



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Inquiry into Allegations arising from a BBC NI
'Spotlight' Programme aired on 3 July 2013 of
Impropriety or Irregularity relating to NIHE-managed
Contracts and Consideration of any Resulting Actions:
Northern Ireland Housing Executive

5 June 2014

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Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Mickey Brady (Deputy Chairperson)
Mr Jim Allister
Mr Michael Copeland
Mr Stewart Dickson
Mr Fra McCann
Mr Sammy Wilson

Witnesses:

Mr Donald Hoodless	Northern Ireland Housing Executive
Professor Peter Roberts	Northern Ireland Housing Executive

The Chairperson: We have Professor Peter Roberts, the chair of the audit committee of the Housing Executive, and Donald Hoodless, who, of course, is chair of the Housing Executive and whom we have met on quite a number of occasions.

Obviously, we are addressing phase 2 of the inquiry, which is the issue around the adequacy of the actions proposed by the Minister for Social Development and the Housing Executive to address previous, well-documented failings in relation to procurement and contract management. There is quite an extensive range of issues, and we have been trying to knuckle down to say that there have been well-documented failings and a number of inspections and so on and recommendations flowing from those. We need to ascertain whether all of those recommendations have been adopted and whether they are effective and whether they will be implemented and will be effective. We seek some assurances around that.

Members will have their own relevant questions that they want to ask. When we invite witnesses to the inquiry, for procedural fairness, you are made aware in advance what issues we want to deal with. That gives you the opportunity to address those at the outset. The meeting will then be open to members' questions. Is that fair enough?

Mr Donald Hoodless (Northern Ireland Housing Executive): That is absolutely fine.

The Chairperson: Donald and Peter, thank you again for your presence today. I know that Peter is trying to catch a flight, so we will try to be reasonable with our time frame. Over to you, Donald.

Mr Hoodless: Thank you very much. First, I thank the Committee for arranging this afternoon's meeting; it is greatly appreciated. So, thank you very much for that. We have submitted a written paper to you, but rather than going through all of it, I will just pick up on some of the points.

I emphasise that Peter and I know that good governance is critical to the Housing Executive's success. We have a positive story of progress in moving on from the past. That is really what we want to say today, but it is a journey with a lot more to do. Equally, we do not want to forget at all that we are here to provide more social homes, to work with our tenants and to maintain, improve and, at times, remodel tenants' homes so that all are living in good-quality accommodation. That is our role.

The board's role is to work within the framework set by the Department. Within that, the board is there to set the direction, priorities and plans for the future. It is also responsible for performance. We are answerable to all stakeholders, from tenants through to the Minister. We are there to hold management to account. That is very much our role. The board has to have an overview of the Housing Executive's work to see the bigger picture and to assess performance, but it also needs to spend time understanding and discussing the problems and issues that we face so that we are better informed.

What we have done is reviewed the scheme of delegation from the board to managers. We have passed that responsibility down so that we can see that bigger picture. We have simplified the structures in the organisation and reorganised the agendas of board meetings. Every six months, we have held board awaydays, where the board spends more time working together and we get speakers from outside the Housing Executive to explain what they do and how they work so that we as a board are better informed about possible ways forward for ourselves.

We have also reviewed our board's effectiveness. We did that a year ago and revisited it in April. So, we check to see that what we are doing is working and that we have done what we said we would do. In other words, we are engaged in a process of renewal in the organisation.

You have already heard about the Journey to Excellence and the leadership forum. I have played an active part in both. One of the things that I have done in my chairmanship to date is to visit the offices and talk to staff. I was told this morning that I have done 27 offices. I enjoy talking to staff about the issues that they face, how they are working and what they find are the problems.

Of course, the concerns on governance go back a long way to 2010. It is a legacy that has to be managed and resolved. We as a board are totally committed to reducing all the outstanding issues. I think that there are two big reasons for that. First, we want to be the best at what we do. Secondly, we want to do it because of the Housing Executive staff. They have been subject to continuous and intense scrutiny and checking, which has been wearing for them, it makes all staff risk-averse and that inhibits the organisation's innovation, which any organisation needs. We need the creativity of those staff to be better. So, we need to change the culture and the way that we work there.

There is much more to do. On asset management, again, we as a board need to check that the staffing structures and the skills that we have are the right ones and to make sure that they work effectively. We also are looking to ensure that our procurement processes are the best that they can be.

A key issue for us is whether we are delivering our programmes. The board, in other words, has to be constantly vigilant and challenging to management. That is what we are doing. That is where we are now, and it is what we want to continue to do. We are doing much better, and we are striving to be the best again.

I will now pass to Peter, who will tell you what the audit and risk committee is doing within that framework.

