

Public Accounts Committee

Report on The Bioscience and Technology Institute

Together with the Minutes of Proceedings of the Committee
Relating to the Report and the Minutes of Evidence

Ordered by The Public Accounts Committee to be printed 2 May 2012
Report: NIA 48/11-15 Public Accounts Committee

**REPORT EMBARGOED UNTIL
00:01 am on 23 May 2012**

Correspondence received post publication

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██████████

31 May 2012



Dear Mr Maskey

Public Accounts Committee : Report on the Bio-Science and Technology Institute

I have seen the Committee's Report on this matter and the transcript of evidence from the Department.

On 21 May the Department corrected the information relating to me as set out on pages 189 and 190 of the published document. This correction was issued along with your report. However, the transcript of evidence provided by the Department on 18 January also included incorrect information relating to me. I refer to paragraph 37 on page 38 in which it is stated, wrongly, that I was Permanent Secretary until November 2000. It is also stated that I was appointed Permanent Secretary in 1994 whereas my appointment was in 1991.

These mistakes are not irrelevant. Elsewhere in the Report it is stated that "The material events in this case occurred between 2000 and 2002-3". However, paragraphs 161 to 166 on page 48 which also include reference to me seem to be based on the incorrect belief on the part of the Department that I was Permanent Secretary for the year 2000.

The purpose of this letter is simply to correct the record. I have the utmost respect for your Committee and its important work.

Yours sincerely

A handwritten signature in cursive script that reads "Gerry Loughran".

(Gerry Loughran)

Paul Maskey MLA
Chairman of the Public Accounts Committee

Correspondence received from DETI on 21 May 2012, which should be read in conjunction with pages 15, 189, 190 and Paragraph 47 of the report.

To: Aoibhinn Treanor

From: Trevor Cooper

Date 21 May 2012

Public Accounts Committee – Draft Report on the Bioscience and Technology Institute

1. Further to our earlier conversation, I am writing to highlight factual inaccuracies around the information provided in the table on pages 189 and 190. The inaccuracies relates to the information provided in the table on page 190 on the dates of Bruce Robinson's tenure as Chief Executive of IDB, the omission in the table on page 190 of a period in which Bruce Robinson Acted into the position of DETI Permanent Secretary, and inaccuracy in the dates of tenure of Gerry Loughran as Permanent Secretary of DETI in the table on page 189.
2. As currently drafted the Table on page 190 records Bruce Robinson as Chief Executive of IDB to November 2000. This should record Bruce Robinson as being Chief Executive of IDB to April 2000.
3. The Table on page 190 also records Bruce Robinson as being Permanent Secretary of DETI from November 2000. This table should record a period from May 2000 when Bruce Robinson acted into the position of Permanent Secretary of the Department prior to his substantive appointment in November.
4. As currently drafted the Table on page 189 records Gerry Loughran as Permanent Secretary to November 2000. This should be to April 2000.
5. I would like to apologise to the Committee for the need to correct the record on this matter, however the Department believes that it is important that the record be updated on this matter.

Trevor Cooper
Acting Senior Finance Director

Membership and Powers

The Public Accounts Committee is a Standing Committee established in accordance with Standing Orders under Section 60(3) of the Northern Ireland Act 1998. It is the statutory function of the Public Accounts Committee to consider the accounts, and reports on accounts laid before the Assembly.

The Public Accounts Committee is appointed under Assembly Standing Order No. 56 of the Standing Orders for the Northern Ireland Assembly. It has the power to send for persons, papers and records and to report from time to time. Neither the Chairperson nor Deputy Chairperson of the Committee shall be a member of the same political party as the Minister of Finance and Personnel or of any junior Minister appointed to the Department of Finance and Personnel.

The Committee has 11 members including a Chairperson and Deputy Chairperson and a quorum of 5.

The membership of the Committee since 23 May 2011 has been as follows:

Mr Paul Maskey (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Sydney Anderson
Mr Michael Copeland
Mr John Dallat
Mr Alex Easton
Mr Paul Girvan
Mr Ross Hussey
Mr Mitchel McLaughlin
Mr Adrian McQuillan¹
Mr Conor Murphy²

1 With effect from 24 October 2011 Mr Adrian McQuillan replaced Mr Paul Frew

2 With effect from 23 January 2012 Mr Conor Murphy replaced Ms Jennifer McCann

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List of Abbreviations used in the Report

C&AG	Comptroller and Auditor General
the Committee	Public Accounts Committee
BTI	Bioscience and Technology Institute Limited
BCH	Belfast City Hospital
DETI/the Department	Department of Enterprise and Investment
IDB	Industrial Development Board
IRTU	Industrial Research Technology Unit
IFI	International Fund for Ireland
Invest NI	Invest Northern Ireland
CARB	Chartered Accountants Regulatory Board
DFP	Department of Finance and Personnel
NICS	Northern Ireland Civil Service

Executive Summary

Introduction

1. This report examines the reasons for the failure of a major innovation project, the Bioscience and Technology Institute Limited (BTI). BTI was incorporated as a not-for-profit company in November 1998. Its primary objective was to provide biotechnology incubator facilities, through the development of a specialist building at Belfast City Hospital (BCH). The company was to be commercially sustained by the rent charged to tenant organisations, primarily early-stage biotechnology companies.
2. The project secured grant of £2.2 million from four funding bodies: the Department of Enterprise Trade and Investment (the Department/DETI); two of its agencies — the Industrial Development Board (IDB), the Industrial Research and Technology Unit (IRTU) — and the International Fund for Ireland (IFI). In addition, loan funding was provided by the bank (initially £1.5 million) and a private donor (£1.2 million).
3. As it transpired, difficulties in progressing the project at BCH, within the required funding timeframe, led to BTI purchasing “Harbourgate”, a shell building some four miles away in the Belfast Harbour Estate. In the event, BTI had inadequate funds to complete the fit-out, the costs of which turned out to have been substantially underestimated. As a result, the building never became operational and did not generate any income for BTI.
4. In November 2005, with the company unable to service its loan funding, the bank took possession of Harbourgate and sold it the following month. The sale proceeds of £4.55 million were sufficient to repay BTI’s debt to the bank in full, with the surplus used to make a part-payment on the secured debt to the private donor. No moneys were available to pay the other creditors, including the funding bodies. BTI remains technically insolvent and steps are now being taken to begin winding up the company.

Overall conclusions

5. The Bioscience case is one of the starkest examples of incompetence and mismanagement that this Committee has ever examined and stands as a lesson in how not to manage a major innovation project. As such, it is a damning indictment of the capabilities within the Department and its agencies, at that time, to oversee a new development project.
6. It would be difficult to overstate just how badly this project was handled, both by the funding bodies and by the BTI Board itself. From beginning to end, the Committee noted a catalogue of negligence and ineptitude, the nature and extent of which could only be described as staggering. Well established procedures, underpinning the proper conduct of public business, were blatantly ignored; and key lessons from earlier failures were not taken on board.
7. There are many aspects of the way in which this project was handled that the Committee finds profoundly disturbing. BTI’s corporate governance arrangements were exceptionally weak, with conflicts of interest, in particular, consistently being badly handled. There were several cases of improper behaviour which, the Committee suspects, were fraudulent in intent. One of the most worrying aspects of the project was the repeated failure, at a senior level within both DETI and IDB/Invest NI, to get a firm grip on matters. The Committee’s impression is of a management culture, at that time, which acquiesced in ignoring the rules and circumventing their own controls. That is an appalling state of affairs.
8. The Committee is far from convinced that it has got to the bottom of several important issues in this case, especially the circumstances surrounding the acquisition of the Harbourgate building. The lack of transparency around the sourcing of the premises and the negotiation of the purchase price is of particular concern. In the Committee’s opinion, the Department must

look further into these issues and discuss them in detail with the PSNI, to determine whether any criminal activity may have taken place.

9. There is also a worrying lack of documentary evidence in a number of areas, most notably around IDB's consideration and approval of funding for BTI. Indeed, it is of particular concern that at least one file was destroyed by Invest NI, some four months after it had been requested for examination by the Company Inspectors. Moreover, the file review form, which evidenced the decision to destroy the file was itself destroyed without trace. This is a most unusual sequence of events. With Invest NI unable to provide a convincing explanation for what had happened, the Committee has a deep sense of unease over this issue and is concerned that there may have been a deliberate cover-up.

The management of risk

10. The Committee has noted the assurances from both the Department and Invest NI that lessons have been learned and that controls are better today than 10 years ago. While these assurances are welcome, it must not be forgotten that most of the shortcomings in this case stemmed from a failure to apply existing controls, rather than an absence of controls.
11. The Committee would like to emphasise that it does not want the Department and Invest NI to operate as risk-averse organisations. The Committee supports risk-taking in appropriate circumstances, but only where it is properly assessed and effectively managed. The Committee recognises that supporting new and innovative projects is a risk business and that difficult judgements have to be made. It also accepts that some projects are likely to fail. However, the Department's operational guidelines and the lessons from the past are key elements of the risk assessment and management process and must never be ignored or sidestepped.

The adequacy of DETI's response to the failings in this case

12. The Committee has serious concerns about the way in which the Department responded to its suspicions of fraud and impropriety. Overall, it adopted a piecemeal approach, particularly in its consultations with the PSNI. In the Committee's view, matters should have been dealt with holistically, with DETI formally consulting the PSNI on all matters of concern after completion of the Company Inspectors' report. Fraud and impropriety, whether actual or attempted, are serious issues which this Committee expects departments to address comprehensively and professionally, not in the haphazard fashion so evident in this case.
13. The Department commissioned an independent review of the conduct of officials involved in the BTI case, and this resulted in disciplinary action being taken by Invest NI against two of its officers, in February 2011. Given the significance of breach of IDB procedures, the Committee finds it hard to accept that disciplinary proceedings against the former IDB Chief Executive were deemed not to be warranted. While the Department is to be commended for instigating a disciplinary process, the Committee has a concern about the extent to which that process was applied. The conduct of only four officials was examined, whereas the failings in this case ranged much more widely. The Committee notes the Accounting Officer's explanation that the disciplinary review did not consider the conduct of retired departmental and Invest NI employees, because they are now effectively beyond the reach of the disciplinary processes.
14. In the Committee's view, it is most unfortunate that several of those senior officials seemingly most culpable for the shortcomings in this case could not be subject to a disciplinary investigation, by virtue of their having retired from the public sector. This renders the outcome of the disciplinary process less than satisfactory. The Civil Service needs to look at ways in which disciplinary issues, in cases like BTI, can be dealt with much more urgently.

The failure of leadership within DETI and its agencies

15. One of the issues which the Committee has found most disturbing in the BTI project is the extent to which some of the most senior officials in both DETI and IDB/Invest NI were apparently complicit in the many failings that occurred. The Committee acknowledges that the effective oversight of a major new innovation project presents many challenges. But it is precisely because of the numerous risks involved that the successful handling of such a project requires not only the highest standards of administration but a commensurate standard of leadership.
16. One of the most important messages coming out of this report, therefore, is to stress the particular onus on an organisation's top management to ensure that control procedures are followed and that the ethos of their organisation is fully in keeping with the proper conduct of public business. The Committee notes the work being done within Invest NI by the current Chief Executive through his 'Transform' programme of change and commends him for this initiative. It is important that both Invest NI and DETI now consider how the lessons from the BTI project can best be assimilated within their own organisations.

Project Outcomes

17. The Committee is extremely disappointed with the outcomes of this project. Through a combination of apathy, incompetence and a disregard for proper administration, the bioscience research and incubation facility was never established. As a result, an initiative that promised so much and which should have been a major success story for Northern Ireland was instead transformed into an unmitigated failure.
18. In view of the project failing to achieve any of its objectives, the Committee can only conclude that it provided no value for the public funds committed to it. With no sums having been recovered by Government, some £2.2 million of taxpayers' money has been totally wasted. In addition, over £1 million is also left owing to the estate of the private donor and a further £0.4 million is owed to HM Revenue and Customs. This is a devastating ending to a venture that had so much potential.

Summary of Recommendations

Recommendation 1

1. The Committee recommends that the Department and Invest NI ensure that their guidelines on project appraisal and approval are rigorously applied, in all cases. Ignoring well-established appraisal and approval procedures only serves to add unnecessary risk to the management of projects.

Recommendation 2

2. The Committee recommends that the Department and Invest NI revise their guidelines to ensure that selective financial assistance is not offered, even on a heavily conditional basis, to a project with a poorly developed business plan.

Recommendation 3

3. The destruction of documents in a case which is subject to a statutory investigation is wholly unacceptable. The Committee recommends that the Department satisfies itself as to the adequacy of Invest NI's file and electronic records management and retention protocols and their effective implementation.

Recommendation 4

4. The conditions and prior conditions included in letters of offer are a direct response to the risks assessed at appraisal. The Committee recommends that any proposal to change those conditions, which significantly increases the risk to the funder, should be subjected to a formal re-appraisal before the decision is made.

Recommendation 5

5. The Committee recommends that DETI and Invest NI take steps to ensure that decisions to pay grant are not driven solely by the need to meet funding deadlines. While the Committee readily acknowledges the importance of such deadlines, no payment should be made if the provision of grant cannot otherwise be fully justified.

Recommendation 6

6. The Committee recommends that DETI and Invest NI review their project monitoring procedures to take on board the lessons from the BTI case. Grant-aided projects must always be actively monitored; where information provided by an assisted body is deficient, or indicates that the project is not proceeding to plan, this must be quickly addressed, including where necessary, a re-appraisal of the project.

Recommendation 7

7. When providing substantial sums of financial assistance to organisations like BTI, DETI and Invest NI must ensure that comprehensive corporate governance structures are in place and are fully functional when the project starts. This must include ensuring that the Board itself possesses the appropriate range and level of skills and experience.

Recommendation 8

8. Bypassing agreed payment authorisation procedures and failing to ensure that conditions of offer have been met are serious breaches of control. The Committee recommends that the Department ensures its arrangements for releasing grants to projects are sufficiently rigorous to prevent payments being made until all relevant checks have been satisfactorily completed and all conditions of offer complied with.

Recommendation 9

9. The Committee is critical of the haphazard way in which DETI responded to the suspicions of fraud and impropriety in this case, particularly in its consultations with the PSNI. The Committee recommends, therefore, that DETI reviews the adequacy of its fraud response plan, considers whether additional training is required for staff charged with handling fraud cases, and reports back to the Committee with its conclusions and recommendations for improvement.

Recommendation 10

10. The Committee recommends that DETI rigorously investigates the circumstances surrounding the sourcing of the Harbourgate building and negotiation of the purchase price, and then consults with the PSNI to determine whether any criminal actions may have taken place, and informs the Committee of the outcome.

Recommendation 11

11. The Committee recommends that DETI and DFP ensure that future referrals to professional bodies are processed on a much more timely basis and that the substance of the complaint is fully and clearly articulated.

Recommendation 12

12. The Committee recommends that DETI clarifies with the Law Society the rationale behind its decision to accept the explanation of BTI's solicitor.

Recommendation 13

13. The Committee recommends that the Civil Service ensures that disciplinary issues, in cases like BTI, can be dealt with much more urgently.

Recommendation 14

14. There is a particular responsibility on top management to encourage a culture of compliance with good practice throughout their organisation. The Committee recommends that both DETI and Invest NI now ensure that the lessons on leadership and management culture arising from this report can best be assimilated within their respective organisations.

Introduction

1. The Public Accounts Committee met on 18 January 2012 to consider the Comptroller and Auditor General's report on 'DETI: The Bioscience and Technology Centre', (29 November 2011). The witnesses were:

- Mr David Sterling, Accounting Officer, Department of Enterprise, Trade and Investment (DETI);
- Mr Alastair Hamilton, Chief Executive, Invest Northern Ireland (Invest NI);
- Mr Mel Chittock, Director of Finance and Internal Operations, Invest NI;
- Mr Trevor Cooper, Director of Finance, DETI;
- Mr Kieran Donnelly, Comptroller and Auditor General;
- Ms Fiona Hamill, Treasury Officer of Accounts.

The Committee wrote to Mr Sterling on 27 January 2012 and 5 March with further queries following the evidence session. Mr Sterling replied on 10 and 20 February; 5, 16, 21 and 30 March; and 16 and 26 April 2012.

2. This report examines the reasons for the failure of a major innovation project, the Bioscience and Technology Institute Limited (BTI). BTI was incorporated as a not-for-profit company in November 1998. Its primary objective was to provide biotechnology incubator facilities, through the development of a specialist building at Belfast City Hospital (BCH). The company was to be commercially sustained by the rent charged to tenant organisations, primarily early-stage biotechnology companies. The project secured grant of £2.2 million from four funding bodies — the Department of Enterprise Trade and Investment (the Department/DETI); two of its agencies — the Industrial Development Board (IDB), the Industrial Research and Technology Unit (IRTU); and the International Fund for Ireland (IFI). In addition, loan funding was provided by the bank (initially £1.5 million) and a private donor (£1.2 million).
3. As it transpired, difficulties in progressing the project at BCH, within the required funding timeframe, led to BTI purchasing "Harbourgate", a shell building some four miles away in the Belfast Harbour Estate. In the event, BTI had inadequate funds to complete the fit-out, the costs of which turned out to have been substantially underestimated. As a result, the building never became operational and did not generate any income for BTI. In November 2005, with the company unable to service its loan funding, the bank took possession of Harbourgate and sold it the following month. The sale proceeds of £4.55 million were sufficient to repay BTI's debt to the bank in full, with the surplus used to make a part-payment on the secured debt to the private donor. No monies were available to pay the other creditors, including the funding bodies. BTI remains technically insolvent and steps are now being taken to begin winding up the company.
4. In taking evidence, the Committee focused on four key areas. These were:
 - The management of risk;
 - The adequacy of DETI's response to the failings in this case;
 - The failure of leadership within DETI and its agencies;
 - Project outcomes.

The management of risk

Introduction

5. Providing financial support to new, innovative greenfield projects is inherently high risk. Accordingly, Government has devised comprehensive control procedures to help assess and manage that risk. Unfortunately, there was a widespread and repeated failure by the Department and its agencies to apply these well-established procedures to the BTI project.
6. It would be difficult to overstate just how badly this project was handled, both by the funding bodies and by the BTI Board itself. From beginning to end, the Committee noted an appalling catalogue of negligence and ineptitude, the nature and extent of which could only be described as staggering. Procedures underpinning the proper conduct of public business were blatantly ignored and key lessons from earlier failures were not taken on board. The following paragraphs outline the key failings that beset this project over the course of its relatively short lifetime.

Initial Project Appraisal and Offer of Assistance

7. There were a number of significant breaches of controls and poor judgements around the initial appraisal and offer of assistance, which added unnecessarily to the already significant risks of supporting this project:
 - IDB accepted a BTI business plan which had not been fully developed, for appraisal. This markedly increased the risk to public funds. Due to various uncertainties in the plan, particularly around sources of private and donor funding and the estimates of costs, a meaningful assessment of the viability of the project was not possible.
 - In view of the uncertainties, the Appraisal Report recommended that the promoters be asked to resubmit their proposals. However, this recommendation was ignored and, instead, each of the funders provided a heavily conditioned offer to BTI. For example, IDB's offer included 11 prior conditions. This was quite extraordinary.
 - IDB's guidelines required projects seeking financial assistance to be considered by a "Casework Committee". This was a specialist mechanism, designed to provide a comprehensive challenge to the project proposal. Unusually, however, and quite improperly, this control was bypassed, with approval being sought instead from the IDB "Resource Group". This was not the appropriate mechanism and offered a much lower level of scrutiny.
 - DETI's offer of funding also required DFP approval. However, DFP's analysis appears to have been unusually weak — despite the reservations of the Appraisal Report and the abnormally high number of prior conditions, DFP approved DETI's decision to offer financial support.

Recommendation 1

8. **The Committee recommends that the Department and Invest NI ensure that their guidelines on project appraisal and approval are rigorously applied, in all cases. Ignoring well-established appraisal and approval procedures only serves to add unnecessary risk to the management of projects.**

Recommendation 2

9. **The Committee recommends that the Department and Invest NI revise their guidelines to ensure that selective financial assistance is not offered, even on a heavily conditional basis, to a project with a poorly developed business plan.**

Missing Documentation

10. There is a worrying lack of documentary evidence around IDB's consideration and approval of funding for BTI. As stated above, the process adopted was inappropriate and constituted a serious breach of normal operating procedures. While trying to shed more light on this, the Company Inspectors were repeatedly unable to access several of the IDB Resource Group files. Astonishingly, one of these files was then destroyed by Invest NI, some four months after it had been requested for examination by the Company Inspectors. Moreover, the file review form, which evidenced the decision to destroy the file, was itself destroyed without trace.
11. This is a most unusual sequence of events and raises suspicions that papers might have been destroyed to intentionally remove evidence. Although Invest NI said that there is no evidence that there had been a purposeful and wilful destruction of the file, they were unable to provide a convincing explanation for what had happened. As a result, the Committee has a deep sense of unease over this issue and is concerned that there may have been a deliberate cover-up.

Recommendation 3

12. **The destruction of documents in a case which is subject to a statutory investigation is wholly unacceptable. The Committee recommends that the Department satisfies itself as to the adequacy of Invest NI's file and electronic records management and retention protocols and their effective implementation.**

The move to Harbourgate

13. The location of the BTI project at the Belfast City Hospital (BCH) site was seen as fundamental to the success of the project. Despite this, DETI and its agencies each approved the move to Harbourgate. Crucially, however, they did not carry out a re-appraisal of the project to confirm that it remained financially viable and that its strategic objectives remained deliverable at the new location. This was a major breach of procedures and one that led directly to the ultimate demise of the project. Further, they did not confirm that the Harbourgate building was physically suitable for use as a bioscience research and incubation facility — as it transpired, it was far from suitable. Moreover, when approving the purchase of Harbourgate, DETI and its agencies failed to ensure that the project was fully financed, even though this was a fundamental prior condition of the grant offer. As a result, the project was only two thirds funded, with a shortfall of some £2.7 million. This was clearly a recipe for disaster.
14. The Committee also noted that Invest NI's decision in 2002 to enter into a contract to buy the Top Floor of Harbourgate from BTI for £1.5 million, involved multiple breaches of its guidelines. There was no business case to justify the purchase, no contemporaneous record of the decision-making process and no written record of the Chief Executive's approval. These shortcomings were compounded by Invest NI's failure to obtain both DFP and ministerial approval for the contract. As regards the absence of documentation, two separate records, seeking to justify the contract, were prepared between three and eight months after the event. Neither was signed or dated and there were inconsistencies between the two documents. In the Committee's view, this whole episode demonstrates a staggering disregard for proper administration and the management of public money.

Amendments to Letters of Offer

15. DETI and Invest NI each amended their Letters of Offer to facilitate the earlier drawdown of grant by BTI. The reasons given were BTI's inability to meet offer conditions and to retrospectively allow ineligible expenditure already incurred and claimed by BTI. The Committee notes, however, that this weakened their control over the project and undermined the very purpose of the conditions of offer — to protect public money in the event of BTI failing to deliver. Moreover, DETI failed to obtain DFP approval to the amendments. The Committee also notes that, in order to spend grant monies before an impending funding deadline, DETI amended its offer to facilitate the purchase of over £350,000 of equipment by BTI. However, this was done at a time when the company did not even have premises to store, never mind operate the equipment. As it turned out, BTI never used the equipment and the money was wasted.

Recommendation 4

16. **The conditions and prior conditions included in letters of offer are a direct response to the risks assessed at appraisal. The Committee recommends that any proposal to change those conditions, which significantly increases the risk to the funder, should be subjected to a formal re-appraisal before the decision is made.**

Recommendation 5

17. **The Committee recommends that DETI and Invest NI take steps to ensure that decisions to pay grant are not driven solely by the need to meet funding deadlines. While the Committee readily acknowledges the importance of such deadlines, no payment should be made if the provision of grant cannot otherwise be fully justified.**

Project Monitoring

18. Project monitoring was a major area of weakness in the Department's handling of this project, at times being virtually non-existent. Examples of shortcomings, included:
- failure to follow-up the non-submission, by BTI, of quarterly and annual accounts and progress reports;
 - failure to challenge the absence of BTI Board Minutes for the first 21 months of its existence;
 - failure to validate the accuracy of data provided by BTI;
 - failure to take full advantage of observer status on the BTI Board – an IDB/Invest NI representative attended only 13 of the 32 recorded Board meetings;
 - failure to detect, until a very late stage, the difficulties and lack of progress in developing the project at the BCH site;
 - failure to closely monitor BTI's fund-raising efforts, even though they were critical to the project's success.

The Committee notes that it was largely through the scrutiny of the private donor, rather than Invest NI's observer, that major concerns around BTI's standards of corporate governance, financial control and project management started to emerge. That is a damning example of how poorly this project was being monitored.

Recommendation 6

19. **The Committee recommends that DETI and Invest NI review their project monitoring procedures to take on board the lessons from the BTI case. Grant-aided projects must always be actively monitored; where information provided by an assisted body is deficient, or indicates that the project is not proceeding to plan, this must be quickly addressed, including where necessary, a re-appraisal of the project.**

Corporate Governance within BTI

20. The Department failed to ensure that proper standards of corporate governance were applied within BTI. Two of the main areas of concern were procurement and conflicts of interest. For example, contrary to the conditions of offer, BTI failed on almost every occasion to use selective tendering to procure goods and services. Despite this, every grant claim was authorised and paid.
21. There was no formal procedure within BTI for handling conflicts of interest. The evidence indicates that conflicts which did arise were generally poorly handled, with lack of disclosure a recurrent weakness. Many of the unresolved conflicts, involving certain Board Members and their close relatives, must have been obvious to senior management within DETI and its agencies, yet nothing was done to address them. One example which stands out particularly is the appointment of MTF Chartered Accountants to administer the start-up of BTI at a cost of some £68,000. This points towards a culture of “cronyism” within the upper echelons of IDB and a “cosy relationship” between DETI and one of its most prominent public appointees.
22. It is clear that both the BTI Board and DETI and its agencies placed a disproportionate amount of trust in Teresa Townsley, to the extent that their exercise of a challenge function fell far short of what might reasonably have been expected. This is not the first time that the Public Accounts Committee has advised against over-reliance on an individual within a major industrial development project. It is now time that this lesson is learned.

Recommendation 7

23. **When providing substantial sums of financial assistance to organisations like BTI, DETI and Invest NI must ensure that comprehensive corporate governance structures are in place and are fully functional when the project starts. This must include ensuring that the Board itself possesses the appropriate range and level of skills and experience.**

Payment of Claims

24. On two occasions, DETI disregarded its agreed funding procedures by paying grant claims when it was aware that the qualifying expenditure had not yet been incurred by BTI. The first instance involved a copy cheque for £1.7 million which was submitted by BTI as proof of payment towards the cost of Harbournate; the second involved 11 copy cheques totalling some £350,000 for the purchase of equipment. However, on both occasions, the cheques had not actually been presented for payment and appear to have been written for the sole purpose of drawing down grant in advance, rather than as a means of settling invoices.
25. BTI also double-claimed some £542,000 from both DETI and IFI. As a result, the expenditure involved was grant-aided to the tune of 92%. Despite being alerted by IFI, DETI took no action. Although the Accounting Officer said that this level of grant assistance was permitted under EU funding guidance at that time, it is clear that it was not the intention of either DETI or IFI to both fund the same expenditure. DETI's failure to take action on this issue was a poor judgement, especially as, in presenting the IFI claim, BTI had falsely declared that the source of matching funding was “private sector” rather than DETI.

Recommendation 8

26. **Bypassing agreed payment authorisation procedures and failing to ensure that conditions of offer have been met are serious breaches of control. The Committee recommends that the Department ensures its arrangements for releasing grants to projects are sufficiently rigorous to prevent payments being made until all relevant checks have been satisfactorily completed and all conditions of offer complied with.**
27. There are a number of important lessons which emerge from the above paragraphs that must be taken on board. The Committee has noted the assurances from both the Department and Invest NI that lessons have been learned and that controls are better today than 10 years ago. While these assurances are welcome, it must not be forgotten that most of the shortcomings in this case stemmed from a failure to apply existing controls, rather than through an absence of controls.
28. Interestingly, neither DETI nor Invest NI could offer much in the way of explanation, as to how so many breaches of their control procedures could have occurred. In the Committee's view, it was weak management combined with an absence of effective leadership. What is required going forward, therefore, is a changed culture, particularly at top management level, if this type of scenario is to be avoided in the future. This issue is discussed further in the penultimate section of this report.

DETI's response to the failings in this case

Introduction

29. The C&AG's report details a number of areas where the evidence raises strong suspicions of fraudulent behaviour. These include the finder's fee; grant claims (with instances of double claiming, false declarations and non-presentation of cheques for payment); misrepresentations that tenants had been secured for Harbourgate; mishandling of payments and recoveries in connection with overseas travel; and impropriety in the procurement of a consultancy firm to carry out an economic appraisal.

DETI's response to suspected fraud and impropriety was not sufficiently comprehensive

30. The Committee has serious concerns about the way in which the Department responded to its suspicions of fraud and impropriety. Overall, it appears to have adopted a piecemeal approach, particularly in its consultations with the PSNI. In two of the areas, Harbourgate tenants and the procurement of the economic appraisal, concerns were not discussed at all with the police. It is not clear whether this was through oversight or an error of judgement. Concerns about overseas travel were discussed with the PSNI in 2005, but these discussions were described as "informal" and were held prior to the company inspection process which provided the hard evidence of wrongdoing. No subsequent discussion appears to have taken place.
31. As regards grant claims, the Department discussed its concerns with the police in 2010. However, PSNI commented that DETI, by its actions, had effectively consented to BTI engaging with the claims process in the manner in which it did. This included retrospectively amending its Letter of Offer to reflect expenditure that BTI had already incurred and claimed; taking no action on becoming aware of double claiming; and, contrary to the agreed funding procedures, releasing grant before all outstanding queries had been resolved.
32. On the finder's fee, the Department discussed matters with the PSNI in 2006. However, this was at an early stage of the company inspection process, more than three years prior to its completion. At that time, it appears that PSNI's view was that there was insufficient evidence to take matters further in terms of criminal proceedings. While the C&AG was told that this was the only consultation with the police on the finder's fee issue, the Accounting Officer revealed at the hearing that evidence had just come to light of a further discussion with PSNI in 2010. Details were provided in follow-up correspondence.
33. It appears, however, that this further discussion involved no more than a brief exchange in the course of the meeting with PSNI on grant claims (paragraph 31 above). Indeed, the finder's fee issue was not even included in the formal minute of this meeting, which further indicates that the discussions were far from comprehensive. This is extremely disappointing, given the seriousness of the finder's fee issue. Moreover, the Committee finds it in no way reassuring to learn that the Accounting Officer was unaware of these discussions, however brief, until immediately before the hearing. The lack of communication within the Department on this issue is very worrying.
34. Overall, the Committee's view is that DETI should have dealt with the suspected fraud and impropriety on a holistic basis, formally consulting with the PSNI on all matters of concern after completion of the Company Inspectors' report and providing a comprehensive evidence pack for detailed consideration by the police. Fraud and impropriety, whether actual or attempted, are serious issues which this Committee expects Departments to address comprehensively and professionally, not in the haphazard fashion so evident in this case.

Recommendation 9

35. **The Committee is critical of the haphazard way in which DETI responded to the suspicions of fraud and impropriety in this case, particularly in its consultations with the PSNI. The Committee recommends, therefore, that DETI reviews the adequacy of its fraud response plan, considers whether additional training is required for staff charged with handling fraud cases and reports back to the Committee with its conclusions and recommendations for improvement.**

The acquisition of Harbourgate

36. The Committee is far from convinced that it has got to the bottom of the circumstances surrounding the acquisition of the Harbourgate building. The lack of transparency around the sourcing of the premises and the negotiation of the purchase price is deeply disturbing — there are no contemporaneous written records of the process. However, based on interview evidence gathered by the Company Inspectors, the following is understood:
- Harbourgate was apparently sourced by an independent property dealer working on behalf of BTI. He had been engaged by Thomas Armstrong, BTI's solicitor. However, with the exception of Teresa Townsley, no-one else on the BTI Board was aware of the property dealer's identity or role. Consequently, no instructions were given to the property dealer by the BTI Board. Nor is there any indication as to whether he was suitably qualified to act in this capacity.
 - Whereas the property dealer was not known to the BTI Board, he and the vendor had been known to one another for many years.
 - Despite the absence of instruction from the BTI Board, the property dealer negotiated a price of £5 million for Harbourgate with the vendor. However, this was done without a formal, independent valuation of the building and no indication of its market value, as the property was not being actively marketed and never had been. Even more bizarrely, the property dealer told the Company Inspectors that he had not been given a budget figure for the negotiations. Coincidentally, however, the purchase price which he negotiated with the vendor was the same as the available funds in BTI (£5 million).
 - The building had been developed by the vendor as a call centre for a particular tenant. However, that tenant had not proceeded with the arrangement and, at the time of the BTI purchase, no other tenant or buyer had been secured. In such circumstances, it might reasonably be expected that a keen price could have been negotiated, in what was arguably a buyer's market. Interestingly, however, in the course of their work, the Company Inspectors calculated that the sale of the Harbourgate building to BTI yielded the vendor an overall gain in the region of £2.3¹ million before tax. This does not suggest any sense of hard bargaining in the negotiations.

In light of the above, the Committee is far from assured that the acquisition of Harbourgate was conducted at arm's length and in good faith.

Recommendation 10

37. **The Committee recommends that DETI rigorously investigates the circumstances surrounding the sourcing of the Harbourgate building and negotiation of the purchase price, and then consults with the PSNI to determine whether any criminal actions may have taken place, and informs the Committee of the outcome.**

¹ The Committee understands that the £2.3 million figure includes a non-taxable sum of some £1.3 million subsequently channelled through an option release mechanism set up in the Isle of Man.

DETI has instituted Director Disqualification proceedings against one former Director of BTI

38. The Department has recently initiated director disqualification proceedings against one of the former directors of BTI, Teresa Townsley. In light of the evidence presented in the C&AG's report, the Committee welcomes this course of action. As the BTI company secretary, she was responsible for corporate administration and for ensuring that BTI complied with regulatory requirements, both legal and financial.
39. The Committee notes that this is not the first occasion on which concerns surrounding the conduct of Mrs Townsley have been reported. In 2006, the Westminster Public Accounts Committee reported on its examination of the 'Emerging Business Trust'², stating that every one of Lord Nolan's principles of public life had been breached and describing it as one of the worst cases of conflict of interest and impropriety it had seen. However, the Department failed to take any disqualification action against Mrs Townsley on that occasion.
40. The Department said that all former BTI directors were examined regarding the merits of disqualification proceedings. However, when the public interest test was applied, it was concluded that only Mrs Townsley should be subjected to proceedings. The Committee acknowledges the Department's comments but notes that, although the other parties in the project may have taken assurance from Mrs Townsley's involvement, given her experience and standing within the Department at that time, the directors as a whole were responsible for corporate governance. The Committee also notes that the funding bodies themselves had an important role to ensure that standards were met, but failed to do so.

Referrals to professional Bodies

41. The Department, in conjunction with DFP, also referred concerns about the conduct of four individuals to their professional bodies, about actions which they considered may have breached professional codes of conduct. Three of the referrals were to the 'Chartered Accountants Regulatory Board' (CARB). Of these, the cases of Teresa Townsley and Michael Townsley are still under consideration by CARB. The third case involved FPM Chartered Accountants and one of its directors, who were referred in relation to concerns over a serious conflict of interest in the award to FPM, by BTI, of a contract to carry out an economic appraisal.
42. CARB concluded that the evidence was not sufficient to ensure that a complaint had any real prospect of being established before a Disciplinary Tribunal. This decision was upheld on appeal by an Independent Reviewer of Complaints engaged by CARB. The Committee notes that, in his analysis, the Independent Reviewer drew attention to:
- the lapse of time, of over 10 years, between the events which led to the referral and the date of the referral itself. In his view, this delay was both inordinate and inexcusable and gave rise to the substantial risk of serious prejudice to the Member (the FPM director);
 - his opinion that the Complainant (DFP and DETI) failed to comment on, let alone explain, how a conflict of interest had actually arisen in the case.
43. The Committee notes CARB's decision but is disappointed with the outcome. It is also disappointing that the referral by DFP and DETI was judged not to have presented the complaint in a clear and comprehensive manner. Referrals to professional bodies require the highest standard of presentation if they are to be successful.

2 Governance issues in the Department of Enterprise, Trade and Investment's former Local Enterprise Development Unit', Forty-sixth Report of Session 2005-06, HC 918. EBT was a publicly funded loan and venture capital initiative set up by the Department to assist in financing emerging businesses in disadvantaged areas.

Recommendation 11

44. **The Committee recommends that DETI and DFP ensure that future referrals to professional bodies are processed on a much more timely basis and that the substance of the complaint is fully and clearly articulated.**
45. The other referral was to the Law Society of Northern Ireland, regarding the conduct of Thomas Armstrong, BTI's solicitor, in the sourcing and acquisition of Harbourgate. The Committee was astonished to learn that the Law Society had accepted Mr Armstrong's explanations on these matters. In the circumstances, the Committee is disappointed that the Department did not appeal the Law Society's decision, or even enter into discussion with them to ascertain the rationale for their decision.

Recommendation 12

46. **The Committee recommends that DETI clarifies with the Law Society the rationale behind its decision to accept the explanation of BTI's solicitor.**

Disciplinary proceedings against officials

47. The Department commissioned an independent review of the conduct of officials involved in the BTI case. The position of four officials was examined and this resulted in disciplinary action being taken by Invest NI against two of its officers, in February 2011. In the case of the other two officials reviewed — a former Chief Executive of IDB from 1995 to November 2000 and a middle-ranking manager in DETI at the material time — no disciplinary action was taken. Details of both cases were provided to the Committee, by the Accounting Officer, after the Evidence Session.
48. The review of the conduct of the former IDB Chief Executive was based on his failure to ensure that the BTI project was assessed through a Casework Committee process. Instead it had been taken to the IDB Resource Group, an inappropriate mechanism and one which involved a much lower level of scrutiny (paragraph 7 above). The Accounting Officer said that in assessing the case, he had taken advice from his human resources department and from the Permanent Secretary of DFP; he had also consulted the departmental solicitor. Following careful consideration of the advice provided, he had concluded that the commencement of formal disciplinary proceedings would not be warranted. Given that the failure to examine the BTI project through the required Casework Committee process was a serious and fundamental breach of IDB procedures, the Committee finds it difficult to accept this conclusion.
49. While the Department is to be commended for instigating a disciplinary process, the Committee has a concern about the extent to which that process was applied. The conduct of only four officials was examined, whereas the failings in this case ranged much more widely. For example, contrary to the rules:
- senior officials within DETI and IDB approved BTI's move to Harbourgate without insisting on a full re-appraisal of the project and despite the existence of a £2.7 million funding gap that could not be met. Moreover, they failed to obtain DFP approval
 - senior officials within Invest NI approved entering into a contract to purchase the Top Floor of Harbourgate from BTI for £1.5 million, without preparation of a Business Case and without seeking DFP and ministerial approval.
- These were fundamental breaches of procedures that put large sums of taxpayer's money at substantially increased risk.
50. The Committee notes the Accounting Officer's explanation that the disciplinary review did not consider the conduct of retired departmental and Invest NI employees, because they are now

effectively beyond the reach of the disciplinary processes. In the Committee's view, it is most unfortunate that several of those officials seemingly most culpable for the shortcomings in this case could not be subject to a disciplinary investigation, by virtue of their having retired from the public sector. This renders the outcome of the disciplinary process less than satisfactory.

Recommendation 13

51. **The Committee recommends that the Civil Service ensures that disciplinary issues, in cases like BTI, can be dealt with much more urgently.**

The failure of leadership within the Department and its agencies

There were serious lapses at a senior level within both IDB/Invest NI and DETI

52. It will be clear from the earlier sections of this report that one of the issues which the Committee has found most disturbing in the BTI project is the extent to which some of the most senior officials in both DETI and IDB/Invest NI were apparently complicit in the many failings that occurred. The Committee's impression is of a management culture at that time which ignored the rules, set aside crucial lessons from earlier projects and circumvented their own controls. That is an appalling indictment. Whether these lapses stemmed from apathy, incompetence or simply a disregard for the proper conduct of public business, they are wholly unacceptable.
53. The Committee acknowledges that the effective oversight of a major new innovation project presents many challenges. But it is precisely because of the numerous risks involved, that the successful handling of such a project requires not only the highest standards of administration, but also a commensurate standard of leadership. One of the most important messages coming out of this report, therefore, is to stress the particular onus on an organisation's top management to ensure that control procedures are followed and that the ethos of their organisation is fully in keeping with the proper conduct of public business.
54. The Committee notes the work being done within Invest NI by the current Chief Executive through his 'Transform' programme of change and commends him for this initiative. It is important that both Invest NI and DETI now ensure that the lessons from the BTI project are assimilated within their respective organisations.

