

**NORTHERN IRELAND OFFICE**

**INDEPENDENT COMMISSION FOR RECONCILIATION & INFORMATION RECOVERY**

**FRAMEWORK DOCUMENT (WORKING VERSION NOVEMBER 2023)**

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## INTRODUCTION & BACKGROUND

### 1 Purpose of this document

- 1.1 This Framework Document has been agreed between the Northern Ireland Office (NIO) and the Independent Commission for Reconciliation and Information Recovery (ICRIR) in accordance with HM Treasury's (HMT) handbook *Managing Public Money* (MPM) as updated from time to time and has been approved by HM Treasury.
- 1.2 It sets out the broad governance framework within which the ICRIR and the NIO operate. It sets out the ICRIR's core responsibilities, describes the governance and accountability framework that applies between the roles of the NIO, ICRIR and other parties as relevant and sets out how the day-to-day relationship works in practice including in relation to governance and financial matters.
- 1.3 The document does not convey any legal powers or responsibilities but both parties agree to operate within its terms.
- 1.4 References to the ICRIR include any subsidiaries or joint ventures that are classified to the public sector and central government for national accounts purposes. If the ICRIR establishes a subsidiary or joint venture, there shall be a document setting out the arrangements between it and the ICRIR agreed with the NIO.
- 1.5 Copies of this document and any subsequent amendments have been placed in the libraries of both Houses of Parliament and made available to members of the public on the ICRIR website and GOV.UK.
- 1.6 This Framework Document should be reviewed and updated at least every 3 years and immediately after any review of the ICRIR's status, unless there are exceptional reasons that render this inappropriate that have been agreed with HM Treasury, the NIO's Principal Accounting Officer and ICRIR's Accounting Officer. The NIO will manage the provision of amendments, which will be agreed with the ICRIR. The ICRIR may also propose amendments to the NIO which will be considered alongside any NIO proposed amendments. Changes may only be made by agreement of the NIO and ICRIR.

### 2 Shared Objectives

- 2.1 The principal objective of the ICRIR is to promote reconciliation. The NIO and the ICRIR share the common objective of supporting greater inclusion, tolerance, and openness in Northern Ireland by addressing the legacy of the past, so that Northern Ireland's society can look forward together, transition to long-term peace and stability and realise a brighter future.

## PURPOSES, AIMS & DUTIES OF THE ICRIR

### 3 Classification & Independence of the ICRIR

- 3.1 The ICRIR is established as a body corporate under the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (the Act). It has been administratively classified by the Cabinet Office as a non-departmental public body (NDPB) sponsored by the NIO.
- 3.2 The ICRIR operates independently of Government (being separate from the Crown), the Northern Ireland Executive, and all other public authorities. The independence of

its investigations is crucial to its effectiveness and the NIO undertakes not to act in any way to undermine the operational independence of the ICRIR or its Commissioners. The NIO will take steps where necessary, to actively defend and uphold the independence of the Commission and its operational decision making. The NIO shall not have access to any of the ICRIR's evidence, findings or reports before publication, unless permitted by the Chief Commissioner for a specific purpose in line with the Act.

3.3 The NIO will ensure that the ICRIR has funding to fulfil its statutory duties and functions. The ICRIR and NIO will liaise regularly on matters concerning access to technical expertise about corporate services (good practice in finance, procurement, etc), funding, the ICRIR's progress against its published workplan and the management of public resources. Such engagement will not relate to the conduct of any cases on which the ICRIR is undertaking work.

#### **4. Purpose**

4.1 The ICRIR was established in 2023 with the principal objective of promoting reconciliation. The NIO's policy objective was to address the legacy of the Northern Ireland Troubles and promote reconciliation by establishing an independent body for reconciliation and information recovery. Alongside this, the Act implements measures limiting criminal investigations, legal proceedings, inquests and police complaints, extending the prisoner release scheme as set out in the Northern Ireland (Sentences) Act 1998, and providing for experiences to be recorded and preserved and for events to be studied and memorialised.

#### **5. Powers and Duties**

5.1 The ICRIR's powers and duties derive from The Northern Ireland Troubles (Legacy and Reconciliation) Act 2023.

5.2 The ICRIR's statutory functions are to:

- carry out reviews of deaths that were caused by conduct forming part of the Troubles;
- carry out reviews of other harmful conduct forming part of the Troubles;
- produce reports on the findings of each of the reviews of deaths and other harmful conduct;
- determine whether to grant person's immunity from prosecution for serious or connected Troubles-related offences other than Troubles related sexual offences; and
- produce a record of deaths that were caused by conduct forming part of the Troubles.

5.3 The ICRIR statutory duties include the following:

- to have regard to the general interests of persons affected by Troubles-related deaths and serious injuries;
- to publish personal statements from members of families of victims;
- to produce and publish an annual work plan;
- to produce and publish an annual report;
- to keep proper accounts;
- to consult on and publish final reports following a review; and
- not to do anything which would:
  - a) risk putting, or would put, the life or safety of any person at risk;
  - b) risk prejudicing, or would prejudice the national security interests of the United Kingdom; or

c) risk having, or would have, a prejudicial effect on any actual or prospective criminal proceedings in any part of the United Kingdom.

5.4 The ICRIR's statutory powers include:

- to employ and second staff;
- to request and receive full disclosure;
- the ability for qualified officers to exercise the powers of a constable;
- to refer deaths that were caused by conduct forming part of the Troubles, and other harmful conduct forming part of the Troubles, to prosecutors;
- to require production of information in order to progress its business;
- to enter into contracts and other agreements;
- to regulate ICRIR's own proceedings and to delegate functions as necessary.

## 6. Aims

6.1 In line with section 2 of the Act, the principal objective of the ICRIR in exercising its functions is to promote reconciliation.

6.2 The ICRIR's mission, values, strategic aims and objectives will be reviewed at a minimum every five years in line with the terms of appointment of Commissioners and published on the ICRIR website. The Board may however consider it necessary to review these more periodically.

