

**MANAGEMENT STATEMENT /  
FINANCIAL MEMORANDUM  
THE OFFICE OF THE  
POLICE OMBUDSMAN FOR  
NORTHERN IRELAND**

**OCTOBER 2012**

# Management Statement

## 1. INTRODUCTION

### 1.1 This document

1.1.1 This *Management Statement* and *Financial Memorandum* (MS/FM) has been drawn up by the Department of Justice (DOJ) in consultation with the Office of the Police Ombudsman for Northern Ireland (the Office), New Cathedral Buildings, 11 Church Street, Belfast, BT1 1PG. The document is based on a model prepared by the Department of Finance and Personnel (DFP).

1.1.2 The terms and conditions set out in the combined *Management Statement* and *Financial Memorandum* have been supplemented by a Memorandum of Understanding which is included as Appendix A and may be further supplemented by guidelines or directions issued by the DOJ in respect of the exercise of any individual functions, powers and duties of the Office.

1.1.3 The Office is governed by the Police (Northern Ireland) Act 1998 and nothing contained in this Management Statement and Financial Memorandum or related Memorandum of Understanding can undermine the statutory remit of the Police Ombudsman.

1.1.4 A copy of the MS/FM for the Office should be given to the Police Ombudsman, Chief Executive and all senior Office executive staff and DoJ sponsor staff on appointment.

1.1.5 Subject to the legislation noted below, this *Management Statement* sets out the broad framework within which the Office will operate, in particular:

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

1.1.6 The associated *Financial Memorandum* sets out in greater detail certain aspects of the financial provisions which the Office shall observe. However, the *Management Statement* and *Financial Memorandum* do not convey any legal powers or responsibilities.

1.1.7 The document shall be periodically reviewed by the DOJ.

1.1.8 The Office, DOJ, or the Minister, may propose amendments to this document at any time. Any such proposals shall be considered in the light of evolving departmental policy aims, operational factors and the track record of the Office itself. The guiding principle shall be that the extent of flexibility and freedom given to the Office, in respect of its corporate governance and financial controls, shall reflect both the quality of its internal controls to achieve performance and its operational needs. The DOJ shall determine in agreement with the Office, 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 the Office, as appropriate. (The definition of "significant" will be determined by the DOJ in consultation with DFP.)

- 1.1.9 The *MS/FM* is approved by DFP Supply, and signed and dated by the Permanent Secretary of the DOJ and the Office's Chief Executive.
- 1.1.10 Any question regarding the interpretation of the document shall be resolved by the DOJ after consultation with the Office's Chief Executive and, as necessary, with DFP Supply.
- 1.1.11 Copies of this document and any subsequent substantive amendments shall be placed in the Library of the Assembly. (Copies shall also be made available to members of the public on the Office's website.)

## **1.2 Founding legislation; status**

- 1.2.1 The Police Ombudsman for Northern Ireland is established under the Police (Northern Ireland) Act 1998 as a corporation sole accountable to the Assembly, through the Minister of Justice for Northern Ireland. The Police Ombudsman is appointed by Royal Warrant for a term of seven years. The Police Ombudsman does not carry out his/her functions on behalf of the Crown. The role of the Police Ombudsman and the constitution of his/her Office are set out in Part 7 of and Schedule 3 to the Police (Northern Ireland) Act 1998.

## **1.3 The functions, duties and powers of the Office**

- 1.3.1 The Police (Northern Ireland) Act 1998 (as amended) gives the Police Ombudsman for Northern Ireland the following:

### **Principal Activities**

The Office of the Police Ombudsman for Northern Ireland provides an independent impartial police complaints system for the people and the police of Northern Ireland. It investigates complaints against the Police Service of Northern Ireland, the Belfast Harbour Police, the Larne Harbour Police, the Belfast International Airport Police and Ministry of Defence Police in Northern Ireland and the Serious Organised Crime Agency when its staff operates in this jurisdiction. The Office is also responsible for the investigation of criminal allegations made against staff of the UK Borders Agency whilst exercising the powers of constable in Northern Ireland.

### **Functions, duties and powers of the Police Ombudsman**

The Police (Northern Ireland) Act 1998 (as amended) directs the Police Ombudsman to:-

- exercise his powers in the way he thinks best calculated to secure
  - the efficiency, effectiveness and independence of the complaints system:
  - the confidence of the public and of members of the police force in that system
- observe all requirements as to confidentiality;
- receive complaints and other referred matters and to decide how to deal with them;
- investigate complaints, referred matters and matters called in for investigation by the Police Ombudsman;
- receive and record policy complaints and refer them to the Chief Constable;
- make recommendations to the Director of the Public Prosecution Service (PPS) for criminal prosecution;
- make recommendations and directions in respect of disciplinary action against police officers;
- notify the DOJ and Secretary of State in some circumstances, Northern Ireland Policing Board (NIPB) and the Chief Constable of the outcome of certain complaints, referred

- matters and any investigation which the Police Ombudsman initiates without a complaint; and
- report to the DOJ annually.

The Police (Northern Ireland) Act 2000 directs the Police Ombudsman to:

- carry out inquiries as directed by the DOJ or Secretary of state in some circumstances;
- supply statistical information to the NIPB.

The Police (Northern Ireland) Act 2003 directs the Police Ombudsman to:

- investigate a current practice or policy of the police if the practice or policy comes to his attention under the Police (NI) Act 1998, and he has reason to believe that it would be in the public interest to investigate the practice or policy.

## **1.4 Classification**

- 1.4.1 For policy/administrative purposes the Office is classified as an executive non-departmental public body.
- 1.4.2 For national accounts purposes the Office is classified to the central government sector.
- 1.4.3 References to the Office include (where they exist) all its subsidiaries and joint ventures that are classified to the public sector for national accounts purposes. If such a subsidiary or joint venture is created, there shall be a document setting out the arrangements between it and the Office (paragraphs 67 – 68 of the *Financial Memorandum refer*).

## **2. AIM[S], OBJECTIVES AND TARGETS**

### **2.1 Overall aim**

- 2.1.1 The overall aim of the Office, established by statute is as follows:  
To provide an independent impartial police complaints system for the people and police of Northern Ireland, which is effective, efficient and accountable and designed to secure the confidence of the public and police.

### **2.2 Objectives and key targets**

- 2.2.1 The DOJ determines the Office's performance framework in the light of the Department's wider strategic aims and current PSA objectives and targets (paragraph 1.1.4). The Minister will agree the objectives, key targets and performance measures within the Office's corporate and business planning process are consistent with the delivery of the Department's wider strategic aims. (Section 4 below);

## **3. RESPONSIBILITIES AND ACCOUNTABILITY**

### **3.1 The Minister**

- 3.1.1 The Minister is accountable to the Assembly for the activities and performance of the Office. His responsibilities include:
  - upholding the operational independence of the Office;

- approving the Office's strategic objectives and the policy and performance framework within which the Office will operate (as set out in this *Management Statement* and *Financial Memorandum*, the related *Memorandum of Understanding* and associated documents);
- keeping the Assembly informed about the Office's performance;
- approving the amount of grant-in-aid funds to be paid to the Office, and securing Assembly approval; and
- carrying out responsibilities specified in the Police (Northern Ireland) Act 1998 (as amended), including approving the terms and conditions of the Police Ombudsman and approval of terms and conditions of staff.

