



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

18 September 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
Ms Paula Bradley
Mr Trevor Clarke
Mrs Dolores Kelly
Mr Fra McCann

Witnesses:

Mr Declan Allen	Northern Ireland Housing Executive
Mr Clark Bailie	Northern Ireland Housing Executive
Mr Raymond Kitson	Northern Ireland Housing Executive
Mr John McVeigh	Northern Ireland Housing Executive

The Chairperson: I formally welcome John McVeigh, Declan Allen, Clark Bailie and Raymond Kitson to this afternoon's meeting. Thank you for your patience; I know that you have been here for a few hours. I advise members that a number of written submissions have been provided at pages 336, 342 and 347 of your pack.

As I said earlier, John, Declan, Clark and Raymond, you are here as part of phase 3 of the Committee's inquiry. We asked you to provide a briefing on the investigations into Housing Executive contractors, including the Red Sky Group. I remind people that we are not rehearsing particular contracts, their nature or why they were terminated. Suffice it to say that they were terminated in some cases, others were continually reviewed and so on. We have very specific terms of reference. I remind people that you have given us submissions. Do you want to make any opening remarks — any one of you or all of you?

Mr Clark Bailie (Northern Ireland Housing Executive): Perhaps it falls to me, Chairman. Thank you for the invitation to come along today. I was invited as the director of corporate services. I feel obliged to advise the Committee that I was acting director of corporate services for about eight months, from February to September 2011, when Stewart Cuddy was acting chief executive. My substantive role is director of finance, and I have been director of finance since December 2007 when I joined the Housing Executive from the health service.

You asked me and my colleagues a range of questions that reflects our different engagement and roles in the process that you are currently investigating. I was going to say my colleague on the

extreme right, which is not an appropriate phrase in this building. My colleague to my right is John McVeigh, who is head of our audit and assurance unit; then there is Declan Allen, who is our head of procurement; and then there is Raymond Kitson, the gentleman to my right, who is the manager of the repairs inspection unit (RIU), which now falls within John's audit and assurance unit. We have submitted a briefing, which hopefully addresses the questions that you asked us. Rather than go over that in further detail, I suggest that we respond to whatever questions you have and try to answer them as best we can.

The Chairperson: OK, Clark, thanks very much for that. Members have the submissions in front of them.

Jim Allister, do you want in? It will be Mickey Brady afterwards.

Mr Allister: Yes, I have some questions. I will pick up on a point that you probably heard raised with the last witnesses. The Minister required an examination of the potential replacement contractors for Red Sky and how they had conducted themselves. I think it is in your brief, but could you remind the Committee of the findings in respect of those contractors?

Mr Bailie: I was not personally involved in ASM 2. I am not sure which of my colleagues would be best placed to respond to that.

Mr John McVeigh (Northern Ireland Housing Executive): It is probably Raymond, and I will give him a chance to get his thoughts together. At the time that the ASM 2 review was being carried out, the repair inspection unit had moved over to a different area of business. At one stage, it was attached to the internal audit department, which I had headed up. At that stage, the RIU had moved to a unit called the corporate assurance unit, and Raymond's team was invited to assess some of the work that the ASM Horwath team had produced and to allow Housing Executive to respond to the data that ASM Horwath had collated.

Mr Raymond Kitson (Northern Ireland Housing Executive): I am quite happy to continue. The director of housing regeneration at that time, now landlord services, requested us and repairs inspection unit to undergo a quality assurance exercise, because there were concerns arising from the findings. The districts and the central maintenance unit in the Housing Executive had concerns that perhaps some of the findings were not appropriate to be recovering money where certain elements of work were completed, albeit not fully to our satisfaction but, nonetheless, partly completed. We were asked to conduct an exercise — 20% exercise — of the findings. That we did, and we found in that exercise that there were certainly concerns regarding some of the findings.

We produced a report which suggested that 38% of the findings were basically exaggerating the overcharging, to a point. So, we revised that position to one that we believed to be more appropriate. Of the 20% that we looked at, the amount of work summed to around £9,000. The districts, however, conducted a complete review of all the jobs —

Mr Allister: You said £9,000. Was the ASM figure not £9,000? Surely your figure was £3,500.

Mr Kitson: Our figure, the revised figure, was £3,500, yes.

Mr Allister: So the final figure that emerged from this was £3,500.

Mr Kitson: Of our 20% check; but only of that.

Mr Allister: Yes, I understand.

Mr Kitson: However, I would say that the districts' review suggested that it was somewhere around 50% less than the ASM figure and, on reflection, that is what my understanding of the recovery was.

Mr Allister: Obviously, any overcharging is wrong and should not be happening; but, in the scale of things, the Minister had concerns about those further companies but the actual findings were relatively modest. Is that right?

Mr Kitson: Considering our benchmarks, once we conducted our review, we were asked to do further checks. You say there should not be any overcharging, but we have to be realistic: errors can happen. We, in the corporate assurance unit, have a benchmark under which that is acceptable. We will recover all moneys that have been identified as overpaid; that is without question. However, to put them in the same bracket as other contractors who were being substantially overpaid, we have to be realistic.

Mr Allister: Let us move on to Red Sky. What came to a head with Red Sky in 2011 had been the culmination of a number of concerns over a period of years, is that right?