Professor Peter Roberts (Northern Ireland Housing Executive): I add my thanks because it was principally my fault that we could not make your earlier date. I needed to take my wife to hospital; she has been receiving quite intensive treatment, so thank you for accommodating us this afternoon. I am very grateful.

I took responsibility for the audit and risk assurance committee at the start of the 2013-14 financial year. All I can do is reflect on what we have done over the past year. The annual report for that year will be available in the next month. Obviously, you will be welcome to see a copy of it.

When I took charge of the audit and risk assurance committee, we did three things. First, we acknowledged that we needed to restructure our committees. Until then, we had two committees — the audit committee and the risk and performance committee — that worked separately; they did not work in harmony. There is always a big danger when you have two committees that they assume that each other is doing something and things slip through the gaps, or that they duplicate or overlap. We decided to bring the two committees together. That was agreed by the board, so I inherited a unified committee concerned with audit and risk. Since then, we have been trying to move those forward.

Secondly, we initiated a review of what the terms of reference should be. We had, very helpfully, three sources of expert best-practice guidance available to us: the Northern Ireland Audit Office (NIAO) guidance, which was extremely helpful; DFP guidance; and HM Treasury guidance. We refreshed the terms of reference for the new committee on the basis of best-practice guidance at the very leading edge.

That review involved a number of people in and outwith the executive. The people outwith were principally from the Northern Ireland Audit Office, DSD and elsewhere in government. The terms of reference were developed and agreed by the committee on 9 October 2013 and were recommended to the board, which accepted the recommendation and approved the terms of reference on 29 October 2013.

Thirdly, the measures plus a review of the membership, which I will come to in a second, provided a much stronger platform for the scrutiny role of the audit and risk assessment committee.

In parallel with the reconstitution of the audit and risk assurance committee, and in accord with good governance principles and practice, a review of committee membership took place. Given the new mandate the committee had, the review suggested that we needed to strengthen the committee's competence in relation to governance and risk. We took that forward because we had the retirement of one of the existing audit specialist members. We appointed a chap called J P Irvine, who is the company secretary and counsel general of Translink, as an additional non-executive specialist member of the audit and risk assurance committee. He complements the skills already performed by Dean Morrice, who is an audit specialist.

Additionally, in order to ensure that audit and risk matters are dealt with correctly and expeditiously, and without any fear that internal audit or other reports have been subject to undue management alteration or editing, the audit and risk assurance committee discussed and agreed a new set of procedural structures on 15 January this year. Again, we took that to the board for approval. The board approved the new process for the submission of reports at its meeting on 29 January.

I will conclude at this point. I think that the audit and risk assurance committee is now fit for purpose. It is much more proactive than in the past in seeking matters to be subject to audit and to risk assessment, and it also has the necessary skills to allow it to discharge those functions. I am happy to answer any questions.

The Chairperson: Thank you, Professor, for that. Before I bring in members, I have two points. I think that there is a widely held view that a lot of the procedures were in place over the years but that they were not applied by personnel. Notwithstanding the fact that you have new and additional procedures in place, are you satisfied that they will be protected against the non-application — if I can use that diplomatic word — of procedures? Secondly, are you satisfied that the additional work the Department may have undertaken is complementary to your measures? I am trying to tackle all this from both sides.

Professor Roberts: I will take the second question first. I am assured of that, because I have taken steps to make sure that the departmental representative, Donald Heaney, is more involved in the work of the committee and in agenda setting than in the past. Also, even though he has observer status because of the structural relationship, we make sure that he is fully involved in our discussions, and he is now asked to take away matters and report back. So, I think that the Department does stand behind us on those matters. On another strand of work, we gain further reassurance from the Department's reviews of our processes and procedures and we are held to account by the Department on those.

On your first question, I think that the evidence is that the process is working. My background is as a planner, and planners are often guilty of producing wonderful plans that get stored away on shelves and look very neat and nice, but really the essence of any process or plan is its application and implementation.

Two things are worth noting. First, as part of the new process and procedures that have been agreed and implemented, I have regular meetings with the two people you talked to last week, the head of internal audit and the head of the corporate assurance unit, outwith the audit and risk assurance committee and make sure that progress is being made. Secondly, the real proof of the pudding is in the products. Only today, I received two pieces of work that the audit and risk assurance committee asked to be brought forward prior to its next meeting because we saw them as important matters. Those two reports have been produced.

So, I think the process is working. It is delivering what we wanted, with timely rather than retrospective reports. We want reports on issues that we have seen as potential problems, and we want them as early as possible so that we can avoid what might be a minor difficulty becoming a major problem. I am very keen that we do not simply store stuff up behind the dam and fail to recognise those problems.

Mr Allister: You are telling us that everything is good, that there are lots of checks and balances and that all is well. If the Committee had asked your predecessors the same question five years ago might it have got the same answer?

