Northern Ireland
Assembly

COMMITTEE FOR
CULTURE, ARTS AND LEISURE

OFFICIAL REPORT
(Hansard)

Monthly Out-turn, Annual Report and Accounts, and October Monitoring Round

29 September 2011

NORTHERN IRELAND ASSEMBLY

COMMITTEE FOR CULTURE, ARTS AND LEISURE

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Members present for all or part of the proceedings:
Miss Michelle McIlveen (Chairperson)
Mrs Brenda Hale
Mr Michael McGimpsey
Mrs Karen McKevitt
Mr Oliver McMullan
Mr Cathal Ó hOisín
Mr Pat Sheehan
Mr Robin Swann

Witnesses:

Mrs Deborah Brown	)
Mr Michael O'Dowd	) Department of Culture, Arts and Leisure
Mr Arthur Scott	)
Mr Colin Watson	)

The Chairperson:

You are very welcome. Thank you very much for coming this afternoon. I welcome Deborah Brown, who is director of finance and corporate services; Mr Arthur Scott, who is director of culture; Mr Colin Watson, who is head of sport; and Mr Michael O'Dowd, who is head of finance. You are all very welcome. Deborah, do you want to make an opening statement?

Mrs Deborah Brown (Department of Culture, Arts and Leisure): Thank you for inviting the Department this afternoon to present its proposals for the October monitoring round and to cover the out-turn and the 2010-11 resource accounts. I propose to cover the out-turn and the October monitoring round together as those issues are interrelated. My colleague Michael O'Dowd, who is head of finance, will cover the paper on the resource accounts qualifications.

The details of the out-turn paper have been provided to the Committee, which asked for some further background. Each month, the Department collects information on its spend to date and its forecast to the end of the year. Then it compares that spend against the actual budget that has been allocated. That information covers the Department's own spend and that of its arm's-length bodies. Therefore, it covers the entire Department of Culture, Arts and Leisure (DCAL) family. The information on the out-turn is sent to the Department of Finance and Personnel (DFP) very shortly after the end of each month, and it is combined with the out-turns of the other Departments and is used by DFP to monitor performance against the budget. The combined information is also supplied to the Treasury. However, we also use the information internally. It is presented to our departmental board, and allows us to monitor expenditure, helps us to identify areas where there may be potential pressures, where there may be a risk of overspend, or easements, where there may be some scope to use it elsewhere. Therefore, that information can be used to help to manage our pressures and easements either within the DCAL family or by bidding to DFP for some increased budget, or by surrendering money on easements. The budget adjustment process takes place in the actual monitoring rounds, and there are now three monitoring rounds each year.

The out-turn information that is provided to the Committee is a summary, which relates to approximately 200 individual lines of detail. It reports the actual and the forecast out-turn across four budget categories: capital costs; resource costs; administration costs; and annually managed expenditure (AME). We normally provide a background note with our out-turn submission each month.

I would like now to turn to the out-turn information that you have been supplied with. It reflects the actual spend to the end of August and a forecast spend for the remainder of the year. The table shows a small forecasted underspend against budget in the resource and admin categories. In admin, the latest position is that the full budget may be required. Therefore, as you will see later, in the October monitoring round, we are not suggesting any surrender at this point.

The capital budget is forecast to be spent in total, and there is also a pressure that has been forecast in the annually managed expenditure. The cause of the pressure in the annually managed expenditure was a transfer in technical rounds from a corresponding budget in the departmental expenditure limit resource, so it previously scored in the departmental expenditure limit resource, but now it is scoring in the annually managed expenditure category. That will be looked after in a specific exercise around AME.

The Committee will note from the pattern of spending that the resource and the capital categories tend to show a lumpy type of spend, and there will be peaks and troughs in the capital budget as individual projects are completed and follow their own course throughout the year. There are also some variations in resource budget. Some grant programmes pay down claims at specific points in the year, so it is not just a twelfth that is paid out each month. A budget monitoring exercise followed the production of this information, and that is the October monitoring round, which I will go on to talk about now if the Committee is content.

The Chairperson:
Yes, please.

