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To: David Thomson
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cc: Colin Lewis
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ENERGY DIVISION RISK REGISTER

1. The attached Risk management paper DB4/3 was discussed at the Departmental Board this morning. Amongst other things it identifies a number of new Divisional Risks in Energy Division, many of which are deemed High Impact/ High likelihood.
2. The Board agreed that we should meet to discuss these risks to consider whether the risk assessment is appropriate and also whether there is anything we can do to address the indentified risks. I am concerned that we should avoid taking ownership of risks over which we have no real control (eg the extension of the exemption to the Climate Change levy).
3. I have asked Janice to set something up (and I would be grateful if Terry could also attend).

DAVID STERLING

DEPARTMENTAL BOARD

REPORT RELATING TO DETI HQ RISK MANAGEMENT RETURNS AND QUARTERLY ASSURANCE STATEMENTS FOR QUARTER ENDED 31 MARCH 2010

INTRODUCTION

This report relates to Risk Management Returns and Quarterly Assurance Statements for DETI HQ. It covers the quarter ended 31 March 2010.

Proposals on the management of Corporate Risks and a new set of 10 Corporate Risks were considered by the Department Board at it's meeting on 20 April. Unfortunately, progress on the development of new risk management templates has been slower than anticipated as a result of other pressures, including PAC and IREP. This area of work will be taken forward over the summer months.

The risk management section of this paper covers the corporate risks in existence preceding the paper to the Departmental board.

RISK MANAGEMENT

Corporate Risks

1. The Corporate risk (risk owner - Trevor Cooper, Finance & EU Division (FEU)) "Failure to adequately address issues raised by EC Auditors in relation to closure of 1994-99 Programmes" has been **deleted** as closure of the 1994-99 Programmes is now complete, with the flat rate correction reduced from 5% to 2%. DETI specific SPD issues reduced from £8.7m to £1m.

2. The Corporate risk (risk owner - Trevor Cooper, Finance & EU Division (FEU)) "Misinterpretation of and failure to comply with EU Structural Fund Regulations in relation to the 2000-06 Programmes" has been **deleted** as the BSP Programme is now closed. BSP closure documentation forwarded to the Commission in July 2009. No major issued have been raised to date. A new risk has been created addressing issues raised by EC Auditors in relation to closure.

3. A **new** Corporate risk has been identified (risk owner – Trevor Cooper, Finance & EU Division) "Failure to adequately address issues raised by EC Auditors in relation to closure of 2000-06 Programmes". This is currently assessed as impact/likelihood, **'high/high',** with a management status of 'partially managed to an acceptable level'

4. The Corporate risk (risk owner – Trevor Cooper, Finance & EU Division (FEU)) "Inappropriate financial control by Special EU Programmes Body / governance arrangements in relation to the Interreg IVA Programme" remains at impact / likelihood '**high / high**'. Actions being taken to manage the risk are the ongoing effective management of

financial flows, monitoring and management in accordance with the Terms and Conditions of Payment of Grant document as agreed and ongoing effective liaison between DETI & Special EU Programmes Body.

5. The Corporate Risk (risk owner – Trevor Cooper, Finance & EU Division (FEU)) "Unauthorised, inaccurate or untimely processing of accounting transactions" remains at impact / likelihood '**high / high'**. Actions being taken to manage the risk include:

- Supplier invoices continuing to be sent to DETI Branches prior to submission to Account NI to ensure traceability;
- Monitoring by the internal DETI Account NI project team and branches of the progress of invoices sent to Account NI highlighting any invoices that may be missing;
- Ongoing support to Branches from the internal DETI Account NI project team;
- Ongoing flagging of issues to Account NI for remedy as they become apparent;
- With the introduction of HR Connect, provision of staffing and staff cost information to Branches for review on a monthly basis to maximise the integrity of accounting information; and
- Consideration of additional audit work around integrity of balance transfers.
- Participate in cross departmental working groups with Account NI to review and improve processes and procedures

