



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Northern Ireland Housing Executive Planned
Maintenance Contracts:
Mr Nelson McCausland (Minister for Social
Development), Department for Social Development
Officials and NIHE

19 June 2014

NORTHERN IRELAND ASSEMBLY

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Development Officials and NIHE

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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
Ms Paula Bradley
Mr Trevor Clarke
Mr Michael Copeland
Mr Stewart Dickson
Mrs Dolores Kelly
Mr Fra McCann

Witnesses:

Mr Nelson McCausland	Minister for Social Development
Mr Will Haire	Department for Social Development
Mr Andrew Hamilton	Department for Social Development
Ms Mags Lightbody	Northern Ireland Housing Executive

The Chairperson: I thank the Minister, Andrew, Will and Mags for being here this morning. You have a letter from the Committee. We got a letter back from the Minister, but we did not receive it until the day after the Committee meeting. I think that the letter was dated 9 June, but we did not receive it until 10 June or 11 June.

Mr McCausland (The Minister for Social Development): I understand that the Committee, at its meeting on 10 June 2014, expressed its dissatisfaction regarding the delay in beginning the new planned maintenance contracts and my Department's handling of the approval process in relation to the overpayments to planned maintenance contractors. You wrote to me on 10 June to request that I attend the meeting today, along with my accounting officers for the Department and the Housing Executive.

You have already made reference to the fact that I had written on 9 June, when I became aware that there had been some discussion and what appeared to be some misunderstanding at the Committee meeting on 5 June in relation to the Housing Executive's planned maintenance contracts. In view of that, I believed it would be useful to clarify the present position for the Committee and, therefore, wrote to you as Chair. As you indicated, the letter was not with the Committee members until after the meeting of 10 June. It might be helpful if I clarify the position, as detailed in the letter dated 9 June.

As you are aware, the Housing Executive has advised that the parties have reached a position where it is anticipated that the matter will be resolved by agreement. That is subject to relevant approvals from the Department for Social Development and the Department of Finance of Personnel being obtained. In relation to that, the Housing Executive submitted a proposed settlement and accompanying documentation to my Department on 23 May seeking DSD and DFP approval for a settlement between the Housing Executive and its planned maintenance contractors. That is a substantial and complex set of documents which, in line with due diligence, is being reviewed by my officials.

Following the completion of due diligence, and if my Department agrees that the settlement and write-off are deemed appropriate, DFP approval will also be required. I can assure you that my officials are working to bring this matter to a conclusion, in line with the guidance and principles for managing public resources, as set out in the DFP guidance 'Managing Public Money Northern Ireland'. Indeed, that was discussed at an early stage with the Housing Executive, and my officials have already formally written to the Housing Executive to seek clarity and further information on a number of key issues.

I move now to the letting of new planned maintenance contracts. The position in relation to the proposed settlement does not affect those contracts which were, in fact, awarded on 1 May 2014. Enabling meetings are already under way in order for planned maintenance schemes to begin. I am aware that the Housing Executive is currently working with the newly appointed planned maintenance contractors and the managing consultants to get schemes on the ground as soon as is practicable. Previously, when I wrote to you, we thought that that might be in the autumn, but there has been some progress, and Mags will update you on that in due course.

Like the Committee, I have stressed, and I continue to stress, to the chair and chief executive of the Housing Executive that they must ensure that their maintenance budget is fully spent. They have assured me that they are working with contractors to make sure that that happens. I noted that they remained confident at June monitoring that they could deliver and make use of their full budget. That is something that I will continue to monitor closely. I fully expect the Housing Executive's spend this year to be significantly greater than it was in any of the previous three years.

In your letter dated 10 June, you specifically asked a number of questions, which you asked me to address today, and I will clarify as follows. You asked for details on what steps are being taken to ensure that the approval of the agreement between the Housing Executive and contractors concludes swiftly. I have already assured you that my officials are working to bring that to a conclusion as soon as possible, in line with the appropriate guidance. The Housing Executive delivered the submission to my Department on Friday 23 May and, following the bank holiday on 26 May, work began immediately on it. My staff have already gone back to the Housing Executive with queries to ensure that we can fully check this complex work and answer the questions that DFP will, rightly, ask, if my Department agrees the settlement and write-off.

You also asked for an explanation as to why the approval process has taken so long and when it is expected to be finalised. The negotiations, which are a matter for the Housing Executive, have taken a considerable time to come to a proposed settlement, as there were a number of parties involved and the issues have been very complex, as I am sure you are aware. The approval process, however, has not "taken so long". I have already advised that the substantial and complex set of documents was sent to my Department on 23 May, and my officials are now carrying out due diligence on them, in line with the DFP guidance on managing public money. Following the completion of due diligence, and if my Department agrees that the settlement and write-off are deemed appropriate, DFP approval will also be required.