Mrs Brown:
I will give the Committee a bit of an overview of the rationale behind the monitoring rounds. Budget 2011-15 set out the departmental budget allocations over the next four years, and that was approved by the Executive in March of this year. As part of that process, all Departments aligned their strategic priorities to budget outcome and set out in detail their planned expenditure against their objectives. However, we recognise that priorities may change over that four-year period and that Departments may face unforeseen pressures or easements in respect of their financial plans. Therefore, it is highly desirable that Departments have the ability to adapt their detailed four-year spending plans to those changing circumstances. The formal method of doing so is via

monitoring rounds.

In the past, DFP has undertaken four monitoring rounds a year, usually in June, September, December and February. However, in 2011-12, it was decided to reduce those rounds to three, to happen in June, October and January. That is in response, I understand, to a Finance and Personnel Committee request to reduce the number of monitoring rounds. It also takes into account the fact that the de minimis level has been raised to £1 million. Therefore, there is more flexibility for Departments to manage budgets themselves, and it helps to better align the budget process with the Estimates process, which requires us to go back to the Treasury in early December and to formalise our Estimates in January.

The in-year monitoring rounds are the process by which we are able to bid to DFP for additional resources to meet any unexpected pressures, to surrender any of our reduced requirements or to transfer de minimis budgets in which we may have a linked bid to surrender in order to bid against it.

I emphasise the importance of the October monitoring round as really the last opportunity for Departments to declare their significant easements with any realistic opportunity of those funds being used in the DCAL family or elsewhere in the block. Furthermore, any unused budget that occurs after the October monitoring round may be lost because the Treasury has said that it will agree at the October monitoring round any amounts that could be carried forward into the next year. So it is important to ensure that we surrender any easements in order that they are available at a block level next year.

In the past, I have covered the public expenditure structure. Hopefully, members are familiar with the fact that recurrent expenditure is the administration and the resource; capital expenditure covers capital and capital grant; and then we have some ring-fenced areas, such as invest to save. Any movements between those categories must be approved by DFP and are regarded as reclassifications. Within recurrent expenditure, the depreciation and impairment budget is ring-fenced. Movements into and out of those categories are also subject to DFP approval and may be limited to corresponding movements in the opposite direction by other Departments across the block.

The Departments use the monitoring rounds as an opportunity for managing emerging pressures. There is some flexibility to move between the service areas. In DCAL, we can move within sport and arts but we are restricted by the de minimis rules. Therefore, any move above that amount needs DFP approval.

As I said, the de minimis threshold is £1 million, and we normally action a number of de minimis internal transfers during the monitoring rounds. We have not provided details of the resource internal reallocations because they are purely a housekeeping exercise, but we have given the Committee details of where we propose to move money around in the capital budget.

I will move on to the detail of the October monitoring round and the proposals that DCAL is making. We have reviewed our resource, and we are not making any bids in this round. We have also reviewed all our capital, and we do not propose to make any bids. We do not propose to make any surrenders to DFP, but you will notice that we are recommending a number of reclassifications to manage pressures that arise on the capital as a legacy of things that happened from last year. We propose that £225,000 be reclassified from resource to the capital budget to fund health and safety improvements at Movanagher hatchery. We also propose that £105,000 be moved from resource to the capital budget in the languages branch for the ministerial advisory group. That is to help it to establish an Ulster-Scots capital grant funding programme to preserve or open up public buildings and monuments with a strong Ulster-Scots history, and also to provide funding to develop an independent website for the ministerial advisory group for Ulster Scots. In addition, we propose that £40,000 be moved from resource to capital in the World Police and Fire Games budget to fund the capitalisation of software licences. The overall available budget in each of those areas is not increased; it is merely a reclassification. However, the success of that reclassification will be dependent on equal and opposite moves at a block level.

There are also a number of technical transfers that we are proposing as part of the October monitoring round. As a result of those, there will be an additional £390,000 in resource, an additional £2,000 in depreciation and an additional £18,000 in capital.

The planned resource spend for the current financial year is £112,205,000, and the planned capital spend for the financial year is £16·661 million. That is a summary of proposals from DCAL for the October monitoring round. We are happy to take any questions.

