

**NIAO Briefing for Public Accounts Committee on issues relating to  
the Housing Association sector**

**January 2015**

## **Introduction**

1. We have reported on issues relating to the Housing Association sector generally and DSD's regulation of it for a number of years (see extracts from our reports on DSD accounts from 2010-11 to 2013-14 in the annex to this paper at pages 10 to 32). The main issues that we have identified in those reports have been:
  - The effectiveness of the regulatory regime by DSD;
  - Issues that arose in Helm Housing Association in 2011-12; and
  - Issues relating to advance land purchase grants relating to Helm and more recently to Trinity Housing Association
  - The handling of a potential conflict of interest by Trinity Housing Association.

## **Background**

2. The Housing Association sector in Northern Ireland receives a substantial amount of grant funding from the Department for Social Development each year to allow it to develop new social housing in Northern Ireland. Over the last three years DSD has paid grants to housing associations of £308 million and this has been even higher in the past.
3. Housing Associations are part of the private sector and are registered as charities, although they rely on the public sector for a large part of their funding. The associations are able to leverage grant funding received from DSD to raise bank loans to increase the amount of money that can be used to develop social housing. Typically DSD grants provide the funding for around 45% of the cost of Housing Association development.
4. Apart from the development of new housing, the Housing Associations are largely self financing through rents which pay for the maintenance of the properties for their tenants, the administration of the Association and the repayment of the bank loans used for development. The Associations also build up reserves which can be

used for further development of social housing. The total amount of social housing owned by Housing Associations in Northern Ireland is 38,000 units compared to 89,000 owned by the Housing Executive. All development of new social housing is through Housing Associations.

## **Regulation of the Housing Association sector by DSD**

5. In the early 2000s we were particularly concerned that expenditure in Housing Associations, whose existence is only possible because of their public funding, might not have been subject to proper governance and regulation. As a result from 2001-02 to 2003-04 our audit opinion on DSD was qualified because at that stage there was no real regulation or monitoring being carried out by the Department. This was resolved in 2004-05 when the Department accepted our recommendations and established a new Regulatory and Inspection Unit. This Unit was tasked with inspecting all Housing Associations across key areas of finance, governance, property management and property development.
6. The first round of inspections of all Housing Associations began in 2005-06 and was completed in 2009-10. Out of 33 associations examined in that first round there was a substantial failure rate with 14 being judged to be unacceptable overall and a further 7 unsatisfactory in at least one area examined. The second round of inspections began with similar results in 2010-11, and as a result nine Housing Associations were suspended for a period from carrying out any development of new housing. The largest of the suspended associations was Helm, in which significant failings were found during 2011-12 and these are discussed further below.
7. There has, however, been a significant improvement in the results of the inspections over the last three years. In 2013-14 we reported that out of the 27 Housing Associations which still exist, there are only four associations which still achieve an unsatisfactory result and in each of these cases they are relatively small and carry out little or no development. Also of the Associations suspended from development

most have now been allowed to return to development with two being moved towards merger or partnership arrangements and only three<sup>1</sup> remaining suspended.

8. These improvements have been due, at least in part, to the work of the regulatory unit over many years in identifying issues and promoting good practice across the sector. The Regulatory Unit of DSD is also now intending to look at the 'landlord function' of NIHE in a similar way to it examines Housing Associations. This work will commence in the next few months.

### **HELM Housing Association**

9. Helm is one of the largest Housing Associations in Northern Ireland, managing around 5,000 properties. The regulatory unit began its inspection of Helm in 2010 as part of its second round of inspections and quickly identified a number of significant issues. These issues were included in the Regulatory Unit's report published in 2012 which stated that no assurance could be provided in relation to property development and governance and only limited assurance on financial and property management. As a result I commented on a number of serious issues in my 2011-12 report on the DSD accounts. These included:
  - Eight instances of schemes which involved payments to a middleman or site-finder for the purchase of land. No explanation was available for these payments and why Helm had not dealt with the site-owners directly. This included the worrying case of Great Georges Street which is discussed further below.
  - Sixteen instances where the Association's development committee were misinformed by management
  - Sixteen instances where there was a lack of valuations on sites prior to purchase, or where valuations were carried out by staff reporting to Helm's director of finance. An example of this is at Bellevue Park, Belfast where land was purchased for £2.8 million to build 34 units without an valuation being carried out before purchase. Planning permission was not received and the value of the land in 2012 was estimated to be £0.5 million. There was, however, no direct loss of

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<sup>1</sup> The Housing Associations which were still suspended at June 2014 were FILOR, Harmony Homes and Rural Housing Associations.

public funds in this case as no grant was paid for the site and it was instead financed by the Association's reserves.

- Five instances of going on site without planning permission – e.g. in McAuley Street Belfast, where the Association proceeded with the building of 14 apartments on contaminated land while planning permission was still being considered. The buildings were completed in November 2009 but not permission was not received until August 2011 meaning that the Association lost 22 months of rent. The report also noted that the Board of Helm were not informed of the issue until it was reported by the media during 2010.

10. As a result of the issues in the report the Department recovered £669,000 of Housing Association Grant which had been wrongly claimed. Since the report there has been considerable change at Helm. The entire Board and senior management team have been replaced. The new Board and senior management team have progressed a comprehensive action plan which was reviewed by the Regulatory Unit and the association has been phased back into the development programme.

#### **Helm - Great George's street**

11. One issue that was of particular concern was in relation to the purchase of a site by Helm at Great George's Street. The purchase of the site was financed in part by the Department under its advance land purchase arrangements with a grant of £8.1 million. On the day the site was to be purchased by Helm, a third party (which has been traced to a company in the Isle of Man) purchased the site from the Owner for £6.5 million and then immediately sold it to Helm for £9.75 million. Despite investigations by the Department and forensic accountants it has not been possible to obtain any explanation for this transaction. The police were consulted but there was not considered to be enough grounds to begin an investigation.