Professor Roberts: You may well have got the same answer, but whether they would have the same confidence that the answer is justified by the evidence is a different matter. You would have to ask them that question.

Mr Allister: In terms of the confidence that we should repose in what you are telling us now, how could we be assured that the audit committee is receiving unaltered reports, given that there was a history of them being altered before they got to the committee? How can we be assured that there is no opportunity or possibility of that happening?

Professor Roberts: You are tempting me into the land of assuming that everything is possible and yes, it is. I accept that and that, even with the best checks and balances in the world, it is still possible for people to operate outwith the conventions and principles that are agreed that represent good practice.

The analogy that I always draw is that it is fine and dandy having wonderful fire insurance, but you still need to make sure that the kids are not smoking in bed. That is why I have regular private meetings with the head of internal audit, at which I normally look him in the eye and ask him whether he is concerned about any issues above and beyond the normal process that he wants to convey to me. I will continue to ask her or him that question, as head of internal audit. Equally, I ask the same question of the head of the corporate assurance unit. Secondly, the procedures within the formal management structures are noted and minuted and are changed. Those procedures would make it more difficult for things to be altered.

However, to be honest, Mr Allister, I would have to agree with you that it is always possible that, if people are going to be totally devious and wish to subvert any process, however well intentioned, well supported and well pleased, they can get around those things.

Mr Allister: How far has the personnel changed?

Professor Roberts: There have been some alterations to the staff in internal audit and the corporate assurance unit. At this stage, those are not extensive, but there have been some minor alterations.

Mr Allister: Was anyone ever removed from position because of any of the findings in any of the reports that drew attention to these matters?

Professor Roberts: Not in my time as chair of the audit and risk assurance committee. However, if you want to review the personnel, we could do that and get back to you, but I do not have the personnel statistics for the two units in front of me today.

Mr Allister: Mr Hoodless, the series of reports, which found all sorts of deficiencies, were essentially awaiting you when you arrived in office. We are now asked to believe that things are so much better and different, but if we take as an example — I do not want to stray needlessly, but I think that it is relevant — the £18 million in overcharges. We had you, as chairman, coming out and declaring very

robustly that to be a fact. We now understand that it looks like anything but a fact. So, how did the processes, which you now stand over, allow that situation to evolve?

Mr Hoodless: I do not entirely agree with how you put that. The board was advised that it was £18 million. I did not make that figure up.

Mr Allister: No, but it was done under a process of investigation initiated by you.

Mr Hoodless: No, it was not a process. The planned maintenance contracts were ongoing. There was an issue about overpayments when I arrived to the board, which had been going on since 2010.

Mr Allister: Sorry, your statement of 10 June last year said:

"When I took up office in November 2012 and was briefed on the Housing Executive's management of planned maintenance contracts by the Minister, I requested in December a comprehensive investigation from the Chief Executive into this matter."

Was that the comprehensive investigation that threw up the £18 million?

Mr Hoodless: Yes.

Mr Allister: So, you had oversight of that.

Mr Hoodless: The board had oversight of it and I am the chair.

Mr Allister: You are the chairman.

Mr Hoodless: The object was to resolve that issue. As far as the Housing Executive is concerned, we have resolved it. We have reached agreement with the contractors and the matter is now with the Department and —

Mr Allister: Then tell us, was there overcharging, as you claimed, of £18 million?

Mr Hoodless: I think that it would be premature of me to make comments about an agreement that we have with the contractors before it has been agreed formally.

Mr Allister: If it turns out, Mr Hoodless, that the process that you trumpeted — you trumpeted the £18 million and had some very robust things to say about it — does not stand up to scrutiny, what does that tell us about the value of the processes that you have now put in place?

Mr Hoodless: I think that you will need to wait to see whether that is in fact —

Mr Allister: That is an easy cop-out.

Mr Hoodless: You interrupted. I was going to carry on to say that the processes we have put in are to change some of the structures of the department so that all maintenance is now brought together in one place. I mentioned that the board has asked to ensure that that department has the right level of staffing and skills, which is under way.

I have made it quite clear that we think we are doing better, but it is a long road ahead to be the best and it is a journey that we are on. So, it would be wrong to say that we were black and now we are white. It is a process of movement forward in a positive way. That is what we are about.

Mr Allister: If I can put it to you another way, if it turns out that you got that wrong, what confidence should this Committee have in you getting other things right in running the Housing Executive?

Mr Hoodless: You will have to wait to see whether I have actually got it wrong. I did not get it wrong; the figures were given to the board.

Mr Allister: By you.

Mr Hoodless: No, the £18 million —

Mr Allister: Well, by your instructions.

Mr Hoodless: No, come on. We, as the board, have oversight. The board and I asked specifically that they determine exactly what they considered the overpayments to be. That is the figure that came back. It is not my figure.