You also asked for confirmation as to when the new planned maintenance contracts would begin. The Committee was updated as far back as 8 May in relation to the planned maintenance contracts, when the acting chief executive attended the Committee meeting and advised that the planned maintenance contracts had already been let. My officials also wrote to the Committee on 3 June and advised that the planned maintenance contracts were awarded on 1 May 2014. As I indicated earlier, the Housing Executive is now working with contractors to get schemes on the ground. On 31 January 2014, we were notified that the double-glazing contracts were signed. The Housing Executive has advised that the Ballymoney scheme of 69 dwellings and the Foyle Crescent scheme of 26 dwellings are well advanced. It is expected that the Ballymoney scheme will commence on site before the end of this month.

Finally, you sought clarification on what assurances I have been able to provide to the contractors who have been awarded these contracts regarding their starting date. That is an operational matter for the Housing Executive. I am sure that Mags Lightbody, the acting chief executive, can advise the Committee on the current position.

The Chairperson: Thank you, Minister. Before I open the meeting to Members, annex A of your response says:

"Let me today clarify the position as detailed in my letter dated 9 June. As you are aware the Housing Executive has advised that the parties have reached a position where it is anticipated that this matter will be resolved by agreement and this is subject to relevant approvals from my Department",

and so on. Maybe I am reading this wrong, but that does not sound as though agreement has been already concluded by the Housing Executive and the contractors.

Mr McCausland: There has been an agreement reached between the Housing Executive and the contractors. The point made there is that, before the agreement can be finalised, there have to be due diligence checks carried out by DSD and, ultimately, by DFP. That is the process that applies across all Departments. There is a process that has to be carried out there; that is what is now being done and it will be completed as soon as possible.

The Chairperson: Thank you for that, Minister.

Mr Allister: Could I ask the Housing Executive; how far did it keep the Department informed during the negotiations?

Ms Mags Lightbody (Northern Ireland Housing Executive): I was not directly involved in the negotiations. I took up post at the beginning of April, but my understanding is that, at the monthly meetings, there were regular updates given to the Department on how negotiations were progressing.

Mr Allister: So, the documents delivered on 23 May would not have come as a surprise to the Department?

Ms Lightbody: It is fair to say that we were working closely to make sure that all the preparations were done in advance of the formal, very detailed business case approval.

Mr Allister: The Department knew the figures of the settlement long before 23 May? Yes?

Ms Lightbody: I cannot comment on exactly what happened before I took up post and tenure, but we were starting to prepare the Department from when I came into post. Again, the formal document did not come over until 23 May.

Mr Allister: When had it been through the board of the Housing Executive?

Ms Lightbody: The board made its decision on the detail of the settlement at the March meeting. The board would then have formally signed off the full business case submission at a special meeting on 14 May: so, detail and numbers, and then the full pack and submission on 23 May.

Mr Allister: Why did it take from the March board meeting to 23 May to get the formal package delivered to the Department?

Ms Lightbody: That would have involved working through the detail. We had gone to the board, so far as I understand, on 26 March with the numbers involved. Then we were working up the actual legal agreement; so, the signatures on the agreement followed after that period. Then we were able to present the full package of information, and we had taken some soundings from the Department on the nature and detail that it would require to help it move as fast as possible. That is what happened during the intervening period. I was the new acting chief executive, making sure that we had all the settlement absolutely signed, and then preparing the case and full board sign-up.

Mr Allister: So, the situation is that there is a legal settlement signed between the Housing Executive and the contractors, yes?

Ms Lightbody: Yes.

Mr Allister: Now, is it the case that the Department was acquainted with the terms of that settlement before it was signed by the Housing Executive?

Ms Lightbody: The signature on the document would have been made around mid-to-late April. From when I took up post, we were working to start to familiarise the Department with the details but, again, no formal package had been handed over. We had discussions again, just to make sure that the process would run as smoothly as —

Mr Allister: Yes, but the question was this: was the Department aware of the detail of the settlement before it was signed?

Ms Lightbody: Perhaps I will refer to colleagues who were there at the time.

Mr Andrew Hamilton (Department for Social Development): We would have been aware that negotiations were ongoing. They actually took longer than we were given to expect because —

Mr Allister: Never worry about that. Just tell us whether or not —

Mr A Hamilton: I remember coming to you and saying that it looked as though things were edging towards a resolution. We would not have known the details that we got in the pack. That was new to us. That is the level of detail that is necessary to secure the approval of the Department and DFP. There is an awful lot —

Mr Allister: Did you know the sign-off figure that had been agreed?

Mr A Hamilton: Did we know the settlement? There is a difference between —

Mr Allister: The settlement figure; yes.

Mr A Hamilton: — the settlement figure and the write-off figure.

Mr Allister: Yes. I appreciate that.

Mr A Hamilton: We would have known what the settlement was only at the end of the process. We were not involved in this at all. It was being dealt with through the independent advisers of the Housing Executive and the contractual representatives. We were not involved in that process whatsoever.

Mr Allister: So, there is a legally signed-off settlement with the contractors.

Ms Lightbody: The contractors have signed a document with us. That will not be fully signed off until we have consent.

Mr Allister: But the Housing Executive has also signed.

Ms Lightbody: I understand — I am going to check — that the signature of the Housing Executive will not be added until we have full approvals. I want to check that level of detail.