Divisional Risks

New Divisional Risks

6. A **new** Energy Division risk (risk owner – Jenny Pyper, Energy Division) "Failure to implement EU Directives" is currently assessed as impact likelihood 'high/high' and 'partially managed to an acceptable level'. Resource constraints (both staff and financial) will impact on the Department's ability to properly transpose EU Directives by the required dates e.g. EU Third Energy Package (IME3) consists of two Directives and three Regulations for transposition by 31 March 2011. In relation to the Renewable Energy Directive, Energy Division states that long term sick absence is directly affecting its ability to achieve transposition date targets. Department has received an Article 226 notification in relation to Second EU Energy Package (IME2) for two Regulations (Reg 1228/03 and 1775/03) with potential for infraction proceedings to commence by the EU.

7. A **new** Energy Division risk (risk owner – Jenny Pyper, Energy Division) "Failure to draft and implement Energy legislation" is currently assessed as impact / likelihood 'high/high' and 'partially managed to an acceptable level'. Energy Division has stated that resource constraints (both staff and financial) are affecting its ability to amend subordinate and take forward primary energy legislation. Potential for industry criticism.

8. A **new** Energy Division risk (risk owner – Jenny Pyper, Energy Division) “Failure to achieve further exemption to the Climate Change Levy (CCL) for natural gas resulting in higher energy costs for industry and criticism of the Department” is currently assessed as impact/likelihood ‘high/high’ and ‘partially managed to an acceptable level’. The current exemption for the Climate Change Levy for natural gas expires on 31 March 2011. <u>This will result in additional business energy costs</u>. Division is currently liaising with HMRC and other Departments to seek approval for an extension of the exemption. This will require a robust case to be made to Brussels involving Energy Division, DETI Economists, DFP, HMRC and Defra.

Divisional Risks with a High Impact and a High Likelihood and those with a Management Status of Not Managed / Not Acceptable

9. A GSNI Minerals Branch risk (risk owner – Noel Cornick, Tourism, Agency Liaison and Equality Division) “Failure to implement EC Directive 94/22/EC on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons (“The Hydrocarbons Directive”)” had a risk rating of impact/likelihood ‘**high / high**’ at the end of the quarter. The directive has now been implemented through the making of the Hydrocarbons Licencing Directive Regulations (Northern Ireland) 2010, which came into operation on 28 May 2010.

10. The Energy Division risk (risk owner - Jenny Pyper) “Failure to ensure Northern Ireland contribution to United Kingdom renewables targets, including UK 15% renewable energy target by 2020” remains at impact/likelihood **‘high / high’.** Achievement of the very challenging renewable energy targets mandated by the Renewable Energy Directive requires significant cross-departmental work to ensure, for example, a facilitative planning environment etc. Energy Division believes that resource constraints impinge on the target being met.

11. The Energy Division risk (risk owner - Jenny Pyper) “Failure to develop a coherent renewable heat policy for NI” (risk owner - Jenny Pyper, Energy Division) remains assessed as “**not managed / not acceptable**” with a risk rating of impact/likelihood ‘**high / high**’. A renewable heat road map is being developed. A signal to industry is required to sustain the long term future of the industry. Energy Division is in discussion with DECC re: funding for a potential Renewable Heat Incentive. New legislation powers will be required.

12. The Energy Division risk (risk owner – Jenny Pyper) “Inability of Energy Division to meet its statutory obligations and contribute to delivery of Competitiveness Fund, Interreg and Innovation Fund due to insufficient staff resources” remains at impact/ ‘**high / high**’. Energy Division believes that it would require additional staff to deliver spend.

Divisional Risk Escalations

13. No escalations have been reported this quarter.

Divisional Risk De-Escalations

14. The Innovation Policy Unit risk (risk owner – Fiona Hepper, Strategic Policy Division (SPD)) “Failure to enhance Northern Ireland’s Regional Innovation System” has been de-escalated from ‘impact’ “medium”, ‘likelihood’ “high” to impact “medium” and ‘likelihood’ “medium”. Action has been taken by IPU to reprioritise this work and this risk is now fully managed.