## ICRIR GOVERNANCE FRAMEWORK & STRUCTURE

### 7 Governance & Accountability

7.1 The ICRIR shall operate governance arrangements that, as far as is practicable, and in the light of other provisions of this Framework Document or as otherwise may be mutually agreed, accord with good corporate governance practice and applicable regulatory requirements and expectations.

7.2 In particular (but without limitation) the ICRIR should:

- take into account the relevant codes of good practice and guidance set out in **Appendix 1** of this framework document, as they apply to NDPBs;
- comply with [\*Managing Public Money\*](#); and
- have regard to the relevant Functional Standards, in particular those concerning Finance, Commercial and Counter Fraud, as appropriate.

7.3 In line with [\*Managing Public Money\*](#) Annex 3.1, the ICRIR shall provide an account of corporate governance in its annual governance statement including the Board's assessment of its compliance with *Managing Public Money* requirements, with explanations of any material departures. To the extent that the ICRIR does intend to materially depart from the requirements set out in *Managing Public Money*, the NIO should be notified in advance.

### 8. The ICRIR Board

8.1 The ICRIR will have a board in line with good standards of corporate governance and as set out in its establishing statute and in line with the relevant guidance as set out in Appendix 1. The role of the Board shall be to run the ICRIR, and to deliver the objectives, in accordance with the purposes as set out above, their statutory,

regulatory, common law duties and their responsibilities under this framework document. Detailed responsibilities of the board shall be set out in the Board Standing Orders. Remuneration of the Board will be disclosed in line with the guidance in the *Government Financial Reporting Manual* (FReM).

- 8.2 The ICRIR Board will consist of up to 7 Commissioners: a Chief Commissioner, Commissioner for Investigations, a Chief Executive Officer along with up to 4 Non-Executive Commissioners. The 4 Non-Executive Commissioners who will provide scrutiny, support and challenge as part of the Board's decision making and will hold the Executive Commissioners and the wider Executive Committee to account.
- 8.3 The ICRIR Board will have collective responsibility for setting the strategic direction of the organisation to enable it to deliver its functions as set out in its founding legislation.

#### *Board Committees*

- 8.4 The Board may set up such committees as necessary for it to fulfil its functions. As is detailed below at a minimum this should include an Audit and Risk Committee chaired by an independent and appropriately qualified non-executive member of the Board. The ICRIR will have a Lead Non-Executive Commissioner to discharge this Chair role.
- 8.5 While the Board may make use of committees to assist its consideration of appointments, succession, audit, risk and remuneration it retains responsibility for, and endorses, final decisions in all of these areas. The relevant Chair should ensure that sufficient time is allowed at the board for committees to report on the nature and content of discussion, on recommendations, and on actions to be taken.
- 8.6 The Chair of the ICRIR Board (the Chief Commissioner) should ensure board committees are properly structured with appropriate terms of reference. The terms of each committee should set out its responsibilities and the authority delegated to it by the Board. The Chair should ensure that committee membership is periodically refreshed and that individual independent non-executive Commissioners are not overburdened when deciding the chairs and membership of committees.

#### *Duties of the Board*

- 8.7 The Board is specifically responsible for:
  - establishing and taking forward the strategic aims and objectives of ICRIR, consistent with its overall strategic direction;
  - providing effective leadership of the ICRIR within a framework of prudent and effective controls which enables risk to be assessed and managed;
  - ensuring the financial and human resources are in place for the ICRIR to meet its objectives;
  - reviewing management performance;
  - ensuring that the Board receives and reviews regular financial and management information concerning the management of the ICRIR;
  - ensuring that it is kept informed of any changes which are likely to impact on the strategic direction of the ICRIR Board or on the attainability of its targets, and determining the steps needed to deal with such changes;

- ensuring that any statutory or administrative requirements for the use of public funds are complied with; that the Board operates within the limits of its statutory authority and any delegated authority, and in accordance with any other conditions relating to the use of public funds;
- ensuring that as part of the above compliance they are familiar with:
  - ❖ this Framework Document,
  - ❖ the delegation letter issued to body as set out at Appendix 2
  - ❖ any separate settlement letter that is issued to the ICRIR from the NIO;
  - ❖ that they have appropriate internal mechanisms for the monitoring, governance and external reporting regarding any conditions arising from the above documents and ensure that the ICRIR as a whole act in accordance with their obligations under the above documents
- demonstrating high standards of corporate governance at all times, including by using the independent audit committee to help the board to address key financial and other risks
- determining all such other things which the Board considers ancillary or conducive to the attainment or fulfilment by the ICRIR of its objectives

## **9 The Chief Commissioner**

9.1 The Chief Commissioner is a public office holder who is independent of government with specific statutory responsibilities arising from this office and as chair of the Board. They will have overall responsibility for leading the ICRIR to enable it to achieve its overarching aims and objectives. The Chief Commissioner will also be responsible for immunity request determinations along with the production and publication of final reports.

9.2 As Chair of the Board, the Chief Commissioner must be satisfied that the Board has agreed effective arrangements to provide assurance on risk management, governance and internal control. The Board is expected to collectively assure itself of the effectiveness of the internal control and risk management systems.

9.3 The Chief Commissioner is also responsible for ensuring:

- The formulation of the Board's strategy;
- The Boards consideration of efficient and effective use of staff and other resources;
- The effectiveness of the ICRIR Board is reviewed annually and there is ongoing assessment of the performance of individual Commissioners with a formal annual evaluation and more in-depth assessments of the performance of individual Commissioners when being considered for re-appointment. The Chief Commissioner will draw on the Lead Non-Executive Commissioner to assist with aspects of this work;
- The ICRIR Board has a balance of skills appropriate to directing the ICRIR's business, and that individual members continually update their skills, knowledge and familiarity with the ICRIR to fulfil their roles. This will include but not be limited to skills and training in relation to financial management and reporting requirements, risk management and the requirements of board membership within the public sector;

- Individual Commissioners are fully briefed on terms of appointment, duties, rights and responsibilities;
- An Audit & Risk Committee is in place which will be chaired by the Lead Non-Executive member of the Board;
- The Secretary of State is advised of ICRIR's needs when Board vacancies arise so that these are properly reflected in the criteria for the Non-Executive Commissioner roles;
- There is a code of practice consistent with the *Seven Principles of Public Life* and relevant provisions of the *Cabinet Office Code of Conduct for Board Members of Public Bodies* to ensure ICRIR affairs are conducted with probity and maintain high standards of regularity and propriety; and
- The views of the ICRIR are represented to the general public.

