

**MANAGEMENT STATEMENT AND FINANCIAL
MEMORANDUM**

Between

**Department for Regional Development and
Northern Ireland Transport Holding Company**

Updated

Effective 1 April 2013

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Definitions

In this Memorandum:

'C&AG' means the Comptroller and Auditor General for Northern Ireland

'DAO' means "Dear Accounting Officer" letter

'Department' means the Department for Regional Development (DRD) and includes the authority of the Minister for Regional Development

'DFP' means Department of Finance and Personnel

'Grant' means any form of grant or subsidy payment by the Government to NITHC, Translink or any other Group company

'Group Chief Executive' means the most senior executive official of the Translink Group

'Minister' means the Minister of the Department for Regional Development.

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

'MPMNI' means Managing Public Money Northern Ireland

'NITHC' means the Northern Ireland Transport Holding Company

'OFMDFM' means Office of the First Minister and Deputy First Minister

'Translink' means the entire Translink group of companies taken together, or can refer to the trading name used by any one of more of the companies under the ultimate ownership of NITHC such as Northern Ireland Railways Company Limited, Ulsterbus Limited and Citybus Limited.

Part 1 - Management Statement

1. INTRODUCTION

1.1 Background and purpose of this document

- 1.1.1 This *Management Statement and Financial Memorandum (MSFM)* has been drawn up by the Department in consultation with NITHC, Chamber of Commerce House, 22 Great Victoria Street, Belfast BT2 7LX. In line with Department of Finance and Personnel (DFP) guidance the Department has treated NITHC (which is a public corporation) as being analogous to a NDPB (non-departmental public body) in applying the DFP/OFMDFM MSFM template issued in November 2010 and has communicated this approach to the Public Accounts Committee and the Northern Ireland Audit Office.
- 1.1.2 The document takes cognisance of the Department's need to exercise control and oversight of NITHC and in addition acknowledges the requirements of Chapter 7 of *Managing Public Money Northern Ireland*. A copy of this document should be given to all newly appointed Board Members, senior executives and Departmental sponsor staff. Additionally the MSFM should be tabled for the information of the Board Members at least annually at a full meeting of the Board. Amendments made to the MSFM should be brought to the attention of the full Board on a timely basis.
- 1.1.3 Public corporations have a degree of independence in carrying out their operational activities. They do however have to operate within their statutory remit and on the basis of political authority and Government policy, and spend public money which is included in the Estimate of the sponsoring Department. In addition, the Minister is answerable to the Assembly for the use made of public funds and more generally for activities which are the responsibility of others (such as the Department's arms' length bodies).
- 1.1.4 NITHC shall satisfy the conditions and requirements set out in the relevant legislation and the combined *Management Statement and Financial Memorandum*, together with such other conditions in respect of the exercise of any individual functions, duties and powers of NITHC as the Department or Minister may from time to time impose.¹
- 1.1.5 The *Management Statement* sets out the broad framework within which NITHC and its subsidiaries will operate. The associated Financial Memorandum sets out in greater detail certain aspects of the financial provisions within which NITHC will observe such as:

¹ Section 49 of the Transport (Northern Ireland) Act 1967 permits the Minister to give directions to the Holding Company as to the policy to be followed by it (including its policy towards its subsidiary companies).

- NITHC's overall aims, objectives and targets in support of the Department's wider strategic aims and the outcomes and targets contained in its current Public Service Agreement (PSA);
- the rules and guidelines relevant to the exercise of NITHC's functions, duties and powers;
- the conditions under which any public funds are paid to NITHC;
- how NITHC is to be held to account for its performance.

1.1.6 The *Management Statement* and *Financial Memorandum* do not convey any legal powers or responsibilities and shall periodically be reviewed by the Department in accordance with the business needs of the Department and NITHC.

1.1.7 NITHC, the Department, or the Minister, may propose amendments to this document at any time. Any such proposals by NITHC shall be considered in the light of evolving Departmental policy aims, operational factors and the track record of NITHC itself. The Department 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 NITHC, as appropriate.

(The definition of "significant" will be determined by the Department in consultation with DFP (and OFMDFM if appropriate)).

1.1.8 The *MSFM* is approved by DFP and is signed and dated by the Department and NITHC. It is also copied to OFMDFM for information.

1.1.9 Any question regarding the interpretation of the document shall be resolved by the Department after consultation with NITHC and, as necessary, with DFP Supply (and OFMDFM if appropriate).

1.1.10 The Department shall place a copy of this document and any subsequent substantive amendment in the Library of the Assembly.

1.1.11 Copies shall also be made available to members of the public on the Translink Group's website: www.translink.co.uk

1.2 Founding legislation and status

1.2.1 NITHC is established under the Transport Act (Northern Ireland) 1967 (Part V s 47 (1)) as a body corporate with perpetual succession. Its functions, duties and powers are summarised in more detail in Appendix 1.

1.2.2 The Act specifies that NITHC should consist of a Chairman and not more than eight other directors all of whom shall be members thereof and shall be appointed by the Minister (Part V s37 (2) and (3)).

1.2.3 NITHC and its subsidiaries are not to be regarded as servants or agents of the Crown, or as enjoying any status immunity or privilege of the Crown, or as exempt from any tax, duty, rate, levy or other charge whatsoever.

1.3 Classification as a Public Corporation

1.3.1 For policy/administrative purposes NITHC is classified by the Office of National Statistics (and DFP) as a public corporation.

1.3.2. For national accounts purposes NITHC is classified to the public corporations sector. This means that budgetary controls shall apply as for a public corporation (as further explained in the Financial Memorandum).

1.3.3. References to Translink Group include all its subsidiaries. All operating companies are classified to the public sector as public corporations for national accounts purposes. If a new subsidiary or joint venture is created, there shall be a document setting out the arrangements between it and NITHC (the Financial Memorandum refers).

2. AIMS, OBJECTIVES AND TARGETS

2.1 Establishment of overall aims for NITHC

2.1.1 Within the Transport Act (NI) 1967 the objectives set for NITHC are to hold and manage the properties vested in it (including the management of its operating subsidiaries to deliver bus and rail services in Northern Ireland with the policy directions and guidance given by the Department) as if it were a company engaged in a commercial enterprise.

2.2 Setting of performance objectives and key targets

2.2.1 DRD determines NITHC's performance framework in the light of the Department's wider strategic aims and current PSA objectives and targets; and against a suite of Key Performance Indicator (KPI) targets as may be determined in the context of Corporate Business planning process.

2.2.2 Support for the provision of public transport services falls within the Department's Request for Resources Objective A

“Supporting the economy by maintaining and developing safe transportation networks, promoting airport and harbour services, shaping the long-term development of the region and providing other services to the public and other Departments.”

2.2.3 The Minister has agreed the objectives, key targets and performance measures within the Programme for Government and the NITHC corporate and business planning process below. The Department has established a framework of KPI targets which set out the specific measures of performance which it expects NITHC and its subsidiary companies to achieve in each business planning period. Progress against these targets is monitored by the Department on a monthly basis and reported to the Minister at least annually. KPI Targets may be set in the following areas but may be subject to change:

- (1) A target for passenger journeys per annum across all bus and rail public transport (if agreed within the Corporate Planning process);
- (2) Revenue subvention per passenger;
- (3) Total cost per passenger;
- (4) Operating cost per passenger;
- (5) Operating cost per vehicle Km;
- (6) Indirect overhead cost;
- (7) Number of passengers per category;
- (8) Average fleet age;
- (9) Degree of accessibility compliance.

2.2.4. The Translink Passenger Charter sets reliability and punctuality targets for bus and rail services. Performance against these targets is independently monitored and the results will be published biannually.

3. ROLES, RESPONSIBILITIES AND ACCOUNTABILITY

3.1 The Minister

3.1.1 The Minister is accountable to the Assembly for the activities and performance of NITHC. His/Her responsibilities include:

- approving the Corporate Plan;
- approving NITHC's strategic objectives and the policy and performance framework within which NITHC will operate;
- keeping the Assembly informed about NITHC performance;

- approving the amount of grant or subsidy or other funds to be paid to NITHC, and securing Assembly approval;
- carrying out responsibilities specified in the Transport Act (NI) 1967 , including the following;
 - appointments to the Board (para. 47 (2) of the Transport (NI) Act 1967),
 - approving the terms and conditions of Board members (Schedule1 para. 2 of the Transport (NI) Act 1967), and
 - laying of the annual report and accounts before the Assembly (para. 52 (3) (2) (a) of the Transport (NI) Act 1967).
- Section 49 of the Transport (NI) Act 1967 sets out the Minister's powers to give directions to NITHC as to the policy to be followed by it (including its policy towards its subsidiary undertakings.)

3.1.2 The Minister appoints the Chairman and the non executive directors of the NITHC Board following a recruitment competition regulated by the Commissioner for Public Appointments NI (CPANI) and carried out by the Department in line with the CPANI Code of Practice. The Sponsor Division will manage and set the terms of the public appointment process.

3.1.3 The appointment of the Chairman and the non executive directors shall normally be for a period of four years with a possible four year extension subject to satisfactory performance.

Note: An extract from the Act is included in appendix 1.

3.2 The Accounting Officer of the Department

3.2.1 The Permanent Secretary, as the Department's principal Accounting Officer (the "Departmental Accounting Officer"), is responsible for the overall organisation, management and staffing of the Department 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 to the Translink Group. The Departmental Accounting Officer designates the Group Chief Executive of NITHC as the organisation's Accounting Officer, and may withdraw the Accounting Officer designation if he / she believes that the incumbent is no longer suitable for the role.

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

- The Director of the Sponsor Division for NITHC has responsibility for agreeing the planning process for the Corporate Plan which commences in the Autumn of each year to ensure there is sufficient time allocated to agree the key objectives and performance targets.

- NITHC's strategic aims and objectives support the Department's wider strategic aims and current PFG objectives and targets;
- The financial and other management controls applied by the Department to NITHC are appropriate and sufficient to safeguard public funds and for ensuring that NITHC's compliance with those controls is effectively monitored ("public funds" include not only any funds granted to NITHC by the Assembly but also any other funds whatsoever falling within the stewardship of NITHC);
- The internal controls applied by NITHC conform to the requirements of regularity, propriety and good financial management; and
- Any grant to NITHC 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 and other relevant guidance.

3.3 The sponsoring team in the Department

3.3.1 The sponsoring team for NITHC is currently based within the Department's Regional Planning and Transportation Group. However, due to a Departmental organisational review the Team will with effect from April 2013 move to the new Transport NI which will deliver combined roads and public transport functions. The Team, in consultation as necessary with the relevant Departmental Accounting Officer, is the primary source of advice to the Minister on the discharge of his/her responsibilities in respect of NITHC, and the primary point of contact for NITHC in dealing with the Department. The sponsoring team is led by a Director, who shall have primary responsibility within the team for overseeing the activities of NITHC.

3.3.2 The sponsoring division will work closely with NITHC to ensure that a 3 year rolling corporate plan is developed setting out the Company's strategic vision and priorities.

3.3.3 The sponsoring division shall advise the Minister on for example:

- an appropriate framework of objectives and targets/KPIs for NITHC in the light of the Department's wider strategic aims and current objectives and targets;
- an appropriate budget for NITHC in the light of the Department's overall public expenditure priorities;

- how well NITHC is achieving its strategic objectives and whether it is delivering value for money;
- any contracts put in place in light of the Transport Act (NI) 2011.