Mr Kitson: That is correct.

Mr Allister: And during that period, quite substantial sums had been identified as alleged over-claims.

Mr Kitson: We had concerns with Red Sky, and Spectrum before that, for quite a few years.

Mr Allister: Was that running into hundreds of thousands of pounds?

Mr Kitson: That was certainly hundreds of thousands of pounds, yes

Mr Allister: And just to jump to the end of it, how much was written off after Red Sky went into liquidation?

Mr Kitson: My colleague to the right will confirm this. Any money that we owed Red Sky was withheld. A withholding notice was served on Red Sky, warning that we were going to withhold any moneys that we owed them. We were not going to pay them moneys while they owed us money. So, we went in that direction, on legal advice.

Mr Allister: So you withheld money at various periods. At one point you withheld £25,000 a month, during this period. However, in the end, did you not write off a figure of £375,000?

Mr Bailie: We had identified, through the work of ASM and Raymond and his team, that, in our estimation, there were overpayments of around £600,000. We then instituted a process to deduct those amounts from payments due to the company. However, as members know, shortly after the decision reached by the Housing Executive board to terminate the contracts, the company went into administration, and there followed a series of discussions between the Housing Executive and the administrator and we had to concede that we had, in fact, to pay an amount back to the administrator. That was the amount that was written off and which you have just referred to.

Mr Allister: That was £375,000. Over the years, when figures had been identified as overcharged by Red Sky, there seems to have been a pattern — correct me if I am wrong — where Red Sky would then come in, sit down with you, barter and negotiate down the figure. Is that a pattern that went on?

Mr Kitson: It was not actually a pattern, but there was an investigation in 2005 and 2006 where simply there were negotiations about the outcome of that figure.

Mr Allister: Remind me what the figure was then.

Mr Kitson: In 2006, I think it was £260,000.

Mr Allister: Was that eventually bartered down to £20,000?

Mr Kitson: That is correct.

Mr Allister: Who was involved in that?

Mr Kitson: At the time, the former director of housing regeneration.

Mr Allister: Who was that?

Mr Kitson: Colin McCaughley.

Mr Allister: Who was negotiating on behalf of Red Sky?

Mr Kitson: The chairman of Red Sky.

Mr Allister: And who was that?

Mr Kitson: That was Frank Cushnahan.

Mr Allister: Frank Cushnahan. Is that the same Frank Cushnahan who was criticised in the Public Accounts Committee for his involvement in those negotiations being totally unethical?

Mr Kitson: I cannot comment on that.

Mr McVeigh: I am not sure that that was the exact language that was used.

Mr Allister: Well, I think you will find that in its February 2013 report on the management of Housing Executive maintenance contracts, the Assembly's Public Accounts Committee said that Mr Cushnahan's involvement in these negotiations:

"was totally unethical and could and should have been avoided."

Was the unethical aspect the fact that he had been a serving member of the Housing Executive's audit committee?

Mr Bailie: I believe he served in that post, yes.

Mr Allister: He progressed from that position to chairman of Red Sky. Is that not correct?

Mr Bailie: That is correct.

Mr Allister: He then negotiated down debts, allegedly, of the order of £250,000 to £20,000. Is that accurate?

Mr Kitson: Yes, that is correct.

Mr Bailie: To the best of our knowledge, yes.

Mr Allister: That is something that the Housing Executive obviously acquiesced in. The Housing Executive was a party to those negotiations.

Mr Bailie: Yes. The Housing Executive accepted that final outcome.

Mr Allister: Does that suggest that Red Sky was a company used to getting its own way with the Housing Executive?

Mr Bailie: From the company's perspective, I would suggest that the outcome was favourable to it. It was successful and, obviously, it was able to persuade the members of the Housing Executive at that time that it had a case. I was not personally involved, so I am trying to conclude on the basis of the information available to us.

Mr Allister: But you were also aware that there were concerns that Red Sky had complained about certain staff in west Belfast and that the key person against whom it complained was then moved in the Housing Executive. Is that not correct?

Mr McVeigh: That is accurate.

Mr Allister: So, was this a company that seemed to believe that it could bring pressure to bear and influence with the Housing Executive?

Mr Bailie: I cannot speak for the company about the way in which it perceived the situation. From what you have just said we are not disputing the accuracy of those remarks.

Mr Allister: There was, then, an attempt latterly — all this talk that you might have heard earlier — about the same people forming a new company. Is that right?

Mr Bailie: I was aware of bits and pieces but I would not claim to be an expert on this particular matter.

Mr Allister: Was anyone from the Housing Executive involved in discussions with the putative new company about —

Mr Bailie: To the best of my knowledge, no.

The Chairperson: Is that it for the moment?

Mr Allister: Yes, thanks.