## 10. The Chief Executive Officer

10.1 The Chief Executive Officer (CEO) is an Executive member of the ICRIR Board. The CEO is designated by the NIO's Principal Accounting Officer as the Accounting Officer for the ICRIR. The CEO is responsible for meeting the requirements of *Managing Public Money* and is personally accountable to Parliament in this regard. The CEO will chair the Executive Committee of the ICRIR and has responsibility for ensuring the organisation runs efficiently and effectively, discharging its functions in line with all legal requirements and organising all staff to work in support of the Commission's mission.

### *Responsibilities of the ICRIR CEO as Accounting Officer*

10.2 The CEO of the ICRIR, as designated Accounting Officer, is personally responsible for safeguarding the public funds for which they have charge; for ensuring propriety, regularity, value for money and feasibility in the handling of those public funds and for the day-to-day operations and management of the ICRIR. In addition, they should ensure that the ICRIR as a whole is run on the basis of the standards, in terms of governance, decision-making and financial management, that are set out in Chapter 3.3 of *Managing Public Money*, this Framework Document and the annual delegation letter from the NIO Principal Accounting Officer.

10.3 As the designated Accounting Officer, the CEO's responsibilities to Parliament include:

- signing the ICRIR accounts and ensuring that proper records are kept relating to the accounts and the accounts are properly prepared and presented in accordance with any directions issued by the Treasury;
- preparing the consolidation information and complying with the requirements set out in *HM Treasury guidance on preparing Whole of Government Accounts*;
- publication and signing of an annual report preparing and governance statement covering corporate governance, risk management and oversight of any local responsibilities for inclusion in the annual report and accounts;
- ensuring that effective procedures for handling complaints about the ICRIR are established and made widely known within the ICRIR;

- acting in accordance with the terms of [\*Managing Public Money\*](#) and other accounting officer instructions issued from time to time by the NIO, the Treasury and the Cabinet Office;
- ensuring that the ICRIR operates within the legislation governing its operations, this framework document, any delegation letter issued to the body, and any relevant elements of any settlement letter issued to the NIO by HMT that has been communicated to the ICRIR;
- ensuring they have appropriate internal mechanisms for monitoring, governance and external reporting regarding non-compliance with any conditions arising from the above documents; and
- giving evidence, including alongside the Accounting Officer of the NIO, if summoned before the Public Accounts Committee (PAC) on the ICRIR's stewardship of public funds.

*Responsibilities to the NIO*

10.4 As the designated Accounting Officer, the CEO is responsible for the stewardship of funding granted to the ICRIR by NIO in line with the funding mechanisms set out at paragraph [30]. They are responsible for ensuring that the NIO is provided with timely forecasts and financial monitoring information and that the NIO's Chief Operating Officer is notified of any likely over or underspends (and of corrective action taken where possible) or of any other significant financial problems in a timely fashion. They should also ensure that the NIO is sighted on the ICRIR's business plan and workplan.

*Responsibilities to the ICRIR*

10.5 The CEO's responsibilities to the ICRIR include:

- advising the ICRIR on the discharge of the responsibilities set out in this document, in the governing legislation and in any other relevant instructions and guidance that may be issued from time to time;
- formulating the ICRIR's corporate strategy and advising on performance against its aims and objectives;
- promoting the efficient and effective use of resources and ensuring that financial considerations are taken fully into account at all stages in reaching and executing decisions, and that financial appraisal techniques are followed; and
- delivering high standards of regularity and propriety.

*Managing Conflicts with Managing Public Money*

10.6 The CEO should follow the collective direction of the ICRIR Board, except in very exceptional circumstances with a clear cut and transparent rationale for not doing so.

10.7 If the ICRIR is contemplating a course of action involving a transaction or decision which the CEO (as Accounting Officer) considers would infringe the requirements of propriety or regularity or does not represent prudent or economical administration, efficiency or effectiveness, is of questionable feasibility or is unethical, the CEO in their

role as the designated Accounting Officer should reject that course of action and ensure that the Board have a full opportunity to discuss the rationale for that rejection.

- 10.8 Such conflicts should be brought to the attention of the NIO Principal Accounting Officer as soon as possible. Furthermore, and if agreed with the NIO Principal Accounting Officer, the CEO in their capacity of designated Accounting Officer, should write a letter of justification to the Chief Commissioner setting out the rationale for not following the advice and recommendation of the Board and copy that letter to the NIO Principal Accounting Officer.
- 10.9 The Principal Accounting Officer may at this stage seek to discuss the matter with the Chief Commissioner and the Lead Non-Executive Commissioner. Following this it remains for the ICRIR Board to determine its course of action, including to direct the CEO in the manner as set out in *Managing Public Money* Paragraph 3.6.6 onwards..

