will consider the Inquiry's proposed business plan in the context of competing priorities across OFMDFM.

General conditions for authority to spend

- 75 Once the Inquiry's budget has been agreed by OFMDFM, the Inquiry shall have authority to incur expenditure approved in the budget.
- 76 OFMDFM has delegated to the Inquiry the authority to spend in relation to certain categories of expenditure and within certain limits. These delegated limits are at Annex A.
- 77 The Inquiry must not, without prior written approval from OFMDFM and if necessary DFP, enter into any undertaking to incur any expenditure which falls outside any delegations to the Inquiry or which is not provided for in the Inquiry's annual budget as approved by OFMDFM.
- 78 Inclusion of any planned and approved expenditure in the Inquiry's budget shall not remove the need to seek formal departmental and where necessary, DFP approval.
- 79 The Inquiry must obtain the approval of OFMDFM and DFP, before:
- committing to 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 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).
- 80 The Inquiry has no delegated authority to reclassify expenditure between any of the three main classifications of expenditure, i.e. Administration, Programme and Capital.

Monitoring and reporting expenditure

- 81 Each month (or as required), the Inquiry will provide to OFMDFM the information it needs in order to monitor the Inquiry's expenditure, cash management and forecast by resource heading; also other data required for the DFP Outturn and Forecast Outturn Return.
- 82 The Inquiry will provide to OFMDFM such information about its operations, performance, individual projects or other expenditure as OFMDFM may reasonably require.
- 83 In the context of its wider financial oversight responsibilities, the OFMDFM Board will consider receive quarterly reports about the Inquiry's progress and expenditure.

Best value for money

- 84 The Inquiry is responsible for procurement up to the £5,000 threshold set out in the delegated limits (Annex A). The Inquiry will be responsible for ensuring that they demonstrate that value for money has been secured for each procurement exercise.
- 85 All procurement above the £5,000 threshold will be taken forward by OFMDFM on behalf of the Inquiry. Procurement by OFMDFM on the Inquiry's behalf of works, supplies and services shall be based on best value for money, i.e. the optimum combination of whole life cost and quality (or fitness for purpose) to meet the Inquiry's requirements. Where appropriate, a full option appraisal shall be carried out before procurement decisions are taken.

Timeliness in paying bills

- 86 The Inquiry 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 relevant guidance issued by DFP or by OFMDFM.

Risk management

- 87 The Inquiry 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. It shall

develop a risk management strategy, including contingency planning to ensure business continuity, in accordance with the Treasury guidance *Management of Risk: A Strategic Overview* (The “Orange Book”).

Fraud and theft

- 88 The Inquiry 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*.
- 89 The Inquiry 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.
- 90 All cases of attempted, suspected or proven fraud shall be reported to the OFMDFM as soon as they are discovered, irrespective of the amount involved. OFMDFM shall immediately report such incidents to DFP and the Comptroller and Auditor General.

Staff costs

- 91 Staffing numbers and grades, and the start date and duration of each post have been approved by OFMDFM and DFP. Any variation to these arrangements must be agreed by OFMDFM, and if necessary DFP. The Inquiry 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 for Inquiry staff

- 92 Civil servants working for the Inquiry shall be employed by, or be on loan to, OFMDFM. Their remuneration and terms and conditions (including superannuation) are within the general Northern Ireland Civil Service (NICS) pay structure. NICS terms and conditions will apply other than where separate terms and conditions exist.
- 93 Other public servants working for the Inquiry shall be seconded to OFMDFM on remuneration and terms and conditions (including superannuation) pertaining to their employer.

- 94 Agency workers' terms and conditions will be as set out in their contract with the Agency.
- 95 Travel expenses and subsistence will be reimbursed according to NICS rules and rates. Any OFMDFM policies will apply.
- 96 The Inquiry has no power to vary terms and conditions.

Panel members' contracts

- 97 The Chairperson and Panel Members have each received Letters of Appointment setting out their respective terms and conditions, including their remuneration and allowances.

Assessors

- 98 The legislation permits the Chairperson of the Inquiry to appoint Assessors. These may be engaged by OFMDFM on behalf of the Chairperson as required, subject to ensuring that the terms of any such appointments represent value for money, and subject to agreement, where required, DFP.

Capital Expenditure

- 99 The Inquiry's budget does not include capital.