The Chairperson: I just want to follow up on the pattern that Jim was suggesting. I would ask you to cast your mind back and give us an opinion on the fact that the same thing happened in 2007, in 2008 and possibly in 2009, if my quotes are correct; they may be wrong. It certainly happened in 2007 and 2008, when Colin McCaughley and Paddy McIntyre were involved in renewed discussions with Red Sky over contracts and discrepancies around payments. I use my words advisedly. On the third occasion, Mr McIntyre asked people to have a review of that and recalculate the figures. For me, reading this, I see that there has been a pattern. What has frustrated the Committee for so long is that there does not appear to be any personal accountability in all this. So, year on year, problems are identified, whatever they may be and whoever the contractor may be. Certainly, a number of issues have been identified in respect of one contractor. By my reading, those problems have been addressed, negotiated and renegotiated at all times to the benefit of the company. That, to me, is a familiar pattern and quite worrying. You were involved in investigating that and it is in your submission. Do you have any comment on that? To me, it is a clear pattern.

Mr Bailie: I think, Chairman, that you are referring to matters that generally predate most of us at this end of the table. I can assure the Committee that, in my experience of the Housing Executive, we deal with companies fairly and objectively. Where we believe that we have a case to recover overpayments, we pursue that. That is our obligation as public servants.

The Chairperson: I am not suggesting anything to the contrary. I am making the point that, in the submission we received in response to the inquiry, we have been provided with information that, in respect of the Red Sky company, for example, it happened in 2007 and 2008 — Jim dealt with 2006 — and went right through to the director and chair of the Housing Executive. It seems to me that it went to a very high level in the Housing Executive, but that at all times there were negotiations around moneys, and different figures were arrived at by the end of those discussions.

Mr F McCann: May I come in with one point on that?

The Chairperson: Is it to add to that point?

Mr F McCann: Yes. I am trying to get my head around how you recalculate from £250,000 to £20,000? Could you shed any light on how that was done?

Mr Bailie: I can explain in general terms, and maybe Raymond can fill in some of the detail. It is part of a dispute process, and there are two parties. Obviously, in the case of the Housing Executive, we do work and research to identify and quantify what we believe to be the problem. Those issues are then put to the contractor. The contractor would be given the opportunity to present an alternative, an explanation or a reason, which may or may not cause us to revise our opinion. That is the general approach, which we have applied to the more recent engagement with Red Sky. We accept that, sometimes, there can be different interpretations, or we are provided with information that we did not have at that particular time. What happened in that particular set of negotiations, I am not sure, because I was not party to it. Perhaps Raymond can give some examples of where the movement was.

Mr Kitson: Absolutely. I was involved in the negotiations but had no part to play in the decision-making. With regard to how the £264,000 was reduced to £20,000, the main bulk of that came from kitchen replacements. A substantial number of kitchens had been replaced by Red Sky. We have two types of kitchen in our schedule of rates: post-formed, which is a fairly expensive, elaborate-type kitchen, and a standard kitchen. What we were getting in west Belfast, north Belfast, east Belfast and the like were standard kitchens. However, we were paying for post-formed kitchens, which are substantially more expensive. We picked that up and brought it to the attention of management that they were not getting what they were paying for. There were two quotes and, of the two quotes, they were using the wrong one. That sum was £257,000, so kitchens alone were the substantial bulk of the money. From memory, I think that the whole figure of £264,000 was revised down to about £81,000. That £81,000 was negotiated down to £60,000 or £61,000. From that, it was negotiated down to £20,000, two thirds of that being the Housing Executive's responsibility and one third being the contractor's responsibility. That is where the figure ended up.

Mr F McCann: How did you establish that?

Mr Clarke: By tossing a coin.

Mr Kitson: It was not quite done by tossing a coin. A lot of it was put down to what is described as dead debt. That term was brought to us by Red Sky. The maintenance officers were quite often responsible for the overpayments, where they had post-inspected typical work. They said that it was not their responsibility but the Housing Executive's responsibility. So a lot of that was put across into our responsibility, and that is where, I believe, the director made the decision that we would bear the vast majority of the cost.

The Chairperson: That certainly comes across a lot in the various reports that we have. Am I hearing you correctly, Raymond, when you say that the difference in the price was between a better standard of kitchen and a lower standard of kitchen, and lower standard kitchens were fitted?

Mr Kitson: Yes. We were getting the standard kitchen, not the more expensive one, but we were paying for the more expensive one.

The Chairperson: You were billed for the higher price. I can understand that the logic was that it was determined that the maintenance officer signed off on the wrong unit. Obviously, somebody, knowingly or unknowingly, fitted higher spec kitchens. I presume that, at the end of this, none of the tenants got a better standard kitchen.

Mr Kitson: No.

The Chairperson: The public paid for it, and it was written off as a dead debt.

Mr Kitson: I should add that our tenants were more than happy with the quality of kitchen that was being fitted.

The Chairperson: The public, though, paid for a higher standard.

Mr Kitson: We were paying for a different type of kitchen.

The Chairperson: The tenants paid for it because they pay rent.

Mr Clarke: I am struggling to understand why there are two different kitchens. Whatever you call it — either a standard kitchen or, as I think you call it, post-formed — why is there not just one Housing Executive kitchen?

Mr Kitson: Just to muddy the waters even further, we have three types of kitchen: a foil wrapped-type kitchen, along with the post-formed model and our standard kitchen. It is just that our policy and procedures change all the time. Our standards change, so, all of a sudden, this year, we are fitting foil-wrapped; next year, we could have a different product on the market.

Mr Clarke: I understand that, in different years, you might do different style kitchens, but let us take 2014. Are you telling me that, across Northern Ireland, three different types of kitchen could be fitted depending on where tenants live?