Recommendation 14

55. **There is a particular responsibility on top management to encourage a culture of compliance with good practice throughout their organisation. The Committee recommends that both DETI and Invest NI now ensure that the lessons on leadership and management culture arising from the report are assimilated within their respective organisations.**

Project Outcomes

The project failed to achieve any of its objectives

56. The Committee is extremely disappointed with the outcomes of this project. Through a combination of negligence, incompetence and a disregard for proper administration, the bioscience research and incubation facility was never established. As a result, an initiative that promised so much and which should have been a major success story for Northern Ireland was instead transformed into an unmitigated failure.
57. The demise of this project was a significant loss to the local economy, in that this type of facility was likely to have underpinned a substantial level of development in new and emerging companies, in a sector where considerable growth potential was forecast. Indeed, target outcomes for the project included the creation of 10 new start-up companies within five years, with jobs for 50 Northern Ireland graduates, and six new inward investors.
58. In view of the project failing to achieve any of its objectives, the Committee can only conclude that it provided no value for the public funds committed to it. Further, with no sums having been recovered by Government, some £2.2 million of taxpayers' money has been totally wasted. In addition, over £1 million is also left owing to the estate of the private donor and a further £0.4 million is owed to HM Revenue and Customs. This is a devastating ending to a venture that had so much potential.

The subsequent use of the Harbourgate building

59. Although the subsequent use of the Harbourgate building was not the focus of this inquiry, the Committee noted that, following Invest NI's decision to exit from the project in 2003, the Harbourgate building was sold to a private development company in 2005. Shortly thereafter, DFP entered into a tenancy agreement with the development company to rent the premises for a period of 15 years at a total cost of almost £11 million. The Committee recognises that there are various factors to be considered in assessing the value for money of such an arrangement. However, given that the building as a whole could have been acquired from BTI for less than half that sum, the Committee is concerned that a more advantageous deal for taxpayers might have been possible before the sale of the building to the private development company.



Northern Ireland
Assembly

Appendix 1

Minutes of Proceedings of the Committee Relating to the Report

Wednesday, 11 January 2012

Room 29, Parliament Buildings

Present: Mr Joe Byrne (Deputy Chairperson)
Mr Sydney Anderson
Mr Michael Copeland
Mr John Dallat
Mr Alex Easton
Mr Paul Girvan
Mr Ross Hussey
Mr Mitchel McLaughlin

In Attendance: Ms Aoibhinn Treanor(Assembly Clerk)
Mr Phil Pateman (Assistant Assembly Clerk)
Mrs Danielle Saunders (Clerical Supervisor)
Mr Darren Weir (Clerical Officer)

Apologies: Mr Paul Maskey MP (Chairperson)
Ms Jennifer McCann
Mr Adrian McQuillan

2:01 pm The meeting opened in public session.

4. Briefing on the NIAO Report on ‘Bioscience Technology Institute Ltd’

Mr Kieran Donnelly, Comptroller and Auditor General; Mr Robert Hutcheson, Director; and Mr Roger McCance, Senior Auditor; briefed the Committee on the report.

3:09 pm The meeting went into closed session after the C&AG’s initial remarks.

3:34 pm Mr Girvan left the meeting.

3:37 pm Mr Girvan entered the meeting.

3:42 pm Mr Copeland left the meeting.

3:43 pm Mr Hussey left the meeting.

3:50 pm Mr Copeland entered the meeting.

4:02 pm Mr Dallat left the meeting.

4:08 pm Mr Dallat entered the meeting.

The witnesses answered a number of questions put by members.

[EXTRACT]

Wednesday, 18 January 2012

Room 29, Parliament Buildings

Present: Mr Paul Maskey MP (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Sydney Anderson
Mr Michael Copeland
Mr John Dallat
Mr Alex Easton
Mr Paul Girvan
Ms Jennifer McCann
Mr Mitchel McLaughlin

In Attendance: Miss Aoibhinn Treanor (Assembly Clerk)
Mr Phil Pateman (Assistant Assembly Clerk)
Mrs Danielle Saunders (Clerical Supervisor)
Mr Darren Weir (Clerical Officer)

Apologies: Mr Ross Hussey
Mr Adrian McQuillan

2:03 pm The meeting opened in public session.

4. Evidence on the Northern Ireland Audit Office Report ‘DETI: The Bioscience Technology Institute’.

The Committee took oral evidence on the above report from:

- Mr David Sterling, Accounting Officer, Department of Enterprise, Trade, (DETI);
- Mr Trevor Cooper, Head of Finance, Department of Enterprise, Trade, (DETI);
- Mr Alastair Hamilton, Chief Executive, Invest NI; and
- Mr Mel Chittock, Executive Director, Invest NI.

3.15 pm Mr Copeland left the meeting.

3.18 pm Mr Copeland entered the meeting.

4.10 pm Mr Girvan left the meeting.

4.11 pm Mr Girvan entered the meeting.

4.20 pm Ms McCann left the meeting.

4.35 pm Ms McCann entered the meeting.

4.35 pm Mr Dallat left the meeting.

4.38 pm Mr Byrne left the meeting.

4.40 pm Mr Dallat entered the meeting.

4.41 pm Mr Byrne entered the meeting.

4.54 pm Mr Copeland left the meeting.

4.55 pm Mr Copeland entered the meeting.

4.58 pm Ms McCann left the meeting.

5.10 pm Mr Byrne left the meeting.

5.37 pm Mr Easton left the meeting.

The witnesses answered a number of questions put by the Committee.

Agreed: The Committee agreed to request further information from the witnesses.

[EXTRACT]

Wednesday, 25 January 2012

Room 29, Parliament Buildings

Present: Mr Paul Maskey MP (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Sydney Anderson
Mr Michael Copeland
Mr John Dallat
Mr Alex Easton
Mr Paul Girvan
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Mr Conor Murphy MP

In Attendance: Ms Aoibhinn Treanor (Assembly Clerk)
Mr Phil Pateman (Assistant Assembly Clerk)
Mrs Danielle Saunders (Clerical Supervisor)
Mr Darren Weir (Clerical Officer)
Ms Angela Kelly (Assembly Legal Services)

Apologies: Mr Ross Hussey

2:02 pm The meeting opened in public session.

2:46 pm The meeting went into closed session.

6. Issues arising from the oral evidence session on NIAO 'Bioscience Technology Institute'

The Committee considered an issues paper on this evidence session.

4:09 pm Mr McQuillan left the meeting.

4:22 pm Mr Copeland left the meeting.

A member suggested that the Committee cross-reference serious breaches by officials in successive reports of the Committee over a defined term, to identify legacy and succession issues.

Agreed: The Committee agreed to consider options on this approach.

[EXTRACT]

Wednesday, 1 February 2012

Room 29, Parliament Buildings

Present: Mr Paul Maskey MP (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Sydney Anderson
Mr Michael Copeland
Mr John Dallat
Mr Alex Easton
Mr Paul Girvan
Mr Mitchel McLaughlin
Mr Conor Murphy MP
Mr Adrian McQuillan

In Attendance: Miss Aoibhinn Treanor (Assembly Clerk)
Mr Phil Pateman (Assistant Assembly Clerk)
Mrs Danielle Saunders (Clerical Supervisor)
Mr Darren Weir (Clerical Officer)

Apologies: Mr Ross Hussey

2:01 pm The meeting opened in public session.

3. **Matters Arising**

Correspondence re Bioscience Technology Institute

The Committee noted correspondence sent anonymously highlighting concerns over the level of oversight of the Bioscience Technology Institute following the Committee's evidence session on 18 January 2012.

A member advised the Committee that they were also in receipt of correspondence from a whistleblower pertaining to the Committee's inquiry.

Agreed: The Committee agree to forward the information raised to the Comptroller and Auditor General to investigate the issues and report back to the Committee.

[EXTRACT]

Wednesday, 22 February 2012

Room 29, Parliament Buildings

Present: Mr Paul Maskey MP (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Sydney Anderson
Mr Michael Copeland
Mr John Dallat
Mr Alex Easton
Mr Paul Girvan
Mr Adrian McQuillan
Mr Conor Murphy MP

In Attendance: Miss Aoibhinn Treanor (Assembly Clerk)
Mr Phil Pateman (Assistant Assembly Clerk)
Mrs Danielle Saunders (Clerical Supervisor)
Mr Darren Weir (Clerical Officer)

Apologies: Mr Ross Hussey
Mr Mitchel McLaughlin

2:00 pm The meeting opened in public session.

6. Correspondence received relating to the Committee's Inquiry into 'DETI: The Bioscience Technology Institute'

3:10 pm Mr McQuillan entered the meeting.

3:21 pm Mr Anderson entered the meeting.

The Committee noted correspondence from Mr David Sterling, Accounting Officer, Department of Enterprise, Trade and Investment providing further information for its inquiry.

[EXTRACT]

Wednesday, 29 February 2012

Room 29, Parliament Buildings

Present: Mr Paul Maskey MP (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Sydney Anderson
Mr Michael Copeland
Mr Alex Easton
Mr Paul Girvan
Mr Ross Hussey
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Mr Conor Murphy MP

In Attendance: Miss Aoibhinn Treanor (Assembly Clerk)
Mr Phil Pateman (Assistant Assembly Clerk)
Mr Gavin Ervine (Clerical Supervisor)
Mr Darren Weir (Clerical Officer)

Apologies: Mr John Dallat

2:00 pm The meeting opened in public session.

2:01 pm Mr Copeland entered the meeting.

2:09 pm Mr McLaughlin declared an interest stating that he is a pensioner.

2:11 pm Mr Girvan entered the meeting.

2:15 pm The meeting went into closed session after the C&AG's initial remarks.

2:38 pm Mr Hussey left the meeting.

2:41 pm Mr Copeland and Mr Easton left the meeting.

2:43 pm Mr Copeland and Mr Easton entered the meeting.

2:59 pm Mr Murphy left the meeting.

3:02 pm Mr Easton and Mr Girvan left the meeting.

3:07 pm Ms Kelly from Assembly Legal Services joined the meeting to advise the Committee as client in confidence. External advisers left the meeting.

3:16 pm Mr Easton and Mr Girvan entered the meeting.

3:22 pm Mr Byrne left the meeting.

3:24 pm Mr Girvan left the meeting.

3:25 pm Mr Byrne entered the meeting.

3:25 pm Ms Kelly left the meeting.

3.35 pm External advisers rejoined the meeting.

6. Consideration of Draft Committee Report on 'The Bioscience and Technology Institute'

The Committee considered the first draft of its report on 'Bioscience and Technology Institute'

Paragraphs 1 - 7 read and agreed.

Paragraph 8 read, amended and agreed.

3:55 pm Mr Anderson left the meeting.

Paragraph 9 read and agreed.

Paragraph 10 read, amended and agreed.

Paragraphs 12 -13 read and agreed.

4:06 pm Mr Anderson entered the meeting.

Paragraph 14 read, amended and agreed.

Paragraphs 15 – 18 read and agreed.

Paragraph 19 deferred for further consideration.

Paragraphs 20 – 23 read and agreed.

Paragraph 24 read, amended and agreed

Paragraph 25 read and agreed.

Paragraph 26 read, amended and agreed.

Paragraphs 27 – 29 read and agreed.

Paragraph 30 read, amended and agreed.

Paragraph 31 read and agreed.

4:14 pm Mr McQuillan left the meeting.

Paragraph 32 deferred for further consideration.

Paragraphs 33 - 34 read, amended and agreed.

Paragraph 35 read, amended and agreed.

Paragraph 36 deferred for further consideration.

Paragraph 37 read, amended and agreed.

Paragraph 38 read and agreed.

Paragraph 39 read, amended and agreed.

Paragraphs 40 – 43 read and agreed.

Paragraph 44 read, amended and agreed.

Paragraphs 45-46 read and agreed.

Paragraphs 47 – 53 deferred subject to further advice.

Paragraph 53(b) read and agreed.

Paragraphs 54 – 55 read, amended and agreed.

Paragraphs 56 – 57 read and agreed.

Paragraph 58 – 59 read, amended and agreed.

Agreed: The Committee agreed to write to the Department to clarify some information.

3:25 pm Mr Murphy left the meeting.

[EXTRACT]

Wednesday, 14 March 2012

The Senate Chamber, Parliament Buildings

Present: Mr Paul Maskey MP (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Sydney Anderson
Mr Michael Copeland
Mr John Dallat
Mr Alex Easton
Mr Paul Girvan
Mr Ross Hussey
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Mr Conor Murphy MP

In Attendance: Miss Aoibhinn Treanor (Assembly Clerk)
Mr Phil Pateman (Assistant Assembly Clerk)
Mrs Danielle Saunders (Clerical Supervisor)
Mr Darren Weir (Clerical Officer)

Apologies: None

2:00 pm The meeting opened in public session.

2:03 pm Mr Murphy entered the meeting.

2:05 pm Mr McQuillan entered the meeting.

2:21 pm The meeting went into closed session.

7. Committee's Inquiry 'Bioscience and Technology Institute'

The Committee noted correspondence from Mr David Sterling, Accounting Officer, Department of Enterprise, Trade and Investment providing additional information requested by the Committee.

[EXTRACT]

Wednesday, 21 March 2012

The Senate Chamber, Parliament Buildings

- Present:** Mr Paul Maskey MP (Chairperson)
Mr Sydney Anderson
Mr Michael Copeland
Mr Alex Easton
Mr Paul Girvan
Mr Ross Hussey
Mr Mitchel McLaughlin
Mr Conor Murphy MP
- In Attendance:** Miss Aoibhinn Treanor (Assembly Clerk)
Mr Phil Pateman (Assistant Assembly Clerk)
Mrs Danielle Saunders (Clerical Supervisor)
Mr Darren Weir (Clerical Officer)
Mr Jonathan McMillen (Assembly Legal Services)
- Apologies:** Mr Joe Byrne (Deputy Chairperson)
Mr John Dallat
Mr Adrian McQuillan

2:02 pm The meeting opened in public session.

6. **Draft Committee Report on 'Bioscience Technology Institute'**

Correspondence from the Department of Enterprise, Trade and Investment

The Committee noted correspondence from Mr David Sterling, Accounting Officer, Department of Enterprise, Trade and Investment detailing legal processes the Department is engaged in and providing a holding reply to the Committee's further request for information.

2:21 pm The meeting went into closed session.

2:21 pm Mr McMillen from Assembly Legal Services joined the meeting to advise the Committee as client in confidence. External advisors left the meeting.

The Committee were briefed by Mr McMillen on the legal advice sought in relation to its draft report.

2:24 pm Mr Girvan entered the meeting.

2:30 pm Mr Murphy left the meeting.

2:31 pm Mr Hussey left the meeting.

2:35 pm Mr Hussey entered the meeting.

This was followed by a question and answer session.

Agreed: The Committee agreed to give further consideration to its draft report, reflecting the advice received, at a future meeting.

2:46 pm Mr McMillen left the meeting.

[EXTRACT]

Wednesday, 2 May 2012

The Senate Chamber, Parliament Buildings

Present: Mr Paul Maskey MP (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Sydney Anderson
Mr Michael Copeland
Mr John Dallat
Mr Alex Easton
Mr Paul Girvan
Mr Ross Hussey
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Mr Conor Murphy MP

In Attendance: Miss Aoibhinn Treanor (Assembly Clerk)
Mr Phil Pateman (Assistant Assembly Clerk)
Mr Gavin Ervine (Clerical Supervisor)
Mr Darren Weir (Clerical Officer)

2:02 pm The meeting opened in public session.

6. Draft Committee Report on Bioscience Technology Institute

The Committee gave further consideration to its draft report.

3:21 pm Mr Murphy left the meeting.

3:27 pm Mr Copeland left the meeting.

3:30 pm Mr Copeland and Mr Murphy entered the meeting.

3:30 pm Mr Anderson, Mr Girvan and Mr Hussey left the meeting.

3:31 pm Mr Easton entered the meeting.

3:32 pm Mr Anderson entered the meeting.

3:44 pm Mr Copeland left the meeting.

3:45 pm Mr Copeland and Mr Girvan entered the meeting.

Paragraphs 1, 19, 24, 28 and 32 read and agreed.

Paragraph 33 read, amended and agreed.

Paragraphs 43, 45, 46 read and agreed.

3:47 pm Mr Murphy left the meeting.

Paragraph 47 read and agreed.

3:46 pm Mr Murphy entered the meeting.

Paragraph 48 read, amended and agreed.

Paragraphs 49 – 51 read and agreed.

Paragraph 52 read, amended and agreed.

Paragraphs 53, 55, 56 and 60 read and agreed.

Consideration of the Executive Summary

Agreed: The Committee agreed to reflect the amendments to the body of the report in the Executive Summary.

4:15 pm Mr Dallat left the meeting.

4:17 pm Mr Murphy left the meeting.

Agreed: The Committee considered a correspondence schedule from the Clerk and agreed the correspondence to be included within the report.

Agreed: The Committee ordered the report to be printed.

[EXTRACT]



Northern Ireland
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Appendix 2

Minutes of Evidence

18 January 2012

Members present for all or part of the proceedings:

Mr Paul Maskey (Chairperson)
 Mr Joe Byrne (Deputy Chairperson)
 Mr Sydney Anderson
 Mr Michael Copeland
 Mr John Dallat
 Mr Alex Easton
 Mr Paul Girvan
 Ms Jennifer McCann
 Mr Mitchel McLaughlin

Witnesses:

Mr Trevor Cooper	<i>Department of Enterprise, Trade and Investment</i>
Mr David Sterling	<i>Invest NI</i>
Mr Mel Chittock	
Mr Alastair Hamilton	

Also in attendance:

Mr Kieran Donnelly	<i>Comptroller and Auditor General</i>
Ms Fiona Hamill	<i>Treasury Officer of Accounts</i>

1. **The Chairperson:** Agenda item 4 is the evidence session on the Audit Office report, 'DETI: The Bioscience and Technology Institute'. Does any member wish to express an interest in the matter?
2. I welcome Mr David Sterling, accounting officer for the Department of Enterprise, Trade and Investment (DETI), who is here to respond to the Committee. Members, you will be aware that the Department has provided some more information, which you have in front of you. That is most irregular for the Committee.
3. Mr Sterling, perhaps you could introduce your colleagues and then explain why we have this additional information.
4. **Mr David Sterling (Department of Enterprise, Trade and Investment):** Thank you, Chair. Joining me today is Mr Alastair Hamilton, chief executive of Invest Northern Ireland; Mr Mel Chittock,

executive director of finance and internal operations in Invest NI; and Mr Trevor Cooper, head of finance in DETI.

5. I regret the way in which the additional information had to be brought to the Committee. It was a document that we and the Audit Office had seen, but I suspect that we had not realised that it might be germane to some of today's discussions. I apologise for the late notification of the information. It only became apparent in the last day or so that it was a matter of interest.
6. **The Chairperson:** OK. I take you to the back page of that information, which relates to informal conversations with the PSNI. However, with regard to the second paragraph, which relates to the finder's fee, are there minutes of the discussions between yourselves, the Department, the PSNI and whoever else was involved?
7. **Mr Sterling:** The significance of the document that we are bringing to your attention is that it indicates that there had been some discussion with the police in 2004 about the double claiming of travel claims. I think that that is correct.
8. **Mr Trevor Cooper (Department of Enterprise, Trade and Investment):** Yes.
9. **Mr Sterling:** Neither ourselves nor the Audit Office had been clear, up to this point, that the issue of the travel claims had been brought to the attention of the PSNI. That is the only reason why we brought the document to the Committee's attention today.
10. **The Chairperson:** The second paragraph of the e-mail that the Committee has just seen relates to the finder's fee. That is why I am saying that it is very irregular for this to happen to the Committee. Even though some reports were done after 2004, I note that the letter was written in 2005. There were reports

- after that — right up to 2010. Are there minutes of those meetings to say what discussions took place with the PSNI and the results of those discussions?
11. **Mr Sterling:** Yes, there are minutes of the three meetings that took place between the company inspectors, Invest NI and the Department. I think that I am right in saying that minutes of those meetings were produced in DETI or Invest NI. PricewaterhouseCoopers (PwC) said that it has a note of its meeting referred to in the e-mail, and it is prepared to provide us with that if the Committee requests it.
 12. **Mr Cooper:** We will ask for that information if the Committee requests it.
 13. **The Chairperson:** We are requesting it. I will ask members and, hopefully, we will agree at the end of the meeting to request that information. Is the finder's fee mentioned in the PwC minutes?
 14. **Mr Cooper:** PwC has confirmed that that is the case.
 15. **The Chairperson:** It has confirmed that with you. We look forward to seeing that report.
 16. **Mr Copeland:** My question is related but slightly askance. The responsibility to pursue a prosecution does not reside with the police. The police's responsibility is to gather the evidence and prepare a file. That file may then be forwarded to the Public Prosecution Service with or without a recommendation. For me to have any confidence in this, I would need to know what the police were told, who was told and the official view that came back. Is what you have just said evidence, or does it indicate that a paper trail exists about what was communicated to the police? What was asked of the police, what was the opinion that they subsequently gave and what was the rank of the person who was spoken to?
 17. **Mr Sterling:** We have minutes that indicate the rank of the police officers who were at each of the three meetings, so we know who they were. The notes of those meetings give an overview of the discussions that took place. However, the minutes do not record everything that was said or every document that was discussed. We are working on the basis that, in a matter that could provide evidence of criminal intent, our responsibility is such that the company inspectors would bring that to the attention of the PSNI. The PSNI would then make a judgement on whether there was sufficient evidence for them to make a case to the Public Prosecution Service. In that regard, they are looking to be satisfied that there is something that would be beyond reasonable doubt or, in other words, would provide 99% certainty that a successful case could be mounted.
 18. **Mr Copeland:** There are three tests, and one of those is the public interest. We can come back to that later, Chairperson.
 19. **The Chairperson:** I appreciate that. You have told us that the finder's fee is mentioned in some of the minutes. You have the minutes to prove that. That is something that we would be looking for. Anything else, we can clarify with you in writing after today's session.
 20. I will start by stating the very obvious. The report on the Bioscience and Technology Institute (BTI) makes for very unhappy reading. We can all agree with that. It catalogues a string of poor judgements, a failure by the funding bodies to apply many of their own guidelines and a disregard for key lessons from previous cases that the old Department had dealt with. What is your view of the way in which this case was handled by your Department and its agencies? Many of us have lobbied different Departments and arm's-length bodies to get investment into our own communities, areas and constituencies. Sometimes, you can hit your head off a brick wall in trying to get investment in, because there are that many obstacles to climb. In this particular case, having looked through the Audit Office report, it seems to me that a lot of obstacles were there but were broken or put aside and the project was pushed on with.

- That is not right. Maybe you can give us some explanation of all that.
21. **Mr Sterling:** Thank you, Chair. I welcome the opportunity to answer the Committee's questions on the reasons for the very regrettable failure of this project, which led to the loss of £2.2 million of taxpayers' money. For the record, I am happy to offer an apology on the part of the Department for any failings on its part that gave rise to that. We have already introduced many improvements to our governance arrangements since the event occurred. I am confident that the risk of this happening now is extremely low. I am happy to go through the changes and improvements that have been put in place. I am not sure whether you want to pick up on that now or later, but, certainly, the key point is that lessons have been learnt. We accept all the recommendations that the Comptroller and Auditor General has made, and will take careful account of any further suggestions that the Committee may wish to make.
22. I will pause there. I am not sure whether you want me to go into some more detail about what we have done since then.
23. **The Chairperson:** I recognise the fact that you and Mr Hamilton are recent appointees to the Department and Invest NI, about which there are obviously serious issues. Government bodies have told us before that they have learnt lessons from the past. You just have to look at the DeLorean case, for example. Lessons were supposed to have been learnt prior to this. Those lessons were not adhered to by the Department.
24. **Mr Sterling:** The material events in this case occurred between 2000 and 2002-03. Since then, we have introduced new appraisal arrangements. New guidance was produced in 2003, and that was updated in 2004 and 2007. Since 2005, we have been doing test drilling of appraisals and post-project evaluations. That test drilling is overseen by our internal audit service. We have new delegations internally within the Department, which came into effect in January 2005. In October 2005, we introduced a new casework process within the Department for projects of more than £0.5 million in value. In July 2010, following the report of the independent review of economic policy (IREP), which was led by Richard Barnett, we introduced a new DETI casework committee. That casework committee was put in place with the agreement of the Department of Finance and Personnel, ourselves and Invest NI. It has provided a more rigorous approach to dealing with projects of this nature. Our monitoring is also much more rigorous. When a project comes along and goes through casework, project-specific monitoring arrangements will be agreed and put in place. However, on a generic basis, our internal audit service will review examples of cases to ensure that those arrangements are being adhered to.
25. We also brought in new guidance in 2005 to deal with the issue of multiple-funded projects. One of the issues with this project was the fact that there were four public sector funders. We now have clear arrangements in place so that, if multiple funding is an issue, one person or one body is appointed as the lead funder. Memorandums of understanding need to be agreed with all the other funders, and a much more coherent approach is taken to the management of a project that has several funders. Our internal audit service regularly reviews compliance with approval conditions, monitoring arrangements and grant payments.
26. We have a biannual quarterly assurance process in the Department and all four NDPBs, whereby all business heads are required, twice a year, to provide assurances that governance arrangements are operating correctly and to flag up any governance weaknesses. We have an accountability and casework branch that is, in a sense, the Department's internal policing agent and ensures that all the arrangements are co-ordinated and working well.

27. Risk management is also much more ingrained in the Department. Operation of our risk management procedures is overseen by our risk management committee and departmental board. We also have a new financial procedures manual that was issued in 2008.
28. All those things have been put in place since the events of this project, and I am confident that they provide a much sounder form of governance. We have learnt many lessons from this, one of which is that we do not want to strangle ourselves with governance. We need to be clear that, at times, risks still need to be taken. The key thing is that risk needs to be better managed than it was with this project. We now have arrangements in place to allow that to happen.
29. **The Chairperson:** I do not think that the Committee would ever want to pile on more bureaucracy, but you used the word “strangling”. I think that, in this case, the rope was thrown out the window; that is a different matter altogether.
30. You say that lessons have been learnt between then and now. What lessons were learnt from the DeLorean case? Did the Department take those lessons on board prior to this case?
31. **Mr Sterling:** The DeLorean report came out — I guess — in the early 1980s. I am not sure what —
32. **The Chairperson:** My point is that people were told then that government had learned from that mistake. Government obviously did not learn from that mistake. How can you give assurances that the mistakes that have been made since then will never happen again?
33. **Mr Sterling:** I am not familiar with all that happened before 2005, when a lot of these new arrangements were put in place. However, I am satisfied that the changes that we have introduced since then have created a much stronger framework of governance. Indeed, at the risk of being contradicted, I think that the Comptroller and Auditor General has indicated in the past that the Department has made considerable strides in this area. The Department of Finance and Personnel has also commended us on the strength of our governance on some issues. Lessons may not have been learnt as well as they should have been 10 or 20 years ago, but the lessons that have been learnt in recent years have been ingrained.
34. **The Chairperson:** As I said, you and Mr Hamilton are relatively new appointees. Who were your predecessors in both organisations from 1998?
35. **Mr Sterling:** Are you talking about the permanent secretaries in DETI?
36. **The Chairperson:** And in the Industrial Development Board (IDB) and Invest NI.
37. **Mr Sterling:** Gerry Loughran, who is now Sir Gerry Loughran, was permanent secretary in DETI — or the Department of Economic Development as it was then — from 1994 until November 2000. Bruce Robinson, who is now Sir Bruce Robinson, was permanent secretary from November 2000 until December 2005. Stephen Quinn was permanent secretary from January 2006 until October 2009. I was appointed in October 2009.
38. **The Chairperson:** Mr Hamilton, will you tell us who your predecessors were for the same period?
39. **Mr Alastair Hamilton (Invest NI):** Bruce Robinson, now Sir Bruce Robinson, was the head of IDB up until October 2001. Leslie Ross then became acting chief executive of Invest NI in shadow format until the organisation was fully formed. Leslie Morrison then became permanent chief executive of Invest NI in April 2002, and I replaced him in April 2009.
40. **The Chairperson:** The reason I ask that is to get a list of those names, because a lot of those people were involved in this case. At least, we have the names to attach to some of the questions. Lesson five of the report states: “it is clear that both the BTI Board and the funding bodies placed a disproportionate amount of trust in Teresa Townsley”.

41. Why did Invest NI and the Department allow that to happen?
42. **Mr Sterling:** Again, not having been around at the time, I have to make some assumptions here. Teresa Townsley was a chartered accountant, and the report records the various public appointments that she held. She was also a member of the senate and honorary treasurer of Queen's University, Belfast. Therefore, I assume that a lot of reliance was placed on her because of her standing in the business community and in a number of public bodies.
43. **The Chairperson:** Do you think that it was a cosy relationship that she was on so many bodies?
44. **Mr Sterling:** I do not think I am qualified to comment on that.
45. **The Chairperson:** Do you think that that is good practice?
46. **Mr Sterling:** No. We are all agreed that one of the lessons is that there should be no over-reliance on one person. A corollary of that is that, regardless of whether someone is a director of a public body or private sector body, all best practice corporate governance guidance makes it clear that directors have an individual and collective responsibility for governance within a body. Therefore, I suppose there are two lessons there. On the one hand, if we are providing funds or grants to a body, there is an onus on us to make sure that there are sound governance arrangements in place, but, equally, there is an onus on members of boards to make sure that they discharge their responsibilities as directors in accordance with all relevant guidance.
47. **The Chairperson:** So, are you saying that there are now controls between DETI and Invest NI that would not allow that procedure to happen again?
48. **Mr Sterling:** It certainly should not happen. I will add one slight qualification to that —
49. **The Chairperson:** What controls have you put in place to ensure that it will not happen again?
50. **Mr Sterling:** I will turn to Alastair, given that he has a more direct relationship with the bodies.
51. **Mr A Hamilton:** Once we get into the detail of this case, we will see that conditions were put into the letter of offer, and those were not met as funding was released. That is the issue. We will answer the questions, and we will try to address the questions that, no doubt, the Committee will have about why those conditions were not met and the controls that were in there around the board and the subcommittees that should have been operational in this matter. Those control measures are in place to ensure that there is a fully functioning and capable board in organisations into which we put funding. However, having said that, we cannot be completely responsible for the activities of private sector organisations. Therefore, we monitor and make sure that the right people are there, but we cannot control or manage boards because then we get into shadow director status, and that brings challenges with it.
52. I am conscious that the Committee will base its views on the evidence given today and make recommendations going forward. However, while I wholly admit and acknowledge that there was an over-reliance on one individual, which led and contributed significantly to this case, I will put a word of caution out that there are a significant number of small, start-up businesses in Northern Ireland that are functioning well and properly today and are very reliant on one individual, such as an innovator, a designer or someone who has the idea. In the early start-up stages, that individual will take those businesses and drive them forward. Therefore, the challenge is on us not to put a restriction in place that says that you cannot support a body that has only one individual in it but to actually get below the surface of this recommendation and say that we need to be comfortable that that individual is

- capable of running that organisation in the early stages and, if not, we should make recommendations on things like shadow directors or non-executive directors on to a board to help and assist them.
53. **Mr Copeland:** I just want to check something. During the time frame you are talking about, was there a board of directors?
54. **Mr A Hamilton:** There was a board of directors for BTI.
55. **Mr Copeland:** And the corporate responsibility, no matter who was doing what, resided with the board of directors?
56. **Mr A Hamilton:** Yes.
57. **Mr McLaughlin:** On a supplementary point, in this particular case, and we should focus on this particular case, we are talking about public money, and the letters of offer very clearly carried conditions that were required to be met before the money could be drawn down. Are we agreed on that?
58. **Mr A Hamilton:** Yes.
59. **The Chairperson:** If you look at paragraphs 6.15 to 6.18, you will see the catalogue of weaknesses in BTI's handling of conflicts of interest. The example in figure 6.2 is of particular concern. MTF Chartered Accountants appears to have had an agreement with IDB whereby a sum of around £70,000 would be paid for getting BTI off the ground. Can you tell us why that was not tendered?
60. **Mr Sterling:** I cannot, Chair. We have had the benefit of seeing the inspectors' report. There is a lack of clarity as to why that was not tendered. What I can say is that such an arrangement would not be put in place now. If there was to be any provision for this type of assistance, it would adhere to public procurement guidance.
61. **The Chairperson:** You cannot tell us why, but can you tell us who within IDB agreed the arrangements with MTF?
62. **Mr Mel Chittock (Invest NI):** Chairman, perhaps I can provide some detail. I did a file review on this particular point for the Audit Office and saw no evidence whatsoever in the IDB files that an arrangement existed. There were minutes —
63. **The Chairperson:** There was no evidence in the files?
64. **Mr Chittock:** There was no evidence that there was a formal arrangement in place for the appointment of MTF by IDB. The appointment was made by the biosciences institute and the contract was between the biosciences institute and MTF.
65. **The Chairperson:** Who paid for it? Who paid the £70,000?
66. **Mr Chittock:** BTI paid the £70,000. IDB did not.
67. **The Chairperson:** At the end of the day, it still was not tendered. This was a project that was going through your organisation. There was a formal agreement with IDB. Is that what you are saying?
68. **Mr Chittock:** No. There was no agreement with IDB on the appointment of MTF.
69. **The Chairperson:** There was nothing whatsoever? There is no correspondence within your files to state that that was a conversation? I take it that that would have been a very important piece of work going through at that stage.
70. **Mr Chittock:** That is correct.
71. **The Chairperson:** But there is still nothing in your files?
72. **Mr Chittock:** There was no evidence that IDB was involved in the appointment process. The appointment was agreed by the BTI board. I have seen BTI board minutes showing that that arrangement was made. The arrangements were made between BTI and MTF.
73. **The Chairperson:** A number of people want in on this particular question. I will take John, Paul and then Mitchel.

74. **Mr Dallat:** I do not want to sound flippant, but given the way things are going today, I wonder whether Mr Sterling or Mr Hamilton are aware that, as far back as the 13th century, King John had a triple lock on his chest of gold. From what I am hearing so far, there was nothing to prevent departmental money going anywhere. Is that what we are being told?
75. **Mr Sterling:** No, I do not think so.
76. **Mr Dallat:** I am sorry, but Mr Chittock has just told us that.
77. **Mr Sterling:** The one point that we would not dispute is that one of the conditions of the funding that went to BTI was that any procurement by BTI should be in accord with public procurement guidance. In this case, it appears that there was no competitive tendering.
78. **Mr Dallat:** That is better.
79. **Mr Girvan:** I appreciate the information that we have heard in relation to the payment. You said that it was not paid by the board, but by BTI. My understanding is that BTI received its funding from a number of public sources as well as one private contributor. On that basis, I take it that all the money, irrespective of who paid the cheque, had some accountability to the public purse and should, therefore, have been dealt with on that basis. I appreciate that there was emphasis on procedure and who paid for it. The fact is that it was still paid for with public money. I just wanted to highlight that.
80. **Mr McLaughlin:** I want to establish the position. From their very inception, BTI, the IDB and, later, Invest had observer status at the board meetings. There have been references to minutes or an examination of files that disclosed information. Does that establish that Invest and, before that, the IDB were exercising their entitlement to be present as observers at the board meetings that discussed those issues?
81. **Mr A Hamilton:** We exercised that right. There were some meetings that the observer did not attend, but it is very clear that that observer status did not give us the information that was required by substitute of monitoring, which we now do separately from that, or that in some cases, when that information was gathered, it was not acted on. The observer status was delivered. The representative from, initially, the IDB and then Invest NI did attend some of the meetings, but either the content of what was discussed at those meetings was not sufficient to give us the information or, if information was gathered, it was not acted on.
82. **Mr McLaughlin:** That is from your own appointed representative?
83. **Mr A Hamilton:** Yes.
84. **Mr McLaughlin:** So when they were talking about board decisions that included, in some circumstances, stepping outside the conditions of the grant support and in other instances, as we have just been discussing, the awarding of contracts without going through the normal procurement processes, your observer did not raise that as a concern?
85. **Mr A Hamilton:** It is very clear from the interviews that took place on all of that that there were a lot of things decided outside of board meetings. The weakness in that observer position, which, for a lot of reasons, we no longer do, including some of the reasons in this case, is that it will not give you access to the information that you need because it is very clear that people were making decisions outside of board meetings.
86. **Mr McLaughlin:** There is a particular reference to Mel's information to this Committee just now. Was an IDB representative present? The timeline would indicate that it would have been an IDB representative at that time. Was the observer there or not?
87. **Mr Chittock:** In relation to the award of a contract to MTF?
88. **Mr McLaughlin:** Yes.

89. **Mr Chittock:** I cannot recall with certainty, but I do not think that the observer was present at that meeting. I would need to confirm that.
90. **Mr McLaughlin:** We might come across that issue as we proceed. Is it possible to produce information for us on the extent of your oversight collectively — that is, the exercise of the observer status? It was established for a purpose. I would be interested to know how regularly you applied that, because that should speak to the attention to detail in managing that process and dealing with any issues of governance or conflicts of interest that may arise. Can that be produced?
91. **Mr A Hamilton:** I would be happy to produce that. I do not have it here at the moment, but I can tell you the observer who attended and the agenda of the meetings that he attended.
92. **The Chairperson:** I cannot understand why you would not have that information with you today if you are going through the case file. I think that that it is very important if the observer was there and that was reported back to the IDB or to DETI. If it was not, there is another failure somewhere along the line. That timeline will prove an awful lot to the Committee.
93. **Mr Copeland:** In my experience of attending directors' meetings, people get a notification of the meeting and an accompanying agenda. The agenda generally follows a set pattern, and the minutes will be in there somewhere. Were there no red flags and lights flashing on your dashboard all over the place suggesting that something was not in accordance with normal business procedures in the way in which this organisation — for want of a better word — was being run? Did you receive a summons to a meeting, or advance notice of a meeting, together with a proposed agenda?
94. **Mr Sterling:** The company inspectors' report and the Audit Office report reflect the fact that that was one of the many weaknesses in the governance of BTI.
- Minutes were either not kept for a period of time or were poorly prepared. There is also evidence that, at times, misleading information was given to the funders. Those are matters of record in the inspectors' report.
95. **Mr Copeland:** What I am asking you is, if you have the right to be an observer, present at a meeting of the board of directors, and it is being carried on in the way in which you are saying, would it not have been flagged up at an earlier stage that something was wrong, and it needed to be looked at? A period of 21 months without minutes is not an oversight. Anyone with any professional capability at all would be sitting there knowing that he or she had a corporate responsibility, in the sure and certain knowledge that naivety, or a claim of naivety, would not protect him or her from the corporate responsibility of being a member of that board of directors. If I had been one of them, I would have been putting a lot of clear blue water between me and the whole operation at the earliest possible date. In my view, someone within your organisations should have known that something was not right.
96. **Mr Sterling:** We accept that there was a failing there.
97. **The Chairperson:** Do you know who the observer was?
98. **Mr Sterling:** We do.
99. **The Chairperson:** What level was he or she?
100. **Mr Sterling:** At the time, it would have been grade 7.
101. **The Chairperson:** To whom would that person have reported the information after attending the meeting?
102. **Mr Sterling:** He or she would have reported to a grade 5.
103. **The Chairperson:** Were there no notes? Were notes transferred from the grade 7 to the grade 5?
104. **Mr Chittock:** There are documents on file of board minutes and discussions

- held, but they do not provide an insight into any of the background behind the notes.
105. **The Chairperson:** Was there nothing about the £70,000 in that conversation?
106. **Mr Chittock:** I could see no evidence of that £70,000 having been discussed in the IDB. I did see a record of it being discussed by the BTI board. I can only conclude that there was no arrangement in place. There is no evidence of an arrangement in place whereby the IDB selected or approved the payments.
107. **The Chairperson:** I will move on to Teresa Townsley, who at that time was a member of two departmental boards — the Local Enterprise Development Unit (LEDU) and the Health and Safety Agency. I touched on this earlier. Do you think that that was a blatant example of cronyism?
108. **Mr Sterling:** I do not think so. I do not know, Chair. All I can say is that, nowadays, all public appointments must be done in accordance with the guidance of the Commissioner for Public Appointments. It is clear that we now have in place processes that ensure that everybody who comes forward for public appointment will be questioned on their suitability at interview. They will be tested on any potential real or actual conflicts of interest. On the basis of advice from the appointment panels, which will always include an independent person, Ministers will then decide who is most suitable to be appointed to a public body.
109. **The Chairperson:** I will throw the meeting open to other members who will have their own round of questions.
110. **Mr Copeland:** Thank you, Chair, for your assistance thus far. Mr Sterling, paragraph 2.2 tells us that BTI's business plan fell far short of the standard required under the IDB's own guidelines. Can you give a view as to why it was accepted for appraisal in those circumstances?
111. **Mr Sterling:** Again, I rely on the evidence in the company inspectors' report and the Audit Office report. I cannot entirely explain why a business case that, in a sense, was deficient was accepted. However, we need to recognise that, at the time, the initiative or project was seen as having considerable potential. Despite all the failures and failings that we have seen, we need to cast our minds back to that time. We had an initiative that had the support of two physicians who had worldwide reputations for excellence. Strategy 2010 — the economic development strategy that had been published around that time — identified that Northern Ireland could and should exploit the bioscience sector. There was interest from the US and elsewhere in the project, and it had strong political backing. The First Minister, in effect, launched it in DETI in June 2000 or 2001. I am no geneticist, but we had just seen the unlocking of the human genome, and that was heralding the potential for major advances in the treatment of cancer and other genetic diseases and illnesses. It was expected that there was huge potential for commercial spin-outs as a result of all that activity. Aside from the failings at the institute, the Ulster Bank and the Almac Trust were prepared to support the venture, albeit by way of a loan. It would be wrong to look at the project without having account of the context in which there was an opportunity that, at the time, people felt that Northern Ireland needed to grasp. That, in a sense, does not excuse any of the failings that happened thereafter, starting with an inadequate business case.
112. **Mr Copeland:** I understand that to a degree, but what private individuals or banking organisations do with their money is a matter for them. This matter concerned public money.
113. **Mr Sterling:** Indeed. I was not seeking to defend —
114. **Mr Copeland:** I know that you were not. Sometimes, we lose sight of what happens to ordinary people when they find that they have been overpaid £150 of housing benefit or tax credits. They

get letters to the point at which their nerves go. Sometimes, we need a dose of reality. The fact is that a plan was accepted. That plan was unclear about the private donor funding. It had no estimate of the fit-out costs. Lease arrangements with Belfast City Hospital had not been agreed, which was fundamental to the success of the initial business plan. There was no solid base for income projections. There was no estimate of the building costs. Two key appointments were not determined: the chief executive and the product manager to oversee the newbuild were not there. There was no marketing plan, and no equipment specification was drawn up. I understand how people may have been caught up in the prospect of peace and things developing, but the bottom line is that a gamble was taken. The gamble proved not to work. If it had worked, that would have been fine. Do you have an opinion as to whether that golden opportunity for Northern Ireland plc to become involved at the very cutting edge of biotechnology was seriously damaged by the failure of the project, not only in relation to the loss of the money but in relation to people from the outside who would be committed to investing here in similar ventures, and that the real loss to Northern Ireland is not solely restricted to the loss of £2.2 million of public money?