Mr Allister: Has it been signed by counsel?

Ms Lightbody: It would have been signed by contractors.

Mr Allister: Just the contractors?

Ms Lightbody: That is my impression.

Mr Allister: Has the Housing Executive's counsel signed off?

Ms Lightbody: I understand that the agreement is between the two parties: the contractors and the Housing Executive. Again, I want to check the detail, but the contractors have signed —

Mr Allister: The situation is that the board approved the settlement in March. Here we are at the end of June, and, although the contractors have played their part by signing off and making whatever compromises were involved on their part, the Housing Executive has still not signed off on the settlement.

Ms Lightbody: The Housing Executive and the contractors are clear that we have reached agreement. We and the contractors are absolutely together that we have an agreed position.

Mr Allister: OK. Have you recommended that to the Department?

Ms Lightbody: We have recommended it to our board and have sought the approvals of the Department for the settlement.

Mr Allister: Minister, are you just playing for time? Are you trying to run this down to the recess?

Mr McCausland: No.

Mr Allister: We hear much about due diligence, but it might strike some of us that there was not much due diligence about the announcement of the £18 million.

Mr McCausland: We have heard about due diligence because, as I indicated earlier, guidance for all Departments sets out how they deal with such matters. That is being pursued carefully and thoroughly.

Mr Allister: But the Department is not ignorant, and was not ignorant throughout this, as to where the settlement was heading. It now knows every last jot of the detail of it but was well informed throughout the process. Why is it taking the Department to beyond the end of the Assembly term, for example, to approve or disapprove the settlement?

Mr McCausland: The process in such matters is long and complex. I have seen that in the past where we have sent cases through to DFP from our officials regarding European grants and a whole range of things, and it has come back with queries. It is important that you get all the things that are likely to arise cleared up and that you have absolute certainty around them before you send them on because that shortens the process. This is being taken forward as quickly as possible, but, because of the scale and complexity, the timescale is not surprising.

Mr Allister: Should we understand that nothing has gone to DFP yet?

Mr A Hamilton: We have alerted DFP to the fact that this is coming to it. The custom and practice associated with the clearance of cases, and business cases such as this, is for the Department to do the due diligence first, so that nugatory work is avoided when it comes to DFP. We are in that process. I do not accept that there has been undue delay. This involves public expenditure and contracts over a four-year period of £172 million. An agreement has been reached between the Housing Executive and the contractors. That involved detailed sampling work and extrapolations to —

Mr Allister: Not by the Department.

Mr A Hamilton: We have to take a view, if we are standing behind this, because that is what we are being asked to do. Where there is a write-off of public money, we have to put the case to DFP. We have to stand behind the case. It is not a case of someone passing us the ball and us saying, "Over to you, DFP". When we put this to DFP —

Mr Allister: It was a case of us accepting the ball and announcing the £18 million overcharge.

Mr A Hamilton: The process that we are involved in now is determined by 'Managing Public Money Northern Ireland'. That is where we are, and there are very clear obligations on the Department to

take a view on whether the case that is being made is sufficient to justify the write-off involved. That process involves us in assessing very detailed sampling approaches and detailed figures of both alleged overpayments and associated compensating events. That is the process. It also involves us taking legal advice on whether we believe that sufficient has been done to recover all moneys that would have been due.

Mr Allister: Would the Housing Executive have taken that legal advice?

Mr A Hamilton: Irrespective of whether the Housing Executive has taken that advice, we, as part of our process, have to take that independent advice.

Mr Allister: The Housing Executive has a QC who has effectively said, "I recommend this settlement". On foot of that, the Housing Executive has recommended it to its board, the board has recommended it to you, and now you start the process of taking your own legal advice.

Mr A Hamilton: That is where we are.

Mr Allister: How long will that take?

Mr A Hamilton: We are hopeful of getting that in the next few days. That is where we are. Those are the demands and obligations that the system places on us. This is not new. We are not doing anything different —

Mr Allister: What about the —

The Chairperson: Let him finish.

Mr A Hamilton: — from what any other Department would do if it was faced with similar issues.

Mr Allister: What about the duty of care to the contractors? The Department was very quick to bad-mouth the contractors in the most public of forums. None of us live in a bubble, and we all know that the £18 million has evaporated like snow off a ditch. When will someone man up, apologise to the contractors and apologise for ruining some of their reputations? When will that happen?

Mr McCausland: The key point is to get back to what the Chairman said at the start about the remit of the meeting this morning, and the remit this morning is not to look back to certain things. Matters about content and figures are for another day; they are not for today. That was the point that the Chairman made at the beginning.

Mr Allister: Minister, are you looking for a good day to bury bad news? Is that what this is all about?

Mr McCausland: No.

Mr Allister: I respectfully suggest to you that there was not much due diligence when you rushed into the Assembly to repeat about the £18 million. Why are you not man enough now to stand up and say to those contractors, "I am sorry, I got it wrong"?

Mr McCausland: Well, Mr Allister, you may have your opinions that you have formed without having the facts. I prefer to wait until I have something in front of me.