## **11. The Commissioner for Investigations**

- 11.1 The Commissioner for Investigations will be an Executive member of the Board. The Act designates the Commissioner for Investigation with the powers and privileges of a constable who will be required to carry out specialist functions such as conducting information recovery work, undertaking criminal investigations and making referrals to prosecutors. The Commissioner for Investigations may designate any other ICRIR officer as a person having the powers and privileges of a constable if certain criteria is satisfied. As an Executive Commissioner and Officer of the ICRIR, they will support the CEO in meeting the requirements of *Managing Public Money* and act in accordance with such requirements.
- 11.2 There are a number of specific functions that the Act assigns to the Commissioner for Investigations including:
  - designating ICRIR officers with the powers and privileges of a constable;
  - deciding on how requests for reviews of deaths or other harmful conduct can be made, determining their eligibility and how reviews are dealt with;
  - exercising operational control over the conduct of reviews by the ICRIR;
  - determining requirements for the provision of information to the ICRIR;
  - deciding to make a referral to prosecutors; and
  - identifying sensitive information within the ICRIR, ensuring it is handled appropriately and agreeing disclosure protocols where appropriate

## **12. Non-Executive Commissioners**

- 12.1 The Non-Executive Commissioners are responsible for providing scrutiny, support and challenge to ICRIR Board decision making. The Non-Executive Commissioners are not involved in operational decisions or in the detail of reviews or other work (unless specifically agreed by the CEO and Commissioner for Investigations with necessary security clearances), but act to ensure that the overarching requirements on the organisation are duly discharged and that finances, risk and performance are monitored and meet public expectations. The Non-Executive Commissioners will also have a role in explaining the work of the Commission to the wider public and in leading aspects of public engagement.

12.2 The Lead Non-Executive Commissioner will chair the ICRIR Audit & Risk Committee. In this capacity they may be required to attend meetings of the Audit, Risk and Assurance Committee of the Northern Ireland Office to discuss financial performance and risks. They will also support the Chief Commissioner in the discharge of his duties as Chair of the Commission, for example supporting work to review the effectiveness of the Board.

### **13. Individual Board Members Responsibilities**

13.1 Individual board members should:

- comply at all times with the relevant provisions of the *Code of Conduct for Board Members of Public Bodies*, which covers conduct in the role and includes the *Seven Principles of Public Life* as well as rules relating to the use of public funds and the management of outside interests;
- demonstrate adherence to the *12 Principles of Governance for all Public Body Non-Executive Directors* as appropriate;
- 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 Board's rules on the acceptance of gifts and hospitality, and of business appointments;
- act in good faith and in the best interests of the ICRIR; and
- ensure they are familiar with any applicable guidance on the role of public sector Board members that may be issued from time to time by Cabinet Office or HM Treasury.

## **ROLE OF THE NIO (SPONSORING DEPARTMENT)**

### **14 The Responsible Minister**

14.1 The Secretary of State for Northern Ireland is accountable to parliament for all matters concerning the ICRIR. The Secretary of State will uphold the operational independence of the ICRIR, including as part of his responsibilities to Parliament. NIO Ministers are also responsible for the policy and legislative framework within which the ICRIR operates.

14.2 NIO Ministers' statutory powers in respect of the ICRIR include:

- appointing the Chief Commissioner, Commissioner for Investigations and other Commissioners as specified in the Act;
- overseeing the policy and resources framework within which the ICRIR is required to operate; and
- paying the ICRIR such sums, through grant-in-aid, grant or other funds, as considered necessary for meeting the ICRIR's expenditure and securing Parliamentary approval.

## *Appointments to the Commission*

- 14.3 The Chief Commissioner, Commissioner for Investigations and various other Commissioners, including the Chief Executive Officer are appointed by the Secretary of State.
- 14.4 Commissioners are appointed for a period of up to five years, with the exact length of appointment specified in the Terms and Conditions offered by the Secretary of State, on the recommendation of the Chief Commissioner (apart from when it relates to that role).
- 14.5 Should a Chief Commissioner vacancy arise, the NIO Sponsor team will provide objective criteria for the role to the offices of the Lord Chief Justices of England and Wales, Northern Ireland and Scotland to identify a recommended candidate for appointment as Chief Commissioner. This recommendation would be provided to the Secretary of State for their consideration to make the appointment.
- 14.6 The selection process to identify a recommended candidate for appointment as Chief Executive Officer and Commissioner for Investigations will be led by the ICRIR Remuneration & Nomination Committee, should any vacancy arise. Such recommendations would then require Secretary of State approval as the appointing Minister.
- 14.7 The selection process to identify a recommended candidate (or a number of recommended candidates) for Non-Executive Commissioner roles shall be carried out in accordance with the Cabinet Office's *Governance Code on Public Appointments*. The Chief Commissioner shall chair the Advisory Assessment Panel and shall recommend to the Secretary of State other panel members. There will not be a representative of the NIO on the panel. Following the conclusion of the appointments process, the Advisory Assessment Panel will provide a recommendation to the Secretary of State as to who should be appointed from those that the panel found to be appointable.
- 14.8 All such appointments should have regard to the principle that appointments should reflect the diversity of the society in which we live, and appointments should be made taking account of the need to appoint individuals with the appropriate balance of skills and backgrounds.

## **15 The NIO Principal Accounting Officer**

- 15.1 The Principal Accounting Officer is the Permanent Secretary of the NIO.

### *NIO Principal Accounting Officer's specific accountabilities and responsibilities*

- 15.2 The Principal Accounting Officer designates the Chief Executive Officer (CEO) of the ICRIR as the organisation's Accounting Officer. The Accounting Officer's responsibilities and delegated authorities are set out in the letter of appointment from the Principal Accounting Officer. The respective responsibilities of the Principal Accounting Officer and Accounting Officer's are set out in Chapter 3 of [Managing Public Money](#).
- 15.3 The Principal Accounting Officer is accountable to Parliament for the issue of any grant-in-aid to the ICRIR.

15.4 The Principal Accounting Officer is responsible, usually via the sponsorship team, for advising the Secretary of State on:

- how the ICRIR is delivering against its workplan (as set out at para 30) its strategic objectives and whether it is delivering value for money; and
- the exercise of the Secretary of State's statutory responsibilities concerning the ICRIR as outlined above.

15.5 The Principal Accounting Officer, via the sponsorship team, is also responsible for ensuring arrangements are in place in order to:

- provide the ICRIR with timely notice of information requirements, budgeting authorisations and other financial information to support the efficient and effective running of ICRIR and its ability to plan
- ensure that the Secretary of State meets any statutory requirements which support the proper running of the ICRIR
- monitor the governance and financial control mechanisms in place within the ICRIR, making such interventions as are judged necessary;
- support the development of positive and effective working relationships between the ICRIR and the NIO, ensuring that the stewardship relationship is tailored and proportionate to maintain operational independence whilst also adhering to their Managing Public Money Accounting Officer responsibilities;
- inform the ICRIR of relevant new or revised government policies in a timely manner; and
- to bring concerns about ICRIR governance activities to the attention of the ICRIR CEO, requiring explanations and assurances that appropriate action has been taken.

