



Northern Ireland
Assembly

Committee for Regional Development

Inquiry into the Coleraine to Londonderry Rail Track Phase 2 Project

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Membership and Powers

Powers

The Committee for Regional Development is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of Strand One of the Belfast Agreement and under Assembly Standing Order No 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department of Regional Development and has a role in the initiation of legislation. The Committee has 11 members, including a Chairperson and Deputy Chairperson, and a quorum of 5.

The Committee has power to:

- consider and advise on Departmental budgets and Annual Plans in the context of the overall budget allocation;
- approve relevant secondary legislation and take the Committee Stage of relevant primary legislation;
- call for persons and papers;
- initiate enquiries and make reports; and
- consider and advise on matters brought to the Committee by the Minister of Regional Development.

Membership

The Committee has 11 members, including a Chairperson and Deputy Chairperson, and a quorum of five members. The membership of the Committee is as follows

- Mr Trevor Clarke MLA (Chairperson) ¹²
- Mr Sean Lynch MLA (Deputy Chairperson) ⁶
- Mr Joe Byrne MLA ¹¹
- Mr Adrian Cochrane - Watson MLA ^{4, 15}
- Mr John Dallat MLA ⁵
- Mr Alex Easton MLA ⁸
- Mr Chris Lyttle MLA ^{10, 13}

- Mr Declan McAleer MLA ⁷
- Mr David McNarry MLA ^{2, 3}
- Mr Stephen Moutray MLA ^{9, 14}
- Mr Cathal Ó hOisín MLA

¹ With effect from 06 June 2011 Mr Stewart Dickson replaced Mr Trevor Lunn

² With effect from 26 September 2011 Mr Michael Copeland replaced Mr Mike Nesbitt

³ With effect from 06 February 2012 Mr David McNarry replaced Mr Michael Copeland

⁴ With effect from 23 April 2012 Mr Ross Hussey replaced Mr Roy Beggs

⁵ With effect from 23 April 2012 Mr John Dallat replaced Mr Joe Byrne

⁶ With effect from 02 July 2012 Mr Seán Lynch replaced Mr Pat Doherty as Deputy Chairperson

⁷ With effect from 10 September 2012 Mr Declan McAleer was appointed as a Member

⁸ With effect from 01 October 2012 Mr Alex Easton replaced Mr Stephen Moutray

⁹ With effect from 16 September 2013 Mrs Brenda Hale replaced Mr Ian McCrea

¹⁰ With effect from 01 October 2013 Mr Kieran McCarthy replaced Mr Stewart Dickson

¹¹ With effect from 07 October 2013 Mr Joe Byrne replaced Mrs Dolores Kelly

¹² With effect from 24 September 2014 Mr Trevor Clarke replaced Mr Jimmy Spratt as Chairperson

¹³ With effect from 29 September 2014 Mr Chris Lyttle replaced Mr Kieran McCarthy

¹⁴ With effect from 06 October 2014 Mr Stephen Moutray replaced Mrs Brenda Hale

¹⁵ With effect from 30 June 2015 Mr Adrian Cochrane - Watson replaced Mr Ross Hussey

List of Abbreviations and Acronyms used in this Report

DFP	Department of Finance and Personnel
DfT	Department for Transport
DPP	Director of Public Prosecutions
DRD	Department for Regional Development
GRIP	Governance for Railway Investment Projects
GVA	Gross Added Value
MLA	Member of the Legislative Assembly
NIAO	Northern Ireland Audit Office
NITHCO	Northern Ireland Transport Holding Company
PAR	Project Assessment Review
PfG	Programme for Government
VFM	Value for Money