### **3.2 The Accounting Officer of the DOJ**

3.2.1 The Permanent Secretary, as the DOJ's principal Accounting Officer (the 'departmental Accounting Officer'), is responsible for the overall organisation, management and staffing of the DOJ and for ensuring that there is a high standard of financial management in the Department as a whole. The departmental Accounting Officer is accountable to the Assembly for the issue of any grant-in-aid to the Office. The departmental Accounting Officer designates the Chief Executive of the Office as the Office'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 of the DOJ shall ensure that:

- the Office's strategic aim(s) and objectives support the DOJ's wider strategic aim[s] and current PSA objectives and targets;
- the financial and other management controls applied by the DOJ to the Office are appropriate and sufficient to safeguard public funds and for ensuring that the Office's compliance with those controls is effectively monitored ("public funds" include not only any funds granted to the Office by the Assembly but also any other funds falling within the stewardship of the Office);
- the internal controls applied by the Office conform to the requirements of regularity, propriety and good financial management; and
- any grant-in-aid to the Office is within the ambit and the amount of the Request for Resources and that Assembly authority has been sought and given.

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

### **3.3 The sponsoring team in the Department**

3.3.1 Within the DOJ, Policing Policy and Strategy Division (PPSD) is the sponsoring team for the Office. 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 the Office, and the primary point of contact for the Office in dealing with the DOJ. The sponsoring team shall carry out its duties under the management of a senior officer, who shall have primary responsibility within the team for overseeing the activities of the Office.

3.3.2 The sponsoring team shall advise the Minister on:

- the appropriateness of the framework of objectives and targets for the Office in the light of the Department's wider strategic aim[s] and current PSA objectives and targets; and
- an appropriate budget for the Office in the light of the Department's overall public expenditure priorities;
- how well the Office is achieving its strategic objectives and whether it is delivering value for money.

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

***on performance and risk management -***

- monitor the Office's activities on a continuing basis through an adequate and timely flow of information from the Office on performance, budgeting, control, and risk management, including early sight of the Office's Statement on Internal Control;
- address in a timely manner any significant problems arising in the Office, whether financial or otherwise, making such interventions in the affairs of the Office as the DOJ judges necessary to address such problems; (such interventions will not include interventions in investigations);
- periodically carry out a risk assessment of the Office's activities to inform the DOJ's oversight of the Office; strengthen these arrangements if necessary; and amend the Management Statement and Financial Memorandum accordingly. The risk assessment shall take into account the nature of the Office'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 DOJ; and any other relevant matters;

***on communication with the Office -***

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

### **3.4 The Police Ombudsman**

3.4.1 The Police Ombudsman is established under the Police (Northern Ireland) Act 1998 as a corporation sole accountable to the Northern Ireland Assembly through the Minister of Justice. The Police Ombudsman is appointed by Royal Warrant for a term of seven years. The Office does not carry out its functions on behalf of the Crown. The role of the Police Ombudsman and the constitution of the Office are set out in detail in Schedule 3 to the Police (Northern Ireland) Act 1998.

Appointment of The Police Ombudsman is made in line with the Code of Practice issued by the Commissioner for Public Appointments Northern Ireland.

3.4.2 The Police Ombudsman has responsibility for establishing the overall strategic direction of the Office within the policy and resources framework determined by the sponsor Minister and Department and for ensuring that the Office fulfils the aim[s] and objectives approved by the Minister, and for promoting the efficient, economic and effective use of staff and other resources by the Office. To this end, and in pursuit of his wider responsibilities, the Police Ombudsman shall:

- constructively challenge the Office's executive team in their planning, target setting and delivery of performance;
- ensure that the DOJ is kept informed of any changes which are likely to impact on the strategic direction of the Office or on the attainability of its targets, and determine the steps needed to deal with such changes;
- ensure that any statutory or administrative requirements for the use of public funds are complied with; that he/she operates within the limits of his/her statutory authority and any delegated authority agreed with the DOJ, and in accordance with any other conditions relating to the use of public funds; and that, in reaching decisions, he/she takes into account all relevant guidance issued by DFP and the DOJ;
- ensure that he/she receives and reviews regular financial information concerning the management of the Office; is informed in a timely manner about any concerns about the activities of the Office; and provides positive assurance to the DOJ that appropriate action has been taken on such concerns;
- demonstrate high standards of corporate governance at all times, including using the independent audit committee (see paragraph 4.7) to help him/her to address the key financial and other risks facing the Office;
- appoint with the DOJ's approval a Chief Executive to the Office and, in consultation with the DOJ, set performance objectives and remuneration terms linked to these objectives for the Chief Executive, which give due weight to the proper management and use of public monies;
- comply at all times with the Cabinet Office's Guidance on Codes of Practice for Public Bodies that is adopted by the Office and with the rules and guidance relating to the use of public funds and to conflicts of interest;
- not misuse information gained in the course of his/her public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote his/her 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 DoJ's rules on the acceptance of gifts and hospitality, and of business appointments;
- act in good faith and in the best interests of the Office.
- ensure that the Office's policies and actions support the wider strategic policies of the Minister; and that the Office's affairs are conducted with probity;
- and in particular for ensuring that the Office fulfils the aim[s] and objectives approved by the Minister.

3.4.3 The Police Ombudsman has a particular leadership responsibility on the following matters:

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

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

### **3.5 The Chief Executive's role as Accounting Officer**

3.5.1 The Chief Executive of the Office is designated as the Office's Accounting Officer by the departmental Accounting Officer of the DOJ.

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

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

#### ***on planning and monitoring -***

- ensure that the Office's corporate and business plans are consistent with the Department's wider strategic aims and current PSA;
- establish, in agreement with the DOJ, the Office's corporate and business plans in support of the Department's wider strategic aim[s] and current PSA objectives and targets;
- inform the DOJ of the Office's progress in achieving its objectives and in demonstrating how resources are being used to achieve those objectives;
- ensure that timely forecasts and monitoring information on performance and finance are provided to the DOJ; that the DOJ is notified promptly if overspends or under spends are likely and that corrective action is taken; and that any significant problems, whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the DOJ in a timely fashion;

***on advising the Police Ombudsman -***

- advise the Police Ombudsman on the discharge of his/her responsibilities as set out in this document, in the founding legislation and in any other relevant instructions and guidance that may be issued from time to time by DFP or the DOJ;
- advise the Police Ombudsman on the Office's performance compared with its aim[s] and objectives;
- ensure that financial considerations are taken fully into account by the Police Ombudsman at all stages in reaching and executing his/her decisions, and that standard financial appraisal techniques are followed appropriately;
- take action in line with Section 3.8 of MPMNI if the Police Ombudsman is contemplating a course of action involving a transaction which the Chief Executive considers would infringe the requirements of propriety or regularity, or does not represent prudent or economical administration, efficiency or effectiveness;

***on managing risk and resources -***

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

***on accounting for the Office's activities -***

- sign the accounts and be responsible for ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any directions issued by the Minister, the DOJ, or DFP;
- sign a Statement of Accounting Officer's responsibilities, for inclusion in the annual report and accounts;
- sign a Statement on Internal Control regarding the Office's system of internal control, for inclusion in the annual report and accounts;
- ensure that effective procedures for handling complaints about the Office are established and made widely known within the Office;
- 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

DOJ and DFP – in particular, Chapter 3 of MPMNI and the Treasury document *Regularity and Propriety and Value for Money* (a copy of which the Chief Executive shall receive on appointment). Section IX of the *Financial Memorandum* refers to other key guidance;

- give evidence, normally with the Accounting Officer of the DOJ, if summoned before the Public Accounts Committee on the use and stewardship of public funds by the Office;
- ensure that an Equality Scheme is in place, reviewed and equality impact assessed as required by the Equality Commission and OFMDFM;
- ensure that Lifetime Opportunities is taken into account; and
- ensure that the requirements of the Data Protection Act 1998 and the Freedom of Information Act 2000 are complied with.