12. There was a professional valuation carried out on the site which valued it at just over £10 million but this was based on a development potential of 200+ units, which in turn was based on development plans provided by the vendor of the site. Helm

could not produce any evidence that it had sought any independent verification of the development potential of the site prior to purchase.

13. Since the acquisition of Great George's Street, Helm have been unable to obtain planning permission for the proposed development as the site may be required for a proposed road development. The site would now be worth just a fraction of what was paid for it in 2007.
14. As the Department provided a grant for this project and the social housing did not proceed it is entitled to recovery of the money. In July 2014 it came to an agreement with Helm to recover the grant over the next three years. This will be done by Helm by a number of means including forgoing grant that they would have otherwise have been entitled to on new developments and using any proceeds from a claim it is pursuing against the valuer who originally provided the £10million valuation on Great George's street. We will monitor this repayment plan closely over the next few years.

### **Trinity Housing Association – Advanced Land Purchase grant**

15. We have been aware of an issue surrounding the repayment of an Advanced Land Purchase grant of £835,000 by Trinity for some years and have reported on it since my report on DSD's 2011-12 accounts.
16. In August 2007 Trinity purchased a site in Crossgar from a developer at a cost of £885,000 with the intention of developing 12 social housing units. This was based on a valuation (by a valuer appointed by Trinity) of over £900,000 in May 2007. The Association subsequently applied for Advance Land Purchase grant and in early 2008 it received £835,000. However over the next number of years there were a number of unsuccessful planning applications for the development. Finally in 2014 an application was submitted for a single property which was successful, although it obviously does not meet the criteria for social housing.

## **Background to Advance Land Purchase (ALP) grant**

17. ALP grant is provided to Housing Associations as an up-front payment of Housing Association Grant (HAG) in order to allow them to have the funding available to purchase a site. Under normal circumstances, the development of social housing would then proceed and the ALP will then be netted off the HAG that the association would otherwise have been entitled to once the development was completed.
18. In order to receive ALP grant the Associations were required, prior to 2011, to produce a valuation of the land and a statement about the likelihood of achieving planning permission from a competent person – it did not require anything specific from the planning service. In addition the rules stated that the development needed to happen within a reasonable time or the ALP grant could be recovered. However the rules did not say what a reasonable time was.
19. Since 2012 the rules have been tightened so that evidence of likely planning permission must be provided from the planning service before any ALP is paid and it is made clear that if the development does not proceed within 3 years then recovery will be sought, other than in exceptional circumstances. Apart from the issues regarding Trinity and Helm we are not aware of any other situations where ALP has been paid and development not commenced within a 3 year period.
20. We had queried with the Department if they should also be recovering interest from Associations for developments which did not proceed. However the Department have told us that their legal advice is that interest cannot begin to be charged until the point that a definite decision is made to recover the grant and an agreement reached with the Association – therefore the Department's view is that, for Trinity, no interest can be charged for the period since 2008 up to the date that an agreement is reached to recover the grant.

## **Timeline in the attempted recovery of Trinity's ALP grant**

21. In May 2012, NIHE wrote to Trinity saying that as the scheme had changed beyond recognition from what had been originally proposed (at that point Trinity were applying for three units on the site as opposed to the original twelve) they should make immediate repayment of the £835,000.
  
22. No repayment was forthcoming and in March 2013, NIHE wrote to Trinity again. The letter said that NIHE had already 'allowed slippage of the onsite start date year on year and had afforded Trinity every opportunity to achieve a successful planning outcome.' The letter pointed out that the approval for a single house did not constitute a social housing development and that 'as Trinity has failed to complete a scheme within a reasonable time, [NIHE] is therefore now minded to initiate the grant recovery process'. The letter went on to set out the statutory basis for recovery.
  
23. On 26 April 2013 Trinity's solicitors, wrote to NIHE challenging this decision to recover the ALP grant. The main argument put forward was that a reasonable time had not yet elapsed to allow for planning permission to have been received on the site. They also argued that if the Association were forced to sell the site at current prices then after paying legal and valuation fees there would be little available to pay back to NIHE/DSD. Finally the solicitors asked for a large amount of information under FOI and said that until this was available then they could not set out their client's representations in full on this matter.
  
24. When we were writing our report on the accounts in June 2014 the Department told us that in its opinion the permission that had been given for one house had only minimal restrictions on it and therefore that this could allow for further expansion of the planning permission in the future. It was on this basis that DSD told us both it and NIHE had decided to allow the Association to continue in its efforts to develop the site and not recover the ALP grant at this stage.



25. In October 2014 a further planning application to amend the existing permission to seven units was rejected. There is still only permission for one house on the site. At the time of writing no further progress has been made in relation to the recovery of the grant funding. The grant has now been held by Trinity for around 7 years.

26. The key issues here relate to whether DSD, having indicated their intention to recover the ALP grant in both 2012 and 2013, should have proceeded with this recovery before now and also where the legal challenge by Trinity to the recovery of the grant is acceptable.

### **Trinity - Handling of a potential conflict of interest**

**NB: this contains additional information to that which has already been reported in our report on the 2013-14 accounts**

27. A further issue has arisen in relation to the purchase of the Crossgar site by Trinity. This issue was identified by concerns which were brought to us by members of the public. The background to this is:

- In February 2007 a developer purchased the site in Crossgar for £700,000
- In March 2007 Trinity registered an intention to develop social housing on the site as part of a 'Design and Build' arrangement with the developer. Our understanding of this type of arrangement is that the developer would build the houses to an agreed specification and then sell them once completed to the Housing Association. This arrangement would limit the risk to the Association of any collapse in land values or of planning permission not being received.
- On August 2<sup>nd</sup> 2007 Trinity appears to have changed its mind and purchased the land from the developer for £885,000 (a profit of £185,000 in six months).
- On 29<sup>th</sup> August 2007 the same developer purchased the house belonging to the brother of the Chief Executive of Trinity (Mr Canning) for £700,000. This site was to give him access to develop on a larger site at Beverley Heights Newtownards, which was a development that Trinity had also registered an interest in establishing social housing on.