Executive Summary

1. It is imperative that, at the outset, the Committee for Regional Development (the Committee) states that it has always been very supportive of the Belfast to Londonderry rail track. In particular, the Committee has encouraged the Minister, the Department for Regional Development (DRD) and the Northern Ireland Transport Holding Company (NITHCO) to progress the relaying of the line on the Coleraine to Londonderry section of the track, particularly to accommodate the City of Culture celebrations in 2013. The Committee position remains the same and there is widespread political support for the decision taken by the Minister to award a contract to progress phase 2 of the project.
2. However, it is equally imperative that the Committee undertakes its scrutiny role in respect of this and other matters pertaining to the work within the DRD portfolio. The conclusion arising out of this scrutiny is that the original procurement exercise was a flawed one which has led to an almost 140% increase in the original budget and further delay in this project. The Committee has previously expressed their grave concerns at the absence of any effective challenge to NITHCO/Translink and at the poor communication channels between the Department and NITHCO/Translink.
3. The Committee has referred the Minister for Regional Development to the Director of Public Prosecutions (DPP) for failing to comply with a notice served in accordance with Section 44(1) of the Northern Ireland Act 1998. As this matter is still under consideration by the DPP, it would not be appropriate to make any further comment, other than refer to the circumstances that led up

to the issue of the notice. The [Project Assessment Review \(PAR\) report](#) has now been released to the Committee. The Committee opinion is that the report supports the Committee position in respect of the flawed procurement exercise, the ineffectiveness of the departmental challenge to NITHCO/Translink and the inadequacy of communication lines.

4. The Committee is of the view that weaknesses identified during the course of the inquiry and detailed in the PAR report are very similar to those reported in the Northern Ireland Audit Office (NIAO) [report into the Belfast to Bangor rail line](#). The Committee does not accept the Department's argument, as expressed by the Minister at the [Committee meeting of 12th November 2014](#),

“...there was no contract, no work had been undertaken and no taxpayers' money had been expended. My understanding of that was that Translink got itself into a contract situation and work started, costs escalated and the thing had to be funded, and that led to the PAC inquiry...”

5. The Committee has no doubts that the procurement process failed and the public purse will be required to fund a significantly more expensive project. The Committee is content, therefore, that there are sufficient similarities between the two procurement exercises to merit inviting the NIAO to investigate the original 2013 procurement exercise.
6. Further, in assessing the entire process, it is the Committee view that the Department and NITHCO/Translink have both registered significant weaknesses against four of the six objectives contented

in the inquiry Terms of Reference. Recommendations are made accordingly.

7. In conclusion, whilst there is widespread political support for the Minister's decision to forge ahead with the project, there were severe deficiencies in the procurement process, including the severe underestimation of both project costs and passenger numbers, resulting in a revised project that both Accounting Officers in the Department and in NITHCO/Translink stating that the project does not represent value for money. The Committee supports the political decision to proceed with the project but remains concerned that sufficient lessons have not been learned from the upgrade of the Belfast to Bangor rail track and has no confidence that the Department has sufficient experience or expertise to adequately challenge NITHCO/Translink. This has been supported by the PAR report.

Introduction

8. On 3rd November 2014, the Minister for Regional Development, Mr Danny Kennedy MLA, made a [*Statement to the House*](#) in connection with the Coleraine to Londonderry Rail Track Phase 2 Project (the project), indicating that the project had been grossly underestimated from its original budget of £20 - £22 million to a new estimate of £40 million.
9. Members agreed at their meeting of 5th November 2014 that they would undertake an inquiry into the Coleraine to Londonderry Rail Track Phase 2 Project, focussing on the specific procurement process for the project and the compilation of the financial planning and cost estimates processes.
10. The Terms of Reference for the Report were agreed as follows:
 - To ensure that the procurement process was compliant with the 12 guiding principles governing the administration of public procurement;
 - To assess the efficacy of the project management process;
 - To undertake an analysis of the financial planning and cost estimate processes;
 - To evaluate communication lines in respect of the project;
 - To evaluate the Department's overview of the project; and
 - To establish the processes required to ensure that the existing 2014/2015 budget is retained.

11. On the 17th November 2014 the Committee inserted signposts in the Belfast Telegraph, Irish News and News Letter seeking written evidence on the Inquiry by 12th December 2014.
12. During the period covered by this Report the Committee considered a number of written submissions. A copy of the submissions is included [here](#).
13. The Committee also heard oral evidence at the stakeholder event it hosted in the City Hotel, Derry on the 27th January 2015 from a number of members of the general public and the following organisations:
 - Into the West
 - Consumer Council
 - Derry Farm Cottages
 - Headhunters Railway Museum
 - Royal National Institute of Blind People
14. The relevant extracts from the Minutes of Evidence are included [here](#). The Committee would wish to thank all those who provided both written and oral evidence.
15. As part of this inquiry the Committee wanted to examine what the impact was on existing service users in relation to the delay in the completion of Phase 2 project, RaISe was commissioned to survey users of the Derry/Londonderry rail service. A total of 118 responses were completed. A copy of the briefing paper is available [here](#).