## **16 The role of the NIO sponsorship team**

16.1 The senior sponsor in the NIO is the Deputy Director of the Legacy Implementation Team; and is the primary contact for the ICRIR. The sponsor is the main source of advice and support to the responsible minister and the Principal Accounting Officer on the discharge of their responsibilities in respect of the ICRIR. The sponsor oversees the working relationship between the NIO and the ICRIR and, with other NIO teams, secures the necessary financial, management and governance information required to monitor the ICRIR's performance.

16.2 Accountability meetings will take place on at least a quarterly basis between the sponsor and the ICRIR to discuss financial management and progress against the ICRIR's strategic aims and objectives. The NIO Senior Sponsor and ICRIR will agree the agenda in advance of such meetings and rotate the role of Chair.

## **17 Resolution of disputes between the ICRIR and the NIO**

17.1 Any disputes between the NIO and the ICRIR will be resolved in as timely a manner as possible. The NIO and the ICRIR will seek to resolve any disputes through an

informal process in the first instance. If this is not possible, then a formal process, overseen by the senior sponsor and ICRIR COO, will be used to resolve the issue. They may then choose to ask the NIO Permanent Secretary and the ICRIR Accounting Officer to jointly nominate a non-executive member of the department's Board and of ICRIR's Board to jointly review the dispute, mediate with both sides and reach an outcome in consultation with the Chief Commissioner and the Secretary of State.

## **FINANCIAL RESPONSIBILITIES, CONTROLS & RISK MANAGEMENT**

### **18. Delegated Authorities**

- 18.1 The ICRIR delegated authorities are set out in the delegation letter issued annually by the NIO Principal Accounting Officer ([copy attached at Appendix 2](#)). This delegation letter may be updated and superseded by later versions which may be issued by the NIO in agreement with HM Treasury.
- 18.2 In line with *Managing Public Money* Annex 2.2, these delegations will be reviewed on an annual basis.
- 18.3 The ICRIR shall obtain the NIO's prior written approval before:
  - entering into any undertaking to incur any expenditure that falls outside the delegations or which is not provided for in the ICRIR's annual budget (or indicative future budgets for multi-year commitments) as approved by the NIO;
  - Incurring expenditure for any purpose that is or might be considered novel or contentious or which has or could have significant future cost implications;
  - making significant changes in the scale of operation or funding of any initiative or particular scheme previously approved by the NIO;
  - making changes of policy or practice which have wider significant financial implications that might prove repercussions or which might significantly affect the future level of resources required for ICRIR; and
  - carrying out policies that go against the principles, rules, guidance and advice in *Managing Public Money*.

### **19. Spending Authority**

- 19.1 Once the budget has been approved by the NIO and subject to any restrictions set out in the delegation letter, the ICRIR shall have authority to incur expenditure approved in the budget without further reference to the NIO on the following conditions:
  - the ICRIR shall comply with the delegations set out in the delegation letter and these delegations shall not be altered without the prior agreement of the NIO and as agreed by HM Treasury and Cabinet Office as appropriate;
  - the ICRIR shall comply with *Managing Public Money* regarding novel, contentious or repercussions proposals;
  - the inclusion of any planned and approved expenditure in the budget shall not remove the need to seek formal departmental approval where any proposed expenditure is outside the delegated limits and has not already been approved through a business case;

- the ICRIR shall provide the NIO with such information about its expenditure as the sponsor department may reasonably require. This should be confined to financial information and not require the ICRIR to disclose operational details.

## 20. Banking & Cash Management

- 20.1 The ICRIR must maximise the use of publicly procured banking services (accounts with central government commercial banks managed centrally by Government Banking)
- 20.2 The ICRIR should only hold money outside Government Banking Service accounts where a good business case can be made for doing so and HM Treasury consent is required for each account to be established. Only commercial banks which are members of relevant UK clearing bodies may be considered for this purpose
- 20.3 The ICRIR designated Accounting Officer is responsible for ensuring that the ICRIR has a banking policy as set out in *Managing Public Money* and ensuring that policy is complied with.

## 21. Procurement

- 21.1 The ICRIR shall ensure its procurement policies are consistent with Government guidance, and comply with any relevant UK or international procurement, in particular the Public Contracts Regulations 2015, including Annex 4.6 of *Managing Public Money*, and NIO procurement guidelines and policies.
- 21.2 The ICRIR shall put in place a procurement framework which sets out its procurement processes and control mechanisms under the statement of delegated authority for general procurement issued by the NIO.
- 21.3 Where likely to exceed its delegated authority limit (as set out above in paragraph 18), procurement strategy approval for the specific planned purchase must be sought from the NIO.
- 21.4 Goods, services and works should be acquired by competition. Proposals to let single tender or restricted contracts shall be limited and exceptional and will require the approval of the ICRIR designated Accounting Officer (or appropriate delegate). A quarterly report explaining those exceptions above a threshold should be sent to the NIO.
- 21.5 Procurement by ICRIR of works, equipment, goods and services shall be based on a full option appraisal and value for money i.e the optimum combination and whole life costs and quality.
- 21.6 The ICRIR shall:
  - engage fully with NIO and government wide procurement initiatives that seek to achieve value for money from collaborative projects, where these do not, in the opinion of ICRIR's Board, impact on the operational independence of ICRIR;
  - comply with all relevant Procurement Policy Notes issued by Cabinet Office; and
  - cooperate fully with initiatives to improve the availability of procurement data to facilitate the achievement of value for money.

21.7 The ICRIR shall also comply with relevant functional standards. These standards apply to planning, delivery, management of government commercial activity including management of grants in all departments and ALBs, regardless of commercial approach used and form part of a suite of functional standards that set expectations for management within government.

