



Northern Ireland
Assembly

**COMMITTEE FOR
CULTURE, ARTS AND LEISURE**

**OFFICIAL REPORT
(Hansard)**

**Departmental Briefing on
Grand Opera House Cost Overrun**

18 March 2010

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Barry McElduff (Chairperson)
Mr David McNarry (Deputy Chairperson)
Lord Browne
Mr Kieran McCarthy
Mr Raymond McCartney

Witnesses:

Mr Edgar Jardine) Department of Culture, Arts and Leisure
Mr Arthur Scott)

Ms Lorraine McDowell) Arts Council of Northern Ireland

The Chairperson (Mr McElduff):

Edgar Jardine, deputy secretary, is joined by Arthur Scott, director of culture, and Lorraine McDowell, director of operations at the Arts Council. Good afternoon. Thank you for coming. I do not know whether it is fair to ask, but is it possible for you to make an opening statement that is five minutes long and for us then to move on to questions? You may have been told that you have 10 minutes in which to make a presentation.

Mr Edgar Jardine (Department of Culture, Arts and Leisure):

I was told 10 minutes, and I have prepared for that.

The Chairperson:

If you feel strongly about it, you may speak for 10 minutes. We are trying to manage time.

Mr Jardine:

We will see how it goes. Put your hand up if you think that I am rushing too much.

We welcome the opportunity to brief the Committee on the Grand Opera House. I am accompanied by Arthur Scott, who is director of culture in the Department, and Lorraine McDowell from the Arts Council. Roisín McDonough had hoped to be here, but she is on holiday and, therefore, is unable to attend.

A key strategic priority for the Department of Culture, Arts and Leisure (DCAL) is to significantly upgrade and renew the arts, cultural and sports infrastructure. In the arts sector, that will result in the completion of a significant number of projects in our two main cities. In Belfast, there will be a refurbishment and extension of the Crescent Arts Centre, which is due to open imminently, the new Lyric Theatre, which is well on its way to construction, and the Metropolitan Arts Centre, the construction of which began just a few months ago. In Londonderry, capital investment has been provided to significantly upgrade facilities for the Playhouse and the Waterside Theatre and a new Irish language arts and cultural centre for An Gaeláras. Looking at the wider remit of the Department, there has been significant capital investment in other sectors, including the Ulster Hall, the Ulster Museum and the Public Record Office of Northern Ireland.

The focus today is the Grand Opera House, which is our leading presenting theatre. It is held and managed by the Grand Opera House Trust, a not-for-profit registered charity. As the Committee will be aware, the theatre underwent a significant extension and refurbishment project in 2006, which was funded by the Department of Culture, Arts and Leisure, the Arts Council of Northern Ireland Lottery Fund and, significantly, through the Grand Opera House's own fund-raising activities. It was the most ambitious project undertaken at the centre for many years, and the main objective was to substantially improve facilities for theatregoers, the community, visiting artists and staff. The theatre officially opened in October 2006, and the new development included improved access and facilities, an education suite for all ages, improved front-of-house and backstage facilities, improved ventilation and air cooling systems, and new offices for staff and visiting companies.

The cost approved by the Department of Finance and Personnel (DFP) for the project in December 2002 was £8.428 million. Following competitive tender, the cost of the project came in at £9.426 million, which, together with the related costs that fell to the Grand Opera House in relation to opening and so on, resulted in an estimated project cost of £9.611 million in April 2005. The contributions at that stage were identified as follows: £3.5 million from the Department; £2 million from the Arts Council; and £3.48 million from the Grand Opera House's own fund-raising efforts.

The Arts Council and the Grand Opera House established structures and processes to ensure that the project was closely and effectively managed. A committee of the Grand Opera House was established to oversee the management of the project, and a project management team was appointed, which comprised a project manager, architects, quantity surveyors and engineers. The level of monitoring control that was applied was in accordance with best practice at that time.