16. The Committee would wish to thank all those who responded to the survey and contributed to the stakeholder event.

Summary of Recommendations

17. The Committee recommends that the Department and NITHCO/Translink put in place processes that ensure that they comply with all relevant guidance (paragraph 26).
18. The Committee recommends that the Department and NITHCO/Translink devise a market engagement strategy for all capital programmes. This should include a commitment to encourage value for money through competition in the market (paragraphs 29 to 32 inclusive).
19. In addition, the Committee strongly recommends that the Department cease forthwith the practice of announcing budgets that have been established for projects as this has the potential to inflate the market cost (paragraphs 29 to 32 inclusive).
20. The Committee endorses the PAR report recommendation regarding the use of dashboards - management information systems that map progress against key performance indicators - as a means of enabling not just instantaneous and informed decisions, but also as a means of effectively communicating the project objectives and commitments (paragraph 36).
21. The Committee recommends that the Department ensures that robust cost-estimation and accurate forecasting techniques are identified and applied for all capital projects currently in development to ensure that sufficient optimum bias levels have been included (paragraphs 48 to 52 inclusive).

22. The Committee recommends that the Department conducts an urgent review of the NITHCO/Translink project management framework to ensure that the failures recorded by the Committee and in the PAR report are negated.

23. The Committee recommends that the Department urgently commences an Internal Audit review of the governance arrangements currently in place in respect of the organisations working on its behalf and to ensure that their scrutiny role is vigorously enhanced. The Committee requires that a report on the findings of the review is forwarded to the Committee (paragraphs 60 to 63 inclusive).

24. The Committee entirely endorses the PAR report recommendation with regards to tightening reporting mechanisms but would itself recommend that an urgent review of communication within and between the Department and NITHCO/Translink is required (paragraph 65).

25. The Committee remains critical of the Department for not bringing the necessary clarity to this role. The Committee endorses the recommendation contained within the PAR report and recommends that the Department reviews the roles of all representatives on project boards urgently. The Committee further recommends that the Department advises other Executive departments of the PAR report recommendation on making departmental representatives more active on project boards (paragraphs 67).

Key Issues

To ensure that the procurement process was compliant with the 12 guiding principles governing the administration of public procurement.

26. The [Northern Ireland Public Procurement policy document](#) sets out the policies adopted by the Executive and the organisational structures that have been established to implement them. The document also outlines the 12 Procurement Principles which govern the administration of public procurement. The Department's performance against each of these is assessed in the following paragraphs.

Accountability

27. This requires effective mechanisms to be in place in order to enable Departmental Accounting Officers and their equivalents in other public bodies to discharge their personal responsibility on issues of procurement risk and expenditure. The Committee assessment is that the Department and NITHCO/Translink failed to meet this principle. The [PAR report](#), in referring to the 2013 procurement exercise, stated "*The current approach to estimating risk and optimism bias for projects is a concern. There appeared to be lack of awareness of guidance used in other rail markets which would enable more robust cost estimating*".

Neither the Department nor NITHCO/Translink has yet explained why the project team choose to ignore Department for Transport (DfT) guidance for Rail projects at Governance for Railway Investment Projects (GRIP) Stage 1. This guidance would have suggested that an optimum bias (contingency) of 66% be applied rather than the 20.2% optimum bias applied by NITHCO/Translink, which the Review Team described as being "modest".

28. The Committee recommends that the Department and NITHCO/Translink put in place processes that ensure that they comply with all relevant guidance.