Mr Allister: Do you have the facts?

Mr McCausland: Mr Chairman, I know that it is always difficult for Mr Allister to control himself, but I think that I have answered the question.

Mr Allister: Do you stand over the £18 million?

Mr McCausland: The figures are not the matter today.

Mr Allister: Do you stand over it?

Mr McCausland: Mr Chairman, are we here to discuss those figures or are we here to discuss the process?

The Chairperson: OK, Jim, you have put the question and you are not getting an answer from the Minister.

Mr Clarke: Did Jim not say that the sky was going to collapse in terms of devolution as well?

Mr McCausland: The key point is that the initial —

Mr Clarke: Jim, do you stand over that one?

The Chairperson: Keep in order.

Mr Allister: Do you not think —

Mr McCausland: It is always difficult to answer when I keep getting interrupted by him.

The Chairperson: Sorry, Minister. Sorry, Jim. Sorry, Trevor. Let us have no further interruptions. I am moving to the next member. I will come back to the previous questioners if they want back in again.

Mr F McCann: Jim touched on some of the stuff that I was going to say. Listening to what has been said up to now, especially by officials, it is like pulling teeth trying to get a straight answer one way or another on some of the questions that have been put. Is there a possibility that the agreement that has been made between the Housing Executive and the contractors will not be acceptable to the Department?

Mr A Hamilton: What we are looking for is —

Mr F McCann: I am just asking about the whole thing. Is it —

The Chairperson: Fra, let him answer and then you can challenge the answer.

Mr A Hamilton: We are looking for sufficient information to justify acceptance of the settlement. We are broadly content, but we have asked for more information to support the case. That is where we are at the moment. It is still work in progress, but we are hopeful of bringing this to a conclusion within the next few weeks.

Mr F McCann: You said earlier that it would be done within days.

Mr A Hamilton: No, I said that the legal advice that we had asked for should be forthcoming in a matter of days.

Mr F McCann: Can you tell me how many contracts have been let from January 2013?

Ms Lightbody: I would have to check the detail of that and get a note to the Committee after the meeting. I can give a progress update on where we are generally.

Mr F McCann: I accept that, but a number of questions have been asked this morning for which people are going to have to go back and check details. I thought that if people were coming here to answer questions in and around planned maintenance they would have had all the answers with them to give them to the Committee.

The Chairperson: Before you go on, maybe that would be useful. The Minister suggested that Mags might give an update on that. Perhaps, Fra, with your indulgence, we can take that information from Mags at this point? It might actually impinge upon questions that you want to ask. Is that fair enough? OK.

Ms Lightbody: Members are aware of the contract position overall and the amount of money that was handed back last year because of this very point that no new contracts emerged. The contracts for double glazing were committed to in November 2013 and the planned maintenance contracts were all made at the beginning of May. As I shared with the Committee before, I took over as acting chief executive at the start of April, and when the investment and delivery machine has been switched off, it is not an easy job to switch it back on to full tilt again. This year, we have particular challenges in maximising the spend. Our commitment to the board, the Minister and this Committee is to maximise spend and, if we can help it at all, not to be in the position of returning resources.

When I was last with you, I gave the commitment that I was personally on the back of the contractor award. I said I was going to meet with all new contractors on planned maintenance. We held a meeting with new contractors, our consultants and our teams on 13 May, with the very intention of finding out how quickly we could mobilise. The Committee is aware that, from the contracts being let, a considerable legal lead-in time is permitted. Knowing the past issues and some of the relationships that have been affected by our contractors, we are trying to work with them to build for the future, for this year and get works back happening in their companies and for our tenants, who have suffered during this process.

The positives are that we have double-glazing schemes now started on site. They are progressing well; so, those works are proceeding from this month. On planned maintenance, the good news is that our teams are working very hard, and I mean constantly, on this. We hope to have some late July starts for our external maintenance contracts and our kitchen schemes. They will be kicking off on the ground, all being well, from late July.

Legally, for the bulk of the programme, everything should have run to autumn, but we hope to be mobilising and starting to run to real scale from August or early September, when the projections are that we will have substantial schemes going on site. I do not underestimate to the Committee the challenge that we have in letting contracts late in the day and having had a quiet period when we were not letting new works. It has been my job to get contractors into a state of readiness so that they can mobilise and switch on. In my experience, it does not switch on quickly. However, right now we have the will, in the new contractors and our own teams, to get back to delivering for you. That is the commitment that I have given you on my previous visits and I give it again today.

In our report to the board next week, we will include projections on where we are with spend. We are not yet in a position to say that we have projects now fully committed to confidently spend every penny of the budget. However, I did not and still do not want to start the year as new acting chief executive by saying "Here is money back". Everyone owes it to our contractors and our tenants, more than anything, to pull out every stop to spend but spend sensibly in that process. We are making a report to our board. We also want to dedicate time this year to planning properly for next year. A lot of our actions need to get us spending the most we can this year, but we really need to prepare to go at full tilt next year again. That is a brief update.