28. When the potential conflict of interest was pointed out to Mr Canning by a residents group from the Beverley area in April 2009, Mr Canning stated that this was the first time that he had become aware that his Brother had sold his house. He did then inform the chair of Trinity's Board, although it was some nine months later in January 2010 before the issue was discussed by the full board.
29. When this issue was brought to us we had a number of concerns regarding the handling of the potential conflict of interest. After some discussion with the Department we formulated three questions to ask to Mr Canning:
- 1 Why did Trinity change from a design and build arrangement and instead decide to purchase the Crossgar property?;
  - 2 Why would Mr Canning not have been aware of the sale of his brother's house – which was in a development that Trinity had registered an interest in developing?;
  - 3 When did the Board consider the potential conflict of interest and why was there a delay between Mr Canning being aware of it and the board considering it?
30. These questions were put to Mr Canning on 27 November 2013 by the Department at a meeting to which Mr Canning brought his solicitor. Following the meeting the solicitor emailed the Department to say that these were very serious allegations and asking for details of all correspondence between DSD and NIAO on the matter. The email said that once all the information was received then Mr Canning and Trinity would provide a 'full and detailed response to these spurious allegations'.
31. This request was treated as an FOI request and in January 2014 the Department provided the information to the solicitors. In March 2014 the solicitors emailed the Department again to say that Mr Canning had nothing further to add to statements he had already made and that the allegations were manifestly untrue. They stated that the correspondence, particularly some letters from members of the public may have been defamatory and instructed the Department to not publish these documents any further under FOI or they would be sued for damages. Following this

the solicitors also wrote directly to the two members of the public that had approached us with letters threatening legal action without any further notice, if they continued their claims.

32. The Department has now told us that following further correspondence with the Chief Executive of Trinity a partial reply was received from his solicitor at the end of October 2014. In relation to the first question that we asked, the reply said that in January 2007 Trinity had sought NIHE support for 6 houses and 6 apartments at the Crossgar site and that around the same time NIHE had confirmed to the Association their support for the housing need and the proposed mix. The solicitor also provided a copy of an e-mail dated 15<sup>th</sup> March (see Annex 2) from the Department to Trinity asking if the Association could make a submission to it 'within the next week' to allow it to provide Advance Land Purchase grant on the land at Crossgar before the end of the financial year. The Department believe that this provides evidence that it was the Department asking the Association to consider buying the land as early as March 2007 rather than vice versa. Unfortunately there are no further details of correspondence from that time.
33. In relation to the second and third questions that we asked the solicitor indicated that there was nothing further to add to what had already been communicated.

# **ANNEX 1 - EXTRACTS FROM REPORTS ON THE DSD ACCOUNTS**

## **2010-11 Extract from the C&AG's report on DSD accounts**

### **Part 6: Housing Associations**

#### **Introduction**

6.1 I have reported extensively in previous years on the governance arrangements of housing associations and have made a number of recommendations for improvement.

#### **Key findings to date from Round 2 of the Unit's inspections**

6.2 The first round of reviews by the Unit of all housing associations in Northern Ireland was completed in 2009-10 and I noted in my report last year that 14 out of 33 housing associations received an "unacceptable" rating.

6.3 The Unit began the second round of inspections in 2010 and to date has completed its review of seven housing associations. I am concerned to note that four of these housing associations received no assurance. In addition, reviews of a further six housing associations (including Helm) are nearly complete and significant concerns have been identified in five of these housing associations. Given the work that the Unit has done in promoting best practice, driving forward improvements, monitoring performance and acting as a deterrent to unacceptable practices, I am disappointed at the continuing number of housing associations which are failing to achieve a satisfactory assurance level. The Department told me that it is also concerned about the level of failure within the Housing Association movement. The Department considers the main cause of the failure is due to a lack of capacity in terms of skills/expertise at Board and/or management level. As a result the Department has supported a number of mergers or Group structure arrangements where failed Associations have been able to avail of the skills and expertise of better established Associations. In addition a number of Associations have changed their senior management and/or Board membership as a result of an adverse Inspection report.

6.4 The Department also indicated that where a failed Association can demonstrate that it has the commitment, capacity and ability to effectively address the inspection findings that it will work with them to ensure the effective implementation of the recommendations. As part of its ongoing review of the Governance and Inspection process, the Department is considering what further actions are required to help drive improvements forward more effectively. Three of the key areas under consideration are:

- increasing the Department's regulatory authority to deal more proactively with failing Associations;
- utilising the lessons learned from recent Inspections to build upon the current inspection and monitoring processes; and
- working with the sector to help improve capability and capacity.

6.5 I have also noted that the Unit was unable to carry out its full intended inspection programme in 2010-11 because it had to divert resources to its inspection of Helm Housing Association following the significant issues identified there. The Department has told me that the decision to reschedule the Inspection Programme was only made after careful consideration of all the issues. The Department believes that the issues initially identified within Helm were such that it was vital that any potential impact was assessed as a matter of highest importance. In re-allocating the resources the Department took into account the previous Inspection grading and access to Grant. In addition a more significantly strengthened monitoring system was in place (since April 2010) and was further enhanced by the request for all Internal Audit reports from the associations. In view of these factors the Department considered any risks involved with the re-scheduling of the inspection programme to be greatly reduced. Additional resources for the Inspection Team have been put in place and this will enable the Inspection Team to deliver the planned programme during 2011-12.