The Chairperson:

Thank you very much. I notice the movement of £567,000 from regional stadiums. Will you explain that and whether there will be any impact?

Mrs Brown:

We are using that £567,000 to try to meet some pressures that we have elsewhere. There has been some slippage on the stadium spend, so, to maximise the use of our budget, we are trying to manage some pressures that have arisen. Most of that amount — £342,000 — is being used to fund the live site that is planned for Derry/Londonderry. We are using £100,000 to buy the weed cutter that is required for fisheries. I am sure that some of you will have been familiar with the fish kills that happened over the summer. We are using £225,000 because we have a shortfall in the receipt that we generated on the Public Record Office of Northern Ireland (PRONI). In the budget, PRONI was supposed to bring in £2·225 million, but the sale has achieved only £2 million. We are not overly concerned about the loss this year in the stadium budget because we hope that we will be able to make that up in year 4, where there is some capital budget for which we have not yet specified a use. At this point, we are quite confident that that can be managed and that the full £110 million will be available for the stadium over the four years.

The Chairperson:

Why was there slippage at this stage?

Mr Colin Watson (Department of Culture, Arts and Leisure):

Although it is called slippage, when we got the original budget, there was no money in this year; it started off as no money in this year and funding in the next three years. Realising that the project was starting, we prudently went and got £1 million and put it into this year to allow us funding to bring on board consultants, designers and whatever, depending on where we were with the project. We just picked the figure of £1 million out of the air because it was a round figure to get £1 million moved. As we get into the planning, we are starting to realise just how much money we need. Since this is the last occasion on which we can give up some funding and save it for next year, we are making a reduction on that £1 million.

The Chairperson:
If that money is still required, will there be an opportunity to take that from somewhere else?

Mr Watson:
Yes. As Deborah said, we will get it out of the capital funding for next year that has not yet been allocated. We will still spend exactly the same amount of money on the stadiums.

The Chairperson:
There is not any immediate impact?

Mr Watson:
No.

The Chairperson:
You talked about the live site and the hatchery. Have those not been covered completely at this stage?

Mrs Brown:
With the reallocation that we are proposing, there is sufficient money to complete both.

The Chairperson:
So those will be completed?

Mrs Brown:
Yes, provided that it is approved.

The Chairperson:
What is the Department's role in ensuring that arm's-length bodies meet and keep within their budgets?

Mrs Brown:

We have a monthly process that is linked in with the out-turn, where they all have to report what their spend is to date and what their forecasts are. We have a formal round with the monitoring rounds, which are reported to our departmental board. At least quarterly, there are also accountability meetings with the arm's-length bodies, where their budgets are discussed in the context of their business plans and the delivery of their objectives. That is linked through so that we are able to highlight any risks that are associated with it, insufficient funding or any easements. We then try to look at what the implications are for future years, because the slippage issue is more difficult with quite a limited capital budget. In previous years, it was much easier to manage the slippage issue because you had equal and opposites, but when the budget is so much smaller, as it is now, it presents more challenges.

Mr Swann:

Along with the Chair, I am concerned about the fact that £567,000 is moving from the regional stadiums budget. I am slightly concerned that you said that you hope and are confident that there will be money in year 4. What happens if there is not?

Mrs Brown:

There is unallocated money in year 4, so the Department gives that first priority against the stadiums budget.

Mr Swann:

Your table shows that £90,000 has been moved from the library vehicles budget. Will you provide more detail on that, given that we have a paper from Libraries NI about the review of the mobile library service? I am concerned that you know something that we do not.

Mrs Brown:

Unfortunately, I do not have that detail with me, but you will notice that Libraries NI is managing that within its own capital budget, so it may be just an issue of profiling. I do not have the detail on whether there is a risk to library vehicles, but I will come back to the Committee on that.

Mr McGimpsey:

Your paper states that a further qualification arises because the total expenditure of the Department is in excess by around £2·8 million, arising mainly from the reduction in value of the PRONI building. What was your valuation and what is the reduction in value? Is it correct that that building has not yet been sold?