Mr F McCann: So, that will be almost two years. How much has been lost to planned maintenance during that time?

Ms Lightbody: Last year, the budget for planned maintenance returned was in the region of £50 million.

Mr F McCann: So, roughly £100 million will have been lost during that period.

Ms Lightbody: It would not have been as significant —

Mr F McCann: I see Will —

Mr McCausland: It might be helpful if —

Mr A Hamilton: Spend on planned maintenance three years ago was running at just over £60 million a year. It dipped to £50 million last year. Mags, maybe you can shed some light on your estimate spend in 2014-15.

Ms Lightbody: Figures over the previous years show that substantial investment was still happening. The figure for 2011-12 was £65 million. For 2012-13, it was £61 million. Last year, it dropped to £53

million. Our combined budgets for planned maintenance and all our regular planned activity is in the region of £90 million this year. That is a significant escalation. We are working with our new teams on what we can do if we work together at full tilt. We are still looking at about £8 million of underspend. Again, I do not want to commit. We are giving our board an update next week. We are still working on whether there is anything we can bring forward that would still be sensible spend. Our contractors are working hard with us on that.

Mr F McCann: I have two other questions. Are you saying that contractors are not able to step up to the mark at short notice to deliver schemes?

Ms Lightbody: They are working with us cooperatively. I have been very impressed by the reaction of the consultants and the contractors to get back to delivery. The point I was making was that they need time to get their workforce and materials; it is the same for our consultants. We are coming together, and they are pulling out every stop to work with us.

Mr F McCann: Have they been asked?

Ms Lightbody: Yes.

Mr F McCann: Did they say that they did not have the capacity to do it?

Ms Lightbody: No. They are mobilising as quickly as they can. They are not saying that they cannot or will not work with us. They are absolutely showing a complete willingness to deliver the best they can this year. I have to understand with them that we did not let the contracts until May, so we are trying to work together on how quickly we can get back up to speed.

Mr F McCann: Of all the contracts that have been let to contractors, how many of those contractors were named by the Minister in his statement of June last year?

Ms Lightbody: Three of the contractors involved in the contract negotiated settlement are players in the new contracts.

Mr F McCann: During that time, did any contractor go bust or into liquidation due to the investigation that was going on?

Ms Lightbody: Not in my understanding on the planned maintenance side of things.

Mrs D Kelly: In terms of the capacity of contractors and the possible underspend of £8 million in the remainder of this financial year, have you given any thought to expanding your list of contractors?

Ms Lightbody: We have six contractors working on the new planned arrangements. For now, when the contracts have been awarded, and if we get things going at full tilt, the challenge for them and us is that we are trying to spend a full year's spend in less than a full year. They are looking at expanding their supply chains using subcontractors. Again, I want us to work with them to try to maximise. We are looking at other works and other projects that we can bring forward legitimately within the contract allowed.

Mrs D Kelly: You said earlier that you had given commitment to the Minister, the Department and the Committee. Our commitment is to our constituents who are potentially living in substandard housing. Is there flexibility in the thinking of the Housing Executive and the Department so that, should the contractors not give a firm commitment by a cut-off date of September this year, they will not be able to have the capacity to do the planned maintenance work, and the Housing Executive will consider another tendering process?

Ms Lightbody: I hope another tender process would not be required, but we have been working on — the Department has been very helpful with advice — looking at the potential of creating a reserve for any jobs that run over because they have started late. That would take away the need for any funds for tenants' investment to be lost in the process. We have had early discussions on that possibility and that is something that we are running alongside this so that, if there is any run-over of jobs, we are still able to deal with that and not have the annual cut-off.

Mr McCausland: It is worth emphasising that, previously, the work was with four contractors. We now have six contractors, which is an important change. Secondly, as was indicated there, the planned maintenance work this year will be well in excess of that of previous years. The member is absolutely right that there is a substantial backlog of maintenance work, which stretches back many years, long before I came into the Department. It stretches back to previous Ministers and Administrations, even back to the days of direct rule, when there was not sufficient focus on planned maintenance. That is why a lot of work is being done with the Housing Executive to see what can be done to improve the standard of accommodation in a whole range of ways. That is why I have introduced the concern about, for example, tower blocks and the fact that there was no proper programme for maintaining them. We are now moving in that direction for the first time. We are fortunate because the acting chief executive has considerable experience in that regard in Glasgow.

Mrs D Kelly: All I urge is that there is flexibility in the thinking of you and the Department in relation to any potential underspend. In terms of the lessons learnt in relation to the supervision and management of contracts, can I ask that we will not have the potential for the accusations that were flying about about a year ago in relation to overpayments?

Ms Lightbody: That is the careful balance that I have to ensure as accounting officer. We do pull out the stops and move things forward as quickly as we can but still with the same diligence. There are sensible discussions with our contractors. We have the new arrangements in place with consultants to give that extra test to make sure that prices etc are exactly as in the contract. So, we have a different contract arrangement, but, absolutely, we have to ensure that everything is sensible and well-managed spend.