115. **Mr Sterling:** I will ask Alastair to pick up on that in a second. A number of targets were associated with the project. Aside from completing the centre, the outputs that were sought were that there would be 10 start-ups within five years, 50 jobs for Northern Ireland graduates would be created within five years, and there would be six new inward investors. Obviously, none of those targets was achieved. Clearly, it had an impact on our ability to capitalise on the opportunities that I identified. However, it was not disastrous in that sense.
116. Alastair, perhaps you will talk about where we are with the bioscience sector.
117. **Mr A Hamilton:** It is very difficult to say where we could have been today had the project been successful and

had the potential that David has just spoken about been realised by way of spin-out companies. There is still an appetite and desire to nurture the ability that resides mainly in our universities, particularly in the whole biosciences area, and draw that out into companies and commercialisation. As painful as the experience has been for all concerned, it will not put us off, corporately as an organisation and government, pursuing those opportunities on behalf of our people.

118. The bioscience sector is key for us. The persistence of some of the people who are mentioned in the report is testimony to that. Some of the leading scientists with worldwide experience have continued to drive forward their business objectives, albeit in a different environment. Today, the bioscience sector comprises 50 companies in Northern Ireland. Almost 4,500 staff are directly employed. There is a turnover of £500 million across those companies. Uniquely, it is a really good mix of indigenous companies such as Almac, Radox and Norbrook, and foreign-owned companies such as Perfecseal, Warner Chilcott and CaridianBCT. There is a really good balance of inward investors and indigenous companies. There is a Programme for Government target to create high-quality jobs. From a university point of view, the vast majority of those jobs are PhD level; that is the type of talent and capability that we are looking for in those organisations.
119. I cannot tell you today what has been lost as a result of the project not developing. However, the bioscience sector is critical for us. I would like to try to drive that forward as hard as I possibly can.
120. **Mr Copeland:** I also hope that you will tell me that it will not happen again or, more importantly, that it could not happen again. You have already said that, so I appreciate that.
121. **Mr A Hamilton:** I do not want to get into the debate now, but that is one of the risks. I am conscious that, as painful as this has been, no matter where you look

- across the world today, incubation, start-ups and spin-outs out of universities are a critical way to tap into capability in the universities. Although I accept all the report recommendations, which we will discuss as we go through, fear of what might happen should not stop us continuing to try to find those spin-out companies.
122. **Mr Dallat:** Mr Hamilton, do you not agree with us that this is an important subject, not only for the creation of jobs but for the discovery of cures for an illness that, as we speak, people are fighting desperately to survive? However, the report is riddled with fraud from beginning to end. How on earth could you explain that away in the way in which you are doing?
123. **Mr A Hamilton:** Mr Dallat, I am not trying to explain that. I acknowledge all the recommendations of the report, and, as we go through this, I will openly acknowledge the failings in this case. In my comments to Mr Copeland, I am not in any way trying to justify what has happened or to cast any veil over it. I am more than happy to acknowledge, on behalf of my organisation, the failings of the organisation to capitalise on what should or could have been positive and beneficial. That should not take us away from trying to do exactly what you have said, which is to try to create high-quality jobs in the bioscience sector or to find cures for some very deadly diseases.
124. **Mr Dallat:** So do you agree that you can give no justification and no explanation today to begin to explain this?
125. **Mr A Hamilton:** I can give you some explanation of how things happened. I agree that there is no justification for it.
126. **Mr McLaughlin:** I want to pick up on Alastair's point; it is the third time that he has made it in this evidence session. We understand very well the need to take risk and to manage risk, and we understand that, in the private sector, decisions may be taken that do or do not succeed. However, the individual concerned is ultimately responsible and, in a sense, gets the appropriate reward if the business succeeds or fails. We are talking about our reliance on public money that is used to support enterprise being properly monitored and about conditions that are properly laid out to ensure that the people whom we trust to manage that risk for us will apply those conditions or insist that they are applied before they release public moneys. We are not talking about risk aversion.
127. The decision on bioscience was absolutely defensible as far as I am concerned; I would take that risk today despite the mistakes. However, let us not confuse ourselves with the risks that people take in developing their businesses and in the oversight role that we properly insist is put in place to protect the public interest. Their money is at risk, and I do not think that any of the questions so far or the others that will follow will be premised on the basis that you took a risk with that venture. As I said before, fair play to you. However, we are entitled to the highest standards of oversight and to straightforward management when client companies fail to meet the conditions to which they signed up. They should not get public money and should not get the balance of grant that remains, and they should certainly be subject to recovery or clawback conditions.
128. We do not need to be reminded that there are risks involved in trying to bring investment here. You have a very difficult job already, and we would prefer to work in complete support of your efforts to attract that investment. However, when there is failure, we have to examine that, and there was a huge failure in the system in this case. Michael is right to draw attention to that because the fact that it was so hopelessly managed from the start has done more damage to the possibility of investment in that vital and developing area of our economy.
129. **Mr A Hamilton:** I want to be clear: I am not trying to get round that or to change the subject to a different matter. I openly acknowledge to you and Mr Dallat that failings that should not have happened

- seriously impacted on this project and contributed or led to the loss of public funds. That should not have happened. I have said in this Committee before, our job is about risk management not risk avoidance. A lot of work has been conducted on my watch over the past two years specifically around that. As a matter of fact, the Audit Office has been involved in getting a more acceptable and manageable risk management process into our organisation so that we can manage those risks. On that basis, I am confident that the issues and errors created by this case would not happen today under that risk management process.
130. **Mr Copeland:** Paragraph 2.3 explains that there were some uncertainties, especially on project funding. The advice report recommended that promoters be asked to resubmit their proposals. Why was that advice ignored?
131. **Mr Sterling:** Again, based on the evidence here and in the company inspectors' report, it is clear that there was a strong desire to move quickly with the project, and part of what was driving that was a desire to meet funding deadlines. The need to avoid being driven by such deadlines is another key lesson in the report.
132. **Mr Copeland:** Whose decision was it to go ahead anyway instead of doing what other people have done, such as putting in checks and balances and, perhaps, conditions?
133. **Mr Sterling:** There were four funders. The timeline for the project shows that the four funders gave commitments in principle to the project around late 1999 and early 2000. In 2001, the four funders issued letters of offer at different times. I think that the first letter of offer was issued by DETI in late 1999. I think that the IDB issued its letter of offer in June 2000, which was followed in 2001 by various grants starting to be paid. Again, that is a situation that could not occur today under our guidance. I mentioned to you at the start —
134. **Mr Copeland:** I have a question on the timing and chronology of the funding available from the public sector — in other words, from the Government — which people could have thought was an indication that the project was a sound investment. Did that precede or follow the funding agreements with the private investors?
135. **Mr Sterling:** It preceded it. Indeed, that was one of the factors that was —
136. **Mr Copeland:** So —
137. **Mr Sterling:** If I just might finish, because this is a key point. The various funders, particularly, I think, the Department and the IDB, saw their funding as being a necessary condition to lever money in from the private sector. In other words, rightly or wrongly, it was felt that private sector investors would look more favourably on the project if they saw public money in place. That, in a sense, was one of the other factors that was driving the funders.
138. **Mr Copeland:** Would you also agree that it might be not only because they saw public money in place but because that imbued the project with a degree of “respectability and solidity” that subsequently proved not to be there?
139. **Mr Sterling:** Yes.
140. **Mr Copeland:** Thank you.
141. I will move on to the next issue. BTI was a flagship project and deserved the highest standards of scrutiny. Paragraph 2.4 states that approval to support the project was sought from the IDB's resource group rather than from a casework committee. Was that approach not fundamentally at odds with the IDB's guidelines at that time?
142. **Mr Sterling:** The guidance in place at the time required that a project of this nature be approved at a casework committee.
143. **Mr Copeland:** So someone made a decision to bypass the standard casework committee and progress. Why? Who?

144. **Mr Sterling:** The evidence in the inspectors' report states some uncertainty around exactly what happened in that regard. There is no evidence of any approval other than by the resources group. There is some disagreement between those who were interviewed as to whether that was a precursor to it going to the casework committee or not. In the history of the project, that is one of the many uncertainties.
145. **Mr Copeland:** I have to confess that the longer this goes on, the more depressed I find myself. I appreciate that you were not there at the time, but the average person, and anyone involved in business, would shake their head at the entire affair.
146. I would like to put a question to the Treasury Officer of Accounts. Paragraph 2.5 states that DETI's proposed offer to BTI was approved by the Department of Finance and Personnel (DFP) in December 1999. Given the concerns that were expressed in the advice report and the fact that the offer had an unusually high number of prior conditions, why did the Department of Finance and Personnel fail to spot the warning signs?
147. **Ms Fiona Hamill (Treasury Officer of Accounts):** The DFP approval in 1999 was to make a letter of offer. As members have mentioned in their questioning so far, that letter of offer had significant conditions attached to it. That was the approval of the application of capital funding for the purposes. Beyond that, DFP was not directly engaged in the ongoing supervision and monitoring of the project. Those are matters that fall to Invest NI and to the Department, so DFP would not have had sight of the warning signs. In relation to the subsequent moves and the change of venue for the project, it is our view that the Department should have come back to us because that was a material change. The Department should have sought reapproval at that stage, but that did not happen.
148. **Mr Copeland:** Who would you have expected to have apportioned the conditions to the report? Where did those conditions come from?
149. **Ms Hamill:** The conditions in any letter of offer are generally those that the Department sets, and may or may not, subject to DFP approval, include other conditions that DFP has asked for. That is on a case-by-case basis. It is considered by the supply officer.
150. **Mr Copeland:** In this particular case, David, what was the source of the concerns and the conditions that were attached?
151. **Mr Sterling:** It goes back to the original advice report that had been prepared, which identified 13 preconditions and four general conditions. Each of the funding responses —
152. **Mr Copeland:** Were they specific as opposed to being cut-and-paste standards?
153. **Mr Sterling:** The 13 preconditions were specific to the project; the four general conditions were more generic. The four funding bodies applied those to a greater or lesser extent. The IDB, for example, took 11 of the 13 preconditions. Some of the other funders took fewer, reflecting their particular funding body requirements. However, I would not seek to defend such a slightly chaotic approach. Nowadays we have guidance that, as I said earlier, requires the creation of a lead funder who would have an agreed memorandum of understanding with all the other funders and would be clearly responsible and in the lead. The creation of Invest NI has, of course, meant that three of the funders are now within the same body, which has improved things.
154. **Mr Copeland:** Would the chief accounting officer at the time have had a role in establishing whether it was worth pumping public money into something that was red-flagged? I do not know if it is usual or unusual to get conditions, but I understand that there

- were an unusually high number of prior conditions.
155. **Mr Sterling:** It should have been flagged up within each of the funding bodies —
156. **Mr Copeland:** It was flagged up.
157. **Mr Sterling:** —that it was a high-risk project. It is not clear to me at what level, ultimately —
158. **Mr Copeland:** Who would you expect? I presume that at some stage it would have come to the attention of the chief financial officer, because the chief accounting officer is the person who is responsible for the money. Is that correct?
159. **Mr Sterling:** I am trying to think. From a departmental perspective, the key responsibility would fall to the casework committee. It would be unusual for a project to come to the —
160. **Mr Copeland:** It is not the casework committee; it is the ultimate responsibility.
161. **Mr Sterling:** Sorry. I am quite clear that ultimate responsibility for all that goes on in the Department and, indeed, for the four non-departmental bodies, rests with me.
162. **Mr Copeland:** Or whoever your predecessor was.
163. **Mr Sterling:** At the time.
164. **Mr Copeland:** Yes, I understand that. Who was it at that time?
165. **Mr Sterling:** In 2000?
166. **Mr Copeland:** At the time that this took place.
167. **Mr Sterling:** It would have been Sir Gerry Loughran.
168. **Mr Byrne:** Welcome to the meeting. You are answering on behalf of the Department and the investment bodies. I think it is fair to say that we are very concerned about the tale of woe in the report and the anxiety it creates among the public about how public money is managed and administered.
- Mr Hamilton, there seems to be a complete absence of records of IDB's consideration and approval of this project. Paragraphs 5.4 and 5.5 and appendix 5 state that the company inspectors were repeatedly unable to access several of the resource group files on the case. Astonishingly, it now appears that one of those files was actually destroyed by Invest Northern Ireland some four months after being requested. How could that happen?
169. **Mr A Hamilton:** Apparently it happened as a result of normal file management processes. I know that a story can be constructed that the file held some information that somebody did not want to see and was therefore secretly destroyed. I can assure you that I do not think that that is the case, because we have monitored and looked at all of the other resource files. I think that the failing here is the lack of information in the resource files rather than whether there was a magical file somewhere that held something important to the case and was destroyed.
170. Having said that, I openly acknowledge the massive failings in the organisation as regards file retention and file management. Again, I do not want to go down the path of trying to justify things. The report's comments on file management in appendix 5 are accurate, and I acknowledge them. All I can do today, Mr Byrne, is give you the same assurance that I have given the Committee in the past, which is that, over the past four years, an electronic records management system has been implemented in Invest Northern Ireland specifically to overcome this difficulty. The audits of that system have shown that there has been no reoccurrence of what happened — no files have gone missing in the organisation over the past four or five years since the new electronic system was put in place. That is the position as we sit here today. I am not trying to justify it; I accept the report and acknowledge that there were massive failings.
171. **Mr Byrne:** I think that it is fair to say that the NIAO report is an agreed report

- between the NIAO officials and the Department, so we are using it to show the factual position of where we are at.
172. **Mr A Hamilton:** Yes.
173. **Mr Byrne:** Paragraph 3 of appendix 5 states that the Invest Northern Ireland file review form that evidenced the decision to destroy the file was itself destroyed. So, it has been accepted that not only was the file destroyed but so, too, was the request form. That conjures up in my mind thoughts of a conspiracy or malpractice. It begs this question: what sort of managerial culture prevailed then and was inherent in the organisation?
174. **Mr A Hamilton:** I have the same evidence in front of me as you have. If you have a view that this was a purposeful destruction of a file that held some information that would have been relevant or may have exposed somebody who was in the middle of this, you can come to the conclusion that there was malpractice. However, there is no evidence in front of me in either this report or the inspectors' report to show that this was a purposeful, wilful destruction of a file that held information. I openly acknowledged to you just now that the record management system was inadequate. You may shake your head and say that that is an understatement, and I would agree; records management within the organisation was not good, and steps have been taken to make sure that the system has been fixed. As for destroying files, one benefit of the electronic management system is that, even if someone deletes a file, we can recover it. We have sufficient capability within to recover all deleted files, so I can give the Committee an assurance today that a reoccurrence of this will not happen.
175. **Mr Byrne:** Bearing in mind that we are talking about 2007 and not 2000 or 2001, paragraph 4 of appendix 5 tells us that the first two searches by the records management team were cursory, because it was unaware that the files were required for a statutory investigation. Why was that not made clear to that team immediately? Whose fault was that?
176. **Mr Chittock:** We do not understand why the searches were treated as cursory. They should not have been treated in that way; rather, they should have been treated with the utmost importance. One of the difficulties at the time was that, having moved locations from a number of different buildings to a central location, there was a lot of file movement. However, that is not a justification or an excuse for those files not being found. There should have been proper interrogation of our data management system, but there was not. It is a failure that we acknowledge.
177. **Mr Byrne:** I am worried that you are trying to explain things away. You said that the systems that prevailed at the time, either administrative or managerial, were such that this issue can be explained in an innocent way. I ask the questions again. What sort of management culture prevailed then? What culture prevails now? If there was any change in that culture, who brought it about?
178. **Mr Chittock:** I want to add a bit of detail on what we now do with our records management. I cannot comment on what happened at the time, but we now have clear record management policies. We retain all financial records for at least seven years, and we also retain all EU-related project records until at least 2020. There is a 13-year lifespan for EU records management.
179. Our records management policy has been agreed by the Public Record Office of Northern Ireland (PRONI). As late as January 2011, PRONI put a stop on all records being destroyed across the public sector as part of the review that it was carrying out against legislation. It then asked all non-departmental public bodies (NDPBs) and Departments to resubmit their records management policies in line with the new legislation. We did that in November 2011, and PRONI acknowledged that our records management policy not only meets the

- acceptable standards but goes some distance beyond that.
180. I cannot guarantee that a file will not go missing. However, I have put in place assurances that, in any case in which there is an ongoing investigation, all files that relate to that investigation will be retained for at least 10 years from the date on which the investigation is closed. I have done that in the event that any records are required at a later stage. We have attempted to ensure that our records management policy is more than adequate in the retention of information.
181. **Mr Byrne:** My concern is that, when files go missing and there is no paper trail or evidence, malpractice can be fully exploited.
182. **Mr Chittock:** There is now a record of files. Most of our hard-copy files are stored off-site, and our electronic files are tagged so that we can understand their movement. If files are destroyed, there is a requirement for a senior officer in the organisation to sign off on that destruction and for that receipt to be retained as evidence of the basis of the file destruction
183. **Mr Byrne:** Mr Sterling, paragraphs 2.10 and 2.11 —
184. **The Chairperson:** Joe, if you do not mind, there are a couple of supplementary questions. I will bring you back in. The company inspectors asked for information, but that information was destroyed four months later and was not given to the inspectors. Why did it take four months? Why did it take such a long time from when that information was requested?
185. **Mr Chittock:** I do not know the circumstances about the request and how it came to us, and I must simply rely on the information that was provided by the report. That should not have happened. A request should have been made formally to the records management team and it should have been dealt with as an important formal request.
186. **The Chairperson:** I surmise that the information was requested through a letter, an e-mail or a telephone conversation. The report states clearly and your Department agreed that it took four months and the information was destroyed. How long does it normally take you to give someone information when they ask for it.
187. **Mr Chittock:** That is normally done in a short number of days. The information is identified from the records management system, and, if it is in off-site storage, it is recovered from there. We normally expect files to be recovered in a maximum of two to three days.
188. **The Chairperson:** So, some four months later, the file was destroyed and you still did not provide the information in that time. That is totally unacceptable. What do you think about that?
189. **Mr Sterling:** Clearly, there was a failing. However, we take confidence from the changes to procedures —
190. **The Chairperson:** I have heard about all the changes. You have said all that. The point is that it took four months. That is totally unacceptable. Mr Hamilton made his point, but this looks and smells like a rat. It smells as though something has gone badly wrong. It took four months to look for a piece of information after it was requested. It was never handed over, and then it was destroyed. We do not know what was in the document, but it makes the Department and Invest NI look terribly bad.
191. **Mr Sterling:** I accept that it looks bad.
192. **Mr A Hamilton:** I acknowledge that.
193. **Mr McLaughlin:** For the record, can we find out when the present record management system was introduced?
194. **Mr Chittock:** It was first introduced late in 2004.
195. **The Chairperson:** The information was requested in 2007.
196. **Mr Chittock:** The information dates back to 1999-2000. Therefore, it would have required an awful lot of cataloguing

- of information held across four separate legacy agencies. So the task was to actually bring that information together.
197. **Mr A Hamilton:** In case we go off on a tangent, it would be worth bearing in mind that not all the existing paper files have been converted onto that system. Since 2004, all of our new records have been committed onto the electronic record management system, but even in 2007, some three years after the electronic management system was introduced, we were still looking for paper files for this case, which predated the installation of the system. Over a period of time, we will parallel track, the paper files will disappear and, ultimately, when the times that Mr Chittock has gone through have expired, all of our files will then be electronic.
198. **The Chairperson:** So they are not all on yet?
199. **Mr A Hamilton:** No.
200. **The Chairperson:** You have already given us an assurance that it will not happen again, but not all the information is on.
201. **Mr A Hamilton:** With current cases. Sorry, perhaps I should have added that at the end.
202. **Mr Copeland:** What would you expect to have been in such a file, and why do you think that the file was requested in the first place?
203. **Mr A Hamilton:** I think that it was requested in the first place for completeness. Obviously, the inspectors were looking for all of the resource files. We started the line of questioning around the resource group and why a case was approved in the resource group. Obviously, the inspectors then wanted to see, even though that was the wrong forum in which to approve the case, whether it was properly approved. Therefore, they requested absolutely all of the files that related to the resource group, and this is the one that has gone missing/been destroyed. It is very difficult to judge what was in it.
204. **Mr Copeland:** Would you agree that a set of files that follow a particular path may give you a number of pieces of the jigsaw and that sometimes you can tell, from the bits that you have, the shape of the bit that is missing? Was there any indication as to what fundamental part of the process was in the file that disappeared?
205. **Mr Chittock:** We do not think that there was anything of any substance. Obviously, however, we cannot prove that. There is no suggestion that there was an alternative approval document on the file. The four files that were found contained some references to this project, but they were no more than references; there was no detailed paperwork on that. Therefore, we can only surmise that the missing file did not contain this.
206. The other point worth making is that the resource group did not have the delegated authority to make that decision, so we do not anticipate that there would be a formal submission. We expected something to have gone through a casework approval committee.
207. **Mr Copeland:** Let me get this right. Did they actually take the decision?
208. **Mr Chittock:** Yes.
209. **Mr Copeland:** In the absence of a delegated authority so to do?
210. **Mr A Hamilton:** Yes.
211. **Mr Copeland:** It is no wonder there is no file.
212. **Mr Dallat:** Chairperson, I am sure that you know, more than anyone here, that we need a report at the end of this that will be positive and will be a contribution for the future. Since we started the meeting at 2.00 pm, I have seen one of the most glaring damage limitation exercises that I have ever witnessed. I say that as the longest-serving member of the Public Accounts Committee.
213. In the past, there were very good practices in Departments. Therefore, to come here and say that it was all bad practice in the past, it is all hunky-dory

now and it has all changed, is absolute rubbish. We are not getting to the truth of who was incompetent or who was responsible for this tsunami of fraud that took place. We need to stop saying that it was bad in the past and that those bad boys have now gone and got their knighthoods: they were not right. That is not the truth. I hope that, from this moment on, we get down to the serious business of establishing what exactly was wrong here and how we put it right.

214. **Mr McLaughlin:** I want to return to this. Strong emphasis has been placed on the modernisation, the reforms and the record management system that we can now depend on. Appendix 5 deals with the destruction of a file and the destruction, at the same time, of a review form that requested or authorised that destruction. I am interested to know about the internal process of file management and approval of destruction because we have arrived at certain date lines. Who signed off on that? With regard to the review form that actioned the destruction of the file, even though that file had been requested four months previously, this was three years after the introduction of your new record system. Therefore, why does your record system, which we can rely on, not tell us who drew up and signed the authorisations to destroy the file? This was not the old file. This was a new document that emerged, I assume, around August 2007, three years after you had introduced the new records management system. So why are we hitting a blank?

215. **Mr Chittock:** The document at the time would have been a paper document attached to the front of a file.

216. **Mr McLaughlin:** There was an extant records management system in place at that time, which should have captured that document in case it was required. Therefore, it was not the old hard copy system; it was a digital record, which, on the face of it, should have been much more dependable and where you could retrieve all that information. We lost a file that had been requested, and we

do not know what was on it. It could have been a completely innocent and meaningless document, but now we will never know. However, as far as I can see, the person who drew up the slip that authorised the destruction of that file is also a mystery, unless you can tell me who it was. I can understand somebody destroying a file and maybe making a mistake in destroying it, but I do not understand why your records management system did not rescue the situation and produce a copy of that document. That is inexplicable to me.

217. **Mr Chittock:** The document was a hard copy piece of paper, which was attached to the front of the file. It should have been scanned and should have been part of our records management system, but, for some reason, it was not. Again, it should not have been destroyed.

218. **Mr McLaughlin:** It is completely coincidental that that should happen and that your records do not reflect that. The paper document that was a fresh document in August 2007 was accidentally destroyed, and an older document that was germane to an ongoing statutory investigation was destroyed because the due date for destruction had arrived, even though there was a stated interest in seeing that document. How do you think that appears?

219. **Mr Easton:** I had the misfortune to work in medical records in the Ulster Hospital for a long time, and we did a lot of filing in those days. What is confusing me about your filing system is that, if we took a chart out of medical records and brought it to wherever, even before our electronic management system was introduced, we always had to put a blue retainer card in its place with the details of where the chart was going in case somebody came along afterwards to look for it. Over that four-month period, somebody went along and looked for that file twice, which is a surprisingly small amount of searching for the file over that time. Surely, even before your electronic system came in, there would have been a card in place stating the whereabouts of that file. Is there

- a record of where that file was during those two searches?
220. **Mr A Hamilton:** No, there is not.
221. **Mr Easton:** Is that not a bit strange?
222. **Mr A Hamilton:** I am very conscious that I do not want to get into justifications here, but I want to explain. I can understand why the health service would have a personal record files system that would operate in that way. My understanding is that that was not the way in which our system functioned, because those files were not personal files that multiple people would need access to. This is not by way of justification. To answer your direct question, as I understand it, there was no system for marking files that had been removed from the system so that people could then track them.
223. **Mr Easton:** So, basically, a file was taken, there was no record of where it went and it could have been anywhere.
224. **Mr A Hamilton:** Exactly.
225. **Mr Easton:** That is not very good.
226. **Mr A Hamilton:** It is unacceptable.
227. **Mr Byrne:** I want to go back in history to the saga of the decision to grant aid the project on limited written evidence. Paragraphs 2.10 and 2.11 state that, by mid 2001, major difficulties had been encountered with the proposed Belfast City Hospital site. That was three years after the site had been identified and only six months before the DETI funding deadline, yet no site investigation or survey had ever been carried out. Given that government was going to give £2 million in grant aid, why were the funders not keeping a much closer eye on the project? Quite simply, was a blind eye being turned to what was going on, or was a friendly eye being given to the people associated with the project?
228. **Mr Sterling:** I do not know the answer to that. What I can say is that it would not have been in the interest of the funders to allow that delay to occur. The funders had, in a sense, an interest in the project succeeding. The funders had an interest in making sure that funds were paid by the relevant deadline. One of the failings of the project is that BTI, in that period, did not advance the project sufficiently swiftly. It did not deal with the issues in and around the Belfast City Hospital with sufficient speed. Again, there appears to have been a clear lack of energy in taking the project forward at that stage. That was a failing of both BTI and those who were monitoring the project at that time.
229. **Mr Byrne:** I want to go back to the earlier comments about risk management and risk assessment. There is a perception that some projects are more easily and favourably assessed than others, and that those beyond a 25-mile radius of Belfast are much more stringently assessed. There is a clear public perception that there are insiders and there are outsiders. Does that exist?
230. **Mr Sterling:** No.
231. **Mr Byrne:** Paragraph 2.14 states that, at a meeting in May 2001, Teresa Townsley told the funders that it would still be possible to complete construction works before the year end. Given the site difficulties, the absence of planning permission and the construction contract not even having been tendered at that point, how could any credence have been given to the project or to Mrs Townsley's comments?
232. **Mr Sterling:** Credence should not have been given.
233. **Mr Byrne:** So, risk assessment did not really exist?
234. **Mr Sterling:** No. Again, I would not seek to defend that. There should have been —
235. **Mr Byrne:** On the evidence, it looks as though there was no risk assessment.
236. **Mr Sterling:** I agree. On the evidence before us, there was inadequate monitoring of what was really happening with the project. Jumping ahead a bit, that takes us to the point in the project that the report describes as "pivotal", the failure to progress things on the Belfast City Hospital site and

- then the move to the Harbourgate site. At that stage, our very clear view, in agreement with the Audit Office report and the company inspectors, is that the project should have been fundamentally reappraised.
237. **Mr Byrne:** I go back to a question that I put earlier. What sort of management culture now prevails? What is the modus operandi? Who is driving what I would call an objective, fair and professional management culture?
238. **Mr Sterling:** The management culture in the Department and its NDPBs flows from myself through the various subaccounting officers, like Alastair, who is in charge of Invest NI. At the start, I described in some detail the governance arrangements that we have in place and which we oversee to make sure that this type of thing does not happen again. As Alastair said, I cannot conceive that something like this could happen again today.
239. **Mr Byrne:** I appreciate that you two were not centrally involved at the time. Mr Hamilton, you were a senior executive with BT and had a distinguished career there. You were plucked by the First Minister to be a special adviser. I have no question about that; you have done good work. I want this question answered: what is the management culture that prevails within the organisation now?
240. **Mr A Hamilton:** I am not trying to divert you. I will answer your question, Mr Byrne, but you would probably be better asking other people in my organisation what that is. I will tell you what I —
241. **Mr Byrne:** Did you see any reason to fix anything when you took up the job?
242. **Mr A Hamilton:** There were a lot of things that I put into place in the organisation when I joined it. So —
243. **Mr Byrne:** Limited or extensive?
244. **Mr A Hamilton:** Extensive. I have a programme of change within Invest Northern Ireland running today called Transform. There are 18 individual projects running right across the organisation. It was kicked off a year after I took up my post. I waited until the independent review of economic policy was concluded. Of the 53 recommendations in that review, I took those that the Minister agreed to and that were appropriate to Invest Northern Ireland and embedded them, along with the changes that I wanted to see delivered in the organisation, in Transform. That programme is now 70% complete. It covers everything, such as implementing a new performance management system, which relates to some of the points that we have spoken about around this table. It will actually pick up, half-yearly, the performance of the individuals and the organisation — and not just against targets. We now have what we call a values-based performance management system that assesses both what people do and how they do it. They are assessed against both of those steps, and performance management and performance improvement plans are put into place on the back of that. It was quite a painful process to put that into the organisation.
245. To answer your question, Mr Byrne, I am now starting to see the outworking of that in things like personal accountability, personal improvement and personal performance but also in the managing of underperformance in the organisation. That is just one of those 18 projects.
246. I have another programme that looks at end-to-end process management. One of the complaints that have been made against Invest NI in the past is that it takes far too long to get approval for a case. We are now tracking that, and I have introduced a complete review of the structure of the organisation, which will become active on 1 April. Specifically, that is to shorten the lead times from over 40 days to 20 days so that we can get large-scale approvals managed quickly. In connection with that, there is a piece of work on giving increased delegations — we may get to delegations today — to people and to

- the board, to allow us to progress cases more quickly.
247. I close my comments at three. I would hope that, if you were to ask people what the management culture is in the organisation, they would say that it has changed over the past three years and that it is a professional, capable, outward-looking one, but one that challenges people and challenges the organisation.
248. **Mr Byrne:** Thank you, I appreciate the answer. I will just make one more comment. You said that you had embedded a culture of professionalism and more objectivity. Are you confident that all of your client executives implement that culture?
249. **Mr A Hamilton:** I would say that we are in a process of driving that cultural change through the organisation.
250. **Mr Byrne:** Thanks.
251. **Mr Copeland:** I want to go back to something that David said, which I think is absolutely correct. The tipping point in the whole sorry affair was when the decision was taken to depart from the Belfast City Hospital site, and that led to finder's fees, buying floors of buildings without the stairs in between them and stuff that you simply could not believe would happen. Do you think, or is there evidence, that there was ever any real intention to go ahead on the Belfast City Hospital site? Seven or eight months before the deadline for the funding to expire, you could not have got planning permission in that time, never mind tender it, nor could you have commenced the construction, never mind finish it. Do you honestly think there was ever any intention to proceed at that site?
252. **Mr Sterling:** I think that there was originally an intention. On the basis of the evidence before us, it seems so clear that the success of the venture depended on close proximity to the City Hospital and the two universities. I cannot find any explanation why the key individuals involved believed that it would work on another site four miles away.
253. **Mr Copeland:** How much money do you think was gained by some of those who took the decision, because of that decision, from finder's fees —
254. **The Chairperson:** Michael, there is another person who wants to come in with some of those particular questions.
255. **Mr Copeland:** I got carried away, Chair, forgive me.
256. **Mr Easton:** Paragraph 3.5 notes that, with the move to Harbourgate, the estimated project cost was revised to £7.5 million. However, £2.7 million of that had not been secured when the government funders gave the go-ahead. Was that not a recipe for disaster?
257. **Mr Sterling:** At that stage, the funders were being misled about the extent to which there were other sources of private sector funding. I do not blame that entirely on the company. The funders should have done more to satisfy themselves about the other sources of funding that were being reported; apparently, two American institutions were interested. Much more should have been done to establish just how realistic that was. On the basis of the evidence before us, I sense that there was still a blind faith that, if government money were put in, it would somehow or other make the venture, as one of the members said, seem more attractive to the private sector. That was one of the key drivers at that time.
258. **Mr Easton:** You used the word "misled". Who was misled? BTI or you?
259. **Mr Sterling:** BTI misled the funders with the information that it provided. Before the move, the funders were misled about the extent to which planning approval had been progressed. They were also misled about the extent to which other funding streams were being secured.
260. **Mr Easton:** Who, specifically, was misleading? Who was giving you —
261. **Mr Sterling:** Most of that information would have come from Teresa Townsley.
262. **Mr Easton:** Most?

263. **Mr Sterling:** That was the primary source.
264. **Mr Easton:** BTI's failure to secure adequate funding before the project commenced breached the DETI and IDB letters of offer. Why did your Department ignore its own priorities and conditions?
265. **Mr Sterling:** I repeat the reasons that I gave a second or two ago: there was clearly still a desire to move the project forward. There was a sense that, if, somehow or other, the public sector funding was put in, it would help to secure private sector funding. Indeed, the evidence in the inspectors' report records that people were being motivated by the need to meet funding deadlines.
266. **Mr Easton:** Was this misleading from Teresa Townsley being done by word of mouth, or did she give you documents that indicated that there may be other sources, which led to your going ahead? What type of misleading was it? Was it letters or e-mails?
267. **Mr Sterling:** The evidence on which I base that remark is oral and written.
268. **Mr S Anderson:** David, you say that one of the areas in which Ms Townsley maybe misled was planning. If that were the case, surely the Planning Service would put things in writing. My experience of the Planning Service is that it indicates whether there is a possibility of a project going ahead or failing to go ahead. Are you saying that Ms Townsley said that everything was OK for funding purposes because planning was in place? Mention was made of getting planning, funding and the build in place within a very short timescale. Would planning issues have been just word of mouth from Ms Townsley?
269. **Mr Sterling:** The evidence that we have before us suggests that a rosy picture was being painted of how far the planning process had been advanced.
270. **Mr S Anderson:** Was that done just verbally?
271. **Mr Sterling:** No; it was orally and in writing. Those on the funding side should have tested the validity of that. That would certainly happen nowadays. A number of projects in which I would be involved depend on planning, so we have very close contact with the Planning Service, and we know exactly where things were. That does not appear to have happened in this case.
272. **The Chairperson:** Do you want to come back in, Alex? Two other members want to ask supplementary questions.
273. **Mr Easton:** Could we have sight of the misleading documentation that made you go ahead? If you were given misinformation, was that not fraud, especially if it was documented? If so, that begs the question: why did the police not proceed towards prosecution?
274. **Mr Sterling:** As the company inspectors who were working on our behalf went through it, they identified anything that they believed might signify criminal intent or some form of wrongdoing. I am sure that we will get into that in more detail. The company inspectors made a number of recommendations. They recommended that certain actions of some of the professionals involved should be referred to their regulatory bodies, specifically the Law Society and the Chartered Accountants Regulatory Board (CARB), and other matters were discussed with the Police Service of Northern Ireland (PSNI).
275. **Mr Easton:** Can we see the documentation that contains the misleading information that made you go ahead?
276. **The Chairperson:** Can we get a copy of it?
277. **Mr Sterling:** Yes.
278. **Mr Easton:** We do not know what it is.
279. **Mr Sterling:** Yes. I will reflect on that.
280. **The Chairperson:** We will also reflect on that request, Alex. You said that the company inspectors were working for you with the information that you gave them. However, you gave them the information that you wanted to give

- them and discarded other information that you did not want to give them.
281. **Mr Copeland:** I want to firm that up and cut to the chase. In your opinion, is someone who gives you or your Department misleading information that leads to their deriving public money guilty of a criminal offence?
282. **Mr Sterling:** I do not think that I am the right person to make that judgement.
283. **Mr Copeland:** Who is?
284. **Mr Sterling:** We rely on the company inspectors, who worked on our behalf in that regard, and on the PSNI.
285. **Mr Copeland:** What about the ultimate decision? The information that was given to you subsequently proved to be misleading.
286. **Mr Sterling:** Yes.
287. **Mr Copeland:** Was it so well disguised or well dressed up that you did not know that it was misleading? Should you have known?
288. **Mr Sterling:** As I understand it, a key test for the PSNI is whether there is sufficient evidence to prove criminal intent.
289. **Mr Copeland:** I am familiar with the three tests. It is not criminal intent but criminal activity.
290. **Mr Sterling:** Yes, criminal activity. In this case, I have no evidence to suggest that that is the case. However, I am certainly happy to look at that again.
291. **Mr Copeland:** I would appreciate it if you would do that.
292. **Ms Hamill:** I want to clarify the process for fraud allegations and engagement with the PSNI, because we have a clear memorandum of understanding between the Northern Ireland Civil Service (NICS) and the PSNI. If there is an allegation of fraud, an investigation is undertaken internally, and an evidence pack is prepared for the PSNI, which then considers the evidence pack and decides whether or not the matter should be referred to the Public Prosecution Service, which will then decide whether or not a prosecution will follow. That is how the process formally works. A decision to prosecute does not come from a Department.
293. **Mr Copeland:** I fully understand that, and the file from the police may have a recommendation of no further police action or a recommendation that a prosecution should take place. Indeed, it is sometimes accompanied by no recommendation. We did other investigations recently, one of which was into criminal legal aid, and, very shortly thereafter, the Committee got a letter from the police asking us to clarify whether we had suspicions of criminal activity or had evidence. With respect, the difference between suspicion and evidence is quite discernible, and, in a number of bodies on which I sit, I am possessed of suspicions but am not qualified to say whether or not those suspicions constitute evidence. I would have thought that, in such cases, £2.2 million is not a lot of money. However, it is a lot when it is public money for minor medical procedures that are carried out in the health service or for filling in potholes. It is an amount for which the small man, in many cases, would be hounded to the point of being driven mad. In this case, however, it seems that there were so many lights flashing on the dashboard that I just cannot comprehend how it was not detected or caught on at an earlier stage. I understand that you are not responsible and that now everything has been attuned to ensure that it will not happen again. However, the fact remains that it did happen.
294. Perhaps you have seen a certain article in 'Private Eye'. As a member of Northern Ireland plc and a Member of the Assembly, which has attempted to do its best, I do not think that it holds this place in any degree of credibility. That is why it is so fundamentally important that we are assured that what took place — it is patently obvious that it should not have taken place — will never, ever take place again and that those who were responsible, wherever they are, are held to account.