As the Committee will be aware, the Arts Council is responsible for determining capital priorities through its own strategy, and it administers grants on behalf of the Department, including the grant to the Grand Opera House. The Arts Council led on the management of the project and appointed a consultancy firm to monitor the project on its behalf and to work closely with the Grand Opera House to ensure that the Arts Council was kept informed of any developments or changes to the project as they arose. As I said, the Grand Opera House appointed an external project manager to look after the day to day running of the project and quantity surveyors to advise on the costs throughout the project.

Clearly, there was an overrun. The figure at the post-tender stage of £9.6 million equated to an overrun of £0.8 million, and I want to spend some time elaborating on that, as it will be of particular interest to the Committee. The Department and the Arts Council, with the full co-operation of the Grand Opera House, undertook a detailed analysis of the cost overruns of the project, and they commissioned a lessons-learned report to inform future practice, which I will touch on later.

The cost increase can be explained through the examination of two key areas. First, the tender cost was around £1 million higher than anticipated due to the fact that the project was initially costed before a design team was appointed and also, in part, to the rapid increase in construction costs during the project. At that stage, it would have been appropriate for the Department to have

been formally advised of that increase. The Grand Opera House's intention at that time was to fund the increase from its own resources, and, for that reason, there was no decision taken to refer the matter to the Department. However, even though the Grand Opera House intended to fund it, the increase should have been referred to the Department.

The Grand Opera House reopened for business in October 2006, at which time the information that was available to the Grand Opera House Trust suggested that the project was broadly within cost. The additional costs that we were faced with came at a significantly later stage, in May 2008. There were three key elements of those costs. The first was a claim for loss and expense by the contractor, because the project had taken seven weeks longer than expected to reach practical completion and further work was undertaken up to January 2007. The second element took the form of additional architect's instructions. During the project, the architects identified various tweaks that were needed to take it forward, as happens frequently in such a complex project in which a new extension is being put on to an existing building. The third element comprised just under £200,000 of post-completion works.

All the claims were reviewed by the Grand Opera House's quantity surveyor, and, in October 2008, the Grand Opera House negotiated a settlement of £400,000 with the contractor, Gilbert-Ash. The additional architect's costs amounted to £306,000. Those works were carried out without formal architect's instructions. However, the works were verified by the architects as genuine and were valued as such by the quantity surveyor. The Grand Opera House was advised that those costs were valid and that it would be legally liable for them. The post-completion costs of £198,000 related to a number of items of work that had to be undertaken in order to address health and safety concerns and to maximise the profitability and the effectiveness of the new space. Those items were not included in the original business case.

The Arts Council dealt with the project monitors directly and had no reason to doubt the information that they were given. They had regular site meetings with the project manager; however, it is clear that timely information in respect of the additional costs was not made available to the Grand Opera House.

Lessons have been learned. The project was undertaken at a time when project management arrangements generally were of a different order than they are now, when the capital programme was at an embryonic stage, and when more sophisticated management arrangements were not in

place. Since the Grand Opera House project, the Department has ensured that all capital projects, whether for arts, sports, museums, libraries or any other sector under DCAL's remit, are managed under the structures that are recommended in the Office of Government Commerce's 'Achieving Excellence in Construction' guidance. In line with that guidance, DCAL is currently taking forward a number of key arts infrastructure projects in Belfast and Londonderry. The Department has addressed all the requirements of the Achieving Excellence guidelines in each of those projects in respect of procurement, integrated teams, risk and value management, sustainability and health and safety.

When the difficulties were identified, the Arts Council undertook a full independent review of the governance and organisational structure of the Grand Opera House. The review highlighted that there were no failures in the governance arrangements that the Grand Opera House had in place.

I will defer to your request to move on, Chairman. The contract used in the project was known as a Joint Contracts Tribunal (JCT) 1998 contract, which the Grand Opera House was advised was appropriate by the Royal Society of Ulster Architects (RSUA). Unfortunately, that type of contract is not as watertight as the types of contracts that are used nowadays. In particular, it lacked a duty on the contractor to provide early warning of potential cost increases.