Mrs Brown:

The sale of the PRONI building has been agreed. Which paper are you referring to? Is it the qualifications paper?

Mr McGimpsey:

It is the paper on the annual report and accounts.

Mrs Brown:

We are covering the October monitoring round now, and we will then provide some background on the annual report and accounts. If that does not answer your question, we will be happy to come to that.

The Chairperson:

No other member wishes to ask a question as this stage.

Mrs Brown:

Michael will now cover the qualifications, including the PRONI issue.

Mr Michael O'Dowd (Department of Culture, Arts and Leisure):

On 20 July, we provided a background paper to the Committee on the qualifications, which are attached to the Department's accounts for 2010-11. I will begin by sketching the context or background to those qualifications, and I will then go on to discuss the detail behind the specific qualifications that are contained in DCAL's audit report. For the benefit of those of you who are not familiar with the process, each year, the Audit Office examines the accounts that are prepared by Departments and expresses an opinion on them in its reports. If it is not content with any aspect of the accounts that it examines, it can qualify its opinion on them. Therefore, it can include in its report qualifications on matters that it believes it should draw to the attention of the Assembly.

In DCAL's case, the Audit Office made qualifications in two areas: first, where the scope of its audit had been limited, and, secondly, where expenditure reported in the accounts was considered to be irregular. By irregular, we mean expenditure that had not been applied for the purposes that had been intended by the Assembly. I will move on to the specific meaning of that in a moment.

The Audit Office made four specific qualifications on DCAL's accounts. Those were to do with an absence of Estimates cover for an impairment charge against the new PRONI headquarters in the Titanic Quarter. That resulted in two related qualifications. There was a qualification on EU grants that we had to repay following EU audit work. Finally, there was a qualification around the Department's inability to demonstrate legal title to all the assets recorded in its books.

I will look at each of those in turn, and it might be helpful if I ask for questions at the end of each one so that we are clear which areas we are talking about. First, I will deal with the absence of Estimates cover. The new PRONI headquarters in the Titanic Quarter were completed on 1 March 2011, which is one month prior to the year end. The land element of that site was £3·12 million, and the buildings element was £25·56 million. At the year end, which was one month later, a review of the valuations of all DCAL assets, including PRONI, took place. Land and Property Services (LPS) performed a specific valuation on PRONI HQ and concluded that its value was impaired by a total of £3·39 million. In practice, that means that if the HQ had been built at the end of the year rather than over the previous three to five years, it would have cost £3·3 million less to build. That was mainly because of a collapse in the price of land. So, originally, we paid £3·12 million for the land around the Titanic site, and that has been impaired by a total of £2·37 million.

The size of that impairment was totally unexpected by DCAL, and there was insufficient Estimates cover in place to deal with it. Given the timing of one month before the year end, it was too late in the year to obtain more Estimates cover and, because there was insufficient Estimates cover in place, the additional expenditure incurred is considered to be irregular. That is, it lies beyond the ceiling of expenditure agreed by the Assembly in the spring Supplementary Estimates.

Two separate ceilings were breached as a result of that unexpected impairment charge: first, at the level of provisions within our total Estimate, and, secondly, at a total expenditure level, which led to an Excess Vote, hence there were two qualifications by the Northern Ireland Audit Office (NIAO). To correct that Excess Vote, the Department will seek Assembly approval for the total excess expenditure in the next Budget order. It will also, in the circumstances, bear in mind the potential for significant but unexpected impairment charges in the future, and it has already revised its internal processes accordingly. Having said that, it is highly unlikely that a similar set of circumstances like those surrounding the PRONI HQ will arise again.

It is also important to point out that the issue behind this is a technical accounting matter and reflects a universal fall in land and property values. The ability of PRONI or the Department to continue operations and provide front line services is entirely unaffected by the impairment charge. That concludes my piece on the impairment charge and Excess Vote. I can answer questions at this point.