### **3.6 The Chief Executive's role as Consolidation Officer**

3.6.1 For the purposes of Whole of Government Accounts, the Chief Executive of the Office is normally appointed by DFP as the Office's Consolidation Officer.

3.6.2 As the Office's Consolidation Officer, the Chief Executive shall be personally responsible for preparing the consolidation information, which sets out the financial results and position of the Office; for arranging for its audit; and for sending the information and the audit report to the Principal Consolidation Officer nominated by DFP.

3.6.3 As Consolidation Officer, the Chief Executive shall comply with the requirements of the Office's Consolidation Officer Letter of Appointment as issued by DFP and shall, in particular:

- ensure that the Office 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 ["Dear Consolidation Officer" (DCO) and "Dear Consolidation Manager" (DCM) letters] issued by DFP on the form, manner and timetable for the delivery of such information.

### **3.7 Delegation of Chief Executive's duties**

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

### **3.8 The Chief Executive's role as Principal Officer for complaints of maladministration**

3.8.1 The Chief Executive is the Principal Officer for cases involving a complaint of maladministration against the Office. As the Principal Officer responsible, he shall ensure complaints of maladministration are properly addressed within the customer satisfaction policy of the Office.

### **3.9 Consulting Customers**

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

## **4. PLANNING, BUDGETING AND CONTROL**

### **4.1 The corporate plan**

- 4.1.1 Consistent with the timetable for the NI Executive's Budget process reviews, the Office shall submit to the DOJ a draft of the Office's corporate plan [normally] covering three years ahead. *[NOTE: The DOJ should agree a timeframe or specific dates for the submission and agreement of the corporate plan].* The Office shall have agreed with the DOJ the issues to be addressed in the plan and the timetable for its preparation.

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

- 4.1.3 The plan shall reflect the Office's statutory duties and, within those duties, the priorities set from time to time by the Minister. In particular, the plan shall contribute to the achievement of the Department's strategic aims and PSA objectives and targets.

- 4.1.4 The corporate plan shall set out:

- the Office's key objectives and associated key performance targets for the [three] forward years, and its strategy for achieving those objectives;
- a review of the Office's performance in the preceding financial year [together with comparable outturns for the previous [2-5] years], and an estimate of performance in the current year;
- alternative scenarios to take account of factors which may significantly affect the execution of the plan, but which cannot be accurately forecast;
- a forecast of expenditure and income, taking account of guidance on resource assumptions and policies provided by the DOJ at the beginning of the planning round. These forecasts should represent the Office's best estimate of all its available income not just any grant or grant-in-aid; and
- other matters as agreed between the DOJ and the Office.

- 4.1.5 The main elements of the plan, including the key performance targets, shall be agreed between the DOJ and the Office in the light of the DOJ's decisions on policy and resources taken in the context of the Executive's wider policy and spending priorities and decisions and having regard to the Police Ombudsman's statutory duties and independence.

### **4.2 The business plan**

- 4.2.1 Each year of the corporate plan, amplified as necessary, shall form the basis of the business plan for the relevant forthcoming year. *[NOTE: The DOJ should agree a timeframe or specific dates for the submission and agreement of 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 readily be identified by the DOJ.

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

4.2.3 Corporate and business plans will be formally approved by the Minister on the basis that they support the Department's aims and objectives.

### **4.3 Publication of plans**

4.3.1 The corporate and business plans shall be published on the Office's website and made available to staff.

### **4.4 Reporting performance to the DOJ**

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

4.4.2 The Office shall take the initiative in informing the DOJ of changes in external conditions, which make the achievement of objectives more or less difficult, or which may require a change to the budget or objectives as set out in the corporate or business plans.

4.4.3 The Office's performance including the achievement of key objectives, shall be reported to and formally reviewed by the Department through the Quarterly Governance Meetings. The Minister shall meet the Police Ombudsman and Chief Executive formally each year to discuss the Office's performance, its current and future activities, and any policy developments relevant to those activities.

4.4.4 The Office's performance against key targets shall be reported in the Office's annual report and accounts [see Section 5.1 below]. [Arrangements for the validation of reported performance will be agreed between the Office and the sponsoring department.]

### **4.5 Budgeting procedures**

4.5.1 The Office's budgeting procedures are set out in the *Financial Memorandum*.

### **4.6 Internal audit**

4.6.1 The Office shall establish and maintain arrangements for internal audit in accordance with the Government Internal Audit Standards (GIAS).

4.6.2 The DOJ has determined that the arrangements for Internal Audit take account of DAO (DFP) 01/10 Internal Audit Arrangements. In particular the Department will:

- *have input to Office's planned internal audit coverage;*
- *ensure that arrangements are in place for the receipt of audit reports, assignment reports, the Head of Internal Audit's annual report and opinion etc;*

- *ensure that there are arrangements for the completion of Internal and External Assessments of the Office's internal audit function against GIAS including advising that the DOJ reserves a right of access to carry out its own independent reviews of internal audit in the Office;*
- *ensure that a right of access to all documents prepared by the Office's internal auditor is maintained, including where the service is contracted out. Where the Office's audit service is contracted out the Office should stipulate this requirement when tendering for the services.*

4.6.3 The Office shall consult the DOJ to ensure that the latter is satisfied with the competence and qualifications of the Head of Internal Audit and that the requirements for approving the appointment are in accordance with GIAS and relevant DFP guidance.

4.6.4 The DOJ will review the Office's terms of reference for internal audit service provision. The Office shall notify the DOJ of any subsequent changes to internal audit's terms of reference.

#### **4.7 Audit Committee**

4.7.1 The Office shall maintain an independent audit committee in accordance with the Cabinet Office's *Guidance on Codes of Practice for Public Bodies* (FD (DFP) 03/06 refers) and in line with the Audit Committee Handbook DAO (DFP) 07/07.

4.7.2 The DOJ has determined that it shall:-

- *ensure attendance by departmental representative at Office's Audit Committee meetings;*
- *be provided with the Audit Committee papers and minutes;*

4.7.3 The DOJ will review the Office's audit committee terms of reference. The Office shall notify the DOJ of any subsequent changes to the audit committee's terms of reference.