## **22. Cabinet Office Spending Controls**

22.1 [To be determined]

## **23. Counter Fraud & Theft**

23.1 The ICRIR should adopt and implement policies and practices to safeguard itself against fraud and theft.

23.2 The ICRIR should act in line with guidance issued by the Counter Fraud Function and in compliance with the procedures and considerations as set out in *Managing Public Money* Annex 4.9 and *Counter Fraud Functional Standard*. It should also take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter a contract or to provide grant or grant-in-aid.

23.3 The ICRIR should keep records of and prepare and forward to the NIO an annual report on fraud and theft suffered by ICRIR and notify the NIO of any unusual or major incidents as soon as possible. The ICRIR should also report detected loss from fraud, bribery, corruption and error alongside associated recoveries and prevented losses to the counter fraud centre of expertise in line with the agreed government definitions as set out in the Counter Fraud Functional Standard.

## **24. Risk Management**

24.1 The ICRIR 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 current HM Treasury guidance, *Management of Risk: Principles and Concepts*, including a reference to risk in the governance statement.

24.2 The ICRIR will share its Board level risk register with the NIO and risks should be subject to regular review at accountability meetings and where the risk is capable of impacting on the NIO itself, escalated to the NIO as appropriate.

## **25. Reporting on Legal Risk & Litigation**

25.1 The ICRIR shall have sole responsibility for litigation protocols relating to operational and/or policy decisions taking by the ICRIR, including immunity decisions and/or reviews referred for prosecution.

25.2 The NIO will maintain responsibility for litigation protocols for any legal challenges relating to the founding legislation and/or decisions taken by the Secretary of State, such as Commissioner appointments

25.3 The parties acknowledge the importance of ensuring that legal risks are communicated appropriately to one another in a timely manner, however both will ensure this is done so in a manner that does not undermine the independence and statutory requirements of the ICRIR. The General Counsel to the ICRIR and the Head of NIO Legal Advisers (NIOLA) may agree to a litigation protocol which will include specific provisions to ensure

appropriate and timely reporting. Until such time as a protocol is agreed, the parties will ensure that updates are provided by ICRIR and the NIO on at least a bi-annual basis which will include;

- The number of ongoing legal challenges being managed;
- An assessment of the potential financial and/or reputational risk; and
- Mitigations in place to defend such challenges.

## **ICRIR STAFF**

### **26. ICRIR Broad Responsibilities for Staff**

26.1 The ICRIR will have responsibility for the recruitment, retention and motivation of its staff. The broad responsibilities toward its staff are to ensure that:

- the rules for recruitment and management of staff create an inclusive culture in which diversity is fully valued; appointment and advancement is based on merit; there is no discrimination against employees with protected characteristics under Section 75 of the Northern Ireland Act along with the Equality Act 2010;
- the level and structure of its staffing, including grading and staff numbers, are affordable and appropriate to its functions and the requirements of economy, efficiency and effectiveness;
- the performance of its staff at all levels is satisfactorily appraised and the ICRIR 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 ICRIR's objectives;
- proper consultation with staff takes place on key issues affecting them;
- adequate grievance and disciplinary procedures are in place;
- procedures for raising a concern, consistent with the Public Interest Disclosure Act are in place;
- a code of conduct for staff is in place drawing from the *Cabinet Office's Model Code for Staff of Executive Non-departmental Public Bodies* as appropriate, and reflecting the *Seven Principles for Standards in Public Life*.

### **27. Staff Costs**

27.1 Subject to its delegated authorities, the ICRIR shall ensure its staffing structure is affordable and that the creation of any additional posts does not incur forward commitments that will exceed its ability to pay for them.

### **28. Pay & Conditions of Service**

28.1 The ICRIR's staff are subject to levels of remuneration and terms and conditions of service (including pensions) within the general pay structure approved by the ICRIR's Remuneration & Nomination Committee following consultation with the NIO as sponsor department. The ICRIR must consult with the NIO before any material amendments are made to these terms and conditions.

- 28.2 Staff terms and conditions should be set out in an Employee Handbook, which should be provided to the NIO together with any subsequent amendments.
- 28.3 The ICRIR shall abide by public sector pay controls, including the relevant approvals process dependent on the organisation's classification as detailed in the *Senior Pay Guidance* and the *Public Sector Pay and Terms Guidance*.
- 28.4 The travel expenses of ICRIR Board members shall be tied to the rates allowed to senior staff of ICRIR. Reasonable actual costs shall be reimbursed.

## **29. Pensions, Redundancy & Compensation**

- 29.1 Compensation scheme rules and pension scheme rules should reflect legislative and HM Treasury guidance requirements regarding exit payments.
- 29.2 The ICRIR staff shall normally be eligible for a pension provided by its own scheme. Staff may opt out of the occupational pension scheme provided by the ICRIR, but that employers' contribution to any personal pension arrangement, including stakeholder pension, shall normally be limited to the national insurance rebate level.
- 29.3 Any proposal by the ICRIR to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the prior approval of the ICRIR's Remuneration & Nomination Committee following consultation with the NIO as sponsor department. Proposals on severance must comply with the rules in chapter 4 of *Managing Public Money*.

# **BUSINESS PLANS, FINANCIAL REPORTING AND MANAGEMENT INFORMATION**

## **30. Business Plans**

- 30.1 As set out in the Act, ahead of the 2025/26 financial year (and for subsequent financial years), the ICRIR will have a statutory requirement to produce and publish a work plan three months in advance of the incoming financial year, for which a copy will also be shared with the Secretary of State. This work plan must deal with:
  - the caseload which the ICRIR is expecting;
  - the plans which the ICRIR has for dealing with its caseload;
  - the plans which the ICRIR has for engaging with persons entitled to request;
  - reviews of deaths and other harmful conduct;
  - policies which the ICRIR is planning to introduce, review or change; and
  - such other matters as the ICRIR considers appropriate

- 30.2 Whilst not a statutory requirement, the ICRIR will provide a similar work plan report to the NIO in advance of the 2024/25 financial year.
- 30.3 The ICRIR will also produce a business plan covering at least three years, and will update this on an annual basis alongside the annual work plan. Agreement by the NIO and HMT of the business plan will provide authorisation for multiyear spending.