3.3.4 In support of the Departmental Accounting Officer, the sponsoring team shall:

on performance and risk management -

- monitor NITHC's activities on a continuing basis through an adequate and timely flow of information from NITHC on performance, budgeting, control, and risk management, including early sight of NITHC's annual statement on corporate governance;
- address in a timely manner any significant problems arising in NITHC, whether financial or otherwise and take such actions as the Department judges necessary to address such problems;
- periodically carry out a risk assessment of NITHC activities to inform the Department's oversight of NITHC; strengthen these arrangements if necessary; and amend the *Management Statement* and *Financial Memorandum* accordingly. The risk assessment shall take into account the nature of NITHC'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 the Department; and any other relevant matters;

on communication with NITHC -

- inform NITHC of relevant Government policy in a timely manner; if necessary, advise on the interpretation of that policy; and issue specific guidance to NITHC as necessary;
- bring concerns about the activities of NITHC to the attention of the full Board, and require explanations and assurances from the Board that appropriate action has been taken.
- in terms of efficiently managing the flow of information between the Sponsor Division and NITHC, the Communication Protocol established March 2011 (and updated periodically) lists the nominated points of contact and nominated business areas / topics between the Department and NITHC (Appendix 7 refers).

3.4 The Chairman of NITHC

3.4.1 The Chairman is responsible to the Minister of the Department. The Chairman shall ensure that NITHC's policies and actions support the wider strategic policies of the Minister; and that NITHC's affairs are conducted with probity. The Chairman shares with other Board members the corporate responsibilities set out in paragraph 3.5.2, and in particular for ensuring that NITHC fulfils the aims and objectives set by the Department and approved by the Minister. The Chairman has a particular responsibility for providing effective strategic leadership on the following matters:

- formulating the Board's strategy for discharging its statutory duties
- ensuring that the Board takes proper account of any directions given by the Minister;
- ensuring that the Board, in reaching decisions, takes proper account of guidance provided by the Minister or the Department;
- promoting the efficient, economic, and effective use of staff and other resources;
- encouraging high standards of propriety (Treasury booklet "Regularity, Propriety and value for Money, November 2004 refers and any clarifications sent by the Department);
- when appropriate, represent the views of the Board to the general public; and
- ensuring that the Board 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 Board members

3.4.2 The Chairman shall also:

- ensure that all members of the Board, 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 training on the financial management and reporting requirements of public sector bodies and on any differences which may exist between private and public sector practice;
- advise the Department of the needs of NITHC when Board vacancies arise, with a view to ensuring a proper balance of professional and financial expertise; and
- provide an assessment of the performance of individual Board members to the Department on request and when they are being considered for re-appointment to the Board.

3.4.3 Performance appraisal should be annual and open and should not be conducted only at the time of reappointment. Members should have an awareness that they

are being appraised, the standards against which they will be appraised, and have an opportunity to contribute to and view their report.

- 3.4.4 The Commissioner for Public Appointments is of the view that on-going assessment of members is vital, not only for compliance with the Code of Practice, but also to meet best practice and provide members with feedback; to recognise their contribution; to motivate them; and, where necessary, to provide them with advice on improving performance.
- 3.4.5 The Chairman shall also ensure that a Code of Practice for Board Members is in place, based on the Cabinet Office's model *Code* (relevant guidance refers). The Code shall commit the Chairman and other Board Members to the Nolan 'seven principles of public life' as supplemented by any particular terms such as those set out in conflicts of interest in the Transport Act (NI) 1967 or other terms as set out in Appointment Letters from the Department.
- 3.4.6 Communications between the Board and the Minister shall normally be through the Chairman. The Chairman shall ensure that the other Board members are kept informed of such communications. Nevertheless, an individual member has the right of access to the Permanent Secretary in the first instance and if judged necessary, the Minister on any matter which he or she believes raises important issues relating to his or her duties as a member of the Board. In such cases, the member concerned should normally advise the Board in advance.
- 3.4.7 The main point of contact between the body and the sponsor Division on day to day matters will normally be the Group Chief Executive or his or her delegated nominee (supplemented by the Communication Protocol Appendix 7).

3.5 The NITHC Board

- 3.5.1 The Board has corporate responsibility for ensuring that NITHC fulfils the aims and objectives set by the Department and approved by the Minister, and for promoting the efficient, economic and effective use of staff and other resources by NITHC. To this end, and in pursuit of its wider corporate responsibilities, the Board shall:
- establish the overall strategic direction of NITHC within the policy and resources framework agreed with the Minister;
 - ensure that the Department is kept informed of any changes which are likely to impact on the strategic direction of NITHC or on the attainability of its targets, and determine the steps needed to deal with such changes;
 - ensure it operates within the limits of its statutory authority and;
 - that any statutory or administrative requirements for the use of public funds are complied with;

- that it operates within the limits of any delegated authority agreed with the Department, and
 - in accordance with any other conditions relating to the use of public funds; and that,
 - in reaching decisions, take into account all relevant guidance issued by DFP, OFMDFM and DRD.
- ensure that it receives and reviews regular financial information concerning the management of NITHC; is informed in a timely manner about any concerns about the activities of NITHC; and provides positive assurance to the Department that appropriate action has been taken on such concerns;
 - demonstrate high standards of corporate governance at all times, including using the independent Audit & Risk Committee (see paragraph 4.5.4) to help it to address the key financial and other risks facing NITHC;
 - appoint with the Minister's approval, a Group Chief Executive and a Chief Operating Officer who hold Executive positions on the NITHC Board;
 - in consultation with the Department, set performance objectives and remuneration terms linked to these objectives for the Group Chief Executive and other Executives within NITHC, which give due weight to the proper management and use of public monies;
 - constructively challenge and monitor the performance of the Group Chief Executive and other Executives within NITHC;
 - ensure that the recommendations of the Group Remuneration Committee are submitted by the NITHC Board to the Department prior to adoption. The Department exercising the power of the Minister, reserves the right to direct the NITHC Board on these matters in accordance with the Transport Act (NI) 1967;
 - ensure, where employment terms and conditions of the Group Chief Executive and other Executive Directors (which have been previously shared with the Department) include an entitlement to be considered for performance related pay, that it has access to sufficient information to allow the necessary judgements on performance to be made, including the views of the Department;
 - ensure that a distinction is made between strategic planning and management, which are responsibilities of the Board and day to day management issues, which have been delegated to the Group Chief Executive, and that these arrangements have been set down in writing;

- consider and document those matters which are reserved for decision by the Board. Such matters include issues of corporate strategy, key strategic objectives and targets, major Group policies, and major decisions involving the use of financial and other resources and personnel issues such as key appointments and standards of conduct;
- ensure, where it delegates responsibility for specified matters, where it has the power to do so, to sub-committees of the Board or to individuals that the resulting decisions and recommendations are recorded in the written minutes of the Board as a whole; and
- where it establishes sub – committees, approve terms of reference which should comply where relevant with best practice such as the UK Corporate Governance Code.

3.5.2 Individual Board members shall act in accordance with their wider responsibilities as members of the Board – namely to:

- comply at all times with the Code of Practice (see paragraph 3.4.5) that is adopted by NITHC and with the rules and best practice relating to the use of public funds and to statutory rules governing conflicts of interest and other wider responsibilities e.g. Health & Safety, Freedom of Information legislation etc;
- 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 Board any private interests that may be perceived to conflict with their public duties;
- comply with the Board's rules on the acceptance of gifts and hospitality, and of business appointments; and
- act in good faith and in the best interests of NITHC.

3.5.3 The Department shall have access to all Board and Board Sub-committee terms of reference and minutes of meetings and shall determine when these should be received. In relation to the monthly Board minutes, NITHC shall submit these to the Department within two weeks from the date of the meeting.

3.5.4 The arrangements for appointing individual Board members shall include provision to remove them from office if they fail to perform the duties required of Board members to the standards expected of persons holding such office.

3.6. **Accountability for public funds**

- 3.6.1 Board members have a duty to ensure the safeguarding of public funds (this includes all forms of receipts from whatever source) and the proper custody of publicly funded assets. The Board must take appropriate measures to ensure that NITHC at all times conducts its operations as economically, efficiently and effectively as possible, with full regard to the relevant legislative provisions and guidance contained in relevant guidance including Managing Public Money Northern Ireland.
- 3.6.2. Board members are responsible for ensuring that NITHC does not exceed its powers or functions either as defined in statute or otherwise, or through the limitations on its authority to incur expenditure (see the Financial Memorandum for details).

3.7. The Group Chief Executive/ Accounting Officer

- 3.7.1 The Group Chief Executive is designated an Accounting Officer for the Group by the Departmental Accounting Officer. The Departmental Accounting Officer may withdraw the Accounting Officer designation if he / she believes that the incumbent is no longer suitable for the role.
- 3.7.2. Chapter 3 of Managing Public Money Northern Ireland (MPMNI) defines the Accounting Officer responsibilities. These include a requirement under Section 3.8 of MPMNI to take action if the Board or its Chairman is contemplating a course of action which could infringe the requirements of propriety or regularity, or does not represent prudent or economical administration, efficiency or effectiveness. Supplementary guidance may also apply.
- 3.7.3 Establish, in agreement with the Department, the NITHC corporate and business plans as approved by the NITHC Board in support of the Department's wider strategic aims and current PSA objectives and targets.
- 3.7.4 Inform the Department of progress in helping to achieve the Department's policy objectives and in demonstrating how resources are being used to achieve those objectives.
- 3.7.5 Accounting Officers are expected to ensure that timely forecasts and monitoring information on performance and finance are provided to the Department and that the Department is notified promptly if overspends or underspends are likely and that corrective action is taken; and that any significant problems, whether financial or otherwise, detected by Internal Audit or other means are notified to the Department in a timely fashion.
- 3.7.6 Advise the Board on the discharge of responsibilities as set out in this document, The Transport Act (NI) 1967 as amended and in any other relevant instructions

and guidance that may be issued from time to time by DFP, OFMDFM or the Department.

- 3.7.7 Advise the Board on NITHC performance compared with its aims and objectives.
- 3.7.8 Ensure that financial considerations are taken fully into account by the Board at all stages in reaching and executing its decisions, and that standard financial appraisal techniques are followed appropriately.
- 3.7.9 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.
- 3.7.10 Ensure that an effective system of programme and project management and contract management is maintained.
- 3.7.11 Ensure compliance with the Northern Ireland Public Procurement Policy.
- 3.7.12 Ensure that all public funds made available to Translink including any income or other receipts are used for the purpose intended by the Assembly, and that such monies, together with Translink's assets, equipment and staff, are used economically, efficiently and effectively.
- 3.7.13 Ensure that adequate internal management and financial controls are maintained including effective measures against fraud and theft.
- 3.7.14 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.
- 3.7.15 Ensure that effective personnel management policies are maintained.
- 3.7.16 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 current Company legislation and any directions issued by the Minister, the Department, or DFP.
- 3.7.17 Sign the Report on Corporate Governance regarding the Translink Group system of internal control, for inclusion in the annual report and accounts.
- 3.7.18 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 the Department and DFP in particular, Chapter 3 of MPMNI and the Treasury document Regularity and Propriety and Value for money.

3.7.19 Give evidence normally with the Departmental Accounting Officer if summoned before the Public Accounts Committee on the use and stewardship of public funds by the Translink Group.

3.7.20 Ensure that an Equality Scheme is in place, reviewed and equality impact assessed as required by the Equality Commission and OFMDFM.

3.7.21 Ensure that Lifetime Opportunities policy is taken into account.

3.7.22 Ensure that the requirements of the Data Protection Act 1998 are complied with and that the requirements of the Freedom of Information Act 2000 are complied with.

3.8 Consolidation Officer for Whole of Government Accounts purposes

3.8.1 As NITHC Consolidation Officer, the Group Chief Executive or his or her delegated nominee shall be responsible for preparing the consolidation information, which sets out the financial results and position of NITHC; for arranging for its audit; and for sending the information and the audit report to the Principal Consolidation Officer nominated by DFP.

