

Public Accounts Committee

Report on the Transfer of Former Military and Security Sites to the Northern Ireland Executive and Ilex Accounts 2010 - 2011

Together with the Minutes of Proceedings of the Committee
Relating to the Report and the Minutes of Evidence

Ordered by The Public Accounts Committee to be printed 6 June 2012
Report: NIA 58/11-15 Public Accounts Committee

**REPORT EMBARGOED UNTIL
00:01 am on 4 July 2012**

Membership and Powers

The Public Accounts Committee is a Standing Committee established in accordance with Standing Orders under Section 60(3) of the Northern Ireland Act 1998. It is the statutory function of the Public Accounts Committee to consider the accounts, and reports on accounts laid before the Assembly.

The Public Accounts Committee is appointed under Assembly Standing Order No. 56 of the Standing Orders for the Northern Ireland Assembly. It has the power to send for persons, papers and records and to report from time to time. Neither the Chairperson nor Deputy Chairperson of the Committee shall be a member of the same political party as the Minister of Finance and Personnel or of any junior Minister appointed to the Department of Finance and Personnel.

The Committee has 11 members including a Chairperson and Deputy Chairperson and a quorum of 5.

The membership of the Committee since 23 May 2011 has been as follows:

Mr Paul Maskey (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Sydney Anderson
Mr Michael Copeland
Mr John Dallat
Mr Alex Easton
Mr Paul Girvan
Mr Ross Hussey
Mr Mitchel McLaughlin
Mr Adrian McQuillan¹
Mr Conor Murphy²

1 With effect from 24 October 2011 Mr Adrian McQuillan replaced Mr Paul Frew

2 With effect from 23 January 2012 Mr Conor Murphy replaced Ms Jennifer McCann

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List of Abbreviations used in the Report

C&AG	Comptroller and Auditor General
The Committee	Public Accounts Committee
DFP	Department of Finance and Personnel
DSD	Department for Social Development
HMRC	Her Majesty's Revenue and Customs
LPS	Land and Property Services
NIHE	Northern Ireland Housing Executive
SSA	Social Security Agency

Executive Summary

Introduction

1. As part of the Reinvestment and Reform Initiative (May 2002), six¹ former Military and Security sites were transferred free of charge to the Office of the First Minister and Deputy First Minister (the Department). These sites offered the opportunity for economic and social regeneration either through using the proceeds from their disposal (Malone and Magherafelt) or through developing Masterplans and the establishment of appropriate bodies to deliver these. Up to 31 March 2012, £62 million has been spent, mainly in relation to the Maze/Long Kesh, Crumlin Road Gaol and Ebrington sites.
2. Regeneration is a long term process. However, progress has been slow. Masterplans have gone through a number of iterations and have yet to be finalised as agreement has been difficult to reach. There also needs to be an improvement in the standards and quality of performance reporting on their regeneration through clear and transparent targets which are measurable (SMART) and linked to expected outcomes for the sites.
3. Effective governance arrangements also help drive forward the regeneration process and ensure that sound financial and administrative procedures are in place and adhered to. The Department's recent actions to put in place strategic oversight arrangements covering all sites sold or transferred to it are welcome. There are however, significant and serious issues in relation to oversight and governance arrangements in Ilex which, amongst other projects, is taking forward the redevelopment of the Ebrington site.
4. One of the conditions attached to the transfer of the sites was that the Executive would bear the cost of making them ready for use. As detailed checks were not completed prior to their transfer the potential cost of remediation and maintaining and making the sites safe and secure was unknown. Furthermore, Councils and the Environment Agency do not have the same legislative powers as bodies in England and Wales, meaning that they have been unable to effectively regulate the decontamination on former military sites and enforce the "polluter pays" principle.
5. Two of the sites have been sold – Malone and Magherafelt Barracks. Although the Malone site was sold for £3.8 million, the Department could and should have got more for it had it been better advised by Land and Property Services (LPS) who appear to have been driven by expediency rather than a desire to achieve maximum value. It is also worrying that neither the Department nor LPS were aware, until the Audit Office and Committee's investigations, that the purchaser was acting on behalf of another developer who provided the finance and to whom the site was immediately transferred on the day it was sold.
6. While this case is now nine years old, the lessons emerging from it are important and highly relevant.
7. It is a matter of concern that the Department could not make use of the £870,000 achieved from the sale of the Magherafelt site to the North Eastern Education and Library Board (NEELB). In addition the Department told the Committee that cash available and not immediately required must go back to the Consolidated Fund. The Committee is alarmed that the Department is unable to definitively state that the £870,000 has not been lost to the Northern Ireland Block.

1 The six sites are at Malone Road; Magherafelt; the former army base and prison at Maze/Long Kesh; Ebrington; and Crumlin Road Gaol

Summary of Recommendations

Recommendation 1

1. The Committee recommends that, unless there are compelling reasons not to, sales of land and buildings should be conducted through sealed bids opened in the presence of public sector officials representing the Department or public body disposing of the asset. No matter what method of sale is used the process must be transparent and documented.

Recommendation 2

2. The Committee recommends that public bodies disposing of land and buildings must present clear instructions to LPS on the objectives of the sale and be fully engaged throughout the sale process. The Committee further recommends that LPS examines the format of its submissions to public bodies, with a view to documenting more clearly the basis of its valuations and/or advice on disposals. It is important that advice from LPS is in a format that enables public bodies to critically consider and challenge the advice.