Mr Allister: You were confident enough to go on the radio and talk about it.

Mr Hoodless: I have not been on the radio to talk about it.

Mr Allister: You were on Radio Ulster back then talking about it in very robust terms.

Mr Hoodless: I told the Minister and everyone what we had been told.

Mr Allister: So, if you swallowed false information, does that not raise questions for us as to what credence we should give to what you are telling us now?

Mr Hoodless: You are making the assumption that it is false information. It was caveated.

Mr Allister: Not by you it was not, and Campbell Tickell pointed out that, instead of putting in the caveat that it was a broad-brush figure etc, you and the Minister rushed to simply talk about the £18 million.

Mr Hoodless: The Minister did talk about the £18 million and I informed him of it, because it is my responsibility as chairman to tell the Minister and the Department what we have found and what we have been advised, and we were advised that.

Mr Allister: You do recall what paragraph 10.1.6 of Campbell Tickell said:

"That problem was then exacerbated when that figure of £18m was put in the public domain, with no reference to the caveat."

There was no reference by you or the Minister to the caveat. So, as chairman, you were prepared to put a figure in the public domain without reference to the caveat. The point I am drawing out of that is that, if it was cavalier to do that, now that you are still in charge of the Housing Executive, should we have the confidence you invite us to have that everything is now hunky-dory?

Mr Hoodless: The board worked together. The board is responsible for oversight. I lead that board and we work together to ensure that we fulfil our responsibilities. We are on that route.

Mr Allister: If I was a board member, how much advance notice would I have of the agenda papers and opportunity to study them, given that I would probably have another job to do?

Mr Hoodless: When I arrived, they were sent out at the weekend before a Wednesday board meeting and they were that thick. They now go out a week before and they are that thick in order that the board members have the opportunity to consider all of the papers properly.

Mr Allister: They are getting fewer papers?

Mr Hoodless: They are getting more succinct papers and they are not being asked to make decisions about issues with no context in which they can understand the broader picture.

Mr Allister: Who sifts the papers?

Mr Hoodless: It is not a question of sifting the papers. We have made clear that we have a forward work plan for the board. That plan has set and agreed our awaydays, and the management has to produce the papers according to that plan.

The Chairperson: It is a fair and very appropriate line of questioning, although the issues at hand predate your appointment — we accept that entirely — and we are also labouring under the fact that we do not have the end result of the negotiations between you and the contractors. We agreed this morning as a Committee that we were quite concerned that that was still going on for some time. We were intending to ask you what point that negotiation is at. I think you said that it had been concluded between you and the contractors and it is now with the Department, so we will pursue that robustly with the Department, because clearly we think it is an unacceptable delay, particularly if contracts are not awarded until later in the year. What is relevant about this line of questioning is that, unfortunately for you, perhaps, even though the issues predate your time, we have to satisfy ourselves, under the phase 2 criteria and terms of reference, whether the actions that have been taken are appropriate. If we have a question mark in the way that Jim has outlined, you will appreciate where we are coming from. We have to satisfy ourselves on the question of whether the measures adopted were appropriate. We have a big question mark in our minds because of what has happened, to use shorthand, with the £18 million in the Campbell Tickell report saga. As you know, we will address that at another meeting with you and Will Haire anyhow. So, we are labouring a bit under that problem, but you know where we are coming from, to be fair.

Mr Hoodless: I think that we are equally as frustrated that it is taking such a long time to resolve this. As far as the board is concerned, it signs it off. It is with the Department, and it is a matter really for the Department and DFP to go through their processes and then it can be a public matter.

Mr Allister: Have you been given any timescale on that?

Mr Hoodless: No.

Mr Allister: How long has it been with DFP and DSD?

Mr Hoodless: Two and a half weeks, I think. The board meeting was on 14 May, when we formally signed it all off.

Mr Allister: On the matter of more up-to-date reviews, has the gateway review been carried out?

Mr Hoodless: The gateway review is being looked at by officers. It is on the board agenda for June. You are talking about gateway 5.

Mr Allister: Yes, gateway 5.

Mr Hoodless: That is on the board agenda for June.

Mr Allister: Was that done, as promised, in April?

Mr Hoodless: I am not certain that it was promised in April.

Mr Allister: It was. I have Assembly answers that say that it was happening on 1 April to 3 April and that it would be published within two or three weeks.

Mr Hoodless: All I know is that the officers have had the gateway review and are reporting their findings to the board with recommendations in June.

Mr Allister: You do not know the outcome of that.

Mr Hoodless: Not yet.

Mr Allister: You do not know whether things have improved or not.

Mr Hoodless: No, I understand the issues involved in the gateway review, but it has not formally come to the board yet because the officers have been working on the report and will give us their recommendations for what happens next. We will look at those carefully and see whether we think that they are right.