#### **4.8 Fraud**

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

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

#### **4.9 Additional Departmental access to the Office**

4.9.1 In addition to the right of access referred to in paragraph 4.6.2 above, the DOJ shall have a right of access to all the Office's records and personnel for purposes such as sponsorship audits and operational investigations (for the avoidance of doubt this does not mean that the Department has any right of access to records and personnel in respect of the consideration of decisions or the investigatory functions of the Office). (See also paragraphs 3.4.4 and 4.7.2 access to Audit Committee minutes.)

## **5. EXTERNAL ACCOUNTABILITY**

### **5.1 The annual report and accounts**

- 5.1.1 The Office shall publish as a single document an annual report of its activities together with its audited annual accounts not later than three months after the end of the financial year. The report shall also cover the activities of any corporate bodies under the control of the Office. A draft of the report shall be submitted to the DOJ two weeks before the proposed publication date although it is expected that the department and the Office will have had extensive pre publication discussion on the content of the report prior to formal submission to the department
- 5.1.2 The report and accounts shall comply with the most recent version of the Government Financial Reporting Manual (FReM) issued by DFP. (NOTE: This guidance is updated every year). The accounts shall be prepared in accordance with any relevant statutes and the specific Accounts Direction issued by the DOJ.
- 5.1.3 The report and accounts shall outline the Office's main activities and performance during the previous financial year and set out in summary form the Office's forward plans. Information on performance against key financial targets shall be included in the notes to the accounts, and shall therefore be within the scope of the audit.
- 5.1.4 The report and accounts shall be laid before the Assembly and made available, in accordance with the guidance on the procedures for presenting and laying the combined annual report and accounts as prescribed in the relevant FD letter issued by DFP.
- 5.1.5 Due to the potential accounting and budgetary implications, any changes to accounting policies or significant estimation techniques underpinning the preparation of annual accounts, requires the prior written approval of the DOJ.

### **5.2 External Audit**

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

### **5.3 VFM examinations**

- 5.3.1 The C&AG may carry out examinations into the economy, efficiency and effectiveness with which the Office has used its resources in discharging its functions. For the purpose of these examinations the C&AG has statutory access to documents as provided for under Articles 3 and 4 of the Audit and Accountability (Northern Ireland) Order 2003. Where making payment of a grant, or drawing up a contract, the Office should ensure that it includes a clause which makes the grant or contract conditional upon the recipient or contractor providing access to the C&AG in relation to documents relevant to the transaction. Where subcontractors are likely to be involved, it should also be made clear that the requirements extend to them.

## **6. STAFF MANAGEMENT**

### **6.1 General**

- 6.1.1. Within the arrangements approved by the Minister and DFP the Office shall have responsibility for the recruitment, retention and motivation of its staff. To this end the Office 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 the Office'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 the Office's objectives;
- proper consultation with staff takes place on key issues affecting them;
- adequate grievance and disciplinary procedures are in place;
- whistle blowing procedures consistent with the Public Interest (Northern Ireland) Order 2003 are in place; and
- a code of conduct for staff is in place based on Annex 5A of Public Bodies: A Guide for NI Departments (available at [www.afmdni.gov.uk](http://www.afmdni.gov.uk)).

- 6.1.2 The Office shall establish arrangements for compliance with all relevant Health and Safety legislation including the development of appropriate policies, the appointment of competent persons to manage and control risk and ensure appropriate training for staff. Any major incidents shall be reported

## **7. REVIEWING THE ROLE OF THE OFFICE**

- 7.1 The Office shall be reviewed periodically, in accordance with the business needs of the DOJ and the Office. Reference should be made to Chapter 9 of the Public Bodies: a Guide for

Northern Ireland Departments.

7.2 In the event of the Office being wound up the DOJ shall, in good time:

- ensure that procedures are in place in the Office to gain independent assurance on key transactions, financial commitments, cash flows and other information needed to handle the wind-up effectively and to maintain the momentum of work that is to be inherited by any residuary body;
- specify the basis for the valuation and accounting treatment of the Office assets and liabilities at wind-up, distinguishing between actual and potential assets and liabilities, in order to provide a clear basis for assessing the Office's financial legacy; and

7.3 The Office shall provide the DOJ with full details of all agreements where the Office or its successors have a right to share in the financial gains of developers. It should also pass to the department details of any other forms of claw back due to the Office.

# Financial Memorandum

## I. INTRODUCTION

- 1 This *Financial Memorandum* sets out certain aspects of the financial framework within which the Office of the Police Ombudsman for Northern Ireland is required to operate.
- 2 The terms and conditions set out in the combined *Management Statement* and *Financial Memorandum* may be supplemented by guidelines or directions issued by the DOJ in respect of the exercise of any individual functions, powers and duties of the Office.
- 3 "Subject to the duties, responsibilities and obligations imposed by the Police (Northern Ireland) Act 1998 as amended, the Office shall satisfy the conditions and requirements set out in the combined document, together with such other conditions as the sponsor Department/Minister may from time to time impose.

## II. THE OFFICE'S INCOME AND EXPENDITURE - GENERAL

### The Departmental Expenditure Limit (DEL)

- 4 The Office's current and capital expenditure form part of the DOJ's Resource Departmental Expenditure Limits (DEL) and Capital DEL respectively.

### Expenditure not proposed in the budget

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

### Procurement

- 6 The Office's procurement policies shall reflect the public procurement policy adopted by the Northern Ireland Executive in May 2002 (refreshed May 2009); Procurement Guidance Notes; other guidelines or guidance issued by Central Procurement Directorate (CPD) and the Procurement Board guidance letter; and FD 03/12. The Office's procurement activity should be carried out by means of the Departments Service Level Agreement with CPD – this should ensure compliance with relevant UK, EU and international procurement rules.
- 7 Governance information, in respect of procurement activity is to be provided on a regular basis to the DOJ, as requested.

### Competition

- 8 Contracts shall be awarded on a competitive basis and tenders accepted from suppliers who provide best value for money overall.
- 9 Single tender action (STA) or Direct Award Contract (DAC) is the process where a contract is awarded to an economic operator (i.e. supplier, contractor) without competition. In light of their exceptional nature, STA's or DAC's have specific approval limits. The Office will seek

approval from the Departmental Accounting Officer for any STA or DAC in excess of delegated limits. It is advisable that the Office seek an assurance from CPD, or their legal adviser, to provide assurance for the Accounting Officer that the use of STA's or DAC's are legitimate in a particular case. The Office will seek approval from the Departmental Accounting Officer for all external consultancy STA's DAC's, in line with DFP Guidance. Further information is published in Procurement Guidance Note 03/11 on the 'Award of Contracts without a Competition'. [www.cpdni.gov.uk/index/guidance-for-purchasers/guidance-notes.htm](http://www.cpdni.gov.uk/index/guidance-for-purchasers/guidance-notes.htm)]

- 10 Details of contracts for which competitive tendering was not employed shall be provided to the DOJ at the end of each financial year.

### **Best value for money**

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

### **Timeliness in paying bills**

- 12 The Office shall collect receipts and pay all matured and properly authorised invoices in accordance with Chapter 4.5 and 4.6 of *Managing Public Money Northern Ireland* and any guidance issued by DFP or the Department of Justice.