Recommendation 3

3. The Committee is concerned that current guidance on disposal of properties is ambiguous and open to interpretation. The Committee welcomes the LPS statement that the guidance is currently being reviewed. The Committee recommends that this review should be undertaken as a matter of urgency to ensure that the most appropriate approach is taken to disposal of sites; that the proceeds for the public sector are maximised; and that systems are established to ensure the consistent application of that guidance. The Committee is further concerned that its previous recommendation regarding the independence of valuations when disposing of land does not appear to have been acted upon in this case.

Recommendation 4

4. It is important that departments can clearly track and report on how funding is spent. The Committee recommends that, before making commitments to ringfence funding, departments consult with DFP to clarify the process to ensure that it is transparent to the Assembly.

Recommendation 5

5. The Committee recommends that DFP remind departments of the importance of retaining all documentation relevant to ongoing NIAO investigations. It is the responsibility of individual departmental Accounting Officers to ensure that documentation pertinent to an audit is made available, in a timely manner, for examination. This will include where it is retained by another public body or agents appointed by the department.

Recommendation 6

6. The Committee recommends that strategies for engaging with local communities and their representatives are developed for the former military and security sites, and realistic and publicly agreed targets are set for putting them in place.

Recommendation 7

7. The Committee has identified a worrying gap in legislation that means that Councils and the Environment Agency are unable to fully regulate contamination of land and enforce the “polluter pays” principle. The Committee recommends that the Department of the Environment, in consultation with Councils, fully assesses the financial, environmental and health risks associated with having a regulatory regime that falls short of that in place in other regions.

Recommendation 8

8. The Committee recommends that targets for the Department and the delivery bodies responsible for the regeneration of the sites are measurable (SMART) and linked to expected outcomes for the individual sites such as achieving outcomes in private sector investment, employment, business growth, skills development and tackling poverty. This is essential to demonstrate the value for money of the substantial investment of public funds in the sites.

Recommendation 9

9. The Committee welcomes the commitment to streamline sponsorship control of Ilex. The Committee recommends that the new sponsorship arrangements are put in place as soon as possible.

Recommendation 10

10. The Committee recommends that departments re-examine current arrangements to ensure that arms-length bodies, such as Ilex, are given a clear mandate in respect of their responsibilities, including ensuring value for money. As departments remain ultimately accountable, their Accounting Officers need to ensure that oversight arrangements are effective in managing and monitoring financial delegations. In addition they must also ensure that there is adequate information to provide assurance that value for money is being secured for public spending, wherever that spending takes place.

Recommendation 11

11. The Committee recommends that non-executive Board members should have details of who is responsible for paying any tax liabilities formally agreed before appointment and included in the contract of employment. In addition the Committee recommends that DFP issues guidance clarifying the tax position of travel expenses paid to other non-executive Board members throughout the public sector.

Introduction

1. The Public Accounts Committee met on 25th April 2012 to consider the Comptroller and Auditor General's (C&AG's) report: "The transfer of Former Military and Security Sites to the Executive". The Committee also considered Comptroller and Auditor General's (C&AG's) report on Ilex Accounts for 2010-11.
2. The Witnesses were:
 - **Noel Lavery**, Director of Resources, Regeneration International Relations and Institutional Review Directorate and Accounting Officer, Office of the First Minister and Deputy First Minister;
 - **Kyle Alexander**, Programme Director, Maze Long Kesh Programme Delivery Unit;
 - **Tim Losty**, Director of Strategic Investment, Regeneration and International Relations Division, Office of the First Minister and Deputy First Minister;
 - **David Ross**; District Valuer, Land and Property Services, Department of Finance and Personnel;
 - **Will Haire**, Permanent Secretary and Accounting Officer, Department for Social Development;
 - **Dr Aideen McGinley**, Chief Executive and Accounting Officer of ILEX.
3. As part of the Reinvestment and Reform Initiative (May 2002), six² former Military and Security sites were transferred free of charge to the Executive – at that time the sites were valued at £24.7 million. The sites offered the opportunity for economic and social regeneration either through using the proceeds from their disposal (Malone Road and Magherafelt) or through the development of Masterplans and the establishment of appropriate bodies to deliver these.
4. The regeneration of the sites at Maze/Long Kesh, Ebrington and Crumlin Road Gaol are long-term projects that require significant public sector investment to deliver the economic and social outcomes for the local communities where they are located. Up to 31 March 2012, almost £60 million has been spent on these sites. However, progress has, been slow. Masterplans have gone through a number of iterations and have yet to be finalised as agreement has been difficult to reach. The absence to date of measurable targets that demonstrate social or economic outcomes for the sites makes it difficult to judge what tangible return has been achieved from this initial investment.
5. A number of independent reviews have identified issues around the oversight and governance arrangements of Ilex. The audit of its 2009-2010 financial statements identified concerns regarding the procurement, management and approval of projects, indicating a breakdown within Ilex of important controls over spending. This resulted in the C&AG reporting to the Assembly and qualifying his opinion on the regularity of expenditure for 2010-11.
6. Proceeds from the sale of Malone and Magherafelt Barracks sites, totalling £4.7 million, were to be ringfenced specifically for projects which would represent a tangible benefit to the peace process. However, proceeds from the sales may not been used for the intended purpose. Furthermore, the Department is unable to definitively confirm that the £870,000 proceeds from the sale of the Magherafelt site have not been lost to the Northern Ireland Block.
7. The Malone site was a prime development site in Belfast. It was sold to a private developer in 2003, in a rising market, for £3.8million, despite valuations provided by Land and Property

2 The six sites are at Malone Road; Magherafelt; the former army base and prison at Maze/Long Kesh; Ebrington; and Crumlin Road Gaol.

