

FROM THE PERMANENT SECRETARY  
Andrew McCormick

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Our ref: PS DETI 197/15  
Your ref

13<sup>th</sup> November 2015

Dear Ms Boyle

### **PAC NIEC – Public Accounts Committee Evidence Session – Request for Follow Up Information**

Thank you for your letter, dated 23 October 2015, in which you request some further detail in respect of the report on the Northern Ireland Events Company. However, before I deal with the specific queries set out in that letter, I would like to take this opportunity to provide further detail on this Department's oversight of the process.

As you know from all my previous engagements with the Committee, I accept and respect the PAC's prerogative to challenge and criticise the actions of Departments when there is evidence of mistakes and misjudgements. However, in respect of your summing up at the conclusion of the evidence session on 21 October, I would respectfully disagree with the main points you made, in particular the premise of your comments that DETI "made mistakes" in the commissioning or oversight of the Company Inspection of the Events Company. In this case, I would ask you to consider if there is any **evidence** before you that would suggest that DETI made mistakes in the commissioning or oversight of the Company Inspection of the Events Company. I believe the evidence we presented on 21 October gave a straightforward explanation of the necessity of the steps that were taken, which I would summarise as follows:

- we were working within a clear statutory remit on the request of DCAL, in a context where this approach was the standard and appropriate action as part of a statutory process;
- the Inspectors were procured at the best available price, within a process in line with best procurement practice, and taking advice from Central Procurement Directorate of the Department of Finance and Personnel;
- the Inspection was subject to regular and firm scrutiny, to avoid any unnecessary costs;
- the overall spend on the Investigation was subject to robust challenge and approval at regular intervals – on a day to day operational level by the Director of Insolvency; at a Strategic level by an oversight group comprising the Permanent Secretaries of DETI and DCAL and senior DETI officials; and from a budgetary perspective through DETI's casework approval processes. The C&AG attended some of the oversight meetings; and

- the reasons for the cost and timescale were as given in evidence, in particular that a thorough investigation was essential to provide a foundation for the remaining processes.

With specific reference to the cost of the investigation, I stated in evidence that my understanding was that the costs of the Company Inspection had been discussed at strategic review meetings during the course of the investigation. I attach the email that I quoted (the relevant extract is highlighted).

At the conclusion of the evidence session, the C&AG commented on my reference to the involvement of NIAO and the C&AG in this oversight process. He said:-

*"... On whether this was this the right thing to do, I certainly agreed with DETI back in 2011 that there was no question that it could be abandoned at that juncture. It was the right thing to do, and there was very important public interest in it. Dr McCormick said that we may have said that cost was not an issue. At that juncture, I was not aware of what the cost would eventually amount to. As Dr McCormick said, the cost crept up in the final stages, particularly in 2013. However, I agree with Dr McCormick that this was the right thing to do — it had to be done. I also agree that process is important, particularly when there are legal proceedings. Too often, cases collapse because of a breakdown in process..."*

I am grateful for the important comments the C&AG made which reinforce my view that we did the right thing with all proper concern for cost control, while still focussing on the necessity of a thorough analysis of the evidence to ensure effective future processes.

With regard to the issue of the eventual costs for the investigation, I think it is important to point out that the largest change in the estimate of total costs, from the initial very broad indicator of "not less than £0.25 million" to an estimate of £0.9 million was known by November 2010. My clear understanding, having spoken to several colleagues who were present at the oversight meetings and discussions, and are still in post, and having considered contemporaneous records, is that the C&AG was made aware of the £0.9 million forecast during 2011. The £0.9 million forecast was informed by the detailed scoping work undertaken by the Inspectors, their initial meetings with key individuals, their desktop review of several hundred thousand documents and records, and the emerging findings from their work, which included matters of a potentially criminal nature. The C&AG's recorded support for continuing with the Inspection was given in the knowledge of this very considerable programme of work and cost projections.

I would also point out that the actual costs incurred on the investigation to June 2011 was a matter of public record, having been provided by the Department in response to an AQW asked by Mr David McNarry MLA at that time. It would have been clear at the time of the discussion with NIAO in June 2011 that there would be considerable further costs to be incurred, consistent with the forecast spend for the investigation of £0.9m, given that significant further work was needed to complete the Inspection.

Further, contemporaneous records of an oversight meeting held on 24 October 2012, which was attended by the then DETI Permanent Secretary, David Sterling, the then DCAL Permanent Secretary, Rosalie Flanagan, the C&AG, Jackie Kerr, and the then Director of the Insolvency Service, identify that the level of spend on the investigation to that point, and a revised total forecast cost of the Investigation of £1.16m, were discussed at the meeting.

