

**RISK MANAGEMENT AUTHORITY  
MANAGEMENT STATEMENT AND FINANCIAL MEMORANDUM**

**PART 1 INTRODUCTION**

**PART 2 MANAGEMENT STATEMENT**

**1. FUNCTIONS, DUTIES & POWERS**

- 1.1 Founding legislation; status of the Authority
- 1.2 The functions, duties and powers of the Authority
- 1.3 Classification of the Authority

**2. AIMS & OBJECTIVES**

- 2.1 Overall aims
- 2.2 Key objectives and targets

**3. RESPONSIBILITIES AND ACCOUNTABILITIES**

- 3.1 The Scottish Ministers
- 3.2 The Departmental Accountable Officer
- 3.3 The Sponsoring Team in the Department
- 3.4 The Convener of the Authority
- 3.5 The Authority's Members
- 3.6 The Authority's Accountable Officer

**4. PLANNING, BUDGETING AND CONTROL**

- 4.1 The corporate plan
- 4.2 The business plan
- 4.3 Publication of plans
- 4.4 Reporting performance to the Department
- 4.5 Budgeting procedures
- 4.6 Internal audit

**5. EXTERNAL ACCOUNTABILITY**

- 5.1 The annual report and accounts
- 5.2 External audit
- 5.3 VFM/3E examinations

**6. STAFF MANAGEMENT**

**7. REVIEWING THE ROLE OF THE AUTHORITY**

## **PART 3 FINANCIAL MEMORANDUM**

### **1. BUDGETING PROCEDURES**

- 1.1 The Departmental Expenditure Limit (DEL)
- 1.2 Setting the annual budget
- 1.5 Transfers of budgetary provision
- 1.6 End year flexibility
- 1.7 Authority to spend

### **2. AUTHORITY'S INCOME**

- 2.1 Payment of grant in aid
- 2.3 Borrowing
- 2.4 Maximising income from other sources
- 2.5 Fees and charges
- 2.6 Receipts from sale of goods or services
- 2.7 Interest earned
- 2.8 Proceeds from disposal of assets
- 2.9 Gifts, bequests and donations
- 2.11 Unforecast changes in in-year income used to provide additional spending power

### **3. AUTHORITY'S EXPENDITURE : GENERAL PRINCIPLES**

- 3.1 Delegated authority
- 3.2 Appraisal and evaluation
- 3.3 Procurement
- 3.4 Competition
- 3.5 Value for money
- 3.6 Timeliness in paying bills
- 3.7 Novel, contentious or repercussive proposals
- 3.8 Risk management

### **4. EXPENDITURE ON AUTHORITY MEMBERS**

### **5. EXPENDITURE ON STAFF**

- 5.1 Staff costs
- 5.2 Pay and conditions of service
- 5.3 Pensions, redundancy/compensation

### **6. NON STAFF EXPENDITURE**

- 6.1 Capital
- 6.3 Lending, guarantees, indemnities, contingent liabilities and letters of comfort
- 6.4 Grant or loan schemes
- 6.5 Gifts made, write offs, losses and special payments
- 6.6 Leasing
- 6.7 Public/private partnerships

- 6.8 Subsidiary companies and joint ventures
- 6.10 Financial investments
- 6.11 Unconventional financing
- 6.12 Commercial insurance

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

- 7.1 Register of assets
- 7.2 Disposal of assets
- 7.3 Recovery of grant financial assets

## **8. BANKING**

## **MANAGEMENT STATEMENT**

### **Part 1. INTRODUCTION**

1. This management statement and its associated financial memorandum (MS/FM) have been drawn up by the Scottish Executive Justice Department (“the Department”) in consultation with the Risk Management Authority (“the Authority”), St James House, 25 St James Street Paisley, PA3 2HQ.

2. Subject to the legislation noted, the management statement sets out the broad framework within which the Authority will operate, in particular:

- the Authority’s overall aims, objectives and targets in support of the Scottish Ministers’ wider strategic aims;
- the rules and guidelines relevant to the exercise of the Authority’s functions;
- the conditions under which any public funds are paid to the Authority, and
- how the Authority is to be held to account for its performance.

3. The associated financial memorandum sets out in greater detail certain aspects of the financial framework within which the Authority is expected to operate.

4. However, the management statement and associated financial memorandum do not convey any legal powers or responsibilities.

5. The MS/FM shall be reviewed and updated periodically by the Department, normally at least every 2-3 years.

6. The Authority or the Department may propose amendments to the MS/FM at any time. Any such proposals by the Authority shall be considered in the light of the Scottish Ministers’ policy aims, operational factors and the track record of the Authority itself. The guiding principle shall be that the extent of flexibility and freedom given to the Authority shall reflect both the quality of its internal controls and its operational needs. The Department shall determine what changes, if any, are to be incorporated in the MS/FM. Legislative changes shall take precedence over any part of the MS/FM.

7. The Authority shall satisfy the conditions and requirements set out in the MS/FM, together with all relevant requirements in the Scottish Public Finance Manual (“SPFM”) and such other conditions and directions as the Scottish Ministers/Department may from time to time impose. Any question regarding the interpretation of the MS/FM shall be resolved by the Department after consultation with the Authority.