Services (LPS) that the site could make up to £5 million. The Committee strongly believes that the department could and should have realised more from this sale.

8. The Committee is deeply concerned that papers supporting many of the key decisions made on the sites were either not available or only made available to the Audit Office late in the day. In the case of the Malone site the Department was unable to provide the Committee with detailed instructions given to the agents appointed to handle the sale of the site or evidence of the marketing and bid evaluation process. The Committee also has serious concerns about the use of an informal unconditional bidding process.
9. In taking evidence on the Comptroller and Auditor General's report, the Committee focused on the following issues:
 - The transfer of six sites as part of the Reinvestment and Reform Initiative and the pace of progress in regenerating the sites;
 - The sale of two of the sites at Malone and Magherafelt - the marketing and sale of Malone Road Barracks and maximising the sale proceeds and whether the £4.7 million proceeds from the sale of the Malone and Magherafelt sites were applied as intended;
 - The transfer of the sites resulting in significant costs to the Executive – investment by the private sector; checks on the level of contamination on the sites; the gap in environmental legislation on the regulation, inspection and remediation of contaminated land; and
 - Driving the regeneration of the former military and security sites – particularly the need for measurable, outcome based targets; community involvement in the projects; the internal controls operating within the Department and its strategic oversight of the sites; and the systemic breakdown within Ilex in the application of important spending controls.

The public sector did not seek to maximise the proceeds from the sale of the Malone Road site

10. The Malone Barracks was a prime development site in South Belfast. It was transferred to the Department in March 2003 and put on the market the following month. The Department was advised on the sale by the Department of Finance and Personnel's Land and Property Services (LPS) who also engaged and appointed a selling agent. Figure 1 provides a timeline summarising the events leading up to the final transfer of the site in December 2003.

Figure 1
Timeline of Events in the sale of the Malone site

Date	Event
February 2003	OFMDFM decide to sell the site on the open market, and on the advice of LPS, without planning permission; and to instruct LPS to place the site on the market. LPS confirm valuation between £4.3 million and £4.6 million with a maximum of £5 million.
March 2003	Site transferred to OFMDFM from Ministry of Defence Site marketed by LPS appointed agents at an asking price of £3.4 million and seeking unconditional bids
May 2003	Five offers received by deadline date of 9th May. Highest bid of £5.5 million rejected as conditional on planning permission for developer's scheme. Two late bids also rejected Agents recommend accepting unconditional bid of £4.7 million
June 2003	Highest remaining bid accepted for £4.7 million
July 2003	Highest bidder withdraws offer
August 2003	Site re-advertised
October 2003	Unconditional bid of £3.8 million accepted from different developer
December 2003	Site transferred from OFMDFM to the developer Developer transfers the site to another developer on the same day, using a "bare trustee" arrangement

11. An initial attempt to sell the site fell through in August 2003 when the bidder withdrew an offer of £4.7 million. The site was re-marketed and subsequently sold to a private developer in October 2003 for £3.8 million and immediately transferred to another developer. The sale was considered by the Department and LPS to have been a success as it achieved, in their eyes, market value (best price) and was unfettered with no further legal interest, such as clawback, to be monitored. This is despite LPS valuing the site at up to £5 million months earlier.
12. The Committee accepts that each and every disposal or sale of a site is unique, and all risk factors for each site need to be considered. LPS guidance sets out mechanisms to mitigate such risks and obtain best value. These include whether to go to the market with or without conditions; whether to seek outline or full planning permission; and whether to impose some form of clawback to protect the public purse against future enhancement in value. The Committee notes that the Department placed considerable reliance on the professional advice of LPS in relation to the marketing and sale of the site.

13. The Committee has concerns about the advice provided by LPS. In the Committee's view LPS did not give adequate consideration to the various mechanisms available to protect the taxpayer that were set out in its own guidance. It also failed to provide the Department with advice and its rationale in a clear format that enabled the Department to critically consider and challenge this. Whilst the Committee welcomes the Accounting Officer's acknowledgement that the Department should have pressed harder for the inclusion of clawback, the Department must also accept responsibility for what went wrong. It did not clearly articulate the objectives of the sale and through its lack of engagement, it accepted, uncritically, the advice and actions of LPS and the agent. In doing so the Department did not properly protect the taxpayers' interest.
14. The Committee's concerns about the Department's lack of engagement are heightened by the absence of documentation supporting the process. In the Committee's view the sale of the site, with no apparent oversight by officials in opening offers or consideration of bids, was unacceptable.
15. The Committee is alarmed that the Department was not aware that the purchaser was in fact acting on behalf of another development company who funded the purchase of the site. This only became apparent through the work of the Audit Office and evidence presented to this Committee which brought to light that the site had been transferred on the day of sale and that the parties were in fact connected. This exposed the Department to potential conflicts of interest and risks of impropriety.
16. In the Committee's view it is important that public bodies and their selling agents have appropriate procedures in place to mitigate these risks. This should include carrying out checks on the credit worthiness of bidders before accepting offers, and knowing the identity of all parties involved.
17. The Committee believes that the Department and LPS missed potential opportunities to maximise the proceeds from the sale. As part of the initial sales process interested parties were invited to submit unconditional offers by a deadline date. This resulted in the submission of five bids within the deadline and two late bids (see Figure 2). The two late bids and the bid from Bidder E (which was subject to the grant of planning permission) were disregarded.