To conclude, I stand by the points I made in evidence, namely that:

- a. the Department was and is responsible and accountable for the decisions taken about the Company Inspection, and that the costs incurred were necessary to secure authoritative analysis and interpretation of what happened, to establish a robust evidence base, and that there was no other way to take this task forward; and
- b. the C&AG was asked for his view at key stages in the process and that he shared the judgement that the costs were necessary and appropriate. Indeed, if the C&AG had raised any concerns about DETI's oversight of the process or the costs then DETI would have taken action in response.

The Hansard transcript of the Hearing records the evidence presented by witnesses to this effect. Hence DETI does not accept that there were material mistakes in relation to this case.

In relation to the specific further detail you requested I would reply as follows:

### **Details of Delay in Securing the Co-Operation of Witnesses with Inspectors and Powers of Company Inspectors Under the 1986 Companies Order**

The powers available to company inspectors are set out at Articles 427 – 429 of the Companies (NI) Order 1986. These include the power to require all officers and agents of the company to produce to the inspectors all books and documents of, or relating to, the company, to attend before the inspectors when required to do so, and otherwise to give the inspectors all assistance in connection with the investigation which they are reasonably able to give. The inspectors may also require the company officers to produce to them all documents in their possession or under their control relating to any bank account maintained by the company.

If the inspectors consider that a person other than an officer or agent of the company is, or may be, in possession of information concerning its affairs, they may require that person to produce to them any books or documents in his or her custody or power relating to the company, to attend before them and otherwise to give them all assistance in connection with the investigation which he is reasonably able to give, and it is that person's duty to comply with the requirement.

If any officer or agent of the company or any other person referred to above refuses to comply with the duties referred to above the inspectors may certify the refusal in writing to the court and after a due process of enquiry the court may punish the offender in a manner as if he, or she, had been guilty of contempt of the court.

On the specific question about the delay of a year due to the non-co-operation of witnesses, I am not yet in a position to reply. The inspectors have provided an explanation of the reasons for the delay. However, given the data protection issues relating to the details involved, the Department is providing the individual involved with an opportunity to comment on the draft response before sending it to the Committee. The Department has written to the individual inviting comments and I will respond more fully to the Committee once this process has been concluded, and we will do all we can to expedite that process.

## **Company Inspections**

Details of the company inspections carried out over the past 10 years are provided at Annex A. Each company inspection is unique, and the indicative cost of the inspection is determined when the scope, nature, and extent of the issues to be investigated are determined.

## **Timeline of Investigation**

A copy of the timeline of the inspector's investigation is attached at Annex B. I would highlight in particular the time period labelled "Identification of potentially criminal matters to the PSNI" which put much of the work on hold between February 2010 and May 2011.

## **Terms of Reference**

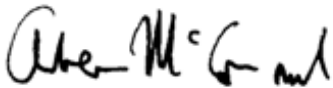
A copy of the inspectors' Terms of Reference is attached at Annex C.

## **Constitution of NIEC Limited between 1997 and 2001**

Attached at Annex D are copies of the company's Memorandum and Articles of Association and details of the Board members and Chief Executives who were in place during the period from 1997 to 2001.

I hope you find this helpful and if you require any further information, please let me know.

Yours sincerely



**ANDREW McCORMICK**

**Annex A****Northern Ireland Company Inspections – Last 10 Years**

<b><u>Company</u></b>	<b><u>Time Taken</u></b>	<b><u>Total Final Cost</u></b>
Bioscience & Technology Institute Ltd	3 years and 11 months (Dec 05 – Nov 09)	£0.89m
Novatech Ltd	2 years (Jan 06 – Dec 08)	£0.19m
Farset Enterprise Park Ltd	1 year and 11 months (Oct 07 – Aug 09)	£0.06m
NIEC Ltd	5 years and 5 months (Nov 08 – Mar 14)	£1.24m
Soltron Ltd	2 years and 4 months (Jan 09 – Apr 11)	£0.11m
Charterhouse Property Management Ltd	2 years and 9 months (Aug 09 – Apr 12)	£0.10m