295. **The Chairperson:** Before I bring Alex back in, I will take a supplementary question from Mitchel.
296. **Mr McLaughlin:** Joe dealt with some aspects of paragraph 2.10, which states:
- “The minutes of a BTI Board meeting on 11 April 2001 record that Teresa Townsley provided a detailed site update, highlighting the following problems:*
- *the main live services (including water mains, steam and power) for the BCH Tower Block ran through the proposed site*
 - *the electricity supply to the site was ‘at breaking point’*
 - *BCH may require a road through the proposed site.”*
297. The reason why I am quoting that paragraph is because, if you go back to the discussion on planning issues, it now, of course, involves a third Department. That is literally months before the decision to move to Harbourgate. I suppose that the Americans had their Watergate; we have to deal with something else. Michael referred to warning lights. The planners had to have been telling those people that they could not develop the site in the manner in which they intended unless they did so at huge and exorbitant cost.
298. **Mr Sterling:** I am sorry to interrupt you. Even more fundamentally, BTI should have commissioned a full site survey. It did not do that.
299. **Mr McLaughlin:** Yes, I know. I want to return to my theme of what we do as a system to protect the public interest. I know what BTI should have done about their management of the proposal. However, we also have to be concerned about our managers. A theme that occurs quite often is the question of whether Departments talk to one another and whether there is joined-up government. It is not such a big place. We are not talking about a continent here. Planners had to be aware that there were already delays in the scheme and a looming deadline for funding. Why people did not recognise that they were dealing with a project that was in deep trouble is yet to be explained.
300. **Mr Sterling:** Indeed, I cannot explain it. All I can say is that, in my experience, in the Department and in Invest NI, things are different now. I have been involved with, for example, the development of the Titanic signature project and the Giant’s Causeway visitors’ centre. In both those projects, there has been close working across government, including with the Planning Service, to ensure that planning issues are dealt with and that we know what planning issues might arise along the way. I am sure that Invest NI can confirm that, in any of its projects in which capital investment is required and planning is an issue, there is good co-operation with the Planning Service.
301. **Mr McLaughlin:** That was in April 2001. We have found that records relating to that issue were being destroyed up until 2007.
302. **Mr Sterling:** There was one file. I am not sure —
303. **Mr McLaughlin:** Yes. We cannot find the rest of the files. The IDB’s side in that is absent. I do not know whether Invest NI is in any better a position to pick up the baton. However, I am talking about April 2001. I am sure that somebody would not need to be a technical expert to recognise that there was little likelihood that those problems would be solved within the available time and budget. Of course, BTI decided to move elsewhere. We find that the guardians — the people who ensure that the public interest is protected — are not protecting their own documentation in this matter.
304. **Mr Sterling:** Just to be clear: are you suggesting that other files are missing as well as the one file that Mel described?
305. **Mr McLaughlin:** I am. I am responding to the fact that we cannot piece together the picture of the management of this project from day one up to the present with regard to IDB’s oversight and its representative or observer on the board,

- its minutes and documentation, and its discussions about a business that was grant-aided and did not submit progress reports or minutes of its own discussions. That is what I am talking about.
306. **Mr Sterling:** I entirely agree with you. There is an inadequate audit trail here. That is not the same as saying that files have been lost. I do not think that files were ever properly created in the first place, based on some of the evidence that we have before us.
307. **Mr McLaughlin:** You may have more information than I have, but I have not seen any evidence. We are dealing with a failure to generate minutes, reports and paper trails. I cannot believe that the professionals, and the professional standards that we would expect of our public service, would allow such a situation. I am more inclined to believe that the evidence has been made unavailable.
308. **Mr Sterling:** That may be. I do not have any evidence to suggest that.
309. **Mr McLaughlin:** You do not have any: it is not available.
310. **Mr Sterling:** I agree entirely that there is an absence of clear documentation and a clear audit trail to suggest what happened at the time. My sense is that it may never have existed in the first place, rather than that it was there and that it has been destroyed.
311. **Mr McLaughlin:** OK. People went on paying out the grant, despite the lack of validation, progress reports and the failure to meet the conditions that were attached to the grant being awarded in the first place. Our professionals went along with that.
312. **Mr Sterling:** The report provides evidence of that.
313. **Mr Easton:** Who within the senior management of DETI and the IDB were responsible for giving the go-ahead for Harbourgate?
314. **Mr Sterling:** Departmental records show that approval was given at grade 3 level.
315. **Mr Easton:** Do we have a name?
316. **Mr Sterling:** It would have been the person who was the senior finance director at the time.
317. **The Chairperson:** Perhaps you could get that information for us.
318. **Mr Sterling:** I can share that with you.
319. **Mr Easton:** That was DETI.
320. **Mr Sterling:** That was DETI, yes.
321. **Mr Easton:** What about the IDB? Was anyone there jointly also giving the go-ahead?
322. **Mr Chittock:** At the time, I believe that it was the acting CEO.
323. **Mr Easton:** That would have been based on this misleading information?
324. **Mr Chittock:** This was an amendment to a letter of offer, and the submission that was given to the acting CEO would have detailed that misleading information as part of the justification for change.
325. **Mr Easton:** I will move on to my next question.
326. **The Chairperson:** Perhaps you can confirm that with us as well, because you said that you think that was who it was. Can you confirm that that was who it was?
327. **Mr Chittock:** Yes, I can do that.
328. **Mr Sterling:** Will the Committee Clerk keep a record of those actions?
329. **The Chairperson:** Yes.
330. **Mr Easton:** The move to Harbourgate represented a fundamental change in the nature of the project, yet paragraph 3.7 points out that the funding bodies failed to reappraise the project. Was that not a serious breach of DETI's and the IDB's guidelines?
331. **Mr Sterling:** Yes; it should have been reappraised.
332. **Mr Easton:** Was it not reappraised because of the misleading information?

333. **Mr Sterling:** I do not think that that was the reason. I cannot give you a single reason. All I can say is that it should have been reappraised. As we discussed earlier, it was a fundamental change. The project's success depended heavily on the building being in close proximity to the City Hospital and the two universities. This was a fundamental change that should have required that the project be re-examined. It was also clear at that stage that the move to Harbourgate would require £2.7 million of additional expenditure, which had not been secured. That is another reason why the project should have been reappraised at that stage.
334. **Mr Easton:** So that was a fundamental flaw.
335. **Mr Sterling:** Two fundamental flaws.
336. **Mr Easton:** Paragraph 2.7 states that the City Hospital site was seen as fundamental to the success of the project. How then, without a reappraisal, could you — not you personally — be sure that the project would be financially viable and that its objectives could be delivered at Harbourgate?
337. **Mr Sterling:** I do not think that we could have been sure without a fundamental reappraisal.
338. **Mr Easton:** Was it the norm that such reappraisals did not occur, or was it just this one incident? Given that there was a change of direction in such a large project, was it normal practice for there to be no reappraisal?
339. **Mr Sterling:** I do not have any evidence to suggest that that was common practice. We recognise that it is important that, if the nature of a project changes, it needs to be reappraised. There is strong guidance from the Department of Finance and Personnel in that regard. I am talking now more about the approval process, but any project that has been approved by DFP and whose costs exceed by 10% or whose project timetable extends more than 24 months has to go back to DFP. Equally, we have issued internal guidance that makes clear the circumstances in which projects should be reappraised. Criteria are set out for the people in charge of projects for guidance.
340. **Mr Easton:** Are the two people who gave the go-ahead for the move to Harbourgate the same two people who made the decision not to have a reappraisal?
341. **Mr Sterling:** It probably would have been the same people who made that decision.
342. **Mr Easton:** Should it have been referred to DFP for a renewal approval?
343. **Mr Sterling:** Yes it should. The DETI element of funding — £1.2 million — should have been referred back to DFP. Again, it is worth reflecting that for a project of this nature today, the full £2.2 million would require DFP approval. So the whole funding package would have to go back to DFP.
344. **Mr Easton:** You have indicated and acknowledged that it was quite strange that the project was not referred back or reappraised and that the go-ahead was given. What excuse did the two individuals have for not doing all that?
345. **Mr Sterling:** I cannot answer that. I am not sure that the inspectors' report records comments from those individuals. Can I check back to see whether there are any?
346. **Mr Easton:** I presume that they would have been asked why they did not do that, because such a lot of money has gone down the tubes.
347. **Mr Sterling:** Chairman, I have read the company inspectors' report, which is 200 pages long and is supported by many, many hours of interviews. I have not seen the transcripts of all those interviews. In total, 42 people were interviewed, and 18 of those were interviewed more than once. Some people were interviewed up to eight times. There is an extensive record of interviews, and I have not seen them all. We can look back to see whether those people were asked about that specific point.

348. **The Chairperson:** Is it possible for us to get a copy of the company inspectors' report?
349. **Mr Sterling:** Can I take advice on that, Chair? The inspectors' report has formed the basis on which the current director disqualification proceedings are being taken forward. It has also provided much of the material that the Chartered Accountants Regulatory Board is using to consider the case that has been brought to its attention. I would want to test that release would not compromise either of those investigations. It has not been custom and practice for the Department to publish company inspection reports. However, it may be that we are in a position to allow the Audit Office, which has a copy of the report, to release it to the Committee. If you do not mind, I would like to take advice on that.
350. **The Chairperson:** You can take it from this point that we have requested it, so it would be good to get it.
351. **Mr Sterling:** I will test that quickly.
352. **Mr Copeland:** I want to confirm that the directors of BTI at the time are being subject to disqualification procedures.
353. **Mr Sterling:** One director is.
354. **Mr Copeland:** Who?
355. **Mr Sterling:** Teresa Townsley.
356. **Ms J McCann:** Paragraphs 3.21 to 3.34 outline the events surrounding the payment of a £100,000 finder's fee for sourcing Harbourgate. Can you explain why BTI felt the need to pay someone a finder's fee to source a suitable building in Belfast?
357. **Mr Sterling:** It appears from the evidence in the inspectors' report that the project was in something of a crisis, given that the City Hospital site could not be pursued. There was a funding deadline of the end of September, which was extended by a month. The board had decided that it needed to find another site, and the inspectors' evidence records that four sites were being examined. However, it is not clear from the evidence available to us that all the directors of BTI were made fully aware of the decision to offer a finder's fee to somebody to help to secure a building.
358. **Ms J McCann:** Did you not find it strange that they were actually paying someone to go out to find a property?
359. **Mr Sterling:** I am not expert in those matters, but I am told that that is not unusual in the commercial world. Indeed, BTI's legal advisers, who were asked to offer an opinion on that, indicated that, in their view, payment of the fee was legitimate — sorry, that it had been lawfully approved. However, for an organisation that was being funded primarily by public funds, I would not regard that as an acceptable use of money, albeit that public grant was not used to pay for that.
360. **Ms J McCann:** It is normally the owner or vendor of a property who pays an agent a fee for the purchase of a property. Is that not right? It is not normally the other way about.
361. **Mr Sterling:** As I said, I had never been made aware that fees of that nature were paid before I became familiar with this project, but since then I have been told that that does happen. I do not know how prevalent or widespread it is, but that is what I am told.
362. **Ms J McCann:** Can we have the information on the other three possible sites that were being considered at that time? Do you have that information?
363. **Mr Sterling:** Yes. I cannot remember the other three sites off the top of my head, but we can let you have details of those.
364. **Ms J McCann:** Do we have the information on who owned the Harbourgate building at the time?
365. **Mr Sterling:** We do.
366. **Ms J McCann:** Can you tell us who owned it?
367. **Mr Sterling:** It was an organisation called Royce Developments.

368. **Ms J McCann:** Paragraph 3.8 refers to two independent assessments being carried out in late 2002 to estimate the additional funding that was going to be required at that stage to deliver the project at Harbourgate. Those two independent assessments produced figures of £6.9 million and £10.2 million. Therefore, the BTI's cost estimates were flawed from the very beginning. Why were those flawed estimates not picked up at the IDB appraisal stage?
369. **Mr Sterling:** It was not reappraised, and that was a major failure. Another significant failure was the fact that BTI did not establish the full costs of the move to Harbourgate before it completed the deal. Indeed, it was a consequent failing on the part of the funders not to ensure that such a full appraisal was completed.
370. **Ms J McCann:** With respect, I worked in the community sector long before I came here, and there were checks and balances that you had to put in when you were drawing down funding for much smaller amounts, particularly in capital build projects when you were purchasing buildings. There were very clear deadlines and estimates that you had to put in, so I am quite amazed that that did not happen here.
371. The business plan for BTI was prepared by MTF Chartered Accountants, which was owned by Teresa and Michael Townsley. Do you consider that Mrs Townsley's position at that time, as the deputy chair of LEDU, had any bearing on the lack of challenge and the lack of detail that was required to be exercised by officials in terms of trying to find out exactly why those estimates were so flawed from the start and why there was no reappraisal?
372. **Mr Sterling:** I think that some of the actions of Mrs Townsley are subject to question. That is why, in part, she has been subject to director disqualification proceedings and why she and her husband have been referred to the Chartered Accountants Regulatory Board.
373. **Ms J McCann:** What I am trying to ask is this: did her position as deputy chair of LEDU actually have any bearing on the lack of challenge being exercised by officials in the Department at that time?
374. **Mr Sterling:** I do not know. Maybe I should turn to my Invest NI colleagues.
375. **Mr A Hamilton:** I cannot judge what was going on with Teresa Townsley at the time and whether she was using her role as deputy chair of LEDU to influence people either directly or indirectly. It is fair to say that people were willing the project on at all levels in the organisations. Going back to the comments that were made at the start, this was an important sectoral initiative. I do not think it was necessarily because of the influence of one individual, but a group of senior management and other people who were involved in the project, as is very clear from this document, were either trying to keep it alive at crisis points, or, at points of progress, like now, to move the project forward to realise the vision that was there. I think that was a significant failing. It was a matter of either money chasing projects or people continuing to progress a project that would not have been approved if it had been reappraised at that point, and we openly acknowledge that. The viability in the funding arrangements that would have been required for this project to proceed at Harbourgate would not have been satisfied. Therefore, the project would have stopped.
376. **Mr Copeland:** Do you have any knowledge, or was any knowledge uncovered, regarding any potential or possible previous relationship between any individual on the board of directors or the management of Royce Developments and the board of directors of BTI? In other words, was the relationship on a purely business level, or was it another example of a cosy arrangement that saw considerable amounts of money — some of it possibly public money — going where it was not supposed to go?

377. **Mr Sterling:** My recollection of the inspectors' report is that there was no evidence that there was such a connection. However, I would like to double-check that.
378. **Mr Copeland:** I would also like you to double-check that, please. Thank you.
379. **Mr Girvan:** I want to come in on the back of the line of questioning that Michael is pursuing about the links, tenuous or otherwise, with the owner of the property. The property was also, ultimately, not suitable for purpose. There was an issue over access —
380. **Mr Copeland:** Stairs were extra.
381. **Mr Girvan:** Yes, access to the building. Therefore, the finders did not do a good job of finding a building that was suitable for the purpose for which it was purchased.
382. The purchase price was right at the top limit. Was there any indication that negotiations took place on how much was to be paid for the building? The figure that I saw was somewhere in the region of £5 million. It so happens that the amount that was set aside for the project was £5 million, although that may be a coincidence.
383. This was a good and meaningful project, and a number of those who worked on it did so for the right reasons. However, it looks as though others saw the project as a way of lining their own pockets or those of their friends. Will you expand on some of those points?
384. **Mr Sterling:** You will appreciate that the inspectors' report is very long and I want to check it. I do not want to give a definitive view today, but my recollection is that the inspectors did not uncover any evidence of a connection between any of the directors of BTI and the seller of the property. I think that the evidence suggests that there was no particularly hard negotiation of the price. However, I will double-check that also.
385. **Mr Girvan:** The report also indicates that the building was not fit for purpose.
386. **Mr Sterling:** It was a shell building that had been designed as a potential call centre. Therefore, it was a long way from being suitable for occupation as an incubator centre. I think that I am right in saying — I will check — that BTI was only interested in buying two floors. The seller's original position was that he was only interested in renting the building, and that, if he had to sell, he would only sell the whole building and not just two floors. However, I will check that in the inspectors' report.
387. **Mr Girvan:** He came out very well.
388. **The Chairperson:** Did the property dealer and the vendor know each other prior to the negotiations on the building?
389. **Mr Sterling:** I do not believe that there is any evidence to suggest that.
390. **The Chairperson:** You don't?
391. **Mr Sterling:** I do not recall whether there was any evidence to suggest whether they knew each other or not.
392. **The Chairperson:** I suggest —
393. **Mr Copeland:** Sorry to interrupt. Just to clarify Chair, did you ask about the property dealer who was the broker?
394. **The Chairperson:** Yes.
395. **Mr Copeland:** I asked about the relationship between the two boards, not the person in the middle.
396. **The Chairperson:** I asked about the property dealer and the vendor.
397. **Mr Sterling:** There was a person who purportedly acted on behalf of BTI in that negotiation. Although there is no record of a contractual relationship being agreed with that person, he or she was doing the deal on behalf of BTI. I am not aware whether, on the basis of the evidence in the report, there was any connection between that third party and the seller of the property.
398. **The Chairperson:** So, you are not aware of that.
399. **Mr Sterling:** I will check that point.

400. **The Chairperson:** Does the Comptroller and Auditor General (C&AG) have any other information on that point?
401. **Mr Kieran Donnelly (Comptroller and Auditor General):** As Mr Sterling said, there is a wealth of underpinning evidence and detailed transcripts. It would be worth going back to those transcripts and checking that.
402. **The Chairperson:** It is important to know that for our report.
403. **Mr Donnelly:** Yes.
404. **The Chairperson:** I take it that you have all of the transcripts?
405. **Mr Sterling:** We do.
406. **The Chairperson:** OK. I look forward to that.
407. Paragraph 3.4 indicates that BTI's budget was £5 million. Perhaps it is a coincidence that the building was purchased for £5 million, as paragraph 3.1 indicates. Is there any indication as to the level of profit that the vendor made on the sale of the building?
408. **Mr Sterling:** I do not know the answer to that off the top of my head.
409. **The Chairperson:** I ask that because, at that stage, it was probably a buyer's market. We were talking about finder's fees and stuff earlier. The budget was £5 million and the building was purchased for £5 million. Is that just coincidence?
410. **Mr Sterling:** As I said earlier, the evidence suggests that there was not particularly hard negotiation on the sale.
411. **The Chairperson:** I did not think that there was, but maybe you could check the company inspectors' report and report back to us.
412. Paragraph 6.20 states:
"Two directors have commented that they had been commercially naïve and relied too heavily on those with greater commercial experience in the operation of the company. They referred specifically to the undue influence of Teresa Townsley".
413. Have any other directors been held to account for the failure of the project? Have those directors gone on to hold other significant posts with commercial or budget responsibility in the Civil Service?
414. **Mr Sterling:** I am not aware of any of the other directors having held any public appointments. Again, I can check that. Are you talking about directors of BTI?
415. **The Chairperson:** I take you to paragraph 6.20.
416. **Mr Sterling:** I will check, but I am not aware of the two directors having held any public appointments.
417. **The Chairperson:** Since?
418. **Mr Sterling:** Their roles in BTI were not public appointments; it was a company limited by guarantee. In a sense, they were, themselves, the founders of it.
419. **The Chairperson:** So, no one else was held accountable whatsoever for all this?
420. **Mr Sterling:** The inspectors' report made a number of recommendations, and we have acted on all of them. For example, they recommended that a number of directors should be referred to the director disqualification unit. Indeed, all the directors were examined in that regard. However, when the public interest test was applied, it was concluded that only one director should be subject to disqualification proceedings. Those were launched on 15 December. The inspectors also recommended that the actions of certain individuals should be reported to their professional organisations.
421. **The Chairperson:** 15 December of what year?
422. **Mr Sterling:** 2011; it was just last month.
423. The Audit Office report states that Thomas Armstrong was referred to the Law Society in respect of his role. It also states that a firm of chartered accountants was referred in respect of its role in the preparation of the original business case back in, I think, 1999. As

- is detailed in the report, the Law Society did not find that Thomas Armstrong had done anything wrong, although it advised him on some matters. Similarly, in relation to the firm of chartered accountants that did the business appraisal, the Chartered Accountants Regulatory Board did not find that any wrongdoing had taken place. That decision was appealed by the Department of Finance and Personnel, but it was not upheld. The Chartered Accountants Regulatory Board is still considering the reference made by DFP in regard to the behaviour of Michael and Teresa Townsley. That is the action that has been taken on the foot of the recommendations in the inspectors' report.
424. **Mr Copeland:** I apologise, but I just do not understand that. The report quite clearly says: "Two directors have commented that they had been commercially naïve and relied too heavily on those with greater commercial experience ... Another director commented that Board members totally and implicitly trusted Teresa Townsley".
425. Can you tell us who those directors were? I cannot understand it. Fairly eminent people were involved in this. I can understand, to a degree, commercial naivety. However, if you are involved in something at which minutes are not being recorded at board meetings, in essence, whether naïve or not, a lack of knowledge of the law is not a defence. The company's corporate responsibility for this resides with the board of directors. Why, then, does it say, "two directors have commented" and "another director", but then the directors claiming that they were unaware of the £100,000 finder's fee are actually named. Is there a reason for that?
426. **Mr Sterling:** Can you repeat that last bit?
427. **Mr Copeland:** In the section at the back of the report, it says: "By contrast, BTI Board members Will McKee (the Chair), Paddy Johnston and Peter Passmore told us that, at the time, they were unaware of the £100,000 finder's fee".
428. In other words, they are named and identified as making the statement. Yet, at the start, the report says:
- "Two directors have commented that they had been commercially naïve ... Another director commented that Board members totally and implicitly trusted Teresa Townsley".*
429. **Mr Sterling:** I am not sure why they have not been named in the report.
430. **Mr Copeland:** Can we find out who they are?
431. **Mr Sterling:** It is not for me to say.
432. **Mr Copeland:** Is there a reason why we should not know?
433. **The Chairperson:** It is an agreed report between the Audit Office and yourselves.
434. **Mr Sterling:** Yes.
435. **The Chairperson:** I take it that you asked questions when you were going through the different aspects of the report? You have had to agree this.
436. **Mr Sterling:** Yes.
437. **The Chairperson:** But you are now telling us that you are not sure why some names are in the document and others are not? I can ask the C&AG, but you agreed the report.
438. **Mr Sterling:** I am not sure that that issue was ever brought to my attention.
439. **The Chairperson:** Somebody at the bottom of the table agreed it.
440. **Mr Sterling:** I am not ducking my responsibility. I signed off the report. The fact that names should be included was not something that we requested. I do not know.
441. **Mr Donnelly:** I think that, in that context, we agreed not to name them in the report. In the round, we do name names. We name all the directors elsewhere, but not in that particular context.
442. **Mr Copeland:** Why?
443. **The Committee Clerk:** I think that it was a matter of signing off on the report with all of the third parties.

444. **Mr Donnelly:** Yes. We went through the process with 20 or 30 third parties. It was quite an elaborate process.
445. **Mr Dallat:** Chairperson, nearly two and a half hours into this, I just wonder where we are getting to. I am not sure.
446. Maybe I will pick up where Michael left off. There must be a lot of people who feel that they have had their fingers badly burned by being involved with the Townsleys — people such as Professor Paddy Johnston, whose brother Jim was an executive member of one of the so-called spin-out companies; Professor Roy Spence; and Dr Passmore. They are all very eminent people. How do they feel about being contaminated by this intrigue of deception, fraud and everything else? I will leave that for a minute.
447. We do not seem to be able to get away from the Townsleys. They seem to have been centre stage in this whole thing, from beginning to end. Even up to 10 minutes before the meeting, an e-mail centring on the Townsleys was circulating. What about the fictitious letter about the fee for identifying the property? That apparently was not deemed to be a criminal offence, yet, just last week, a celebrity cook was splashed all over the media for stealing a bottle of wine out of Tesco. Here we have £125,000, and nothing is happening. Quite frankly, I regard this e-mail as a decoy, and I do not put any value in it whatsoever. We got the report, and we prepared for this. I do not think that we should have to adjust anything to accommodate this sort of nonsense. We have spent two hours talking about not being able to get documents from files, and, suddenly, they are creeping and crawling out from everywhere.
448. I really want to ask you about the £125,000 fee for identifying the totally unsuitable piece of property four miles from the City Hospital. Am I right in believing that there was an instruction to pay that money into a foreign bank account?
449. **Mr Sterling:** Part of it —
450. **Mr Dallat:** It does not matter. Even one penny of it is too much.
451. **Mr Sterling:** The BTI paid £100,000 to Thomas Armstrong solicitors. There was a separate payment for the VAT element.
452. **Mr Dallat:** Is that the boy who was found by his own professional body to be totally innocent?
453. **Mr Sterling:** Indeed. Thomas Armstrong solicitors then dispersed the £100,000 three ways. Indeed, the way in which it was dispersed is set out in the report. It is a matter of record that the £25,000 payment to Michael and Teresa Townsley went to a bank account in Spain.
454. **Mr Dallat:** I will tell you why I am interested in this. I belong to a voluntary organisation called the Credit Union. I am treasurer of it, and I am subject to the most stringent money-laundering regulations that you could ask for. If I had authorised something like that, I would, rightly, be in court for it, yet those professional people who, subsequently, have not been found guilty of anything were really money laundering, were they not?
455. **Mr Sterling:** The Townsleys' role in this case is the subject of consideration by the Chartered Accountants Regulatory Board, so I do not want to say anything that might compromise its consideration of that. Indeed, I would say the same about Teresa Townsley's director disqualification proceedings.
456. **Mr Dallat:** OK; let us go back to Thomas Armstrong, their solicitor. He has already been cleared by the Law Society. Did it know about the cheques that were going to foreign bank accounts?
457. **Mr Sterling:** That matter was not referred to the Law Society, as I understand it.
458. **Mr Dallat:** Why not?
459. **Mr Sterling:** The BTI legal advisers adjudged that the payment was legal and had been authorised legally. We referred the issue of the finder's fee to the PSNI, and discussions on that have taken place on several occasions.

- The PSNI — colleagues can keep me right here — does not believe that there is sufficient evidence of criminal intent, and that matter will not be taken forward.
460. **Mr Dallat:** So, are you saying that, despite the fact that we know that the letter that was written by Michael Townsley was written after the event, is a cover-up and was never received by anybody, the evidence is not sufficient for the PSNI to at least refer this case to the Public Prosecution Service?
461. **Mr Sterling:** On the basis of all the evidence that it has looked at, yes, the PSNI has decided —
462. **Mr Dallat:** And you appealed that no doubt?
463. **Mr Sterling:** I, personally, was not involved in the discussions.
464. **Mr Dallat:** You were lucky; I am glad for you.
465. **Mr Sterling:** A strong case was made by the Insolvency Service and the company inspectors.
466. **Mr Dallat:** A lot of people on the outside will find that absolutely amazing, because people, quite rightly, are penalised for doing things wrong. It is a good job that the Townsleys were not running Barings Bank or they would have made Nick Leeson look saintly. I will move on, Chairperson.
467. **The Chairperson:** John, can Michael come in with a brief supplementary question?
468. **Mr Dallat:** Of course.
469. **Mr Copeland:** I am so staggered by this that I have almost forgotten what I was going to say. John, just you go ahead.
470. **Mr Dallat:** My questions were already covered, but that is not important. It is the fact that they are asked at all. Did you appeal the Law Society's decision in the case of Mr Armstrong?
471. **Mr Sterling:** No, we did not.
472. **Mr Dallat:** Did you not feel that you had justification for doing that?
473. **Mr Sterling:** I was not directly involved in that decision, but my understanding is that the Law Society's view was fairly final. I am not sure whether there is an appeal mechanism. I can check that out.
474. **Mr Dallat:** I referred to those other people who were drawn into that whole web of intrigue. There was a trip to San Diego in California. Mrs Townsley claimed the expenses four times. Was there anything criminal about that?
475. **Mr Sterling:** Again, that matter was referred to the PSNI back in 2004. I think the conclusion at that stage was that there was not sufficient evidence to take any further action.
476. **Mr Dallat:** What really annoys me about this is that part of that money was paid out by the International Fund for Ireland (IFI), a donor fund that was set up to allow different communities to build peace, and here we have these people ripping it off by claiming travel expenses several times over. I think that is important. I just find it amazing. I hope that I never get into trouble, and I try not to, but it seems to me that you need to be guilty of something really terrible before the PSNI shows any interest in exercising the law of the land, if this is true. Am I and others wrong in assuming that there are two levels of accountability? There was the comfortable social circle that existed in Northern Ireland for far too long and included people like the Townsleys and others, who were above the law and were never challenged by the law, or is it just that your Department was so totally incompetent?
477. **Mr Sterling:** No, I do not accept that. I am quite clear that if people have done something wrong, they should be made amenable in whatever way possible. We have been looking at the issue of the travel claims, etc. Mel, do you want to comment on that?
478. **Mr Chittock:** Clearly there was double claiming of expenditure.

479. **Mr Dallat:** It was not double. The same expenses for travel were claimed four times.
480. **Mr Copeland:** There were twice as many people.
481. **Mr Dallat:** Yes; thanks, Michael. 11 people went on the trip, which, as I understand it, delivered absolutely nothing for Northern Ireland. There were 11 people heading off to the States when this country was struggling to try to pay its bills.
482. **Mr McLaughlin:** There were originally to be five.
483. **Mr Chittock:** The claiming of that expenditure was totally unacceptable. That matter was referred to the police in the early stages of the investigation when it first came to light. The repayments from two companies that were the recipients of that were not pursued at the time because of the wider exercise that was then commissioned to look at the Biosciences and Technology Institute in the round. We have always retained our right to recover that money from the companies involved, and we will do that.
484. **Mr Dallat:** At this stage I have nothing more to ask.
485. **Mr Byrne:** I want to ask about the purchase of Harbourgate. Contrary to agreed funding procedures, DETI released funding to BTI before the outstanding issue from the inspection visit — the use of pro forma invoices and cheques that had not been cleared at the bank — had been resolved. The BTI cheque of £1,734,500, made out to Thomas Armstrong, the BTI solicitor, for the purchase of Harbourgate, was never presented for payment. In other words, a cheque was made out for ulterior purposes to obtain grant aid. It appears that it was written for the sole purpose of providing false evidence to DETI that payment had been made, therefore allowing the grant. In other words, the grant was triggered on the basis that there was a cheque, but it was never presented to a bank. Is there no position of recovery that can be used at this stage?
486. **Mr Sterling:** We agree with the findings. This was a ruse. It was a ruse to secure funding earlier than it would otherwise have been paid. I suppose the only slight comfort that can be taken is that the money that was released was used for the purchase of the building. In other words, the money was used for the purpose intended, albeit being released earlier than it should have been.
487. **Mr Byrne:** There is evidence in the report that a large sum of money was paid for IT equipment. Does that IT equipment still exist? Are hire charges being paid for storage, and is it possible to recover any money from it?
488. **Mr Sterling:** Yes, £337,000 was used to buy equipment. That equipment was almost entirely never used. It was put into storage and remains there. It will be disposed of when the company is wound up, which will start shortly. However, the reality is that that money has been almost entirely wasted.
489. **Mr Dallat:** God Almighty.
490. **The Chairperson:** Just before I bring Sydney in, two members wish to ask supplementary questions: Mitchel and Michael.
491. **Mr McLaughlin:** I am OK.
492. **Mr Copeland:** My memory has mysteriously returned.
493. **Mr McLaughlin:** Is this your records management system kicking in?
494. **Mr Copeland:** Yes, it is. It was filed somewhere and was found.
495. With regard to the £100,000 that was dispersed by the solicitor for the so-called finder's fee, you said that three people benefited from those cheques. Were the cheques made payable to individuals or to companies? We have spoken about the community sector and suchlike. Speaking from experience, I run a small community group that recently paid out amounts of £250 to a number of people who participated in an event in July, for which the money has not yet come through. Before payment could be issued, those people had to

- supply their name, address, national insurance number and what colour of socks they were wearing. If the money was paid on invoice to a company, that is one thing: if it was paid to individuals, was any reference made to Her Majesty's Revenue and Customs?
496. **Mr Sterling:** I am not aware of that. The sequence involved a payment from BTI to Thomas Armstrong, and Thomas Armstrong then dispersed £37,500 to the property dealer and £25,000 to MTF. We know that the £25,000 went to a bank account in Spain. I am not sure what was on the face of the cheque for the payment to the property dealer.
497. **Mr Copeland:** Is it possible to discover that?
498. **Mr Sterling:** I do not know. We could look into that.
499. **Mr Copeland:** Again, Chair — I thank you for your forbearance — you will be aware of a similar instance that involved practically the same people in the House of Commons Public Accounts Committee, which described it as the biggest impropriety that it had ever seen. Do you think that this is on a par with that? On that occasion, £1.4 was paid for advice. Are you aware of that?
500. **Mr Sterling:** Yes, I am aware of the Emerging Business Trust (EBT) report and its findings. All I can say is —
501. **Mr Copeland:** Do you think that, instead of looking at the little bits of this matter that have led the police to the conclusion that there are insufficient grounds for prosecution, a holistic view of the whole affair might colour their view?
502. **Mr Sterling:** Again, I can double-check that. However, I am pretty sure that the police have been apprised of the entirety of the situation.
503. **Mr Dallat:** Very briefly, Chair, perhaps Mr Sterling could check whether Her Majesty's Revenue and Customs was notified of all those payments, including the £25,000 that went to Spain.
504. **Mr Sterling:** We will check that out.
505. **Mr S Anderson:** Thank you, Chair. How do you follow John Dallat? I refer to part four, which relates to the purchase of the top floor of Harbourgate. Paragraph 4.6 states that a condition of the trust's offer was that Teresa Townsley would stand down from the board before it was prepared to move on it. At the end of the day, they had the greatest sense, and they made that condition for Teresa Townsley to resign. Paragraph 4.6 outlines the arrangements whereby Invest NI was contracted to buy the top floor from BTI at the end of a 90-day period for £1.5 million. Bearing in mind that BTI was technically insolvent and had no source of income to service its liabilities, what justification did Invest NI have for putting a further £1.5 million of taxpayers' money at such high risk? Alastair has already referred to taking risks in the Department for jobs and investment and suchlike, but was this not a case of taking a high risk with a further £1.5 million of taxpayers' money?
506. **Mr A Hamilton:** It should not have happened. I suppose the only mitigation is that it is pretty clear that it was an offer that nobody ever expected would be drawn down, either in terms of BTI or Invest NI. I do not say that by way of a justification because it was a contingent liability, and, if it had been drawn down, the £1.5 million would have had to have been paid. There was a contract around it. It is clear that it was buying time to allow another offer on behalf of the McClay Trust, which acquired the whole building. I am not seeking to justify it at all. There was no business plan for the expenditure, and there are questions around the approval on the proposed expenditure. I suppose the only justification is that it was never drawn down, and there was no loss of public funds on the back of it. However, that is not justification for the error that was concluded.
507. **Mr S Anderson:** Why did Invest NI fail to prepare a formal business case to inform its decision? Was that a deliberate decision to bypass the normal control procedures?

508. **Mr A Hamilton:** In this case, it is very clear that a crisis had been reached. The bank was about to withdraw funding on the basis that a prior deal had not been concluded, and, rightly or wrongly, the decision around that was taken inside 24 hours. If a deal could not be reached that allowed the top floor to be covered for a period of time to allow the McClay Trust to put forward a proposal, the deal would have fallen apart at that stage. I have already commented in Committee that I think that there were people who were genuinely trying to keep the project alive at critical stages. I think that they were a little bit blinded, but they were trying to keep the project alive at critical stages, and that was one of those critical stages. I openly acknowledge that a business plan was not put together. It should have been, but it was not. A decision was taken on a day by authorised people in the organisation to give a guarantee to purchase the top floor. A valuation should have been done of the top floor, which was not concluded, and a business plan should have been put together, which was not done.
509. **Mr S Anderson:** I take your point. There may have been good people there to keep the project alive, but I am sure that you will agree that there were others who had a vested interest in keeping the whole thing alive.
510. **Mr A Hamilton:** I acknowledge that.
511. **Mr S Anderson:** I have listened to what has been discussed today, and perhaps that outweighed the entire project, and it fell down on that side.
512. Paragraphs 4.10 and 4.11 describe the creation of two documents — a note for the record and a note of intent. Those were attempts by Invest NI to create a record between three and eight months after the event to justify its decision to enter into that 90-day contract. How could that have happened in a professional organisation? Who would have allowed that to happen? How could something such as that be allowed to happen with good leadership?
513. **Mr A Hamilton:** It should not have happened. One thing led to another. The lack of a business plan, the lack of an evaluation and a rushed decision to give approval on one night — albeit on funds that people were very clear would never have been drawn down — were steps that led to that consequence. In my judgement, people decided that, because those funds would never be drawn down, they would not take a record of that meeting. I suppose that the only thing that I would say to you in mitigation, Mr Anderson, is that the interview tapes clearly indicate that there is no doubt that Invest NI's authorised officers at that time did give approval for that transaction to proceed, albeit it was not recorded. There is no doubt that that authority was given. It was not recorded. It should have been. That was an error.
514. **Mr S Anderson:** If I have learned one thing in life, Chair, it is never to make snap decisions. We are talking about millions of pounds. I would not make snap decisions no matter what I wanted to purchase. I have listened to the discussion, and it seems to me that everything was done on a quick timescale. That was a recipe for disaster. When people are pushed into decisions without fully assessing the scenario, it is a recipe for disaster and for something to go horribly wrong.
515. Paragraph 4.13 states that Invest NI failed to seek approval for the 90-day contract from DFP on the pretext that Harbourgate was a bespoke facility. As such, the £1.5 million cost fell within the delegated limit. Can you see any justification for regarding Harbourgate as a bespoke facility?
516. **Mr Sterling:** No. Our clear position is that, at that stage, the proposal should have been subject to ministerial and DFP approval.
517. **Mr S Anderson:** That was another big failing.
518. **Mr Sterling:** Indeed; action has been taken in that regard. We may come to that in due course.