Figure 2
Details of Initial bids received for Malone Site

	Bid Received	Comments
Bidder A	£3.0 million	
Bidder B	£3.8 million	
Bidder C	£4.5 million	Bidder C, approached as under-bidder when Bidder D withdrew, Bidder C reduced this offer to £3.6 million
Bidder D	£4.7 million	Successful bid
Bidder E	£5.5 million	Bid disregarded as the offer made subject to grant of planning consent for bidder's preferred scheme.
Bids submitted after closing date for bids		
Bidder F	£4.8 million	Disregarded as late bid
Bidder G	£4.2 million	Disregarded as late bid. Offer made subject to grant of planning consent for bidder's preferred scheme and based on stage payments.

18. LPS guidance does not preclude late or conditional bids from being assessed if they are authentic, offer a better return and are received before a sale becomes legally binding. The Committee acknowledges that conditional bids do carry risks. However, these need to be weighed up against the potential gain. In this case the £800,000 difference between the initial winning bid from Bidder D of £4.7 million and Bidder E's rejected conditional bid of £5.5 million, was, in the Committee's view, worthy of serious consideration, particularly since obtaining planning permission for high density housing was not an issue and the cost of securing this would have, according to LPS, been around £150,000.
19. In the Committee's view it is evident that adequate consideration was not given to the late and conditional bids during the evaluation process, indeed it would appear that they were rejected out of hand. In addition, when the accepted bidder withdrew his offer in July 2003, LPS and the agent continued to seek only unconditional bids; no attempt was made to re-engage with all previous bidders or further explore other options such as conditional bids.
20. In the Committee's view the sale of the site was driven by expediency rather than a desire to achieve maximum value.

Recommendation 1

21. **The Committee recommends that, unless there are compelling reasons not to, sales of land and buildings should be conducted through sealed bids opened in the presence of public sector officials representing the Department or public body disposing of the asset. No matter what method of sale is used the process must be transparent and documented.**

Recommendation 2

22. **The Committee recommends that public bodies disposing of land and buildings must present clear instructions to LPS on the objectives of the sale and be fully engaged throughout the sale process. The Committee further recommends that LPS examines the format of its submissions to public bodies, with a view to documenting more clearly the basis of its valuations and/or advice on disposals. It is important that advice from LPS is in a format that enables public bodies to critically consider and challenge the advice.**

Recommendation 3

23. **The Committee is concerned that current guidance on disposal of properties is ambiguous and open to interpretation. The Committee welcomes the LPS statement that the guidance is currently being reviewed. The Committee recommends that this review should be undertaken as a matter of urgency to ensure that the most appropriate approach is taken to disposal of sites; that the proceeds for the public sector are maximised; and that systems are established to ensure the consistent application of that guidance. The Committee is further concerned that its previous recommendation regarding the independence of valuations when disposing of land does not appear to have been acted upon in this case.³**

3 Recommendation 3 of the 2008 report, 'Report on the Transfer of Surplus Land in the PFI Education Pathfinder Projects' read as follows:

"The Committee recommends that when considering the disposal of a site, public bodies must adhere to the basic principles of defining the site precisely and valuing it accordingly. Public bodies must also ensure that they engage the Land and Property Service, and where appropriate recognised professional valuers, from the outset and ensure that valuations are updated on a regular basis."

The NI Block did not get the full Benefit from the Sale of the sites

24. Proceeds from the sale of Malone and Magherafelt Barracks sites, totalling £4.7 million, were to be ringfenced specifically for projects which would represent a tangible benefit to the peace process.
25. It is not clear to the Committee if the proceeds from the sale of the Malone Barracks site have been used for the intended purpose; correspondence from DFP indicates that they were made available for use elsewhere in the NI Block.
26. The Committee acknowledges that the provision of education facilities on the Magherafelt site should provide long term benefits to the local community. However, the Committee is concerned that OFMDFM, to whom the site was gifted, required the NEELB to pay £870,000 for the site. The Department told the Committee that cash available and not immediately required must go back to the Consolidated Fund. However, it could not give a clear answer if the £870,000 has been lost to the Northern Ireland Block; but from the evidence provided this seems to be a strong possibility.

Recommendation 4

27. **It is important that departments can clearly track and report on how funding is spent. The Committee recommends that, before making commitments to ringfence funding, departments consult with DFP to clarify the process to ensure that it is transparent to the Assembly.**

Retention of papers and Audit Access needs to be improved

28. The Committee is disturbed that papers supporting many of the key decisions made on the sites were either not available or only made available to the Audit Office late in the day. The Committee is frustrated with evidence not being made available for inspection. The establishment and maintenance of a complete and proper public record, apart from being a legal requirement, is a key aspect of open and transparent accountability and one of the principles at the heart of good administration.
29. Documents must also be preserved while an investigation is ongoing. One particular example relates to the sale of the Malone Barracks where the Department was unable to provide the Committee with details of the instructions given to the agents appointed to handle the sale of the site or evidence of the marketing and bid evaluation process. This is unacceptable. This example serves to reinforce the Committee's recommendation made in its recent report on Use of External Consultants by Northern Ireland Departments, that a formal review of the quality and standards of document management and record-keeping should be undertaken.