### **Novel, contentious or repercussive proposals**

- 13 The Office shall obtain the approval of the DOJ before:
- incurring any expenditure for any purpose which is or might be considered novel or contentious, or which has or could have significant future cost implications, including on staff benefits;
  - making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the Department of Justice;
  - 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.

## **Risk management/Fraud**

- 14 The Office shall ensure that the risks it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and shall develop a risk management strategy, in accordance with the Treasury guidance *Management of Risk: A Strategic Overview (The "Orange Book")*.
- 15 The Office shall take proportionate and appropriate steps to assess the financial and economic standing of any organisation or other body with which it intends to enter into a contract or to which it intends to give grant or grant-in-aid.
- 16 The Office shall adopt and implement policies and practices to safeguard itself against fraud and theft, in line with DFP's guide *Managing the Risk of Fraud*.
- 17 All cases of attempted, suspected or proven fraud shall be reported to the NIAO and to DOJ who shall report it to DFP (see section 4.8 in the Management Statement) as soon as they are discovered, irrespective of the amount involved.

## **Stewardship Reporting**

- 18 Stewardship reporting enables the Departmental Accounting Officer to satisfy him/herself that all prescribed management practices are being adhered to throughout the Department, the Agencies and Arms Length Bodies. The Chief Executive as Accounting Officer shall complete and sign a stewardship report twice yearly or when requested, to tie in with the Department's own assurance processes and return to the DOJ.

## **Wider markets**

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

## **Fees and charges**

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

### **III. THE OFFICE'S INCOME**

#### **Grant-in-aid**

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

#### **Fines and taxes as receipts**

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

#### **Receipts from sale of goods or services**

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

#### **Interest earned**

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

#### **Unforecast changes in in-year income**

- 28 If the negative DEL income realised or expected to be realised in-year is less than estimated, the Office shall, unless otherwise agreed with the DOJ, ensure a corresponding reduction in its

gross expenditure so that the authorised provision is not exceeded. [NOTE: For example, if the Office is allocated £100 resource DEL provision by DOJ and expects to receive £10 of negative DEL income, it may plan to spend a total of £110. If income (on an accruals basis) turns out to be only £5 the Office will need to reduce its expenditure to £105 to avoid breaching its budget. If the Office still spends £110 the sponsor Department will need to find £5 of savings from elsewhere within its total DEL to offset this overspend.]

- 29 If the negative DEL income realised or expected to be realised in the year is more than estimated, the Office may apply to the DOJ to retain the excess income for specified additional expenditure within the current financial year without an offsetting reduction to grant-in-aid. The DOJ shall consider such applications, taking account of competing demands for resources, and will consult with DFP in relation to any significant amounts. If an application is refused, any grant-in-aid shall be commensurately reduced or the excess receipts shall be required to be surrendered to the NI Consolidated Fund via the DOJ.

### **Build-up and draw-down of deposits**

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

### **Proceeds from disposal of assets**

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

### **Gifts and bequests received**

- 33 The Office will comply with the relevant Departmental Gifts & Hospitality Policy. Gifts, bequests or similar donations may be capitalised at fair value on receipt and must be notified to the DOJ. [NOTE: A release from the donated assets reserve should offset depreciation in the operating cost statement. The latest FReM requirements should be applied.]
- 34 Before accepting a gift, bequest, or similar donation, the Office shall consider if there are any associated costs in doing so or any conflicts of interests arising. The Office shall keep a written record of any such gifts, bequests and donations and of their estimated value and whether they are disposed of or retained.

### **Borrowing**

- 35 The Office shall observe the principles set out in Chapter 5 and the associated annexes of MPMNI when undertaking borrowing of any kind. The Office shall seek the approval of the DOJ and, where appropriate, DFP, to ensure that it has any necessary authority and budgetary cover for any borrowing or the expenditure financed by such borrowing.

#### **IV. EXPENDITURE ON STAFF**

##### **Staff costs**

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

##### **Pay and conditions of service**

- 37 The Police Ombudsman may, with the approval of the DOJ and DFP as to numbers, remuneration and other terms and conditions of service, employ such persons as he thinks fit to enable him to carry out his functions. The Police Ombudsman will remunerate staff within the general pay structure of the NICS with the exception being on call and team leader allowances paid to staff. Which were independently established by the Police Ombudsman to reflect the additional responsibilities of these posts unique to the Office of the Police Ombudsman. Any changes to these allowances will be agreed within the pay remit process.
- 38 Current terms and conditions of staff of the Office are to be aligned to those set out in the NICS Handbook.
- 39 The Police Ombudsman may enter into arrangements to engage police officers for a period of temporary service (secondment) with the Police Ombudsman or to have other assistance provided by persons employed in the Civil Service, having due regard to operational necessity, value for money and ensuring expenditure is covered within available resources..
- 40 The Office may from time to time engage such other temporary staffing resource as is necessary to ensure its effective operations having due regard to operational necessity, value for money and ensuring expenditure is covered within available resources.
- 41 Annual pay increases of Office's staff must be in accordance with the annual FD letter on Pay Remit Approval Process and Guidance issued by DFP. Therefore, all proposed pay awards must have prior approval of the Department of Justice and the Minister for Finance before implementation.
- 42 Civil Service terms and conditions of service apply to the rates of pay and non-pay allowances paid to the Office's staff and to any other party entitled to payment in respect of travelling expenses or other allowances. Payment shall be made in accordance with the Civil Service Management Code except where prior approval has been given by the Department to vary such rates.
- 43 The Office shall operate performance in line with practice within NICS.
- 44 The Office shall comply with the EU directive on contract workers [Fixed Term Employees Regulations (Prevention of Less Favourable Treatment)].

##### **Pensions; redundancy/compensation**

- 45 The Office staff shall normally be eligible for a pension provided by membership of the Principal Civil Service Pension Scheme (PCSPS(NI))

- 46 Staff may opt out of the occupational pension scheme provided by the Office and are entitled to a (PCSPS (NI) partnership pension which is a stakeholder pension.
- 47 Any proposal by the Office to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the approval of the DOJ and DFP. Proposals on severance payments must comply with DAO (DFP) 17/05. Where the PCSPS(NI) is the relevant pension scheme, the Office must conform with the procedures for early retirement/severance which apply to the main Department and ensure that the level of benefits are the standard applicable under the Civil Service Compensation Scheme (Northern Ireland) (CSCS(NI)) rules. The DOJ is responsible for ensuring that the Office does this.
- 48 The Office is responsible for ensuring that they continue to meet the criteria for membership of the PCSPS (NI), where this is the pension scheme applicable and report this on an annual basis to the DOJ.