Mr Kitson: No. From here on in, we are fitting only foil-wrapped.

Mr Clarke: So let us go back to 2007. In 2007, could three different styles of kitchen have been fitted depending on where tenants lived?

Mr Kitson: At that time, there were two types.

Mr Clarke: Do you see the problem, Chair?

The Chairperson: As a matter of interest, is there any rationale as to why one area would get one standard while another area would get a different standard? You can see where we are coming from with these questions. I will let you think about that.

Mr Brady: Declan, you were involved in the negotiations with BDO about the transfer of former Red Sky employees under the TUPE arrangements to adjacent contractors. Obviously there was a request for the extension of the Red Sky contract. How and when did you get notification of that, and did you raise any concerns with your side of procurement? Secondly, from the papers we have received, it is clear that you had some difficulties with those transfer arrangements. Could you outline what the difficulties were? Also, do you feel that you had the support of senior Housing Executive officials and DSD management while you were negotiating to get the former employees transferred under the TUPE arrangements?

Mr Declan Allen (Northern Ireland Housing Executive): I will deal quickly with the extension of the contract. The issue was raised by the senior management team, and my line manager asked whether the contracts that Red Sky in administration was running for us could be extended. I explored that because I was asked to. On two occasions, I asked the administrator whether it was possible. On the first occasion, the reply that I got was not very clear, so I went back and asked for further clarification on whether Red Sky could provide us with a service post 14 July. They said that they could but only until 31 July. On that date, that was it; they were out. To go further than that, something else would have to have been done.

On the TUPE transfer position, I liaised extensively with the administrator. I would not say that I negotiated; absolutely not. I liaised with the administrator, BDO, to make sure that there was a smooth transition and to ensure that the service provision was maintained during the period 13, 14 and 15 July. You could say that there were negotiations with the contractors that were in the adjacent contracts in order to make sure that they were able to put that in place, but the involvement that I had with BDO was to make sure that any information transfer was there to ensure that those employees were not disadvantaged.

Mr Brady: Did you experience difficulties? Do you feel that you had the support of senior management?

Mr Allen: Yes.

Mr Bailie: There would be issues around TUPE transfers because it represents a period of uncertainty for the employees and the new employer. They have to be able to determine the responsibilities they are taking on board, what the associated costs are, and how it fits into their contract structure. We have found, unfortunately, perhaps, too frequently over the last couple of years, given the state of the economy, that we have had to devote quite a bit of time to getting a lot of detailed personnel information that has to be provided to the incoming contractor. There is always a fair bit of work around a TUPE transfer.

Mr Allen: Sorry, Mr Brady, was it those difficulties in particular that you were —

Mr Brady: Yes.

Mr Clarke: I want to get back to the kitchen thing. I need a wee bit of latitude. In terms of the most recent overcharging, it was announced in the House that it was £18 million. What was the main aspect of that contract where you trimmed it back?

Mr Bailie: Could you repeat the last bit of your question?

Mr Clarke: It was announced originally that it was £18 million, and it was negotiated down to £2 million. Where was that variance at?

Mr Bailie: I understand that that was discussed this morning. However, very quickly —

Mr Clarke: I apologise; I could not make it this morning.

Mr Bailie: Sorry, I was not criticising you. The original estimate of £18 million was the maximum potential overpayment exposure. It was based on an extrapolation, as probably was explained this morning. When we progressed the work undertaken by Moore MacDonald in our case and by another expert in the case of the contractors, we reached the point where we could estimate the level of overpayment in the schemes covered by the negotiated settlement. We then looked to see what the estimated value was of the compensation events associated with those schemes. That is where we moved from £18 million to £12.5 million to £10 million and something. The difference between £18 million and where we ended up was that the £18 million covered all schemes, and the negotiated settlement covered only a proportion of those schemes. With the passage of time and the effort and time invested to examine more schemes, we had a much better set of information to allow us to determine the figures. However, as I said, that, as I understand it, was discussed this morning.

Mr Clarke: Sorry, what portion was it?

Mr Bailie: Off the top of my head, I think that we took about £4 million out of it. I can come back with the exact figures.

The Chairperson: It is important to use exact figures. Clark is right, Trevor: this was discussed extensively this morning, although a substantial amount of that was explained as accountancy mechanisms whilst the settlement figure was reduced down to somewhere in the region of £600,000, if I remember correctly. We have to deal with the factual reporting of it.

Mr Clarke: I will come back in a minute.

The Chairperson: I appreciate that. Jim and then Dolores.

Mrs D Kelly: Thank you for your presentation.

The Chairperson: Sorry —

Mr Allister: That is OK.

Mrs D Kelly: Oh, sorry.

Mr Allister: Go ahead.

Mrs D Kelly: Thank you.

The Chairperson: We are all in a good mood now.

Mrs D Kelly: I am starting to flag a wee bit, Chair. I am trying to get the sequence right and to put some names to the people responsible. It seems very difficult to tie down just who is accountable in the whole scenario. I have some concerns that were raised last week, I think, by the Northern Ireland Audit Office and have been put forward in various reports, including, I think, by yourselves, where you gave some of your findings to the former chief executive and former director of housing and regeneration. I also understand that — I think that it might have been you, Mr McVeigh — concerns

were made by a repairs inspection unit investigation, which obscured the facts from the board or the Housing Executive. Will you elaborate a wee bit further on that?