Mr Allister: The Audit Office report talked about resource pressures on the corporate assurance unit. Have those been addressed?

Mr Hoodless: I think that I should point out that the corporate assurance unit and audit unit have a total of 39 staff. I think that that is a fairly substantial number.

Mr Allister: The Audit Office talked about resource pressures being accountable for the slowness in producing draft reports following inspections etc. Has that improved?

Professor Roberts: As far as I am concerned, the only notified problem, and the only thing sent to me by the head of the corporate assurance unit, is that, due to sick leave, we were short of a quantity surveyor (QS). We have sought to fill that gap through an agency appointment in the short term. There was a hiatus because of the absence of a QS, but I understand that that has now been resolved. You cannot account for sick leave, can you? We are trying not to over-staff our assurance functions to the detriment of delivery functions. We are trying to produce a measured and proportionate response to the issues before us.

Mr Wilson: You explained what you have done on restructuring. I cannot understand how a lot of these problems arose given the structures you had in place in the first place. There were supposed to be checks and further checks and further checks. You now have an additional one, the asset management unit, on top of the audit committee and the corporate assurance unit as well as all the staff in the district offices. The point that worries me is that you can have all these structures in place, but the information feeding up from the bottom can be of not good quality or, indeed, as Jim has pointed out, has sometimes even been manipulated when people do not want you to know the truth of what is going on.

Given that, I assume, you had the staff who were dealing with maintenance contracts for years anyway in the Housing Executive, how did the failure arise at the bottom level that you did not have the quality of information coming through, the proper inspections being done and reports on those inspections? Rather than just put in more layers of governance, what is being done to address the issue at the bottom end?

Mr Hoodless: There has been a much firmer emphasis on making people understand the processes and giving them training to follow. We have been told that there is more consistency and more effort on making sure that it is all done properly at the front line.

One of the other concerns that I have is that there is an awful lot of checking. There needs to be checking, but we have got checkers checking the checking, and we need to make certain that we get the balance right so that people at the front line are able to make decisions and do the job properly. They need to have the training and skills to do that so then we can have people who can make certain that that has happened properly.

Mr Wilson: Given that the Housing Executive has been dealing with maintenance contracts since it came into existence, how did we get to the stage where there were gaps in knowledge, first on how those contracts should be dealt with and the practices that should be put in place to ensure that they were properly dealt with?

Mr Hoodless: It is impossible for me to answer that because it goes back so far. My experience of it is that we do it in a quite complicated and bureaucratic way. That is one of the reasons why we have asked to have a look at our procurement processes, because they seem to add layers rather than get to the point of good, straight-forward procurement. It is an issue that we, as a board, have on our agenda. I think that you, Peter, have started some work on procurement in the audit and risk committee, because it seems to me that we have got into a position where we make it a very complicated process.

Mr Wilson: The reason for my asking, and I did not expect you to give me a history lesson on how it all deteriorated, but, if the problem arose because of failures at inspection on the ground and those were hidden, either by people who asked for reports to be changed or whatever, I want to know whether you have learned any lessons from the past that you are applying to current staff to ensure that those mistakes are not made again.

Mr Hoodless: Yes.

Professor Roberts: There are two points there, Mr Wilson. First, inevitably, there were difficulties in adopting the Egan form of contract, and those difficulties were not unique to the Northern Ireland Housing Executive. Quite a lot of organisations found that they needed to go through a cultural change in order to make best use of the Egan contract procedures. It was a different form of contract and it required retraining, but, more importantly, a cultural change among all the workforce from top to bottom. I am only guessing now, and it is on the basis of hearsay, but I am not sure that the process of cultural change adequately permeated throughout all the layers of the NIHE. That is the first point to make. Everybody I know and everybody I have spoken to accepts that Egan contracts were not implemented in the way in which best practice dictated, but other organisations hit the same problems.

The second point is about the reporting arrangements that we now have in place. We now have much more adequate processes to capture inadequacies in the implementation process, especially the procurement part, than we had in the past. For example, until August 2013, procurement risks did not figure on the corporate risk register. I instituted an initial investigation into some of the issues surrounding the procurement process and the way that procurement was used by the Housing Executive corporately. I think that recognising the risks in the first place is important, and we now recognise, accept and take positive pro-action in order to mitigate those risks. That contrasts markedly with the past.

The additional point is that, as I said to Mr Allister, you cannot assume that putting processes in place will solve the problem. You need to be very vigilant, very proactive and very questioning about the way in which you operate those processes and procedures to make sure that people are not circumventing them or, simply by sins of omission, failing to do what is required of them.

Mr Wilson: Very often, people try to circumvent them because they are dealing with a problem that they were not equipped to deal with in the first place, and you have mentioned the lack of preparation for the Egan contracts.