519. **Mr S Anderson:** Do you agree that that looks like a deliberate ploy to avoid exposing an improper process to DFP scrutiny?
520. **Mr Sterling:** No; I do not think that that was the case. My presumption is that the motivation was simply to keep the project alive.
521. **Mr S Anderson:** Therefore, they would do anything to keep the project up and running and alive so that it would not tip over.
522. **Mr A Hamilton:** I am firmly of the opinion that that was the motivation for taking the decision to give the guarantee on the top floor. It is very clear from this record that the people who authorised it were assured that funds would not be drawn down. It was sufficient cover to allow additional funding to be sought from the McClay Trust. As we know, in the outworking of that — whether it was fortuitous or that thought had been worked through — £1.5 million was never drawn down from our funding.
523. **Mr S Anderson:** It keeps coming back to the fact that anything would be done to ensure that the project kept moving and did not fail. Obviously, we are where we are today.
524. Finally, with the commitment being over £1 million, Invest NI should also have obtained ministerial approval. How could such a key control have been so easily ignored?
525. **Mr A Hamilton:** I have already commented that both DFP and ministerial approval should have been sought. You have already asked David about the controls around the bespoke facility. The bespoke facility was a route to try to make a decision quickly because if it had not been a bespoke facility, it would have had to go through approvals, and the project would have failed. Having taken one decision at the very outset, all that we have gone through in your questioning, sir, is all the other steps that flowed from that poor decision at the start to make that stick. It should have had ministerial approval. It did not. I acknowledge that.
526. **Mr S Anderson:** The only thing that I can say about the whole carry-on is that perhaps what we are hearing today is that it will not — or it is unlikely to — happen again if controls and procedures are put in place.
527. **Mr A Hamilton:** On that point, sir, I give you an assurance with regard to materiality, which we have talked about as we have gone along. It touches on the decision to move from the Belfast City Hospital site to Harbourgate and then on the piece that you are examining now. Materiality guidance was reissued on both of those last year through an exercise with the Audit Office. We looked at some cases that changed over the past few years and considered whether they were material. We have reissued that guidance and retrained staff across the organisation to ensure that that does not happen again.
528. **Mr Copeland:** Mr Sterling, I apologise but I will be directing my questions at you again. Paragraph 4.19 of the report outlines how, after purchase, Harbourgate was found to be totally and completely unsuitable for housing a biotechnology facility. Had any due diligence been carried out by DETI and Invest NI before approving the purchase of the building?
529. **Mr Sterling:** In answer to a previous question, I conceded that BTI should have properly surveyed Harbourgate and that the funders should have ensured that such a survey was complete and sufficient to justify the further payment of grant. However, they did not do that.
530. **Mr Copeland:** The January 2003 strategic review, noted at paragraph 4.21 of the report, estimated that BTI required an additional £10.2 million to fulfill its strategy. However, Invest NI decided that it could not afford that. Do you think that it was the right decision to walk away from the project having invested over £2 million in a sector in which substantial growth and employment were forecast?
531. **Mr Sterling:** It was the right decision to cut losses at that stage. Although,

- having said that, I would argue that losses should have been cut much earlier in the project. Nonetheless, it was the right decision at the time. As Alastair said earlier, although we missed out on the delivery of many important objectives, the bioscience sector in Northern Ireland remains strong and vibrant. We have strong indigenous companies and good foreign-owned companies, and it remains a key cornerstone of the Executive's draft economic strategy.
532. **Mr Copeland:** Did you have any indication that any of the private investors, some of whom were substantial investors, were getting the jitters?
533. **Mr Sterling:** Yes. It was clear from some of the actions that were taken by the private investors at the time that they were concerned. Nonetheless, to go back to an earlier point, the fact that they still had an interest after the move to Harbourgate suggests that others saw some life and potential mileage in the project.
534. **Mr Copeland:** Public money was involved, and the level of oversight and scrutiny that one would normally apportion to public money was in place. Could that have given a false sense of security to some of those private investors?
535. **Mr Sterling:** It may have done. However, without knowing the minds of the private investors at the time, I could not totally agree with that.
536. **Mr Copeland:** Do you accept that, in many respects, people look after their own money a good deal better than we, on this occasion, looked after the people's money?
537. **Mr Sterling:** Indeed; that is true.
538. **Mr Copeland:** Thank you. Paragraph 4.23 of the report tells us that Harbourgate was bought by an investment company, which has subsequently let the property to DFP's Central Procurement Directorate. Does that mean that the Government are, in effect, paying twice for the same building?
539. **Mr Sterling:** I am not sure that I would agree with that. Mel, will you pick up on some of the work that led to that?
540. **Mr Chittock:** In April 2004, the concept was to try to identify a buyer for the building to recover funds for each of the creditors. At that time, Invest NI was an unsecured creditor. The aim was to work with the bank to try to identify the maximum return possible, so that, if at all possible, public funds could be returned. That was the idea behind the Invest NI team working with the banks to recover funds.
541. **Mr Copeland:** The rent at that stage would have been set by the commercial valuation that was apportioned to it. That would have given an indication of the value of the property.
542. **Mr Chittock:** That is correct.
543. **Mr Copeland:** Did the value of the property that was arrived at by that process reinforce, echo, mirror or differ from what was paid for the property?
544. **Mr Chittock:** From memory, the price for which the building was eventually sold was not too far away from the original purchase price.
545. **Mr Sterling:** It was £4.55 million.
546. **Mr Copeland:** How long after it was purchased was it sold?
547. **Mr Sterling:** That was 2005. There were two payments: there was a payment of around £3.5 million in October 2001 and a further £1.5 million in June 2002.
548. **Mr Copeland:** Do we know the total cost to DFP of the arrangement — I presume that it is the letting arrangement — and the period of the contract that was entered into?
549. **Mr Chittock:** We would not have been party to that information.
550. **Mr Copeland:** We will discover that ourselves.
551. Paragraph 5.6 states that DETI and the IDB amended their letters of offer on two occasions because of BTI's inability to meet the offer conditions

- and retrospectively to allow ineligible expenditure that had already been incurred and claimed by BTI. Did that not fundamentally undermine the very purpose of the conditions of offer, which was to protect public money in the event of BTI's failing to deliver?
552. **Mr Sterling:** I agree with that. Again, it appears that the motivation behind putting public money into the project was to keep it going and make it attractive as an investment for private sector funders.
553. **Mr Copeland:** Would there have been a payback at any stage in the future? The company was going to trade, perform certain functions and have a product. That product would have been on sale. Was there any indication that public money would be repaid with dividends or profit from the business, or was it just simply for start-up?
554. **Mr Sterling:** No. My colleagues can keep me right, but it was grant that was designed to achieve the project objectives that I set out earlier: to provide 10 start-ups within five years, to provide certain incubation facilities, to lead to the creation of 50 jobs for graduates and to provide a location for six inward investors within five years. In a sense, the investment was put forward to deliver those economic and business benefits.
555. **Mr A Hamilton:** It was not an equity investment; it was a grant to deliver purely economic output. It was not for financial return at some future point.
556. **Mr Copeland:** It may have been a grant, but in many respects it looks like a gift.
557. Paragraph 5.6 explains how DETI, in its first amendment of July 2000, lowered the amount of eligible expenditure and almost doubled the rate of its grant to facilitate earlier payments of funds. Did the Department seek approval from DFP for that amendment?
558. **Mr Sterling:** We did not.
559. **Mr Copeland:** Why not? Was it not a material change to the terms of offer?
560. **Mr Sterling:** It should have been approved by DFP. The only comfort is that it did not breach any of the EU funding rules that governed the project.
561. **Mr Copeland:** So Europe was involved as well?
562. **Mr Sterling:** The £1.2 million that the Department put in was Peace and Reconciliation money.
563. **Mr McLaughlin:** Paragraphs 5.9 and 5.10 deal with project monitoring. We have touched on that issue; it has been a theme of my interventions this afternoon. Essentially, the response has been that it should not have happened, you cannot explain why it happened or that it would not happen any more given the systems that have been introduced. Nevertheless, the shortcomings occurred. Can I take it as common to our positions that you accept that the shortcomings, as detailed in the report, occurred? I will develop my point subsequent to asking Mr Hamilton. It is fairly clear from the report that the IDB's client executive failed to get a proper grip on the situation. I can perfectly understand why there were such high expectations that early entry into that market would be of benefit to the regional economy. However, how do we explain that someone at a more senior level did not pick up on the problems? What were the internal reporting mechanisms? Although issues were exposed as a result of the level of monitoring that was in place at that time, why did that not result in action?
564. **Mr A Hamilton:** If you consider the report in its totality — I have mentioned it, and David has mentioned it several times — it is very clear that, at various levels, including senior levels in the IDB/Invest NI, people were trying to keep the project alive. I am not seeking to justify the lack of monitoring by somebody in a relatively junior position, but it was clear from his interviews that he was gathering information at times and passing it on but that nothing was happening with it. As I said earlier, at other times, because of the way in which the BTI board was operating — or not,

- as the case may be — he was able to gather only fairly limited information at those board meetings. All in all, that is not acceptable.
565. **Mr McLaughlin:** Paragraph 5.17 outlines how DETI revised its offer so that equipment that had already been bought by BTI could be included as eligible project costs. The Department was in possession of an internal memo that indicated that such expenditure was outwith the terms of the grant aid. DETI's response was to change the terms of offer and to buy equipment, even though it was aware at the time that BTI did not have premises in which to put it to use. However, it decided to change the terms of offer and, in a sense, post facto regularise the claimed expenditure on equipment. That is not a lack of monitoring. Rather, the guidelines seem to have been thrown out the window and all good judgement set to one side.
566. **Mr Sterling:** Indeed. It is hard not to conclude that that step was taken to make sure that funding deadlines were met. That is our conclusion. In other words, there were clear deadlines by which the £1.2 million of Peace money had to be spent and N+2 targets met, and this was a means of reducing the risk that those targets would not be met. That is a key lesson to emerge from the project and a perfect example of how you need to be extremely careful that funding deadlines do not drive bad spending.
567. **Mr McLaughlin:** We are talking about £357,000 for equipment. Never mind the fact that there were no premises on which to conduct the operation, it did not even have a place to store the equipment.
568. **Mr Cooper:** My understanding is that, at the time, the executives were told by BTI that the equipment was to be used by existing tenants in temporary accommodation.
569. **Mr McLaughlin:** That is helpful; I did not pick that up from the report. Do we have details on what they were told and whether anybody thought it worthwhile to check the veracity of that information?
570. **Mr Cooper:** We can come back to you to confirm that.
571. **Mr McLaughlin:** There is evidence in the report that BTI submitted 11 cheques totalling some £350,000, even though none of those cheques had been processed through a bank. That was a complete breach of the agreed funding procedures. So someone at a fairly senior level who was capable of authorising monitoring officers — those who could raise the cheque to continue to pay the grant — must have said, “We are setting aside those conditions; go ahead and pay that out”, even if the thinking was to try to keep the project alive. They were dealing with cheques that had obviously been part of a fabrication. It was a scam.
572. **Mr Sterling:** As I said earlier, it is hard not to conclude that it was a ruse to release money earlier than would have been justified in line with the conditions in the letter of offer, the only comfort being that the money was used for the purpose for which it was intended, albeit that it should not have been released as early as it was.
573. **Mr McLaughlin:** Paragraph 5.23 — I think someone asked a question about this already —
574. **The Chairperson:** Mitchel, can I just bring Joe in for a supplementary to that last question?
575. **Mr McLaughlin:** Absolutely.
576. **Mr Byrne:** I do not think I have seen any reference to the number of employees who were employed by that organisation. What was the maximum number of paid employees at any time?
577. **Mr Sterling:** I think I am right to say that it never employed anybody.
578. **Mr Byrne:** It never created one job?
579. **Mr Sterling:** Apart from the chief executive.
580. **Mr Copeland:** What sort of salary?

581. **Mr McLaughlin:** There was a bank clerk in Spain who got a bit of work out of it as well.
582. **Mr Sterling:** I think that the chief executive was paid on a per diem rate of £250. I may need to clarify that.
583. **Mr Dallat:** How many times was he paid?
584. **The Chairperson:** Every day?
585. **Mr McLaughlin:** Paragraph 5.23 deals with BTI double claiming some £542,000 from both DETI and IFI. IFI actually discovered that and alerted the Department. The sum involved was, in effect, grant aided to the tune of 92%; 49% by DETI and 43% by IFI. The report demonstrates that, again, DETI and your staff or monitoring people did nothing. You are not going to justify that, because you cannot, but can you tell me how someone with sufficient seniority — it is quite clear to me — was allowing that to happen, or was instructing people at a more junior level, who knew that their jobs and careers would be on the line, to go ahead, and that person would cover their back? Is that not the reality of it? The sums are too big for people at a junior level.
586. **Mr Sterling:** It is an understandable conclusion to reach. The evidence in the company inspectors' report does not point to any person or persons who were doing that, although there is discussion about pressure to take the project forward, etc. There is no evidence to suggest that undue influence was put on any individual. I should say in that regard that there was double claiming, but at least there was no double payment. Although the grant-aid proportion was 92%, that was still acceptable according to the EU funding guidance at the time.
587. **Mr McLaughlin:** Even though it was not the intention of the Department?
588. **Mr Sterling:** Yes.
589. **Mr McLaughlin:** IFI notified DETI that there was an issue of double claiming. At what level did that communication happen? Does that communication survive? Is it still available?
590. **Mr Sterling:** I am not sure.
591. **Mr Cooper:** A record of that communication survives.
592. **Mr McLaughlin:** So we know who received it?
593. **Mr Cooper:** It would have been received by a middle-ranking official in DETI.
594. **Mr McLaughlin:** Do we know how that official notified that there was a double funding issue emerging? Do we know what action they took, who they reported to and what guidance they received?
595. **Mr Cooper:** I am not sure that we have a clear trail of who they reported to on that matter.
596. **Mr McLaughlin:** If that middle-ranking official had his or her collar felt on the basis of whether they had approved that, would they not tell you fairly quickly that they had passed it on to their line manager or project director? We could find out if we were prepared to ask.
597. **Mr Cooper:** Sorry, I have not picked up your question.
598. **Mr McLaughlin:** It is fairly simple: I am trying to establish where the buck stops in this case. Who decided to proceed in the manner in which they did, subsequent to being notified that there was a double-funding issue?
599. **Mr Cooper:** I think, in the first instance, IFI proceeded to fund the project in the knowledge that DETI had already paid the grant. At that point, it proceeded to make a payment.
600. **Mr McLaughlin:** The report actually indicates that IFI was under a misapprehension that it had accepted funding responsibility for a discrete aspect of the project. Subsequently, it turned out that both IFI and DETI were contributing to the same. It would appear that IFI became aware that there was double funding after the fact. That was the nature of its reference to DETI.
601. **Mr Cooper:** No. My understanding is that IFI was aware that DETI had funded the equipment prior to its making its

- payment. It became aware when it went to vouch —
602. **Mr McLaughlin:** I know that. It found the invoices stamped with DETI.
603. **Mr Cooper:** It was prior to its payments that it became aware of that.
604. **Mr McLaughlin:** Maybe we are talking at cross purposes. I am pursuing the fact that, first, there does not seem to be any dispute that there was a double-funding element of this —
605. **Mr Cooper:** There were two payments —
606. **Mr McLaughlin:** — whatever the consenting adults decided at the time. I am trying to establish where responsibility rests in the Department with regard to continuing with the project. At different stages, there were very clear indicators that it was dealing with a project that was not being properly managed and did not meet the necessary propriety or standards of administering public money. Perhaps it was the anxiety to see the project succeed despite the odds. However, we are talking about fairly outstanding examples of people deciding to change the terms of offer so that they could pay for equipment that was already paid for, in contravention of the previous guidance, to ensure that the money was released in time for a funding deadline, not to ensure that it was going to do anything productive, because there was nowhere to take it; for example, temporary accommodation, maybe some of the potential clients, blah, blah, blah. But there was not. None of that would stand even cursory examination.
607. With regard to the disciplinary process that was initiated — we had the inspectors' report and PwC was brought in — do we have a complete audit of all those public servants who were involved in the process and their areas of responsibility, linked by timelines to the development of the project from its inception to its collapse? Can we do that?
608. **Mr Sterling:** We have the company inspectors' report, which is 200 pages long.
609. **Mr McLaughlin:** Are you going to check to see how much of it you can make available?
610. **Mr Sterling:** Yes. It is obviously supported by a vast amount of transcript material, etc. The company inspectors made a specific recommendation with regard to the people working in BTI. I have described what has been done with regard to references to the director disqualification unit, the Chartered Accountants Regulatory Board and the Law Society. However, the inspectors did not make any recommendations in relation to officials in either the Department or Invest NI. In view of the seriousness of the issues identified in the report, I concluded that we needed to make sure that if any officials had undertaken any actions that were wrong — for want of a better term — they needed to be held accountable. I concluded that there needed to be some element of transparency about it, and we needed to be sure that it was done properly. So, I appointed an independent person to conduct a review of the full inspectors' report. I asked the reviewer to differentiate between actions or inactions that would indicate poor performance and those that would indicate an inappropriate or unacceptable level of performance. I did not ask the reviewer to consider the actions of former NICS or Invest NI employees, as they are effectively beyond the reach of Civil Service disciplinary proceedings or Invest NI disciplinary processes.
611. The reviewer produced a short report for me, which drew attention to the actions of four individuals: two Invest NI employees and two individuals who are members of the NICS. The Audit Office report acknowledges that disciplinary action was taken against two Invest NI employees. As far as the NICS employees are concerned, on receipt of the report, I took advice in relation to the two cases from my own HR advisors and, where appropriate, DFP

- and the departmental solicitor. I did that in line with the Civil Service handbook. Following careful consideration and consultation with those various people, it was decided that no action should be taken against either of the two officers.
612. I am sure that the Committee will want to know more about that, but, on advice, I do not think that it would be fair or appropriate for me to reveal the names of those individuals in an open session or to discuss the many factors that I, with others, had to take account of in reaching those decisions. However, I recognise the genuine concern of the Committee about this case, and I want to strike a proper balance between the need for transparency and accountability and the need to afford an appropriate degree of protection to the people concerned. In that regard, I am happy to offer to write to the Committee a confidential memorandum, which would set out in more detail the considerations that needed to be applied to this case.
613. **Mr McLaughlin:** I appreciate that. That would be helpful. I hope that it is not confined to two individuals, because there was clearly a network, a structure and a line-management system. If necessary, on the same basis of confidentiality, I would like to fill in the gaps in my understanding of what happened. Who was making the value judgement that certain contraventions of the conditions for grant aid should not result in the whole thing being wound up or remedial action being taken? Perhaps the responsibility lies with the two individuals you have just talked about. We shall see subsequently where they fit in. However, I suspect that the reality is that there was senior involvement. I do not know how senior that involvement was, but there were just too many opportunities for more junior staff to refer for guidance or direction, given the circumstances that they were confronted with in dealing with this project. There are not just too many loose ends here but too many contradictions, conflicts and obvious improprieties for even the most inexperienced junior not to have recognised that they needed some kind of assistance and guidance in handling this.
614. **Mr Sterling:** I am happy to address that point. However, I should say that, for the two officers whose actions were drawn to my attention by the independent reviewer, the issues were largely procedural. Neither the company inspectors nor the independent reviewer have said that this person or that person bears responsibility for the failure of the project. Nonetheless, I am happy to draw out the people who were involved.
615. **Mr McLaughlin:** The value of that information that you describe might simply help us to isolate from that. If we are talking about procedure and about two individuals, I would like to know the terms of reference of that referral to the independent reviewer. The seriousness of the breakdown in governance and management of this matter that we have heard about and read about indicates that we should have the fullest possible picture of everyone in the public service who was involved in managing this matter on our behalf. I think we need that information. However, we can access it under conditions of confidentiality or otherwise.
616. **The Chairperson:** That is why I cannot understand why you will not come forward with names, when other names have been mentioned in the report and here today. How do you justify that?
617. **Mr Sterling:** In respect of the four people who were identified by the independent reviewer, I am acting on guidance that the convention is that we do not refer to those names in an open session like this. I am acting on advice in that regard.
618. **Ms Hamill:** Just to clarify, when we talk about the guidance, we are talking about the guide to scrutiny of public expenditure, explicitly chapter four, which relates to disciplinary issues. It gives the guidance that disciplinary and employment matters are a matter of confidence and trust, and states:
- “In such circumstances, public disclosure may damage an individual’s reputation without*

that individual having the same 'natural justice' right of response which is recognised by other forms of tribunal or inquiry. Any public information should therefore be cast as far as possible in ways which do not reveal individual or identifiable details."

619. The guidance goes on to suggest that the Committee would take that information to be able to pursue its inquiry under confidence. That is really where we are, because, as the accounting officer says, these are still internal disciplinary matters.
620. **Mr McLaughlin:** The facts of the disciplinary process and the outcome were that nobody was effectively disciplined.
621. **Mr Sterling:** Two people were disciplined in Invest NI. That is acknowledged in the Audit Office report.
622. **Mr McLaughlin:** OK. The broader point, and I do not want to be diverted, because I am not arguing that we deal with this in open business as a disciplinary matter, but the outcomes are of much more significance. What is legitimate and in the public interest is that we know who managed this from the top down to those who were hands-on and engaged with the project. Subject to guidance, I would like to pursue that information after this evidence session.
623. **The Committee Clerk:** On the guidance, I can clarify for the Committee that there is precedence to this discussion. The Osmotherly Rules, which the Treasury Officer of Accounts has referred to, are a little bit dated, and they were prepared for Select Committees in Whitehall. They are used as guidance in the Assembly, and the Committee has referred to them before. The excerpt that Fiona read from further states: "Where Committees need such details to discharge their responsibilities, they should be offered in closed session and on an understanding of confidentiality."
624. That is guidance for the Government, obviously.
- "Evidence in such matters should normally be given on the basis that it will not be given until disciplinary hearings are completed. When hearings are completed, the Department will inform the Committee of the outcome in a form which protects the identity of the individual or individuals concerned, except in so far as this is public knowledge already and where more detail is needed to enable the Committee to discharge its responsibilities, that detail will be given. The Committee will thereafter be given an account of the measures taken to put right what went wrong and to prevent a repeat of any failures which have arisen from weaknesses in the Departmental arrangements."*
625. That is what Fiona was referring to, and that has to be seen in the more updated context where the presumption in the Assembly context is for transparency between the Government and from government towards the Assembly as scrutiny body.
626. The Committee also has data protection responsibilities. In making a decision on this and on whether it wants to receive that information confidentially, the Committee will want to consider that recent freedom of information case law referred to the fact that:
- "where data subjects carry out public functions, hold elective office or spend public funds, they must have the expectation that their public actions will be subject to greater scrutiny than would be the case in respect of their private lives".*
627. Recent case law also states:
- "The existence of the FOIA in itself modifies the expectations that individuals can reasonably maintain in relation to the disclosure of information by public authorities, especially where that information relates to the performance of public duties or expenditure of public money."*
628. The Information Commissioner advises that:
- "the public authority consider the seniority of the role, whether the role is public facing and whether the position involves responsibility for making decisions on how public money is spent".*
629. That is the direction of travel in which the Committee will want to consider that decision. The Committee may want to consider whether to ask for the

- information again in public session or to follow it up in writing.
630. **Mr McLaughlin:** That clarifies it for me. As it is such a sensitive issue, my own sense of it — it is up to the Committee — is that it would be better pursued subsequent to whatever we get in the report. We should then consider what to do, although that may be to write for further information.
631. **Mr Dallat:** I have no real knowledge of what the Committee Clerk read out. However, I am slightly concerned that we may be getting ourselves into a gagging situation, in which we are not allowed to have disclosures.
632. As I see it, there are two levels that are important to the Committee. First, there are those individuals who perhaps failed to carry out their duties. I understand what David said about that, and I can relate to it. Secondly, and much more importantly, there are those who are in leadership roles, and there is no need for any gagging in relation to them. We need to know who the leaders were, where the buck stopped and who failed fundamentally. I am not interested in pursuing a witch-hunt against an individual who perhaps did not tick some form. However, it is time that public money is accounted for in the same way as the private sector wants to account for its money.
633. I am sure that other members understand what I am trying to say. In this report, I want to see the leaders, who are paid leaders' salaries of, perhaps, six figures, clearly identified, and I want to see where they failed. I do not think that that we should be restricted in doing so in any way.
634. **The Chairperson:** OK. Can we agree what we will receive the information in confidentiality? Is that what we are saying?
635. **Mr Dallat:** Chairperson, I do not have a problem with an individual who has been identified as not having carried out some duty. However, I do not want this report, as regards the failure of leadership at the top level and among those who were paid what the outside world would consider to be astronomical salaries, to be gagged in any way. They failed in a fundamental project that should have delivered solutions to health problems and created jobs. Instead of that, they cost the public purse over £2 million. There was also a whole pile of deception and fraud. I do not think that that needs to be concealed.
636. **Mr McLaughlin:** As we process the information and the evidence that we heard today, we should ask for the additional information that we need. We will then deal with the response. In that response, people might argue confidentiality, or they might respond in line with existing guidance and as they do with other correspondence. Let us not get too far ahead of ourselves. We will ask the questions and the answers will come back in some form. If people believe that they have to resort to confidentiality, the Committee has to be prepared to hear those arguments.
637. **The Chairperson:** OK. Are members content with that approach?
Members indicated assent.
638. **The Chairperson:** OK, Mitchel?
639. **Mr McLaughlin:** Yes. I am exhausted.
640. **Mr Easton:** Paragraphs 6.24 and 6.27 of the report outline the Department's consideration of fraud. As regards concerns about the grant claims, paragraph 6.26 notes PSNI comments that DETI, by its own actions, effectively undermined its own case against BTI. Do you want to comment on that?
641. **Mr Sterling:** Yes. The PSNI was simply reflecting on the fact that the way in which certain things had been done by the funders did influence them. However, the key point is that the PSNI also acknowledged that the way in which the funders had engaged with BTI in that context did not lead to any loss to the public purse or any gain to the funders. That is the key point that needs to be recognised.

642. **Mr Easton:** Are you satisfied that there is sufficient training in fraud awareness in your Department?
643. **Mr Sterling:** Yes, I think that there is. A high importance is placed on fraud awareness and on responding to the risk of fraud. Trevor will say something about the procedures that we have in place.
644. **Mr Cooper:** Fraud awareness is provided centrally by the Centre of Applied Learning. Civil Service standards would be applied and would be available. We emphasise to all staff the importance of attending that training. We have a fraud response plan, and we are currently reviewing our fraud policy. We have fairly robust and complete fraud procedures.
645. **Mr Sterling:** Our audit and risk management committee takes a keen interest in it.
646. **Mr Easton:** Paragraph 6.27 of the report says that you did not consult the police on the concerns about tenants and overseas travel. Does the email that we received cover that?
647. **Mr Donnelly:** It does not cover all aspects. The evidence, for example, is a separate issue.
648. **Mr Easton:** OK. Do you want comment on the issue of the tenants?
649. **Mr Cooper:** The inspectors — they would advise the police regularly on those sorts of matters — believed that there would not have been a sufficient level of evidence to prove criminal intent. They believed that that issue would be best dealt with under the director disqualification process. My understanding is that that is being taken forward through that process.
650. **Mr Easton:** Do you take that issue seriously?
651. **Mr Cooper:** Absolutely. The inspectors' recommendation in that regard has been taken forward.
652. **Mr Easton:** Paragraph 1.4 refers to possible disqualification proceedings being taken against BTI directors. What decisions have you finally come to?
653. **Mr Sterling:** As I mentioned earlier, disqualification proceedings are being taken against one person, Teresa Townsley. Those proceedings were launched on 15 December 2011.
654. **Mr Easton:** Why has it taken so long to reach this point, given that the company inspectors were appointed in 2005?
655. **Mr Sterling:** Consideration cannot be given to that matter until a company inspection report is concluded. The report was produced in November 2009, and there was a two-year deadline by which decisions had to be taken. We fell within that deadline.
656. **Mr Easton:** In retrospect, do you consider that the process could have been done more quickly?
657. **Mr Sterling:** When I look back on this process, I wish that it had been possible to conclude it more quickly. However, predicting the length of time that a company inspection report will take and how much it will cost is very difficult. As I said, 42 people needed to be interviewed, some as many as eight times. A draft report was produced in autumn 2008. It then took a year to clear the report with all the individuals who were named in it and to ensure that it was not likely to be legally challenged when it was completed. So, such a process takes a long time. It is significant, mind you, that there has been a change in legislation. Since 1 October 2009, company inspections have been conducted under the Companies Act 2006 by the companies investigation branch (CIB) in Whitehall. We no longer do them. If a company comes to our attention, we have to draw it to the attention of the CIB in London. It would decide whether to take it forward, and it would also fund the cost if it decided to proceed.
658. **Mr Easton:** What is the expected timetable for disqualification proceedings to be concluded?
659. **Mr Sterling:** Again, that is difficult to predict. I am sure that it will take a year or more.

660. **Mr Easton:** Mitchel has already asked most of my next question, so you will have to forgive me. Paragraph —
661. **The Chairperson:** Sorry, Alex; I am going to bring in Michael for a quick supplementary question.
662. **Mr Copeland:** Thank you, Chair. I will be brief. My question goes back to something that Alex said a few moments ago about the decision to take action against one director and not the rest. I was wondering how that decision was arrived at. The primary defence appears to be a misplaced trust or a commercial naivety. Was any work done around whether those defences or excuses stood the test of examination? For example, were they directors of other companies? Did they handle large budgets? What was done was done, but it could not have been done without some degree of suspicion, knowledge or intuition that something fundamental was wrong.
663. **Mr Sterling:** Those considerations are taken in the first instance by our insolvency service. The key test in legislation is whether it is expedient and in the public interest for a disqualification to be made. One of the key factors that needs to be taken into account is the likelihood of success. There are a range of other factors that —
664. **Mr Copeland:** Is that the same as or similar to the three tests that the police apply for a successful prosecution?
665. **Mr Sterling:** No; I think that it is slightly different. Lest it prejudice the proceedings that have been launched, I do not want to be drawn any further on why it was deemed to be in the public interest for one person and not another to be taken forward for disqualification proceedings.
666. **Mr Copeland:** You will understand the question, given the corporate responsibility of a board of directors.
667. **Mr Sterling:** I do.
668. **Mr Easton:** Mitchel has gone into a lot of what I was going to ask, but we will go through a few of the issues. Paragraph 1.4 refers to the independent review of the conduct of officials who were involved in the case. Who carried out that review, and on what basis were they appointed?
669. **Mr Sterling:** The review was conducted by Paul Leighton, who is a former deputy chief constable of the PSNI. I selected him on the basis that, in his former career, he had extensive experience of HR and discipline issues and was not directly associated with the Northern Ireland Civil Service or Invest NI.
670. **Mr Easton:** You spoke about how any officials were covered in the review, so we have dealt with that issue. You also said that the DETI staff who were involved were reviewed.
671. **Mr Sterling:** Yes. I will address those issues in the confidential memorandum that I will provide to the Committee.
672. **Mr Easton:** You indicated some of the grades that were involved, so that is fine. What was the conduct of the IDB and Invest NI chief executives? Were they involved in the review of the case?
673. **Mr Sterling:** Sorry, which?
674. **Mr Easton:** Was the conduct of the IDB and Invest NI chief executives involved in the case review?
675. **Mr Sterling:** When I mentioned this earlier, I said that the scope of the independent reviewer's work was confined to people who were still in the Civil Service or Invest NI. Our disciplinary procedures do not extend to people who are no longer with us.
676. **Mr Easton:** Thank you.
677. **The Chairperson:** When was that review carried out?
678. **Mr Sterling:** It was carried out in September 2010.
679. **The Chairperson:** Was the conduct of the head of DETI during that time reviewed?
680. **Mr Sterling:** Sorry, I did not follow that.

681. **The Chairperson:** Alex just asked whether the review took in the chief executives of the IDB and Invest NI. I take it that you are saying that Alastair was put in place after the individuals Alex was talking about were there. Were any other senior staff in DETI handling the issue? If so, have they left the Civil Service as well?
682. **Mr Sterling:** I handled this issue myself. The confidential memorandum that I will produce will set all this out in detail.
683. **The Chairperson:** OK.
684. **Mr Girvan:** It has been a long session. Mr Sterling, cases 1 to 5 of appendix 7 illustrate how BTI was beset by a variety of unresolved conflicts of interest. How could that situation have been allowed to develop? What was the Department doing to ensure that those checks were done? Case 3 of appendix 7 sets out an appalling sequence of events involving Fusion Antibodies, a company in which some of the BTI directors and their close relatives had a 75% shareholding and gained financial benefit at the expense of BTI. I will use one case as an example: £100,000 was used to purchase a DNA sequencer that BTI bought, grant-aided by DETI. I will come back to the point that, I think, Trevor made. Fusion Antibodies used that machine for 18 months free of charge and later bought it for £15,000. Why did the Department, as a grant funder, not prevent that type of abuse? There is a conflict of interest with some people sitting on boards or being part-owners or shareholders of other firms that would be competitors of the company that was being set up. There is also the issue of those people having some involvement in some of the boards that were making decisions about that company. I appreciate that there was some indication from Mrs Townsley that she had, at one stage, been a LEDU board member. How close was that connection?
685. **Mr Sterling:** I will ask Mel to comment on some of the detail, but the general point is that there was a comprehensive failure of corporate governance in the BTI board. The failure to have a process and a set of arrangements for managing conflicts of interest was one of the most notable governance failures. So, I do not for a second seek to defend any of this at all. Mel will deal with the specifics.
686. **Mr Chittock:** The appendices show that there were clearly a number of related-party transactions. Those related-party transactions should have been declared at the various boards. In fact, at one of the BTI board's very first meetings, it recognised the need for a governance process that allowed for those conflicts to be declared and managed accordingly. Unfortunately, it never actually followed through with action; it never produced a code of conduct for board members. As a general rule, we require that all conflicts of interest be declared. LEDU actually knew about the relationship between Fusion Antibodies and Genomic Mining Limited. However, no follow-up action was taken to ensure that arm's-length relationships existed between the various bodies. Again, we insist that contracts are put in place that define those relationships. Clearly, in some of those transactions, transfers took place between companies that we are not sure were at arm's length. We referred those matters to the PSNI, and it is unfortunate that no further action was taken.
687. **Mr Girvan:** That brings me back to case 2, which is on GCE. That details a range of shares that were held by BTI directors and close relatives even though the company was not supposed to have personal shareholdings. Despite that, the Industrial Research and Technology Unit (IRTU) offered GCE assistance of £1.2 million. Did IRTU deliberately turn a blind eye to the personal shareholdings, or was it just incompetent?
688. **Mr Chittock:** GCE never operated as a company. Although, as I acknowledged, the IRTU offered GCE assistance, GCE was never up and running as a trading company. Therefore, no assistance was ever paid. The foundation documents for GCE were clearly at odds with the Bioscience and Technology Institute, which was established as a not-for-profit

- organisation. So, I think that there is a conflict between GCE and BTI.
689. I want to add a little bit of background. I first became involved in these companies in around 2002. When I provided advice as part of my role in corporate finance, those relationships were the trigger for this investigation's being undertaken. Therefore, as soon as we became involved in that, we realised that there were connections between various companies. That led to the subsequent company inspection process, and it has taken us all the way through to where we are today.
690. **The Chairperson:** Paul, before you move on, I want to bring John in for a quick supplementary question.
691. **Mr Dallat:** My question was really to round that up. It is OK; I will let it go.
692. **The Chairperson:** If your question is to round it up, I will bring you in after Paul finishes his question.
693. **Mr Girvan:** Case 5 in appendix 7 examines the actions of FPM Chartered Accountants in the award of the contract for the economic appraisal. I recognise that that case did not involve a lot of money. Nevertheless, with the support of Mrs Townsley, FPM knowingly obtained a clear and improper advantage over another consultancy in the tendering process. FPM is also featured in appendix 6 with regard to claims for overseas travel, which we mentioned already, on two separate occasions. It failed to discharge its responsibilities as the independent auditor. Apart from an unsuccessful referral to the Chartered Accountants Regulatory Board (CARB), has any other action been taken against FPM? One thing that I want to check and make clear is whether DETI or Invest NI still use FPM Chartered Accountants.
694. **Mr Chittock:** The action was to refer FPM to CARB about its conduct. CARB's conclusion was mentioned earlier. As regards whether FPM is used today, I would need to check any arrangements that we have with the firm.
695. **Mr Girvan:** Do you think that it is acceptable for cases such as this to be allowed to pass without any effective form of censure on the basis of what has transpired? That firm has been party to everything that went on.
696. **Mr Chittock:** That was part of the company inspectors' analysis of the various roles of individual bodies. They drew conclusions on that, hence the reference to CARB in their activities.
697. **Mr Girvan:** Do you have any detail of their outcomes? I know that you talked about that earlier, but when are they expected to report back on this issue?
698. **Mr Chittock:** I do not know whether my colleagues have a date from CARB.
699. **Mr Cooper:** CARB has decided that there is no action to take on the director of FPM on the issue of the economic appraisal. The referral on Michael and Teresa Townsley is ongoing. We do not have an indication of when an outcome is expected on that. A lot of information has been provided to CARB, and I think that it has to go through a form of clearance process in the same way that the inspectors went through a clearance process for their review. So, that is ongoing.
700. **Mr McLaughlin:** When we find these comprehensive failures of governance, which is a very good way of describing it, I will be interested to know whether the response is simply limited to referring to the professional bodies. Has the Department taken any action? Is there a consequence for the Department, given the experience and the failures?
701. **Mr Sterling:** We have acted on all the recommendations that the company inspectors' report made on referrals to professional bodies and the director disqualification unit. I have explained the process that I put in place to determine whether any serving official should be subject to discipline, and we have also discussed the various references that we and company inspectors made to the PSNI. I believe that we have done all that we can to make people culpable for

- the things that have gone wrong in this project.
702. **Mr McLaughlin:** I am not complaining about what you did; I am wondering whether it was sufficient or as much as you could have done. In circumstances in which you referred someone to a professional body, are there any instances whereby, if it decides that no action is necessary, it will protect the Department or any other Department from that individual?
703. **Mr Sterling:** That is a good question.
704. **Mr McLaughlin:** Yes; I know it is a good question.
705. **Mr Sterling:** We have seen references to professional bodies before. I think that I will withhold; I will keep —
706. **Mr McLaughlin:** I am not going to tempt you into being indiscreet. There is a genuine issue here as to whether you should do what the guidance would indicate that you should, and I think that, properly, you should do that. However, that does not provide a guarantee that we are going to get the necessary protection.
707. **Mr Sterling:** No; that is true. Professional bodies self-regulate, by and large, so if somebody does something wrong in a professional capacity and it falls short of the 99% test that is necessary for criminal action, as well as of the other two tests, and if, on the other hand, the regulatory bodies determine that no action can be taken, there is really nowhere else to go apart from director disqualification.
708. **Ms Hamill:** There is no discretionary action that we can take. We must stay within the legal process, which is to refer such people to their professional bodies. That is why DFP insisted that we appeal the decision of CARB, because both we and the Department —
709. **Mr McLaughlin:** Is there a difference between referring to a professional body and making a formal complaint?
710. **Ms Hamill:** They were formally referred under the by-laws of those bodies.
711. **Mr McLaughlin:** Yes, but I am asking quite a precise question. Is there a difference between referring and making a formal complaint? Would it be dealt with differently?
712. **Mr Cooper:** They were effectively formal complaints about their actions, as outlined in the inspection report. CARB has been provided with all the extracts of the inspection report that deal with the actions that are relevant to the professional body in question. It has also been provided with transcripts. We have provided CARB with as much as we possibly can to give it full sight of all the actions that we were aware of in this case.
713. **Mr McLaughlin:** I referred to the fact that there is some information that we need, and, subject to any justifiable limitations on what we can do publicly, I think that we should still seek that information. I am interested in the brief that was given to Paul Leighton for his review. I would also like to see as much detail as possible about the referrals to professional bodies, which, in two of the examples that we heard about, came back with the view that no action was necessary. I would like to see the detail of what was submitted to them that allowed them to come to that conclusion.
714. **The Chairperson:** Are Committee members happy enough to seek that clarification?
Members indicated assent.
715. **Mr Copeland:** I support what Mitchel said about those two aspects of the case. I would very much like to know the nature of what went on with the police. In other words, were the police asked whether a number of random items were offences and they responded by saying that they were not, or did they get a holistic view of all the available evidence at one time? If so, what rank of police officer was involved in taking the decision. You can look at bits of this and say that they are fair enough and may have been because of X, Y or Z, but if you look at the overall

- scenario, I am sure that, as someone who is responsible for public money, it makes your blood run cold to think that this could have happened and that it could have happened accidentally. I do not think that it could. As has been said, it does not seem that there is any likelihood that anyone will be found culpable or that a message will be sent out to people who indulge in this sort of activity that they will be subject to some recourse by those who are commanded with charge of the public purse.
716. So, I would like to know the nature of the exchanges with the police, the evidence that was presented to them, the way in which it was presented, if it was presented as a holistic view and whether a person at an appropriate level in the police took the judgement on the seriousness of the disappearance of £2.2 million.
717. **Mr Dallat:** I know that we are winding up. The term “risk aversion” is increasingly creeping into the political vocabulary. I thank the panel for coming here for four hours of very tough questioning. Will the witnesses put on record whether they agree that, if the correct risk management is followed, there is no need in the wide world for any risk aversion?
718. **Mr A Hamilton:** Absolutely.
719. **Mr Dallat:** You are not saying that very loudly.
720. **Mr A Hamilton:** I agree absolutely. If risk management is done properly, risk aversion should not be in your vocabulary.
721. **Mr Dallat:** That is very useful, honest and frank. It is useful, because sometimes you and the Audit Office come in for a lot of flak for engaging in these exercises. I think that that is an honest answer.
722. **Mr McLaughlin:** I associate myself with that, because it is also exactly my view of the situation. The risk assessment should be done, and the matter should then be managed in the appropriate way.
723. **The Chairperson:** It is not the first time that we have said that in this Committee over the years. Departments need to take that on board.
724. **Mr A Hamilton:** Chairman, I know that you have not asked me a question, but I want to make a comment. I do not say that flippantly; I said it because I absolutely believe it. On the back of my previous appearance in front of this Committee, all our casework proposals are up front on the document and have all the risks outlined alongside mitigation for those risks. So, I assure you that the assurance that I gave this Committee for proper risk management the previous time is now in place in our casework-handling processes.
725. **The Chairperson:** I appreciate that. To sum up, almost £2.5 million has been lost —
726. **Mr McLaughlin:** Sorry for interrupting you, but can I make a quick point? This went completely out of my head at the time. If we look at the chronology of the process, we can see that it actually almost coincided with the birth of the Assembly. Everybody will remember the hiatus and the suspensions that occurred. Quite a lot of this story involves the establishment of the Assembly, its collapse in 2002 and the very extended period when it was in suspension. Did that have anything at all to do with what happened here?
727. **Mr Dallat:** Of course it had.
728. **Mr Sterling:** There is no evidence in the inspectors’ report — *[Laughter.]*
729. **Mr McLaughlin:** Well done, David. I will let you off with that. Brilliant. You should have been a politician.
730. **Mr Dallat:** No, you would not wish that on anybody.
731. **The Chairperson:** On that note, a lot of money has been lost. Some very senior people who maybe ended up going on to become head of the Civil Service were all there or thereabouts, even —
732. **Mr Dallat:** There were knighthoods and everything.

733. **The Chairperson:** A lot of mistakes were made, and I hope that the Department and Invest NI take a lot of this on board. We have not sought the information lightly; we sought it so that we can complete our report in the best possible manner. I listened to what you said, Alastair, about some lessons having been learned, and you have now started to implement some of the issues from the previous hearing. I appreciate that, and let us hope that we can move on in that manner from now on. However, this has been very poor, and it has not been good for any of us to sit and listen to. It is probably one of the longest reports that we have had to sit through in one session, but, there you go — it had to be done. Thank you for your attendance.



Northern Ireland
Assembly

Appendix 3

Correspondence

Chairperson's Letter of 27 January 2012 to Mr David Sterling

David Sterling
Accounting Officer
Department of Enterprise, Trade
and Investment
Netherleigh
Massey Avenue
Belfast
BT4 2JP

Public Accounts Committee

Room 371
Parliament Buildings
Ballymiscaw
BELFAST
BT4 3XX
Tel: (028) 9052 1208
Fax: (028) 9052 0366
E: pac.committee@niassembly.gov.uk
Aoibhinn.Treanor@niassembly.gov.uk

27 January 2012

Dear David,

Evidence session on the Bioscience Technology Institute (BTI)

Thank you for your participation in the Committee's evidence session in this inquiry.