6.6 In addition, as a result of the work of the Unit to date that Boards and Management Teams within eight housing associations have been replaced or revised. I remain

concerned that the Unit continues to find examples of poor and unacceptable management/governance practices in housing associations, such as:

- the commitment to purchase land in areas where no housing need has been identified;
- the purchase of properties for which Housing Association Grant has not been received and is unlikely to be received; and
- where housing associations had purchased or were committed to purchase a large number of properties without the knowledge or approval of either NIHE or the Department.

### **Summary**

6.7 Other than in relation to Helm Housing Association as discussed in Part 5, I have not qualified my audit opinion on this area of expenditure but I am concerned that there continues to be significant problems within the registered housing association sector in Northern Ireland. Of particular concern is the high level of underachievement in obtaining a satisfactory assurance level through the Department's inspection programme and the fact that there are currently seven housing associations which have been suspended from building further houses by the Department.

6.8 I will continue to monitor this area and in particular the timely and full implementation of the recommendations arising from the work of the Unit and the implementation of the recommendations from my review of the governance arrangements.

## **2011-12 Extract from the C&AG's report on DSD accounts**

### **Other Matters - Housing Associations**

- 1 The Department provides funding via the Northern Ireland Housing Executive (NIHE) to the Housing Association sector each year and this amounted to £139 million during 2011-12. In order to satisfy itself that this money is being properly spent, the Department's Governance and Inspection Team (the Team) conducts regular reviews of all housing associations in Northern Ireland examining governance, finance, property management and property development.
  
- 2 In recent years I have raised a number of issues in relation to housing associations and I have reported extensively in this area and made a number of recommendations. In 2010-11, I qualified my audit opinions on both the Department's and NIHE's financial statements because of concerns as to the regularity of grant expenditure in Helm Housing Association (Helm) as a result of serious issues which were being identified by the Department's inspection team.
  
- 3 I still have significant concerns in relation to the governance arrangements of the Housing Association sector as a whole. However I have not qualified my opinion on expenditure in this area in 2011-12 because many of the issues giving rise to my concerns in the Housing Association sector relate to expenditure incurred in previous years and also because the work of the Department in its inspection regime across all Housing Associations, detailed below, has provided some assurance in relation to grants paid to the sector in the current year.
  
- 4 The Team has now finalised its inspection report on Helm and this was published in January 2012. The report gave an overall "No assurance" rating and highlighted a number of significant failures across all areas, indicating substantial failings by the Senior Management Team of Helm and a failure by the Board to offer an adequate challenge function to the decision-making process within the Association.

- 5 As well as making 49 high priority recommendations across a range of issues the report identified three schemes in which Helm were unable to provide appropriate evidence to support the grants claimed for those schemes. As a result the Department has sought to recover £669,000 of housing association grant from the Association.
  
- 6 The report also highlighted eight schemes that were part financed by Housing Association Grant which had involved a payment to a “middleman” or “site finder” for the purchase of land. The Team found that it was not clear why third parties were involved in the deals and why Helm did not deal directly with the site owners. There was no explanation on any of the files held by Helm, nor was there any acknowledgement of the financial impact of such involvement, or evidence that the relevant sub-committee in Helm was made aware of these situations.
  
- 7 I was particularly concerned by the case noted in the report of the purchase by Helm of a site at Great George’s Street, Belfast. The Department gave Helm £8.1 million in Housing Association Grant under its advance land purchase arrangements to allow Helm to purchase the site in 2007. On the day the site was to be purchased by Helm, a third party purchased the site from the Owner for £6.5 million and then immediately sold it to the Association for £9.75 million. Despite investigations by the Department and forensic accountants, it has not been possible to identify any explanation for these transactions. I have asked the Department to update me if there are any developments in relation to these transactions and I may report further if appropriate.
  
- 8 Since acquisition of the site in 2007, Helm has been unable to gain planning permission for the proposed development as the site may be required for a major roads development. The Department is entitled to seek recovery of the £8.1million paid under the advance land purchase scheme as the scheme has not progressed within three years of the receipt of the grant. However it has not yet done so and the Department have told me it is still possible that the site will receive planning permission and the proposed development will be proceeded with.



- 9 Since the report, the Department has told me that 6 of the existing Board Members have stepped down and been replaced with a number of appointments drawing skills from the Development Industry, Finance and Property including housing and urban renewal experience. The remaining Board Members, with the exception of the tenant representative member, will step down in August 2012. Training of these Board Members has commenced with training sessions on governance and a review of the Association's governance arrangements has also been conducted, this includes the development of a new style of Board papers. The Chief Executive and all of the Senior Management Team have also been replaced with interim Officers until a number of recruitment exercises are completed by September 2012. These interim Officers are progressing a comprehensive action plan that will implement all the recommendations made by the Team.
- 10 I am concerned over the extent and significance of the serious issues identified by the Department in Helm and I asked the Department for the latest update. The Department told me they are confident that the serious issues identified within Helm Housing Association have been addressed with the Board's appointment of the interim Chief Executive, who has a proven track record of assisting poor performing Housing Associations across Great Britain. The Board has worked closely with the new Chief Executive to implement a number of significant changes to Board, the Senior Management Team and their organisational structure. The Board has also liaised closely with the Department to develop a recovery plan that will help the Association work towards becoming a Fit for Purpose organisation in advance of the follow up inspection later this year.