Mr McVeigh: Yes. For context, I was brought in in the summer of 2008. In the early part of 2009, I was asked to consider a whistle-blowing letter that had been received by Audit Office from a chairperson of a housing community association in west Belfast. It alleged problems with Red Sky in west Belfast. The Housing Executive had asked the repair inspection unit, Raymond's team, to do some testing of the work, particularly in west Belfast but in other areas for comparison purposes, and I was asked to quality-assure the report that Raymond's team had produced on that. Raymond's team had concluded that there were problems with Red Sky's contractual performance in west Belfast and had calculated an estimated overcharge — this is familiar terrain, I guess, for the Committee — and I was asked to have a look at that. That was my first involvement with Raymond and his team. At that stage, Raymond's RIU was embedded in the housing and regeneration division and so he was effectively working for the same director and division that had responsibility for managing Red Sky. I looked at the report and felt that the RIU team's work was sound. I made those observations and sent them to the chief executive in correspondence. My recollection was that Raymond was asked to go to a meeting with the chief executive and director of housing and regeneration and following —

Mrs D Kelly: It was Paddy McIntyre and —

Mr McVeigh: Colm McCaughley. Following that meeting, a second draft was produced, which I had been given sight of and had discussed with Raymond. Changes made to the draft were, in my understanding, at the instigation of the former chief executive and director of housing and regeneration. Having looked at the two drafts, I felt that the changes that had been suggested were not helpful. In my view, they obscured the clear analysis that had come out of RIU's initial draft, which indicated that there was some substance to the whistle-blowing letter's allegations. So, I went back to the chief executive and copied in the director of housing and regeneration and said that I did not agree with the changes. From memory, I think that the initial draft was the version that was sent to Audit Office along with my comments on the changes.

Mrs D Kelly: So, yours went to the Audit Office.

Mr McVeigh: It was Raymond's report, which I agreed with. The Audit Office got that report and my analysis, and I was then asked to go up to the Audit Office to meet the then lead Audit Office director, who had responsibility at that stage for the Housing Executive role. It was a chap called John Buchanan at that stage, and I discussed with him the RIU report, my quality assurance and my thoughts on the different drafts.

Mrs D Kelly: And the Audit Office picked it up from there.

Mr McVeigh: Yes.

Mrs D Kelly: I do not know who, if any of you, is able to help us out with which contractors picked up the work that had initially been Red Sky's when the contract was terminated.

Mr Bailie: That is the TUPE transfer.

Mr Allen: When the termination was finally effected, we put in place three adjacent contractors under a backup support clause that enabled us to do that in circumstances like that when either a contract is terminated or a company goes into insolvency. We put PK Murphy Construction, White Horse Facilities Management Ltd and H&A Mechanical Services into place in the Red Sky contracts.

Mrs D Kelly: So, they then became some of the contractors against whom we now know the Minister made spurious allegations in relation to an £18 million overpayment.

Mr Bailie: Leaving aside what you have just interpreted as what the Minister said, as a point of fact, the response maintenance contracts are different from the planned maintenance contracts.

Mrs D Kelly: I know. I appreciate all of that. The fact is that some of them got Red Sky's work.

The Chairperson: On a different type of contract. Fair enough.

Mr Allister: I want to take you back to the matter that we were discussing of the pattern, over the years, of Red Sky successfully negotiating down overcharging etc and getting a pretty good result for itself. Gentlemen, was there any pattern of political lobbying in support of Red Sky at those times when it was looking to get the figures reduced?

Mr Bailie: For part of that period, I was not employed by the Housing Executive, but I am personally not aware of any lobbying that went on.

Mr Allen: I am not aware of any, either.

Mr McVeigh: Raymond and I were never involved in any meetings or discussions with any political representatives.

Mr Allister: Not necessarily meetings; could there have been correspondence?

Mr McVeigh: There may well have been correspondence, but nothing that would have been directed to anyone at this table.

Mr Allister: Could that be checked?

Mr Bailie: Yes. I am not aware of anything, but we can check it.

The Chairperson: I will just ask two final questions, because no one else has indicated that they want to speak —

Mr Clarke: I have not finished, Chair.

The Chairperson: Go ahead.

Mr Clarke: To go back to the kitchens, if someone is overcharged, they should not pay it; I have no issue with that. What I am struggling with is that, given that it has been recognised that this has been going on since 2006 or 2007 right up to 2014, what has the Housing Executive been doing to check the work when these contracts are awarded and invoices are coming in? What are the inspectors doing about the quality of the work on the kitchens and what we are paying for? What is happening there?

Mr Kitson: Maybe I can answer that. We have several levels of inspection. The first level is our maintenance staff on the ground. When an invoice comes in, before it is paid, the work is checked. The quality of the work and the accuracy of the payments —

Mr Clarke: Let us stop there a second. So, the first of seven checks is when someone actually goes out and checks the quality of the work to see that you are paying for what you got. How in this case, Raymond, could Red Sky or any other contractor have charged you for a post-formed kitchen when they fitted a standard kitchen?