As the Committee agreed I would be grateful if you could provide the following information:

- 1) A copy of the company inspectors' report;
- 2) a copy of the minute of the meeting between officials from the company inspectors (PwC) and the PSNI in April 2010 which details discussions regarding the finder's fee for the Harbourgate premises;
- 3) all agendas and minutes of BTI board meetings which recorded that an observer from the Industrial Development Board (IDB) was in attendance;
- 4) copies of all documentation given to company inspectors which you indicated provided misleading information relating to the status of planning permission at the Belfast City Hospital site, and your assessment of whether this suggested criminal activity;
- 5) confirmation of the names of the senior finance director within DETI and the acting Chief Executive at IDB who authorised the move to the Harbourgate site;
- 6) the rationale for failure to carry out a re-appraisal when this significant change to the project, namely a new location, was made;
- 7) detail of the three other sites considered as suitable alternatives to Harbourgate;
- 8) whether the company inspectors' report or interview transcripts show that any personal connections existed between any of the Directors at BTI and the vendor(s) of the property at Harbourgate;
- 9) whether the company inspectors' report or interview transcripts show that the independent property dealer acting on behalf of BTI and the vendor were known to each other, prior to the negotiations for the building;
- 10) whether the company inspectors obtained any information to indicate whether the property dealer who negotiated the purchase of Harbourgate on behalf of BTI was made aware of the budget available for that purchase;
- 11) whether the company inspectors obtained any information during their investigation to indicate the level of profit made by the vendor of Harbourgate, from the sale of the building to BTI;

- 12) the length of the lease including actual and forecast expenditure that will be incurred by DFP following the letting of the Harbourgate site to its central procurement division;
- 13) how the assets of the project were put to use when it failed; whether they were sold on and if so at what fraction of their original value; whether storage/security costs are still being accrued against them and if so in what order;
- 14) whether there is a mechanism of appeal against a ruling of the Law Society as a professional body, and if so your assessment of the Department's rationale in not lodging an appeal in the case of BTI's solicitor;
- 15) to whom the three cheques issued by BTI's solicitor on receipt of the £100,000 finder's fee from BTI were made out, and whether HMRC was notified of these payments;
- 16) who the DETI official informed by the IFI of double claiming then notified, and who gave the go-ahead to carry on with the project after double claiming had been established;
- 17) how the former directors of BTI have been held to account for failing to discharge their corporate responsibilities in light of paragraph 6.20 of the NIAO report, which states that two directors described themselves as having been commercially naïve;
- 18) confirmation of the "per diem" salary rate and the total salary costs incurred as a result of employment of a chief executive for BTI;
- 19) whether FPM Chartered Accountants are currently appointed by DETI or Invest NI in any capacity;
- 20) detail of the referral made to the Chartered Accountants Regulatory Board;
- 21) detail of the information exchanged between the Department and the Police Service for Northern Ireland (PSNI) and the seniority of the officers and officials involved in dealing with the case;
- 22) the outcome of any disciplinary proceedings against DETI officials and their seniority in the Service;
- 23) the terms of reference of the referral given to direct the independent reviewer's inquiry into the conduct of DETI officials involved in the case;
- 24) the findings of his report;
- 25) a summary of all officials within the Department and IDB who were involved with the monitoring, decision-making and oversight arrangements for BTI, detailing their respective responsibilities and reporting channels.

As you indicated at the session, you will wish to provide some of this information in confidence. I would be grateful if you should clearly reflect the data marking concerns you wish the Committee to consider for the relevant parts of your response. Please liaise with colleagues in DFP if required in respect of point 12 above.

I would appreciate receipt of your reply by Friday 10 February 2011.

Yours sincerely,



Paul Maskey
Chairperson
Public Accounts Committee

Correspondence of 10 February 2012 from Mr David Sterling

Mr Paul Maskey MLA
Chairperson
Public Accounts Committee
Room 371
Parliament Buildings
BELFAST
BT4 3XX

Netherleigh
Massey Avenue
BELFAST BT4 2JP
Telephone: (028) 9052 9441
Facsimile: (028) 9052 9545
Email: david.sterling@detini.gov.uk
janice.hill@detini.gov.uk
Our ref: PS DETI 026/12
Your ref

10 February 2012

Bioscience and Technology Institute

Thank you for your letter of 27 January. The Department is still engaged in a consultation process in relation to a number of pieces of information and I will revert to you on these as soon as possible. Where information is available it is attached. For ease of reference I have included the original request above each response.

1) A copy of the company inspectors' report;

A copy of the company inspector's report is attached. The names of officials below the Senior Civil Service at the time of the Report have been redacted. The Department requests that the report be treated as confidential at this point in time in view of the ongoing engagement between the Department and the Chartered Accountants Regulatory Board in relation to the conduct of Michael and Teresa Townsley.

2) a copy of the minute of the meeting between officials from the company inspectors (PwC) and the PSNI in April 2010 which details discussions regarding the finder's fee for the Harbourgate premises;

Consultation is currently taking place with PSNI seeking their confirmation that we can release these minutes. I would hope that the position on this will be clear during week commencing 13 February.

3) all agendas and minutes of BTI board meetings which recorded that an observer from the Industrial Development Board (IDB) was in attendance;

In the period from 26 June 1998 to 30 September 2003, 32 meetings of the BTI Board were held, of which 13 were attended by an observer from IDB. Copies of these minutes are attached at Tab A.

4) copies of all documentation given to company inspectors which you indicated provided misleading information relating to the status of planning permission at the Belfast City Hospital site, and your assessment of whether this suggested criminal activity;

Documentation relating to the status of outline planning permission is attached at Tab B.

We have had to take legal advice in relation to the Department's ability to provide an answer to your question around the Department's assessment on criminal activity. On foot of this advice, the Department is unable to provide an assessment of whether criminal activity has been committed as only a properly constituted Court of Law may determine a person's guilt of a criminal offence. Even then it may only do so –

- a) where the evidence of guilt satisfies the “beyond a reasonable doubt standard” (effectively meaning that it is proved as a matter of fact); and
- b) having followed due process, including observing the basic requirements for fairness to the defendants.

In any criminal trial, it is necessary for a conviction not only to demonstrate that what the defendants in the case actually did was guilty but also that their mind was guilty as well. That is to say, in the present case, it would be necessary to prove some form of dishonesty.

5) confirmation of the names of the senior finance director within DETI and the acting Chief Executive at IDB who authorised the move to the Harbourgate site;

Wilfie Hamilton was the senior Finance Director in DETI. Leslie Ross was the acting Chief Executive at IDB.

6) the rationale for failure to carry out a re-appraisal when this significant change to the project, namely a new location, was made;

As indicated during the evidence session, the Department’s unequivocal view is that the project should have been reappraised when a new location was contemplated. We are unable to ascertain why this did not happen.

7) detail of the three other sites considered as suitable alternatives to Harbourgate;

Paragraph 9.1 of the inspector’s report refers to the BTI Chief Executive Officer’s report to the BTI Board at its meeting on 31 May 2001 that a “preferred site search [away from BCH] is underway”. Reference was made in the report to the Northern Ireland Science Park and to “three alternate sites” which were not listed. The inspector’s have been unable to identify the “three alternative sites”.

No reference to the site search is made in the minutes of the next meeting of the BTI Board on 25 June 2001. The minutes of the meeting of BTI with all funding bodies on 4 September 2001 record that “three site options are currently being considered, including the Royal Victoria Hospital and [Citylink Business Park] Durham Street.”

The minutes of the meeting of the BTI Board on 12 September 2001 record that Teresa Townsley “reminded the Board that we have been busy looking at other [property] options ... options are limited ...[but] we have one best option at present ... a shell ... building at Sydenham”. BTI subsequently approved the purchase of the Harbourgate building at a Special Board meeting held on 2 October 2001. At the meeting on 2 October 2001, comparative costs per square foot to the Harbourgate building were only provided for the BCH site and the “City Link site (old Boxmore site).”

In interview Michael Townsley stated that he had driven Paddy Johnston around some potential sites on a particular Saturday. When asked to list those sites Michael Townsley told the inspectors that “we went down the Boucher Road because Tom had suggested there was a large warehouse type thing down there that may be available. We looked in the vicinity of City Hospital and Royal and so forth. And there was a sale of an old laundry or something again which was available – which in many respects would have been one of the best locations for the building, certainly it could be acquired correctly, but we couldn’t possibly have spent the money on it ... we looked down on the north foreshore and again there were some buildings there I believe, and we went past all that Durham Street area at the time over near City Link. Paddy didn’t like that at all. And we went down to the Harbour Industrial Estate. And we also went down to the Science Park as well.”

In interview with the inspectors Paddy Johnston recalled his drive with Michael Townsley and told us that “we looked at a number of buildings including the Harbourgate Building. There was one ... just off Sandy Row. We looked at a Belfast City Hospital site again because I was still very keen that we shouldn’t abandon the site because there were other buildings there.”

8) whether the company inspectors' report or interview transcripts show that any personal connections existed between any of the Directors at BTI and the vendor(s) of the property at Harbourgate;

The inspectors have not been able to identify any personal connections between any of these individuals on the information made available to them. In interview, the vendor, told the inspectors that at his only meeting with BTI he "didn't know a single soul in that room. There were no familiar faces that walked in there." The independent property dealer "did the introductions and I sat down with these total strangers".

9) whether the company inspectors' report or interview transcripts show that the independent property dealer acting on behalf of BTI and the vendor were known to each other, prior to the negotiations for the building;

In interview, the vendor told the inspectors that he had known the independent property dealer "since his Queen's days. At one point when they were both at Queen's he would have been very friendly with the [independent property dealer] and as things go after university you go your own way. But he would have seen [the independent property dealer] from time to time, every 15 months or a year, just in passing."

In interview with the inspectors the independent property dealer stated that he "was at university with [the vendor] and was at Queen's with him so [the vendor] and I are acquaintances and I knew he owned the Harbourgate building, that's it ... I've known him for a long number of years."

10) whether the company inspectors obtained any information to indicate whether the property dealer who negotiated the purchase of Harbourgate on behalf of BTI was made aware of the budget available for that purchase;

The information provided to the inspectors during the inspection process did not allow them to be conclusive on this particular matter.

At interview the independent property dealer was asked specifically whether Thomas Armstrong indicated to him what budget was available. In response he told the inspectors "I don't remember how that evolved but I had my own idea of what the building was worth, I think, and it was recounted back to the Institute, sorry to Tom Armstrong, who presumably recounted it back and how we arrived at the figure of what was acceptable, I don't remember. But it was a brave bit of discussion and that was obviously the difficulty, once he had decided that he was going to sell it ... in agreeing a price."

The independent property dealer was subsequently asked if before Thomas Armstrong had instructed or requested him to proceed with the purchase of the Harbourgate building he had any understanding as to what budget was available for the purchase of the building. The independent property dealer replied "no".

In interview Thomas Armstrong told the inspectors "eventually I think [the independent property dealer] was able to convince [the vendor] to start negotiating in relation to the sale of the building to the Institute and initially whenever [the vendor] got the idea into his head that he was prepared to sell, his initial price for the building was in the region of about £7.6 million which was totally out of the Institute's budget and it wasn't a real option then. I don't know how [the independent property dealer] was able to do it, through further negotiations with [the vendor] a price in the area of about £5 million was being talked about as a possible price that the building could be bought."

In interview the vendor stated that in conversation he had told the independent property dealer that he needed about £6 million for the Harbourgate building if he was going to sell it. The independent property dealer had replied that he could get him £5 million. The vendor had tried to negotiate for more but independent property dealer had said "No, the price is £5

million. I have done the deal. I have told them to pay £5 million and I'm telling you to take £5 million for it and that's basically the way it's going to be."

11) whether the company inspectors obtained any information during their investigation to indicate the level of profit made by the vendor of Harbournate, from the sale of the building to BTI;

The inspectors' review of the books and records made available to them indicates that the vendor's company made a gross profit of £1,004,595 on the sale of the Harbournate building to BTI as follows:

	£
Purchase price (excluding VAT) paid by BTI	5,000,000
Cost of sale to the vendor – (stock value per statutory accounts for the year ended 31 March 2002)	(2,595,405)
Option release price paid to Kentara Partnership	(1,400,000)
Profit before tax	1,004,595

12) the length of the lease including actual and forecast expenditure that will be incurred by DFP following the letting of the Harbournate site to its central procurement division;

This information is currently being obtained and will follow when this Department is in receipt of it.

13) how the assets of the project were put to use when it failed; whether they were sold on and if so at what fraction of their original value; whether storage/security costs are still being accrued against them and if so in what order;

At the date of the inspector's report, the majority of the company's assets were in storage. Two items, a DNA sequencer and a colony picker, were delivered to and set up by Fusion Antibodies Ltd. The DNA sequencer, which cost £99,379 was sold to Fusion for £15,000. Any assets that remain if and when the company is wound up will be vested in the liquidator. No ongoing storage costs are being incurred by Government.

14) whether there is a mechanism of appeal against a ruling of the Law Society as a professional body, and if so your assessment of the Department's rationale in not lodging an appeal in the case of BTI's solicitor;

The Law Society of Northern Ireland, through its Professional Ethics and Guidance Committee, previously considered issues relating to the conduct of Thomas Armstrong Solicitor on the basis of papers before it and in light of Mr Armstrong's explanations and/ or comments.

Based on the evidence before it, the Committee did not consider that the matter should be taken further within the Society's internal regulatory structure by way of recommending a reference to the independent Solicitors Disciplinary Tribunal. The Committee has now advised the Department that it would review the position if further information or evidence is provided. At this point in time the Department is unaware of any further information or evidence which can be provided to the Law Society.

15) to whom the three cheques issued by BTI's solicitor on receipt of the £100,000 finder's fee from BTI were made out, and whether HMRC was notified of these payments;

A funds transfer of £25,000 was made by BTI's solicitor to an account held with SA NOSTRA Bank in Menorca, Spain in the names of Susan Teresa Townsley and Michael Townsley. The independent property dealer's share of the finder's fee amounted to £37,500. This was offset against a stamp duty liability owed to him by BTI's solicitor. The remainder of the finder's fee was retained by BTI's solicitor.

The inspectors have noted that VAT invoices were raised by the relevant corporate entities as the basis for the finder's fee rather than personally by the individuals behind those entities. HMRC therefore should have had sight of the transactions.

16) who the DETI official informed by the IFI of double claiming then notified, and who gave the go-ahead to carry on with the project after double claiming had been established;

When IFI informed DETI of double claiming on 26 October 2001, they also informed DETI that they had revised their funding package and later amended their letter of offer. There are no records which would indicate who the DETI official subsequently informed. Final payments of grant were made under the Letters of Offer issued by DETI, IDB and IFI on 26 October 2001. No further payments of grant were made.

17) how the former directors of BTI have been held to account for failing to discharge their corporate responsibilities in light of paragraph 6.20 of the NIAO report, which states that two directors described themselves as having been commercially naïve;

The Department, after considering the inspectors report, forwarded a copy to the Directors Disqualification Unit (DDU) within the Insolvency Service with a view to it determining whether there were any matters which:-

- i. gave rise to unfit conduct, and
- ii. having established that there was unfit conduct, whether it was in the public interest to issue disqualification proceedings.

The DDU consulted DSO and Counsel before reaching its decision. It took into account all matters contained in the inspectors report which include the statements made by two directors in relation to their commercial naivety referred to in paragraph 6.20 of the NIAO report.

Having reviewed all the facts, including the public interest element, DDU issued proceedings against one director namely Theresa Townsley". We will provide you with a further update on these proceedings following a consultation with our legal advisors which is due to take place during the week beginning 13 February.

18) confirmation of the "per diem" salary rate and the total salary costs incurred as a result of employment of a chief executive for BTI;

The Chief Executive received a "per diem" rate of £250. The Chief Executive was not an employee of the company and he invoiced BTI as a self employed consultant under the name Marketing Implementation Services. The inspector's report indicates that Marketing Implementation Services received £81,375 from March 2001 to March 2005.

19) whether FPM Chartered Accountants are currently appointed by DETI or Invest NI in any capacity;

Invest NI currently has four contracts with FPM for professional services. DETI has no current contracts with FPM.

20) detail of the referral made to the Chartered Accountants Regulatory Board;

Papers relating to the referral of FPM Chartered Accountants to the Chartered Accountants Regulatory Board are attached at Tab C.

21) detail of the information exchanged between the Department and the Police Service for Northern Ireland (PSNI) and the seniority of the officers and officials involved in dealing with the case;

The Department would hope to be in a position to revert to you on this matter during the week commencing 13 February.

- 22) the outcome of any disciplinary proceedings against DETI officials and their seniority in the Service;**
- 23) the terms of reference of the referral given to direct the independent reviewer's inquiry into the conduct of DETI officials involved in the case;**
- 24) the findings of his report;**
- 25) a summary of all officials within the Department and IDB who were involved with the monitoring, decision-making and oversight arrangements for BTI, detailing their respective responsibilities and reporting channels.**

We will revert to you on items 22-25 during the week beginning 13 February 2012.

Yours sincerely

A handwritten signature in black ink, appearing to be 'D Sterling', written in a cursive style.

David Sterling

Tab A

Bioscience and Technology Institute Board Meeting
Wednesday 20th December 2000, 5.45pm @ Registered Office

Registered Office : 38-46 Hill Street
BELFAST
BTI 2LB

Attendees Expected : Prof R. Spence
Prof P. Johnston
Teresa Townsley
Mr Will McKee
Mr [REDACTED] IDB
Mr Denis Rooney (DRA Associates)

In the absence of a formal Chairman of the company Prof Roy Spence will take the Chair initially for this meeting.

ACTION***1. Prof Spence to Chair meeting initially***

- Proposer to appoint Mr Will McKee as Director
- Seconder to appoint Mr Will McKee as Director
- Complete Directors form
- Proposer to appoint Mr Will McKee as Chairman
- Seconder to appoint Mr Will McKee as Chairman

Mr Will McKee takes Chair.

ACTION

2. *Apologies*

DR Peter Passmore.

3. *Minutes of last meeting*

Review minutes.

4. *Matters Arising*

None as main items on Agenda.

5. *Government Funding Update – TT to present*

Letters of Offer status as follows:

P&R	-	1,200,000	- prior conditions 100% complete and confirmed
IFI	-	250,000	- prior conditions complete awaiting funds advance 100K
IRTU	-	250,000	- Prior conditions complete when IDB completes
IDB	-	500,000	- prior conditions 75% complete
		<hr/>	
		2,200,000	
		=====	

ACTION**6. *Bank position / Bank accounts***

- Ulster Bank £1M approved in principal awaiting conditions.
- Current account being opened, signatories are any two Directors.
- Need photographs of signatories – Digital camera to be organised at Board.

7. *Design Team Update*

Mr Denis Rooney of DRA to join Board at this time to Discuss way forward.

8. *Marketing Plan*

- Draft of plan expected for Board meeting.
- Corporate identity and logo – need to agree who we bid this to and approach (3 quotes)
- Website – could be organised in conjunction with corporate identity.

9. *CEO*

We need to address the issue of a CEO or temporary appointment.

ACTION

This decision must be in taken with respect to funding issues.

10. *Financials*

Updated projections will be available at Board.

11. *Critical Path*

Available at Board.

12. *Declaration of Interests*

From time to time members of the Board may be involved with projects or proposals which should be noted in order to avoid conflict of interest. A simple procedure needs to be agreed for this.

13. *Advisory Board*

Current Advisory Board consists of the following members:

Mrs Joan Ruddock	BCH
Mr William McKee	RVH
Prof. Bob Stout	QUB
Prof. Bernie Hannigan	UU

ACTION

Together with the Board consisting of the following:

Prof. Roy Spence
Prof. Patrick Johnston
Mrs Teresa Townsley
DR Peter Passmore

Are we to expand this and Chair needs to agree structure.

14. *Any other business*

None at present.

15. *Date of next meeting*

Need to decide frequency of meeting and set schedule.


Agenda for Bioscience & Technology Institute

Board Meeting 20th December 2000, 5.45pm @ 46 Hill Street, Belfast

1. Appointment of Director and Chair
2. Apologies
3. Minutes of last meeting
4. Matters arising
5. Government funding update
6. Bank position / Bank accounts
7. Design team update
8. Marketing plan
 - Michael Kerr update
 - Website
 - Corporate identity and logo
9. Temporary CEO
10. Updated financials
11. Critical path
12. Declaration of interests – procedure
13. Advisory and Main Board
14. Any other business
15. Date of next meeting.

Bioscience and Technology Institute Board Meeting
Wednesday 11th April 2001, 5.15/5.30pm @ 46 Hill Street, Belfast

Registered Office : 38-46 Hill Street
BELFAST
BT1 2LB

Attendees Board : Mr. Will McKee (WM) - Chairman
Prof Roy Spence (RS)

Prof Patrick Johnston (PJ)
Teresa Townsley (TT)
Barry Gibson (BG)
Peter Passmore (PP)

ACTION

1. Apologies

None

2. Minutes of last meeting of Friday 23rd February 2001

The minutes were reviewed and those who had been at the 23rd February 2001 meeting confirmed them as a true record of the proceedings.

ACTION

3. *Matters Arising*

QUB

Following the meeting of 30th January 2001, QUB sent a letter indicating support and intent to occupy a floor. A reply has been made and the Chairman meets James O'Kane later in April 2001.

As requested in the QUB letter contact was made with Hubert Martin in Estates. The initial time of the QUB response to contact from the Design team was slow but they are now engaged.

Funding

IDB have been able to carry forward the £500,000 into this financial year.

4. *Site Issues*

The report and the Hugh Hawthorne, DRA memo were discussed. Teresa Townsley also provided a verbal update from Hugh Hawthorne, DRA meeting with M. Leahy, BCH on 11th April 2001(pm).

The Chairman asked Roy Spence and Paddy Johnston for their comments.

ACTION

Roy Spence asked if September date for Peace & Reconciliation funding was the drop dead date. [REDACTED] undertook to reconfirm this. [REDACTED]

Peter Passmore indicated his disappointment on the issues now related to the current site beside Belfast City Hospital.

Teresa Townsley informed Board that since August/September 2000 she had been in regular contact with Belfast City Hospital regarding lease/site and related issues and as indicated to the Board previously had not made good progress.

Paddy Johnston indicated that in his view this site beside the Tower was important but we needed to confront the issues realistically.

[REDACTED] emphasised that September date was clearly indicated by Peace & Reconciliation and after that not only was the funding list to us but also to N. Ireland.

Chairman suggested we seek a meeting with Belfast City Hospital to clear site issues.

The Belfast City Hospital map was reviewed and the 'Jif' site discussed.

ACTION

Paddy Johnston suggested we discuss the issue at strategic level with Belfast City Hospital.

Roy Spence suggested Chairman – Chairman approach.

Teresa Townsley outlined a Phase I, Phase II approach. Keep the existing site for Phase I but move on to say the Jif site to commence immediately Phase II with our existing designs.

The Chairman indicated that this was an interesting approach which would keep up morale and allow us to progress.

Will McKee indicated to Board that we must set deadlines and if Belfast City Hospital do not adhere to it we choose an alternative site, even going off the Belfast City Hospital site.

Teresa Townsley to set up meeting urgently with Will McKee, Joan Ruddock, Teresa Townsley and Quentin Coey.

TT

5. *Chief Executives Report*

This was presented by Barry Gibson. It was proposed to appoint Brian Arlow as Public Relations Consultant. Board Agreed.

- Follow up to IOD/IDB dinner – Dublin event, September.
- Institute Directors to feed back their contacts and suggestion...
- Dissemination of brochures.

BG

ACTION

Paddy Johnston had meeting with Susan Davis, United States Republican party, she is organising meeting Washington, October 2001 for Biotech. May be opportunity for Institute representatives to participate.

Will McKee indicated he had contact with Maggie Carey in United States completing similar project in Denver.
Will McKee to progress degree of collaboration.

6. *Design Team Progress*

Read and discussed.

7. *Cash Update*

Reports discussed. Will McKee asked [REDACTED] on timescale of funding from IDB. This was discussed.

Board agreed to move forward to draft job description and an advertisement for full time CEO.

WMcK/TT

8. *Bio San Diego 2001*

Chairman would like to see cohesive approach to this conference to ensure maximum. Will asked if we could devote all May Board to this.

WMcK/TT

ACTION

Paddy Johnston indicated he has been in touch with Dunk Pruet progress an Institute dinner at San Diego yacht club for Bio Northern Ireland.

PJ

9. *Core Tech*

Paddy Johnston presented and summarised this paper. He asked the Board for its support and approval. Board supported and agreed.

Peter Passmore suggested a Royal Victoria Hospital representative to be involved with this.

10. *Any other business*

1. 'Church' incubator - on hold until site issues resolved.
2. RVH contact re clinical trails - Barry Gibson to progress.
3. █████ suggested keep close liaison.
4. Advisory Board -- to set up meeting and briefing date.
5. Briefing Permanent Secretary 24/4/01

PJ/WMcK

11. *Date of next meeting.*

To be arranged.

Bioscience and Technology Institute Board Meeting

Thursday 31st May 2001, 5.15/5.30pm @ 46 Hill Street, Belfast

Registered Office : 38-46 Hill Street

BELFAST

BT1 2LB

Attendees Board : Mr. Will McKee (WM) - Chairman

Prof Roy Spence (RS)

Prof Patrick Johnston (PJ)

Teresa Townsley (TT)

Barry Gibson (BG)

Peter Passmore (PP)

ACTION

1. Apologies

None

2. Minutes of last meeting of 11th April 2001

Approved.

3. Matters Arising

No matters arising not on the agenda.

4. Minutes of Special meeting of 3rd May 2001

Approved.

ACTION

5. *Matters Arising and Update*

The Chairman formally recorded thanks of Board to Tom Armstrong for his help and advice in the negotiations with BCH regarding the Heads of Agreement and lease. It was noted that a Heads of Agreement (HoA) had been concluded with BCH and signed by QC and WMcK and dated 15th May 2001.

The Chairman drew attention to the covering letter dated 15th May 2001 from BCH which accompanied the lease. It was agreed that a small subgroup of Chairman, BG and TT would structure the Advisory Group membership and report back to the Board.

PJ congratulated the Chairman on achieving the agreement given the difficulties. He had spoken directly to QC and understood he was very pleased to have the HoA concluded. PJ emphasized that he was keen to move this forward now and keep the momentum going.

PP agreed with this sentiment.

The Chairman reiterated that the lease was the issue now and that we needed to conclude this rapidly to get on site early. He was optimistic that the attitude and spirit of QC and his colleagues at BCH would facilitate this.

ACTION

It was noted that QC was on holidays to 15th June 2001 and the Chair asked for a small subgroup to move the lease forward with TA and the BCH Lawyer. The Chair agreed to contact TA and keep this moving.

WMcK

RS drew the attention of the Board to a document/ e mail which had been forwarded to him from a QUB colleague to suggest that QUB were no longer providing funding for the Institute and had committed their funding to another project. No-one appeared to have detail of this and as far as we are aware QUB are on board per their letter of commitment dated 15th May 2001.

The Chairman asked BG to follow this up with James O'Kane of QUB.

(Note: BG and the Chairman followed up and QUB are on Board as indicated. They are very supportive and keen to move this forward.)

PJ informed the Board that he had a very constructive meeting with QUBIS (involved spin outs from QUB) and they were very keen to work and collaborate with the Institute. He suggested the Chairman should meet its CEO Edward Cartin.

BG

ACTION

6. *Chief Executives Report*

BG presented his report and drew attention to a number of issues. P&R good meeting with all Government funders, however P&R want a report from the QS setting out the spend to 31st Dec 2001. They were prepared to divert some spend to equipment if we can make a proposal. BG explained this could work in with Core Tech.

PJ informed the Board of his meeting in May in California with one of the inward investment projects Zoomedia. This had been very constructive. The contact had led to the potential of a number of other prospects and PJ had set some meetings for Bio 2001 in relation to this.

The Chairman thanked PJ for his efforts and reminded the Board of the early 'win' this would bring to the Institute.

PJ also informed the Board that the spin out Fusion Antibodies had employed it's first key person and was up and running. It would make a presence at Bio 2001. Genomic Mining was also moving forward positively and there was indications that a number of individuals for Singapore Biotech were interested in collaborating with GM. This too would be followed up at Bio 2001 where all would be attending.

The Chairman stressed the importance of an effective presence at Bio 2001. He again thanked Paddy and his team for their work and effort.

█ indicated that aside from the large pharma companies in NI there had only been 2 inward investments in the sector in the last 5 years. He commended the Board on their efforts. He reminded the Board that they must continue the programme of Dinners as discussed at the IDB/IOD dinner and consider a ROI event in the Autumn. The chairman asked BG to follow this up with our PR people (BA).

BG drew attention to Phase 1a and the science park site. He had no progress or update from the SP people despite negotiations and contact.

RS asked BG why we were progressing an other site when we seemed to have achieved agreement on the BCH site. Barry reminded RS that the initial building was nearly full and we had to have the option of additional space.

RS asked why we were considering this off site. BG indicated that all options were being looked at. The Chairman asked for Board agreement for Barry to continue to look at all options, this was agreed.

ACTION

7. *IDB Letter of Offer*

The Chairman asked [REDACTED] if he wished to comment on the paper. [REDACTED] indicated that IDB are keen to assist the Institute to draw down their funds. He undertook to consider the views in the paper and progress the necessary work to seek release of the funds at an early date.

The Chairman asked if [REDACTED] could indicate a timescale and [REDACTED] replied that he would do his best to have this resolved by the end of June 2001.

TT thanked [REDACTED] for his constructive approach this was reiterated by the Board.

8. *Bio San Diego 2001*

The Chairman highlighted the importance of the Bio 2001 event and emphasized the necessity of a planned , strategic approach.

He suggested that in order to make the best of the event and in particular the follow up we should bring our acting CEO with us.

RS agreed and appreciated the additional resource available.

Chairman indicated BG would structure a regular meeting and feedback at the conference and after the event. We would be preparing a full report and action plan / follow up.

ACTION

He went on to ask everyone to copy to BG details of any invites that we may maximize the networking events.

PJ indicated that we can access SDYC through our contact Dunk Pruett for a small network event for the Institute. BG to follow this up with PJ, TT and DP.

█████ indicated that he was aware that IRTU had indicated their sponsorship of such an event. IDB would therefore retain some funding for future events such as an event in Washington or Dublin if we could have it coincide with another event to increase visibility.

PJ indicated he had been approached by Singapore Biotech regarding joint ventures and this would be discussed at Bio 2001.

ACTION

9. *Any other business*

CEO

At this stage the acting CEO, BG asked to leave the room as he preferred not to be privy to this discussion.

The brief and the need to move to a full time CEO was discussed. The legalistic need to recruit in accordance with best practice was agreed and the approach with MERC Partners and the costs were approved.

A draft ad was circulated and suggested amendments noted on the draft by the chair. Publications were agreed.

This is now approved and moving forward.

Core Tech

A paper had been brought to the Board previously PJ reminded the Board. He suggested we are now in a position to move our Core Tech proposal forward and he would circulate a paper in conjunction with TT and MT.

10. *Date of next meeting*

It was agreed that this would be held at Bio. The Chair asked PP if this was agreeable as he is not attending. He agreed.

**Agenda for Bioscience & Technology Institute
Board Meeting 31st May 2001, 5.15pm / 5.30pm
@ 46 Hill Street, Belfast**

1. Apologies – Professor Patrick Johnston
2. Minutes of last Board meeting of 11th April 2001
3. Matters arising
4. Minutes of Special meeting of 3rd May 2001
5. Matters arising and update
6. Chief Executive's Report
7. IDB Letter of Offer
8. Bio San Diego 2001
 - Conference
 - Networking
 - Advance preparation
 - Yacht Club Event
9. Any other business
 - Press clipping
10. Date of next meeting

Bioscience and Technology Institute Board Meeting

*Wednesday 12th September 2001 @ 5.15pm @ Registered Office,
46-50 Hill Street, Belfast, BT1 2LB*

*Registered Office : 46-50 Hill Street
BELFAST
BT1 2LB*

*Attendees Board : Mr. Will McKee (WM) - Chairman
Prof Roy Spence (RS)
Teresa Townsley (TT)
Barry Gibson (BG)
Peter Passmore (PP)*

Attendee IDB : [REDACTED]

ACTION

1. Apologies

Professor Patrick Johnston (PJ)

2. Minutes of last meeting of 25th June 2001

Approved.

3. Appointment Process and Progress CEO

Mr. Gibson was asked to leave the room for this discussion.

Relevant papers had been excluded from his Board papers.

The process as detailed in the Board papers was reviewed and discussed and the Chairman indicated the exhaustive process.

which was carried out.

ACTION

In his absence, through a note to Mrs. Townsley, Professor Johnston recommended to the Board the ratification of the appointment of Barry Gibson as CEO.

The Chairman indicated that the terms and conditions should be clarified by the selection panel and salary in the region of £60,000 with set bonus for achievement of objectives build in. He suggested a salary basis for employment in order not to create a contingent liability for the BTL.

PJ/WM/TT

Each Director was asked for their opinion and there was unanimous support for Barry Gibson's appointment under the terms suggested by the Chairman.

RS Formally proposed the approval of the appointment and TT seconded it.

BG rejoined the meeting and the Chairman and RS formally congratulated him on the appointment. All of the Board joined in wishing him well in the position.

4. *Matters Arising*

Coretech – TT confirmed the business plan was at draft stage and a copy was made available for the Board to review if they wished. [REDACTED] asked if he could have a copy of the plan when finalised and before it went to any other agency. He indicated that he is the direct contact with the PS and needed to keep abreast of the spinouts.

ACTION

TT agreed that this was sensible and that we would be glad to comply with this.

TT

5. *Chief Executives Report*

BG presented his report and drew attention to a number of issues.

All reports were considered together.

BCH Site

BG highlighted the comprehensive meetings and exchanges with the lawyers and BCH. He indicated his disappointment at the lack of response and progress.

The deadline for site start was 1st September 2001. This had passed and thus we must recognise that we cannot deliver on this site, to the schedule as indicated in the DRA report we forwarded to P&R and the other funders in June 2001. This was conveyed to P&R and funders at the meeting on 4th September 2001.

Chair drew attention to the letter sent to BCH and indicated that sadly he had no reply from BCH. Informally BG had tried to elicit response. Chair conveyed his wish to develop on BCH site but this was not possible. PP asked were items insurmountable. Chair replied given time they may be agreed but not in the time scale we require.

ACTION

Letter of 21st September 2001 Chair to CEO, BCH circulated.

RS asked how much time effort and funds will continue to be spent on this BCH site. BG referred to agenda item 5.2 last paragraph. He indicated we should maintain the relationship but we could not continue to spend.

BG drew attention to the decision the Board must make.

Chair suggested that CEO, BTI will remain in contact with CEO, BCH but BTI will move to an alternative option at this time.

PP reiterated the urgency and agreed this approach. He has experience of these time delays with the Trust in other areas.

Chair agreed a diplomatic approach.

█ suggested we call advisory group together to keep them acquainted with current situation.

Board agreed that Build team must be advised to 'park' and stop all work.

ACTION***P&R*****Meeting 4th September 2001**

A meeting took place with P&R and the other Government Funders regarding the progress of the project. The PS had been briefed before hand.

The meeting was constructive and while sympathetic regarding our site / lease problem P&R are concerned about the spend.

The Funders were supportive and are willing to look at options, which still fall within the business plan we submitted. They had been presented with the status of the LoO objectives and buoyed up with the current outcomes.

Appreciation was conveyed to those who have been working tirelessly with the spin outs and inward investments as without these early successes we would not have had such a sympathetic ear.

The report should be completed by Friday 14th but this is not enough time and we plan to ask for an extension. We must have Plan B by the end of September otherwise we have to declare the amount to surrender. This may leave time for P&R to delicately 'tidy' it. It will leave us in an awkward position if we seek further funds. BG to ask for an extension for the reporting deadline.

BG

ACTION

Other Property Options

TT reminded the Board that we have been busy looking for other options, not just for the P&R spend but we are under pressure with the expansion and growth of the spin outs.

Options are limited and we must not be tempted to choose an option which spends the P&R money but is not a good decision for the future.

We have one best option at present and are in negotiation with two developers for a shell 60k sq ft building at Sydenham. A deal had already been agreed Developer to Developer but with contacts and influence we may be in the running. A third party is negotiating on our behalf.

The building is high profile and attractive and its finish allows us to spec it for Biotech. Its location allows access to further development. The price may be between 4-5M £stg

If they will entertain our bid then we have a number of steps to complete before we can complete including:

<i>Step</i>	<i>Action</i>
1	Agree with Funders that we can do this
2	Find the additional funding to acquire the shell
3	Find the additional funding to complete and fit out

ACTION

The likely shortfall is in the region of £3m (excl commercial funds) before fit out. This is high, due to the fact that there are some funders who will not 'come' to the new site. There may be options for long leases which accelerate funding.

This is ambitious and we are asking Board support to proceed on this option if we get it or a similar one if not.

If by 26th September 2001 we have no clear options then we must inform our funders after discussion the Board gave its full support to pursuing the option.

6. Finance Update

Chair thanked formally [REDACTED] for his help in achieving IDB £250,000. The Board reviewed the financials and they were noted.

TT highlighted the grant claim outstanding from P&R and that it would not be paid until the report was submitted.

7. Marketing**Bio San Diego 2001**

BG indicated the file on the table and feedback reports. He was following leads.

ACTION

Singapore

This takes place next week. Three reasons to go:

1. Company - Company
2. Country - Country
3. Business for our Companies.

Washington

Washington Conference 31st October - 2nd November 2001

The following note is prepared on the assumption that this event proceeds, given the terrible events in the US of 11th September 2001.

This conference has been in the press in recent days (Belfast Telegraph 11th September 2001).

An Economic conference is being organised by a leading US Republican. There are three themes and one includes Biotech and Life Sciences.

The invitees are from the US, NI and ROI and are at the discretion of the US State Dept. Three BTI Directors have been invited and will attend.

A meeting took place in IDB last week to agree the approach and work preparation for the conference.

This is a major opportunity for the three to influence and bring valuable contacts as well as cement existing relationships.

ACTION

Other

Dublin 27th November 2001 identified as a venue to promote BTI. The issue of whether this will enhance or disclose too much and give away our lead was discussed at length. [REDACTED] asked would we do this and not give away formula. TT indicated that it is imperative not to allow direct access to key people.

RS asked what benefit was.

[REDACTED] indicated benefits to BTI and NI.

BG indicated schedule of events and work to be done, it might be better to wait to spring.

RS, PP, TT agreed. Chair confirmed.

8. *Any other business - 1*

Remuneration for Institute Work – BG presented the paper.

RS agrees item 2 in principle but would not be too sure of the rate or work/time which should be agreed.

Chair - indicated there are precedents.

The issue was discussed and the key point that this reward was for BTI and there could be no assumption that BTI work could be exchanged for a place/equity in a spin out.

[REDACTED] – strike rate lower than norm particularly in view of government funding.

Chair – asked TT to bring further paper to next Board.

TT

ACTION

Any other business – 2

█ indicated IDB had completed a sectoral report and it had been discussed.

Priority Commercialisation Initiative (PCI) would come out of this.

Some discussion pertained to BTI being vehicle for PCI.

█ would value discussion regarding this.

Chair asked BG to take this up and to progress discussion, he continued he believed this was a good vehicle to take this forward.

BG

9. *Date of next meeting*

Early November 2001

BIOSCIENCE & TECHNOLOGY INSTITUTE
Board Meeting Wednesday 12th September 2001 at 5.15pm
@ Registered Office, 46-50 Hill Street, Belfast, BT1 2LB

1. Apologies – Professor Patrick Johnston
2. Minutes Board meeting of 25th June 2001
3. Appointment Process and Progress CEO
4. Matters arising (not covered in Agenda below)
5. Chief Executives Report
 - Main report
 - Actions for Current Build Team
 - Permanent Secretary, DETI – Briefing Document
 - Report to P&R to include Property Options
6. Finance Update
7. Marketing
 - Bio San Diego 2001- Follow up reports
 - Singapore
 - Washington
 - Other
8. AOB
 - Remuneration for Institute Work
9. Date of next meeting

BIOSCIENCE AND TECHNOLOGY INSTITUTE

Minutes of Board Meeting held Wednesday, 3 July 2002 at 7.15pm –
Cancer Centre Library, University Floor, BCH

Board attendees: Professor Patrick Johnston (PJ) – Chair
Mr Dick Milliken (DM) (on behalf of McClay Trust)
Professor Roy Spence (RS)

in attendance: Mrs Mary Carmichael (MC)

Invest NI attendees: [REDACTED]
[REDACTED] (for Agenda items 5 and 10)

Action

PJ opened the meeting by expressing his thanks to everyone for their help and support over the last few difficult weeks. DM said PJ and RS deserved great praise for coping under very difficult circumstances.

1. Apologies

Mr Peter Passmore

2 Minutes of previous meetings

Minutes of meetings of 4, 20 and 24 June were agreed as correct and accurate.

3 Appointment of Chair/Deputy Chair

RS proposed PJ as Chair and this was agreed. Discussion took place about the appointment of a Deputy Chair but DM felt a deputy Chair was not necessary until the final format of the Board had been firmed up.

Appointment of Dick Milliken to Institute Board

PJ proposed DM for Board membership. This was seconded by RS. DM accepted and was welcomed to the Board by PJ and RS.