3.8.2 As Consolidation Officer, the Group Chief Executive or his or her nominee shall comply with the requirements of the Consolidation Officer Letter of Appointment as issued by DFP and shall ensure NITHC has in place and maintains sets of accounting records that will provide the necessary information for the consolidation process; and prepare the consolidation information (including the relevant accounting and disclosure requirements and all relevant consolidation adjustments) in accordance with the consolidation instructions and directions issued by DFP on the form, manner and timetable for the delivery of such information.

3.9 Limitation on delegation of duties

3.9.1 The Group Chief Executive may delegate certain day-to-day elements of the administration of the Accounting Officer and Consolidation Officer responsibilities to other employees in NITHC. However, they shall not assign absolutely any of these responsibilities.

3.10 The Group Chief Executive or designated officer's role as Principal Officer for complaints.

3.10.1 The Group Chief Executive or designated officer is the Principal Officer for handling cases involving the Consumer Council for Northern Ireland.

3.10.2 As Principal Officer, he/she shall on an annual basis inform the Head of the Department's Sponsor Division in writing of any complaints about NITHC or its

subsidiary companies accepted by the Consumer Council for investigation, and about NITHC and its subsidiary companies response to any subsequent recommendations from the Consumer Council. Where the number of complaints increases above 20 over a rolling three month period then the Department must be notified immediately.

3.11 Consultation with customers

3.11.1 NITHC will work in partnership with its stakeholders (e.g. the Committee for Regional Development) and customers to deliver the services and programmes for which it has responsibility to agreed standards. It will consult regularly, including with the Consumer Council for Northern Ireland, to develop a clear understanding of citizens' needs and expectations of its services, and to seek feedback from both stakeholders and customers.

4. FINANCIAL PLANNING, BUDGETING AND CONTROL

4.1 The Corporate Plan / Business Plan

4.1.1 Consistent with the timetable set by the Department, NITHC shall submit annually a draft of its updated rolling corporate plan covering the three years ahead. NITHC shall agree with the Department the issues to be addressed in the plan and the timetable for its preparation.

4.1.2 The process of preparing the plan provides an opportunity for agreeing with the Minister the policy and resources framework within which NITHC will discharge its statutory duties and, within those duties, the strategic priorities, aims and objectives set by the Minister. In particular, the plan shall demonstrate how NITHC contributes to the achievement of the Department's strategic aims and Programme for Government objectives and targets, as well as achieving agreed financial targets. NITHC will report upon prior year performance in the Translink Group's Annual Accounts in terms of financial performance and high level performance indicators, as agreed with the Department (Section 5.1.3 refers). It will also report on year end performance in a Period 12 monitoring report prior to the Accounts (section 2.2 refers)

4.1.3 The corporate plan shall set out:

- the forecast outturn for the current financial year; NITHC's key objectives and associated key performance targets for the three forward years and its strategy for achieving those objectives;
- a forecast of all expenditure and income, taking account of guidance on resource assumptions and policies provided by the Department at the beginning of the planning round; AND

- and other matters as agreed between the Department and NITHC.

4.1.4 The main elements of the Plan, including the key performance targets, shall be agreed between the Department and NITHC in the light of the Department's decisions on policy and resources taken in the context of the Government's wider policy and spending priorities and decisions.

4.1.5 The first year of the Corporate Plan, amplified as necessary, shall form the Business Plan. The Business Plan shall include key targets and milestones for the year immediately ahead and shall be linked to budgeting information so that resources allocated to achieve specific objectives can be readily identified by the Department.

4.1.6 The Corporate and business plans will be formally approved by the Minister.

4.2 Publication of plans

4.2.1 The Corporate and Business plans shall be published in print and also made available on NITHC's website. A summary version shall be made available to staff and other stakeholders after the format and content have been agreed by the Department.

4.3 Reporting financial and non – financial performance information to the Department

4.3.1 NITHC 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.

4.3.2 NITHC shall take the initiative in informing the Department 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.

4.3.3 NITHC's performance in helping to deliver Departmental policies, including the achievement of key objectives, shall be reported to the Department monthly through the Monthly Resource Report. Departmental officials will formally review performance as detailed in the Terms of Reference for the Sponsor Division Monitoring Meeting. The Departmental Permanent Secretary and senior officials will also meet with the NITHC Board on a tri-annual basis to review performance. The purpose of this meeting is to focus on issues of strategy, the overall financial position and performance of the Company, the performance of the executive team and to raise any issues about governance or other issues of concern. Terms of Reference for this meeting are included at Appendix 3.

4.3.4 The Minister shall meet the Chairman formally at least annually to discuss NITHC's performance, its current and future activities, and any policy developments relevant to those activities as set out in the agreed Terms of Reference for the Ministerial Performance Review Meeting (Appendix 3 refers).

4.3.5 NITHC performance against key targets shall be reported in the Group's Annual Report and Accounts (see section 5.1 below).

4.4 Resource budgeting impact of NITHC for the Department

4.4.1 NITHC's budgeting procedures are set out in the *Financial Memorandum*.

4.5 Internal audit arrangements

4.5.1 NITHC will establish and maintain arrangements for Internal Audit in accordance with relevant DFP Guidance.

4.5.2 NITHC will appoint a Head of Internal Audit who has overall responsibility for co-ordinating Internal Audit activity within the organisation. NITHC shall provide assurances to the Department that it is satisfied with the competence and qualifications of persons/organisation responsible for NITHC Internal Audit function and that the requirements for approving the appointment of an auditor are in accordance with GIAS Chapter 4.

4.5.3 In line with DAO (DFP) 01/10 "Internal Audit Arrangements - Relationships between Departments and Arm's Length Bodies", the Department requires NITHC to:

- facilitate the Department's input to NITHC's planned internal audit coverage;
- ensure that NITHC's Internal Audit Strategy and Annual Plans are prepared on a risk based approach, with adequate substantive audit undertaken in high risk areas of the business;
- consult with the Department on the above documents to ensure that shared assurance requirements are built into the plans where required;
- provide the Department with copies of the final version of the Audit Strategy, Audit Plans, Audit Committee Internal Audit Progress reports and the Internal Auditors Annual Report including the Head of Internal Audit's opinion on risk management, control and governance on a timely basis;
- have arrangements in place for the completion of Internal and External Assessments of its Internal Audit function against GIAS (the Department reserves a right of access to carry out its own independent reviews of NITHC's Internal Audit function); and

- notify any changes to Internal Audit's terms of reference or the Audit & Risk Committee's terms of reference.
- 4.5.4 NITHC Audit & Risk Committee will operate in accordance with DFP Guidance and in line with H M Treasury Audit Committee Handbook. The Department's Director of the Sponsor Division shall attend NITHC Audit & Risk Committee meetings in an observer capacity.
- 4.5.5 The Department shall have access to the terms of reference and the minutes of all Audit & Risk Committee meetings.
- 4.5.6 NITHC shall ensure that its Internal Audit providers are subject to peer review in accordance with GIAS and inform the Department of the results. The Department reserves a right of access, in exceptional circumstances, via the NITHC Audit Committee, to commission an independent review of NITHC Internal Audit, on its own behalf.
- 4.5.7 All internal audit reports with a limited assurance shall be forwarded to the Department. The Department's sponsoring team, shall where necessary, consult NITHC in providing assurance of the robustness of the audit procedures to the Departmental Accounting Officer.
- 4.5.8 NITHC shall report immediately to the Department all frauds (proven or suspected), including attempted fraud. The Department shall then, where appropriate, report the frauds immediately to DFP and the C&AG. In addition NITHC shall forward to the Department the annual fraud return, commissioned by DFP, on fraud and theft suffered by NITHC and notify any significant changes to NITHC's Anti - Fraud Policy and Fraud Response Plan (section 12 of the MSFM refers).

4.6 Additional Departmental access to NITHC

- 4.6.1 In addition to the right of access referred to in paragraph 4.5.5 above, the Department shall have a right of access to all NITHC's records and personnel for any purpose considered appropriate by the Department to the extent that any such access is not prohibited by relevant legislative provisions. The right of access to internal audit records must be provided for where the service has been contracted out. If the audit service is contracted out this requirement should be stipulated in the tendering documents.

5. EXTERNAL ACCOUNTABILITY

5.1 The Annual Report and Accounts

- 5.1.1 After the end of each financial year NITHC shall publish as a single document, an

Annual Report of its Group activities together with its audited Annual Accounts. The report shall also cover the activities of any corporate bodies under the control of NITHC.

- 5.1.2 A draft of the Report shall be submitted to the Department in line with the relevant Board or Audit & Risk Committee meeting at which the Report is to be considered for approval (preferably at least one week beforehand).
- 5.1.3 The Annual Report and Accounts shall provide a full description of the Company's activities and shall state the extent to which key strategic objectives and agreed financial and other performance targets have been met.
- 5.1.4 The Accounts shall be prepared in accordance with any relevant statutes.
- 5.1.5 The Department will lay the Annual Report and Accounts in the Assembly, in accordance with the guidance on the procedures for presenting and laying the combined Annual Report and Accounts as prescribed in guidance issued by DFP.
- 5.1.6 To ensure adequate consideration of potential accounting and budgetary implications, NITHC is required to consult with the Department at an appropriate time on any changes it may propose to accounting policies or significant estimation techniques which may impact on grant accrued from Government including the Department, or materially impact on the NITHC 'Whole of Government Accounting' return and/or the preparation of its Annual Accounts.
- 5.1.7 The Annual Report should contain information on access to the register of interests.
- 5.1.8 It is recognised that NITHC is not required to comply with the Central Government Financial Reporting Manual (FReM) but is now subject to International Financial Reporting Standards (IFRS).

5.2 External audit

- 5.2.1 NITHC's Accounts are audited by external auditors appointed by the Board. The Accounts of NITHC shall be open to the inspection of the Comptroller and Auditor General (C&AG).
- 5.2.2 Where appropriate, the Department may commission from the external auditor additional reports providing assurance about the financial systems within NITHC. NITHC shall facilitate the provision of such reports. This includes an opinion on the regularity and propriety within the Annual Audit Certificate on the Accounts. Regularity is defined in Chapter 2 of Managing Public Money Northern Ireland (MPMNI). Additionally irregularity is defined in the Department's letter dated 11 January 2012 to the Group Chief Executive (Appendix 2 refers).

5.3 Powers of the Comptroller and Auditor General

5.3.1 The powers of access to information of the Comptroller and Auditor General (C&AG) are wide ranging as laid down in Articles (8) and (9) of the Audit (Northern Ireland) Order 1987, as amended by Articles 22(3) 23(3) and 23(4) of the Government Resources and Accounts Act (Northern Ireland) 2001, and Article 3 of the Audit and Accountability (Northern Ireland) Order 2003. The C&AG has powers of access through powers of inspection of the Accounts of NITHC (referred to in paragraph 5.2.1), for the purposes of value for money examinations carried out including those specifically relating to examinations about NITHC's use of resources. In addition the C&AG have power of access relating to the audit of the Departmental Resource Accounts. Where making payment of grant or drawing up a contract NITHC should ensure access to the C&AG by third parties, including subcontractors in respect of the transaction under consideration.

6. STAFF

6.1 General provisions

6.1.1. Within the arrangements approved by the Minister and DFP, NITHC shall have responsibility for the recruitment, retention and motivation of its staff. To this end NITHC 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 NITHC'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 NITHC's objectives;
- proper consultation with staff takes place on key issues affecting them;
- adequate grievance and disciplinary procedures are in place; and

- whistle blowing procedures consistent with guidance including the Public Interest Disclosure (Northern Ireland) Order, 1998 (as amended) and relevant DAO letters are in place.