8. Copies of the MS/FM shall be placed in the Scottish Parliament Reference Centre and provided to the Public Services Delivery Group in an electronic format for inclusion in the Scottish Executive internet and intranet websites. Copies shall also be made available to members of the public on request and on the Authority’s website, [www.rmascotland.org.uk](http://www.rmascotland.org.uk).

## **Part 2. MANAGEMENT STATEMENT**

### **1. Functions, Duties and Powers**

#### **1.1 Founding legislation; status of the Authority**

1.1.1 The Authority is established by the Criminal Justice (Scotland) Act 2003 (the Act) as a body corporate. The Act sets out the structure and functions of the Authority. The Authority does not carry out its functions on behalf of the Crown.

#### **1.2 The functions, duties and powers of the Authority**

1.2.1 The Act gives the Authority functions which are to be exercised for the purpose of ensuring the effective assessment and minimisation of risk. In this context, risk means (as regards persons convicted of an offence or subject to a disposal under section 57 of the Criminal Procedure (Scotland) Act 1995 (disposal where accused found to be insane)) the risk the person's being at liberty presents to the safety of the public at large. These functions are summarised in the following paragraphs.

1.2.2 In relation to the assessment and minimisation of risk, the Authority is to-

- Compile and keep under review information about the provision of services in Scotland;
- Compile and keep under review research and development;
- Promote effective practice; and
- Give such advice and make such recommendations to the Scottish Ministers as it considers appropriate;

and may

- Carry out, commission or co-ordinate research and publish the results of such research; and
- Undertake pilot schemes for the purposes of developing and improving methods.

1.2.3 The Authority is to-

- Prepare and issue guidelines as to the assessment and minimisation of risk; and
- Set and publish standards according to which measures taken in respect of the assessment and minimisation of risk are to be judged.

1.2.4 The Authority has a range of functions in connection with risk management plans, including specification and publication of the form of such plans, issuing guidance as to the preparation, implementation or review of such plans, approval of risk management plans and oversight of the implementation of plans

1.2.5 The Authority is also to administer any scheme of accreditation made by the Scottish Ministers.

1.2.6 The Authority may do anything it considers necessary or expedient for the purpose of or in connection with the exercise of its functions. This is subject to the Scottish Ministers' power to give directions to the Authority.

### **1.3 Classification of the Authority**

1.3.1 For policy/administrative purposes the Authority is classified as an executive non-departmental public body (NDPB).

1.3.2 For national accounts purposes the Authority is classified to the central government sector.

## **2 AIM AND OBJECTIVES**

### **2.1 Overall aims**

2.1.1 The Act effectively defines the overall aim for the Authority as to being to exercise its functions for the purpose of ensuring the effective assessment and minimisation of risk.

### **2.2 Key objectives and targets**

2.2.1 The Department determines the Authority's performance framework in the light of the Scottish Ministers' wider strategic aims. The Authority's objectives and key targets shall be agreed within the Authority's corporate planning process (section 4 below)

## **3 RESPONSIBILITIES AND ACCOUNTABILITIES**

### **3.1 The Scottish Ministers**

3.1.1 The Scottish Ministers are ultimately accountable to the Scottish Parliament for the activities and performance of the Authority. Their responsibilities include:

- approving the Authority's strategic objectives and the policy and performance framework within which the Authority will operate (as set out in this MS/FM,
- keeping the Parliament informed about the Authority's performance;
- approving the resource budget and the associated grant in aid requirement to be paid to the Authority, and securing the necessary Parliamentary approval, and
- carrying out responsibilities specified in the Act, including appointments to the Board, approving the terms and conditions of Board members, approving the appointment of the Chief Executive and other staff, approval of terms and conditions of staff, and laying of the annual report and accounts before the Parliament.

### **3.2 The Departmental Accountable Officer**

3.2.1 The Head of the Scottish Executive Justice Department is designated as the Department's Accountable Officer by the Principal Accountable Officer for the Scottish Administration. He/she is responsible for the overall organisation, management and staffing of the sponsor Department, and for ensuring that there is a high standard of financial management in the Department as a whole.

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

- the Authority's strategic aims and objectives support the Scottish Ministers' wider strategic aims;
- the financial and other management controls applied by the Department to the Authority are appropriate and sufficient to safeguard public funds, and for ensuring that the Authority's compliance with those controls is effectively monitored ("public funds" include not only any funds provided to the Authority by the Scottish Ministers but also any other funds falling within the stewardship of the Authority, including gifts, bequests and donations);
- the internal controls applied by the Authority conform to the requirements of regularity, propriety and good financial management;
- any funding provided to the Authority is within the scope and the amount authorised by the Budget Act;

3.2.3 The responsibilities of a Departmental Accountable Officer are set out in more detail in the Memorandum to Accountable Officers from the Principal Accountable Officer – see Annex 1 of the section on Accountability in the Scottish Public Finance Manual (SPFM).

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

3.3.1 Within the Department, the Criminal Justice Group Projects Division is the sponsoring team for the Authority. The Division is the primary source of advice to the Scottish Ministers on the discharge of their responsibilities in respect of the Authority, and the primary point of contact for the Authority in dealing with the Department. The sponsoring team shall carry out its duties under a senior officer who shall have primary responsibility for overseeing the activities of the Authority.

3.3.2 The sponsoring team shall advise the Scottish Ministers on:

- an appropriate framework of objectives and targets for the Authority in light of the Scottish Ministers' wider strategic aims;
- an appropriate budget for the Authority in the light of the Scottish Ministers' overall public expenditure priorities;
- how well the Authority is achieving its strategic objectives and whether it is delivering value for money.