Economic Appraisal

- 100 The Inquiry or OFMDFM, as appropriate, 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:
- involve capital or current spending, or both
 - are large or small
 - are above or below delegated limits.
- 101 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.

102 General guidance on economic appraisal that apply to Inquiries 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).

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

103 The Inquiry shall not, without OMFDFM's and where necessary, DFP's prior written consent, lend money, charge any asset or security, give grants, give gifts, or give any guarantee or indemnities or letters of comfort, or incur any other contingent liability (as defined in Annex 5.5 of *Managing Public Money NI*), whether or not in a legally binding form.

104 The Inquiry must not enter into Procurement procedures valued at over £5,000.

105 When necessary, OFMDFM will enter into procurement procedures on behalf of the Inquiry. In this event, the views of the Inquiry will be taken fully into account. The Inquiry Secretary will be fully apprised and involved in any procurement procedures and activity.

106 Where OFMDFM enters into procurement procedures in respect of the Inquiry, it will follow Departmental policies. These reflect the public procurement policy adopted by the Executive in May 2002 (refreshed May 2009); Procurement Guidance Notes; and other guidelines or guidance issued by DFP and the Procurement Board. Its procurement activity will be carried out in the context of its Service Level Agreement

with Central Procurement Directorate. OFMDFM will consult DFP Supply as necessary.

Competition

- 107 Contracts shall be awarded on a competitive basis and tenders accepted from suppliers who provide best value for money overall.
- 108 Direct Award Contract is the process where a contract is awarded to an economic operator (i.e. supplier, contractor) without competition. In light of their exceptional nature, any Direct Award Contracts require the prior written approval of the OFMDFM Departmental Accounting Officer. If contemplating a Direct Award Contract, the first step must be to seek Departmental Accounting Officer advice.
- 109 The Inquiry must explain in its Quarterly Stewardship Report any contracts awarded during that quarter, in which it did not employ competitive tendering.

Leasing

- 110 The leases for property occupied by the Inquiry will be negotiated on behalf of OFMDFM in consultation with the Inquiry. OFMDFM will ensure that leases are held securely and provide the Inquiry with copies. The Inquiry will comply with the Terms of the leases.
- 111 Before entering into any service leasing agreements the Inquiry must demonstrate the leases offers better value for money than purchase, and it must obtain the prior written agreement of OFMDFM.

Hospitality and gifts

- 112 The Inquiry, in consultation with OFMDFM, must ensure that a comprehensive set of guidelines on the provision and acceptance of hospitality is in place. Reference should be made to DAO (DFP) 10/06 (Revised).
- 113 The Inquiry its panel members and staff should not, as a rule, retain any gifts, bequests, or similar donations. The Inquiry shall keep a written record of any such gifts, bequests and donations offered to the Inquiry, its panel members and staff,

and of their estimated value and whether they are disposed of, declined or retained.

114 The Inquiry must not make any gifts, grants or donations.

Reimbursement of Receipted Travelling Expenses for Victims and Survivors giving testimony to the Acknowledgement Forum or the Inquiry Legal Team

115 The Inquiry shall administer the reimbursement of receipted travelling expenses incurred by victims and survivors in giving testimony to the Acknowledgement Forum or to the Inquiry legal team.

116 Where receipted travelling expenses are reimbursed in cash, the Inquiry will do this in strict adherence to the cash reimbursement procedure approved by OFMDFM Internal Audit.

117 Receipted expenses in terms of air travel and associated accommodation, where required, will be reimbursed through standard AccountNI procedures.

Payments of Witness Expenses

118 When enacted, the Inquiry into Historical Institutional Abuse legislation will provide for OFMDFM to meet certain witness expenses; the details will be set out in subordinate legislation.

119 Until that legislation is in force, the Inquiry has no authority to make such payments to witnesses, or commit to any such payments. This does not affect the Inquiry's scope to reimburse receipted travelling expenses and described in paragraphs 49 and 50.

Use of Consultants

120 The Inquiry shall adhere to the guidance issued by DFP, as well as any produced by OFMDFM in relation to the Use of Consultants.

121 The Inquiry will identify in its quarterly Stewardship Reports the status of any consultancies completed and/or started during that quarter.