### **Targeted Inspections**

- 11 In response to the significant concerns raised in the Helm report, the Team has carried out targeted inspections of the seven main housing associations involved in building new houses (namely Apex, Clanmil, Fold, Trinity, Connswater, Oaklee and Ulidia) to provide assurance that the issues identified in the Helm report are not also prevalent in

these Associations and that they are “fit for purpose”. During 2011-12, these seven housing associations built 1,235 new units out of a total of 1,410 units built by all Housing Associations and received housing association grant of £103 million out of a total of £139 million paid to all housing associations to build the new units.

- 12 Targeted inspections in five of the seven housing associations focused on two distinct areas, property development and organisational structure, while the remaining two housing associations (Oaklee and Ulidia) were subject to a full inspection in accordance with Round 2 of the Department’s planned inspection programme.
- 13 Results from the targeted inspections to date show that one housing association received substantial assurance (Clanmil), five housing associations received satisfactory assurance (Apex, Fold, Trinity, Oaklee and Ulidia) while Connswater received limited assurance.
- 14 Connswater received housing association grant of £4.5 million to build 68 new units in 2011-12. The Team found significant delays in progressing scheme proposals mainly due to planning and financial viability issues resulting from inadequate feasibility studies and also had concerns around community consultation and over reliance on advice from particular consultants. Connswater have actively engaged with the Department to address the issues and the Department told me that the Association is currently implementing a comprehensive recovery plan to address the shortcomings identified at the last inspection. Progress against this plan will be checked by way of a Follow-up Inspection programmed to be carried out within the next six months.

## **Second Round of Inspections**

- 15 The Team has continued with its second round of inspections during 2011-12 and in addition to the seven targeted inspections, a further eight inspections were completed.

I note that only two housing associations (St. Matthews and Habinteg) received satisfactory assurance and I am concerned that four housing associations (Newington, Rural, Grove and Open Door) received limited assurance and two housing associations (Helm and Filor) received no assurance.

- 16 The continuing poor results being achieved by many housing associations is disappointing given the work the Team has done over several years in seeking to promote best practice and corporate governance arrangements, driving forward improvements and efficiencies, monitoring performance and acting as a deterrent to unacceptable practices. The Department told me that whilst the four Housing Associations referred to received Limited Assurance in their follow-up inspections, these ratings should be regarded as encouraging and reflect positive progress made by the Associations to address all the recommendations made in their last inspection report.
- 17 At the time of the follow-up inspections there was evidence that progress had been made but at that stage the associations had not had sufficient time to fully implement all of the recommendations. These Associations will be subject to a further follow-up Inspection within the next six months. One Association, Open Door has recently been re-inspected and has attained an overall Satisfactory Assurance rating. The two Associations who received No Assurance are currently suspended by the Department from accessing Housing Association Grant and are currently being monitored closely by the Department. They will also be subjected to a follow-up Inspection later in the year.
- 18 The associations which obtained limited or no assurance in the second round of inspections are included within the nine associations currently suspended from carrying out development work. I was concerned to find that these suspended housing associations still received housing association grant of £25.6 million during 2011-12 of which Helm received £21.5 million. The Department has explained this by saying that these grants relate to schemes that had been approved prior to the Associations being

suspended and which the Department were content to allow to be progressed as the schemes were already sufficiently advanced.

- 19 The Department has also told me that these figures reflect the amounts in the NIHE's accounts and not the amount of cash actually paid to these associations. Helm received approximately £11 million from the Housing Executive, largely in relation to schemes which had started on site prior to their suspension and the remainder for schemes which DSD agreed had progressed to an extent that they could not be transferred to another association. The remaining £10.5 million relates to accruals for both the progression of these schemes and also an accrual for Advanced Land Purchases (ALP) which the Housing Executive has approved subject to a positive follow up inspection.
  
- 20 Given the serious breakdown in controls at Helm in particular, I am surprised that such a large amount of housing association grant was awarded to it during 2011-12 and I asked the Department what controls it has in place to ensure this grant is spent correctly. The Department told me that grant was paid to Helm and other suspended Housing Associations for those schemes where the Association was legally/contractually committed to the development and failure to comply with these contracts would be viewed as breaches and cause serious financial implications and reputational damage for individual Associations as well as creating a lack of confidence in the housing movement in general.
  
- 21 The Department has liaised with the Housing Executive, who is responsible for paying the Housing Association Grant, to develop additional assurance arrangements for Associations currently suspended from the Social Housing Development Programme. These additional checks were carried out on all the schemes of suspended Housing Associations prior to payment of grant.

## Land Purchases by Housing Associations

- 22 The Department can award an advance land purchase grant (ALP) to housing associations to allow them to purchase a site in an area which has a social housing need but which may not yet have planning permission. This ALP grant is given on the understanding that if planning permission is not granted or no progress has been made in building houses on the land for more than three years since the ALP was awarded, the Department can seek to recover the full ALP grant. During 2011-12, the Department approved 18 ALP grants for 500 units, totalling £16 million, with these schemes due to commence during 2012-13. While I have no particular concerns in relation to the ALP grants made during 2011-12 I am concerned by some issues relating to land purchases made by Associations in recent years.
- 23 I note at present there are four ALP grants made a number of years ago where no development has occurred in the past three years. In three of these cases (one of which is the Helm Great Georges Street scheme discussed above) the Department have assured me that there is still the potential for the scheme to go ahead and they are therefore not seeking recovery of the grant at this stage. In one scheme, planned by Trinity Housing Association, NIHE are currently seeking to recover £835,000 as the scheme (for a development in Crossgar) changed from a 12 unit scheme to a 3 unit scheme.
- 24 Housing Associations can also purchase sites using their own resources, without informing the Department. I noted that the Department's report on Helm identified five sites purchased by the Association totalling £9.1 million where it is unlikely that they will be able to proceed with their original development plans and on which a substantial loss is likely to be incurred. In one scheme at Bellevue Park, Helm paid £2.8 million in 2007 for a planned development of 34 units, however, planning permission was not granted and the value of the land is now much less than Helm paid for it. It is possible that other Associations could be in similar positions having purchased land with their own resources during the property boom.