3.3.3 In support of the Departmental Accountable Officer the sponsoring team shall:

#### **On performance and risk management-**

- monitor the Authority's activities on a continuing basis through an adequate and timely flow of information from the Authority on performance, budgeting, control

and risk management, including early sight of the Authority's Statement of Internal Control;

- address in a timely manner any significant problems arising in the Authority, whether financial or otherwise, making such interventions in the affairs of the Authority as the Department judges necessary;
- ensure that the activities of the Authority and the risks associated with them are properly and appropriately taken into account in the Scottish Executive's risk assessment and management systems;
- ensure that appointments to the Authority are made timeously and in accordance with the [Commissioner for Public Appointments in Scotland's Code of Practice for Ministerial Appointments to Public Bodies in Scotland].

### **On communication with the Authority**

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

### **3.4 The Convener of the Authority**

3.4.1 The Convener is appointed by the Scottish Ministers in accordance with the provisions of the Act. Appointments are normally part time and for a maximum term of five years, and are conducted in line with the Code of Practice issued by the Commissioner for Public Appointments in Scotland. The first appointment has been made for a period of 3 years. The Convener may be reappointed, subject to a maximum period of office of 10 years in aggregate.

3.4.2 The Convener of the Authority is responsible to the Scottish Ministers. The Convener shall aim to ensure that the Authority's policies and actions are compatible with those of the Scottish Ministers; and that the Authority's affairs are conducted with probity. The Convener shares with other Board members the corporate responsibilities set out in paragraph 3.5.2, and in particular for ensuring that the Authority fulfils the aims and objectives set by the Scottish Ministers.

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

- formulating the Authority's strategy;
- ensuring that the Authority, in reaching decisions, takes proper account of guidance provided by the Scottish Ministers/ Department;
- promoting the efficient and effective use of staff and other resources;

- encouraging high standards of propriety; and
- representing the views of the Authority to the general public;

3.4.4 The Convener shall also:

- ensure that all members of the Authority, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities, and receive appropriate induction training, including on the financial management and reporting requirements of public sector bodies and on any differences which may exist between private and public sector practice;
- advise the Scottish Ministers of the needs of the Authority when Authority vacancies arise, with a view to ensuring a proper balance of professional and financial expertise; and
- assess the performance of individual Authority members on an annual basis.

3.4.5 The Convener shall also ensure that, for those bodies which fall within the provisions of the Ethical Standards in Public Life etc. (Scotland) Act 2000, Authority Members are fully aware of the body's Code of Conduct approved by Scottish Ministers.

3.4.6 Communications between the Authority and the Scottish Ministers shall normally be through the Convener. The Convener shall ensure that the other Authority members are kept informed of such communications.

### **3.5 The Authority's Members**

3.5.1 The Authority Members are appointed by the Scottish Ministers in accordance with the Act. Appointments are normally part time and for a maximum term of five years, and are conducted in line with the [Code of Practice issued by the Commissioner for Public Appointments in Scotland]. The first appointments have been made for a period of 4 years. Members may be reappointed, subject to a maximum period of office of 10 years in aggregate.

The Authority's members (including the Convener) are referred to collectively as the Board.

3.5.2 The Board has corporate responsibility for ensuring that the Authority fulfils the aims and objectives set by the Scottish Ministers and for promoting the efficient and effective use of staff and other resources by the Authority in accordance with the principles of Best Value – see relevant section of the SPFM. To this end, and in pursuit of its wider corporate responsibilities, the Board shall:

- establish the overall strategic direction of the Authority within the policy, planning and resources framework determined by the Scottish Ministers;
- ensure that the Scottish Ministers are kept informed of any changes which are likely to impact on the strategic direction of the Authority 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 (ie all funds falling within the stewardship of the Authority) are complied with; that the Board operates within the limits of its statutory authority and 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, the Board takes into account relevant guidance issued by the Scottish Ministers/Department;
- ensure that the Authority receives and reviews regular financial information concerning the management of the RMA; is informed in a timely manner about any concerns about the activities of the RMA; and provides positive assurances to the Department that appropriate action has been taken on such concerns;
- ensuring that high standards of corporate governance are observed at all times, including by setting up and using an independent audit committee – in accordance with the guidance on Audit Committees in the SPFM – to help the Board to address the key financial and other risks facing the Authority;
- provide commitment and leadership in the development and promotion of Best Value principles throughout the organisation;
- appoint, with the Scottish Ministers’ approval, a Chief Executive to the Authority and, in consultation with the Department, set performance objectives and remuneration terms linked to these objectives for the Chief Executive which give due weight both to the proper management and use of public monies and to the delivery of outcomes in line with the Scottish Ministers’ priorities.

3.5.3 Individual Board members shall act in accordance with their wider responsibility as Members of the Authority, namely to:

- comply at all times with the Code of Conduct (paragraph 3.4.5 above) that is adopted by the Authority and with the rules relating to the use of public funds, conflicts of interest and confidentiality;
- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
- comply with the Code of Conduct on the acceptance of gifts and hospitality, and of business appointments;
- act in good faith and in the best interests of the Authority.