Mr McGimpsey:
I got that it cost £3·12 million for the site and £25 million for the build at the Titanic Quarter and that you anticipate receipts on the old PRONI site on Balmoral Avenue. I got a bit confused when you talked about impairments, and so on. What contribution did you expect that site disposal to make? In other words, what value did you estimate for the disposal and what was the reduction? You said that it was totally unexpected. The property collapse happened in 2007, so it could not have been totally unexpected.

Mr M O’Dowd:
There are two different points. I am talking about qualifications to the accounts, and that qualification is entirely to do with the new Titanic build. You also mentioned the fall in anticipated receipts on the old PRONI —

Mr McGimpsey:

You said that the Assembly approved total Estimates of £2·794 million.

Mr M O'Dowd:

Yes.

Mr McGimpsey:

That figure arises mainly from the reduction in the value of the PRONI building, and that you tried to offset by small underspends. The big money is the reduction in value of the PRONI building. I simply want the details of that. What was that reduction, where did you start to take it off and where do you finish?

The Chairperson:

Is there confusion about which PRONI building we are discussing?

Mr McGimpsey:

No, it is the PRONI one. He is talking about the reduction in value of the PRONI building. Is that the new building or the old building?

The Chairperson:

Could you be more specific about whether it is the new building or the Balmoral site?

Mr M O'Dowd:

Yes; it is the new building.

Mr McGimpsey:

I beg your pardon, therefore. I was thinking of the old building.

Mr M O'Dowd:

In parallel, we are trying to dispose of the old PRONI building at Balmoral Avenue, and we estimated sales proceeds —

Mrs Brown:

We estimated sales proceeds of £2·25 million, and we achieved only £2 million. The Balmoral building had been revalued, and we had impaired it throughout the course of us knowing that a sale was coming up. If I recall correctly — do not quote me — I think that, in the earlier comprehensive spending review (CSR), we had anticipated bringing in £6 million for the PRONI building. So, we had been revaluing it down and that was managed through the budget process. There was just a very small shortfall of £225,000, and that is the bit that we are having to cover.

The qualification is in respect of the brand new building in the Titanic Quarter. That was built over time so the costs accumulated. In February, it moved from being an asset under construction to being commissioned. As a result, a revaluation was done at that point and the value was less than the amount it cost to build just because of the market. We did not expect that or put it in the budget, which is why we ended up where we were.

Mr M O'Dowd:

It was simply one month before the year end and too late to increase our Estimates cover because that process had taken place for the year. So, we are left with that impairment charge but no budget cover. We are talking about the new Titanic Quarter building not the old building.

Mrs Brown:

There is no cash loss. This is impairment.

The Chairperson:

OK, I think we are satisfied with that response.

Mr McMullen:

Are we down to that money being returned for water-based sports?

Mr M O'Dowd:

We have not got that far yet. That is a subsequent qualification. I will come to that one shortly. In fact, I will come to that next. The second area of qualification is on disallowed EU expenditure. That refers to a grant programme part-funded by the EU that ran from 2001, shortly after the establishment of DCAL, until 2006. As you said, it was to do with water-based tourism, and consisted of improving angling facilities, developing the inland waterways network and improving water recreation facilities. Through that programme, DCAL funded over 60 projects.

Verification work by the EU began on the programme in 2008, two years after its closure. A final report was made in October 2010. The process identified a number of irregularities. As a result, repayments of grant were made to the EU. The closure report identified a final repayment due of £27,000, which was reflected in the 2010-11 accounts. Since DCAL made those repayments to the EU, but considered it inappropriate to seek reimbursement from the grant beneficiaries, the expenditure is deemed to be irregular because it represents a shortfall in EU funding that is met by the UK taxpayer. In essence, we had to repay a grant to the EU but decided not to try to claw back the grant from the original beneficiaries.

We did that for a variety of reasons, and I will give you a flavour of those. In one example, a grant that DCAL made was used towards the purchase of a charter boat off the north coast, which was used for general tourism and fishing trips. The letter of offer on that grant contained a proviso that the asset would be held for five years. The business was run very successfully but the owner died after four years and the asset was disposed of as part of his estate. As it was disposed of less than five years after the grant was made, the EU insisted that the entire grant was reimbursed. In the circumstances, it seemed entirely inappropriate that we would go after the owner's family to try to recover the entire grant made five years previously and allowed a business to run successfully for four years. However, the EU's attitude is that it was black and white and it wanted the entire clawback. It deemed the entire amount irregular and we had to reimburse it. We felt completely unable to go after the family of the deceased to get the money back; hence, the funding gap and the irregular expenditure.