7. REVIEWING THE ROLE OF NITHC

- 7.1 The role and operation of NITHC shall be reviewed periodically, in accordance with the provisions of the Transport Act (NI) 1967 and the Transport Act (NI) 2011.

Part 2 Financial Memorandum

8 INTRODUCTION

- 8.1. MPMNI requires Departments to put in place a clear framework of strategic controls for each sponsored body which is appropriate in the light of:

- the legislative relationship with the body;
- the specific risks presented by its underlying business activities; and
- the level of government funding consumed.

- 8.1.1 The framework should encompass inter-alia, finance, performance, accountability and control as well as detailing the conditions which are attached to the supply of public monies to the sponsored body.

- 8.1.2 This Financial Memorandum specifies the financial framework within which NITHC and its operating subsidiaries are required to operate.

9. BUDGETARY CONTROL

- 9.1 **NITHC has been classified by the Office of National Statistics as a Public Corporation and the Department for Regional Development is its sponsoring Department.**

9.2 Impact on Public Expenditure

- 9.2.1 As further explained below, grants and subsidy provided to NITHC by the Department score within Public Expenditure (PE). In addition, in accordance with the current Treasury regime for budgeting for Public Corporations, certain elements of NITHC's own expenditure are also monitored by DFP.

9.3 Impact on Departmental Budget

- 9.3.1 The impacts of NITHC on the Departmental Expenditure Limit (DEL) and Annually Managed Expenditure (AME) budgets are summarised below.
- 9.3.2 Grants and subsidies payable by the Department to NITHC in respect of both current and capital expenditure form part of the Department's Resource DEL budget as disclosed in the annual Main and Spring Supplementary Estimates documents. Capital grants payable to NITHC will score in the Department's capital budget as disclosed in the annual Priorities and Budget document with effect from 1 April 2006.
- 9.3.3 The self-financed portion of NITHC's capital expenditure scores in the Department's Other Capital AME budget.
- 9.3.4 Subject to agreement with Department of Finance and Personnel, Public Corporations may also be required to provide their sponsoring Department with a return on the capital which they utilise in their business.
- 9.3.5 In order to allow the Department to manage the impact of NITHC on its budget provision, NITHC must supply the Department with timely and accurate management information on budget and actual expenditure.
- 9.3.6 This must include reporting on expenditure and budget for the month, year to date and forecast year end outturn and must be supplied in accordance with the timetable agreed with the Department. See section 9.8 below.

9.4 Annual budget setting process

- 9.4.1 Each year, the Department will, in the context of NITHC's draft Corporate Plan send to NITHC:
- a formal statement of the annual budgetary allocation taking account of any forecast receipts; and
 - a statement of any planned changes in policies affecting NITHC.
- 9.4.2 NITHC will produce an annual Business Plan consistent with its approved funding provision and forecast receipts.
- 9.4.3 NITHC's annual Business Plan must include a budget of estimated payments and receipts showing profiled annual expenditure and income.
- 9.4.4 Any grant or subsidy provided by the Department will be included in its Departmental estimate and subject to Assembly control.

9.5 General authority to incur expenditure

9.5.1 Once NITHC's budget has been approved by the Department and subject to any restrictions imposed either by statute, the Minister or this MSFM, NITHC shall have authority to incur expenditure approved in the budget on the following conditions:

- NITHC shall comply with the delegations set out in this document. These delegations shall not be altered without the prior agreement of the Department and DFP;
- NITHC will be required to manage its Resource and Capital spend (DEL and AME) to avoid any overspend or significant under spend at financial year-end;
- NITHC shall comply with the conditions set out in section 11.10 regarding novel, contentious or repercussive proposals;
- inclusion of any planned and approved expenditure in NITHC's budget shall not remove the need to seek formal departmental (and, where necessary, DFP) approval where such proposed expenditure is above the delegated limits as set out in this document, or is for new schemes not previously agreed; and
- NITHC shall provide the Department with such information about its operations, performance, individual projects or other expenditure as the Department may reasonably require.

9.6 Requirements for DRD and DFP approval

9.6.1 All expenditure is subject to approval by the NI Assembly. In addition, expenditure is subject to administrative control exercised by DFP. By convention, no expenditure can be incurred or committed to, without DFP approval. In practice, DFP delegates to Departments the authority to spend within pre-defined limits or delegations.

9.6.2 The requirement for DFP approval can be a consequence of legislation or of administrative arrangements put in place by DFP.

9.6.3 Delegated approval requirements for NITHC are detailed in this document.

9.6.4 The content of this Financial Memorandum and the related Management Statement are themselves subject to DFP approval and supported by subordinate financial documentation such as the Public Service Obligation Financial Memorandum.

9.7 Expenditure not included within the NITHC budget

9.7.1 NITHC shall not, without prior written Departmental approval, enter into any undertaking to incur expenditure which falls outside its delegations or which is not provided for in the Department's budget, to the extent that Departmental assistance may be sought in respect of such items.

9.8 Provision of monitoring information to the Department

9.8.1 The Transport Act (Northern Ireland) 1967 requires NITHC to provide to the Department;

“such returns, accounts and other information with respect to its property, activities, policy and programme and the property, activities policy and programme of any company which is its subsidiary or in which it owns a substantial proportion of the issued share capital as the Ministry (Department) may require”.

9.8.2 These powers are to allow the Department to effectively fulfil its role as sponsor of NITHC. The information provided by NITHC to the Department must inter alia enable the Minister and Department to form a view on the effectiveness of NITHC and its operating subsidiaries and the efficiency and value for money of its operations

9.8.3 The Departmental Accounting Officer (who is answerable to the Public Accounts Committee for resource allocated to NITHC) must be satisfied that the financial and other controls applied by the Department are appropriate and sufficient to safeguard public funds and that the public funds (i.e. all income) being applied by NITHC conform with the requirements of both propriety and good financial management. (Chapter 3 Accounting Officers MPMNI).

9.8.4 In addition, as described above, NITHC is classified as a Public Corporation and so certain aspects of its funding and expenditure are subject to control under the budgetary framework for public expenditure.

9.8.5 The following information is required as part of the wider government reporting and budgeting process (i.e. it will not normally form part of the Sponsor Division monitoring process). This is consistent with existing arrangements between the Department and NITHC and includes the following:-

- Capital DEL, Resource DEL and other information required for PE and Departmental budget purposes – budget and actual information to be provided in accordance with Departmental budget timetable and requirements;
- timely inputs to in-year monitoring rounds, capital (Net Lend) re-profiling, updates to capital commitments;

- timely inputs to all Departmental / NI Civil Service financial exercises, the timetable for which is normally conveyed as part of the NITHC Annual Operating Plan and Budget approval process;
- Investment Strategy NI updates as required;
- retention of documentation relating to EU programmes for audit inspection (NITHC will need to retain such documentation for 9 years from when the programme finishes e.g. programme 2007-2013 all documents to be retained until 2022);

9.8.6 For the Tri-annual meeting (see section 4.3.3), NITHC shall provide the Department with a series of reports based on the meeting's functions detailed in Appendix 3 of this document. These financial reports should be based on the last available period end and arrive with the Department at least 5 working days prior to the date of the meeting.

9.9 The "Faster Closing" Initiative

9.9.1 NITHC shall continue to meet "DFP Faster Closing" deadlines (which require Departments to close off accounting periods more quickly).

9.9.2 NITHC shall continue to meet its internal management reporting timetable so as to ensure it facilitates compliance with the faster closing deadlines.

9.10 Whole of Government Accounts Programme

9.10.1 NITHC, as a Public Corporation, has been designated by DFP as within the boundary for Whole of Government Accounts (WGA) purposes.

9.10.2 A NITHC Consolidation Officer has been appointed by DFP and is responsible for the provision of complete and accurate WGA information to the Department and DFP in strict accordance with the annually advised WGA timetable.

9.10.3 International Financial Reporting Standards apply to NITHC from 2011/12 onwards.

10. ECONOMIC APPRAISAL

10.1. NITHC is required to apply the principles of economic appraisal, contained within The Northern Ireland Guide to Expenditure Appraisal and Evaluation, 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 proportionately applied irrespective of whether the relevant Public Expenditure or resources:

- involve Resource or Capital spending, or both;
- are self-funded; or
- are above or below the delegated limits.

10.1.2 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.

10.1.3 Appraisals must be appropriately approved before expenditure is committed. Where it is essential that expenditure on a project is incurred in advance of DRD/DFP approval then NITHC must submit a formal application to incur such costs otherwise the expenditure is irregular:

10.1.4 Economic Appraisals for all capital projects must be forwarded to the Department for approval with the exception of self-funded projects less than £1m. Additionally, the Department does not need to see Post Project Evaluations for these projects. However, the Department must be informed of the self-funded projects in advance as part of the Annual Business Plan and it will test drill a sample of these periodically to assure itself that the appropriate appraisal and Post Project Evaluation review are being undertaken. The Department reserves the right to request an Economic Appraisal for any self-funded project at any value.

10.1.5 General guidance on economic appraisal is as follows:

- DFP's online guide "The Northern Ireland Guide to Expenditure Appraisal and Evaluation" ("NIGEAE", 2009) and relevant FD letters. <http://www.dfpni.gov.uk/eag>;
- The HM Treasury Guide, "The Green Book: Appraisal and Evaluation in Central Government" (2003);
- Departmental Guidance "Departmental Delegations and requirements for DFP Approval; and
- Infrastructure Procurement: delivering long term value – HM Treasury.

10.1.6 In accordance with Departmental guidance, a database must be maintained containing details of all expenditure projects. The database fields should, as a

minimum, contain the items listed in relevant Departmental guidance (e.g. DAO 06/12).

10.1.7 Commensurate Post Project Evaluations should be completed for all projects, policies and programmes undertaken. They should be completed in accordance with the principles set out in The Northern Ireland Guide to Expenditure Appraisal and Evaluation and provide lessons learnt that should be shared within the organisation and if required with the Department.

11 PROCUREMENT

11.1 NITHC status for procurement legislation

11.1.1 For the purposes of procurement legislation, NITHC, Northern Ireland Railways Company Limited, and by reference Ulsterbus Limited and Citybus, are included as relevant Utilities under the Utilities Contracts Regulations 2006 (which captures relevant EU Directive requirements in Northern Ireland).

11.2 Role of DFP Central Procurement Directorate

11.2.1 Translink is a Centre of Procurement Expertise (CoPE) accredited by DFP/CPD. Its procurement policies and procedures for the purchase of all capital works, goods and services will adhere to the Utilities Contracts Regulations (2006). NITHC is required to abide by the Public Procurement Policy adopted by the Executive in May 2002 and adopt when applicable Procurement Policy Guidelines as agreed by CPD. NITHC will ensure that it complies with the relevant EU and UK procurement rules. As a CoPE, Translink is expected to apply and keep up to date with relevant DFP guidance as applicable and agreed.

11.2.2 NITHC will provide procurement statistical information as required by CPD and in accordance with required deadlines. NITHC will also monitor its performance on social inclusion clauses in construction contracts and provide 6 monthly progress reports to the Sponsor Division.

11.3 Application of best practice in procurement

11.3.1 NITHC procurement policies shall reflect best practice including:

- The public procurement policy adopted by the Northern Ireland Executive in May 2002 (refreshed June 2011).
- Procurement Policy Guidelines as issued by the Procurement Board/CPD.