The decision to provide the additional funding was not taken lightly and was based on a significant body of evidence. The Department concluded that an additional funding contribution of £1.736 million was essential to enable the Grand Opera House to meet its obligations, to remain operationally viable and to regain a stable financial position. In making that judgement, DCAL considered, among other things, the strategic importance of the Grand Opera House to Northern Ireland's international and national reputation and the significant contribution that the theatre can make to marketing Northern Ireland as a tourist destination in GB in line with prioritised proposals made by the Economic Development Forum. We also reviewed its significance for the arts sector in Northern Ireland and to Northern Ireland's culture offering, which cannot be overstated. We must remember that £6 million of public money had already been invested through the Arts Council and DCAL. Furthermore, when we examined the books of the Grand Opera House, we recognised that there were limited prospects for it to raise the required funds through its own means.

The Grand Opera House is one of the most iconic buildings in the city and, indeed, in Northern Ireland. It attracted a total audience of over 300,000 in the past financial year. That represents a significant increase to the pre-closure numbers. It put on 392 performances, which is also a significant increase on the previous figure. The money generated from ticket sales has increased by £600,000, and income from catering and bar facilities has increased by £500,000. On average, 139 people draw a weekly salary from the Grand Opera House. During the recent run of 'The Sound of Music', for example, 73 people were booked into hotel accommodation for four weeks, as a result of which there was a significant amount of activity for local suppliers.

In reaching the decision to support the Grand Opera House, we drew heavily on the available evidence, conducted a thorough and exhaustive analysis of the background to the overspend, and gave full recognition to the Grand Opera House's role within the cultural infrastructure of Belfast and Northern Ireland. The Department considers that the statistical data, which we have made available, fully justify the decision that was taken. I am satisfied that the decision has sustained an important cultural asset for the people of Northern Ireland.

I pay tribute to the board of the Grand Opera House Trust, which has been vital to the delivery of the project and has succeeded in meeting a challenging fund-raising target. As I said, at the time of the opening of the Grand Opera House, the board understood that the project was broadly within budget. When the scale of the project overrun emerged some 18 months later, the board worked hand in hand with the Arts Council and the Department to conduct a rigorous challenge and examination of the factors that led to that overrun.

Mr McNarry:

You are very welcome. Today is the second time that Department officials have been before the Committee and the second time that you have told us of lessons learned. One must wonder whether you are always learning lessons after the event rather than putting expertise in place so that the lessons are not as costly.

Who was the permanent secretary at the time of the overrun?

Mr Jardine:

Mr Sweeney.

Mr McNarry:

Who was the Minister of Culture, Arts and Leisure at the time?

Mr Jardine:

Mr McCausland was the Minister when the final decision was taken. A decision in principle to fund the deficit was taken by his predecessor, Mr Campbell, in May 2009.

Mr McNarry:

Who was the Finance Minister at the time?

Mr Jardine:

Mr Wilson was the Finance Minister when the payment was made, and I assume that it was Mr Dodds before that.

Mr McNarry:

So, Edgar, the project rose £1 million over budget before the work started, and it rose a further £1 million on the final out-turn costs. The project's cost started at £8·428 million and finished at £10·646 million, which is more than £2 million over budget. Moreover, £1·736 million was requested as a contribution to a shortfall, and that contribution came from the public purse.

Mr Jardine:

That is right.

Mr McNarry:

Retrospective approval for a shortfall of almost £2 million was requested from the Finance Department. According to Minister McCausland's letter dated 9 March 2010, the request for approval was rejected because neither DCAL nor DFP had been given an earlier opportunity to challenge expenditure increases. In his letter, Minister McCausland informs the Committee that the permanent secretary of DCAL, as the accounting officer, decided — it was clearly his decision — to approve the shortfall payment of £1·736 million to the Grand Opera House.

We need to clear this matter up. Are we to take it as read that the permanent secretary of any Department has the power to overrule DFP, to authorise the release of almost £2 million of public money, and to ignore the rejection given by his own Department and DFP on the procedures?

Did Minister Campbell or Minister McCausland — I think it was Campbell — give the permanent secretary a direction to pay that £2 million?

Mr Jardine:

He agreed to a recommendation from the permanent secretary that we would explore the work further on the basis of the figure —

Mr McNarry:

Let us deal with the question. Did he give a direction to pay the £2 million? Mr McCausland's letter seems to point the finger at the permanent secretary. It says:

“The DCAL Permanent Secretary, as Accounting Officer, decided”.