The Chairperson: We are deliberating on that separately in the inquiry, so it will be dealt with in more detail there.

Mrs D Kelly: To go back to the original conversation, I was struck when the Minister referred to Mr Allister waiting on facts, when it appears that the Minister did not wait on facts when he made the allegations in relation to the £18 million overpayment.

Mr McCausland: Can I respond to that by saying —

The Chairperson: Sorry, just let the member finish.

Mrs D Kelly: We have still not had a firm timetable or schedule. I understand that the legal advice should take a matter of days, then you head across to DFP, if I am right. How long do its checks take in relation to signing off on the agreement so that we can put this sorry episode behind us?

Mr A Hamilton: With a fair wind, I hope that it will be settled by the end of July. I am making a big statement there, because that assumes that DFP will be able to come to a conclusion in the normal time frame. I cannot stand over that, but, assuming it is done in the normal number of days, I think we are looking at around the end of July.

Mrs D Kelly: You can understand some of the Committee's concerns about the deadlines and time frames, because they have stretched considerably.

Mr A Hamilton: Let me just say that this is really an accounting officer issue. We have to do the job properly. We have to get the information.

Mrs D Kelly: I am sorry; I cannot help but laugh when you talk about accounting officers, because you tend to move people around.

The Chairperson: Let Andrew finish.

Mr A Hamilton: Personally, I will be giving advice to Will. I have to stand over this, and if sufficient information is not made available or the case is not made at the end of the day, I will say: "Will, I cannot stand over this." I am hopeful, and we are working very closely with the Housing Executive so that the information that I require will be made available. I have already indicated that, broadly, I think we are moving in the right direction; but, until I get everything and form that judgement, I cannot act. And I am hoping to be in a position to do that early in July.

Mrs D Kelly: it would appear, Andrew, that you are something of a rare breed among accounting officers, if somebody is actually going to be held to account.

The Chairperson: Time will tell.

Mr Brady: Thank you for the presentation. I just want to clarify something. In the submission, on page 50, it states:

" You ask ... what steps are being taken to ensure that the approval of the agreement between the NIHE and contractors concludes swiftly."

You then go on to talk about how:

"The Housing Executive delivered the submission to my Department on Friday 23rd of May and ... My staff have already gone back with queries to the Housing Executive to ensure we can fully check this complex work".

Yet we have been informed that the Department was kept informed by the Housing Executive of what was happening in those negotiations, on a monthly basis, I think it was said. So, what questions need to be asked that were not dealt with in terms of the reports to the Housing Executive of how those negotiations were going on; and will it possibly reach a stage where, having gone through all this and the Housing Executive has agreed and the contractors have agreed, that the Department will turn round and say: "No, sorry, we do not accept this"? And yet, from what you said, you have been fully informed all along. It just seems to me that, if you are apprised of all the facts on a monthly or regular basis, and then all these questions have to be asked at the end of this, surely there must have been something lacking in the information that you were given so that all these questions still need to be asked at the end of the process.

Mr Will Haire (Department for Social Development): Managing public money requires us to present a very detailed analysis to be cleared by our economists and, therefore, the DFP economists, who go through it in great detail, giving clarity about what assurance we can give, especially on estimates in the question of overpayments and compensation payments, using statistical analysis. Obviously, we kept in close contact with our Housing Executive colleagues at the time of the negotiations. We have been pressing them very strongly to conclude those negotiations, but we are also very conscious that it is a complex negotiation and it is their responsibility to complete them and none of us must interfere with the job of the board. So we have been careful in that process. We have also tried to talk to the Housing Executive staff, even as they prepared the dossier, to explain the understanding of the issues that DFP will ask us.

I suppose that I have been an accounting officer and involved in this process for 12 years. I think that this is one of the most complex dossiers to get approval for, because there is a significant issue of write-off in it. We all work very closely in this process to get this done, because we all have an interest in getting it concluded. Most particularly, we want to get this concluded and support the board as it moves on to make sure that it learns from mistakes that were made in the management of those contracts in the past and that it has good contracts that deliver for the public. That is something on which we are totally with the board, and we have seen good progress in the inquiry. The Committee has heard some of the work that has been done on that and what Mags is leading at the moment. So we are totally with the board on that process, but it is a complex task. I know from experience the number of times that you have to go back with the economists and other people in DFP to make sure that they have the evidence, because, as I say, it is an important issue with quite a significance for precedence, etc. We will deal with it as fast as we can.

Mr Brady: Everybody accepts that these are fairly complex negotiations, but I presume that you have some degree of faith in the competency of the Housing Executive to be involved in these complex negotiations and to have the wherewithal to conclude them to a resolution that is satisfactory to all parties. I would presume that the information that the Housing Executive has given would have been monitored by you as to the competency of the negotiations in relation to the alleged overpayment. We talk about this as an alleged overpayment, because it seems now that it certainly was not £18 million.