## **31. Budgeting Procedures**

- 31.1 [To be completed]

## **32. Grant-in-Aid & Any Ring-fenced Grants**

- 32.1 Any grant-in-aid provided by the department for the year in question will be voted in the NIO's supply estimate and be subject to parliamentary control.
- 32.2 Grant-in-aid will normally be paid in monthly instalments on the basis of written applications showing evidence of need. The ICRIR will comply with the general principle that there is no payment in advance of need. Cash balances accumulated during the course of the year from grant-in-aid or other Exchequer funds shall be kept to a minimum level consistent with the efficient operation of the ICRIR. Grant-in-aid not drawn down by the end of the financial year shall lapse. Subject to approval by Parliament of the relevant Estimates provision, where grant-in-aid is delayed to avoid excess cash balances at year-end, the NIO will make available in the next financial year any such grant-in-aid that is required to meet any liabilities at the year-end, such as creditors.
- 32.3 In the event that NIO provides the ICRIR separate grants for specific (ring-fenced) purposes, it will issue the grant as and when the ICRIR needs it on the basis of a written request. The ICRIR will provide evidence that the grant will be used for the purposes authorised by the NIO. The ICRIR shall not have uncommitted grant funds in hand, nor carry grant funds over to another financial year.

## **33. Annual Report & Accounts**

- 33.1 The ICRIR must publish an annual report of its activities together with its audited accounts after the end of each financial year. The ICRIR shall provide the NIO with its finalised accounts and consolidation information as appropriate within the timetable issued by the NIO Finance team each year. The accounts should be prepared in accordance with relevant statutes and specific accounts direction issued by the department as well as the Treasury's Financial Reporting Manual.
- 33.2 The annual report must:
  - comply with all relevant financial reporting requirements including HM Treasury's *Financial Reporting Manual* (FReM);
  - comply with any requirements set out in the Act; and
  - outline main activities and performance during the previous financial year and set out in summary form any forward plans.
- 33.3 Information on financial performance is included within the annual report and subject to the auditor's consistency opinion. The report and accounts shall be laid in Parliament and made available on the ICRIR website, in accordance with HM Treasury directions and any other relevant guidance or procedures.

## **34. Reporting Performance to the NIO**

- 34.1 The ICRIR shall operate management, information and accounting systems that enable it to review in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in the Commission's corporate and business plans.
- 34.2 The ICRIR shall inform the NIO of any changes that make achievement of workplan objectives more or less difficult. It shall report financial performance and the achievement of key objectives. It shall provide in year reporting against any public metrics it has set out.

- 34.3 The ICRIR performance shall be formally reviewed bi-annually by the Chief Commissioner in consultation with the NIO.
- 34.4 The Secretary of State will, unless other arrangements have been agreed, meet the Chief Commissioner at least once a year to discuss the ICRIR's performance and current issues. The NIO Principal Accounting Officer will also meet with the ICRIR Chief Executive Officer at least once a year. No individual ICRIR case review or immunity decisions or other operational matters relating to cases will be discussed during the course of these meetings.

## **35. Information Sharing**

- 35.1 The NIO may request access to ICRIR corporate and/or financial records for the purposes of sponsorship audits and accountability assurance. The ICRIR shall provide the NIO with such information as the sponsor department may reasonably require, excluding any information relating to investigative matters.
- 35.2 The NIO may request the sharing of data held by the ICRIR in such a manner as set out in the central guidance except insofar as it is prohibited by law. This may include requiring the appointment of a senior official to be responsible for the data sharing relationship.
- 35.3 As a minimum, the ICRIR shall provide the department with information that will enable the department satisfactorily to monitor:
  - ICRIR cash management;
  - drawn-down of grant-in-aid;
  - forecast outturn by resource headings;
  - other data required by the HMT Online System for Central Accounting and Reporting (OSCAR); and
  - data as required in respect of its compliance with any Cabinet Office Controls pipelines that apply to ICRIR or required in order to meet any condition as set out in any settlement letter.

## **36. Freedom of Information Requests**

- 36.1 Where a request for information is received by either party under the Freedom of Information Act 2000 or the Data Protection Act 1998 or 2018, the party receiving the request will be responsible for responding to FOI requests in relation to the records which it holds.
- 36.2 The ICRIR and NIO will maintain a central monitoring record of FOI and DPA requests received and answered.

## **AUDIT ARRANGEMENTS**

### **37. Internal Audit**

- 37.1 The ICRIR shall:
  - establish and maintain arrangements for internal audit in accordance with the Public Sector Internal Audit Standards (PSIAS); setting up an audit committee

in accordance with the Cabinet Office's Code of Good Practice for Public Bodies and the Audit Committee Handbook;

- consult the NIO to ensure they are satisfied with the competence and qualifications of those fulfilling the internal audit function;
- provide the NIO with a copy of the audit strategy, periodic audit plans and annual audit report, including the internal audit opinion on risk management, control and governance. The annual internal audit report should also be provided to the NIO Audit & Risk Committee;
- share with the NIO information identified during the audit process and at the Annual Audit Opinion Report at the end of the audit, in particular on issues impacting on the department's responsibilities in relation to financial systems within the ICRIR.

### **38. External Audit**

38.1 The Comptroller and Auditor General audits the ICRIR annual accounts and will lay the accounts before Parliament.

38.2 The Comptroller and Auditor General:

- will consult with the NIO and ICRIR on whom – the NAO or a commercial auditor – shall undertake the audits(s) on his behalf, though the final decision rests with the Comptroller and Auditor General;
- has a statutory right of access to relevant documents, including by virtue of section 25(8) of the Government Resources and Accounts Act 2000, held by another party in receipt of payments or grants from the ICRIR;
- will share with the NIO information identified during the audit process and the audit report in particular on issues impacting the NIO responsibilities in relation to the financial systems within the ICRIR; and
- will consider requests from departments and other relevant bodies to provide regulatory compliance reports and other similar reports at the commencement of the audit. Consistent with the Comptroller and Auditor General's independent status, the provision of such reports is entirely at the Comptroller and Auditor General's discretion.