Was that a unilateral decision? Did that civil servant decide to take £1.736 million from the public purse and hand it over for the project? You were probably about to answer that question. It is important to the Committee. Did anyone question or challenge the permanent secretary's action when he signalled his intention to make that payment? Did anyone discuss it with him after he had made the payment? Is the £2 million a gift of public money to the Grand Opera House, or is it to be paid back? Has anybody looked at it being paid back?

I will come to the crux of the matter. The Minister's letter to the Committee — you did not mention this point — states:

“Failure to secure and provide this level of funding would leave the GOH trading in an insolvent position”.

Trading is commercialism. Since when has it been the position that public money and government money would be paid so that the Grand Opera House would not be forced into insolvency? Almost every week, commercial people who are trading close to insolvency make representations to me. Am I to assume that I can go to a permanent secretary in government and ask them to help such people? You have set a wonderful precedent that you will bail a commercial company out of insolvency.

I am a great fan of the Grand Opera House, and I have listened to all that Edgar has said about what it can and will do and about having 73 people booked into a hotel, etc. I support that, but I am unable to take on board the idea that any permanent secretary would have the authority simply to decide what he would do with £2 million of public money. That is what the Minister says happened. Are you telling me that a permanent secretary has such authority?

Mr Jardine:

The permanent secretary works under political direction. That political direction came from

Minister Campbell, who, in May 2009, was invited to consider a detailed submission on the circumstances of the Grand Opera House and agreed to a special payment of £1.736 million. Therefore, it is not fair to say that that decision was taken without political cover or political —

Mr McNarry:

I am only reading from the letter, which I am sure that you will have seen, that was sent to the Committee. It is a finger-pointing exercise, unless someone says that it is not. It says:

“The DCAL Permanent Secretary, as Accounting Officer, decided to approve the payment”.

It does not say anything about the Minister having been invited to consider the matter or to do such and such. It would seem that the DCAL accounting officer’s decision was not a political decision. The letter seems to say that he took that decision unilaterally.

As regards the implication about insolvency, do you have something from the Grand Opera House’s trading accounts to verify that, without that money, it would have gone bust?

Mr Jardine:

One aspect of the examination was an examination of the accounts of the Grand Opera House, which had already borrowed quite heavily to —

Mr McNarry:

Yes, but we knew that at the start. We knew what we were getting into.

The Chairperson:

There is a lot in your questions, David. We need to give Edgar some time and space to respond to each issue that has been raised.

Mr McNarry:

I will turn to what has come out of this matter, and I am indebted to you, Edgar. The Committee agreed to ask Mr Sweeney to come here. Obviously, he is not here, and perhaps you can tell us why he is not here. Can you provide us with any notes that were taken at the time that might give us clarification on what took place during the discussion between Minister Campbell and the permanent secretary, Mr Sweeney? If Mr Sweeney said, “Look, these folk have a problem; they are going into insolvency, and they need £2 million”, and Mr Campbell said, “That is terrible. Yes, I agree”, one would have thought that that would have been written down somewhere. One

would have thought that it might have been implied, at least, in the letter from Minister McCausland.

The two things that jump out from the letter are that the permanent secretary decided to give the £2 million and that he did so to stop the company from going into insolvency. That is the crux of the matter for me because I am not satisfied that public money has been used properly. I need some answers.

Mr Jardine:

We can certainly give you a note on the circumstances of Mr McCausland's approval of the —

Mr McNarry:

Mr Campbell's approval.

Mr Jardine:

Sorry, I mean Mr Campbell's approval.

The decision was not taken purely to absolve the Grand Opera House from insolvency. As I said during my presentation, the decision was to do with the facts that there was already £6 million of public money in the project; that the Grand Opera House was a cultural icon for Northern Ireland; that the completion of the work contributed to a significant reduction in the arts infrastructure deficit —

Mr McNarry:

I know that other members want to ask questions, but that explanation does not stack up. It means that we can say to anyone who wants funding, "Go ahead and be £2 million short", because we will then say that there are good reasons for the project and that we need to protect it. Tell the businessmen and the engineering companies in my constituency who are facing insolvency to go and see the permanent secretary, because he will bail them out. That is where we are at.