Northern Ireland Events Company Limited – Timeline of inspection

2008	Nov	<b>Appointment of Inspectors and Project Planning</b>					
	Dec	<ul style="list-style-type: none"> <li>- Initial briefing from DETI</li> <li>- Review of initial documentation and</li> <li>- preparation of detailed workplan</li> </ul>					
2009	Jan	<b>Introductory meetings with key individuals and stakeholders</b>	<b>Capture of relevant documentation</b>				
	Feb					<ul style="list-style-type: none"> <li>- Current directors of NIEC</li> <li>- DCAL</li> </ul>	
	Mar					<ul style="list-style-type: none"> <li>- Key NIEC staff</li> <li>- Auditors</li> <li>- Former chairman</li> </ul>	
	April	<b>Desktop review of documentation</b>				<ul style="list-style-type: none"> <li>- Review of available documentation</li> <li>- Scanning of relevant documentation</li> <li>- Forensic imaging of computers at NIEC</li> <li>- Setting up a searchable document management system</li> <li>- Loading of scanned images</li> </ul>	
	May						
	Jun						<ul style="list-style-type: none"> <li>- Board minute review</li> </ul>
	Jul						<ul style="list-style-type: none"> <li>- Preparation of chronology</li> </ul>
	Aug						<ul style="list-style-type: none"> <li>- Understanding background of NIEC</li> </ul>
	Sept						
	Oct						<ul style="list-style-type: none"> <li>- Issue based analysis of key tasks</li> </ul>
	Nov						<ul style="list-style-type: none"> <li>- Preparation of interview questions</li> </ul>
	Dec						
2010	Jan	<b>Investigation suspended as a result of the identification of potentially criminal matters and pending response from PSNI.</b>					
	Feb						
	Mar						
	April						
	May						
	Jun						
	Jul						
	Aug						
	Sept						
	Oct						
	Nov						
	Dec						
2011	Jan						

	Feb	<b>First round interviews</b>  <b>Securing interview with key witness</b>			
	Mar				
	April				
	May				
	Jun				
	Jul				
	Aug				
	Sept				
	Oct				
	Nov				
	Dec				
	2012				
Feb					
Mar					
April					
May					
Jun					
Jul					
Aug					
Sept					
Oct					
Nov					
Dec					
2013	Jan	<b>Second round interviews</b>		<b>Preparation of draft report</b>  <b>Consideration of draft report by DETI</b>  <b>Consultation process to provide those named in the report with an opportunity to review and comment upon the detail relating to their involvement with the NIEC.</b>	
	Feb				
	Mar				
	April				
	May				
	Jun				
	Jul				
	Aug				
	Sept				
	Oct				
	Nov				
	Dec				
2014	Jan	<b>Second round interviews</b>		<b>Preparation of final report</b>	
	Feb				
	Mar				

## TERMS OF REFERENCE

The inspectors' terms of reference generally will be to investigate the affairs of the company. Specifically they will be asked to examine the following:

- (i) That the Company's affairs may have been conducted for a possible fraudulent or unlawful purpose.
- (ii) That persons concerned with the management of the Company's affairs may have been potentially guilty of fraud, misfeasance or other misconduct towards the Company.
- (iii) That there may have been potential mismanagement of public funds: public funds may have been used for purposes other than that designated by DCAL, and unauthorised by the Company's Board.
- (iv) That there appears to have been a serious and significant breach of Company procedures and controls, as set out in the Financial Memorandum and Management Statement.
- (v) That there may have been inappropriate and/or fraudulent financial transactions; this includes credit cards expenditure and payments to associated parties.
- (vi) Concern as to how income was handled at certain events, how it was derived and what it was used for.
- (vii) Some serious and significant concerns in and around the provision of financial information.
- (viii) Concerns over the adequacy of the information provided to the Board on a regular basis.
- (ix) Concerns regarding the potential deliberate and inaccurate reporting of financial information to the funding body (DCAL).
- (x) Some serious concerns about the roles, responsibilities and duties of the Company's Executive Officers and particular concern about the role played by [REDACTED] the former chief executive, to the extent as to whether she could be considered as a de-facto director of the company.
- (xi) Some serious concerns regarding the way in which the Company obtained and conducted its business.
- (xii) The level of overspend and associated matters, particularly in relation to moto-cross events.
- (xiii) Concern that the company was complicit in the breach of planning and environmental law.



- (xiv) That the former acting Chief Executive entered contractual arrangements for an event in each of the years between 2008 and 2012 despite there being unclear Board approval and no financial cover.

**NIEC – Board Members and Chief Executive in Place From 1997 – 2001**

The table below sets out the membership of the NIEC Board from incorporation in 1997 to 2002. The NIAO report on the NIEC set out, at Annex 2, the membership of the Board during the period 2002 – 2009.

<b>Name</b>	<b>Role</b>	<b>Period</b>
Jim Aiken	Director	May 1997 – July 1998
Denis Rogan	Director	May 1997 – June 1999
Dominic Allen	Director	May 1997 – February 2000
Ian Henderson	Director-	May 1997 – July 2001
Aideen McGinley	Director	May 1997 – August 2001
Francis Hewitt	Director	May 1997 – March 2002
Ronald Spence	Director	May 1997 – March 2002
John Kerr	Director	May 1997 – May 2002
Martin Melarkey	Director	October 1998 – June 2002
Paul McWilliams	Director	May 1997 - Current
Eric Saunders	Director	March 2000 – March 2013
Alan Clarke	Director	November 2001 - Current
John Walker	Chief Executive/Accounting Officer	February 1998 – September 2003