Competitive Supply

29. This principle espouses that procurement should be carried out by competition unless there are convincing reasons to the contrary. Both the original procurement exercise and the subsequent tender that has seen a contract awarded were single tender competitions. This would suggest that the Department/NITHCO/Translink has failed to meet this principle. However, the Committee is aware that the range of specialist companies with the expertise to carry out the works supplied is limited and, given the scale of rail investment in mainland UK, a contract of this nature might not be attractive to the market.

30. Given the well-founded expectation that there would be limited competition for the contract, especially armed with the knowledge that the original competition only produced a single tender, the Committee believes it incredulous that the Department would publicly announce the level of budget it was prepared to pay for a contract. The Committee does not accept the Department's assertion that this is the cost of the market; the market was, in many ways, led to the final contract cost by the Department announcing their budget.

31. In addition, the [*PAR review*](#) (paragraphs 7.5.8 - 7.5.9 inclusive) noted “*...that the recommendation in the May 2010 Gate 2 Review: Delivery Strategy to ‘undertake an industry day ... in order to gauge the response of potential suppliers...’ has not been implemented. This lack of engagement and associated understanding of the market was evident in the outcome of the original procurement process. Market interest was*

consistently identified as the key risk by interviewees, but the Review Team heard various views as to whether there was market engagement currently ongoing or not. Market engagement is not included within the Project Programme as an activity, nor was any documentation provided which set out a market engagement strategy”.

32. The Committee believes that the absence of any strategic marketing of the project increased the risk of single tender bids and hindered the competitiveness of the competition. On this basis of the weaknesses described above, the Committee has assessed that the Department failed to meet this principle.

33. The Committee recommends that the Department and NITHCO/Translink devise a market engagement strategy for all capital programmes. This should include a commitment to encourage value for money through competition in the market.

34. In addition, the Committee strongly recommends that the Department cease forthwith the practice of announcing budgets that have been established for projects as this has the potential to inflate the market cost.

Consistency

35. This principle states that suppliers should, all things being equal, be able to expect the same general procurement policy across the public sector. The Committee is content that the Department and NITHCO/Translink have met this principle.

Effectiveness

36. Public bodies are encouraged to meet the commercial, regulatory and socio-economic goals of government in a balanced manner appropriate to the procurement requirement. The Committee has expressed its extreme concern that officials within NITHCO/Translink did not become aware that this project was a Programme for Government (PfG) commitment until after they had stopped the original tender competition. The Committee believes this to be yet another example of the failed communication lines between the Department and NITHCO/Translink.

37. The Committee endorses the PAR report recommendation regarding the use of dashboards - management information systems that map progress against key performance indicators - as a means of enabling not just instantaneous and informed decisions, but also as a means of effectively communicating the project objectives and commitments.

38. The Committee assessment is that the Department and NITHCO/Translink were at risk of failing this principle.

Efficiency

39. This principle states that procurement processes should be carried out as cost effectively as possible. NITHCO/Translink stopped the original tender exercise on the basis that, at £27 million, they did not consider it to represent value for money. The PAR report does note that, had an appropriate optimum bias been applied to the original cost estimate, the budget for the original tender would have been approximately £27.5 million.

40. In his Written Statement to the Northern Ireland Assembly dated [2 June 2015](#), relating to the award of the current contract, the Minister stated *“Neither the Translink Accounting Officer nor my Accounting Officer could sign off the bid as representing Value-For-Money (VFM) although they both agreed that the proposed project was the best public policy option”*.

41. The reasons for the underestimation will be explored later in the report. However, whilst the Committee accepts the Minister’s decision to proceed with the project, it is clear that the Department failed to meet this objective.

Fair-dealing

42. This principle states that suppliers should be treated fairly and without unfair discrimination, including protection of commercial confidentiality where required. Public bodies should not impose unnecessary burdens or constraints on suppliers or potential suppliers. To this extent, the Committee is content that the Department has met this principle.

43. The Committee does, however, have concerns at the use of “commercial confidentiality” as a means of preventing the Committee having early sight of the PAR review. When asked at the [meeting of 24 June 2015](#) to highlight the areas of a sensitive nature within the PAR report, the Deputy Secretary stated, *“...there was a significant risk that the contract might not be let at all because of the heat of the market in the UK, which is still burning up, the fact that it is a low-scale, small project, that it is not leading technology and that it will not give way to a pipeline of projects”*.