4 Resignation of Mrs Teresa Townsley

DM sought clarification from the Board that Mrs Townsley had resigned both as Director and Secretary of the Company. This was confirmed. It was noted that at its last meeting the Board accepted this resignation.

5 Purchase of building

It was acknowledged by the Board that Dr McClay's money had made two separate loans of £200k and £1M and that these were repayable on demand, interest free until 31 January 2003.

5a - Royce Developments
5b - Bank loan

DM reported that the top floor of the BTI building is now owned by Invest NI pending completion, and that the loan is secured on that basis.

6 Restructuring of Board

Suggested new Board members

PJ had approached Dr Marty Murphy who would be happy to join the Board and is willing to travel from the States for Board meetings.

Dr Murphy is a Director of one of the first Cancer Centres in the US, and has a long history of consultancy in the pharmaceutical industry. He is also a consultant to the biotech industry in the US at a planning and development level.

PJ had also spoken to Dr Joe Harford, Director of International Affairs at the NIH, and a scientist with a 10-year history in the biotech industry.

PJ to obtain CVs of both men for discussion and if the Board agreed, they would be invited to become members.

PJ

PJ reported that the Managing Director of BMS Ireland, Michael Dempsey, had expressed an interest in becoming a Board member.

PJ said that ultimately he saw the Board having 10 members within which he would like to see a strong European scientific presence, and a strong business and commercial acumen.

RS felt the Institute should be stronger before adding further representatives and [REDACTED] said that it would be worthwhile to have a marketing person on board.

7 Chief Executive Officer

DM suggested that the advert for a CEO be placed as soon as possible in specialised journals and national newspapers.

8 Financial position

DM reported that he had met with John Darcy of KPMG and had asked him to provide an up to date financial position of the Institute. In reply to [REDACTED] query about audit costs from KPMG, DM reported that he had asked for a quote for any extra work to be done. He thought this amount would be approx £1500. John Darcy is to send the quote and a Letter of Engagement.

PJ referred to a letter from the Institute's current solicitor, Tom Armstrong, enclosing a Bill of Costs for £9162.50 for ~~professional services on the Institute's behalf relating to the purchase of the building.~~ This completes all outstanding fees to Tom Armstrong.

PJ referred to a decision made at a Board meeting in March in relation to seeking out companies who would occupy the building. He said at the moment we were not in a position to look into this. Discussion took place about the type of companies BTI would like to have as tenants and it was agreed that it was important that the right type of companies be targeted.

PJ also informed the Board of a letter (Paper A) from Myles Danker setting out their fees for services in relation to three pre-lettings and their recommendations for the marketing and management of the building. It was agreed that a letter be written to Myles Danker asking for a copy of the leases for the three pre-lets and informing them that we would get back to them within 6-8 weeks after BTI had restructured.

? PJ

DM suggested that after Ken Geary had inspected the building and given his expert opinion, KPMG should provide us with the current financial position.

[REDACTED] said that after the financial and audit positions of BTI were known, the Board should put together a business plan for INI. DM and PJ were to produce a brief to be sent to management consultants for quotation to tender. This is to be sent out w/b 8 July 2002 with one week for the companies to

reply.

DM/PJ

9 Audit position

To be clarified by KPMG.

10 Fit-out of building

● thanked the Board for allowing him to attend the meeting for Items 5 and 10.

He asked who was acting for the Institute in terms of property and construction. PJ replied that currently there was no-one. In reply to his query regarding whether there were drawings produced, PJ said there were baseline plans for the Ground and First floors of the building.

DM said the McClay Trust would be happy to ask Ken Geary, (Quantity Surveyor from Optick & Williams, Architects and Consulting Engineers), to visit the building and provide a report on what work had been done and what needed done. He could also meet with Genomic Mining and Fusion Antibodies representatives to find out their future needs.

DM

PJ reported that Pat White had been in contact with the builders who are owed £78,317.80 plus VAT. Pat will find out if a formal contract had been received by the builders. PJ asked the Board for a decision regarding the builder stopping work.

Pat White

Discussion took place regarding the temporary re-engagement of Barry Gibson. It was agreed that rather than re-engagement, Barry should be invited to submit a report, for which he would receive remuneration, and the report would then be discussed by the Board. PJ undertook to contact Barry Gibson.

PJ

Summary

- BG to submit a report providing information on what work had been done and what was still outstanding
- Consultation meeting to discuss report and way forward
- Quantity Surveyor (Ken Geary) to visit building with BG/meet with client companies for needs assessment
- Completion figure to be obtained to enable Board to have a clearer financial picture
- All of the above to be completed possibly mid August

The question of whether or not a survey had been carried out was raised by [REDACTED]. PJ reported that this had been done by Myles Danker. The Board agreed that [REDACTED] should have a look at relevant BTI files relating to the fit-out of the building, plans, etc. [REDACTED] will check with Barry Gibson regarding insurance for the building. He said that he had arranged cover under the umbrella of Invest NI for which a premium of £3,000 was being paid.

DM reported that the keys to the BTI building are with L'Estrange & Brett, Solicitors, the contact person being Jackie Pearson. He also said that KPMG would be happy to store the BTI files and correspondence in a safe environment.

11 Administrative support

PJ reported that MC had been asked to help with administration until a permanent solution had been agreed. She was to be remunerated for hours worked. The Board were in agreement.

[REDACTED] said that administrative support was essential to progress things forward as soon as possible. He said that INI could look at how to find funds from one of their budgets to provide administrative support. [REDACTED] also said that the consultancy company used by INI might be able to help in recruiting the most appropriate type of person, preferably with experience in the biotech industry.

Legal representation of the Institute was also discussed. Suggested companies were Carson McDowell (Michael Johnson or Alan Taylor), L'Estrange & Brett and Tughan & Co.

There being no further business the meeting ended at 9.20pm.

12 Date of next meeting – mid August

DRAFT

BIOSCIENCE AND TECHNOLOGY INSTITUTE

Minutes of Board Meeting held Wednesday, 21 August 2002 at 3.30pm --
Cancer Centre Library, University Floor, BCH

Board attendees: Professor Patrick Johnston (PJ) -- Chair
Mr Dick Milliken (DM) (on behalf of McClay Trust)
Professor Roy Spence (RS)

In attendance: Mrs Mary Carmichael (MC)

Invest NI attendees: [REDACTED]

		Action
1.	Apologies - Mr Peter Passmore	
2	Minutes of previous meeting These were agreed as correct.	
3.	Update on Finances – KPMG report A report from KPMG giving an up-to-date financial position of BTI was tabled. DM said on reading the report that he had queries which he will take up with KPMG, specifically one regarding a VAT return. PJ reported that a VAT officer would be meeting with him on Tuesday, 27 August to discuss an amount of £318,635 due to BTI. DM is to check the terms of the loan as he thought this amount might have to be returned to the bank. DM said it was important to know how much of this amount we could retain to pay creditors and whether there were any other outstanding debts.	DM DM
4a.	Outstanding debts DM reported that a fee of £7-8,500 would be due to KPMG for producing their audit report. Discussion took place regarding payments for professional fees. For example, the amount charged by Miles Ash was	

	<p>substantial and it was debated whether the company had got value for money. PJ reported that he had spoken to Alan Douglas of Miles Ash and had told him that they would not be paid until a clearer financial picture was known.</p> <p>PJ said that he thought that a bill for consultation fees would be received from Tom Armstrong as a result of his discussions with L'Estrange & Brett, Solicitors. DM felt that questions needed to be asked in general regarding professional fees. He said that the Board need to understand exactly what monies had gone out of BTIs bank account and for what purpose.</p> <p>On reviewing the KPMG audit of accounts, DM raised the issue of several payments made to MTF. He agreed that he would, on behalf of the Board, ask MTF for answers to the queries and that INI would be made aware of these answers.</p> <p>He felt that a detailed list of accounts should be made and clarification sought by the Board before these accounts are signed off.</p> <p>Summary: KPMG to complete the audit.</p>	DM
5.	<p>Tender proposals from Ernst & Young, PWC and Deloitte & Touche</p> <p>PJ reported that he and DM had met with representatives of each of the companies. They each gave their report on the strengths and weaknesses of the companies. The summary was that there was significant overlap between all of them with costings ranging between £27,500 to £60,000.</p> <p>Board members were asked to read and consider the submissions, and give their decision by Friday 30 August 2002.</p>	Board members
6.	<p>Report on Harbour Gate by Ken Geary, Ostick & Williams</p> <p>PJ reported that he had met with Ken Geary 2-3 times and Ken's team had also met with a variety of people, including representatives from Fusion and GM, and Michael Townsley, because he had most of the information about Miles Ash. These had been productive meetings and on this basis Ken Geary had spent time at the BTI building and in the labs of the Oncology Dept. As a result of these visits a report had been produced (tabled) which was presented to the McClay Trust</p>	

	<p>this week. DM informed Board members that Ken Geary is very sensitive to the confidentiality of the report.</p> <p>The McClay Trust were very surprised at the cost £7.2 million to kit-out the building and although Allen McClay was still committed to seeing BTI work, he said a lot of work would need to be done regarding the specification. Ken Geary has intimated that he would like to meet to discuss other options regarding the specification. PJ reported that he had met with Ken Geary on Tuesday, 20 August-who said that to get the building fitted out to a high level, some space would have to be lost. There were very high costs involved in the installation of mechanical and electrical services and Ken suggested reducing this list. PJ felt from his discussions with Ken Geary that taking a minimalist approach to kitting out the building would cost at least £3 million.</p> <p>Meetings have been arranged for representatives of the companies (Fusion, GM) to discuss their specification needs and to outline a structure for the 1st, 2nd and 3rd floors. Ken Geary thinks that there may be an issue about floor to ceiling height of the 2nd floor. In addition, increased plant space will have to be installed for air handling for the building. This analysis will be completed over the next 3 weeks.</p> <p>It was concluded that all options would have to be looked at in terms of how to go forward. DM said that the Board would need to think very carefully about the options with regard to the overall cost and this may have to be part of the business case to government.</p> <p>DM suggested that Allen McClay be consulted regarding future professional fees for Ken Geary before any more work is done.</p>	
7.	<p>CVs of proposed International Board members</p> <p>PJ reported that the two international people he had proposed at the last meeting (Dr Joe Harford and Dr Marty Murphy) were still eager to join the Board. He outlined their membership of internationally renowned organisations in the US and said that his reasons for inviting them was their ability to bring international credibility to the Board. He asked the Board to consider their CVs and their appropriateness to be members.</p> <p>DM asked about the cost implications of their being Board members and PJ said that they would have to be paid somewhere in the region of £10,000 p.a. He envisaged their</p>	

	<p>attendance at a maximum of 4 meetings per year.</p> <p>RS said that it would add greatly to the status of the Board to have them as members.</p> <p>PJ said that he preferred not to nominate others until a clearer picture of BTI's future was obtained.</p> <p>PJ asked if a meeting could be set up with Lesley Morrison of InvestNI to meet with both men who would both be in Belfast on 11th September. [redacted] said that his concern would be having Lesley Morrison in discussion with the Board and the two new members during a period when there are still a number of issues to be resolved in terms of where BTI is going.</p> <p>In response to PJ asking if Board members were happy for the two men to be invited onto the Board, DM suggested that rather than ask them to become Board members, that PJ write saying that "we are in the middle of forming a strategic plan and when that is done we would like them to join the Board on 11 September to give us the benefit of their experience as we contemplate our strategic plan".</p> <p>Two suggestions were proposed for 11 September: (1) that an informal dinner be given on 11 September to include Board members, Lesley Morrison and the proposed new members. (2) DM suggested a separate lunch, to be hosted by Allen McClay, followed by a Board meeting.</p>	<p>PJ</p>
<p>8.</p>	<p>Administrative support</p> <p>RS felt that it was too soon to appoint a CEO but would support strongly part-time administrative support.</p> <p>It was suggested that PJ approach Barry Gibson with a view to helping out two half-days p.w. for two months during the "handover" period.</p>	<p>PJ</p>
<p>9.</p>	<p>Any other business</p> <p>RS reported that he had received an email from a representative of IFI in the South requesting access to view the BTI building and asked what the procedure should be for similar requests. [redacted] said that any requests to view the building should be directed to him.</p>	

	There be no further business, the meeting ended at 6.00pm	
10.	Date of next meeting - Thursday, 29 August at 8.00am	

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BIOSCIENCE AND TECHNOLOGY INSTITUTE

**Minutes of Board Meeting held Thursday, 29 August 2002 at 8.00am
Cancer Centre Library, University Floor, BCH**

Board attendees: Professor Patrick Johnston (PJ) – Chair
Mr. Dick Milliken (DM) (on behalf of McClay Trust)
Professor Roy Spence (RS)

In attendance: Mrs Mary Carmichael (MC)

Invest NI attendees: 
Mr Ian Murphy (IM)

		Action
1.	Apologies - Mr Peter Passmore	
2	Minutes of previous meeting After minor changes had been made, these were agreed as correct.	
3	Proposals for business case PJ asked for comments from the Board on the proposals received from Ernst & Young, PriceWaterhouse Coopers and Deloitte & Touche. Discussion on the proposals took place amongst members and the consensus was that on the grounds of quality of content and cost, the Ernst & Young proposal was the best. It was agreed that a meeting between PJ and Joan Houston of Ernst & Young be arranged to take things forward.	PJ
4	Financial position/Ulster Bank loan DM reported that he had received a report from KPMG the previous evening which he had not had time to explore fully. On first reading he had concerns about the financial position of the company. He presented figures to the Board relating to monies paid out which he felt needed to be analysed and he proposed asking KPMG to investigate exactly why these payments were made. In response to RSs question about whether the company would be in a position to pay creditors, DM said that he would look at the bank balance in more detail and report back to the Board.	DM DM

	<p>PJ reported that he did not think the company could meet the 90-day deadline for repayment of the loan and proposed that when the cash position was known he would write to the bank asking for an extension. DM suggested that when the financial position is clear, we should talk to InvestNI and if more money is needed to fund the business plan, then the bank should be asked to increase the loan.</p> <p>Discussion took place regarding the options for taking the company forward, the cost of running the business and options for letting out the building. DM suggested asking Ernst & Young to look at different options for the use of the building. PJ said that in terms of the biotechnology industry on the island of Ireland we need to be competitive and be moving quickly. He informed members of the merits of Wyeth's Science Park outside Dublin and said that from a N Ireland industrial point of view it would be good to have a similar park here.</p>	PJ
5	<p>Barry Gibson</p> <p>PJ informed the Board that BG had agreed to work 2 half days per week on a temporary basis at a daily rate of £250. [REDACTED] said that Terms and Conditions should be agreed and sent to Invest NI who would then pay BGs fees.</p>	PJ
6	<p>US-Ireland Business Summit</p> <p>PJ told members that he would be discussing the Institute and the NCJ Consortium at the forthcoming Business Summit. He said he would be asking for consideration to be given to private/public partnerships for Biotechnology Research Fellowships. He also reported that there is growing interest by Science Foundation Ireland (SFI) in setting up dedicated research entities here along the lines of their own initiative and if this happened there would be a role for BTI.</p>	
7	<p>Date of next meeting – Wednesday, 11 September 2002</p>	

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**NORTHERN IRELAND BIOSCIENCE AND TECHNOLOGY
INSTITUTE (BTI)**

**Minutes of Board Meeting - Wednesday, 11 September 2002 at 3.30pm
Cancer Centre Library, University Floor, BCH**

Board attendees: Professor Patrick Johnston (PJ) – Chair
 Dr Peter Passmore (PP)
 Professor Roy Spence (RS)
 Dr Martin J Murphy (MJM)
 Dr Joe Harford (JH)

In attendance: Mrs Mary Carmichael (MC)



Invest NI attendees: [REDACTED]

		Action
1.	Apologies - Mr Dick Milliken	
2.	<p>Welcome – PJ welcomed Dr Marty Murphy and Dr Joe Harford to the meeting and thanked them for lending their support to help drive the Institute forward.</p> <p>For the benefit of the international visitors, PJ asked each person to introduce themselves and give a brief outline of their background.</p>	
3.	<p>Minute's silence A minute's silence was held in memory of the victims of 9/11.</p>	
4.	<p>Minutes of previous meeting These were agreed as correct.</p>	
5.	<p>Current status and future plans of BTI</p> <p>PJ presented the mission and goals of the Institute and these were presented in a paper which was tabled.</p> <p>For the benefit of the international members he informed the Board of the current status and future plans of the Institute.</p> <p>These included:</p>	

	<ul style="list-style-type: none"> • the Institute has a 75,000 sq.ft facility at the Harbour Estate which is currently being costed for fit-out. • A financial review had been carried out and there may be sufficient money to pay creditors, leaving a balance of approx £100,000. • The 1st and 2nd floors of the building were purchased with funding from government and private investors, plus a loan from the Ulster Bank. As part of the agreement with the previous owners it was agreed that the Institute purchase the top floor. • At the end of June 2002 BTI obtained a bank loan (underwritten by InvestNI) and repayable within 90 days, to purchase the top floor. The Ulster Bank has been asked to extend this loan and they are happy to do so until the end of December 2002. The Board formally agreed to sign up to this extension. • Ernst & Young, Management Consultants, have been appointed to produce a business plan to take BTI forward. This report will include the Institute's future plans, its role within the biotech sector, the cost of fitting out the Harbour Gate building and whether it is the most appropriate location. <p>Dr Joe Harford told the Board of his past experiences with starting up a company. He stressed that it was important for the Institute to focus on patent rights and said there was considerable expenditure involved in this.</p> <p>PJ concluded by saying that he hoped the Board had portrayed to the international members the seriousness of intent on the part of BTI to provide a world class environment for commercialisation in bioscience and related technologies in N Ireland. He said the critical thing would be to make sure that the Institute had a pathway that made sense, was supported by government and would make a difference. He said that despite the difficulties and hurdles the Institute had come a long way.</p>	
6	<p>BioNorthern Ireland</p> <p>█ outlined InvestNI's strategy for the biotech industry (to be known as BioNorthern Ireland). He said the strategy was an attempt to develop wealth and jobs by bringing together organisations and bodies that focus on technology transfer and knowledge-based activities. BioNorthern Ireland would have a Board appointed with possible representatives from the two universities, BTI and others with experience to take this plan forward. The idea would be that this Board would identify sector and marketing trends and focus on knowledge transfer. The timing of the launch of BioNI was still undecided and InvestNI were looking for a suitable opportunity to go public. Discussion took place about the visit by Mr Tommy Thompson, US Secretary for Health to the Bioreland Conference in November</p>	

	and it was suggested that this would be a perfect opportunity to announce it. [REDACTED] said that BTI's mission would fit in well with this strategy and PJ said it was important that this mission be made clear to BioNI.	
7	<p>Any other business</p> <p>RS raised the issue of the overlap of the Biolreland conference and the Telesynergy meeting in November. He reported that he has involvement with both the Telesynergy User Group and Biolreland. JH suggested that RS attend the User Group-meeting and delegate someone else from QUB to attend Biolreland. JH to inform RS of the exact date when the US Secretary for Health would be attending Biolreland.</p>	JH
8	Date of next meeting - to be decided	

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**NORTHERN IRELAND BIOSCIENCE AND TECHNOLOGY
INSTITUTE (BTI)**

**Minutes of Board Meeting - Wednesday, 11 September 2002 at 3.30pm
Cancer Centre Library, University Floor, BCH**

Board attendees: Professor Patrick Johnston (PJ) – Chair
Dr Peter Passmore (PP)
Professor Roy Spence (RS)
Dr Martin J Murphy (MJM)
Dr Joe Harford (JH)

In attendance: Mrs Mary Carmichael (MC)

Invest NI attendees: [REDACTED]

		Action
1.	Apologies - Mr Dick Milliken	
2.	<p>Welcome – PJ welcomed Dr Marty Murphy and Dr Joe Harford to the meeting and thanked them for lending their support to help drive the Institute forward.</p> <p>For the benefit of the international visitors, PJ asked each person to introduce themselves and give a brief outline of their background.</p>	
3.	<p>Minute's silence</p> <p>A minute's silence was held in memory of the victims of 9/11.</p>	
4.	Minutes of previous meeting	

	These were agreed as correct.	
5	<p>Current status and future plans of BTI</p> <p>PJ presented the mission and goals of the Institute and these were presented in a paper which was tabled.</p> <p>For the benefit of the international members he informed the Board of the current status and future plans of the Institute.</p> <p>These included:</p> <ul style="list-style-type: none"> • the Institute has a 75,000 sq.ft facility at the Harbour Estate which is currently being costed for fit-out. • A financial review had been carried out and there ^{maybe} is sufficient money to pay creditors, leaving a balance of approx £100,000. • The 1st and 2nd floors of the building were purchased with funding from government and private investors, plus a loan from the Ulster Bank. As part of the agreement with the previous owners it was agreed that the Institute purchase the top floor. • At the end of June 2002 BTI obtained a bank loan (underwritten by InvestNI) and repayable within 90 days, to purchase the top floor. The Ulster Bank has been asked to 	

extend this loan and they are happy to do so until the end of December 2002. The Board formally agreed to sign up to this extension.

- Ernst & Young, Management Consultants, have been appointed to produce a business plan to take BTI forward. This report will include the Institute's future plans, its role within the biotech sector, the cost of fitting out the Harbour Gate building and whether it is the most appropriate location.

Dr Joe Harford told the Board of his past experiences with starting up a company. He stressed that it was important for the Institute to focus on patent rights and said there was considerable expenditure involved in this.

PJ informed the Board that Drs Murphy and Harford would have to be accepted by the McClay Trust to enable a private/public partnership.

PJ concluded by saying that he hoped the Board had portrayed to the international members the seriousness of intent on the part of BTI to provide a world class environment for commercialisation in bioscience and related technologies in N Ireland. He said the critical thing would be to make sure that the Institute had a pathway that made sense, was supported by government and would make a difference. He said that despite the difficulties and hurdles the Institute had come a long way.

6	<p>BioNorthern Ireland</p> <p>● outlined InvestNI's strategy for the biotech industry (to be known as BioNorthern Ireland). He said the strategy was an attempt to develop wealth and jobs by bringing together organisations and bodies that focus on technology transfer and knowledge-based activities. BioNorthern Ireland would have a Board appointed with possible representatives from the two universities, BTI and others with experience to take this plan forward. The idea would be that this Board would identify sector and marketing trends and focus on knowledge transfer. The timing of the launch of BioNI was still undecided and InvestNI were looking for a suitable opportunity to go public. Discussion took place about the visit by Mr Tommy Thompson, US Secretary for Health to the Biolreland Conference in November and it was suggested that this would be a perfect opportunity to announce it. PJ suggested that InvestNI contact Mr Bruce Robinson or Dr Eita Campbell to hasten things. ● said that BTI's mission would fit in with this strategy very nicely and PJ said it was important that this mission be made clear to BioNI.</p>	
7	<p>Any other business</p> <p>RS raised the issue of the overlap of the Biolreland conference and the Telesynergy meeting in November. He reported that he has involvement with both the Telesynergy User Group and Biolreland. JH suggested that RS attend the User Group meeting and delegate</p>	JH

	someone else from QUB to attend Biolreland. JH to inform RS of the exact date when the US Secretary for Health would be attending Biolreland.	
8	Date of next meeting - to be decided	

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**NORTHERN IRELAND BIOSCIENCE AND TECHNOLOGY
INSTITUTE (BTI)**

**Minutes of Board Meeting – Tuesday, 8 October 2002 at 3.30pm
Cancer Centre Library, University Floor, BCH**

Board attendees: Professor Patrick Johnston (PJ) – Chair
Professor Roy Spence (RS)
Mr Dick Milliken

In attendance: Mrs Mary Carmichael (MC)

Invest NI attendee: Mr Ian Murphy (IM)

Other attendee: Mr Barry Gibson (BG)

		Action
1.	Apologies – Dr Peter Passmore.	
2.	Minutes of previous meeting These were agreed as correct.	
3	Progress to date – InvestNI/McClay Trust DM reported that the McClay Trust would like all the institute's "housekeeping" issues resolved and that it was keen that progress be made swiftly. He said that when BTI's future is clearer, there would be continued support from the Trust. He also said that it was important that INI were kept informed of developments and that they were happy with the business plan. IM reported that INI had had several meetings with Ernst & Young to discuss each party's requirements. PJ thanked DM and IM for their input.	
4	CEO's report BG presented his report to the Board which included a list of outstanding invoices for approval. The Board approved the payment of all invoices, except Thomas Armstrong's for £10,036.25 and Miles Ash for £22,126 as there were issues to be resolved regarding these. The query regarding the Miles Ash invoice was whether the work which had been charged for had been completed. PJ said he would ask Ken Geary to look into this and confirm what had been done.	PJ

	The Board authorised BG to write to the bank asking for Teresa Townsley's name to be removed as a cheque signatory.	BG
5	Ernst & Young PJ reported that he and DM had had several useful meetings with E&Y. E&Y had requested that a workshop be held on 16 October to which Prof Spence, Paul Harkin, Jim Johnston and Barry Gibson be invited. E&Y have discussed with INI the process of taking BTI forward. They hope to have the business plan ready by December 2002.	
6	Legal representation PJ said that the company was now moving into a new era and he felt that it was the right time to change its legal representatives. He reported that he had had 3 meetings with Mr Michael Johnston of Carson McDowell, and had discussed the Institute in detail with him. Michael Johnston, who has excellent expertise in corporate law, said that his firm would be happy to represent BTI.	
7	Date of next meeting - to be advised	

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**NORTHERN IRELAND BIOSCIENCE AND TECHNOLOGY
INSTITUTE (BTI)**

**Minutes of Board Meeting – Tuesday, 10 December 2002 at 4.30pm
Cancer Centre Library, University Floor, BCH**

Board attendees: Professor Patrick Johnston (PJ) -- Chair
Professor Roy Spence (RS)

In attendance: Mrs Mary Carmichael (MC)

Invest NI attendee: Mr Ian Murphy (IM)

Other attendee: Mr Barry Gibson (BG)

		Action
1.	Apologies – Mr Dick Milliken	
2.	<p>Minutes of previous meeting Agreed as correct.</p> <p>PJ reported that Dr Peter Passmore (PP) had formally resigned from the Board and members agreed that they were happy for the Chair to reply to PP on their behalf.</p>	PJ
3.	<p>CEO's report</p> <p>BG updated the Board on the Invoices still outstanding</p> <p>He asked the Board's advice regarding an amount of £16k which had been incorrectly paid to BTI by the Customs & Excise. PJ suggested that KPMG deal with this.</p> <p>BG updated the Board on the current financial position of the Company. IM asked BG to clarify the position regarding the Institute's debt.</p> <p>BG was asked to get a copy of Ostick & Williams' final report on the BTI building.</p> <p>BG reported that he had received a letter from the DETI informing him that because of the considerable grant awarded by them to the Institute, the Dept of Finance and Personnel required a formal Post Project Evaluation to be carried out. [redacted] informed members that KPMG had been commissioned to undertake this evaluation but that it</p>	<p>BG</p> <p>BG</p>

	<p>had now been suspended because KPMG had failed to declare that they were the auditors for the Institute.</p> <p>BG asked for Board approval to inform the Inland Revenue that KPMG are acting on behalf of the Institute.</p> <p>BG to formally register the Institute's change of address from Hill St to PJs home address.</p> <p>BG informed the Board that he had requested the Ulster Bank to remove Teresa Townsley's name from their list of BTI directors. He will do the same for PP and suggested that Peter be written to informing him of this</p> <p>● reported that he had been in contact with Henry Elvin of the Ulster Bank regarding an extension of the overdraft facility for another few months. Mr Elvin was happy to do this and BG is to inform Gary Barr (Ulster Bank) of this.</p> <p>BG informed the Board that he had had communication with a Mr Lionel Binns, the Director of International Affairs for Life Sciences at Hewlett Packard whose company provides expertise on software and hardware for the mining of data. BG suggested that he would be a useful person for the Board to meet with and PJ said he would be keen to involve him.</p>	<p>BG</p> <p>BG</p> <p>BG</p> <p>BG</p>
4	<p>Response to letters of expenditure</p> <p>PJ tabled copies of replies to his letter of 1 Nov 02 to past/present Board members regarding the company's expenditure. He proposed asking Michael Johnston for his opinion on the letters and to draft a suitable response. RS seconded this.</p>	
5	<p>New Business Case</p> <p>PJ reported that the Business Case being prepared by Ernst & Young was nearing completion. He was impressed by what he had read so far and complimented the Ernst & Young team on their work. The draft report suggests that the Institute should consist of 5-6 members, to include international membership, and a Scientific Advisory Board. PJ said that the Institute, as modelled in the report, would be a very viable company making a significant profit. IM said that the Business Case would be economically appraised by INI who would also carry out a marketing appraisal. PJ thanked ● and IM for their continued support.</p>	
6	<p>Legal representation</p> <p>PJ formally informed the Board that he had written to Tom Armstrong informing him that he is no longer the legal representative of the Institute. Mr Michael Johnston of Carson McDowell had been</p>	

	<p>requested to act on behalf of the Institute to which he had agreed. At the request of [REDACTED] PJ is to clarify terms with Michael Johnston. A letter of formal engagement is to be sent by BG.</p>	BG
7	<p>BTI Members</p> <p>PJ had requested Michael Johnston to write to Teresa Townsley asking for her formal resignation as a member of BTI.</p> <p>BG sought advice from members on how to complete the Schedule of Directors form, specifically the section referring to allocation of shares. PJ suggested that he contact Michael Johnston for advice. IM said that certain matters needed to be finalised before INI could move forward and that the formal list of Directors and Members was one of these.</p>	
7	<p>Any other business</p> <p>1) BG reported that Bigmar Pharmaceuticals were a potential client for the Institute.</p>	
8	<p>Date of next meeting – to be advised</p> <p>There being no further business the meeting ended at 6.30pm.</p>	

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**NORTHERN IRELAND BIOSCIENCE AND TECHNOLOGY
INSTITUTE (BTI)**

**Minutes of Board Meeting – Wednesday, 12 February 2003
Cancer Centre Library, University Floor, BCH**

Board attendees: Professor Patrick Johnston (PJ) – Chair
Professor Roy Spence (RS)
Mr Dick Milliken

In attendance: Mrs Mary Carmichael (MC)

Invest NI attendee: ██

Other attendee: Mr Barry Gibson (BG)

	Action
1. Apologies None	
2. Minutes of previous meeting Agreed as correct.	
3. CEOs report BG reported that there was a lot of interest in the BTI building and that he had been contacted by United Dairies and a call centre for space within the building. The Board agreed that these 2 requests should be kept open and that BG should write a holding letter to the enquirers!	
3.1 Outstanding Financial Issues BG updated the Board on the outstanding invoices. He reported that he had received an invoice from Denis Rooney Associates, who had been appointed by Mrs Teresa Townsley to manage the potential building at BCH. He said they had done a limited amount of work in the past and had been paid £6.5k on account, but were now claiming a further £10k. He also reported that C2 Architects were seeking to sue PJ and RS for payment of £6k plus VAT for services rendered to BTI. PJ said that he had no recollection of contracting C2 Architects and said that MTF had hired them. MTF had been paid by IDB for this initial development and PJ felt the payment would have covered costs, etc. ██████ said his recollection was that when agreement was reached on the first funding	

	<p>for the launch of BTI??, there were informal discussions with TT when she said that she knew someone who could produce a video which could run in the background at the time of the presentation. He has no recollection of C2 Architects being involved. BG agreed to meet with Michael Johnston to clarify the situation. He will also ask him to furnish an invoice for Carson McDowell's fees to date.</p> <p>The Board agreed that G Manning's costs of £900 for travel to Belfast should be paid</p> <p>DM asked BG to contact KPMG to ask if the accounts are ready for signing off. He also asked for a final figure for expenditure.</p> <p>PJ to ask Ken Geary for an informed opinion on whether Miles Ash given value for money.</p> <p>BG to clarify Ernst & Young's final bill.</p> <p>PJ had had several conversations with Tom Armstrong regarding his outstanding bill. Tom Armstrong had said that the documents in his possession would not be released until the bill was paid. The Board agreed that the bill should be paid.</p> <p>BG confirmed that monies overpaid to the Institute by Customs & Excise would have to be paid back.</p>	<p>BG BG</p> <p>BG</p> <p>PJ</p> <p>BG</p>
<p>4</p>	<p>BTI Submission to INI</p> <p> reported that the lateness of receipt of the report would affect how INI went forward and that a more comprehensive appraisal was required because the wider economic implications had to be looked at. He said that the Government Purchasing Agency (GPA) would issue invitations to 3 different companies to tender for a Green Book Appraisal. GPA will ask for an interim report to be completed by March and INI have given an undertaking that if the issue is not resolved by the end of March they will move to purchase the top floor of the building. said that the timing of the appraisal is proving difficult as a case has to be made to the DFP and the Minister. He said that if an interim report is available by the end of the 2nd week in March then that would enable INI to discuss with the DFP a case that they could go forward with. PJ asked for the best case scenario. replied that a decision had to be taken on whether or not INI honoured the undertaking on the purchase of the top floor or entered into an arrangement where this was extended. This would be dictated by the Green Book appraisal.</p>	
<p>5</p> <p>5.1</p>	<p>Letters</p> <p><u>Tom Armstrong letter</u></p> <p>PJ reported that Michael Johnston had written to INI informing them of the responses from past/present Board members regarding their</p>	

	recollections of agreement to pay £100k to Tom Armstrong. Michael Johnston felt there was nothing illegal in Tom Armstrong's invoice and it would appear that the Board was informed that this payment would be due.	
	<p>5.2) Teresa Townsley letter <i>should be done</i></p> <p>DM said that whatever Michael Johnston feels is necessary to protect the Board Directors should be done. PJ asked whether he, as Chair, should write and inform past Board members of the outcome but the Board agreed this was not necessary. Is this a correct minuting of the above 2 items?</p>	<i>done</i>
6	<p>Any other business</p> <p>█ said that IRTU should be informed of the ceasing of the Genomic Centre of Excellence. He suggested that they be written to informing them that the strategy has been re-thought and we are not in a position to fulfil the conditions as set out. PJ agreed to write to Keith Jagelman. (Paddy – this is not well minuted – can you improve it?)</p>	PJ
8	<p>Date of next meeting – to be advised</p> <p>There being no further business the meeting ended at 6.15pm.</p>	

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paddy
off*

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**NORTHERN IRELAND BIOSCIENCE AND TECHNOLOGY
INSTITUTE (BTI)**

**Minutes of Board Meeting – Thursday, 8 May 2003
Cancer Centre Library, University Floor, BCH**

Board attendees: Professor Patrick Johnston (PJ) – Chair
Professor Roy Spence (RS)
Mr Dick Milliken

In attendance: Mrs Mary Carmichael (MC)

Invest NI attendee: [REDACTED]

Other attendee: Mr Barry Gibson (BG)

		Action
1.	Apologies – None	
2.	Minutes of previous meeting Agreed as correct.	
3.	<p>Matters arising</p> <p><u>3.1 Outstanding financial issues</u></p> <p>The Chair reported that MTF Accountants had tried to enjoin former and current Directors of the Board with Chris Campbell of C2 Architects in a court action for £6.5K. This was in relation to a drawing done in 1998 by C2 Architects at the request of MTF. The Chair informed members that Chris Campbell's lawyers had informed him that Chris Campbell would state in court that there had been no involvement by BTI directors. The Chair will inform Tom Armstrong, Solicitor, of this statement.</p> <p>The Chair reported that he had contacted Mr Ken Geary of Ostick & Williams for his opinion on the amount charged by Miles-Ash in terms of value-for-money. Mr Geary felt that the charge was a fair one for the level of work carried out.</p>	PJ

	<p><u>3.2 Ceasing of Genomic Centre of Excellence</u></p> <p>The Chair reported that he had written to [REDACTED] of InvestNI (formerly IRTU) and informed him that the Genomic Centre of Excellence had ceased trading. He also informed the Board that he was in the process of resigning as Director and had advised Dr Paul Harkin to do likewise.</p>	
4.	<p>CEO's report (Appendix A)</p> <p>Mr Barry Gibson presented his report to the Board which set out the Company's overdraft position, including interest. The total amount owed to the bank at 6 May 2003 is £3.2M approximately. The report also included a list of outstanding invoices and estimates for ongoing work which represented a total of £492,129.</p> <p>Mr Barry Gibson reported that he had met with KPMG staff regarding the company's 2002/03 accounts and that the documentation requested by KPMG was now with them.</p> <p>In response to Professor Spence's query about any potential further bills, Mr Barry Gibson replied that the only outstanding one that he was aware of was a final one from Ernst & Young for production of the BTI business case.</p> <p>[REDACTED] agreed to inform the CEO of BTIs share of an amount paid for use of a stand at the BIO conference in Toronto. The CEO would then invoice InvestNI (Mr Ian Murphy) for this amount.</p> <p>Mr Dick Milliken said that KPMG had been asked to provide a roll forward of the financial position of the institute prior to the potential sale of Harbourgate. This should incorporate any potential tax liabilities that would arise. KPMG should confirm in writing the extent of the liabilities.</p>	MM'
5.	<p>Dr Allen McClay – Gift/Tax reclaim</p> <p>The Chair referred to a letter received from Mr Maurice McCloy of KPMG in relation to issues which had arisen in connection with a loan of money received from Dr McClay.</p> <p>Mr McCloy had stated in his letter that there appeared to be a degree of confusion on the part of the Directors about whether this money had been a loan or a gift from Dr McClay. Originally the loan had been treated as a gift and therefore the Institute had reclaimed tax on that presumption. Mr McCloy had met with Mr Barry Gibson and Mr Dick Milliken and,</p>	

	<p>after discussion, had ascertained that the money was, in fact, a loan and therefore no tax should have been reclaimed. Mr McCloy felt that the best course of action would be for KPMG to meet with the Inland Revenue in Bootle and explain what had happened. He felt that the Institute should offer to repay the tax as soon as practicable, together with interest from the date on which the tax repayment had been received. Mr McCloy stated that the Inland Revenue would be entitled to seek a financial penalty, in addition to the interest, which could be 100% of the tax repaid, ie £338,000. If this happened, it would be a substantial burden on the company.</p> <p>The Chair said that the Board accepted that there had been a misunderstanding regarding the money received from Dr McClay and the Board now accepted that this money had been by way of a loan and not a gift.</p> <p>The Chair will write to Mr Maurice McCloy asking him, on behalf of the Board, to deal directly with the Inland Revenue regarding the matter of the tax repayment. Mr Barry Gibson undertook to telephone Mr McCloy informing him of the Board's decision.</p>	<p>PJ BG</p>
<p>6.</p>	<p>INI Business Case – Update</p> <p>██████████ said there were still no developments and that until such time as the report from Deloitte & Touche was received, INI were not in a position to go forward. The Chair suggested that a BTI Board meeting be scheduled at which the sale of the BTI building could be discussed. This meeting could then act as a focus for a decision to be made by INI. The Chair proposed that a meeting be scheduled for Monday, 9 June at 4.00pm to discuss the sale of the building. This was agreed.</p>	
<p>7.</p>	<p>Reply to INI Re. Purchase of Harbourside</p> <p>The Chair referred to a letter from InvestNI (Mr Ian Murphy) in which Mr Murphy referred to an outstanding issue regarding the use of public funds by BTI specifically an amount of £100k which had been paid to Mr Tom Armstrong, Solicitor. The Chair told members that he had discussed this issue with Mr Michael Johnston, Solicitor, who felt that there was nothing illegal in the invoice issued by Mr Armstrong. Mr Dick Milliken felt that it should be placed on record that the payment to Mr Armstrong had not been fully discussed at the relevant Board meeting and that those Directors involved at the time were not satisfied. The Chair suggested that Michael Johnston of Carson McDowell, Solicitors, draft a</p>	<p>PJ to write letter to INI (Ian Murphy) (starting from 1 Apr) re invoice</p>

	letter to the effect that the BTI directors felt that the payment of £100k to Mr Armstrong was high and that even though this amount had been agreed, minuted and signed off on at a Board meeting, they were not fully informed what service was being provided for this amount of money.. Mr Dick Milliken and Professor Johnston agreed to meet with Michael Johnston to discuss this draft letter.	DM/PJ
8.	Any other Business -- None	
9.	Date of next meeting -- Monday 9 June at 4.00pm There being no further business the meeting concluded at 5.45pm	

DRAFT

**NORTHERN IRELAND BIOSCIENCE AND TECHNOLOGY
INSTITUTE (BTI)**

**Minutes of Board Meeting -- Tuesday, 26 August 2003
Cancer Centre Library, University Floor, BCH**

Board attendees: Professor Patrick Johnston (PJ) -- Chair
Professor Roy Spence (RS)
Mr Dick Milliken (DM)

In attendance: Mrs Mary Carmichael (MC)

Invest NI attendee: Mr [REDACTED]

Other attendees: Mr Barry Gibson (BG)
Mr Michael Johnston, Carson McDowell, Solicitors (MJ)

		Action
1.	<p>Minutes of previous meeting</p> <p>Agreed as correct.</p>	
2.	<p>Matters arising</p> <p><u>Harbourgate facility</u> DM reported that he had been advised by Mr Billy McCombe of DTZ McCombe, Property Advisers, that a government department had contacted him regarding the potential renting of space within the Harbourgate building at a rental of £10 per sq ft, ie £600K p.a. There was a slight problem in that planning permission of the premises allowed for use only as a Call Centre or office/laboratory use. Mr McCombe had contacted the Planning Department to ask if amendments could be made to the planning permission to enable the Government Dept to sign up. If these amendments were allowed it would mean greater scope for the letting of the building. DM said that the income generated from rentals would clear the outstanding bank balance.</p> <p>The Board agreed the deadline of 30 September 2003 to sell the top floor of the building. Mr Billy McCombe undertook to talk to Rosemary Carson of Carson McDowell, Solicitors, regarding the drawing up of the lease.</p>	

3.	<p>CEOs Report</p> <p><u>BTI Accounts</u> BG reported that in the absence of Board members he had signed off on the Institute's accounts and these were now lodged with the Inland Revenue. The Board requested final copies of the accounts and confirmation that they had been submitted to the Companies Register. The Board did not agree to BG's request to extend the Institute's accounting period. BG will instruct KPMG to go ahead with this year's accounts.</p> <p><u>Building Insurance</u> BG reported that the BTI building had been re-insured at a greatly increased premium (£15.6K) from last year due to it being unoccupied. The premium included cover for Buildings, Fixtures and Fittings and Owner's Liability. The Board agreed that cover of the Fixtures and Fittings element be removed to reduce the premium.</p> <p><u>BTI equipment</u> BG reported that Fusion Antibodies had approached him regarding the purchase/rental of a DNA sequencer, which they have had the use of for a lengthy period of time without charge, and also a colony picking machine. The sequencer was bought by the Institute for £100k. [REDACTED] said that it should be determined if the machine had been bought with grant-aided funds from the European Development Fund (EDF) because if assets were not being used as intended, then the grant would have to be repaid. If they were bought from the £2.2M from INI, then this would not be an issue.</p> <p>PJ requested that BG check out the rental cost and second-hand value of a similar sequencer machine.</p> <p>DM suggested that the two machines be held until the sale of the building and then establish a commercial rent from Fusion Antibodies. The Board agreed that a rental agreement should be drawn up in regard to the DNA sequencing machine. The biorobotics machine (colony picker) should be moved from the premises of Fusion Antibodies to a secure home. The Board agreed that an equipment register with the exact location of each asset should be drawn up.</p>	<p>BG</p> <p>BG</p> <p>BG</p> <p>BG</p> <p>BG</p> <p>BG</p>
4.	<p>Any other business</p> <p><u>Admission of new members/Appointment of Directors/Amendment of Articles of Association</u></p> <p>A separate Minute by MJ on the above items is attached.</p>	

5.	Date of next meeting Extraordinary General Meeting -- Tuesday, 30 September at 3.30pm BTI Board meeting -- Tuesday, 30 September following EGM.	
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Tab B

22nd May, Netherleigh, Meeting with Bio-science & Technology Institute

Attending: Teresa Townsley, Barry Gibson MTF, [REDACTED] IDB, David Duncan IRTU, [REDACTED], [REDACTED], [REDACTED] and [REDACTED] DETI

The meeting began with Teresa Townsley presenting a copy of a Bioscience & Technology Institute Update May 2001 to those present: (filed on PR1122 Vol.3). Teresa went on using the report as a basis to give an update on the work being carried out by some of the projects involved in the Programme. She gave an in-depth account of the successes already achieved by the project (Fusion Antibodies, Zoo Media, Health Technologies Inc., Geonomic Mining etc.) Teresa informed those present that interest in Biotech had been high on both sides of the Atlantic and that this had increased following Roy Spence and Patrick Johnston embarking on lecture tours. Teresa stressed the need to press ahead as the competition was quite stiff from Scotland and Canada and explained that PR events backed by IDB would help secure more interest. Teresa explained that the project wished to secure US links at Bio 2001 which is recognised as the world's premier platform for Biotechnology.