## V. NON-STAFF EXPENDITURE

### Economic appraisal

- 49 The Office is required to apply the principles of economic appraisal, with appropriate and proportionate effort, to all decisions and proposals concerning spending or saving public money, including European Union (EU) funds, and any other decisions or proposals that involve changes in the use of public resources. For example, appraisal must be applied irrespective of whether the relevant public expenditure or resources:
- a. involve capital or current spending, or both;
  - b. are large or small;
  - c. Are above or below delegated limits (see Appendix B).
- 50 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.
- 51 General guidance on economic appraisal that apply to Office can be found in:
- DFP's on-line guide *The Northern Ireland Guide to Expenditure Appraisal and Evaluation* ("NIGEAE", 2009). See <http://www.dfpni.gov.uk/eag>
  - The HM Treasury Guide, *the Green Book: Appraisal and Evaluation in Central Government* (2003).

### Capital expenditure

- 52 Subject to being above an agreed capitalisation threshold, all expenditure on the acquisition or creation of fixed assets shall be capitalised on an accruals basis in accordance with

relevant accounting standards. Expenditure to be capitalised shall normally include the (a) acquisition, reclamation or laying out of land; (b) acquisition, construction, preparation or replacement of buildings and other structures or their associated fixtures and fittings; and (c) acquisition, installation or replacement of movable or fixed plant, machinery, vehicles and vessels.

- 53 Proposals for large-scale individual capital projects or acquisitions will normally be considered within the Office's corporate and business planning process. Subject to paragraph 55, applications for approval within the corporate/business plan by the DOJ and, DFP if necessary, shall be supported by formal notification that the proposed project or purchase has been examined and duly authorised by the Police Ombudsman. Regular reports on the progress of projects shall be submitted to the DOJ.
- 54 Approval of the corporate/business plan does not obviate the Office's responsibility to abide by the economic appraisal process.
- 55 Within its approved overall resources limit the Office shall, as indicated in Appendix D on delegations, have delegated authority to spend up to £100k on any individual capital project or acquisition. Beyond that delegated limit, the DOJ's and where necessary, DFP's prior authority must be obtained before expenditure on an individual project or acquisition is incurred.

#### **Transfer of funds within budgets**

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

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

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

## **Grant or loan schemes**

- 58 Unless covered by a delegated authority, all proposals to make a grant or loan to a third party, whether one-off or under a scheme, together with the terms and conditions under which such grant or loan is made shall be subject to prior approval by the DOJ, and where necessary DFP. If grants or loans are to be made under a continuing scheme, statutory authority is likely to be required.
- 59 The terms and conditions of a grant or loan to a third party shall include a requirement on the receiving organisation to prepare accounts and to ensure that its books and records in relation to the grant or loan are readily available for inspection by the Office the DOJ and the C&AG.
- 60 See also below under the heading *Recovery of grant-financed assets* (paragraphs 82 - 84).

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

- 61 Proposals for making gifts or other special payments (including issuing write-offs) must comply with the Office's policy on the acceptance of Gifts and Hospitality. Those outside the delegated limits set out in the Appendix B of this document is must have the prior approval of the Department of Justice and where necessary DFP.
- 62 Losses shall not be written off until all reasonable attempts to make a recovery have been made and proved unsuccessful.
- 63 Gifts by management to staff are subject to the requirements of DAO (DFP) 05/03 and DAO (DFP) 10/06.

## **Leasing**

- 64 Prior Departmental approval must be secured for all property and finance leases. The Office must have capital DEL provision for finance leases and other transactions which are, in substance, borrowing (paragraphs 35 above).
- 65 Before entering into any lease (including an operating lease) the Office shall demonstrate that the lease offers better value for money than purchase.

## **Public/Private Partnerships**

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

## **Subsidiary companies and joint ventures**

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

## **Financial investments**

- 70 The Office shall not make any investments in traded financial instruments without the prior written approval of the Department of Justice, and where appropriate DFP, nor shall it build up cash balances or net assets in excess of what is required for operational purposes. *[Unless specifically provided for:]* Funds held in bank accounts or as financial investments may be a factor for consideration when grant-in aid is determined. Equity shares in ventures which further the objectives of the Office shall equally be subject to Departmental and DFP approval unless covered by a specific delegation.

## **Unconventional financing**

- 71 The Office shall not enter into any unconventional financing arrangement without the approval of the Department of Justice and DFP.

## **Commercial insurance**

- 72 The Office shall not take out any insurance without the prior approval of the DOJ and DFP, other than third party insurance required by the Road Traffic (NI) Order 1981 (as amended), buildings insurance and any other insurance which is a statutory obligation or which is permitted under Annex 4.5 of MPMNI.
- 73 In the case of a major loss or third-party claim the Office shall liaise with the DOJ about the circumstances in which an appropriate addition to budget out of the DOJ's funds and/or

adjustment to the Office's targets might be considered. The DOJ will liaise with DFP Supply where required in such cases.

[A Certificate of Exemption for Employer's Liability Insurance has been issued to the Office.]

### **Payment/Credit Cards**

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

### **Hospitality**

- 75 The Office, in consultation with the Department of Justice, shall ensure that a comprehensive set of guidelines on the provision of hospitality is in place. Reference should be made to DAO (DFP) 10/06 Revised.

### **Use of Consultants**

- 76 The Office shall adhere to the guidance issued by DFP, as well as any produced by the DOJ in relation to the Use of Consultants, including adherence to the delegated limits set out in Appendix D.
- 77 The Office will provide the DOJ with an annual statement on the status of all consultancies completed and/or started in each financial year.
- 78 Care should be taken to avoid actual, potential, or perceived conflicts of interest when employing consultants.

## **VI. MANAGEMENT AND DISPOSAL OF FIXED ASSETS**

### **Register of assets**

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

### **Disposal of assets**

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

### **Recovery of grant-financed assets**

- 82 Where the Office has financed expenditure on capital assets by a third party, the Office shall set conditions and make appropriate arrangements to ensure that any such assets are not disposed of by the third party without the Office's prior consent.

83 The Office shall therefore ensure that such conditions and arrangements are sufficient to secure the repayment of the NI Consolidated Fund's due share of the proceeds of the sale, in order that funds may be surrendered to the DOJ.

84 The Office shall ensure that if the assets created by grants made by the Office cease to be used by the recipient of the grant for the intended purpose, a proper proportion of the value of the asset shall be repaid to the Office for surrender to the DOJ. The amounts recoverable under the procedures in paragraphs 82-83 above shall be calculated by reference to the best possible value of the asset and in proportion to the NI Consolidated Fund's original investment(s) in the asset.

## **VII. BUDGETING PROCEDURES**

### **Setting the annual budget**

85 Each year, in the light of decisions by the DOJ on the Office's updated draft corporate plan (Section 4.1 of the *Management Statement*), the DOJ will send to the Office:

- a formal statement of the annual budgetary provision allocated by the DOJ in the light of competing priorities across the DOJ and of any forecast income approved by the DOJ;
- Statement of any planned change in policies affecting the Office.

86 The Office's approved annual business plan will take account both of its approved funding provision and of any forecast receipts, and will include a budget of estimated payments and receipts together with a profile of expected expenditure and of draw-down of any Departmental funding and/or other income over the year. These elements will form part of the approved business plan for the year in question (Section 4.1 of the *Management Statement*.)

87 Any grant-in-aid provided by the DOJ for the year in question will be voted in the Department of Justice's Estimate and will be subject to Assembly control.