44. The Committee notes from the PAR review, however, that the Review Team did not use these as justification of the commercial sensitivity but rather supporting their case for market engagement. The Committee, therefore, does not agree that the Department can continue to justify the delayed release of the report.

Integration

45. In line with the NI Executive's policy on joined-up government, procurement policy should pay due regard to the Executive's other economic and social policies, rather than cut across them. The Committee believes that the risk to the project, brought about by the ineffective costing and forecasting, increased the potential of the Department and NITHCO/Translink failing to meet the principle.

46. However, the Committee is content that the decision to award the contract will bring about economic and social benefits to the North West region of Northern Ireland.

Integrity

47. This principle states that there should be no corruption or collusion with suppliers or others. The Committee found no evidence that the principle had not been met.

Informed decision-making

48. Public bodies need to base decisions on accurate information and to monitor requirements to ensure that they are being met. The Committee believes that the Department and NITHCO/Translink have failed this principle on a number of counts.

49. In the first instance, the cost estimates were woefully inadequate. When asked how they had been so wrong, *senior officials from Translink stated, “With hindsight, we did not focus enough on dividing out the costs for phase 2. The uncoupling of the scheme from one big project to three smaller projects brings additional costs, and we did not allow sufficient contingency for a signalling scheme running by itself and not within a wider scheme. John [Dallat] referred to the Bleach Green to Whitehead project. It was based on our experience of that combined track, structures and signalling project that we came up with our original contingency for the budget for this project”.*

50. Secondly, a report completed in 2007 by Booz Allen Hamilton forecast that passenger numbers would increase by 25% when, in reality, they increased by 238%. Again, whenever challenged on this, *senior Translink officials stated, “Booz Allen Hamilton could only plug in the data that they were given which, of course, included economic data. The gross value added (GVA) in Northern Ireland back then was different from what it has been subsequently. There is a whole range of factors that go into that demand forecasting. Again, it sounds like I am making excuses for it, but forecasting is not an exact science. However, it is the basis on which we plan to. I accept that had we known where we are now with hindsight, we would have made different choices or decisions about where we put the passing loop, which would have affected the estimates that we put forward”.*

51. The Committee fully accepts that forecasting “is not an exact science”. However, the level increase in passenger numbers, from 25% to 238%, is not marginal. The Committee does not accept that an organisation which has annual targets to increase passenger numbers

and has a ticketing system that can record the number of journeys being made, can so inadequately underestimate passenger forecasts.

52. In addition, the extrapolation of cost estimates from previous projects has proven itself to be equally imprudent. The fact that the PAR report recognises that the costings for the new tender were more robust is an indication that more effective costing mechanisms are available. The Committee cannot understand why these were not applied at an earlier stage.

53. The Committee recommends that the Department ensures that robust cost-estimation and accurate forecasting techniques are identified and applied for all capital projects currently in development to ensure that sufficient optimum bias levels have been included.

Legality

54. This principle states that public bodies must conform to European Union and other legal requirements. The Committee is content that the Department and NITHCO/Translink have met the principle.

Responsiveness

55. Public bodies should endeavour to meet the aspirations, expectations and needs of the community served by the procurement. The Committee believes that the Minister's decision to award the contract has ensured that the Department has met the principle.

Transparency

56. The principle states that public bodies should ensure that there is openness and clarity on procurement policy and its delivery. The Committee believes that the Department and NITHCO/Translink have

failed this principle in the way that it refused the Committee access to the findings of the PAR report.

To assess the efficacy of the project management process

57. The Review Sponsor has stated in the [PAR report](#) that, *“There is a strong internal Translink project management framework in place which forms a sound base for taking the recommendations of this review to strengthen the project’s delivery confidence”*.

58. The Committee repudiate and could not disagree more with the Review Sponsors statement because, whilst the review team did evidence good project management documentation, this was not substantiated in the performance of the project team to date. The project team stopped and changed the direction of the original project proposal unilaterally and without the permission of the Minister or the Department. The project team did not challenge the grossly inadequate cost estimations. The project team did not challenge the grossly inaccurate forecast passenger numbers. The project team were not even aware that the project was a PfG commitment. The project team did not have a contingency plan should the project go off course. The Committee believes these failures to be evidence of a flawed project management framework.