Mr Jardine:

I do not want to give the impression that the decision was taken lightly, David. Detailed consideration was given to the situation over a one-year period, and a decision was taken on the

basis of the evidence that was before us.

Mr McNarry:

Why was it hidden from this Committee? Why did we have to find out about it?

Mr Jardine:

There was certainly no deliberate attempt to hide it from the Committee. It was part of the infrastructure adjustments to our capital programme that we carry out day in, day out.

The Chairperson:

Are we going to move on?

Mr McNarry:

What do you say to that?

Mr McCartney:

Thank you for your presentation. I have a couple of questions about the process. In his letter to the Chairperson, the Minister said:

“After detailed consideration the Department sought retrospective approval from DFP”.

He goes on to say:

“neither DCAL nor DFP had the opportunity to challenge either of the two expenditure increases”.

Why was permission sought if it was not needed?

Mr Jardine:

It is normal practice that DFP approval is sought for expenditure over a particular limit. It is exceptional for payments to be made in circumstances in which DFP did not authorise the payment or agree to the business case. However, it is within the remit of an accounting officer to take a wider view and to decide to make a payment, whether or not DFP approves the business case. It is exceptional. This was an exceptional circumstance, and I have outlined the reasons for the decision.

Mr McCartney:

I am looking at the word “challenge”. Did the DCAL permanent secretary challenge the expenditure on the project?

Mr Jardine:

Absolutely; we did so with the Arts Council. We took the best part of a year to go through the information, and we were satisfied that the case that we put to DFP was robust and that the expenditure could be justified.

Mr McCartney:

Is it the case that what was asked for initially is what was agreed finally? If the unforeseen costs amounted to £1 million initially — I do not want to go into the exact figures — is that what you paid out, or did someone question whether too much was being asked for in respect of unforeseen costs?

Mr Jardine:

We challenged the figures, as did the quantity surveyors who were employed by the Grand Opera House. The Grand Opera House increased its fund-raising significantly in order to take up some of the heavy lifting.

Mr McCartney:

Without prejudice, the increase in the architect's costs seems very high compared with others. Perhaps it is an unfortunate use of the word, but you said that they "tweaked" their plans.

Mr Jardine:

In the case of such an old building, one can never get the design absolutely right nor, indeed, can one complete the total design the first time round. There is a certain amount of iteration in such a project. In particular, because of spiral staircases and joining old and new buildings, there were an exceptional number of additions. That was challenged by the Grand Opera House's quantity surveyors and, legally, by the —

Mr McCartney:

I say this without prejudice, but the beginning of a project — when it is being costed and you know that you are working on a building that is going to pose such problems — is the time to ask whether that £1 million bill for fees has been built into the costs. That is the time to say that you know the score with old buildings, the cost estimate is very low, and you cannot afford a situation in which another £300,000 is required.

Mr Jardine:

There was contingency built into the initial costs of £8.428 million. That was taken up largely by improving the fire security and air conditioning. There were also issues about getting the project out of the ground, which accrued additional costs that did not emerge until we got onto the site.

Mr McCartney:

Again, I do not want to go into the details of the particular project, but section 6 of the letter from the Minister states that:

“costs incurred as the project progressed were not inescapable”.

The reason offered was that those responsible for the project believed that they had enough money to cover the increased costs. The point is that somebody knew that there were going to be increased costs, but, when it became an item, the reason it was relegated was that the project promoters were saying that they had the money to cover it. It turns out that they did not. I want to be satisfied about the process and the promoters’ ability. If someone said to you that the increased cost of a project was going to be around 10%, you would ask the project promoters how they could come up with that figure when working from a baseline of having no money.