In a second set of cases, when grants were made towards marina development and jetty facilities, the EU was concerned about the lack of an audit trail and non-use of a separate bank account to pay for those various bits and pieces and improvements. Our internal audit disagreed and felt there was no case for going back to the grantee and asking for the grant back. As far as it was concerned, there was a clear audit trail and everything had been done above board. Again, the EU insisted that it was reimbursed the entire amount and we felt unable to go after the beneficiaries because we felt we had no case for doing that; hence, a gap and the irregular expenditure.

In essence, the EU applies a specific set of black and white rules to grant expenditure, and if you fall foul of them, you give all the grant back. There is no grey area and no room for manoeuvre or adjustment. That was the sort of situation we found ourselves in.

Clearly, if we come across EU funding again, we will approach the entire area a little differently. It has been a lesson learned on how EU funding works and on how EU clawbacks can work.

Mr McMullan:

Given what you were supposed to do in the past, what will you do differently in future?

Mr M O'Dowd:

I have two examples where our internal audit disagreed with the findings of the EU audit. In future, we have to remove that grey area, so that, if something satisfies our auditors, it should satisfy their auditors. In certain cases, for instance, our auditors were happy to use certified copies of invoices as evidence of expenditure. However, the EU insisted on having sight of original invoices and would not accept a certified copy. That is the sort of grey area that we have to narrow down or remove altogether: what is acceptable audit evidence when checking grants.

Mr McMullan:

Who has the original invoice?

Mr M O'Dowd:

The original invoice would have been generated by the grantee, inspected by the Department and then returned to the grantee for his books and records. As I said, by the time the audit work for the 2001-2006 grant management programme took place, it could have been eight to 10 years after the event. In that case, the EU did not accept certified copies of invoices and insisted on seeing originals. We know now that that is the way in which the EU operates, so, in future, we will insist on keeping original invoices. We did not know that at the time. So there are grey areas between what we and the EU accept as good audit evidence of expenditure. In future, we have to remove any doubt about what is acceptable.

Mr McMullan:

Are you confident that the EU will accept what you want to do?

Mr M O'Dowd:

We will probably have to abide by its rules and be stricter ourselves.

Mr McMullan:

So we are not going to clear anything up. We have to abide by the original ruling.

Mr M O'Dowd:

All those grant repayments are done and dusted. However, in future, if we use EU grant money, we will have to remove any misinterpretations or differences in interpretation over what is eligible and what is acceptable evidence of expenditure.

Mr McMullan:

At the time, were people told that the EU grant could be repayable within five years, no matter what?

Mr M O'Dowd:

In the case of the deceased person, it was not entirely clear in the letter of offer that the grant would be clawed back. In fact, we did not claw it back. We simply repaid the money that the EU gave to that person.

Mr McMullan:

It was not clear in the letter of offer. Therefore, it was not that person's fault.

Mr M O'Dowd:

There is no suggestion that any grantees acted in an untoward way. In most cases, it was simply a question of the kind of evidence acceptable to the EU compared to what was acceptable locally. There was no question of impropriety, which is one reason why we did not ask those people for their grants back. We simply paid the EU.

The Chairperson:

Just to clarify, DCAL was the custodian of the money at that stage; it was the granting body.

Mr M O'Dowd:

Yes. The EU granted 75% of the total cost of a project or an asset, and we granted 25%.

The Chairperson:

Any community group that has received moneys from any EU programme will be aware of that, and certainly any councillor who has been involved in such matters would also be aware. So it was a schoolboy error.

Mr M O'Dowd:

At the time, our internal audit took the view that there was sufficient evidence of eligible expenditure. The EU took a different view.

The Chairperson:

Lessons have been learned all round.