Teresa also mentioned the success of Core Tech and the possibility of buying Premier equipment to help the project develop their companies. They have secured a further £350,000.00 in funding from the Health Service and Alan McClay of Galen to assist them in Core Tech's development. Teresa stated that Bio-tech now had enough companies to fill their building and would have to find temporary accommodation to house them until the new building was complete. The former Mackie's plant in west Belfast was put forward as a possible location for this temporary accommodation.

Teresa stated that the site offered to the project by Belfast City Hospital had some problems and that they had asked BCH for another site but each alternative also had some restrictions.

[REDACTED] stated that IDB and Bruce Robinson were both aware of this and that Mr Robinson had put forward the idea of an off site building. The Bioscience team had investigated this option but found that site costs were very high. Teresa said that BCH had not been very keen on the idea of an off site building but overall felt that it was more important that the project went ahead.

David Duncan congratulated Teresa and Barry on their success so far but asked them would they be in a position to spend the P&R monies within the desired period of time.

██████████ outlined the position of European Programmes and the time constraints that European Programmes were working under. She stressed that it was imperative that the expenditure was incurred before the end of the year.

Teresa stated that they had encountered problems working with the Health Service and had had problems securing a suitable site.

██████████ stated that he had been aware of the site problems.

Teresa discussed the possibility of a fast track option were the builders could be paid in advance for their work and therefore the P&R monies could be utilised. The second option she put forward was the possibility of changing the Letter of Offer and spending the majority of the money on equipment for the project.

██████████, ██████████ and David Duncan all said this was not an option.

Teresa Townsley suggested that an addendum to the Letter of Offer had been required to cover the area of expenditure in Peace 1. Teresa asked if the addendum could be re-worked to allow the purchasing of equipment.

David Duncan informed Teresa that P&R monies could not be paid to park in a bank account and that the expenditure would have had to be incurred. He did mention that equipment could be bought and stored.

Teresa said that they hoped to buy the equipment as it would be put into use almost immediately she also wished to release the projects IDB funds as this would mean the bank would release further funds to the project.

██████████ re-stated the fact that Bruce Robinson was very keen for progress to be made on this project and that the release of the IDB funding should not be a problem.

██████████ asked if the proposals put forward by Teresa would effect the project appraisal. David Duncan confirmed that this was not the case.

Teresa again asked would it not be possible just to change the LOO so that they could buy extra top class equipment.

David Duncan reminded her that money could only be paid on expenditure incurred and that the grant would have to be forfeited if it could not be incurred within the deadline.

Teresa restated that she knew the problems but she felt it would still be possible to get the building up before the end of the year. David Duncan agreed that today's building contractors probably could get the building up if planning permission was obtained.

██████████ stated that she felt it was unlikely in her opinion that the building would be completed before the end of the year and she was reluctant to change the LOO. ██████████ reaffirmed her belief that the project was good and that it would reflect well on the Peace 1 Programme but stated her disappointment that it had been so slow in taking off.

Teresa said that as an accountant she understood the problems associated with changing the LOO but that the project did not wish to lose their P&R funding.

David Duncan asked where the planning permission request stood
Teresa stated that outline permission had been granted and it was her belief that full permission would be obtained within 3 months although she believed building could start beforehand.

David Duncan suggested the proposals could be carried on with help from IDB Land & Building Branch.

██████████ stated that European Programmes would need to know how the programme was going to progress, as a meeting with the commission would take place early in June.

Teresa said she believed that it would all be sorted out by the end of May

Barry again thanked the different agencies for their help and re-stated that many jobs in R&D should follow as a result of the development of the project.

██████████ restated that everyone was keen for the project to succeed but there was no flexibility in regard to the P&R monies.

Teresa stated that at the beginning of the Programme she hadn't realised the complexities involved and that the sequence she had envisaged of building, equipment and projects had been completely reversed. She again appealed for the LOO to be changed and stated it was the project that had been chosen and not specifically the building of the facility.

██████████ stated that she would have to look carefully at the two options before decided on the way forward she stressed that these problems had placed European Programmes in a very difficult position.

David Duncan suggested that the project should press forward in getting a clear position on the possibility of the building beginning straight away ██████████ was to assist the project in this through IDB's property side and a response was to be forwarded to ██████████ as soon as possible. A decision on the way forward would then be taken as a result of these figures and predictions.

Teresa stated that the project board was to meet next week and that they would have a response within the fortnight.

ACTION:

Teresa Townsley to provide ██████████ with an update on the building work including an accurate profile of costs which would be incurred by 31 December 2001. These figures would be cleared by IDB Property Division and with European Programmes by end of May 2001.

██████████

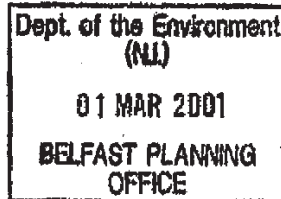
Tab B

BELFAST LONDON
 41-43 Hill Street Belfast BT1 2PB
 Telephone 028 9024 5567 Fax 028 9023 3363
 e-mail postmaster@toddarch.co.uk



The Planning Service
 Divisional Planning Officer
 Bedford House
 16-22 Bedford Street
 BELFAST
 BT2 7FD

BY HAND



27th February 2001

PRM/cd/0102/A341

Dear Sirs

BIOSCIENCE & TECHNOLOGY INSTITUTE BELFAST CITY HOSPITAL

We wish on behalf of our client, Bioscienca and Technology Institute Limited, to apply for outline planning permission for the above development.

In support of the submission we enclose the following documentation:

- 1.0 7 copies of form P1
- 2.0 7 copies of location map, drawing no 0102 D/L 01
- 3.0 1 copy of form P2
- 4.0 1 copy of form NN1
- 5.0 Cheque for fee in the sum of £304.00

If you require any further information or clarification please do not hesitate to contact the undersigned.

Yours faithfully


 Peter Minihis BSc DipArch RIBA
 for TODD ARCHITECTS

Enc

cc Ms T Townsley Bioscience and Technology } 1 copy of enc.
 Mr D Rooney / Mr H Hawthorne Denis Rooney Associates }

Bonnie Todd BSc RIBA FRIBA
 Tim O'Leary BSc DipArch RIBA A&APM MAPS
 Paul Murphy Grad DipArch(Dial) DipArch RIBA
 Patricia Todd BA(Hons) Interior Design

Bonnie Todd Architects Limited
 Registered in Northern Ireland Number 21213

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 Page 1

FILE COPY



Date: 29th March 2001
Your Ref:
Our Ref: Z/2001/0560/O
(Please quote at all times)

Divisional Planning Office

Mr Peter Minnis
Todd Architects
41/43 Hill Street
Belfast
BT1 2PB

Bedford House
16-22 Bedford Street
Belfast
BT2 7FD
Tel. (028) 9025 2800
Fax (028) 9025 2828

Please contact: [REDACTED]
Direct Line: 028 9025 2857

Dear Sir

Location: Belfast City Hospital, Lisburn Road, Belfast, BT9 7AB

Proposal: Office / Laboratory space & support accommodation for technology companies in the area of Biotechnology & related technologies

I refer to the above application, which the Department received on 1st March 2001.

Further to discussion at the last Development Control Group Meeting, the Department requires additional information in order to make a determination on this application. The following is requested:

- Seven copies of elevation sketches/drawings showing the proposed building in context of the surrounding area;
- Seven copies of a site plan showing a footprint of the proposal.

Please submit this information before the week ending Friday 6th April 2001 in order for this application to be discussed again. Further additional information may subsequently be required but you will be notified about this as soon as possible.

Please return this letter with your reply.

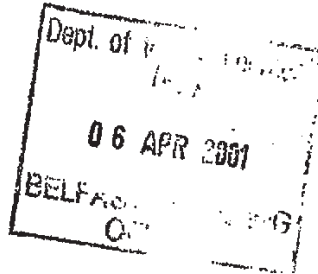
Yours faithfully

for Divisional Planning Manager

BELFAST LONDON
41-43 Hill Street Belfast BT1 2PB
Telephone 028 9024 5587 Fax 028 9023 3363
e-mail postmaster@toddarch.co.uk



[REDACTED]
The Planning Service
Divisional Planning Office
Bedford House
16-22 Bedford Street
BELFAST
BT2 7FD



BY HAND

5 April 2001

PRM/mm/0102/A34

Dear **[REDACTED]**

BIOSCIENCE & TECHNOLOGY INSTITUTE BELFAST CITY HOSPITAL
YOUR REF Z/2001/0560/0

I refer to your letter of 30 March 2001 regarding our outline planning application in respect of the above development.

I would confirm that having regard to the level of information requested our client is considering withdrawing this application and making a full application.

I would anticipate being able to advise you further by Friday 13 April.

Yours sincerely



Peter Minnis BSc DipArch RIBA
for TODD ARCHITECTS

cc Mr H Hawthorne Denis Rooney Associates

Berrie Todd BSc RIBA FRM
Tim Geary BSc DipArch RIBA MAPM MAPS
Paul Murphy Grad DipArch(Dist) DipArch RIBA
Peter Minnis BSc DipArch(Dist) RIBA
Paul Crowe BA(Hons) DipArch(Dist) RIBA

Berrie Todd Architects Limited
Registered in Northern Ireland Number 21213



Date: 15th May 2001
Your Ref:
Our Ref: Z/2001/0560/O
(Please quote at all times)

Divisional P

Bedford House
16-22 Bedford St
Belfast
BT2 7FD
Tel. (028) 9025 2
Fax (028) 9025 2

Todd Architects:
41/43 Hill Street
Belfast
BT1 2PB

T. A. P.	
RECEIVED	
17 MAY 2001	
DIRECTOR	PRM
ACTION/COPY	EL
FILE	0102 A304
CHECKED	SA
POST MARK	15.05.01

Please contact: [REDACTED]
Direct Line: 028 902:

Dear Sir

Location: Belfast City Hospital, Lisburn Road, Belfast, BT9 7AB

Proposal: Office / Laboratory space & support accommodation for techno in the area of Biotechnology & related technologies

I refer to the above planning application, which the Department received on 1st Mar

Further to your last letter dated 5th April 2001, it was suggested that your client is cc withdrawing this application. In order to withdraw this application, a letter of withd A withdrawal letter should be submitted within 14 days of receipt of this letter.

On the otherhand, if you would like to proceed with this application, the Departmen information previously requested. Please submit the following additional informati

- 7 No. copies of elevation sketches/drawings showing the proposed building in c surrounding area
- 7 No. copies of a site plan showing a footprint of the proposal.

BELFAST LONDON
41-43 Hill Street Belfast BT1 2PB
Telephone 028 9024 5587 Fax 028 9023 3383
e-mail postmaster@toddarch.co.uk



██████████
The Planning Service
Divisional Planning Office
Bedford House
16-22 Bedford Street
BELFAST
BT2 7FD

1st June 2001

EL/ism/0102/A34

Dear ██████████

RE: YOUR REF Z/2001/0560/0
LOCATION: BELFAST CITY HOSPITAL, LISBURN ROAD, BELFA:
PROPOSAL: OFFICE/LABORATORY SPACE AND SUPPORT ACI
TECHNOLOGY COMPANIES IN THE AREA OF BIOTECHNOLOGY
TECHNOLOGIES

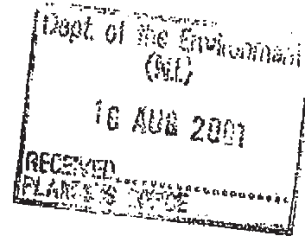
Further to your letter of 15th May 2001 and our subsequent telephone
May 2001, we confirm that we wish to proceed with the above mentio
enclose 7 copies of the drawings as requested in your letter, submitti
drawings pursuant to the current outline planning submission.

Yours faithfully

BELFAST LONDON
41-43 Hill Street Belfast BT1 2PB
Telephone 028 9024 6687 Fax 028 9023 3363
e-mail postmaster@toddarqh.co.uk



The Planning Service
Divisional Planning Office
Bedford House
16-22 Bedford Street
BELFAST
BT2 7FD



Admin
Please action and advise
DCO. Dept 18/8/01

14 August 2001

PRM/mmV0102/A341

Dear Sirs

BIOSCIENCE & TECHNOLOGY INSTITUTE BELFAST CITY HOSPITAL
YOUR REF Z/2001/0560/0

We refer to our outline planning application for the above development, and would confirm that we wish to withdraw the application.

We would also advise you that it is now our client's intention to submit a full application in the near future.

Yours faithfully


Peter Minnis BSc DipArch RIBA
for TODD ARCHITECTS

cc Mr B Gibson / Mrs T Townsley
Mr H Martin

Bioscience & Technology Institute
The Queen's University of Belfast

Barrie Todd BSc RIBA FRIBA
Tim Goary BSc DipArch RIBA MAPM MAPS
Paul Murphy Grad DipArch(Dist) DipArch RIBA
Peter Minnis BSc DipArch(Dist) RIBA
Paul Crowe BA(Hons) DipArch(Dist) RIBA

Barrie Todd Architects Limited
Registered in Northern Ireland Number 21213

Tab B

Our ref BIOSCIENCE/McKENNA.DOC

21st June 2001

Ms [REDACTED]
Special Support Programme for Peace & Reconciliation
Department of Enterprise Trade and Investment
Massey Avenue
BELFAST BT4 2JP

Dear [REDACTED]

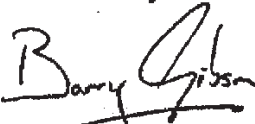
Please find attached the report as discussed at our meeting of Tuesday 22nd May 2001.

Apologies for the delay but as indicated in Teresa Townsley's email to [REDACTED] on Tuesday 19th June 2001, this was due to unforeseen circumstances.

We would seek and value your support in the Letter of Offer amendment. The purchase of the equipment is a key lynchpin in ensuring the success of the spin out companies and in harnessing the momentum which the Institute has already generated.

Kind regards,

Yours sincerely


BARRY GIBSON

Enc



NORTHERN IRELAND
**BIOSCIENCE +
TECHNOLOGY
INSTITUTE**

T : +44 (0)28 9031 1770
F : +44 (0)28 9031 1880
E : info@biotech-Inst.com
W : www.biotech-Inst.com

46 Hill Street
BELFAST BT7 2LB
Northern Ireland

The Northern Ireland
Bioscience and Technology Institute
is a company limited by guarantee
No: NI 33154

PEACE & RECONCILIATION UPDATE REPORT

Background

At the meeting on 22nd May 2001 with the Government funders a detailed progress report was provided.

An action emanating from this meeting was to provide a profile of spend to 31st December 2001.

There has been a delay in preparing this due to external factors outside our control. This was detailed in an email to [REDACTED] on 19th June 2001.

Equipment Rationale

It was discussed at the meeting the need to accelerate the equipment spend as this is urgently required by the spin out companies.

This has been specified on quotation at £500,000 to include design, delivery and installation.

This equipment order will be placed by 30th June 2001 subject to Government funder approval.

Accommodation has been acquired to temporarily house the spin outs and inward investment companies. This was achieved through the co-operation of stakeholders of the Institute particularly Queens University Belfast and Royal Victoria Hospital.

Some modification of the temporary accommodation is required to facilitate the equipment.

Building Schedule

This is progressing well and attached at Appendix 1 is a report from the design team and schedule of main building spend up to 31st December 2001.

Funding

The immediate needs up to 31st December 2001 in funding are summarised below.

	£
Equipment required	500,000
Building Adaptions for Temporary Incubator	50,000
Building Work Scheduling Up to 31 st December 2001	1,110,000
Pre-order Spend on Building	390,000

	2,050,000
	=====

The Institute has secured some £200,000 of private sector funding to assist the accelerated equipment spend.

The revised spend profile is attached at Appendix 2.

The reconciliation of the figure above and that on page 3 of £2,441,000 is explained by sums already claimed, working capital to December 2001 and a number of items in the forecast for which spend can be accelerated prior to December 2001.

Letter of Offer

If this profile is acceptable to Peace & Reconciliation we would ask that the Peace and Reconciliation Letter of Offer Annex 1A be revised.

We might suggest the following:

Institute Costs Summary	2001
Set up Costs	£ 70,000
Site works and building works to include temporary incubator	£1,871,000
Equipment	£ 500,000
Overall Total	£2,441,000 =====

Measurement against Objectives

For your information the following has been achieved to date.

Objective Per Letter of Offer	Progress
<ul style="list-style-type: none"> • Provide a bioscience and technology environment including specialist equipment and laboratories. 	Underway in temporary accommodation, awaiting building.
<ul style="list-style-type: none"> • Provide environment for young scientists to work. 	Underway.

- **Facilitate start-up and growth of biotech and technology based business.** **Company starts underway and inward investments progression.**

- **Provide access to young disadvantaged persons to participate in biotech & technology development.** **2 Spin outs started first job in place. Programme underway of marketing and promotion to encourage participation.**

APPENDIX I

DRA BELFAST

+02890666117

06/06 '01 15:57 :03/06

BIOSCIENCE AND TECHNOLOGY INSTITUTE

AT

BELFAST CITY HOSPITAL

CASHFLOW PREDICTION REPORT

h:PM/0-902/Admin/Reports/0-902of

DRA BELFAST

+02890666117

06/06 '01 15:57 :04/06

BIOSCIENCE AND TECHNOLOGY INSTITUTE

AT

BELFAST CITY HOSPITAL

CASHFLOW PREDICTION

1.00 Introduction

1.01 The Cashflow Prediction has been prepared using Masterbuild Cashflow Software adjusted for fast track early start and using the following parameters.

- **Construction Contract Sum: £4,000,000**
- **Main Works Commencement: 3rd September 2001**
- **Construction Period: 15 Months**
- **Retention: 3%**
- **Retention Period: 12 Months**

1.02 We have assumed that the Employer shall sign off the design development drawings and specification by week ending 8th June 2001.

1.03 We have assumed that there shall be no delays in obtaining Planning Approval.

1.04 We have assumed that the enablement works to divert services and clear the site can be executed during July and August to an agreed programme with BCH.

1.05 We have assumed a fast track bespoke procurement procedure implementing a shortened two stage tender process involving two main contractors. Proposed contractors are H & J Martin, Farrans Construction and Gilbert Ash. If possible to incorporate the enablement works referred to at 1.04 within the main contract for expediency and continuity

DRA BELFAST

☎ +02890666117

06/06 '01 15:57 ☐ :05/06

2.00

• Enablement works design/tender fees	July 2001	10,000
• Enablement Works (1.04)	September 2001	125,000
• Main Works design/tender fees	July 2001	215,000
• Main Construction works (1.05) up to 21 st December invoiced in December (i.e. normally paid in January 2002)	December 2001	720,000
• Statutory Fees		10,000
• Post contract design team fees, August to December 2001		30,000
• Gross potential spend by 21 st December 2001		1,110,000

3.00 Pre-Order Works

3.01 The value of plant and equipment that could be pre-ordered prior to 21st December 2001 are:-

• Lifts	£40,000.00
• General Mechanical and Electrical Plant and Equipment	£350,000.00
	<hr/>
Total Value	£390,000.00
	<hr/>

4.00 Commentary

4.01 The accuracy of any cash flow prediction is difficult to assess. A cash flow forecast based on an actual construction programme would be preferred. This is not possible at this time.

Key factors affecting accuracy

- Meeting parameters outlined in this report.
- Meeting programme outlined in this report.
- Actual construction programme and cost profile matching this computerised profile.
- External factors such as weather, market supply/demand etc remaining constant.
- Impact of July holidays

APPENDIX II

	set up costs	site works	substructur	superstructure	Equipment	total
budget per						
annex loo	70000.00	95000.00	164000.00	2112000.00		2441000.00
				amend to	amend to	600000.00
				1612000.00	500000.00	
Revised figures	70000.00	95000.00	164000.00	1612000.00	500000.00	2441000.00
claims actual						
31.3.01	71407.00	10304.00				81711.00
30.4.01		18120.00	17705.40			35825.40
claim forecast						
30.6.01					150000.00	150000.00
31.7.01					350000	350000.00
31.8.01		30000				30000.00
31.12.01		35169	146294.6	1612000		1793463.60
Total	71407.00	93593.00	164000.00	1612000.00	500000.00	2441000.00
Balance	-1407.00	1407.00	0.00	0.00	0.00	
Maximum Grant 49.16%						1200000

Correspondence of 20 February 2012 from Mr David Sterling

FROM THE PERMANENT SECRETARY
David Sterling



Department of
**Enterprise, Trade
and Investment**
www.detini.gov.uk

PROTECT - STAFF
Mr Paul Maskey MLA
Chairperson
Public Accounts Committee
Room 371
Parliament Buildings
BELFAST
BT4 3XX

Netherleigh
Massey Avenue
BELFAST BT4 2JP
Telephone: (028) 9052 9441
Facsimile: (028) 9052 9545
Email: david.sterling@detini.gov.uk
janice.hill@detini.gov.uk

Our ref: PS DETI 029/12
Your ref:

20 February 2012

Dear Mr Maskey

BIOSCIENCE AND TECHNOLOGY INSTITUTE

I am writing further to my letter of 10th February, to provide information in response to points 2, 12, 21, 22, 23, 24 and 25 of your letter of 27th January. I apologise for failing to meet your original deadline. I trust you will recognise that we have had to pull together a considerable amount of material and seek clearances from a number of external organisations and individuals.

Point 2

- 2) *a copy of the minute of the meeting between officials from the company inspectors (PwC) and the PSNI in April 2010 which details discussions regarding the finder's fee for the Harbourgate premises;*

Confirmation is currently being sought from the PSNI that they have no objection to the information being released. A reminder has been issued and a response will be provided when a reply is received.

Point 12

- 12) *the length of the lease including the actual and forecast expenditure that will be incurred by DFP following the letting of the Harbourgate site to its central procurement division.*

DFP leased the Harbourgate building on 23 October 2006. The building was renamed Clare House by its owner during the period it was being fitted out for DFP's lease. Clare House provides accommodation for DFP and the Strategic Investment Board (SIB), an OFMDFM sponsored body. SIB pays 10% of all costs for their occupancy of the building to DFP. The lease for the building runs from 23 October 2006 to 22 October 2021. Actual expenditure by DFP from 23 October 2006 to 31 March 2012 has been calculated at £14.727m; this figure includes initial fit out costs of £7.39m. Forecast expenditure by DFP to the end of the lease period is projected to be £12.769m. The annual costs include rent £725k; rates £365k and other running costs (including maintenance) is £392k. No additional significant capital expenditure is anticipated during the period of the lease.

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Point 21

- 21) *detail of the information exchanged between the Department and the Police Service for Northern Ireland (PSNI) and the seniority of the officers and officials involved in dealing with the case;*

This information will be provided to the Committee subject to the PSNI's response, as per item 2 above.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Point 25

- 25) *a summary of all officials within the Department and IDB who were involved with the monitoring, decision making and oversight arrangements for BTI, detailing their respective responsibilities and reporting channels*

The following information has been provided in relation to senior civil servants in DETI and IDB (later Invest NI) who were involved with the project from 1999 until August 2005, when Invest NI was released from the contract to purchase the top floor of the Harbourgate Building. The Committee may also wish to note that David Duncan (Grade 5) was also involved in the project up to 31 March 2002 from an IRTU perspective.

DETI

Name	Position	Reporting Channel
Gerry Loughran	Permanent Secretary (to November 2000)	Head of Civil Service
Perry McDonnell	Principal Establishment and Finance Officer (to April 2001)	Gerry Loughran
Wilfie Hamilton	Grade 5, Finance and European Division (to April 2001)	Perry McDonnell
	Principal Establishment and Finance Officer (from April 2001 to August 2003)	Bruce Robinson

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Bruce Robinson	Permanent Secretary (from November 2000)	Head of Civil Service
Noel Lavery	Grade 5, Finance and European Division (from December 2001 to August 2003) Principal Establishment and Finance Officer (from August 2003)	Wilfie Hamilton Bruce Robinson

IDB (Invest NI from April 2002)

Name	Position	Reporting Channel
Bruce Robinson	Chief Executive (to November 2000)	IDB Board
Leslie Ross	Deputy Chief Executive (to November 2000) Acting Chief Executive (from November 2000 to March 2002) Managing Director, Business International (from April 2002)	Bruce Robinson IDB Board Leslie Morrison
Derek Lynn	Executive Director (Grade 5) Transferred to DFP in February 2003	Leslie Ross
Leslie Morrison	Chief Executive, Invest NI (from April 2002)	Invest NI Board
Ian Murphy	Director, International Health Technologies and Consumer Products; Director, Creative and Design Industries; and Director, International Information, Communication and	Leslie Ross

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	Technology Division (Invest NI) (from April 2002)	
Maynard Mawhinney	Director, Food and Bioscience Division (Appointed Senior Civil Servant equivalent in August 2003, had been involved in project prior to this date)	Terri Scott

I trust this information is helpful, please advise if you require anything further.

Yours sincerely



DAVID STERLING

[Extract]

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Annex A

Terms of reference

The appointed person (the Reviewer) is to review the Report of the Company Inspectors into the affairs of the Bioscience and Technology Institute Limited (the Report). The purpose of this review is to determine whether or not the Report establishes a clear case for disciplinary action to be pursued in relation to any currently serving Northern Ireland Civil Servants or Invest Northern Ireland employees.

The Reviewer shall differentiate between actions (or inactions) which indicate poor performance, and those which indicate an inappropriate or unacceptable level of conduct. For currently serving Northern Ireland Civil Servants such a determination will be in the context of, and have regard to, the following NICS terms and conditions as set out in the NICS HR Handbook:

1. general principles of conduct (Annex 1); and
2. general principles of discipline and conduct offences which may incur disciplinary charges (Annex 2).

For currently serving Invest NI staff such a determination will be in the context of, and have regard to, the equivalent applicable Invest NI guidance.

The Reviewer will make his/her determination primarily on the basis of the information and evidence contained in the Report, but will also have access to any accompanying evidence or information, including full interview manuscripts and tape recordings of all interviews (all NICS and Invest NI staff involved in this case were interviewed on one or more occasion by the Company Inspectors in the completion of their report). The Reviewer will also have access to the authors of the Report.

On completion of the review of evidence, the Reviewer will produce separate written reports to the Permanent Secretary in the Department and to the Chief Executive of Invest NI, providing separate recommendations with regard to their respective staff as appropriate, which will address the following:

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1. is there is sufficient clear evidence to support the bringing of disciplinary charges against individuals;
2. if yes, then the nature and extent of such charges; and
3. the evidence which supports the bringing of such charges.

The Reviewer will receive all necessary support from Departmental and Invest NI officials.

The Reviewer will provide regular reviews on the progress of the assignment. It is expected that the investigation will be concluded and the reports delivered to the Department and Invest NI by Friday 8 October 2010.

David Sterling
Permanent Secretary
Department of Enterprise, Trade and Investment

Alastair Hamilton
Chief Executive
Invest Northern Ireland
August 2010

Terms of Reference Annex

1

Northern Ireland Civil Service
HR Policy
Version 4.0 5

6.01 Standards of Conduct

1 Introduction

This section provides guidance on the conduct of Civil Servants. The general principles and rules of conduct covering all staff in the Northern Ireland Civil Service (NICS), from appointment onwards, are set out below.

2 Principles

2.1 The NICS carries out many and varied functions, each of which may require special standards of its own. The precise application of general principles of conduct will vary with the circumstances of different Departments and may call for special rules for particular staff. Such rules are drawn up normally after consultation with the Trade Union Side of the Central Whitley Council and representatives of the industrial Trades Unions.

The following general principles apply to all members of the NICS:

- a. You need to be, and be seen to be, honest and impartial in the exercise of your duties. You must not allow your judgement or integrity to be compromised or appear to be compromised;
- b. you must not misuse information which you acquire in the course of your official duties, or disclose information which is held in confidence within Government or received in confidence from others;
- c. though management is not in general concerned with your private activities, these must not be such as might bring discredit on the Service; for example heavy gambling and speculation are to be avoided, particularly in departments which have access to information which could be transmitted for gain;
- d. you must not make any public statements, which may or may not involve the disclosure of official information, or draw upon experience gained in your official capacity, without the prior approval of your Establishment/Personnel Officer;
- e. you must not seek to frustrate the policies, decisions or actions of Government by declining to take action which flows from ministerial decisions, or by unauthorised, improper or premature disclosure outside

Correspondence of 5 March 2012

Mr David Sterling

FROM THE PERMANENT SECRETARY
David Sterling



Mr Paul Maskey MLA
Chairperson
Public Accounts Committee
Room 371
Parliament Buildings
BELFAST
BT4 3XX

Netherleigh
Massey Avenue
BELFAST BT4 2JP
Telephone: (028) 9052 9441
Facsimile: (028) 9052 9545
Email: david.sterling@detini.gov.uk
janice.hill@detini.gov.uk

Our ref: PS DET1 046/12
Your ref:

5 March 2012

Dear Mr Maskey

BIOSCIENCE AND TECHNOLOGY INSTITUTE

I am writing further to my letters of 10 and 20 February to provide you with the remaining information referred to at points 2 and 21 of your letter of 27 January. I should be grateful if you would treat this information as confidential and not for publication as the Department considers that it would be exempt under the provisions of section 30 (Investigations and proceedings conducted by public authorities) and / or section 31 (Law Enforcement) of the Freedom of Information Act 2000.

Point 2

- 2) *a copy of the minute of the meeting between officials from the company inspectors (PwC) and the PSNI in April 2010 which details discussions regarding the finder's fee for the Harbourgate premises;*

The minute of the meeting on 10 April 2010 between officials from DETI, the company inspectors and the PSNI is enclosed, along with the company inspectors' handwritten record of the meeting. The handwritten record shows that the finder's fee was discussed. The names of officials below the Senior Civil Service at the date of the meeting have been redacted as have the names of PSNI officers.

Point 21

- 21) *detail of the information exchanged between the Department and the Police Service for Northern Ireland (PSNI) and the seniority of the officers and officials involved in dealing with the case;*

Minutes of meetings on 28 March 2006, 5 June 2006 and 10 April 2010 involving officials from DETI, Invest NI, the company inspectors and the PSNI are enclosed. The names of officials below the Senior Civil Service at the date of the meetings have been redacted as have the names of PSNI officers. The DETI official was the Head of the Insolvency Service with responsibility for the management of the company inspection process. The Invest NI officials were equivalent to NICS SCS Grade 5 and Grade 7. The importance with which the assessment of the matter was taken by the Department, the Company Inspectors, and the PSNI was underlined by the attendance of a Detective Inspector or

above at each of these meetings, with the Detective Chief Inspector who was Head of the PSNI Fraud Squad being present at two of the meetings. A Detective Constable also attended one of the meetings.

The information in relation to the Genomic Mining travel claims was also discussed at a senior level by Invest NI and the PSNI. This involved a PSNI Detective Inspector, an SCS Grade 5 equivalent in Invest NI, and DETI's Head of Internal Audit.

I trust this information is helpful, I will provide further information in regard to the directors disqualification process next week.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'D Sterling', with a large, sweeping flourish at the end.

DAVID STERLING

Chairperson's Letter of 5 March 2012

Mr David Sterling

David Sterling
Accounting Officer
Department of Enterprise,
Trade and Investment
Netherleigh
Massey Avenue
Belfast
BT4 2JP

Public Accounts Committee
Room 371
Parliament Buildings
Ballymiscaw
BELFAST
BT4 3XX
Tel: (028) 9052 1208
Fax: (028) 9052 0366
E: pac.committee@niassembly.gov.uk
Aoibhinn.Treanor@niassembly.gov.uk

5 March 2012

Dear David,

Bioscience Technology Institute (BTI)

Thank you for your letter of 10 February 2012, which the Committee considered at its meeting on 29 February 2012. To ensure that its forthcoming report is factually correct the Committee agreed to ask you:

- (1) how the "option release price" mechanism operated in this case;
- (2) whether the £1.4 million paid by Royce Developments (35) Limited to the Kentara Partnership represented a non-taxable sum in terms of the United Kingdom tax jurisdiction;
- (3) whether the vendor of Harbourgate was, or is believed to have been, the ultimate beneficiary of the £1.4 million paid by Royce Developments (35) Limited to Kentara Partnership, and whether this was, or is believed to have been, on a tax-free basis;
- (4) and to detail what the Department has learned about the Kentara Partnership.

I would appreciate receipt of your reply by Monday 19 March 2012.

Yours sincerely,



Paul Maskey
Chairperson
Public Accounts Committee

Correspondence of 16 March 2012

Mr David Sterling

FROM THE PERMANENT SECRETARY
David Sterling



Mr Paul Maskey MLA
Chairperson
Public Accounts Committee
Room 371
Parliament Buildings
BELFAST
BT4 3XX

Netherleigh
Massey Avenue
BELFAST BT4 2JP
Telephone: (028) 9052 9441
Facsimile: (028) 9052 9545
Email: david.sterling@detini.gov.uk
janice.hill@detini.gov.uk

Our ref: PS DETI 059/12
Your ref

16 March 2012

Dear Mr Maskey

BIOSCIENCE AND TECHNOLOGY INSTITUTE

1. In my letter of 5 March, I undertook to provide the Committee with further information in regard to the directors' disqualification process. The following paragraphs provide an overview of the process.
2. Directors' disqualification is a legal process whereby a person is disqualified for a specified period, between 2 and 15 years from becoming a director of a company without the subsequent express permission of the Court. The primary purpose of disqualification is the protection of the public.
3. Action to obtain a disqualification order against an individual is brought by the Department of Enterprise, Trade and Investment (DETI) under the Company Directors Disqualification (NI) Order 2002.
4. The disqualification process is conducted by the Directors Disqualification Unit (DDU) within the Insolvency Service – a branch within Business Regulation Division of DETI.
5. DDU investigates the conduct of the directors of insolvent companies and companies where an inspection has been carried out and if there is evidence of unfit conduct and it is considered expedient in the public interest that a disqualification order should be made against any person, disqualification proceedings will be issued in the High Court.
6. The first step towards proceedings is the issue of a letter by DDU to proposed respondents (defendants) giving notice of the intention to commence proceedings against them. This letter is sent about 21 days prior to the date that proceedings will be issued. It also sets out the matters of conduct which in the opinion of the DDU makes them unfit to be concerned in the management of a company.
7. The letter also explains the action which the proposed respondent may take including:
 - seeking professional advice;
 - making representations to DDU;
 - requesting sight of draft evidence of unfit conduct;

-
- the option of offering an undertaking not to act as a director instead of the Court making a disqualification order; and
 - the potential for a reduction in the period of disqualification and avoidance of costs if an acceptable offer of an undertaking is made prior to the issue of proceedings.
8. Proceedings will be issued and served on the respondents unless they have offered an acceptable undertaking or made representations to DDU resulting in it deciding that it is no longer expedient in the public interest to issue disqualification proceedings. If an offer is made to give an undertaking for a period which is not acceptable in the circumstances of the case then DDU or the Departmental Solicitor's Office (DSO) will go back to the proposed respondent or their solicitor/s and point this out. This may result in a revised offer being made to DDU / DSO.
 9. Where in some cases the respondent or their solicitor/s asks the Department to indicate what would be an acceptable tariff DDU or DSO will inform them accordingly. The period will be based on similar cases of unfit conduct where an undertaking was accepted or where the case was decided by the Court.
 10. Proceedings are taken by Originating Summons issuing out of the Chancery Division of the High Court. The Summons and supporting evidence and exhibits are served on the respondents.
 11. The matter will come before the Master for hearing about 8 weeks after the issue of proceedings. This first hearing may involve a solicitor or counsel appearing for the respondents and requesting a further adjournment to allow the respondents to prepare and file evidence in defence of the allegations made.
 12. In defended cases the hearing may be adjourned on a number of occasions to allow the parties to exchange evidence and in due course the Court will fix a date for deciding the matter. The Court will then make a disqualification Order if satisfied that sufficient evidence exists to support the allegations made.
 13. A respondent may offer to give an undertaking at any stage in the proceedings but a reduced period of disqualification and avoidance of liability for costs of the proceedings will remain available for a limited period after proceedings have been issued. This period would extend to the first hearing of the matter and beyond where undertakings are being considered and where further costs have not been incurred.
 14. All disqualification cases brought by DDU, including those in the case of Bioscience and Technology Institute Ltd, follow the procedures outlined above.
 15. As regards the BTI case itself, it is still before the Court and has not yet been determined.
 16. I trust this information is helpful. I will of course follow up with the outcome of the BTI proceedings when they conclude.
-

Lastly, we have obtained information in response to the four questions posed in your letter of 5 March 2012. We have had to seek legal advice in relation to some of the matters raised, however I hope to provide you with a response by the 21st March.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'D Sterling', written in a cursive style.

DAVID STERLING



Northern Ireland
Assembly

Appendix 4

List of Witnesses who Gave Oral Evidence to the Committee

List of Witnesses who Gave Oral Evidence to the Committee

1. Mr David Sterling, Accounting Officer, Department of Enterprise, Trade and Investment (DETI);
2. Mr Alastair Hamilton, Chief Executive, Invest Northern Ireland (Invest NI);
3. Mr Mel Chittock, Director of Finance and Internal Operations (Invest NI);
4. Mr Trevor Cooper, Director of Finance, Department of Enterprise, Trade and Investment (DETI);
5. Mr Kieran Donnelly, Comptroller and Auditor General; and
6. Ms Fiona Hamill, Treasury Officer of Accounts, Department of Finance and Personnel.



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