Mr Kitson: To clarify, when I say that we check, we do not check every job. We check a sample of jobs. At the time of Red Sky, for instance, the Housing Executive would have checked 20% of all jobs coming in. All change of tenancies (COTs) are mandatory; at that particular time, all of those were checked. For instance, if you had a new kitchen, it would have been checked.

Our staff are well trained, but we found issues where some staff had passed work that they should not have passed and recovered moneys that they should have. That is well documented in our various reports. We have invested a lot of time and you will have heard from other sessions with our chief executive that we have carried out extensive training for our staff. Moving forward, we should not see those same issues.

Mr Clarke: When did the training start?

Mr Kitson: We are closely monitoring —

Mr Clarke: When did the training start?

Mr Kitson: Training started immediately after the whole Red Sky situation. We reviewed exactly what the issues were; we brought it to the attention of our senior management; and those training developments took off from there.

Mr Clarke: Would you suggest that it is working?

Mr Kitson: Absolutely.

Mr Clarke: So, if it is working, how did we reach the most recent situation that was talked about prior to the summer? Reading this morning's report, I see that some of that was in relation to kitchens as well.

Mr Kitson: Are you talking about the planned maintenance?

Mr Clarke: I am trying to generalise this, Chairman. I am talking about maintenance; I am talking about public money; I am talking about contractors — whatever label you want to give that type of maintenance. I am talking about contractors going in and doing work and putting in invoices. What systems does the Housing Executive have in place to prevent public money being wasted?

Mr Kitson: I appreciate that. I am responsible for response maintenance with regard to the audit side of things, so I can give you an assurance that things have improved, certainly, in recent years.

Mr Bailie: In a general sense, a contractor is asked to do a piece of work, be it planned or response. We have systems in place that inspect and check that work using a sampling approach. For lower value items, we pick a small sample at random. As Raymond explained, with higher value items such as changes of tenancies, we go out and inspect. From our experience, we have found that, on occasions, those inspection processes did not work as they should have. We look to see whether the controls are adequate and robust, and we make changes to the controls from time to time. However, looking back, the procedures were there to be applied. When we looked back, on some occasions, unfortunately, we found that those controls were not applied properly. On some occasions, we have had to take disciplinary action against the members of staff concerned.

We then have a second line of review, as it were. Raymond and John's team come in to check whether that work has been completed. As Raymond said, on the response side, my understanding is that the indications are giving confidence that the controls and how they are applied operate effectively. However, we need to make sure that colleagues and maintenance officers in particular know what is required of them and that they are trained and equipped to do the job. Looking back, it would appear that, for varying reasons, those controls were not applied as appropriately as they should have been.

Mr Allen: Chair, can I just add to that? The contracts that Mr Clarke refers to are historical contracts. Since then, and since the DSD health check and review of procurement contract management in the Housing Executive, we reviewed our procurement strategies and contract management procedures. New contracts are in place. Response maintenance, for instance, was put in place in 2012. The new planned schemes procurement was started over a year ago and it went live earlier this year. So, we will see as we move along from now whether what we have put in place is better than what we had in place.

Mr Bailie: I can assure you that, given our recent experiences, we are not complacent. We take very seriously the need to have proper controls in place and make sure that those controls are applied. However, what we find in some cases, particularly with respect to response maintenance, is an issue about whether the controls are so rigorous that we are not getting an effective use of resources. That is something we are looking at. All the way through that, it is about making sure that we get the right quality of work, at the right price and the right time. It is about getting the right balance. So, while we trust the contractors we work with, we also test and inspect to make sure that those three things are being met.

Mr Clarke: You made a point earlier about picking the 20% sample. Do you pick them or are those identified to you?

Mr Bailie: I believe that, with response maintenance, the computer picks them at random.

Mr Kitson: Yes. The inspection regime has moved forward under the NEC contracts. A statistical sample is selected for the maintenance staff. It is not picked. It is randomly selected for them across the range of various priorities of work: building; plumbing; and electrical.

Ms P Bradley: I return to the £264,000 that was reduced to £20,000. Were any other companies afforded that luxury of having their overpayments reduced?

Mr Kitson: Not at that particular time.

Ms P Bradley: But there has been subsequently.

Mr Kitson: There has, yes.

Ms P Bradley: OK. I see that Leeway Maintain Ltd has also been highlighted. It had an overpayment of £243,000. Were any others being investigated?

Mr Kitson: There is currently one other company being investigated, which is a live case.

Ms P Bradley: OK. So we do not have a figure for that either.

Mr Kitson: No.

The Chairperson: Before I bring in Fra for a final point, I have a couple of wee niggling concerns. They are actually more than niggling; they are quite serious. You have conducted a range of investigations and reviews over the years. I referred to it earlier, and Jim referred to it extensively. They happened in 2006, 2007, 2008 and 2009. I am asking this question of John and Raymond. Were alarm bells not ringing when you were going to senior management, having identified a range of concerns, and you get draft letters changed, which, as you described, obscured the picture? Then you had interventions from the senior management team, who were saying, "OK, we will recalculate that". Forgive me if I am wrong, but my reading of this is that, if the RIU was conducting a calculation using the failed jobs only — that is what is referred to here — and then you were advised to recalculate the figure using the entire inspected sample, you would get a more positive answer. I may be wrong.