### **3.6 The Authority’s Accountable Officer**

3.6.1 The Chief Executive of the Authority is designated by the Principal Accountable Officer as the Authority’s Accountable Officer in accordance with sections 14 and 15 of the Public Finance and Accountability (Scotland) Act 2000.

3.6.2 The Authority’s Accountable Officer is personally responsible for propriety and regularity in the management of the public funds for which he/she has charge and for the day-

to-day operations and management of the Authority. He/she should act in accordance with the terms of this document and within the instructions and guidance in the SPFM and other instructions and guidance issued from time to time by Scottish Executive – in particular, the *Memorandum to Accountable Officers of Other Public Bodies* which the Chief Executive will receive on appointment.

3.6.3 The Accountable Officer has a duty to secure Best Value, which includes the concepts of good corporate governance, performance management and continuous improvement. Guidance to Accountable Officers on what their organisations should be able to demonstrate in fulfilment of their duties which make up a Best Value regime is included in the Best Value section of the SPFM.

3.6.4 As Accountable Officer the Chief Executive shall exercise the following specific responsibilities:

***on planning, performance management and monitoring -***

- establish the Authority's corporate and business plans in the light of the Scottish Ministers' wider strategic aims;
- establish a robust performance management framework which supports the achievement of the Authority's aims and objectives as set out in the corporate and business plans; and which enables full performance reporting to the Authority, the Department and the wider public.
- inform the Department of the Authority's progress in helping to achieve the Scottish Ministers' policy objectives and in demonstrating how resources are being used to achieve those objectives;
- ensure that timely forecasts and monitoring information on performance and finance are provided to the Department; that the Department is notified promptly if overspends or underspends are likely or if performance targets are at serious risk 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 Department in a timely fashion;

***on advising the Authority -***

- advise the Board on the discharge of its responsibilities as set out in this document and in the Act and in any other relevant instructions and guidance or directions issued by the Scottish Ministers/Department;
- advise the Board on the Authority's performance compared with its aims and objectives;
- ensure that financial considerations are taken fully into account by the Authority at all stages in reaching and executing its decisions, and that standard financial appraisal techniques as set out in the Green Book are followed as far as this is appropriate and practical;

- take action as set out in section 5 of the *Memorandum to Accountable Officers of Other Public Bodies* if the Authority, or its Convener, 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 or efficiency or effectiveness;

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

- ensure that a system of risk management is embedded in the organisation 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 that the funds made available to the Authority including any approved income or other receipts are used for the purpose intended by the Parliament, and that such moneys, together with the Authority assets, equipment and staff, are used economically, efficiently and effectively;
- ensure that adequate internal management and financial controls are maintained by the Authority, including effective measures against fraud and theft;
- maintain a comprehensive system of internal delegated authorities which are notified to all staff, together with a system for regularly reviewing compliance with these delegations;
- ensure that effective human resource management policies are maintained and that strategic human resource planning is related to the Authority's objectives;

***on accounting for the Authority'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 Scottish Ministers;
- sign a Statement of Accountable Officer's responsibilities, for inclusion in the annual report and accounts;
- sign a Statement on Internal Control regarding the Authority's system of risk management and internal control, for inclusion in the annual report and accounts;
- sign a Certificate of Assurance on the maintenance and review of the Authority's risk management and internal control systems, for submission to the Department;
- ensure that an effective complaints procedure is in place, including reference to the Scottish Public Services Ombudsman, and made widely known;

- give evidence when summoned before Committees of the Scottish Parliament on the use and stewardship of public funds by the Authority.

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

3.6.6 The Chief Executive is responsible for informing the Departmental Accountable Officer about any complaints about the Authority accepted by the Scottish Public Services Ombudsman for investigation, and about the Authority's proposed response to any subsequent recommendations from the Ombudsman.

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

### **4.1 The Corporate Plan**

4.1.1 Consistent with the timetable for public spending reviews the Authority shall submit to the Department a draft of the Authority's corporate plan covering the spending review period. The Authority shall have agreed with the Department the issues to be addressed in the plan and the timetable for its preparation. The plan, or elements thereof, shall be updated between public spending reviews as and when considered necessary.

4.1.2 The corporate plan shall reflect the Authority's statutory duties and, within those duties, the priorities set from time to time by the Scottish Ministers.

4.1.3 The corporate plan shall set out:

- the Authority's key objectives and associated key performance targets for the 3 forward years and its strategy for achieving these objectives;
- a review of the Authority's performance in the preceding financial year together with comparable returns (where available) for the previous two 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;
- other matters as agreed between the Department and the Authority.

4.1.4 The main elements of the plan – including the key performance targets – shall be agreed between the Department and the Authority in the light of the Department's decisions on policy and resources taken in the context of the Scottish Ministers' wider public expenditure plans and decisions.

### **4.2 The business plan**

4.2.1 The business plan for the year immediately ahead shall be consistent with the agreed corporate plan. The business plan shall be updated annually by the Authority to include key targets and milestones for the forthcoming year and shall be linked to budgeting information so that resources allocated to achieve specific objectives can readily be identified by the Department. (See also paragraph 1.3 of the financial memorandum.) A copy of the business

plan shall be submitted to the Department for information (and comment where considered appropriate) prior to the beginning of the financial year.