The Housing Executive is going off with contractors and doing the negotiations, but they then have to be done almost all over again by you and the Finance Department. It seems to be a peculiar way of doing things. I imagine that the Housing Executive has the competency — I keep using that word — to carry out those negotiations. The reporting back all the time seems —

Mr Haire: I will bring Andrew in, but managing public money is based on the premise that, when bodies spend money, careful checks are done on behalf of the Assembly. It is the Department's responsibility, and then it is the Department of Finance and Personnel's responsibility. That is the way the system checks the issue. Clearly, the Housing Executive has skills in that area, but you then have to get all the documentation in the right form to get this done so that the public can be clear, and it is clear in the Housing Executive's accounts and from the comments of the Audit Office, that the Assembly has a public statement from experts on all these issues. That is core to this.

Mr A Hamilton: I emphasise that the Housing Executive kept us informed of the negotiation process, but that was very much at a high level. In that process, we did not interfere whatsoever in the detail of the positions being presented by the Housing Executive to the contractors or the contractors' position to the Department. The document produced provides us with all that detail. We are seeing a lot of information for the first time. We have to take time so that we can understand it. There are issues about the extent to which the sampling can be statistically valid and that it is appropriate to extrapolate and all of that. There are all sorts of technical issues.

To deal with your fundamental point, we have confidence in the Housing Executive. I would have thought that DFP has confidence in our ability to produce and review business cases, but it still has an obligation to review the results. There is a scrutiny process that we just have to go through.

Mr Brady: At the end of the process, when everything is settled and the figures are available, will the public be made fully aware of the situation in the same way as they were made fully aware of the £18 million last June?

Mr A Hamilton: I expect there to be full public closure of the details.

The Chairperson: Further to that, the Committee has agreed that, at the conclusion of that process, we will hear again from Donald Hoodless and Will Haire around the process of all that. We will be returning to that, no matter about any other public announcements from the Department or Minister.

Mr Allister: I have three very quick factual questions. Is the sign-off in the Department by the permanent secretary as accounting officer, or by the Minister, or both?

Mr A Hamilton: It is the accounting officer.

Mr Allister: So, it is the exclusive function of the permanent secretary. Because there is a public expenditure issue, this matter does not have to go to the Northern Ireland Executive. Does it?

Mr A Hamilton: No.

Mr Haire: No.

Mr Allister: This is to the Housing Executive: in reaching the settlement to the point where you recommended it, are you satisfied that the Housing Executive exercised due diligence in that process?

Ms Lightbody: Yes.

Mr Dickson: I have two very brief questions. When the work eventually commences, how can we be satisfied that, given the shorter time frame, the tenants who require the work to be done will have it appropriately quality-assured and that the jobs will not be rushed?

Ms Lightbody: That is the comfort I will give you. The new contracts are quite different from the old. We have consultants with responsibilities for quality. We will still have the overlay of our assurance arrangements to check that. We need to move fast on that bit, but we will not compromise on quality or price.

Mr Dickson: Finally, the Department has indicated its confidence in the work that the Housing Executive has done to arrive at these figures. Where did the figure of £18 million come from in the first place? Who gave you that figure, Minister?

Mr McCausland: I am glad that you asked that question, because I intended to address it earlier on.

Mr Dickson: Is it the same people —

Mr McCausland: May I answer the question? I did not invent the figure of £18 million of estimated overpayments to the contractors. I was advised of and given that figure by the chairman of the Housing Executive board after the Housing Executive board had been given a report in May 2013. The Campbell Tickell report subsequently estimated that the sum of overcharging was in the region of £9 million to £13 million. I have already stated that, although that remains a substantial amount of taxpayers' money, I was somewhat relieved that the level had slightly reduced. I made it absolutely clear at the start that I did not invent the figure. The figure was given to me at that point, having previously been given to the Housing Executive board.

Mr Dickson: This is the same organisation that told us publicly today that you, your Department and your officials have maximum confidence in it revising these figures and doing these negotiations. How can that be?

Mr McCausland: The facts given to me at that point were the ones given to me and the ones that I reported. I think that the Housing Executive is in a better position today than it was then.

Mr Dickson: Same chairperson.

Mr McCausland: My general observation is that it is in a much better position. I am much happier with the way in which contracts are being dealt with, and I am happy with the engagement with the Housing Executive.

It needs to be borne in mind that the core issue that emerged at that point was about the previous mismanagement of contracts over a number of years, of which, I think, people are aware. I think that everyone, from all political parties, recognises that there was a problem with the mismanagement of contracts. We are now in a much better place. The Journey to Excellence programme is under way in the Housing Executive to get it into much better shape. I think that all that is particularly encouraging. It gives me reassurance.

Mr Dickson: Finally, Minister, do you —

Mr McCausland: Sorry, it might be helpful if —

Mr A Hamilton: On that point about the £18 million, the document that we are looking at will set out a reconciliation of how we got from £18 million to the final settlement figure.

Mr Dickson: Will it also show how you got to the £18 million figure in the first place?

Mr A Hamilton: It will. It will demonstrate how that was —

Mr McCausland: It will be comprehensive.

Mr Dickson: So, Minister, can you tell us that you share the same confidence today in the individual who gave you that figure of £18 million and who is now, through the acting chief executive of the Housing Executive, having to sign off on completely revised figures?