Mr M O'Dowd:

Yes, certainly for the future.

Mr Sheehan:

Are there no clear written EU guidelines on the issue?

Mr M O'Dowd:

There are guidelines, but it is a question of interpretation. Guidelines do not normally go into the level of detail necessary to allow one to determine whether a certified copy of an invoice is acceptable or whether it has to be the original copy. Neither were circumstances envisaged in the practical guidelines where you might ask for an invoice 10 years after the event.

Mr Sheehan:

If you are asked for an invoice, you must assume that the original is required. Is that not the case?

Mr M O'Dowd:

In our case, we have certified copies of invoices on file.

Mrs Brown:

The original invoice was produced at the time, and the Department clarified that it was an original. It is just that we could not produce the original invoice when the European auditors were in. They did not accept that the certified copy was proof that we had seen the original. That is where there is a bit of a grey area. There is also an issue with retention of the records, that is, the claimant, and keeping an invoice for eight or 10 years.

Mr Sheehan:

I can understand them not going after the person who got the grant since they produced all the documentation that was required. The fault appears to lie with the Department.

Mr M O'Dowd:

The problem is that there is a lack of detail in the guidance on this. The Department made assumptions, and its internal auditors agreed with those assumptions, but the EU decided to clawback the money. We cannot stop that happening. Obviously, for the future, we know that the EU insists on a certain standard of evidence that is higher and greater than ours. That is a lesson learned for the future, but it was not apparent at the time.

The Chairperson:

This has provoked a bit of attention.

Mrs Hale:

Best practice would be to keep the original receipts. Will you clarify whether that will happen?

Mrs Brown:

We cannot keep original invoices; they are not ours. They belong to the claimants who need them for their accounts and for their other business.

Mrs Hale:

Even if they come from a body like the EU?

Mrs Brown:

We will have to make very clear the period over which they must retain their invoices and make sure they know that they may be inspected at any time. The issue is ensuring that claimants hold their invoices for a period and ensuring that we are clearer.

Mr McMullan:

I thought that it was understood from the start that you have to retain your invoices when applying to EU programmes and grant aid schemes. If the EU wants to reclaim its money, does it do so through you?

Mr M O'Dowd:

Yes.

Mrs Brown:

We are responsible.

Mr McMullan:

You basically act as a buffer and pay the money instead of the claimants.

Mr M O'Dowd:

Yes.

Mr McMullan:

And it accepts that?

Mr M O'Dowd:

As long as the EU gets the money, it does not care. Obviously, when we repaid the money, it was classed as irregular expenditure and we were hit with the qualification in our accounts. However, the EU gets back the money it wants.

Mrs Brown:

The amounts are very small. This was a very successful European funding programme that the Department ran over a number of years.

Mr McMullan:

If we do that, we will be saying to the public that you are allowing slippage of a percentage of the funding for unforeseen circumstances, such as those that we are seeing now. With other funding programmes, even local ones, there is an historical clawback clause.

Mrs Brown:

Yes, and there would have been one in our letters of offer.

Mr McMullan:

Therefore, if this came through the insurance, the insurance company would come in, even to the next person involved. The Department taking responsibility and ending up paying itself will set a precedent. Hopefully, this does not happen to anybody else, but if it does, someone will be able to make the argument that, as you have done it once, you can do it twice.

Mr M O'Dowd:

Yes.

Mr Swann:

This was a one-off instance, and the Department has learned from it. Have you audited the rest of the funding applications to programmes so that the Department is not left in this situation again?

Mrs Brown:

There has been a huge piece of verification work done, which led to this. That is how we uncovered these irregularities.

Mr Swann:

So there are no more in the woodwork?

Mrs Brown:

No, and there are no new EU programmes running at this particular time. If any start up, we will ensure that the lessons are learned from the last programme.

Mr Swann:

I want to touch briefly on the issue of the fisheries vessel off the north coast. The Department did not go after the family of the deceased. In this case, the Department has shown a heart, because I know of other Departments that might not have been so understanding. On the other issue, you need to learn your lesson.

The Chairperson:

Do you need to say anything on the limited scope of audit?