### **4.3 Publication of plans**

4.3.1 The corporate and business plans shall be published on the Authority's website.

### **4.4 Reporting performance to the Department**

4.4.1 The Authority 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 corporate and business plans.

4.4.2 The Authority 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 set out in the corporate or business plans.

4.4.3 The Authority's performance in helping to deliver the Scottish Ministers' policies, including the achievement of agreed key objectives, shall be reported to the Department on a three-monthly basis. Performance will be formally reviewed twice yearly by the Department. The appropriate Scottish Minister will endeavour to meet the Board formally regularly to discuss the Authority's performance, its current and future activities and any policy developments relevant to those activities.

4.4.4 The Authority's performance against key targets shall be reported in the Authority's annual report and accounts (see Section 5.1 below). Other forms of reporting performance to the public should also be considered

### **4.5 Budgeting procedures**

4.5.1 The Authority's budgeting procedures are set out in the associated financial memorandum.

### **4.6 Internal audit**

4.6.1 The Authority shall establish and maintain arrangements for internal audit in accordance with the Treasury's Government Internal Audit Standards (GIAS). The Authority shall consult the Department to ensure that the latter is satisfied with the competence and qualifications of the Head of Internal Audit and the requirements for approving appointment.

4.6.2 The Authority shall arrange for periodic quality reviews of its internal audit in accordance with the GIAS. The Department shall consider whether it can rely on these reviews to provide assurance on the quality of internal audit. However, the Department reserves a right of access to carry out/ commission independent reviews of internal audit in the Authority.

4.6.3 The Department's internal audit service shall also have a right of access to all documents prepared by the Authority's internal auditor, including where the service is contracted out. The audit strategy, periodic audit plans and annual audit report, including the Authority's Head of Internal Audit's opinion on risk management, control and governance

shall be forwarded without delay to the sponsoring team who shall consult the Scottish Executive's Head of Internal Audit as appropriate.

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

## **5. EXTERNAL ACCOUNTABILITY**

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

5.1.1 After the end of each financial year the Authority shall prepare an annual report of its activities together with its annual accounts, in accordance with section 13 of the Act. The report will also cover the activities of any corporate bodies under control of the Authority. The Scottish Ministers shall send the account to the Auditor General for auditing.

5.1.2 The report and accounts shall comply, so far as appropriate, with the Treasury document, "Executive NDPBs: Annual Reports and Accounts Guidance". The accounts shall be prepared in accordance with the Act, any accounts direction and any other relevant guidance issued by the Scottish Ministers.

5.1.3 The report and accounts shall outline the Authority's main activities and performance during the previous financial year and set out in summary form the Authority'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 submitted in draft to the Department for comment and the final version shall be laid by the Scottish Ministers before Parliament before 31 December. The accounts must not be laid before they have been formally sent by the Auditor General to the Scottish Ministers and must not be published before they have been laid. The Scottish Ministers shall be responsible for the publication of the report and accounts.

### **5.2 External audit**

5.2.1 The Auditor General for Scotland (AGS) audits, or appoints auditors to audit, the Authority's annual accounts and passes them to the Scottish Ministers who shall lay them before the Parliament, together with the Authority's annual report.

5.2.2 The Authority shall instruct its auditors to send copies of all management letters (and correspondence relating to those letters) and responses to the Department.

### **5.3 VFM/3E examinations**

5.3.1 The Public Finance and Accountability (Scotland) Act 2000 provides that the AGS may carry out examinations into the economy, efficiency and effectiveness with which the Authority has used its resources in discharging its functions.

## **6 STAFF MANAGEMENT**

6.1 Within the arrangements set out in the Act the Authority shall have responsibility for the recruitment, retention and motivation of its staff. To this end the Authority shall ensure that:

- the recruitment of its staff is based on fair and open competition and equal opportunities;
- the level and structure of its staffing, including gradings and numbers of staff, is appropriate to its functions and the requirements of efficiency, effectiveness and economy;
- the performance of its staff at all levels is managed effectively and efficiently; they are satisfactorily appraised; and the Authority's performance appraisal and promotion systems are reviewed from time to time;
- its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the Authority's objectives;
- proper consultation with staff takes place on key issues affecting them;
- adequate grievance and disciplinary procedures are in place;
- whistleblowing procedures consistent with the Public Interest Disclosure Act 1998 are in place;
- a code of conduct for staff is in place based on the document *Model Code for Staff of Executive Non-Departmental Public Bodies*; and
- a safe and healthy working environment is maintained.

## **7 REVIEWING THE ROLE OF THE AUTHORITY**

7.1 The role of the Authority shall be reviewed periodically in accordance with the business needs of the Scottish Executive and of the Authority, normally at least every 5 years.

## **FINANCIAL MEMORANDUM**

### **1 BUDGETING PROCEDURES**

#### **The Departmental Expenditure Limit (DEL)**

1.1 The Authority's resource and capital expenditure form part of the Department's Resource DEL and Capital DEL respectively.

#### **Setting the annual budget**

1.2 Each year, in the light of decisions by the Scottish Ministers on the Authority's corporate plan (paragraph 4.1 of the management statement), the Department will send to the Authority:

- A formal statement of the annual budgetary provision (disaggregated by main budget headings) allocated by the Scottish Ministers in the light of competing priorities across the Scottish Executive and of the associated grant in aid and any approved forecast income;
- A statement of any planned change in policies affecting the Authority.