Let me give you a more up-to-date problem that I think will arise and will lead to the same kind of issue in the future. You mentioned procurement. The Housing Executive seems to have been willing to accept procurement contracts for maintenance that, I am told, even a cursory examination would have shown could not be delivered for the price they were delivered for. Some contractors have already gone out of business, and you are having to increase your direct labour organisation as a result of that. Other contractors are probably in the same boat. Why was that not picked up? What kind of problems do you believe that will store up for the future when contractors start to cut corners and try to make savings and there is some pressure on staff again to go through the whole cycle once more of deciding whether it is more important to keep contracts going and the maintenance happening rather than be too robust in inspections?

Professor Roberts: That is my point. That was the point of conducting the initial review of the procurement processes. I said that there were two subsets. One is the process itself and one is the way in which that process is used. The corporate tasking of the procurement function is really important and, in tasking the procurement function, I can offer you no better advice than my nain — my Welsh grandmother — offered me. Her advice was, "Buy cheap, buy twice". One of the criteria that you normally build into a procurement specification is the viability of the offers made by the tenderers.

Mr Wilson: These are not old contracts. These are new contracts.

Professor Roberts: I know, but some of these things were settled, with respect to the procurement process, prior to the appointment of Donald and me.

Mr Hoodless: The new routine contracts that you are talking about were set in place before we came, and what strikes me about them is that the planned maintenance contracts placed a huge amount of responsibility on contractors. The pendulum has swung so far the other way with the new contracts, and contractors have no flexibility, which goes back to the gateway 5 review that we will look at it. Personally — and we have to discuss it as a group — I think that they are too tight and give no flexibility at all. We will come back to that when we discuss it at our next meeting. The pendulum swung from one extreme to another, and we have to get it back to a sensible place.

Mr Wilson: If you have recognised that there is a problem, looking ahead, what is now being done to address the problem that you have identified, namely contracts being awarded at inappropriate prices

or inflexibility built into them that will create difficulties in the future? What is being done to ensure that we do not finish up with the same set of problems that has led to this investigation?

Mr Hoodless: We have a contract and a contractual period. So, the contracts have to run. We do monitor them. The performance on the routine maintenance contracts has improved considerably, but that does not mean to say that there is not a reason to change some of the KPIs when it comes back to the board in June. Equally, it goes back to us looking ahead so that, when we procure in future, we have the best procurement process or a better procurement process that balances those issues out, we have a, frankly, less bureaucratic process than the ones we have at present and is a simpler way of dealing with contractors. The point, which I think I made before, is that, for most Housing Executive tenants, the face of the Housing Executive is that contractual maintenance is there for you. And so, that relationship, between the contractor and the Housing Executive, is a critical one to get right.

Mr Wilson: One of the ways in which you have had to deal with immediate problems has been by increasing your direct labour organisation (DLO). What has that cost you? I understand that you have had to order additional vans and take in some of the workers from the existing firms. What has that cost the Housing Executive to date?

Mr Hoodless: I do not know the answer to that question in that way. We could come back and look at it specifically. Let me explain. When those contractors went into administration, under the Transfer of Undertakings (Protection of Employment) Regulations (TUPE), we had to take the staff on and, after six months, they became our staff permanently. So, we effectively got a direct labour organisation of the size we have by accident.

We have set up a subcommittee to monitor the direct labour organisation. It is having its first meeting next week. Because it is a contractor and we are a client, we need to look at its business separately. So, it is another point about good governance that we have established: because it is a contractor and it is our contractor, we still have to look at its performance. We have started that process. As I said, we recruited external people with experience on to the committee, as well as our own board members, to ensure that we manage it properly. We know the answers to all these questions, but I cannot provide the detail directly.

Mr Wilson: It would be useful for the Committee to know what additional expenditure the Housing Executive had to incur as a result of this increase in the direct labour organisation, with all the equipment and facilities etc that that required, plus whatever additional supervision that has led to.

Mr Hoodless: I can only take that query back and find out about it.

The Chairperson: I have a couple of points for you. I am just looking at previous reports that followed on from the 2010 governance review, and the PAC and Audit Office reports. Professor Roberts, you introduced the issue around the QS recently brought in through the agency. However, one of the previous concerns was that there were too many agency staff, which does not allow you to have that built-in capacity and experience that is clearly required. Can you address that for a second or two?

There is also the whole issue of whistle-blowers. Again, you highlighted that you can put procedures in place, and in fact most people believed that there were sufficient procedures in place in the first instance, although we welcome additional measures. As you said, there is always the potential for someone to supersede or circumvent all that. The whole question of the treatment of whistle-blowers was raised in the PAC report as well. This question is probably more for Donald, but what measures has the Housing Executive taken to protect whistle-blowers, support them and take seriously the matters they are bringing to your attention? That is obviously an essential element of where procedures may be going wrong because of whatever, when someone wants to bring things to your attention.