11.3.2 NITHC shall ensure that it complies with all relevant EU procurement rules.

11.4 Competition

11.4.1 NITHC must be able to demonstrate clearly that contracts are placed on a competitive basis and tenders accepted from suppliers who provide best value for money overall. CPD Guidance Notes, as updated from time to time set out guidance on procedures and principles for the evaluation of tenders.

11.5 Single tender action

11.5.1 CPD Guidance Notes as updated and replaced from time to time set out the circumstances when single tender action may be used. Proposals to let single-tender contracts shall be subject to the approval of the Department's Accounting Officer where they have been agreed by the NITHC Board (>£250k). DRD will assume that the NITHC Board has considered the legal position (i.e. the use of any legislative exemptions) before any single tender actions are sent to the Department for approval. DRD reserves the right to ask for an explanation of any single tender action approved by any person below the £250k limit. NITHC shall on a monthly basis provide the Department with a report explaining any non-competitively tendered contracts above certain thresholds and will fully comply with the reporting requirements set out in the Utilities Contracts Regulations 2006.

11.6 Best value for money

11.6.1 Procurement by NITHC of works, supplies and services will be based on "best value for money" (see definition in 11.7.1). There may be links to guidance on the use of proportionate economic appraisals which NITHC as a COPE will have to consider. As suggested by FD (DFP) 03/12 Central Procurement Directorate and Central Finance Group may develop more detailed relevant guidance as part of the NI Guide to Economic Appraisal.

11.7 Sustainable Procurement

11.7.1 With regard to sustainable procurement, NITHC/Translink is expected to follow the Public Procurement Policy for Northern Ireland. In approving the policy the Executive Committee recognised that the primary objective of the Policy should be the achievement of 'best value for money' which is defined as "the optimum combination of whole life cost and quality (or fitness for purpose) to meet the customer's requirements" and allow for the inclusion, as appropriate, of sustainable development goals within the procurement process.

11.8 Public Private Partnerships

11.8.1 NITHC shall seek opportunities to enter into Public/Private Partnerships (PPP) where this would offer better value for money over conventional procurement.

Where cash flow projections differ significantly from accruals spending the Department should be consulted. NITHC should also ensure that it has the necessary budget cover.

11.8.2 Prior Departmental / DFP approval must be secured for all PPP arrangements and the Department should be consulted on all such proposals at an early stage.

11.8.3 Any partnership or joint venture controlled by NITHC shall be treated as part of NITHC in accordance with International Financial Reporting Standards and Regulatory Accounting Guidelines. Where the judgment over the level of control is difficult the Department will consult DFP (which may need to consult with the Office for National Statistics over the treatment of entity in national accounts).

11.9 Timeliness in paying bills

11.9.1 NITHC will pay all matured and properly authorised invoices in accordance with Annex 4.6 of MPMNI and any guidance issued by DFP or the sponsor Department. NITHC will aim to adhere to the Executive's prompt payment policy.

11.10 Novel, contentious or repercussive proposals

11.10.1 NITHC shall obtain the consent of the Department and DFP before;

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

12. RISK MANAGEMENT AND FRAUD

12.1. NITHC will 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 will develop a risk management strategy, in accordance with HM Treasury's guidance "Management of Risk: A Strategic Overview" (The "Orange Book"). NITHC will 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.

12.1.1 NITHC will adopt and implement policies and practices to safeguard itself against fraud and theft, in line with DFP's guide "Managing the Risk of Fraud." NITHC must have in place an organisation-wide Anti-Fraud Policy and Response Plan which must be communicated to all staff and forwarded to the Department for approval in the event of significant amendment.

12.1.2 All cases of attempted, suspected or proven fraud shall be reported to the Sponsor Division who will arrange through the Department's Finance Division for the reporting of cases to DFP and the NIAO. All cases will be reported as soon as they are discovered, irrespective of the amount involved.

13. INCOME

13.1 Subsidy and Grant

13.1.1 The Department shall make payment of subsidy or grant to NITHC on the basis described below.

Rail - Public Service Obligation Subsidy

- Monthly based on agreed opening budget (latest annual budget). Any further in year budget allocations may be retained pending receipt of certified year end statement which should be submitted to the Department by 30 June. The terms and conditions of the subsidy are set out in the Annual Statement of funding sent by the Department. Further details on the monitoring of the Public Service Obligation Subsidy are set out in the separate PSO Financial Memorandum.

Pension

- **NILGOSC Costs**

Monthly in arrears based on agreed phased budget (subject to quarterly review). Audited NILGOS claims are to be submitted to the Department annually.

- **Legacy Pension Schemes**

Monthly in arrears based on agreed phased budget. Annual Financial Statements of the schemes (including Ulster Transport Authority and Belfast Corporation Transport Department) will be submitted to the Department, along with Accountant's reports thereon.

Capital Grants

- Monthly in arrears subject to submission of certified claims
- Claims must be based on actual expenditure

Revenue Grants

- Monthly in arrears subject to submission of properly endorsed claims based on actual expenditure and subject to a retention (normally 10 %).

13.1.2 All grants are subject to the proviso that the allocation agreed in advance with the Department must not be exceeded. In addition, grant shall not be drawn-down in advance. Grant claimed must be entirely consistent with the terms of the relevant letter of offer / funding agreement.

13.1.3 The Department will process payments to NITHC on receipt of a valid claim appropriately certified by an authorised officer of the company. Where relevant the claim should be accompanied by an accountants' report certifying the claim.

13.1.4 A separate claim should be made for each type of payment for each month.

13.1.5 Claims should be submitted on standard claim forms and on a timely basis, i.e. within a maximum of three months of the period covered by the claim. In exceptional circumstances only this period may be extended at the discretion of the Department.

13.1.6 Retentions will be released on receipt of an unqualified audit / accountant's report on the completed project / grant claim.

13.2 Receipts from the European Community

13.2.1 Receipts from the European Union must be accounted and budgeted for by the Department in a manner consistent with DFP guidance. The Department should be consulted for advice in all cases where such funding streams are being considered.

13.3 Receipts from sale of goods and services

13.3.1 Bus and rail receipts must be applied to the costs of providing those services.

13.3.2 NITHC shall seek to maximise receipts from non-Exchequer sources provided that it is consistent with the Department's objectives and the NITHC Corporate Plan.

13.4 Interest Receivable

13.4.1 Any interest earned on cash balances arising from grant or other NI consolidated funds shall be treated as a receipt from an NI consolidated fund source.

13.5 Gifts and Hospitality

- 13.5.1 All staff should comply with the Group's Gifts and Hospitality policy which is subject to periodic review by Internal Audit, the NITHC Board (annually) and the Department.
- 13.5.2 Before accepting a gift, hospitality, bequest or similar donation, NITHC shall consider if there are any associated costs in doing so.
- 13.5.3 NITHC must maintain an accurate and up-to date register of all hospitality offered or received by Board members and the Executive team. The hospitality register should be available at all times for inspection by the Department.
- 13.5.4 Government guidance on hospitality should be observed where applicable to NITHC (see the Department's policy on hospitality, plus relevant DAOs and FD (Finance Officer) letters on Gifts and Hospitality and Hospitality Registers).

13.6 Gifts, write offs, losses and special payments (See Appendix 6)

- 13.6.1 Proposals for making gifts or other special payments (including issuing write-offs) outside the delegated limits set out in Appendix 4 of this document must have the prior approval of the Department and, where necessary DFP.
- 13.6.2 Losses shall not be written off until all reasonable attempts to make a recovery have been made and proved unsuccessful.
- 13.6.3 Gifts by management to staff may be subject to the requirements of DAO guidance such as Expenditure on Non- Pay Rewards.

14 STAFF EXPENDITURE

14.1 Staff salaries

- 14.1.1 Subject to its delegated levels of authority, NITHC shall ensure that the creation of any additional posts does not incur forward commitments which will exceed its ability to pay for them.
- 14.1.2 The Department may direct NITHC to comply with relevant Department of Finance and Personnel or N I Executive pay policy guidance but will notify NITHC accordingly. The Department may request copies of relevant terms and conditions for staff (subject to necessary legal safeguards).

14.1.3 The Department must be consulted in advance of the annual NITHC staff pay settlement. Where the settlement exceeds the earnings thresholds set by DFP in relevant guidance, a full business case must be prepared and approved by the Department. *In no circumstances should pay settlements be outside the agreed corporate / business plan.*

14.1.4 Recommendations of the NITHC Board in respect of periodic reviews of directors' remuneration and the award of annual bonuses must be submitted to the Department prior to adoption. The Department reserves the right to direct the NITHC Board in relation to remuneration levels and/or bonus payments. Also see paragraph 14.2.2 for prior approval requirements in relation to redundancy or compensation for loss of office.

14.2 Pension costs, redundancy and compensation

14.2.1 NITHC's current pension arrangements provide that staff are eligible for a pension provided by admittance to the NI Local Government Officers Superannuation Committee scheme (NILGOSC). In addition a number of senior executives are entitled to additional benefits which are provided by the Executive Directors pension scheme.

14.2.2 Any proposal by NITHC to

- move from the existing pension arrangements, or
- to pay any redundancy or compensation for loss of office,

over and above the contractual terms requires the approval of the Department and DFP.

14.2.3 All proposals on severance must comply with Managing Public Money NI.

15 NON-STAFF EXPENDITURE

15.1 Use of consultants

15.1.1 NITHC will adhere to the guidance issued by the Department in relation to the Use of Professional Services including External Consultants. Delegated limits set out in Appendix 4 of this document refer.

15.1.2 NITHC will ensure that anything that falls within the agreed definition of "external consultancy" must be approved by the Minister and is subject to the delegated limits as communicated from time to time.

15.1.3 On a regular basis, NITHC will provide the Department with standard Use of External Consultancy returns or additional information on external consultancy, if requested, within reasonable timeframes agreed between the Department and NITHC. To facilitate such returns NITHC will utilise the standard departmental monitoring template.

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

15.2 Commercial insurance

15.2.1 The NITHC Board should satisfy itself that the Group's insurance arrangements represent value for money and the sponsor Department should be consulted in any instances where there are concerns that this may not be the case.

15.2.2 Section 4.4 (including Annex 4.5) of Managing Public Money Northern Ireland refers.

15.2.3 NITHC shall review the management of its insurance each year to ensure that the risks it faces are dealt with in an appropriate manner. On completion of this review, NITHC shall document the findings which will be brought to the attention of the Department.

15.2.4 The Department shall have a written major loss agreement with NITHC about the circumstances in which, in the case of a major loss or third party claim, an appropriate addition to budget out of Departmental funds and/or adjustment to NITHC targets shall be considered). This is enclosed as Appendix 5.

16.0 CAPITAL EXPENDITURE AND ASSET DISPOSALS

16.1 Capital expenditure

16.1.1 The annual corporate planning process will normally allow for outline consideration and discussion with the Department of proposals for large scale individual capital projects or acquisitions. Approval by the Department of the corporate plan does not however obviate NITHC's responsibility to abide by the requirement for the preparation of a proportionate economic appraisal for all proposals to spend across the Group (including self-funded projects). A Strategic Outline Case must also be prepared for all capital projects greater than £20m, before commencement of the detailed work of developing an Economic Appraisal.

16.1.2 Within its approved overall resources limit, NITHC and its subsidiaries shall have delegated authority to incur expenditure in accordance with the approval framework set out in Appendix 4.

16.1.3 Approval is required for all capital projects which are to be funded or part funded by the Department. This approval must be obtained **prior to proceeding** with any project or acquisition. The Department must be informed of all self-funded projects which NITHC propose to undertake and a sample of these will be test drilled periodically.

16.1.4 Where it becomes likely that project timings or costs or specifications differ from that for which approval was originally granted, the **approval should be re-sought immediately**. (Where timing is delayed by 24 months, costs vary by 10% or where there are significant changes to the specification of the project).