- 25 While I recognise that the Department has not provided funds to support the purchase of land by Housing Associations using their own resources, I am nevertheless concerned that when these Associations incur significant losses on property it will impact on their ability to provide new housing schemes and potentially also on their capacity to properly deliver routine maintenance and improvements to existing housing. It is therefore vital that Housing Associations have proper governance procedures in place to ensure that all proposed land purchases are properly assessed and approved.
- 26 I asked the Department to comment on how they are ensuring that these governance procedures are in place and they told me that the decision making role of the Board, particularly around the areas of land purchases and scheme development is closely scrutinised as part of the Departments on-going inspection of the governance arrangements within Associations. There is also on-going monitoring of Board minutes by the Department's Governance Unit to ensure that decisions, particularly around expenditure are being discussed, challenged and ratified by the Board.
- 27 Housing Division finance staff also monitor quarterly financial returns from the developing associations and review all associations' audited financial statements to identify potential financial difficulties. Any concerns identified are discussed with the senior management and Boards to ensure the necessary corrective action is taken.

## **2012-13 Extract from the C&AG's report on DSD accounts**

### **Other Matters**

#### **Housing Associations**

- 1 The Department provides funding via the Housing Executive to the Housing Association sector each year and this amounted to £81.2 million during 2012-13. In order to satisfy itself that this money is properly spent, the Department's Governance and Inspection Team (the Team) conducts regular inspections of all Housing Associations in Northern Ireland examining governance, finance, housing management, property management and property development.
- 2 In recent years I have raised a number of concerns in relation to Housing Associations and I have reported extensively in this area, making a number of recommendations.

#### **Inspections**

- 3 During the year the Team carried out inspections of sixteen Housing Associations and I am encouraged by the fact that thirteen of the Housing Associations inspected received either satisfactory or substantial assurance. This is a significant improvement on the results achieved last year when only eight out of the fifteen Associations examined achieved satisfactory or substantial assurance.
- 4 Two Housing Associations (SHAC and Rural) received limited assurance and South Ulster received no assurance. The main concerns in SHAC surrounded the financial viability of the organisation and the overall condition of their housing stock. Following the investigation SHAC has now merged with Oaklee Housing Association.
- 5 In respect of Rural Housing Association, the Team gave limited assurance as it had concerns over the Association's ability and capacity to undertake and deliver a

comprehensive maintenance function. The Team also concluded that it should continue to be suspended from any new development activity until it had fully established and documented its approach to development and ensured that it had adequate resources to carry out this work.

- 6 With regard to South Ulster, the Team identified significant areas of weakness and non-compliance with the Housing Association Guide across all areas of activity. These issues resulted in recovery of Housing Association Grant of £110,000 from four development schemes. The Team concluded that whilst the Association produced a high quality build, there was little understanding of the requirements of the Guide and little demonstrable evidence of value for money. As a result of these findings, board members have been replaced, the senior management team has changed and the Association has been suspended from the Development Programme.
- 7 I also note that a recent draft report from the Team shows that there are significant concerns about the financial viability of Craigowen Housing Association (an Association which has not developed for a number of years), its governance arrangements and the condition of its housing stock which was found to have deteriorated in recent years. The Department is currently considering how it can best work with the Association to resolve this situation.
- 8 While the number of bodies being inspected and found to be satisfactory by the Team is encouraging, I remain concerned that some Housing Associations are still performing poorly despite the work of the Team over several years promoting good practice. In particular I noted that the performance of South Ulster Housing Association has worsened significantly since it was last examined in 2009 when it received satisfactory assurance. I asked the Department for its comments in relation to the poorly performing Housing Associations above and how it might identify when standards at an Association are falling at an earlier stage.



9 The Department told me that it shared my concerns with the performance of South Ulster and Craigowen Associations. However, as noted above, significant changes have taken place within the South Ulster Housing Association as a result of the inspection findings. The Board has taken prompt and decisive action to address the weaknesses. The Association will be subject to a follow-up Inspection in September 2013 to ascertain the degree of progress that has been made in implementing the recommendations. The inspection of Craigowen is at a much earlier stage. However, it is clear that significant issues will have to be addressed by the management board. The Department is committed to working with all parties to achieve an acceptable resolution. The two limited assurance inspections referred to in the report (SHAC and Rural) were follow-up inspections and in both cases the Team identified an acceptable level of progress in addressing previous inspection findings. The Department considers that as the Round 2 inspection programme comes to a conclusion, the most problematic associations have been identified and appropriate recovery action is being taken. The improvement during 2012-13 which has already been identified in this report, is a reflection of the enhanced inspection and monitoring processes which have been established by the Department.

### **Suspended Housing Associations**

10 I previously reported that nine Housing Associations were suspended from carrying out development work. Following further inspection, four of these suspended Housing Associations (including Helm) are being allowed to return to the development programme on a phased return basis over the next year. A further two Housing Associations are in the process of merger or partnership arrangements with larger Housing Associations, three of the Associations remain suspended from last year and one additional Association (South Ulster) has been suspended from development in the current year.

11 In relation to Helm Housing Association I qualified my audit opinions on both the Department's and NIHE's financial statements in 2010-11 because of concerns as to the

regularity of grant expenditure in Helm. This followed the identification of serious issues in the Association which were identified by the Team. The report on Helm was finalised in January 2012 with a 'no assurance' rating and 49 high priority recommendations across a range of issues.