38.3 The Comptroller and Auditor General may carry out examinations into the economy, efficiency and effectiveness with which the ICRIR 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 section 8 of the National Audit Act 1983. In addition, the ICRIR shall provide, in conditions to grants and contracts, for the C&AG to exercise such access to documents held by grant recipients and contractors and sub-contractors as may be required for these examinations and shall use its best endeavours to secure access for the C&AG to any other documents required by the C&AG which are held by other bodies. Where an examination may touch on live investigative and operational matters, the Chief Commissioner and the Comptroller and Auditor General will discuss how to ensure appropriate access while meeting other statutory obligations.

## REVIEWS AND WINDING UP ARRANGEMENTS

### 39. Review of ICRIR's Status

39.1 In line with Cabinet Office *Public Bodies Review Programme guidance*, a formal review of the ICRIR will be required to ensure that the ICRIR is effective and efficient and delivered in accordance with any legal and mandatory requirements set by the government. The Act has also created a statutory requirement that the Secretary of State carry out a review of the performance by the ICRIR of its functions, by the end of the third year of the period of operation of the ICRIR. This review will allow the Secretary of State to assess the workload of the ICRIR and the mode of operation it is utilising to understand the long-term trajectory and the likely remaining time and resources required to complete its functions. A copy of this review must be laid before Parliament.

39.2 Rather than carrying out two separate reviews within a close period, it has been agreed with the Cabinet Office that a single review fulfilling the requirements of both will be undertaken after three years of operation. This will prevent undue disruption to the Commission of running separate reviews two years in a row and will be a more efficient use of the resource that will go into the preparation and execution of the reviews. The review will be led by an individual who is independent of the NIO and of the ICRIR, to be agreed between the Secretary of State and the Chief Commissioner. The terms of reference for the review will also be agreed by the Secretary of State and the Chief Commissioner for which the Cabinet Office's four quadrant approach to reviewing the body's performance will be utilised to scrutinise its accountability, governance arrangements, efficacy, and efficiency (or any such updated methodology as is in place at the time of the review).

39.3 A further natural review point will fall after five years of operation, the point at which the window for making review requests closes. This will allow the ICRIR and the NIO to review the final caseload that will need to be processed and the future leadership requirements for the body and to refine or redevelop plans.

39.4 A further review will take place after seven years of operation. This will consider progress to date and potential requirements for winding up of the ICRIR (currently assumed as the conclusion of year 10 of operation), providing clarity on the likely point for this- with detailed work in relation to this will be undertaken over the final year or so of the Commission's life.

### 40. Arrangements Should the ICRIR be Wound Up

40.1 Following the point at which the ICRIR can no longer accept requests for cases, the Chief Commissioner shall write to the Secretary of State on an annual basis with their opinion as to the likely length of time to complete the work that the ICRIR has underway and with any views as to whether the ICRIR should be wound up.

40.2 The Secretary of State is required to consult with the ICRIR should be propose that the ICRIR be wound up and in order to do so an Affirmative Statutory instrument must be laid before Parliament.

40.3 The NIO shall put in place arrangements to ensure the orderly winding up for the ICRIR. In particular, it should ensure that the assets and liabilities of the ICRIR are passed to any successor organisation and accounted for properly. In the event there is no successor organisation, the assets and liabilities will revert to the NIO who will make arrangements for the effective winding-up and closing of accounts.

40.4 To this end, the NIO shall:

- have regard to Cabinet Office guidance on winding up of ALBs;
- ensure that procedures are in place in the ICRIR 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 inherited by any residuary body;
- specify the basis for the valuation and accounting treatment of ICRIR assets and liabilities;
- ensure that arrangements are in place to prepare closing accounts and pass to the C&AG for external audit and that, for non-crown bodies funds are in place to pay for such audits. It shall be for the C&AG to lay the final accounts in parliament, together with his report on the accounts; and
- arrange for the most appropriate person to sign the closing accounts. In the event that another ALB takes on the role, responsibilities, assets and liabilities, the succeeding AO should sign the closing accounts. In the event that the NIO inherits the role, responsibilities, assets and liabilities, the PAO will sign; and
- ensure arrangements are in place to securely maintain and/or archive ICRIR records and reports.

40.5 As part of this process the ICRIR shall provide the NIO with full details of all agreements entered into and should also pass on details of any forms of claw-back due to the ICRIR.

**Signed.....**

**Signed.....**

**Date.....**

**Date.....**

**(On behalf of the NIO)**

**(On behalf of the ICRIR)**

## APPENDIX 1- GENERAL GUIDANCE

Current guidance with which the ICRIR must comply:

- This Framework Document and any other specific instructions and guidance issued by the NIO as sponsor department or by central departments;
- [Relevant sections of the Code of conduct for Board members of public bodies](#)
- Relevant sections of [Public Bodies: A Guide for Departments](#)
- Relevant Freedom of Information Act guidance published by the Information Commissioner's Office [[guide-to-freedom-of-information](#)];
- [Managing Public Money](#)
- [Government Financial Reporting Manual \(FrEM\)](#)
- [Relevant Government Functional Standards](#)
- [Relevant Dear Accounting Officer letters](#)
- [Audit Committee Handbook](#)
- [Public Sector Internal Audit Standards](#)
- [Management of Risk: Principles and Concepts](#)
- [Guide to managing fraud for public bodies.](#)
- [Tackling Fraud, issued by the Treasury](#)
- [Cabinet Office Control Limits](#) (of which all are not relevant to the ICRIR); and
- Recommendations made by the Public Accounts Committee, or by other Parliamentary authority, that have been accepted by the Government and relevant to the Commission.

## **APPENDIX 2 - NIO FUNDING DELEGATION LETTER**

TO BE INSERTED ONCE DRAFTED