16.2 Maintenance of an asset register

16.2.1 NITHC shall maintain an accurate and up to date register of all of its fixed assets.

16.3 Asset disposals and Departmental approval requirements

16.3.1 DFP have now approved various delegated authority limits in relation to asset disposals. Section 48 (2) of the Transport Act (Northern Ireland) 1967 prohibits NITHC from disposing of any property without the consent of the Department.

16.3.2 A quarterly statement should be submitted by NITHC / Translink to the Department listing details of asset disposals. This should include asset description, date of sale, net book value and proceeds from sale. This quarterly statement will not remove the general requirement for Departmental approval to dispose of public sector assets.

16.3.3 Annually the Department should be provided with all disposal details and reconciliations necessary to agree the asset schedule in the year end accounts.

16.3.4 Subject to the approval of the Department, NITHC should seek to dispose of assets which are surplus to its business requirements.

16.3.5 Assets should be sold for the best available price, taking into account the costs of sale.

16.3.6 Generally auction /competitive tender should be adopted unless otherwise agreed by the Department.

16.3.7 All receipts from the sale of assets must be declared to the Department which will consult with DFP on the appropriate treatment.

16.3.8 Asset management and disposals should be managed in accordance with Chapter 4.10 and Annex 4.8 of Managing Public Money Northern Ireland also refers.

16.4 IT Projects

- 16.4.1 IT projects present risks which differ from those arising from capital expenditure generally. CPD Guidance Note 01/09 as amended on Best Practice in Programme / Project Management deals with IT enabled projects and states that “departmental accounting officers should ensure that equally rigorous standards are applied to ICT enabled projects and associated expenditure in their Agencies, NDPBs and other sponsored bodies for which they are responsible”.
- 16.4.2 Business cases in respect of IT projects should be consistent with the requirements of CPD Guidance Note 01/09 as amended.
- 16.4.3 IT projects should be the subject of competitive tendering unless exceptionally, 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.

16.5 Recovery of grant – financed assets

- 16.5.1 Where NITHC has financed expenditure on capital assets by a third party, it shall set conditions and make appropriate arrangements to ensure that any such assets are not disposed of without the prior consent of NITHC.
- 16.5.2 NITHC shall therefore ensure that such conditions and arrangements are sufficient to ensure that the Consolidated Fund’s due share of the proceeds of sales, are surrendered to the Department.
- 16.5.3 NITHC shall ensure that if the assets cease to be used by the recipient, that a proper proportion of the value of the asset is surrendered to the Department.

17 GROUP STRUCTURE AND FINANCING

17.1 Subsidiary companies and joint ventures

- 17.1.1 NITHC shall not establish subsidiary companies or joint ventures without the express approval of the Department and DFP. In judging such proposals, the Department will have regard to its wider strategic aims, objectives and current Public Service Agreement.
- 17.1.2 For Public Expenditure Accounts purposes, any subsidiary company or joint venture controlled or owned by NITHC shall be consolidated with it in accordance with IFRS. Where judgment over the level of control is difficult, the Department will consult DFP (which may wish to consult with the Office of National Statistics over national accounts treatment).
- 17.1.3 Unless specifically agreed with the Department and DFP, all such subsidiary companies and 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.

17.2 Financial investments

17.2.1 NITHC shall not make any investments in traded financial instruments outside established policy without the prior written approval of the Department and, where appropriate, DFP. If the policy changes then NITHC must obtain the relevant approvals. NITHC should ensure cash balances accumulated during the course of the year will be kept at the level consistent with the efficient operation of NITHC.

17.2.2 Equity shares in ventures which further the objectives of NITHC shall equally be subject to Departmental and DFP approval.

17.3 Restriction on borrowing

17.3.1 NITHC must not enter into any debt funding arrangements without the express approval of the Department and DFP as borrowing scores gross in budgets and requires DEL budget cover in all cases.

17.3.2 Short-term working capital facilities are permitted only with Departmental and DFP approval.

17.4 Leasing

17.4.1 Prior Departmental approval must be secured for all property and finance leases over £30k. Subject to the Company assuring the value for money principle is achieved (see 17.4.2) Departmental approval is not required for leases other than those which fall outside the delegations listed in Appendix 2. NITHC must have Capital DEL provision for finance leases and other transactions which are, in substance, borrowing and which could have a Capital DEL impact.

17.4.2 Before entering into any lease as lessee (including an operating lease), NITHC shall demonstrate that the lease offers better value for money or is otherwise the better option than purchases.

17.5 Unconventional financing

17.5.1 NITHC shall not enter into any unconventional financing arrangement without the approval of the Department and DFP.

17.6 Reserves and withdrawal of surplus funds

17.6.1 Section 50 of the Transport (Northern Ireland) Act 1967 permits the Department, with the approval of the Department of Finance and Personnel to require NITHC to pay to the Department any moneys which appear, in the view of the Department, to be surplus to requirement.

17.6.2 Funds held in any reserve may be a factor for consideration when grant is determined.

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

17.7.1 NITHC shall not, without the Department's and where necessary DFP's prior written consent, lend money, charge any asset or security, give any guarantee or indemnities or letters of comfort, or incur any other contingent liability (as defined in Annex 5.5 of Managing Public Money Northern Ireland) whether or not in a legally binding form.

17.8 Grant or loan schemes

17.8.1 All proposals to make a grant or loan to a third party are subject to prior approval by the Department and DFP. This requirement includes approval of the related terms and conditions attached to the grant or loan.

17.8.2 The terms and conditions of grant or loan must include a requirement on the recipient to prepare accounts and ensure that its books and records in relation to the grant or loan are readily available for inspection by NITHC, the Department and DFP.

17.8.3 See also under the heading Recovery of Grant-Financed Assets (section 16.5 refers)

18 BANKING ARRANGEMENTS

18.1.1 NITHC's Accounting Officer is responsible for ensuring that its banking arrangements are in accordance with the requirements of Managing Public Money Northern Ireland and relevant Treasury Guidance (subject to Appendix 6 which contains derogations because of the nature of Translink's business).

18.1.2 In particular, he/she shall ensure that the arrangements safeguard public funds and that their implementation ensures efficiency, economy and effectiveness.

18.1.3 They shall therefore ensure that:

- The 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 the Department's Accounting Officer to enable him/her to satisfy their own responsibilities;

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

19 COMPLIANCE WITH THE REQUIREMENTS OF GOVERNMENT ACCOUNTING

19.1 Relevant documents


19.1.2 NITHC shall comply with the following general guidance documents:

- This **Financial Memorandum** and the related **Management Statement**;
- Relevant legislation e.g. Companies Act 2006;
- Financial Reporting Council's "UK Corporate Governance Code" (June 2010);
- Financial Reporting Council's Reporting Statement "Operating and Financial Review" (January 2006);
- Financial Reporting Council's "Guidance on Board Effectiveness" (March 2011);
- Financial Reporting Council's "Guidance on Audit Committees" (December 2010);
- Financial Reporting Council's "Internal Control: Revised Guidance for Directors" (known as the Turnbull guidance - October 2005);
- Financial Reporting Council's "Going Concern and Liquidity Risk: Guidance for Directors of UK Companies 2009" (October 2009);
- other relevant guidance from Financial Reporting Council;
- IFRS issued by the International Accounting Standards Board;
- **Managing Public Money Northern Ireland (30 June 2008) & Annexes (1 December 2010)**;
- Public Bodies - a Guide for NI Departments(November 2010) issued by DFP;
- Government Internal Audit Standards (HM Treasury (February 2011));
- Audit Committee Handbook (March 2007) HM Treasury;
- other relevant instructions and guidance issued by the central Departments (DFP/OFMDFM) including Procurement Board and CPD Guidance;

- relevant Northern Ireland Audit Office and National Audit Office guidance;
- specific instructions and guidance issued by the sponsor Department;
- Recommendations made by the Public Accounts Committee, or by other Assembly authority, which have been accepted by the government and which are relevant to NITHC;
- Treasury Guidance “**Managing the Risk of Fraud**” (September 2003);
- Treasury Guidance “Tackling external Fraud”;
- Treasury Guidance “**Management of Risk, a Strategic Overview**” (The ‘Orange Book’ entitled Risk Management – Principles and Concepts (October 2004);
- Cabinet Office Guidance “**Guidance on Codes of Practice for Board Members of Public Bodies**”;
- The UK Corporate Governance Code (formerly the Combined Code);
- Relevant Dear Accounting Officer (DAO) and Finance Director (FD) letters etc;
- Relevant Dear Consolidation Officer and Dear Consolidation Manager letters;
- The Consolidation Officer Memorandum issued by DFP;
- The booklet “**Regularity and Propriety**” issued by Treasury; and
- The Northern Ireland Guide to Expenditure Appraisal and Evaluation.

This list will be updated periodically.

20 APPROVAL OF THE MANAGEMENT STATEMENT / FINANCIAL MEMORANDUM



 Signed on behalf of the Northern Ireland Transport Holding Company

Date:



 Signed on behalf of the Department for Regional Development

Date:

28 March 2013

APPENDIX 1 - Extract from The Transport Act NI 1967 **Establishment of the Northern Ireland Transport Holding Company.**

47. — (1) For the purposes of this Act there shall be a body corporate with perpetual succession to be known as the Northern Ireland Transport Holding Company (in this Act referred to as "the Holding Company").
- (2) The Holding Company shall consist of a chairman and not more than eight other directors all of whom shall be members thereof and shall be appointed by the Minister.
- (3) The chairman and other directors of the Holding Company shall be appointed from among persons who appear to the Minister to have had wide experience of, and to have shown capacity in, transport, industrial, commercial or financial matters or to have other adequate or suitable experience, and the Minister in appointing them shall have regard to the desirability of including among them persons who are directors of, or concerned in the management of, the subsidiaries of the Holding Company.
- (4) Schedule 1 shall have effect as regards the directors of the Holding Company and its proceedings.

General functions of the Holding Company.

48. (1) The objects of the Holding Company shall be—
- (a) subject to the provisions of sections 69 and 70, to hold and manage the properties vested in it by virtue of section 68 and any other properties acquired by it; and
- (b) to exercise the rights attached to such properties; as if the Holding Company were a company engaged in a commercial enterprise, and the Holding Company shall have power for those objects—
- (i) to form, promote and assist companies (including subsidiary companies) and, without prejudice to the foregoing, to lend money to any of its subsidiary companies;
- (ii) to subscribe for, take, acquire and hold, exchange and sell securities of companies;
- (iii) to acquire and, subject to subsection (2), dispose of any property; and generally to carry on any business usually carried on by a holding company and to do all such other things as are incidental or conducive to the attainment of those objects.
- (2) The Holding Company shall not, without the consent of the Minister which may be given for any case or description of cases specified in the consent or may be

general and may be given subject to conditions, exercise its powers under subsection (1) to dispose of any property held by it.

- (3) The Minister may by order extend or vary the objects, duties and powers of the Holding Company under this section but he shall not make such an order unless a draft of the order has been laid before Parliament and approved by resolution of each House.

Power to Minister to give directions as to policy and control by the Holding Company of its subsidiaries.

49. —

- (1) The Minister may from time to time give directions to the Holding Company as to the policy to be followed by it (including its policy towards its subsidiary companies) and may vary, suspend or revoke any directions so given and the Holding Company shall comply with any such directions.
- (2) It shall be the duty of the Holding Company to exercise its powers in relation to its subsidiary companies so as to ensure that a subsidiary company—
 - (a) does not do anything which the Minister has directed the Holding Company not to do;
 - (b) does not, except with the consent of the Minister, borrow money; and
 - (c) does not, except with the consent of the Minister, raise money by the issue of shares or stock.
- (3) The appointment or re-appointment by the Holding Company of any person to be a director of any of its subsidiary companies shall be subject to the approval of the Minister.