- 12 The Team has carried out a further follow up inspection on Helm during the period September to December 2012 to review progress made and noted that 40 recommendations have been fully implemented with good progress made in the remainder. All the previous Board Members and entire senior management team, including the Chief Executive have been replaced. The new Board and senior management team are now progressing a comprehensive action plan that will implement all the recommendations made. The Team has now concluded that Helm should be considered for a phased return to the Development Programme to build new houses during 2013-14.

### **Land Purchases by Housing Associations**

- 13 Last year I reported on four grants that had been made by the Department under the Advance Land Purchase (ALP) scheme. This scheme allows grants to be made to Housing Associations in order for them to purchase a site in an area which has a social housing need but which may not yet have planning permission. The ALP grant is given on the understanding that the Department can seek full recovery if planning permission is not granted or progress has not been made in building houses on the land within three years of the award of the grant. In two of the cases the Department has assured me there is still potential for the schemes to go ahead and they are therefore not seeking recovery of the grants at this stage. In the other two schemes the Department has now indicated that because of the time taken to progress towards building the houses it is minded to seek recovery.

- 14 One of the schemes on which the grant may now be recoverable relates to the purchase of a site by Helm in Great George's Street supported by £8.1 million of Housing Association Grant under the Department's ALP arrangements. I reported my concerns on this last year. I noted that when Helm had purchased the site in 2007 for £9.75 million, a third party had purchased the site for £6.5 million from the vendor on the same day before immediately selling it on to Helm. Despite detailed investigations, the Department was unable to obtain any explanation for these transactions. Last year, the Department had thought that planning permission might still be achieved for this site, but it has now become clear that this will not happen until 2018 at the earliest. Consequently, the Department has indicated that it is minded to begin recovery procedures for the ALP grant of £8.1 million.
- 15 The other scheme relates to one planned by Trinity Housing Association (for a development in Crossgar). In this scheme the Department awarded an ALP grant of £835,000 to the Association in February 2008 to purchase the site on the basis that 12 social housing units would be developed. In the intervening period, as the Association pursued unsuccessful planning approvals to develop the site, the proposal has changed from a 12 unit scheme to a 3 unit scheme and currently to a single detached bungalow. The Department have now indicated that they are minded to begin recovery procedures for the ALP grant of £835,215, although the Association has indicated that it is likely to take legal action to prevent recovery.
- 16 Between these two schemes the Department has paid almost £9 million to two Associations to support two land purchases. Both schemes received grants more than five years ago without any progress being made to build social housing. In both cases the sites are now worth considerably less than the Associations paid for them. I consider that it is important that these grants are recovered as soon as possible.
- 17 It should be an important principle when making these grants that the development risk remains with the Association so that any losses from changes in land values or planning permission not being forthcoming do not have to be met from public funds. Therefore I

am disappointed that there has been legal challenge to the possible requests for repayment. I asked the Department if it considers that there is any possibility of a loss to public funds in these cases. I also asked the Department what action it has taken to ensure future ALP grants are subject to less risk.

- 18 The Department told me that the advance purchase of development sites by Housing Associations for social housing plays a key role in ensuring delivery of the Social Housing Development Programme each year. In the period 2007-08 to 2012-13, grant funding has been provided to Housing Associations to secure the purchase of 53 sites. This has facilitated starts on 1,301 homes. The two schemes referred to in this report have been affected by unique and exceptional issues which have delayed their development. However, the Housing Executive has now written to both Associations indicating its intention to initiate the grant recovery process. In addition, the Housing Association Guide has been amended to confirm that if a scheme does not progress within two years, or three years in exceptional circumstances which have been approved by the Housing Executive, then the full grant must be repaid with interest. The Department is satisfied that these amendments provide the necessary assurances around the likelihood of development of sites by Housing Associations and also protect the public purse, as all monies paid will be recovered in the event that a scheme does not progress. The Department is also satisfied that the two outstanding grants to Helm and Trinity Housing Associations are unique and exceptional and that potential recovery action has been initiated at an appropriate time by the Housing Executive.

## **Other Matters**

### **Governance arrangements within the Housing Association Sector**

- 28 The Department provides funding via the Housing Executive to the Housing Association sector each year and this amounted to £88.5 million during 2013-14. In order to satisfy itself that this money is properly spent, the Department's Governance and Inspection

Team (the Team) conducts regular inspections of all Housing Associations in Northern Ireland examining governance, finance, housing management, property management and property development.

- 29 A number of years ago the Department's team was identifying serious issues in a relatively large proportion of Housing Associations and I highlighted these issues in my reports as well as raising a number of concerns that I also had in this area.
- 30 In recent years the work done by the Department's Team in promoting good practice has identified considerable improvements in the sector across each of the areas identified above. These improvements are reflected in the fact that at 31 March 2014, all of the main developing Housing Associations have been awarded at least satisfactory assurance.
- 31 Out of the current number of 27 Housing Associations, there are now only four Associations where governance issues still arise, resulting in these Associations being awarded Limited or No assurance. Each of these four are relatively small and have little or no ongoing development. The Department has plans in place to review these Associations to ensure these governance issues are addressed.
- 32 I previously reported that ten Housing Associations were suspended from carrying out development work. Following further inspection by the Department, five of these suspended Housing Associations have been allowed to return to the development programme on a phased return basis. A further two Housing Associations have merged or entered into partnership arrangements with larger Housing Associations and three of the Associations remain suspended.
- 33 In relation to the largest Housing Association that had been suspended, Helm, the Team has carried out two further follow up inspections during 2013-14 and recommended that all restrictions on development should be lifted with immediate effect to allow Helm a full return to the Social Housing Development Programme.