1.3 The Authority's annual business plan will take account both of its approved budgetary provision and of any forecast income, and will include a budget of estimated payments and receipts together with a profile of expected expenditure/consumption of resources and of draw-down of the grant-in-aid and other income over the year. These elements will form part of the business plan for the year in question (paragraph 4.2.1 of the management statement).

1.4 Grant in aid provided by the Scottish Ministers for the year in question and approved income will be included in the annual Budget Act and will be subject to approval by the Parliament.

#### **Transfers of budgetary provision**

1.5 Subject to the provisions of Appendix A, transfers of budgetary provision between resource and capital budgets and between "cash" and "non-cash" headings require the prior approval of the Department. Other transfers between main budget headings may be undertaken without the prior approval of the Department.

#### **End-year flexibility**

1.6 Under the Scottish Executive's end-year flexibility (EYF) arrangements the Authority may, subject to the approval of the Department, carry forward from one financial year to the next, in part or in full, unused Departmental Expenditure Limit (DEL) budgetary provision. It is the Authority's underspending in terms of the use of DEL budgetary provision rather than of grant in aid that will determine the level of EYF available to be carried forward. The Authority must at the earliest opportunity submit to the Department any proposals for carrying forward budgetary provision.

Any such proposals shall be considered by the Department in the light of competing priorities.

### **Authority to spend**

1.7 Once the Authority's budget has been approved by the Department, and subject to any restrictions imposed by the Act or the management statement/financial memorandum, the Authority shall have authority to incur expenditure/consume resources without further reference to the Department, on the following conditions:

- The Authority shall comply with the specific delegations set out in the attached Appendix A. These delegations shall not be altered without the prior agreement of the Department;
- The Authority shall comply with the conditions set out in this financial memorandum regarding novel, contentious or repercussive proposals and with any relevant guidance in the SPFM;
- Inclusion of any planned or approved expenditure in the Authority's budget shall not remove the need to seek formal departmental approval where any proposed expenditure is outside the delegated limits or is for new schemes not previously agreed;
- The Authority shall provide the Department with such information about its operations, performance, individual projects or other expenditure as the Department may reasonably require.

## **2 THE AUTHORITY'S INCOME**

### **Grant in aid**

2.1 Grant in aid will be paid by the Department in monthly instalments, on the basis of a written application from the Authority showing evidence of need. The application shall provide the Department with, as a minimum, information which will enable the satisfactory monitoring by the Department of:

- the Authority's cash management;
- actual and forecast outturn of expenditure of grant in aid;
- actual and forecast outturn of expenditure/consumption of DEL budgetary provision by main budget headings.

2.2 Grant in aid should not be paid out in advance of need. Cash balances accumulated during the course of the year from grant in aid shall therefore be kept at the minimum level consistent with the efficient operation of the Authority. No grant in aid shall be paid into any reserve held by the Authority.

### **Borrowing**

2.3 Borrowing cannot be used to increase the Authority's spending power. All borrowing by the Authority – excluding agreed overdrafts - shall be from the Scottish

Ministers in accordance with the guidance in the Borrowing, Lending & Investment section of the SPFM.

### **Maximising income from other sources**

2.4 The Authority shall seek to maximise income from other sources provided that this is consistent with the Authority's main functions and its corporate plan as agreed by the Scottish Ministers. Proposals for new sources of income or methods of fundraising should be cleared with the Department.

### **Fees and charges**

2.5 Fees or charges for any services supplied by the Authority shall be determined in accordance with the Fees and Charges section of the SPFM.

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

2.6 Receipts from the sale of goods and services, rent of land, and dividends may be used to provide additional spending power subject to them being included in the approved budget.

### **Interest earned**

2.7 Interest earned by the Authority on cash balances may be used to provide additional spending power subject to it being included in the approved budget.

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

2.8 Disposals of land and buildings are dealt with in Section 7 below.

### **Gifts, bequests and donations**

2.9 The Authority is free to retain any gifts, bequests or similar donations. These shall be treated as receipts that where appropriate increase spending power.

2.10 Before proceeding in this way the Authority shall consider if there are any associated costs in doing so or any conflicts of interests arising. The Authority 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.

### **Unforecast changes in in-year income used to provide additional spending power**

2.11 If income realised or expected to be realised in-year is less than estimated, the Authority shall, unless otherwise agreed with the Department, ensure a corresponding reduction in its gross expenditure so that the authorised budget is not exceeded.

2.12 If income realised or expected to be realised in-year is more than estimated, the Authority may apply to the Department to retain the excess income for specified additional expenditure within the current financial year without an offsetting reduction to grant in aid. The Department shall consider such applications, taking

account of competing demands for resources. If an application is refused grant in aid shall be correspondingly reduced.

### **3 THE AUTHORITY'S EXPENDITURE : GENERAL PRINCIPLES**

#### **Delegated authority**

3.1 The Authority shall not, without prior approval of the Department, enter into any undertaking to incur any expenditure, which falls outside the specific limits on the Authority's delegated authority as set out in the attached Appendix A.

#### **Appraisal and Evaluation**

3.2 All expenditure proposals shall, so far as appropriate, be subject to the guidance in the Appraisal and Evaluation section of the SPFM.

#### **Procurement**

3.3 The Authority's procurement policies shall reflect relevant guidance in the Procurement section of the SPFM. Procurement should be treated as a key component of achieving the Authority's objectives, as well as a means of finding the most cost-effective method for securing the quality of assets and/or services. The Authority shall also ensure that it complies with any relevant EU or other international procurement rules. The Department will be ready to assist, where appropriate, in the provision to the Authority of professional advice in this area.