Mr M O'Dowd:

Yes. The final area of the accounts that was qualified was around an absence of legal title to various assets that are under the current management of inland waterways and inland fisheries. Documentation there is either incomplete, unclear or does not exist. This is to do with assets that were transferred to DCAL on its establishment in 1999, so it is an issue that we have inherited from other bigger Departments. The problem for DCAL is that, because those assets are proportionately a larger bit of our asset base, they attract audit attention and audit qualifications, whereas in bigger Departments they would not be significant enough to warrant qualification.

I can give you more background on the legal title issue. The Department has already produced a report on the issue and has a plan in place to complete registration, or give itself title, to a number of assets in the near future. Further longer-term plans are also being developed.

Unfortunately, the process of registration is lengthy, even between willing parties. In the past year, we have agreed registration of assets where there was doubt as to whether the Department of Agriculture and Rural Development (DARD) or DCAL owned them. Even when willing parties are involved, the negotiation takes time. We know that from experience. It is a very lengthy and resource intensive experience. For that reason, it is likely that qualifications in that area will continue into the near future. It is simply something that we do not have the resources to fix soon.

An important point to recognise here is that the operational activities of the Department are entirely unaffected. It is not as though we are unable to use sites or provide front line services as a result. It is simply a technical background issue: we cannot demonstrate clear legal ownership to those assets.

The Chairperson:
This is not an issue that is necessarily peculiar to DCAL.

Mr M O'Dowd:
No, but it is visible with DCAL, because a larger percentage of our asset base has to do with waterway assets. A lot of those were transferred from DARD, which has a huge asset base, so it will not have the same visibility in a very large Department like DARD. However, the issue exists elsewhere across the block.

Mr Ó hOisín:
I refer to the PRONI building. In cases where there is no evidence of clear title to assets, is there some sort of variance in the valuation of those assets and how does that affect the overall audit?

Mr M O'Dowd:
That does not affect the valuation process, because we know where the assets are, what they look like and what size they are, such as river banks, stretches of river and fishing rights. There is clarity as to what the asset is; we just do not have a piece of paper to say that we definitely own this unambiguously.

Mr Ó hOisín:

They are all valued, however?

Mr M O'Dowd:

Yes.

The Chairperson:

Have you any further comments to make?

Mr M O'Dowd:

I have no further comments, unless there are further questions.

Mrs McKevitt:

Is there a risk that someone else may claim the title?

Mr M O'Dowd:

There is that risk. In some cases, we may not be as active as we may otherwise be, because activity in such an area might provoke someone to come along and say, "I own that." We could involve ourselves in litigation for no good reason. There is a risk in the background that, if you start to publicly claim ownership of a certain asset, stretch of river, riverbank or whatever, others may come along and think that they can get involved in some litigation and get some money from the Department. There is always that risk.

Mrs McKevitt:

That is a big risk.

Mr Ó hOisín:

I have seen that become an issue at local government level. Claimants came out of the woodwork when things were identified, or when there was some sort of dispute. Have you allowed for that in your process?

Mrs Brown:

We have. We look at assets that may be coming up for sale, and we have prioritised them in that way to ensure that those risks are being managed.

Mr M O'Dowd:

We have evidence of our direct involvement in the management of these areas, and no one else's direct involvement in management, so we are on the stronger ground.

Mr McGimpsey:

How significant do you think this is? Are we talking about small matters? Is there a significant asset that the Department cannot prove its title to?

Mr M O'Dowd:

The value itself is significant, but the fact is that no one has ever disputed ownership of these with us. It is a technical matter in the sense that no one has ever come forward and said, "I own these assets; you do not."

Mr McGimpsey:

Land and Property Services cannot help?

Mr M O'Dowd:

No. This goes back beyond the establishment of DCAL in 1999. We inherited assets that may have been on DARD's books for years and years before that. Unfortunately, this is not a recent problem that we can clear up by just searching the records.

Mr McGimpsey:

It is your problem now.

Mr M O'Dowd:

Yes.

The Chairperson:

Thank you very much.

Mr M O'Dowd:

Thank you, Chair.