### **General conditions for authority to spend**

88 Once the Office's budget has been approved by the DOJ [and subject to any restrictions imposed by Statute/the Minister /this MSFM], the Office shall have authority to incur expenditure approved in the budget without further reference to the Department, on the following conditions:

- The Office shall comply with the delegations set out in Appendix D of this document. These delegations shall not be altered without the prior agreement of the Department of Justice and DFP;
- the Office shall comply with the conditions set out in paragraph 13 above regarding novel, contentious or repercussive proposals;
- inclusion of any planned and approved expenditure in the Office budget shall not remove the need to seek formal Departmental [and where necessary, DFP] approval where such proposed expenditure is above the delegated limits set out in Appendix D or is for new schemes not previously agreed; and
- the Office shall provide the Department of Justice with such information about its operations, performance individual projects or other expenditure as the DOJ may reasonably require (see paragraph 90 below); and
- The Office shall comply with NI Procurement Policy and carry out procurement via CPD if the contract value is greater than the delegated limit.

## **Providing monitoring information to the Department of Justice**

89 The Office shall provide the DOJ, as a minimum, information on a monthly basis which will enable the satisfactory monitoring by the Department of Justice of:

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

## **VIII. BANKING**

### **Banking arrangements**

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

91 He/she shall therefore ensure that:

- the Office is part of the departmental banking pool;
- these arrangements are suitably structured and represent value-for-money, and are reviewed at least every two years, with a comprehensive review, usually leading to competitive tendering, at least every three to five years;
- sufficient information about banking arrangements is supplied to the DOJ's Accounting Officer to enable the latter to satisfy his/her own responsibilities (Section 3.2 of the *Management Statement*);
- the Office's banking arrangements shall be kept separate and distinct from those of any other person or organisation; and
- Adequate records are maintained of payments and receipts and adequate facilities are available for the secure storage of cash.

## **IX. COMPLIANCE WITH INSTRUCTIONS AND GUIDANCE**

### **Relevant documents**

92 The Office shall comply with the following general guidance documents:

- Both the *Financial Memorandum* and the *Management Statement*;
- *Managing Public Money Northern Ireland (MPMNI)*;
- *Public Bodies - a Guide for NI Departments* issued by DFP;

- *Government Internal Audit Standards*, issued by DFP;
- The document *Managing the Risk of Fraud* issued by DFP;
- The Treasury document *The Government Financial Reporting Manual (FReM)* issued by DFP;
- Relevant DFP *Dear Accounting Officer* and *Finance Director* letters;
- Relevant *Dear Consolidation Officer* and *Dear Consolidation Manager* letters issued by DFP;
- *Regularity, Propriety and Value for Money*, issued by Treasury;
- The *Consolidation Officer Letter of Appointment*, issued by DFP;
- Other relevant instructions and guidance issued by the central Departments (DFP/OFMDFM) including *Procurement Board* and *CPD Guidance*;
- Specific instructions and guidance issued by the DOJ;
- Recommendations made by the *Public Accounts Committee*, or by other Assembly authority, which have been accepted by the Government and which are relevant to the Office.

**X. REVIEW OF FINANCIAL MEMORANDUM**

- 93 The Office shall be reviewed periodically. The Management Statement and Financial Memorandum will normally be reviewed at least every five years or following the review of the Office's functions. Reference should be made to Chapter 9 of the *Public Bodies: a Guide for Northern Ireland Departments*.
- 94 DFP Supply will be consulted on any significant variation proposed to the *Management Statement* and *Financial Memorandum*.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**On behalf of the Office**

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**On behalf of the Office**

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**On behalf of the Department**

**MEMORANDUM OF UNDERSTANDING**  
**‘Rules of Engagement’**

**Parties**

- **The Office of the Police Ombudsman for Northern Ireland (the Office)**
- **The Department of Justice (DOJ) [Sponsor Department]**

**For the purposes of this MOU:**

- **the Sponsor Division refers to Policing Policy and Strategy Division, and;**
- **the Sponsor Branch refers to Legacy Unit**

**Introduction**

1. This Memorandum of Understanding (MOU) has been drawn up by the Department of Justice (DOJ) in consultation with the Office of the Police Ombudsman for Northern Ireland (the Office).

2. This MOU has been devised to establish an operating protocol between DOJ and the Office which recognises the operational independence of the Office but still satisfies the rules of accountability and oversight for the efficient and effective use of public resources. This MOU sits alongside the Management Statement and Financial Memorandum<sup>1</sup> (MSFM). It informs and underpins the MSFM and is intended to set out in more detail the practical, day-to-day handling arrangements as well as reinforcing where respective responsibilities lie between the Office and DOJ.

**Arrangements/Responsibilities**

Corporate Governance and Operational Autonomy

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<sup>1</sup> the formal document which defines/articulates the relationship between an arms length body and its sponsor department

3. Good Corporate Governance is about the Minister and the Department securing an appropriate and effective level of oversight of an Arm's Length Body funded by public money so that he or she can give assurance to the Assembly that the body is fulfilling its statutory obligations and meeting the business objectives it has been funded to deliver.

4. Good corporate governance ensures a balance between proper oversight and the preservation of the operational independence of the organisation.

5. In practice, operational independence for the Office means that the Police Ombudsman is solely responsible for the investigation of complaints against the police, and for the investigation of other matters referred by the DOJ, the Policing Board and the Chief Constable, or in respect of matters that are considered by the Ombudsman to be in the public interest.

6. As such DOJ will:

- ensure robust and proportionate governance arrangements are in place for the Office ;
- exercise its governance responsibilities in such a way as to uphold the operational independence of the Office;
- work with the Office to develop and agree policy and legislative changes to ensure the Office has the best operating model. in upholding the operational independence of the Office the DOJ does not have any responsibility for decision-making in relation to the investigation of complaints referred to the Police Ombudsman.

7. The DOJ does not have any role or remit regarding Police Ombudsman investigations and findings and as such will not limit, influence or comment on what the Office does in any way during the investigation process nor can it comment on matters which would properly fall to the courts or other organisations such as the PPS.

8. The DOJ does not have any role or remit to change or influence the decisions of the Ombudsman in the investigation of a complaint, or the outcome of an investigation. In relation to the conclusion of an investigation the decision of the Police Ombudsman is final and as such the DOJ will not limit, influence or comment on the decision of the Police Ombudsman or the outcome of an investigation.

9. The DOJ may seek information about investigations in order to brief the Minister appropriately and to respond to correspondence regarding Police Ombudsman investigations. The information may include things like; current position, progress, status of an investigation and an assessment as to whether or when it is likely to reach a clear conclusion. This information is purely for the purpose of providing factually accurate and timely advice to the Minister or senior officials and the level of information required would depend on the nature of correspondence/meeting/event etc that the DOJ is dealing with. No information shall be provided to any individual or organisation as a result of a request for information, including any requests received by the Department under the Freedom of Information or Data Protection Acts without consulting the Police Ombudsman prior to release. However, the final decision regarding the release of this information under the FOI and/or DP Act remains with the department as it 'holds' the information for the purposes of the FOI Act and are the Data Controller under the DP Act 1998.

10. The DOJ would not assume right of access or seek information on things such as; what an investigation has uncovered, emerging conclusions or recommendations and/or intelligence material which informs an investigation.