Mr Jardine:

I will make a number of points. The main issue is that when the post-tender contract price became clear it should have been referred back to DFP and DCAL. We did not have an opportunity to approve that. The things that came after that were to some extent less significant, because normally with a project of that scale there is a 10% tolerance either way anyway. The contract in use then — the JCT 1998 contract — had particular weaknesses. The Grand Opera House used that contract on the advice of the RSUA. The weaknesses are partly in relation to the capacity that it leaves for the contractor to come back after completion with a claim for additional money. Also, some of the planning and detailed design could not take place until the old building had been demolished.

Mr McCartney:

I understand what you said when you were talking to David; that you had spent £10 million and, all of a sudden, £1 million became an issue, and, if you did not give that £1 million, the result would be the picture you painted. That is fine and understandable, but we need to protect ourselves against that from the outset.

Mr Jardine:

I will hand over to my colleague who will speak about the project management arrangements.

Mr Arthur Scott (Department of Culture, Arts and Leisure):

The new arrangements that the Department and the Arts Council use under the Achieving Excellence structures are much more robust than those used for this project. There are now many more formal roles. There is a senior responsible owner, whose key responsibility is to deliver the project in line with the approved business case. There are regular project meetings and meetings of the project steering group, on which the chief executive of the Arts Council and I sit as investment decision-makers. We are there specifically to protect the public investment in the project; to challenge, at critical points in the project, variations in costs in relation to the planned spend for the project; and to look at the risks and issues faced by the project.

One of the projects in which I am involved at the moment in a generic sense has involved close discussions with the senior responsible owner and a challenge on the project team's interpretation of some of the contractual terms. We were assisted in that analysis by the expert staff from the Central Procurement Directorate and are currently engaged in seeking a legal opinion on that. That reflects the greater degree of scrutiny and robustness of the current arrangements to challenge whether such issues, which will invariably arise, are addressed in a proper way and considered fully when giving the project team approval to go forward. In the particular case in which I am involved at present, I made it very clear that, if we did not follow that process, I would seek a departmental decision to restrict the funding to the project until the matter was resolved.

I hope that provides some assurance to the Committee about how things have changed. The contracts that are now used are NEC-type contracts. Those are related to the whole gateway process, which is about the responsibilities of the various parties involved, the sharing of risk and the better flow of information in a timely fashion so that the project is managed successfully. It will not stop things happening, because things invariably happen, but it gives much more detailed scrutiny and a much better opportunity to fully analyse and to get to the bottom of those things.

Mr McCartney:

Just a short question —

The Chairperson:

You need to be fair to Kieran and Wallace, Raymond; you have had a good opportunity to ask questions.

Mr McCartney:

OK. In your experience, was that a high unforeseen cost?

Mr Jardine:

Yes.

The Chairperson:

Did the Minister give the permanent secretary a formal direction to make the payment?

Mr Jardine:

A formal direction was not sought. What was sought was the Minister's agreement to make a special payment of the level to which we referred earlier. That was taken by the previous Minister. Therefore, the final payment was made in the context of a political decision that had been taken earlier.

Mr McCarthy:

Thanks for your contribution. How long did the Grand Opera House know about the cost overrun before it came to DCAL?

Ms Lorraine McDowell (Arts Council of Northern Ireland):

As Edgar said, the project did not end until January 2007. At the end of a project, the contractor has at least six months to put in a claim, and the claim is then negotiated. The Grand Opera House came to us as soon as it knew about the cost overrun, which I think was about May 2008.

Mr McCarthy:

The Minister's letter states that the Department was not made aware of the cost increase of £2.218 million until the project had been completed, but you refer to a figure £1.736 million. Where does the difference lie?

Ms McDowell:

The overall shortfall faced by the Grand Opera House at that time was more than £2 million, but it sought £1.736 million from the Department. The Grand Opera House intended to raise the rest of the money through its own fund-raising, which was done largely through the imposition of a ticket levy.

Lord Browne:

I have a few questions. It appears that far too many people and agencies were involved in managing the project, which led to a situation in which no one had clear responsibility for anything. Does the new system address that problem in the many projects that are ongoing? I am not sure that it does.