15. The Equality & Diversity Unit risk (risk owner – Noel Cornick, Tourism, Agency Liaison & Equality Division) “Failure to co-ordinate Government actions in response to the West Belfast & Greater Shankill Task Forces’ communities (January 2007) Report and to effectively monitor the implementation of remaining IDF projects” has been **de-escalated** from impact ‘high’, likelihood ‘medium’, to impact ‘medium’ and likelihood ‘medium’, as interest in the initiative has diminished as other departmental programmes/initiatives for the area are developed.

16. The Finance Accounts risk (risk owner – Trevor Cooper, Finance & EU Division) “Inability to meet demands for early closing of the Financial Year” has been re-assessed and **de-escalated** from impact ‘high’, likelihood ‘low’, to impact ‘medium’ and likelihood ‘low’.

Divisional Risk Deletions, Changes of Management Status and Transfers

17. An Energy Division risk (risk owner – Jenny Pyper) “Failure to implement EU Directives/Energy Legislation” has been **deleted.** Two new risks relating to this area have been created.

18. A Consumer Affairs Branch risk (risk owner – Mike Bohill, Business Regulation Division) “Incorrect or inappropriate briefing to Assembly / Minister” has been **deleted** as staff are now experienced in this area of work and keep themselves abreast of any changes to guidelines.

19. An Internal Audit risk (risk owner – Trevor Cooper, Finance & EU Division) “Failure to close BSP and ERDF” has been **deleted** as appropriate closure action has been taken.

QUARTERLY ASSURANCE STATEMENTS

Management Services Group

Finance and EU Division

CURRENT POSITION ON CLOSURE OF BSP PROGRAMME 2000/06

20. The BSP closure narrative report, final declaration of expenditure and Article 15 Body assurance statement was submitted to the Commission on 31 July 2009 in line with the Regulatory deadlines. The final assurance statement gave an unqualified opinion and declaration that the final claim was free from material misstatement.

21. The IAS verification process identified some further compliance issues resulting in adjustments to the amount claimed. There was minimal budgetary impact for DETI accounts as only minor issues arose under Telecoms, Energy and LED. The main adjustments related to Invest NI activity, but with most instances falling pre-2006, the majority of it was CFER related, for which adequate provision had already been made.

22. Discussions with the Commission are ongoing in relation to issues arising from audits conducted during the programme period. Progress is being made in relation to resolving these queries, the successful conclusion of which is a necessary precursor to formal programme closure.

PEACE I

23. As reported in previous papers, DFP attended a Commission hearing in Autumn 2008 relating to the closure audit on PEACE I. In this case the Commission had proposed a total Programme correction of £13.7m. Of the £13.7m proposed, £3m is project specific with the balance being a proposed flat rate correction. The Commission has now confirmed a reduction in the flat rate correction from 5% to 2%. DFP have confirmed that the correction made by the Commission has no budgetary impact for Northern Ireland and therefore DETI. Repayment of the appropriate sum was made by DFP in March 2010 and this programme is now considered closed, and the issue will therefore be removed from future Finance and EU Division Assurance Statements.

SEUPB

24. As reported in previous papers, DETI provides budget provision to SEUPB for Interreg IVa projects for which it is accountable. The majority of such projects are not promoted by DETI Divisions, and DETI has no direct relationship or interaction with the project promoters. DETI is therefore dependant on the quality of SEUPB's monitoring and control of these projects in terms of forecast budget requirements. Whilst EU Programmes Branch has and will continue to exercise a challenge over the SEUPB financial input to monitoring rounds, this structure does create risks in terms of potential under or overspending. In an effort to place greater controls on the process, EU Programmes Branch is currently working with SEUPB to draft a finance manual aimed at building more comprehensive structures on forecasting and the processing of financial transactions. A draft version of the document has been produced by the Branch and forwarded to SEUPB for input. This remains under consideration by SEUPB and they have recently employed a new finance officer who will be taking forward development of this document.