59. The Committee recommends that the Department conduct an urgent review of the NITHCO/Translink project management framework to ensure that the failures recorded by the Committee and in the PAR report are negated.

To undertake an analysis of the financial planning and cost estimate processes

60. The [PAR review](#) indicates at paragraph 7.2.2 that, “...it was evident that most, if not all, Translink personnel accept that the basis for arriving at the £20m cost estimate was inadequate, in that insufficient work was done on the scope and design to be able to be confident in this figure. Also, a modest 20.2% optimism bias was applied. This is inconsistent with the optimism bias of 66% recommended by the Department for Transport guidance for Rail projects at Governance for Railway Investment Projects (GRIP) Stage 1, and was clearly insufficient to cover the uncertainties that remained at that stage. A 66% optimism bias at GRIP 1 would have led to a cost estimate of £27.5m”.

61. It is evident from this statement and from earlier Committee observations that the financial planning and cost estimate processes were severely flawed. In his [Statement to the House on 3 November](#), the Minister stated “Translink continued to plan using figures that were not based on fact. The original estimate was frankly little more than a guesstimate”.

62. The Department cannot exonerate itself from these flawed processes. In the [Committee Report on the Inquiry into Comprehensive Transport Delivery Structures](#), the Committee stated, “The conclusion reached by the Committee does not match the aspirations expressed at the outset of the inquiry. The Committee believes that the relationship between the Department and NITHC/Translink, often described by Members of the Committee as “cosy”, is not sufficiently challenging due to the departmental governance model and the absence of relevant and key experience and expertise within the Department”.

63. The PAR report also concludes “...it appears that the Department has applied too little scrutiny and shown too much trust in the

organisations that work on its behalf”. The Committee opinion is that this absence of effective scrutiny contributed significantly to the weaknesses in the financial planning and cost estimate processes.

64. The Committee recommends that the Department urgently commences an Internal Audit review of the governance arrangements currently in place in respect of the organisations working on its behalf and to ensure that their scrutiny role is vigorously enhanced. The Committee requires that a report on the findings of the review is forwarded to the Committee.

To evaluate communication lines in respect of the project

65. The Committee has, again, continuously been critical of the lack of effective communication between the Department and NITHCO/Translink and this is borne out in the [PAR report](#) (paragraphs 7.1.3 - 7.1.4).

66. The Committee entirely endorses the PAR report recommendation to with regards to tightening reporting mechanisms but would itself recommend that an urgent review of communication within and between the Department and NITHCO/Translink is required.

To evaluate the Department's overview of the project

67. The Department has a representative that attends project board meetings. The Committee has expressed its concerns in the past that there was a great deal of confusion around the role of this representative, which the Department has described as an “observer. At the [Committee meeting of 12th November 2014](#), the Chair to the Committee referred to an earlier Committee meeting (September 2013) where a senior official stated, *“From the Department's point of view, we would see an individual's role, essentially, as an observer. We would accept that one of*

the lessons learned maybe from this issue is that we need to clarify that position, and Translink may not have seen that individual in that position."

68. The Committee remains critical of the Department for not bringing the necessary clarity to this role. The Committee endorses the recommendation contained within the PAR report and recommends that the Department review the roles of all representatives on project boards urgently. The Committee further recommends that the Department advise other Executive departments of the PAR report recommendation on making departmental representatives more active on project boards.

To establish the processes required to ensure that the existing 2014/2015 budget is retained

69. The Minister for Regional Development has given his assurance that funding for the project is available. The Committee would welcome the delivery of this project in as short a timeframe as possible.

Links to Appendices

Minutes of Proceedings can be viewed [here](#).

Minutes of Evidence can be viewed [here](#).

Written submissions can be viewed [here](#).

Memoranda and Papers from the Department for Regional Development can be viewed [here](#).

Memoranda and Papers from Others can be viewed [here](#).

Research Papers can be viewed [here](#).

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