Recommendation 5

30. **The Committee recommends that DFP remind departments of the importance of retaining all documentation relevant to ongoing NIAO investigations. It is the responsibility of individual departmental Accounting Officers to ensure that documentation pertinent to an audit is made available, in a timely manner, for examination. This will include where it is retained by another public body or agents appointed by the department.**

Progress on Regenerating the Sites has been too Slow

31. When these sites were transferred nine years ago they offered an opportunity to regenerate local areas and deliver social and economic benefits to local communities. The Committee acknowledges that the regeneration of such sites is a long-term process; as demonstrated in the Laganside experience where, over a 20 year period, an investment of some £150 million, led to inward investment of around £850 million in the waterfront area. However, progress on the regeneration of the former military and security sites has been too slow. Masterplans have yet to be finalised which is reflected in the Department only spending £59 million of the £101 million made available to it for redevelopment since 2003-04.
32. The Committee considers that it is important that communities start to see tangible benefits from the considerable investment that has been made. The Committee welcomes the recent progress being made on the Ebrington and Crumlin Road Gaol sites that has resulted in the Department making full use of the funding made available in 2011-12 for these sites. The Committee also welcomes recent steps now being taken to establish a Development Corporation to drive forward regeneration at Maze/Long Kesh. It is important that there are no further delays in its establishment.
33. One of the key factors in successfully developing the sites is maximising investment from the private sector. The Committee expects to see over the coming years a significant return on the public investment on infrastructure and capital works at the sites. The Committee is encouraged by oral evidence presented that the investment in the sites is expected to generate substantial private sector investment and jobs. For example, the Committee was told of the potential for £250 million investment in the Maze Long Kesh site and a potential to create 5,000 jobs. The leasing of “A” wing and the re-opening of Crumlin Road Gaol is also forecasted to create 55 to 60 jobs.
34. It is important that the substantial investment transforming these former military and security sites becomes a long-term asset for local communities. Continued participation from communities and/or their representatives is essential in taking forward regeneration efforts on the sites. There must also be systems for reporting back to communities on what has been done. The Committee is encouraged by the new strategic oversight arrangements that have been put in place by the Department which should improve communications between the various departments and public bodies responsible for taking forward the regeneration of the sites. However, the Committee expects to see an improvement in the standards and quality of performance reporting on the regeneration of the sites through clear and transparent targets.
35. The importance of completing detailed checks on ground conditions and the costs of security and maintenance is highlighted in the case of Maze/Long Kesh where the cost of decontaminating the site alone is expected to be over £8 million. Although the remediation work at the site is now virtually completed, it is important that lessons are learnt from the experience. The Committee expects departments to fully consider those lessons in managing any future major regeneration projects or when dealing with remediation on the sites transferred more recently, such as Shackleton.
36. The Environment Agency and Councils do not have the same legislative powers as bodies in England and Wales. As a result, they cannot fully exercise their inspection powers on contaminated land such as that found on former military sites. The Committee has considered the written brief presented by the Department of the Environment, setting out current arrangements for dealing with historic contamination, new contamination and pollution through the planning control process as sites are undergoing redevelopment. However, the Committee is concerned that without the commencement of Part 3 of the Waste and Contaminated Land (Northern Ireland) Order 1997, the gap in legislation is a major obstacle to applying the “polluter pays” principle in dealing with contaminated land.

Recommendation 6

37. **The Committee recommends that strategies for engaging with local communities and their representatives are developed for the former military and security sites, and realistic and publicly agreed targets are set for putting them in place.**

Recommendation 7

38. **The Committee has identified a worrying gap in legislation that means that Councils and the Environment Agency are unable to fully regulate contamination of land and enforce the “polluter pays” principle. The Committee recommends that the Department of the Environment, in consultation with Councils, fully assesses the financial, environmental and health risks associated with having a regulatory regime that falls short of that in place in other regions.**

Recommendation 8

39. **The Committee recommends that targets for the Department and the delivery bodies responsible for the regeneration of the sites are measurable (SMART) and linked to expected outcomes for the individual sites such as achieving outcomes in private sector investment, employment, business growth, skills development and tackling poverty. This is essential to demonstrate the value for money of the substantial investment of public funds in the sites.**

Report on Ilex Accounts 2010-11

40. Ilex is a company established in 2003 with the aim of promoting the regeneration of Derry~Londonderry. In recent years Ilex has had a number of significant achievements including delivery of the Peace Bridge, helping to secure the UK City of Culture for 2013 and the recent opening of the Ebrington parade ground.
41. However, while the Committee recognises the work of the company in a range of areas, it is very concerned by the systemic breakdown in the application of key spending controls. The Committee welcomes the Chief Executive's candour in recognising that both she and the organisation got things wrong in applying these controls over several years and the assurance that an action plan is now in place to ensure that no new issues will arise in future. However, there a number of important lessons.

Governance Arrangements

42. Ilex is currently funded by two Departments, OFMDFM and DSD. These sponsor departments share accountability for Ilex and the Committee feels that these arrangements, in which Ilex has effectively served two masters, have contributed to the problems that have arisen. The Committee was pleased to note that arrangements are underway to ensure that, in future, one Department would be established as having a clear lead responsibility for Ilex.
43. Another contributing factor to the problems that arose was the poor quality of financial information provided to the Ilex Board.

Spending without proper approval

44. The Committee is very concerned at the extent of expenditure that had been incurred by Ilex without proper approvals from sponsor departments or, in some cases, without business plans having been prepared prior to the spending taking place. This reflects a lack of regard for well-established rules governing spending on projects. This is particularly surprising given the Chief Executive's previous experience as an Accounting Officer in two major departments. In the Committee's view it is important that the action plan, developed by Ilex to ensure that spending rules are followed, is fully implemented. The Committee would be extremely concerned if new cases of breaches of control were to arise in future.

Procurement

45. The Committee is disappointed by the case where a firm agreed a price of £64,000 for consultancy on the peace bridge but then subsequently had its contract extended for a project resulting in revised costs of £479,000. The fact that the extension of these costs was not approved by sponsor departments is not acceptable. The extension of the contract without going back to the market also means that it is impossible to demonstrate that value for money has been achieved.
46. The Committee is concerned that, because of the failure to apply proper procedures, it is likely that the Northern Ireland Block may have to meet these increased costs.