Mr Kitson: You would get a more positive feedback, yes.

The Chairperson: If I was in your position, I would be saying, "Oh, Oh, what is the problem here? There is an issue", because this is a recurrent thing over a number of years with the same people involved, the same problems and the same solutions. The solution being, "There is a problem; negotiate it downward". At the very, very least, there is incompetence to some extent there, so somebody, somewhere along the line, has been failed. We are concerned about the public being failed, because it is public money. So, if a problem is identified, you assess that figure, and then you go and negotiate, and it is down to that figure. That might be very appropriate, but, from what I am reading, that is a familiar pattern that I would be very unhappy about if I was in your position. The question I put to you is this: if, having reviewed all those things, that concern was triggered in your mind, would you have gone to senior management and said, "Hold on, folks, there is a serious problem here and it needs to be addressed"? If that was done, who was it done with and what was the response?

Mr McVeigh: Maybe I should take this one. I answered the member's question earlier about drafts 1 and 2. To give some context: I came into the Housing Executive in mid-2008, and Raymond and his team had been in their role for quite a bit longer. That said, structurally, one of the problems was with the work. Raymond's team had a great technical knowledge. It had identified issues — as the presentation you received identified — over a period of time, but the difficulty was that, structurally, it did not help identify any problems when the RIU was embedded in the same division that was managing the Red Sky maintenance contract, and that has been recognised in the Department's governance review 2010 and the Audit Office's value-for-money report on contract management.

As RIU was identifying problems correctly and escalating them up the line — I think that you have seen that and you have seen Raymond's technical knowledge — it was not going further beyond the senior management team into the board and beyond. That is one explanation as to why it has taken such time to address that particular contractor. The response that the Housing Executive's audit

committee and board took was that, after the response to the whistle-blowing letter of 2009 and further consideration of that issue, the RIU was detached from the housing regeneration division, and it was managed by me and the internal audit department for a period of time. That helped to get an independent voice to the inspection findings coming out of RIU, and that brought the attention of the audit committee and board to those issues, which had existed obviously in the Housing Executive for a period of time.

As other issues were examined, the planned maintenance inspection unit was similarly detached from the customer-facing division that it was attached to, and those inspection functions were centralised in a unit called the corporate assurance unit. That unit was independent of the operational management, and it ensured that there was better reporting. There has been a range of other governance structural changes during my six years in the Housing Executive. The corporate assurance unit was recently merged with the internal audit department in one audit and assurance department, which Clark referred to earlier. That is a major step change from where we were six years ago. I accept, looking at the narrative with hindsight, that one could wonder why it has taken so long to address what appeared to be systemic issues, but from an audit assurance inspection point of view, that evolution has changed things considerably, and I think that it has improved things.

The Chairperson: I appreciate that. I do not know whether you recall that we had the Auditor General in last week, who confirmed that that process is improving and ongoing, and that is very good news, but when I look at this, I see that, yes, there are structures and that, yes, it was probably appropriate to separate those structures but, in real terms, I would be separating out individuals, because people populate the structures. I might be wrong, but it would appear to me that, having listened to this over a long period of time, people were maybe working together too closely. That was not very healthy, so you separate out the various structures, and that is grand. However, I still see a glass ceiling in there somewhere that has gone on for too long. That is what I am saying to myself.

Obviously, you were in various positions at different times. From looking at the picture in front of us — that is why I am asking you — what would happen if you brought that to senior managers' attention, told them that there is a problem and asked them what they are doing about it? The glass ceiling did not actually move too far up.

Mr Bailie: As John has described, we have made important changes to give the audit and assurance team —

The Chairperson: I understand that, but that does not —

Mr Bailie: — a clear voice. As a senior manager — the director of finance — I assure the Committee that I and my colleagues in the new management team and our board are clearly and strongly committed to making sure that the Housing Executive delivers the highest quality service. We are also committed to having good governance and doing our business the right way and well. I give a personal assurance that, if John brought any issue to me and thought that he was not being taken seriously, as the director of finance, I would take a personal interest and make sure that it was properly aired and discussed. I know that view is shared across the board and the current senior management team.

The Chairperson: I am entirely satisfied that that is the case, and I am not taking any issue with that. I am further encouraged by your passion in outlining that. However, my reading is that, clearly, that was not always the case. That is the point that I am trying to get at. Where that does not appear to have been the case, where were the pressure points? Who was reporting up and who was saying, "Hold on a wee second, why is this happening?". I am not really getting much more of an answer to that. Maybe I cannot get one.

Mr McVeigh: I understand. I will try to directly answer your question, Chair. I came in in 2008, and Clark had come in only, I think, a number of months before me. You have talked about the people, and I can remember having a conversation with Clark at different times about the number of key people who came into the Housing Executive who were new to the organisation quite soon after each other. Clark, I and the then head of corporate assurance were examples of that. People came in from outside who had good experience and a background of good practice elsewhere. They brought that experience to bear.

For me, the step change to take the RIU out of housing regeneration took conversations with the chief executive, the chair of the audit committee and the chair of the Housing Executive board to brief them

on why that would be important. Did that take too long? Perhaps with hindsight the organisation could have moved quicker, but that was the process that we went through at that stage, and I think that the benefits are now being felt throughout the organisation.