Mr McCausland: I think that you are well aware of the figure that was quoted to me by the chairman of the Housing Executive. I have to say that the chairman at the Housing Executive came into it at a time when the organisation was in a very difficult position and faced a real challenge, and it was good to have someone with the level of experience that he and the new vice-chairman have. That said, he was given that figure on the basis of figures provided to him by officials in the Housing Executive. I have no reason not to have confidence in the chairman of the Housing Executive. I think that he is doing a good job, along with the acting chief executive, in improving the organisation and making it much more efficient. Ultimately, that has to be our primary concern. There are two things: first, good service to tenants; and secondly, good value for money. I believe that those are both moving in that direction. I am satisfied.

Mr Dickson: Given that he was appointed as chairperson of the organisation, presumably with the knowledge that the organisation had serious difficulties, fault lines and flaws, you are not concerned

today that he did not say to you, "Look, we have a problem. It is £18 million, but don't stake your life on that £18 million figure".

Mr McCausland: You make an interesting point there. The fact of the matter is that, if there are figures around and those are not given to Assembly Members, that is a fault. It would have been a fault if I had not come forward and not made any observation on this at all. It had been reported to the board of the Housing Executive. It is important that Assembly Members are kept informed because, previously, Ministers have been criticised for not coming forward.

It might be useful to go back and read carefully — not what newspapers have said or what people's recollections might be — exactly what was said at the time. As has been stated by Andrew, the document that will come forward in due course will clarify all these matters.

The Chairperson: OK; thank you for that. Members have had the opportunity to put questions, and you and your colleagues have had the opportunity to address the concerns. The primary concern of the Committee today is that we want an early resolution and closure to the matter of the signing off of the deal struck between the Housing Executive and the contractors. We want an absolute assurance that the required maintenance of people's homes will be conducted ASAP and that all steps will be taken to address both those matters urgently.

I am putting it on the record that this is a case of confidence. Purely from the experience that I and the Committee have had, I do not have that confidence. That is why this meeting was requested this morning. We have been told repeatedly that the matter was on the point of resolution. Andrew and other senior figures have sat here telling us that the matter was to be resolved on that very day. Yet and all, we still do not have an assurance, albeit we have been told that we can expect a resolution by the end of July. I will be delighted if I see that by the end of July, before that or very shortly thereafter. I hope that that will be the case, and I wish you well in that regard. However, for me, it is a matter of confidence.

I draw your attention to the fact that Simon Hamilton, when he stood in for you, Minister, on 27 May, informed the Assembly — I am paraphrasing this — that discussions were still ongoing between the Housing Executive and the contractors and that nothing had been put forward to the Department. However, in actual fact, you are confirming here this morning that you had received the documentation before 23 May. I go back to Andrew's point and the question around being kept up to date by the Housing Executive on an ongoing basis. Whatever about the detail, you certainly would have been kept up to date on the direction of travel.

The direction of travel was from £18 million to probably zero, if the speculation around the table is correct. Members around this table are not living in a bubble, and we are hearing things. Those things may be completely untrue, but we are not dealing today with the £18 million. We are not dealing today with the process that led to a figure of £18 million. We will return to that on the basis of the due diligence. We have been given assurances around the need for due diligence. That is absolutely appropriate, as there is a need for due diligence on public money. That due diligence process is under way, and we have your assurance around that in terms of any sign-off or write-off of moneys. I think that most people around this table are not satisfied at all that due diligence was applied and feel that that has led us into the kind of mess that we are in.

I wish you well in conducting the negotiations and concluding the sign-off and write-off, which most members around the table believe that it is going to be. We hope to hear that as quickly as possible and that people can get on with getting their homes repaired in the way in which they need to be.

Mr McCausland: May I just respond to the point that you raised there? At the questions for oral answer session on 27 May, the Finance Minister, Simon Hamilton, who was standing in for me, said that investigative work had not yet come to the Department for Social Development. In fact, the material was forwarded on 23 May. There was a bank holiday on 26 May, and officials were only aware of it having been received on 27 May, the very day of the questions for oral answer. There was no time to update the Minister at that point. That is the simple explanation. It was simply due to the bank holiday the previous day, 26 May.

The second thing to say there is that it is quite clear that, in the past and over a number of years, there was a system of management of contracts and monitoring of contracts that, quite frankly, was not fit for purpose. That brought us into a difficult situation in a whole range of ways, both financial and practical. We are now in a much better position. There is a new regime in place. The result of that is

the new contracts, which are fit for purpose and are much better. That is to the benefit of tenants and the public purse, and that needs to be recognised. This was a legacy issue that arose because of poor management of contracts some years ago. We are now in a new regime with new contracts. I am glad to say that they are much superior to what was there previously.

The Chairperson: You will appreciate that the Committee's inquiry has been dealing with that in phase 2 and we will conclude our judgement on it in due course.

Mr McCausland: Indeed.

The Chairperson: Thank you very much to you and your colleagues, Minister.