Tax liabilities on travel expenses

47. The Committee notes that Ilex paid tax and national insurance contributions on behalf of the Chairman in relation to travel expenses which had been deemed by HMRC to be taxable. This was despite the fact that the Chairman's contract did not clearly state whose responsibility it was to pay this tax liability. The Committee is disappointed that the payment of this amount was not identified as a novel and contentious issue that should have required approval from the Sponsor Departments. This issue may also have wider implications for the payment of travel expenses to non-executive Board members across the public sector.

Recommendation 9

48. **The Committee welcomes the commitment to streamline sponsorship control of Ilex. The Committee recommends that the new sponsorship arrangements are put in place as soon as possible.**

Recommendation 10

49. **The Committee recommends that departments re-examine current arrangements to ensure that arms-length bodies, such as Ilex, are given a clear mandate in respect of their responsibilities, including ensuring value for money. As departments remain ultimately accountable, their Accounting Officers need to ensure that oversight arrangements are effective in managing and monitoring financial delegations. In addition they must also ensure that there is adequate information to provide assurance that value for money is being secured for public spending, wherever that spending takes place.**

Recommendation 11

50. **The Committee recommends that non-executive Board members should have details of who is responsible for paying any tax liabilities formally agreed before appointment and included in the contract of employment. In addition the Committee recommends that DFP issues guidance clarifying the tax position of travel expenses paid to other non-executive Board members throughout the public sector.**



Northern Ireland
Assembly

Appendix 1

Minutes of Proceedings of the Committee Relating to the Report

Wednesday, 18 April 2012

The Senate Chamber, Parliament Buildings

Present: Mr Paul Maskey MP (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Sydney Anderson
Mr Michael Copeland
Mr John Dallat
Mr Alex Easton
Mr Paul Girvan
Mr Ross Hussey
Mr Mitchel McLaughlin
Mr Conor Murphy MP

In Attendance: Miss Aoibhinn Treanor (Assembly Clerk)
Mr Phil Pateman (Assistant Assembly Clerk)
Mrs Danielle Saunders (Clerical Supervisor)
Mr Darren Weir (Clerical Officer)
Mr Jonathan McMillen (Assembly Legal Services)

Apologies: Mr Adrian McQuillan

2:02 pm The meeting opened in public session.

5. Briefing on the NIAO Report on ‘The Transfer of Former Military Sites to the Northern Ireland Executive’ and ‘Report on ILEX Accounts 2010-11’

Mr Kieran Donnelly, Comptroller and Auditor General; Mr Brandon McMaster, Director; and Mr Sean Beattie, Audit Manager; briefed the Committee on the report.

2:39 pm The meeting went into closed session after the C&AG’s initial remarks.

2:39 pm Mr Murphy left the meeting.

3:10 pm Mr Copeland left the meeting.

3:14 pm Mr Copeland entered the meeting.

3:15 pm Mr Dallat left the meeting.

3:26 pm Mr Girvan left the meeting.

3:40 pm Mr Dallat entered the meeting.

3:41 pm Mr Girvan entered the meeting.

The witnesses answered a number of questions put by members.

3:46 pm Mr Hussey left the meeting.

[EXTRACT]

Wednesday, 25 April 2012

The Senate Chamber, Parliament Buildings

Present: Mr Paul Maskey MP (Chairperson)
Mr Sydney Anderson
Mr Michael Copeland
Mr John Dallat
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Mr Conor Murphy MP

In Attendance: Miss Aoibhinn Treanor (Assembly Clerk)
Mr Phil Pateman (Assistant Assembly Clerk)
Mrs Danielle Saunders (Clerical Supervisor)
Mr Darren Weir (Clerical Officer)

Apologies: Mr Joe Byrne (Deputy Chairperson)
Mr Alex Easton
Mr Paul Girvan
Mr Ross Hussey

2:01 pm The meeting opened in public session.

4. Evidence on the Northern Ireland Audit Office Report ‘Transfer of Former Military Sites to the Northern Ireland Executive’.

The Committee took oral evidence on the above report from:

- Mr Noel Lavery, Accounting Officer, Office of the First Minister and deputy First Minister (OFMDFM);
- Mr Kyle Alexander, Programme Director, Maze Long Kesh Programme Delivery Unit, Strategic Investment Board (SIB);
- Mr Tim Losty, Director of Strategic Development, Regeneration and International Relations Division, Office of the First Minister and deputy First Minister (OFMDFM);
- Mr David Ross, District Valuer, Land and Property Services (LPS).

3:34 pm Mr Copeland left the meeting.

3:36 pm Mr Copeland entered the meeting.

3:45 pm Mr Dallat left the meeting.

3:46 pm Mr McQuillan entered the meeting.

3:50 pm Mr Dallat left the meeting.

3:58 pm Mr Copeland left the meeting.

4:08 pm Mr Anderson left the meeting.

4:09 pm Mr Copeland entered the meeting.

4:11 pm Mr Murphy left the meeting.

4:16 pm Mr Murphy entered the meeting.

4:18 pm Mr Anderson entered the meeting.

The witnesses answered a number of questions put by the Committee.

Agreed: The Committee agreed to request further information from the witnesses.

4:37 pm The meeting was suspended.

4;45 pm The meeting recommenced in public session.

Evidence on the Northern Ireland Audit Office Report 'Ilex Accounts 2010 - 2011'.