APPENDIX 2

Mrs Catherine Mason
Group Chief Executive
NITHC
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Date: 11 January 2012

Dear Catherine

ANNUAL ACCOUNTS: DEFINITION OF IRREGULARITY

The purpose of this letter is to provide you with clarification on what constitutes irregularity as you begin to engage with your external auditors on your 2011/12 Accounts. I am aware that your external auditors developed a methodology for the assessment of irregularity in 2010/11 and I would expect this letter to supplement this. As for 2010/11, your external auditors will be required to reach an opinion on regularity within NITHC/Translink and the general principles of what constitutes irregularity are set out below.

Regularity is defined in Chapter 2 of Managing Public Money Northern Ireland (MPMNI) as:

Resource consumption should accord with the relevant legislation, the relevant delegated authority and this document.

The phrase "resource consumption" should be taken to mean all items of expenditure and receipts. In the case of NITHCo/Translink this includes all expenditure and receipts, including fares and other sources of income. Key to regularity is the requirement that all resource consumption (both current and capital) complies with appropriate authorities, both the authorising legislation and any delegated authorities. This is a central requirement of public expenditure and accordingly all Accounting Officer letters of appointment state:

...your duties as accounting officer in which capacity you will be responsible for safeguarding public funds in your charge and ensuring that they are applied only to the purposes for which they were voted and, more generally, for efficient and economical administration.

Relevant legislation

Legislation expresses when and how public money should be used and such expenditure should be in accordance with any regulations issued under the governing legislation. Expenditure on services which do not have a statutory authority is irregular. In the case of NITHCo/Translink this will focus on the Transport Act 1967.

Departmental relevant delegated authorities

As is clearly set out in MPMNI Chapter 2, Departments require DFP consent before undertaking expenditure or committing to other resource consumption. Usually DFP agrees general approvals for resource consumption subject to delegated limits and/or exclusions. Some legislation calls for specific DFP consent and proceeding without DFP approval would be unlawful for this Department. There are also important categories of resource consumption for which DFP cannot delegate responsibility: transactions which may set precedents, are novel, potentially contentious or could cause repercussions elsewhere. Departments always have to obtain consent to resource commitments of this kind before proceeding and if there is any doubt whether DFP approval is required, the matter should be discussed by Departments with DFP and it is for DFP to determine what falls into this category. Resource consumption without DFP approval is irregular.

Departmental bodies

Similarly, Departments should agree with any bodies to which they provide resources, or over which they have oversight, how such resources should be used. Such arrangements should be clearly documented and clearly reflect the Department's delegated responsibilities and any other delegations that may be specifically agreed for that body by DFP. Departmental funding provided will be in the form of Grants (capital and revenue) and compliance with the conditions of the letter of offer or funding agreement is mandatory.

Any resource consumption that is in breach of the legislative or delegated authorities for that body will be irregular and may also be considered, if material, to constitute an irregularity for the supervising Department.

In addition, informal discussions with the Northern Ireland Audit Office (NIAO) have indicated that a material breach of the conditions within the Governance Letter/agreed Management Statement/Financial Memorandum (MSFM) by a body may also be considered to have resulted in an irregularity because such documents form a core element of the delegations extended by DFP, as described in *Managing Public Money NI*, Chapter 7. Although the current Management Statement/Financial Memorandum is being reviewed, this will have to be approved by DFP. The existing document as amended by relevant guidance will apply for 2011/2012.

For example, in terms of delegations, all external consultancy expenditure requires prior Ministerial approval and all external consultancy assignments above £75,000 require the prior approval of DFP. External consultancy expenditure incurred without the appropriate approvals will be viewed as irregular.

DFP approval is currently required for all NITHC/Translink capital projects above £1 million and for IT projects where total additional project costs are £0.5 million. For projects above delegated limits, any expenditure committed or incurred without DFP approval will be deemed to be irregular.

For all major projects (above £20 million) and high profile cases, Departments are required to submit a Strategic Outline Case to DFP Supply for approval before proceeding to develop an Outline Business Case. Any expenditure incurred on the preparation of an Outline Business Case without Strategic Outline Case approval will be viewed as irregular.

Approval is always given on the basis that projects will be implemented as described and costs are as stated in the business case upon which the approval is based. If costs increase 10% above the approved level, DFP re-approval will be required. In the absence of DFP re-approval, expenditure will be viewed as irregular. DFP re-approval is also required where there is a significant change in the scope or nature of the project. Where DFP re-approval is not sought, any expenditure incurred as a result of a significant change in the scope or nature of a project will be considered irregular.

Projects must not be split into separate components or phases in order to bring them below delegation limits and avoid submission to DFP. Expenditure incurred in this way will be regarded as irregular. Where expenditures or activities are linked together and the costs or benefits are mutually dependent, the proposal must be appraised as a whole and submitted to DFP accordingly.

Where project implementation is expected to be delayed by more than 24 months compared to the timescale indicated in the approved business case then DFP re-approval should be sought. In the absence of DFP re-approval, any expenditure incurred will be considered irregular.

Non-compliance with internal guidance

Non-compliance with internal guidance does not generally mean that an irregularity has occurred. All internal guidance developed by NITHC/Translink, both policies and procedures, should support adherence to the legislative framework within which it must operate and the governance and delegation arrangements set down by the Department. Where there is evidence of non-compliance with internal guidance this will only constitute an irregularity if NITHC/Translink has acted outside its legislative framework, and the governance and delegation arrangements set down by the Department, otherwise it will be an issue of non-compliance. Non-compliance with internal guidance would of course be subject to comment by Internal Audit, the Audit Committee and in the Statement of Internal Control.

Procurement

Resource consumption can also be viewed as irregular if it is in clear breach of the EU procurement (Utilities) regulations. In addition, single tender actions taken forward without the necessary Departmental approval set out in the Management Statement/Financial Memorandum or related guidance will be viewed as irregular expenditure for the relevant time period. Single tender actions taken forward below delegated limits (i.e. less than £30,000) and without the necessary internal approvals will generally be an issue of non-compliance unless the scale of non-compliance is systemic, in which case it could be judged an issue of irregularity.

Please note that this letter has set out the general principles of what constitutes irregularity and how irregularity differs from non-compliance with internal guidance, and has also provided a number of illustrative examples. It has not sought to provide an exhaustive list of irregularity and non-compliance issues.

I am happy to discuss and provide additional information as necessary.

Yours sincerely

BARNEY McGAHAN

cc David Orr
Ciaran Doran
Deborah McNeilly
Fiona Hamill, TOA
Stephen McCormick, NIAO

APPENDIX 3 TERMS OF REFERENCE FOR HIGH LEVEL MEETINGS AND PERFORMANCE MONITORING INFORMATION

SPONSOR DIVISION MONITORING MEETING

Membership

The Sponsor Division Monitoring meeting shall involve: the Translink Group Chief Executive/Accounting Officer; Director of Finance; and other officers as appropriate. The Department will be represented by the Sponsor Division Director and the Grade 7 Financial Planning and Management Branch.

Chair

The meeting shall be chaired by the Sponsor Division Director

Frequency of Meetings

There will be approximately 9 meetings per year which will be scheduled one month in advance by the Department and will follow the accounting periods and performance reporting timetable of the transport operating subsidiaries to the NITHC Board. A Monitoring meeting will not normally take place where a Tri-annual Accountability meeting with the NITHC Board is scheduled in the same month...

A quorum at each meeting shall consist of at least one of the officers listed above from the Department and Translink.

Record of Meetings

The Sponsor Division shall ensure that there is an agreed written record of each meeting, taking due regard of the views expressed by Translink.

Attendance

The Sponsor Division Director and the Group Chief Executive shall normally be required to attend all meetings. Other Staff may, at the discretion of the Sponsor Division Director or Group Chief Executive, attend meetings as required.

Functions of the Sponsor Division Monitoring Meeting

- to review the financial and operating performance of NITHC and the transport operating subsidiaries for the period then ended and the year to date and compare to the planned outturn position as detailed in the agreed corporate plans;
- to review the projected financial and operating outturn position of NITHC and the transport operating subsidiaries;
- to review the planned capital programme and discuss the status of Economic Appraisals and outline Business Cases;
- Consideration of relevant policy developments.

Monitoring Information

The monitoring analysis supplied by NITHC will comprise the Monthly Resource Report together, where relevant, with a report providing sufficient detailed information to advise the Department of any significant deviations from plan. Significant deviations include those that:

- due to the nature of the change ought to be brought to the attention of the Minister;
- are of public interest;
- affect resource and capital allocations;
- will affect the claim or uptake of European Grants.

Variance Report

In the event a significant adverse variance occurs the Department will require NITHC to furnish an explanation and a plan for remedial action.

The completed pro-formas and any other monitoring information and reports will be discussed at the Sponsor Division Monitoring Meeting.

Secretariat

The Sponsor Division shall provide secretariat support for the meetings, arrange dates and venues, draft agendas and minutes of meetings, etc.

Financial Information

Monitoring pro-formas will be forwarded to the Department's Sponsor Division at least three working days prior to each scheduled meeting.

Additionally Sponsor Division staff will meet informally monthly to discuss performance issues with relevant personnel in NITHC including the Director of Finance and Project Accountant.

TERMS OF REFERENCE- MINISTERIAL PERFORMANCE REVIEW MEETING

Membership

The Ministerial Performance Review Meeting with NITHC shall consist of: the Chair of the Northern Ireland Transport Holding Company Board; Translink Group Chief Executive; and the Chief Operating Officer. The Department will be represented by the Minister, Permanent Secretary; Deputy Secretary and the Sponsor Division Director.

Chair

The meeting shall be chaired by the Minister for Regional Development.

Frequency of Meetings

The meetings will take place at least once annually and will be scheduled two months in advance by the Department. A quorum at each meeting shall be at least 2 members from both the Department and NITHC. This must include the Minister and the Chair of NITHC.

Record of Meetings

The Sponsor Division shall ensure that there is an agreed written record of each meeting. The final minutes shall be approved by the Minister.

Attendance

The Permanent Secretary or deputy, Sponsor Division Director, the NITHC chair and the Group Chief Executive shall normally be required to attend all meetings. Other staff may, at the Minister's discretion, attend meetings as required.

Functions of the Ministerial Performance Review Meeting

- for the Chairman to brief the Minister on the performance of NITHC and the transport operating subsidiaries for the period ended;
- for the Minister to set the policy framework, and be advised of the operational plans and capital development programmes for the forthcoming year;
- for both parties to explore any issues that have arisen over the period ended and their impact upon future outturn performance.
- to review, in aggregate, the issues arising or raised at both the Sponsor Division monitoring meetings and Tri-annual performance meetings held separately;
- to provide a forum for the NITHC Chair and Minister to raise other matters of interest.

Agenda

The Sponsor Division will prepare draft agenda for the Minister's approval. This will normally involve financial and operational performance; capital issues; governance and other matters agreed with the Minister.

Secretariat

The Sponsor Division shall provide secretariat support for the meetings; arrange dates and venues, draft agendas and minutes of meetings, etc.

Briefing

The Sponsor Division shall provide the Minister with briefing at least three working days in advance of the scheduled meeting.

TERMS OF REFERENCE TRI-ANNUAL ACCOUNTABILITY MEETING

Membership

The Tri-annual Accountability meeting with NITHC shall consist of: the full NITHC Board; Permanent Secretary; Deputy Secretary and the Sponsor Division Director.