Mr Hoodless: At our June board meeting, we are going to have our first manpower plan for a very long time. It goes back to the point that you make. We have a lot of agency and temporary staff; we have people who have been filling jobs at a higher grade, in some cases, for a number of years, which I do not think is acceptable. What we are trying to do in that manpower plan is to ensure that we have the staff that we need as employees of the Housing Executive, and not as agency staff, where we can do that. I have not yet seen the report because it is coming to the board in June; but it is another part of our work intended to ensure good governance. It will ensure that we have good management of the staff by making certain that they are our staff and not agency staff or temporary. We are exploring that and, as I said, it is coming to the June board meeting for us to look at.

The Chairperson: And what about the issue of whistle-blowers, Donald? Again, the whole issue of whistle-blowers and their treatment in the past was highlighted by the PAC and the Audit Office. You can have all the procedures you want, but some people may still wish to circumvent them. The fact is that human resources has a bearing on this as well to draw attention to problems that it sees emerging.

Mr Hoodless: Peter is going to look at whistle-blowing with his committee.

Professor Roberts: Yes, we have whistle-blowing policies, as you well know. Additionally, I instituted a standing item on the agenda of the audit and risk assurance committee, which is to have any reports on additional whistle-blowing or other forms of extraordinary reporting — I cannot remember exactly the form of words I used. I am conscious that we ought to be proactive in this matter.

To be honest with you, a lot of difficulties are encountered, especially by large organisations such as the Housing Executive, by being reactive rather than proactive. The more you can do to anticipate and deal with issues before they become problems, the better. That has been my philosophy for a long time. As you know, I have sat on other large public bodies' audit and risk committees and I chair another audit and risk committee in a £280 million per year public body.

I truly believe that we need to be driving forward by looking through the windscreen rather than the rear-view mirror. That is the appropriate model that we should have. I am not ignoring the issues of the past, Mr Wilson. I know that there are historical issues that we still need to close, and we talked today about the maintenance contracts. My primary driver is that we ought to be putting in place procedures that are robust, address the issues and do not assume that everything in the garden is rosy until we have the assurance that it is — and if it is not rosy enough, we make it rosier.

In other words, I want to see risks going from red to amber to green but I do not want to do that with just a set of coloured pencils. I want clear, well-argued mitigating measures and actions that give me and the audit and risk assurance committee the confidence to say to the board, "We can give you that assurance". That is an importance defence for the organisation as a whole. It is not an act of faith. It is making sure that we adhere to best-established practice in public sector bodies.

The Chairperson: I appreciate that. You are going to some length to demonstrate the additional measures you are taking. You acknowledged that notwithstanding all that, there may well still be problems. It has been said that the Housing Executive was not supportive or tolerant of people who were whistle-blowing. We had John McVeigh at a recent evidence session who, from my recollection, indicated that staff members were highlighting problems but that they were not going anywhere. That does not give me confidence, unless somebody is able to tell me that whistle-blowing is respected, treated properly and that people are not only tolerated but supported, and encouraged, in fact, and that best practice is used. We are looking for assurance on those aspects as well.

Professor Roberts: This is almost a credibility issue here in terms of a newly appointed vice-chair becoming chair of the audit and risk assurance committee, moving into an organisation and saying, "Everything in the house is wrong. Let's change it all tonight. Please believe me, it will be better tomorrow."

I certainly did not adopt that approach nor was I encouraged by Donald to adopt that approach. What we have done is a step-wise, measured approach to improving the procedures and their implementation in the organisation. That is why now, this quarter, I introduced that new standing item on the agenda of the audit and risk assurance committee. I am not saying that I am going to encourage whistle-blowing but I am going to take it seriously. I do take it seriously and an organisation that does not take whistle-blowing and other lesser forms of internal or external additional information provision seriously is failing in its duty. It is as simple as that. I do not regard a whistle-blower as somebody to be ignored but as a necessary part of good governance.

Mr F McCann: I will be brief. You spoke earlier about the Egan contracts. I remember that, when the whole discussion about the Egan contracts was taking place — and I think that you touched on it — some people were saying that this new way of doing things, as they called it, was actually doing things on the cheap.

Professor Roberts: The danger is that you go for the cheapest.

Mr F McCann: That is it. In many ways, you were going for quantity rather than quality. There were people who said at the time that it had difficulties. Even a lot of the contractors said at the time that they could not meet the demands being made of them. It bred that wee thing of people going in low. As Sammy touched on, we have dealt with stuff even in the past 18 months. Contractors were going in 30% below the rate that would have been acceptable, and those contracts were being accepted. One of the last batch of contractors that went bust had bid 30% below. Other contractors were saying openly, "It is impossible to do it for that price."