The Committee took oral evidence on the above report from:

- Mr Will Haire, Accounting Officer, Department for Social Development (DSD);
- Mr Noel Lavery, Accounting Officer, Office of the First Minister and deputy First Minister (OFMDFM);
- Dr Aideen McGinley, Accounting Officer, Ilex.

5:03 pm Mr Copeland left the meeting.

5:05 pm Mr Copeland entered the meeting.

The witnesses answered a number of questions put by the Committee.

Agreed: The Committee agreed to request further information from the witnesses.

[EXTRACT]

Wednesday, 2 May 2012

The Senate Chamber, Parliament Buildings

Present: Mr Paul Maskey MP (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Sydney Anderson
Mr Michael Copeland
Mr John Dallat
Mr Alex Easton
Mr Paul Girvan
Mr Ross Hussey
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Mr Conor Murphy MP

In Attendance: Miss Aoibhinn Treanor (Assembly Clerk)
Mr Phil Pateman (Assistant Assembly Clerk)
Mr Gavin Ervine (Clerical Supervisor)
Mr Darren Weir (Clerical Officer)

2:02 pm The meeting opened in public session.

2:20 pm The meeting went into closed session.

5. Issues Arising from the Oral Evidence Session on ‘The Transfer of Former Military Sites to the Northern Ireland Executive’ and ‘Report on ILEX Accounts 2010-11’

The Committee considered an issues paper relating to the previous week’s evidence session.

2:46 pm Mr Girvan left the meeting.

3:02 pm Mr Girvan entered the meeting.

3:09 pm Mr Dallat left the meeting.

3:15 pm Mr Dallat entered the meeting.

Agreed: The Committee agreed to proceed with the drafting of the report on the basis of its discussion and the issues paper.

Agreed: The Committee further agreed to refer to the Audit Office a whistleblower allegation in relation to Ilex and to factor the findings into its report if material.

[EXTRACT]

Wednesday, 30 May 2012

Room 29, Parliament Buildings

Present: Mr Paul Maskey MP (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Michael Copeland
Mr John Dallat
Mr Alex Easton
Mr Paul Girvan
Mr Ross Hussey
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Mr Conor Murphy MP

In Attendance: Miss Aoibhinn Treanor (Assembly Clerk)
Mr Phil Pateman (Assistant Assembly Clerk)
Mrs Danielle Saunders (Clerical Supervisor)
Mr Darren Weir (Clerical Officer)

Apologies: Mr Sydney Anderson

2:00 pm The meeting recommenced in public session.

2:12 pm The meeting went into closed session.

6. Draft Committee Report on ‘The Transfer of Former Military Sites to the Northern Ireland Executive’ and ‘Report on ILEX Accounts 2010-11’

Correspondence from OFMDFM.

The Committee noted correspondence from Mr Noel Lavery, Accounting Officer, OFMDFM providing the information sought by the Committee following its evidence session on 25 April 2012.

4:17 pm Mr Copeland declared an interest stating that a solicitor named in the response from the Department has previously represented him.

4:18 pm Mr Dallat entered the meeting.

4:23 pm Mr Byrne left the meeting.

4:26 pm Mr McQuillan left the meeting.

Correspondence from Ilex

The Committee noted correspondence from Dr Aideen McGinley, Accounting Officer, Ilex pursuant to the Ilex evidence session on 25 April 2012.

4:27 pm Mr McQuillan entered the meeting.

4:30 pm Mr Dallat left the meeting.

[EXTRACT]

Wednesday, 6 June 2012

Room 29, Parliament Buildings

Present: Mr Paul Maskey MP (Chairperson)
Mr Sydney Anderson
Mr Michael Copeland
Mr John Dallat
Mr Alex Easton
Mr Paul Girvan
Mr Ross Hussey
Mr Mitchel McLaughlin
Mr Conor Murphy MP

In Attendance: Miss Aoibhinn Treanor (Assembly Clerk)
Mr Phil Pateman (Assistant Assembly Clerk)
Mrs Danielle Saunders (Clerical Supervisor)
Mr Darren Weir (Clerical Officer)

Apologies: Mr Joe Byrne (Deputy Chairperson)
Mr Adrian McQuillan

2:00 pm The meeting opened in public session.

6. Consideration of Draft Committee Report on 'The Transfer of Former Military and Security Sites to the NI Executive and Ilex Report and Accounts'

The Committee considered the first draft of its report on 'The Transfer of Former Military and Security Sites to the NI Executive and Ilex Report and Accounts'

Paragraphs 1 - 7 read and agreed.

Paragraph 8 read, amended and agreed.

4:12 pm Mr Girvan left the meeting.

Paragraph 9 read and agreed.

Paragraph 10 read, amended and agreed.

Paragraphs 11 -22 read and agreed.

Paragraph 23 read, amended and agreed.

Paragraphs 24 – 27 read and agreed.

Paragraphs 29 – 30 read and agreed.

4:20 pm Mr Girvan entered the meeting.

Paragraphs 31 - 37 read and agreed.

Paragraph 38 read, amended and agreed.

Paragraphs 39 – 50 read and agreed.

4:28 pm Mr Copeland left the meeting.

4:30 pm Mr Copeland entered the meeting.

Consideration of the Executive Summary

Paragraph 1 – 7 read and agreed.

Agreed: The Committee agreed the correspondence to be included within the report.

Agreed: The Committee ordered the report to be printed.