34 I am pleased to note the continuing improvement in governance arrangements within the Housing Association sector generally which has now been in place for a number of years and has been driven in large part by the efforts of the Department's Governance and Inspection team. I note the plans in place to ensure that this performance is maintained and this is an area which I may return to in the future.

## **2013-14 Extract from the C&AG's report on DSD accounts**

### **Other Housing Association issues**

- 1 There are two issues relating to specific Housing Associations which I wish to highlight. The first relates to the treatment of Advance Land Purchase grants made to two associations and is an update on my previous report. The second is on the handling of a potential conflict of interest issue within one Housing Association.

#### **(a) Advance Land Purchases by Housing Associations**

- 2 Last year I also reported on concerns I had over two grants that had been made under the Advance Land Purchase (ALP) scheme. This scheme allows grants to be made to Housing Associations in order for them to purchase a site in an area which has a social housing need but which may not yet have planning permission.
- 3 It is important to note that ALP grant, in common with all grants to Housing Associations, is managed by the Housing Executive who have the direct legal and contractual relationship with the Associations. However the Department, through its housing division, has a direct and important involvement with the Housing Executive in any decision to recover grant funding. In addition any grant that is recovered is ultimately repayable to the Department. Therefore although the Housing Executive are legally responsible for decisions to initiate recovery of grant I consider that the Department also have an important role in this process.
- 4 Normally I would expect that if land for which an ALP grant has been made is not developed on within a reasonable period of time, for whatever reason, then the grant would be reclaimed in full from the association. The Housing Association Guide, which sets out the principles under which Housing Association Grant is paid, was amended in 2010 to make it clear that if an ALP scheme does not start within a maximum of three years from approval then 'the grant will normally be repaid in full plus interest'.

5 I also queried whether the Department should therefore be seeking interest on the ALP grants discussed below. The Department told me it had considered this but that in its opinion the legislation governing the grant payment was clear in that it only allowed the recovery of interest from the date that it decides to recover the grant (not when the grant was paid). When I examined the legislation I considered that the position was not clear in this respect and that the requirements of the Housing Association Guide appeared to me to imply that interest should normally be charged from the date that the grant had been paid. I have therefore recommended that the Department obtain a legal opinion to clarify the position on how and when it should charge interest.

6 The two schemes which I wish to highlight are:

(i) Helm – Great Georges Street

7 This related to the purchase of a site in 2007 by Helm in Great Georges Street, Belfast which was supported by £8.1 million under the Department's ALP arrangements.

8 Helm have been unable to obtain planning permission for a social housing development on this site since 2007. The Department now have an agreement in place with regard to the settlement of the full amount of the grant. This will be done over a period of around three years. The Department's accounts include a debtor for this amount and I will monitor progress on this issue over the next few years.

(ii) Trinity – Crossgar site

9 A second scheme for which ALP was paid and which has not proceeded relates to Trinity Housing Association for a development in Crossgar. In this scheme the Department (via the Housing Executive) awarded an ALP grant of £835,215 to the Association in February 2008 to purchase the site on the basis that 12 social housing units would be developed. Since then the Association has been unsuccessful on a number of occasions in obtaining planning approval for its proposed 12 unit scheme and earlier this year it



obtained planning permission for a single dwelling on the site which does not meet the criteria for social housing.

- 10 In March 2013 the Housing Executive, indicated that it was minded to begin recovery procedures for the ALP grant on the basis that the scheme had not been commenced within a reasonable time and the only planning permission available on the site was for a single dwelling. As I reported last year the Association then threatened to take legal action to prevent any recovery of the grant funding at that stage.
- 11 The site in Crossgar is now worth considerably less than when the Association received grant funding for it. In my view, which is also shared by the Department, it is an important principle when making these grants that the development risk remains with the Association so that any losses from changes in land values or planning permission not being forthcoming do not have to be met from public funds.
- 12 I am very disappointed that recovery procedures have not yet commenced for this grant despite the fact that indications of being minded to do so were given 15 months ago. There is still no imminent prospect of social housing being permitted on the site. The grant was paid over six years ago without any social housing having been built and there is a considerable risk to public funds if such grants are not recovered, particularly when there has been a fall in the value of the related land.
- 13 In my opinion the Department and the Housing Executive should work to ensure that recovery procedures for this grant begin immediately. If planning permission is subsequently received for social housing on the site then a new grant could be considered at that stage, in line with other new social housing developments.
- 14 I asked the Department to comment on why this ALP grant has not yet been recovered and the Department told me that the recovery of ALPs is not impacted by reduction in land values and therefore the risk remains with the Association as has been the case with the recovery of the Helm ALP. With specific regard to the Trinity ALP, the

Department has told me that in its opinion there are only minimal restrictions on the planning permission received by the Association for this site and that it felt that this this could still allow for further expansion. It was on this basis that the NIHE determined that there was sufficient justification to permit the Association to continue in its efforts to develop the site. The Department has told me that, as always, it will keep the situation under review.

..

15 I will also keep this issue under review and would expect that there will be considerable progress over the next twelve months either to develop the site by the Association or to recover the grant.

(b) Handling of a potential conflict of interest

16 During the year a separate issue came to my attention in respect of Trinity Housing Association whereby a member of the public raised concerns around the handling of a potential conflict of interest relating to the purchase of a site in Crossgar by the Association in 2007. I raised these issues with the Department in July 2013. At that time the Department told me that it had already examined some of these issues but following discussions it agreed in October 2013 to follow up on a number of specific questions which I considered had some merit.

17 The Department has not yet been able to obtain satisfactory answers to these questions despite them now having been outstanding for around nine months. I am concerned by the delay in obtaining a response to what I consider to be reasonable and straightforward questions. I have discussed this with the Department and urged it to seek to resolve this issue as soon as possible. I will continue to monitor this and may

report on it again in the future.