I cannot understand how questions were not raised about that, in the first instance, within an organisation such as the Housing Executive and, secondly, within the Department, which has an overseeing role. I cannot understand how nobody caught on that this was the case. Are you confident that all the difficulties with the processes that existed a year or 18 months ago can no longer happen? I always thought that, if somebody bid 30% below a contract, you did an investigation into their ability to be able to deliver the contract at that price. Obviously, that did not happen. For all contracts that are applied for now, is an investigation done into the ability of the contractors to do them? If they do not have that ability, is the contract not accepted because it is too low?

Mr Hoodless: I think that the answer to that is yes.

Mr F McCann: To what part of it?

Mr Hoodless: The part about checking on contracts. It is a bit difficult for us because this was an inheritance. These contracts were let at those prices. From my experience in housing management and maintenance, I would worry immediately if someone were bidding low because, once they do so and cannot deliver, you are failing your tenants. It is something that we are now very conscious of because we have members of the board — Peter and I — who have had that experience of social housing and of what you require from your contractors. You need to give them a reasonable price, and you want to have a good relationship that makes certain that tenants get the work done to good quality. So, yes, we are aware of it. At the moment, there are no more contracts to let, so it is not an immediate issue. However, it is on our radar. As I keep mentioning, a whole procurement process would cover that.

Mr Wilson: It is an issue in so far as the same problems that arose with the last lot of contracts could start arising again. As contractors are forced to cut corners, as maintenance officers are forced to turn a blind eye to that rather than not have the work done, and as reports are fudged to hide that, we could go through this whole cycle again. What steps have you got in place to make sure that, if you have assessed that as a risk, it is identified quickly?

Mr Hoodless: We will have an opportunity at the June board meeting to look at the gateway 5 review, which covers the routine maintenance of these contracts. There is an issue in our minds about how we proceed on that. It is a contract, so there is a limit to what you can do outside the contractual terms. However, clearly, we want an effective working relationship that gets the work done for tenants.

Professor Roberts: And which does not cause us to have to default to a more expensive, or potentially more expensive, arrangement in order to fulfil the relationship we have with tenants. Tenants deserve the service they are paying for. We are very clear-minded that we need to provide that service. Mr McCann, you are absolutely right to remind me that "Buy cheap, buy twice" is a very good maxim. If it looks as though people are buying work by underbidding, it is probably right that they are buying work by underbidding. When the Egan contracts were first instituted, they were not well understood. As I said before, that was not just in Northern Ireland, and a lot of housing associations and local authorities elsewhere in the United Kingdom had the same difficulties with them.

Mr F McCann: I just want to make one point. I think that the big problem was that they learned that there were serious problems with the contracts in England, yet they went ahead with them here.

Professor Roberts: Yes. If you were to ask Sir John Egan whether that was what he intended, he would say, "absolutely not". He was looking for a new system of contracts that would be better for all the parties involved by reducing unnecessary bureaucracy. What you ended up with was people not understanding the fundamental philosophy of working in partnership to deliver the best deal for

tenants. I have had those discussions with John Egan and he stands by his guns and feels that misapplication was the problem and not the contracts themselves philosophically.

The Chairperson: We are about to wrap up as you have to get your flight, but I have a wee note of caution in my mind about some of these things. In a previous briefing to the Committee, Gerry Flynn made the point that, when we are dealing with contracts and staff been shifted through the direct labour organisation and all the rest of that, they monitored the work going through the DLO to check that the prices being quoted and tendered for were appropriate. If I remember correctly, Gerry told me that they were satisfied they were. That flags up with me that that was —

Mr Hoodless: Our new DLO committee will check that. As I said, it has been set up and will meet for the first time.

The Chairperson: I do not want to misrepresent Gerry, but that is my very clear recollection of the kind of conversation we had. I am putting it on the record for your attention.

Professor Roberts: Occasionally in procurement systems you find that people significantly underbid the average among the tenderers. Sometimes, by subjecting that particular bid to intense scrutiny, you discover that they have a radically different way of delivering the service from what was intended, which can work. I have a really good recent example of that, but that is the exception rather than the rule. The normal rule is caution if you find that people are underbidding.

The Chairperson: No other members have indicated that they want to speak. Donald or Peter, is there anything else that you want to add?

Mr Hoodless: I just want to emphasise that we are on a journey, making changes and very concerned about good governance. We are also very concerned about moving the Housing Executive into a better place in everyone's eyes so that we deliver services to tenants and have the confidence of everyone that the Housing Executive is doing a good job. That is what we are about and what we want to do.

The Chairperson: Thank you, Donald and Peter. Safe journey on your flight. Thank you for your evidence, and we look forward to engaging with you again.