Mr Scott:

The Department's capital project management board has complete oversight of DCAL's entire programme across the various sectors. That is replicated by project steering groups and project boards. Each of the formal roles, which have been identified in the Achieving Excellence guidance, has particular responsibilities. Invariably, when there are multiple funders and stakeholders, there will be the same numbers of people represented on the various groups. However, at UK government level, the clearly defined roles have been proved to be the way to manage projects successfully.

Lord Browne:

The Minister's letter asserts at point 5 that the costs were unforeseen but then states at point 6 that they arose because, at the time of authorising them, the Grand Opera House believed that it had sufficient funds. Both of those statements cannot be true simultaneously. Were the overrunning costs due to necessary alterations to the plans or the fact that spending was not properly budgeted for in the first place?

Ms McDowell:

It is a mixture of both of those factors. Additional work had to be done to meet the architect's instructions. The knock through between two buildings, for example, necessitated extra work. However, there were also unforeseen problems. For example, a water culvert was discovered, which no one knew was there because Northern Ireland Water's drawings are not appropriate. Although we know about the problems associated with such a building, there were also

unforeseen costs.

Lord Browne:

How was the Grand Opera House able to authorise the payments that took the project over budget? The Minister's letter states at point 3 that the Arts Council had responsibility for managing the project and, indeed, went on to hire a company to manage it.

Ms McDowell:

The Arts Council was not in the business of approving expenditure. The Grand Opera House was the client for the project, and the project monitors that we had in place were there to verify that the work had been done and that the claims and payments were properly validated and certified. It was for the Grand Opera House to approve the expenditure. It believed that it had the funds available at that time to do so, so the Arts Council was content that those costs were affordable.

Mr Jardine:

It is important to add that, at the time of completion in October 2006, although it was recognised that there might be a cost of around £200,000 for loss and expense by the contractor, just under £50,000 of the Grand Opera House's contingency fund remained. That did not really present a problem to the Grand Opera House, because it saw a way to obtain that money through fund-raising. The real issue was the contractor's delay in producing the final figures, which were significantly higher than had been anticipated.

Lord Browne:

Some of the overrun was due to health and safety concerns. Why were those not considered at the beginning? I take it that the relevant law did not change during that time.

Ms McDowell:

Certain aspects of the law did change at the time, and new regulations were introduced, which had to be taken into account.

Lord Browne:

Point 2 of the Minister's letter states that DCAL "sought retrospective approval from DFP" for the payment and goes on to say:

"The DCAL Permanent Secretary, as Accounting Officer, decided to approve the payment of £1.736m to the Grand Opera

House.”

Did the Department pay before consulting DFP and obtaining the approval of the accounting officer?

Mr Jardine:

No. The sequence was that the business case went to DFP, which was not prepared to approve it because it was retrospective. It was then for the accounting officer to decide whether to approve the payment without DFP’s approval. He was totally within his rights to do that.

DFP applies two conditions to retrospective approval. First, it would have granted approval had it been approached properly in the first place, on the assumption that an economic appraisal has been prepared but, for some reason, has not been forwarded to DFP for approval. Secondly, the Department in question must take steps to ensure that there is no recurrence. DFP withheld approval on the basis of the first condition for the reasons that I explained earlier. The Grand Opera House intended to look after the additional expenditure itself and, therefore, did not — wrongly — refer the project back to us. DFP decided not to approve the payment on those grounds. However, it recognised that the Department had taken steps to ensure that there was no recurrence and was reassured by what we told it about project management, which is as Arthur Scott has just outlined.

Mr McCarthy:

Was the consultancy firm that the Arts Council had appointed not at fault in some way for not alerting the Arts Council to the overrun at an early stage?

Ms McDowell:

The company involved was not aware of the overrun either, because it was receiving paperwork from the Grand Opera House. It was acting in good faith on the basis that the Grand Opera House and the project managers were providing it with the right information.

Mr Jardine:

The Grand Opera House was also operating in good faith on the basis of its information. However, that information turned out not to be the case. It was hit with the bombshell of additional costs 18 months after the completion of the project.

The Chairperson:

That concludes today's scrutiny of the Department on the Grand Opera House cost overrun. I thank Edgar, Arthur and Lorraine for coming along.