### Complaints and Challenges

11. If a complainant is dissatisfied with the outcome of a Police Ombudsman investigation it is open to them to pursue the matter further by way of judicial review; the DOJ only has a role if a complaint against the Police Ombudsman is a complaint of maladministration.

12. A complaint of maladministration is considered by the DOJ only if it relates to the exercise of the Police Ombudsman's administrative functions. A complaint against the Police Ombudsman is defined as; an expression of dissatisfaction about the Office, the manner by which it has dealt with a complaint against police, the service provided by the Office or poor or inefficient management or administration.

### Sharing/Handling of Information

#### *Information*

13. 'Information' shall be taken to include correspondence such as:
- documents and records held on a computer or other storage medium;
  - press releases to be issued by either party of this MOU;
  - Investigative reports and complaints of maladministration, and;
  - Assembly questions and requests for information under the Freedom of Information Act 2000 (FOI)

#### *Markings*

14. 'Confidential and/or Sensitive Information' for the purposes of this MOU, means any material bearing a 'restricted or higher' marking.

#### *Timing*

15. All information requests sought by either party of this MOU will be provided to meet any specific deadlines or as soon as is practicable in the interests of affording sufficient time in which to determine a response.

*Reports/Publications*

16. Where significant reports and/or information are due to be published the Police Ombudsman will use his discretion to determine whether the report should be provided to the DOJ on a confidential basis in advance of publication. In such circumstances sufficient time would be allowed to enable the Minister to be briefed on the report findings. The DOJ will only be briefed after the Ombudsman has concluded his investigation i.e. on the basis of a final report.

Planning, Performance and Prioritisation

17. To ensure the Office's objectives, key targets and performance measures are consistent with the delivery of the Department's wider strategic aims, DOJ and the Office will work co-operatively and in a timely manner in the corporate and business planning process to ensure that the common/shared objectives of both organisations are accurately reflected in the Office's corporate plan. The 'approval' role of the DOJ Minister set out in the MSFM ensures the DOJ's sponsorship functions perform effectively; it will not impinge on the operational independence of the Police Ombudsman, thus safeguarding accountability.

18. As outlined in the MSFM the Corporate and Business plans will be formally approved by the Minister on the basis that:

- they fully reflect the Ombudsman's statutory obligations, and;
- they support the DOJ's aims and objectives.

19. The only grounds upon which the Minister/DOJ would withhold approval of a Corporate and/or Business Plan would be on the basis that:

- the plan insufficiently reflects the extent of the Ombudsman's statutory obligations, or;
- the Office's objectives were inconsistent with the DOJ's aims and objectives.

20. The DOJ requires assurance that the Office has robust prioritisation procedures in place and as such can seek an account of their performance throughout the reporting period in respect of historic investigations; it will not however seek to change or influence an agreed prioritisation matrix.

### Communication

21. As a matter of course, correspondence will be copied to the Chief Executive, except where it is clearly unnecessary.

22. The Minister will meet with the Ombudsman and Chief Executive at least annually to discuss current issues and progress.

23. The Ombudsman and Chief Executive will engage with the Director and Deputy Director of the sponsoring Directorate on matters of particular public policy importance or controversy.

24. The Permanent Secretary may seek input from the Chief Executive as Accounting Officer and will expect full information in that capacity to be provided.

25. In circumstances where requests for urgent ministerial and assembly business is sought by the DOJ, the request may be directed in the first instance to the appropriate point of contact within the Office and copied to the Chief Executive.

26. Business areas within the DOJ may, from time to time, issue guidance and requests directly to the Office on a number of matters such as finance and procurement.

27. In the circumstances applying to time-bound requests such as AQs, FOI requests and complaints of maladministration *etc*, the information must be provided in a timely manner (in accordance with paragraph 15 above) as either party may reasonably require, thus

enabling the organisation to prepare a response in order to meet specific deadlines.

Review

28. The Head of Sponsor Branch will engage with the Chief Executive and others as appropriate on all corporate governance matters, and the quarterly review meetings will facilitate discussion of any matters causing concern to either party under the MOU.

29. This Memorandum of Understanding will be reviewed jointly by officials in the DoJ (Policing Policy and Strategy Division) and the Office annually from the date the MOU is signed.

**Signatories**

30. Those names below are authorised to sign on behalf of the Office and the DoJ including committing each to meeting the obligations and responsibilities as detailed above.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**On behalf of the Office**

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**On behalf of the Office**

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**On behalf of the Department**

**DELEGATED EXPENDITURE LIMITS**

**General**

These delegated expenditure limits have been agreed by the Department and the Department of Finance and Personnel.

**1. PURCHASING ALL GOODS, SERVICES AND WORKS**

**Table 1 Delegated Authority for the Purchase of Goods, Services and Works**

(All costs exclude VAT)

THRESHOLDS *	NUMBER/TYPE OF TENDER REQUIRED
<b>Up to £5,000</b>	Must demonstrate that VFM has been secured
<b>£5,000 to £30,000</b>	A minimum of two tenders invited by the procurement officer; or A tender process undertaken by a CoPE
<b>£30,000 to EU Thresholds</b>	A tender process undertaken by a CoPE; or Advertise on eSourcingNI
<b>Above EU Thresholds</b>	EU Directives apply – advertise in OJEU; or Advertise on eSourcingNI

\* Note: Thresholds are as per CPD Guidance Note 04/12.

**Economic Appraisal**

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

**Appendix C. DELEGATED LIMITS FOR CASE/INCIDENT REQUIRING DFP APPROVAL**

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

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

1) FD 10/10 and FD 10/08 and further DFP Guidance at: [Fraud Management Guidance \(FMG\): FIAP Publications | A A S D N I](#)

2) Schedule 12(7) of the Criminal Justice Act 1988

**Appendix D. DELEGATED LIMITS FOR CASE/INCIDENT REQUIRING DOJ APPROVAL**

<i>Details</i>	<i>Delegated Limit (£)</i>
All gifts	100
Non-statutory guarantees and liabilities	0
Foreign Exchange transactions, where these are to be channelled through any institution other than the Northern Bank.	0
Consultants	10,000
Legal Fees	50,000
IT projects	100,000
Extra Statutory and extra-regulatory payments.	0
Recoupment of overpayments of pay, pensions and allowances.	10,000
Waived or Abandoned claims.	10,000
Individual extra-contractual and ex-gratia payments.	0
Individual compensation claims settled out of court unless legal advice is that the department will not win the case if contested in court.	10,000
Individual compensation claims settled out of court where the legal advice is that the department will not win the case if contested in court.	10,000
Individual compensation payments made as a result of court decision.	10,000
Consolatory Payments.	500
All expenditure under the EU Programmes for which the Special EU Programmes Body is responsible – currently Peace II and Interreg IIIa.	0
Consultancy assignments co-sponsored by the Strategic Investment Board.	0
All other losses, write offs and special payments not covered elsewhere in this letter.	5,000
All other capital projects (non IT) including purchase of land & property	100,000

Resource Projects	250,000
Grants	10,000
Contract Variations	The lower of 5% of contract value or £25,000