Chair

The meeting shall be chaired by the Permanent Secretary or his/her nominee. This will normally be the Deputy Secretary.

Frequency of Meetings/Attendees

The meetings shall take place Tri-annually and will be scheduled to take place on the same day as but immediately after the Northern Ireland Transport Holding Company Board meeting. The meetings will be agreed for the calendar year ahead. A quorum at each meeting shall be at least 2 Departmental officials as listed above and at least 3 non Executive board members from the NITHC Board and at least 1 Executive board member for the relevant parts of the meeting. Other senior officers from either the Department or Translink can attend as agreed beforehand between the NITHC chair and Permanent Secretary.

Record of Meetings

The Sponsor Division shall ensure that there is an agreed written record of each meeting.

Staff Attendance

The Permanent Secretary (or nominee); Deputy Secretary; Sponsor Division Director and the NITHC chair and Group Chief Executive shall normally be required to attend all meetings.

Functions of the Tri-annual Accountability Meeting

Part1: Meeting with the Full NITHC Board will focus on:

- Group Chief Executive's Report (highlighting key challenges, updates, and forward look);
- Issues arising from the Sponsor Division Monitoring Meeting;
- Longer term financial and strategic planning;
- Governance and Audit.

- Policy or operational matters directly impacting on Translink objectives or finances

Part 2: Meeting with Chair and Non-Executive Directors to discuss and monitor:

- strategic direction, the overall financial position and performance of the company;
- performance of the Executive team and to raise any issues about governance or other issues of concern;
- provide assurance that the Non Executive Directors are safeguarding the Department's 'sponsor' interest in NITHC/ Translink.

Agenda

The Sponsor Division will prepare the draft agenda for the Permanent Secretary's approval.

Secretariat

The Sponsor Division shall provide secretariat support for the meetings; Arrange dates and venues, draft agendas and minutes of meetings, etc.

Information

Translink Group Chief Executive will provide the Department's Sponsor Division with a report and the financial information for this meeting at least 5 working days in advance of the scheduled meeting. The detail of this report will be agreed between the Translink Group Chief Executive and Deputy Secretary.

Appendix 4

Financial Delegations to NITHC

Procurement Control Limits (PCLs)

DFP Guidance on Procurement Control Limits can be found at: www.cpdni.gov.uk/ As a Public Utility, Translink have flexibility to vary their PCLs in accordance with the appropriate thresholds and number of quotations they deem appropriate to ensure that accountability and value for money are achieved in relation to their procurement. Details of these limits have been submitted to the Department for information.

1. In all dealings Requisitioner's should preserve the highest standards of honesty, integrity, impartiality and objectivity and must make a declaration of interest where appropriate. Requisitioner's must take care when requesting Quotations / Selected Tenders to ensure there is equal treatment, transparency and non-discrimination. Requisitioner's must ensure that any Supplier/Contractor invited to Quote or Tender has the capability and capacity to delivery the requirement.
2. Value for Money must be capable of being demonstrated for all requirements. All original documents, including faxes and email quotations must be retained in hard copy for 7 years. Where it becomes likely that requirements timings or costs or specifications differ from that for which approval was originally granted, the approval should be sought or re-sought immediately. (Where timing is delayed by 24 months, costs vary by 10% or where there are significant changes to the specification).
3. Disaggregation: the splitting of a requirement into multiple requisitions of smaller monetary value runs contrary to procurement guidance and is not permitted.
4. A requisition and an order should always be raised prior to the receipt of an invoice. Retrospectively raising a requisition to pay an invoice is not permitted without the prior approval of the Purchasing Department.
5. Existing Contracts, select lists or frameworks must always be used in the first instance if appropriate.
6. Translink shall group together their planned expenditure internally and with other public sector organisations where appropriate and if a Requisitioner becomes aware of such opportunities this should be brought to the attention of the Requisitioner's Divisional Project Control should this exist and a Procurement Projects Advisor.

7. Evidence of action taken & quote/tenders must be inserted in the internal text box of requisitions on Agresso. If any Translink staff member requires further information please do not hesitate to contact a Buyer or a Procurement Projects Advisor. The information recorded should include, at a minimum, the following:

- Action taken to check for existing contracts, select lists or frameworks
- Vendor name(s);
- Net (ex VAT) value of quote(s) provided;
- Nature of obtained quote(s) i.e. telephone, email, fax etc.
- Vendor contact(s); and
- Date quote(s) obtained.
- Approvals required and the date those approvals were obtained.

It may not always be possible to obtain the required number of quotations. In this event a detailed reason must be noted on the relevant documentation including the options explored and actions taken to obtain the required quotations. Single tender action i.e. Proposals to let single-tender contracts shall be subject to the approval of the Department therefore the internal text box of requisitions on Agresso must list that this approval has been obtained.

8. Purchasing Department may vet the details of any quotation, requisition or order at any time.
9. Written quotations/selected tenders means inviting offers from selected suppliers without public advertisement. It should be noted that procurement by quotation is usually on the basis of the suppliers' terms and conditions. For procurements which need to cover risks such as insurance, IPR (intellectual property rights), confidentiality, security, etc or in the case of service contracts where it is important to cover issues such as non-performance or disputes, it is always advisable to issue written conditions of contract. If bespoke terms and conditions have been applied to a requirement the external text of any requisition raised on Agresso must reference this & include the date and document reference.
10. The Procurement Projects Advisor for the Divisional area will discuss a requirement of any value with any Translink Requisitioner; please do not hesitate to contact them. Queries regarding purchasing can also be addressed to the Translink Purchasing Manager 3 Milewater Road, Belfast, BT3 9BG.

Losses and Special Payments

The appropriate officer within NITHC, as notified to and with prior approval of the Department, will have the authority to write off losses and special payments

within the thresholds referred to below. A register of all losses should be retained and NITHC will on a quarterly basis notify the Head of the Sponsor Division of any losses or special payments, or provide a nil return if there are none.

The following areas will continue to require DRD / DFP approval

Due to the specific risks involved in the acquisition of IT equipment and systems, all procurements must be carried out in accordance with the guidance contained in CPD Guidance Note 01/09 on Best Practice in Programme / Project Management. **All funded** Information Communication and Technology (ICT) projects require Departmental approval. **All ICT projects over £1million** require DFP approval.

- DFP approval will be required for all external consultant costs on individual projects expected to cost in excess of £75k; Additionally all proposals to engage external consultants that fall within the agreed definition of external consultancy regardless of value will require the prior approval of the Minister for Regional Development
- expenditure that would entail contractual commitments to significant levels of spending in future years for which plans have not been set;
- expenditure that could create pressures which could lead to a breach:
 - I. in DEL or AME
 - II. in administration cost limits, resource limits capital limits and capital grant limits; and
 - III. the Department's Estimates provision;
- expenditure which could set a potentially expensive precedent;
- all PFI/PPP projects;
- claims waived or abandoned in excess of £100,000;
- extra-contractual and ex gratia payments in excess of £100,000;
- extra-statutory and extra-regulatory payments in excess of £100,000;

Compensation Claims

- individual compensation claims above £250,000 (even where under legal obligation);
- for loss or damage employees personal property where the amount is £10,000 or more.

Appendix 5 - Major Loss Statement

MAJOR LOSS AGREEMENT

Responsibility for ensuring that the Northern Transport Holding Company and its subsidiary companies (the Translink Group) are insured against specified contingencies such as loss or damage lies with the NITHC Board. The Board shall review the management of its insurance each year to ensure that the risks it faces are dealt with in an appropriate manner and represent value for money. The Board shall report its findings to the Department for Regional Development (the Department).

In the event of the Translink Group suffering a major loss any part of which is not covered by insurance, the Department's Transport Finance and Governance Division should be informed immediately and details provided as to the nature and amount involved.

The Department normally expects NITHC to fund any loss/liability from within its own resources. However, if circumstances arise where this is not possible, NITHC may bid to the Department for the additional resources required by means of an appropriate business case. If a bid does arise, the Department will consult with the Department of Finance and Personnel and it will be dealt with on its merits and in light of available resources.

Approval of the Major Loss Statement

Signed on behalf of the Translink Group

Date

Signed on behalf of the Department for Regional Development

Date

- compensation payments for severance or inefficiency are calculated in accordance with scheme and terms and conditions. Any additional monies in excess of these calculations are deemed 'novel and contentious' and as such will require DRD/DFP approval.

Assets Disposals

The appropriate officer within NITHC / Translink, as notified to and with prior approval of the Department, will have the authority to dispose of assets in accordance with the thresholds detailed below. Departmental and DFP approval should be sought where required.

An asset register should be maintained.

- Property Disposals with a net book value between £50,000 and £250,000 will require Departmental approval. In excess of this figure DFP approval will be necessary.
- Non property disposal with a net book value of between £10,000 and £250,000 will require Departmental approval. In excess of this figure DFP approval will be necessary.

Appendix 6 - Derogations from MPMNI

The arrangements are consistent with the DFP model document in most respects except where there are conflicts resulting from NITHC's need to comply with the requirements of Companies Legislation. The key areas requiring change include the following:

- **Board** – NITHC Board operates under the requirements of Companies Legislation and the FRC Code as opposed to the 'advisory Board' framework operating within other parts of the public sector. NITHC's Board is therefore required to undertake its duties, functions and liabilities in accordance with the statutory requirements of Companies Legislation. Advisory Boards are not subject to these statutory requirements or compliance with the FRC Code. Further details are provided below under section '3. 5 of the Management Statement NITHC Board'.
- **Banking** - NITHC's banking arrangements provide for the management of cash in certain bank accounts held outside the 'pool' of bank accounts envisaged within MPMNI. Further details are provided under section 18 of the Financial Memorandum 'Banking Arrangements', and NITHC's Group Treasury Policy.
- **Insurance** - NITHC has insurance arrangements in place to manage the risks associated with the absence of Crown Immunity. NITHC uses commercial insurance policies covering public and employer's liability. This is in addition to the limited circumstances envisaged under MPMNI under which commercial insurance would be used (e.g. vehicles under the Road Traffic Acts). Further details are provided under section 15.2 of the Financial Memorandum 'Commercial Insurance'.
- **Taxation** – as a Company, NITHC is subject to the tax regimes in force by HM Revenue and Customs. Corporation tax paid by the company is a building block in determining the tariffs levied on customers and subsidies received by NITHC. The company therefore seeks to organise its tax arrangements in such a way as to legitimately mitigate the potential tax charge. MPMNI does not generally recommend the use of tax planning schemes for public sector bodies (not structured as companies) as apparent savings can only be made at the expense of other tax payers.

Appendix 7 Communication Protocol

In March 2011 the Department and NITHC established a communication protocol to ensure that the information which is submitted to the Department is of the highest standards. The current areas covered by the protocol (although this is not an exhaustive list) are as follows:-

- Revenue
- Capital
- Financial Planning
- Procurement,
- Human Resources
- Governance / Property
- Urgent Communication Matters (issues with political significance, MLA contacts, Committee for Regional Development enquires
- Operations (Bus / Rail Ops DE Contracts)
- Accounting Officer Assurance
- Operations (Safety incidents, Rail accidents, reporting to RAIB)
- Policy (IS/IT Strategy, Integrated Ticketing, Information Sharing)
- Public Transport Reform
- Co-ordination (General requests plus Assembly Questions etc)
- Policy (Park and Ride)
- Strategy (Regional Development Strategy, Regional Transportation Strategy)
- Delivery (Belfast on the Move , Rapid Transit)
- Regulation (EU Regulations and Directives)
- Regulation (Domestic and EU Railway Safety Authority)

An Annex to the protocol details the prime contacts and sub contacts between NITHC and the Department. The contact details will be reviewed and updated periodically.