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

Commercial insurance

- 123 The Inquiry must not take out any insurance without the prior written agreement of OFMDFM and of DFP.

Loss and third party claim

- 124 The Inquiry will alert OFMDFM immediately to any event which is likely to involve loss or a third-party claim.
- 125 Losses shall not be written off until all reasonable attempts to make a recovery have been made and proved unsuccessful.
- 126 Write-offs and compensation payments or other special payments may be made only with the prior written agreement of OFMDFM.
- 127 In the case of a major loss or third-party claim OFMDFM shall liaise with the Inquiry about the circumstances in which an appropriate addition to budget out of OFMDFM's funds and/or adjustment to the Inquiry's budgets might be considered. OFMDFM will liaise with DFP Supply where required in such cases.

MANAGEMENT AND DISPOSAL OF ASSETS

Register of assets

- 128 The Inquiry shall maintain an accurate and up-to-date register of its IT assets and its equipment.

IT Assets

- 129 Unless otherwise specified, all IT assets (including Blackberries) supplied to the Inquiry, its panel and staff are the property of Enterprise Shared Services.
- 130 Users are responsible for the secure and safe keeping of IT Assets in line with NICS Policies.

- 131 Any loss or theft of, damage to or malfunction of IT assets must be reported immediately by the registered user to ITAssist on 0300 1234 155 or itassist@nigov.net.
- 132 All IT assets must be returned to Enterprise Shared Services at the end of the end of the Inquiry, or before that if they are no longer required.

Equipment and furniture

- 133 Unless otherwise stated, all equipment and furniture supplied for use in connection with the Inquiry is the property of OFMDFM.
- 134 Any loss or theft of, damage to or malfunction of such assets must be reported to OFMDFM.
- 135 All such assets must be returned to OFMDFM as part of the winding-up of the Inquiry or before that if they are no longer required.

COMPLIANCE WITH INSTRUCTIONS AND GUIDANCE

Relevant documents

- 136 The Inquiry shall comply with the following general guidance documents:

This Memorandum of Understanding ;

Managing Public Money Northern Ireland (MPMNI)

Government Internal Audit Standards, issued by DFP

Managing the Risk of Fraud issued by DFP

The Treasury document The Government Financial Reporting Manual (FReM) issued by DFP

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).

Relevant DFP Dear Accounting Officer and Finance Director letters

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 OFMDFM or DFP including Procurement Board and Central Procurement Division 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 the Inquiry

ANNEX A – DELEGATED LIMITS

General

1. These delegated expenditure limits have been agreed by OFMDFM. Adherence to these limits will be verified through regular test drilling by OFMDFM.

Table 1 – Summary of Delegated Limits

| | Goods and Services (£k) | Capital (£k) | IT Projects (£k) | Consultancy (£k) | DACs (£k) |
|--------------------|--------------------------------|---------------------|-------------------------|-------------------------|------------------|
| HIA Inquiry | 60* | 0 | 0 | 0 | 5* |

**These delegations are assigned to the Inquiry Secretary.*

Procurement of Goods, Services and Works

2. The HIA Inquiry has delegated authority with respect to purchasing as set out in Table 2 below.

Table 2 - Delegated Authority for the Purchase of Goods, Services and Works (All costs exclude VAT)

| Threshold | Number / Type of Tender Required | Authorisation |
|------------------|---|---|
| Up to £5,000 | The Inquiry must demonstrate that value for money has been secured. (Guidance is set out below) | The Secretary to the Inquiry |
| >£5,000 | | OFMDFM will handle all procurement above £5,000 |

Guidelines for Purchases up to £5,000

3. Purchases under £5,000 will be classified as procurement expenditure but they are not subject to the full range of

procurement rules. However, the Inquiry must ensure that all purchases below £5,000 are subject to normal value for money considerations and are in compliance with Managing Public Money Northern Ireland.

4. In meeting this requirement, the Inquiry must ensure that the:
 - purchase is not covered by an existing framework, call-off arrangement, standing lists or e-catalogue;
 - purchase is a one-off requirement;
 - total spend, which must be less than £5,000, must cover the combined costs of all purchases associated with the initial requirement; and
 - requirement is clearly specified.

5. The Inquiry should carry out a price check (which could include internet price checks) with at least two suppliers to ensure value for money has been achieved. Price checks should be documented and retained on file for audit purposes.