EXCHANGE RATE MANAGEMENT

25. There is the potential for DETI and its NDPBs to experience exchange rate gains/losses on ERDF claims made to the EU depending on movements in exchange rates between the date a claim is made to the EU and the date a claim is paid. Other than making regular claims DETI and its NDPBs have no means to manage this risk. Additionally, SEUPB has issued a number of Interreg Letters of Offer in euro. DETI therefore closely monitors exchange rate movements in relation to the budgetary requirements for these Interreg projects.

GRANT ACCRUALS

26. Invest NI has significant closing grant accruals which are not verified until after the end of the financial year. These closing grant accruals have the potential to cause significant problems in relation to possible underspending or overspending. Finance Branch will continue to closely monitor this situation.

Presbyterian Mutual Society

27. Stephen Quinn’s response to Noel Lavery’s 31 December 2008 statement asked that reference be made to developments in relation to the Presbyterian Mutual Society.The General Assembly of the Presbyterian Church meeting in Belfast on 13 April unanimously agreed to the resolution “that in the event of the Government failing to secure a commercial solution and the Northern Ireland Executive bringing forward a final and comprehensive proposal which includes a hardship fund element, agree in principle to contribute £1m”.

    OFMDFM circulated a Paper outlining the proposals for the orderly run down of the Presbyterian Mutual Society and which was considered and agreed at a meeting of the Executive on 15 April. The Paper and the proposed solution is the culmination of an intense period of negotiation with HM Treasury, banks and others. The preferred option for addressing the PMS issue was that it should be taken over by a bank and the time required by potential acquirers to consider the proposal and discharge their due diligence requirements, was the main cause of delay.

POLICY GROUP

Strategic Policy Division

28. Internal Audit Service is currently carrying out an investigation into anonymous allegations made against a company that received a grant under Interreg IIIA.

A Memorandum of Understanding between DETI and NISP has been drawn up to clarify roles and responsibilities in the continued development of the Science Park and was presented to the NISP Holdings Board on 6 May for agreement. It has been agreed by the NISP Holdings Board and is to be presented to the NISP Foundation Board on 29 June.

TALE Division

29. The Department had failed to implement EC Directive 94/22/EC on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons ("The Hydrocarbons Directive") – (Binding Date for implementation (1 July 1995).

30. Remedial action was taken to correct this deficiency with additional staff being deployed to work on the necessary legislation required to implement the directive. This resulted in the directive being implemented through the making of the Hydrocarbons Licensing Directive Regulations (Northern Ireland) 2010, which came into operation on 28 May 2010.

31. Arrangements for governance in relation to the Signature Projects are being finalised.

Energy Division

32. **Domestic Market -** EU Programmes Branch has reached agreement with DFP in relation to an IAS query on the North West gas pipeline re EU grant drawdown and ROI contribution. In relation to the query from EU on SPD grant paid for establishment of NI gas industry in 1990's, staff from Energy Division and EU Programmes met with the Commission's auditors in December 2008. DFP advised that the EU will still apply an overall flat rate correction; however EU Programmes has submitted further clarification for the pipeline project which could reduce the correction by £864k of ERDF. EU Programmes advise that while there have been no further developments in relation to the individual SPD projects, the flat rate correction level has reduced from 5% to 2%, and has been paid by DFP in March 2010.

33. **Sustainable Energy Branch** – An Article 10 report from SEUPB highlighted ineligible expenditure in connection with the Interreg 3a Craigavon Borough Council biomass boiler project. An internal investigation into this project by Craigavon Borough Council has been completed and files have been passed to the PSNI. DETI is pursuing clawback of €317,143.95 from Craigavon Borough Council, payable directly to SEUPB.