#### **Competition**

3.4 Contracts shall be placed on a competitive basis and tenders accepted from suppliers who provide best value for money overall. Proposals to let single-tender or restricted contracts must be submitted to the Department for approval.

#### **Value for money**

3.5 Procurement by the Authority of works, equipment, goods and services shall be based on value for money, i.e. quality (in terms of fitness for purpose) and delivery against price. Where appropriate, a full option appraisal shall be carried out before procurement decisions are taken.

#### **Timeliness in paying bills**

3.6 The Authority shall pay all matured and properly authorised invoices in accordance with the terms of contracts or within 30 days, as provided for in the Payments section of the SPFM.

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

3.7 The Authority shall obtain the approval of the Department 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;
- 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**

3.8 The Authority shall ensure that the risks, which 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 Risk Management section of the SPFM.

3.9 The Authority shall adopt and implement policies and practices to safeguard itself against fraud and theft, in line with the Fraud section of the SPFM.

3.10 The Authority shall take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract or to give grant in aid.

## **4. EXPENDITURE ON AUTHORITY MEMBERS**

4.1 Remuneration, allowances and expenses paid to Authority Members and any pension arrangements or compensation for loss of office must comply with specific guidance on such matters issued by the Scottish Ministers, and be approved by the Scottish Ministers in accordance with paragraph 5 of Schedule 2 to the Act.

## **5. EXPENDITURE ON STAFF**

### **Staff costs**

5.1 The Authority is responsible for determining the number of staff required and the most appropriate organisational structure to deliver its remit economically, efficiently and effectively within the resources available to it. However, any changes in staff numbers or organisational structure must be approved in advance by the Department in accordance with paragraph 6 of Schedule 2 to the Act.

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

5.2 The Authority shall submit to the Department for approval (normally annually unless a multi-year deal has been agreed) a pay remit within the terms and conditions set out in the Scottish Executive's Public Sector Pay Guidance and negotiate a pay settlement within the terms of the subsequently agreed remit. Proposals on non-salary rewards must comply with the guidance in the Non-Salary Rewards section of the

SPFM. The Authority shall comply with the EU directive on contract workers “Fixed Term Employees Regulations (Prevention of Less Favourable Treatment)”. The terms and conditions of the Chief Executive are subject to a separate approval process. Terms and conditions of service for staff (including the Chief Executive) must be approved by the Scottish Ministers in accordance with paragraph 6 of Schedule 2 to the Act.

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

5.3 Superannuation arrangements for staff are subject to the approval of the Scottish Ministers in accordance with paragraph 6 of Schedule 2 to the Act. The Authority’s staff shall normally be eligible for a pension provided by membership of the Principal Civil Service Pension Scheme (PCSPS).

5.4 Staff may opt out of the occupational pension scheme provided by the Authority. However, the employer’s contribution to any personal pension arrangement shall normally be limited to the national insurance rebate level

5.5 Any proposal by the Authority to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the approval of the Department. Proposals on severance payments must comply with the guidance in the Severance etc section of the SPFM.

## **6. NON-STAFF EXPENDITURE**

### **Capital expenditure**

6.1 Subject to being above the Scottish Executive’s capitalisation threshold, all expenditure on the acquisition or creation of fixed assets shall be capitalised on an accruals basis. Expenditure to be capitalised shall include the (a) acquisition, reclamation or laying out of land; (b) acquisition, construction, preparation or replacement of buildings and other structures or their associated fixtures and fittings; and (c) acquisition, installation or replacement of movable or fixed plant, machinery, vehicles and vessels.

6.2 Proposals for large-scale individual capital projects or acquisitions will normally be considered within the Authority’s corporate planning process and within the context of its long-term estate strategy. Any such project shall be subject to the guidance in the Major Investment section of the Authority and, where appropriate, the Client Pack published by the Scottish Executive’s Building Division. Individual capital projects or acquisitions are subject to specific delegated limits as indicated in Appendix A.

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

6.3 The Authority shall not, without the Department's prior consent, lend money, charge any asset or security, give any guarantee - excluding a guarantee of a standard type given in the normal course of business - or indemnity or letter of comfort, or incur any other contingent liability (as defined in the Contingent Liabilities section of the SPFM), whether or not in a legally binding form.

## **Grant or loan schemes**

6.4 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, shall be subject to prior approval by the Department, together with the terms and conditions under which such grant or loan is made. Guidance on a framework for the control of third party grants is included in the Grant & Grant in Aid section of the SPFM. See also below under the heading Recovery of grant-financed assets.

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

6.5 Proposals for making gifts or other special payments (including write-offs) outside the delegated limits set out in Appendix A must have the prior approval of the Department. Any such proposals should address the considerations listed in the Losses & Special Payments section of the SPFM. Gifts by management to staff are subject to the guidance in the Non-Salary Rewards section of the SPFM.

## **Leasing**

6.6 Prior departmental approval must be secured for all property and finance leases. The Authority must have capital DEL provision for finance leases and other transactions, which are in substance borrowing. Before entering into any lease (including an operating lease) the Authority must demonstrate that the lease offers better value for money than purchase.