The Chairperson: Before I bring other members in, the last point that I would make is about the TUPE arrangements for the Red Sky workforce who transferred via BDO — we addressed that a wee bit earlier. Was there a problem with that? Clearly, BDO was working to what it probably believed to be the ministerial time frame, whereas the Housing Executive was working towards 14 July. Was there an issue at that time?

Mr Allen: The conversations that I had with BDO were clearly focused on 14 July. Several emails were sent to the administrator that made it quite clear that that was the agenda that we were working to and that the information needed to flow to those incoming contractors as quickly as possible to ensure that a smooth transition occurred.

Mr Bailie: That is exactly what happened. Was it not?

Mr Allen: Yes.

The Chairperson: Thank you for that. I appreciate that.

Mr F McCann: I remember the west Belfast end of the stuff. I know that Trevor tried to sectarianise the thing earlier on.

Mr Clarke: Dolores started it.

The Chairperson: We were getting on swimmingly without introducing any more subjects.

Mr F McCann: The fact was that it affected all four constituencies, including Newtownabbey 1 and 2. If you read through the report, you will see that they were all affected by Red Sky.

Ms P Bradley: They were not all Red Sky.

Mr F McCann: Well, on the maintenance contracts. The local district manager in my constituency was one of the people who raised the difficulties with Red Sky. I remember making individual complaints, and I was told that it was a battle a day with Red Sky over costs and that it had walked away from repairs until it could argue for an uprating of the price. Most of the people who I dealt with in the Housing Executive at a district level said that it was nearly impossible to deal with those people and that they just went in, said that they could not do it for a certain price and walked away from the house. That added to some of the problems around what has been portrayed as sectarianism.

The Chairperson: OK. I am not sure. That is a point you had made.

Mr Clarke: Thanks, Chairman. I want to come back to a point that you made. I have listened to what you said. How familiar was the audit committee with all the problems with the contracts?

Mr McVeigh: It would have received various reports that set out a narrative of inspection or audit in a particular area. Those tended to be summaries of issues and might not have dealt with some of the specific details that you would have heard about from Raymond, for example. Another issue was that, at that stage, the RIU reports were not properly escalated to the audit committee. There may have been perhaps one line but no detail of the inspection results.

That, again, has changed, and I would contrast that with what the audit and risk committee receives now. It receives detailed summary reports on each of the inspections that are carried out across response and planned maintenance. It also receives a summary of specific issues, such as where non-compliance of a contract has been identified, the result of that and recommendations. Having seen six years of what the audit committee does and what it receives by way of briefings and the reports, I think that it is fair comment that it now gets the necessary detail to brief it specifically about performance arising out of individual inspections and —

Mr Clarke: When did that change happen?

Mr McVeigh: There have been different changes at different points over the last six years. The most recent change was in June of this year when the newly merged audit and assurance unit was pulled together. I wrote my report as the single responsible officer for both those areas.

I have taken a view that the audit and risk committee need to see not just a traffic light analysis, with a red indicating a poorly performing scheme and a green indicating one that is performing well, but the narrative behind that and the details of the location of inspections, the findings, the implications in the form of any risk issues and any recommendations. That now goes to the audit and risk committee in detail. That is the most recent change, but, at different points over the last six years, the committee would have received incrementally more detail. My view is that the audit and risk committee is now getting the necessary detail to allow it to make the appropriate judgements and decisions on that asset management and maintenance area of our business.

Mr Clarke: In your response to the Chair, you spoke about the new unit that you are heading up. You also said that you had a conversation with the chairman of the audit committee. Is that what you said?

Mr McVeigh: That was before the new unit was formed and after the work with Raymond's team to quality-assure some of the work that was coming out of the RIU team.

Mr Clarke: Who is the chairman of the audit committee?

Mr McVeigh: The current chair?

Mr Clarke: Who did you have the conversation with?

Mr McVeigh: That was the former vice-chair of the board, Anne Henderson. She was the then vice-chair of the board and chair of the audit committee.

The Chairperson: OK, Trevor, fair enough? OK, members, time is up this afternoon. No members have any other additional matters to raise. Do any of you want to make any other points or to clarify or add anything? You can make any kind of statement you want. Obviously, the Committee will have to reflect on what we have heard today and maybe come back to some of the issues for further information or clarification. If you do not have anything that you want to add now, feel free to do that if you want to come back to us. We will keep it as a two-way process; the door is open to you to come to us if you want to change, correct or add anything. Likewise, we may want to come back to you.

Mr Bailie: As a general point — I am not going to dwell on individuals — I have been in the Housing Executive for seven or eight years and there has been a sea change in the last three or four years. We have made structural changes, and there is much greater transparency and visibility. I can assure you that all concerns and suspicions are taken extremely seriously, and we investigate them. We do not brush things under the carpet. We have a lot of people looking in at us, including this Committee, the Audit Office and our board. In my view, there is a very healthy atmosphere and climate, and people should not be afraid or reluctant to voice their concerns, because they will be taken seriously.

The Chairperson: Thank you, Clark. As you will appreciate, the Committee will be robust, but we wish you well in your job and we do not want to give you any added burden. Clearly, we have a public responsibility here. Thanks very much.