## **Public/Private Partnerships**

6.7 The Authority shall seek opportunities to enter into Public/Private Partnerships where this would be more affordable and offer better value for money than conventional procurement. Where cash flow projections may result in delegated authority being breached the Authority shall consult the sponsor Department. Any partnership controlled by the Authority shall be treated as part of the Authority in accordance with UK GAAP and consolidated with it subject to any particular treatment required by UK GAAP. See also the guidance in the Public / Private Partnerships section of the SPFM.

## **Subsidiary companies and joint ventures**

6.8 The Authority shall not establish subsidiary companies or joint ventures without the express approval of the Department. In judging such proposals the Department will have regard to the Scottish Ministers' wider strategic aims and objectives.

6.9 Any subsidiary company or joint venture controlled or owned by the Authority shall be consolidated with it in accordance with UK GAAP for public expenditure accounts purposes subject to any particular treatment required by UK GAAP. Unless specifically agreed with the Department such subsidiary companies or joint ventures shall be subject to the controls and requirements set out in the Management Statement/Financial Memorandum.

### **Financial investments**

6.10 The Authority shall not make any investments without the prior approval of the Department, nor shall it aim to build up cash balances or net assets in excess of what is required for operational purposes. Equity shares in ventures, which further the objectives of the Authority shall equally be subject to departmental approval unless covered by a specific delegation. The Authority shall not invest in any venture of a speculative nature.

### **Unconventional financing**

6.11 Unless otherwise agreed with the Department, the Authority shall not enter into any unconventional financing arrangement.

### **Commercial insurance**

6.12 The Authority may only take out commercial insurance, without the prior approval of the Department, in accordance with the guidance in the Insurance section of the SPFM e.g. third party insurance required by the Road Traffic Acts. In the event of losses arising under the Scottish Executive's policy of self-insurance the Department shall consider, on a case by case basis, whether or not it should make any additional resources available to the Authority and/or agree adjustments to the targets in the corporate plan.

6.13 A Certificate of Exemption for Employer's Liability Insurance has been issued to the Authority.

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

### **Register of assets**

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

### **Disposal of assets**

7.2 The Authority shall dispose of assets which are surplus to its requirements and in accordance with its long-term estate strategy. Assets shall be sold for the best price, taking into account any costs of sale and in accordance with the guidance in the Disposal of Tangible Fixed Assets section of the SPFM. Proceeds from the disposal of assets may be retained by the Authority subject to them being included in the approved budget.

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

7.3 Where the Authority has financed expenditure on capital assets by a third party, the Authority shall make appropriate arrangements to ensure that any such assets above an agreed value are not disposed of by the third party without the Authority's prior consent. The Authority shall therefore ensure that such conditions

are sufficient to secure the repayment of its due share of the proceeds - or an appropriate proportion of them if the grant was for less than the whole cost of acquisition or improvement.

7.4 The Authority shall also ensure that if the assets created by grants made by the Authority cease to be used by the recipient of the grant for the intended purpose an appropriate proportion of the value of the asset shall be repaid to the Authority.

## **8 BANKING**

8.1 The Authority's Accountable Officer is responsible for ensuring that the Authority's banking arrangements are consistent with the guidance in the Banking section of the SPFM. In particular he/she shall ensure that the arrangements safeguard public funds and are carried out efficiently, economically and effectively. These arrangements shall be suitably structured and represent value-for-money, and be reviewed at least every two years, with a comprehensive review, usually leading to competitive tendering, at least every three to five years.

**DELEGATED AUTHORITY****SPECIFIC LIMITS ON DELEGATED AUTHORITY**

Capital Expenditure		Under the provisions of paragraphs 6.1 and 6.2 of the Financial Memorandum, the Authority has delegated authority to spend up to £50,000 on individual capital items or projects beyond which the Department's prior authority must be obtained before expenditure is incurred.
Procurement		The Authority's procurement policies shall reflect relevant guidance in the Procurement section of the SPFM. The Authority shall also ensure that it complies with any relevant EU or other international procurement rules
Disposal of assets		Under the provisions of paragraph 7.2 of the Financial Memorandum, the Authority shall seek the prior consent of the Department before disposing of any capital asset or property which has been acquired or improved with grant in aid and which has a net book value or realisable value in excess of £5,000.
Special Payments, Write-off of losses, Claims waived or abandoned		The Authority shall maintain details of the Losses and Special Payments listed in the Losses & Special Payments section of the SPFM whether within delegated limits or not. The Authority will have delegated authority to write off such losses and to make special payments but any case will be referred to the Department for approval which involves £5,000 or more. Any case in which fraud is suspected should be referred to the Department, regardless of the sum.
Grant or loan schemes		Under the provisions of paragraph 6.4 of the Financial Memorandum, the delegated authority which the Board shall have to make grants or loans under a scheme approved under paragraph 6.4 of the FM shall be £20,000.
Gifts		Subject to paragraph 6.5 of the Financial Memorandum, the Department's authority to gifts above £200 must be obtained.

## Reallocation

The Authority may, without the Department's prior approval, re-allocate monies between pay related costs (Group A below) and other running costs or capital (Groups B and C) and research, education and training (Group D), provided the amount involved is less than £50,000.

### Group A

1. Salaries (and other related expenses)
2. Superannuation
3. Pensions

### Group B

4. Other running costs

### Group C

5. Capital Expenditure

### Group D

6. Research
7. Education and Training