[EXTRACT]



Northern Ireland
Assembly

Appendix 2

Minutes of Evidence

25 April 2012

Members present for all or part of the proceedings:

Mr Paul Maskey (Chairperson)
 Mr Sydney Anderson
 Mr Michael Copeland
 Mr John Dallat
 Mr Mitchel McLaughlin
 Mr Adrian McQuillan
 Mr Conor Murphy

Witnesses:

Mr David Ross	<i>Land and Property Services</i>
Mr Noel Lavery	<i>Office of the First Minister and deputy First Minister</i>
Mr Tim Losty	<i>Strategic Investment Board</i>
Mr Kyle Alexander	<i>Strategic Investment Board</i>

Also in attendance:

Mr Kieran Donnelly	<i>Comptroller and Auditor General</i>
Ms Fiona Hamill	<i>Treasury Officer of Accounts</i>

1. **The Chairperson:** We are joined today by Mr Noel Lavery, who is not the permanent secretary but who is nonetheless the accounting officer for the Office of the First Minister and deputy First Minister (OFMDFM). You are very welcome, Mr Lavery. Would you like to introduce your colleagues?
2. **Mr Noel Lavery (Office of the First Minister and deputy First Minister):** On my right is Kyle Alexander, former chief executive of Laganside and the Strategic Investment Board's (SIB) chief expert on regeneration; he heads up the programme delivery unit at the Maze/Long Kesh site. On my left is Tim Losty, who heads up the regeneration sites team in the Department; on the far left is David Ross from Land and Property Services (LPS).
3. **The Chairperson:** Thank you. The usual procedure is that I ask some questions

to set the scene, and other members ask their questions.

4. My first question, Noel, is with regard to figure 2 on page 4. You have given an update of that table to the Committee that shows that expenditure on the military sites to March 2012 now totals almost £62 million. Can you explain briefly to the Committee what tangible benefits have been delivered on that substantial investment of public funds for the delivery of economic benefit and regeneration to local communities and areas?
5. **Mr Lavery:** Your question is what we have achieved and what benefits the £62 million have brought. Ten years ago, we had military and prison sites designed for that purpose; those sites have now been prepared for development, and we are beginning to see tangible results. However, the strategic investment value of the sites will be considered in an holistic way and in the context of the whole economy in the long term.
6. If I may reference Laganside — and Kyle will probably do that a few times during this evidence session — it took 10 years to create the correct investment environment there and a further 10 for private-sector delivery and full community benefit. Therefore we should not lose sight of the fact that, in overall regeneration terms, this initiative will, in our view, be hugely beneficial.
7. As to its achievements, the Audit Office report and press release refer to “quick-win projects” at Crumlin Road Gaol and Ebrington. Since then, the Royal Ulster Agricultural Society (RUAS) and Peace Centre projects have been secured at Maze/Long Kesh. An income of about £35 million from the peace programme and from the disposal of the sites has been secured, and the RUAS investment will, we believe, bring about £60 million of development value to the Maze/Long Kesh site.

8. The RUAS and Peace Centre projects are forecast to generate between 370 and 450 jobs. Crumlin Road Gaol, the leasing of A wing and the re-opening is forecast to create 55 to 60 jobs. As to the infrastructure investment element of the £62 million, which is about £33 million, the SIB estimates that it has provided about 670 employment years.
9. I have a couple of things to say about the sites themselves. At Ilex, some 150 buildings of the former military site have been cleared, and Ebrington Square was opened in February 2012. The parade ground was transformed into a multi-purpose culture, leisure and performance space, the largest on the island of Ireland, and it facilitates City of Culture events. The Peace Bridge and the parade ground are two completely new and very significant shared spaces. I am sure that the Committee will get into that later. At Maze/Long Kesh, the programme of remediation works is complete, and the site has been transformed. The two projects that we discussed and the Balmoral Show will go there in 2013. At the gaol, there has been a £5.3 million restoration programme, and we will shortly complete the commercial leasing of A wing.
10. **The Chairperson:** Thank you for that update, Noel. What do you estimate the total projected expenditure of public funds to be?
11. **Mr Lavery:** I am not sure that I can give you a firm estimate of that. However, I can tell you that £36 million has been set aside by the Executive over the rest of this CSR (comprehensive spending review) period. The remediation works at Maze/Long Kesh are virtually complete; they will complete the infrastructure and capital works.
12. Market conditions will be a significant factor in the amount of public expenditure required for the full development of the site. Colliers International made an assessment of the Maze site and found that it may require an investment of about £60 million to generate external investment of about £250 million. Ilex has given a broad estimate of another £30 million to generate investment of £150 million. Let me repeat that market conditions will be a big factor. Kyle, do you want to add to that from your perspective?
13. **Mr Kyle Alexander (Strategic Investment Board):** You referred to the expenditure to date, and Noel has mentioned what the long-term return on that might be. The investment in Laganside was some £150 million, which in time led to investment of some £850 million in the waterfront area, but that was on a 20-year timescale. The first 10 years was to get the site infrastructure in place, and there was significant expenditure on that. For example, it took seven years after the plans came out for Laganside to complete the weir and 10 years before the Waterfront Hall was completed. Only in the 10 years since that date has the real level of investment in the site come about. The sums spent to date add up to £62 million, but you need to see that within a 20-year timescale on those sites. The expectation of the work that we are doing is that we will start to see significant return on that expenditure. That is the judgement that needs to be made as to where we are now.
14. **The Chairperson:** To return to the projected expenditure, Noel, you mentioned £60 million and then £30 million for Ilex. Do you have a time brief? You said that there is £36 million for this term; would that leave —
15. **Mr Lavery:** The £36 million would take us to 2014-15. We are probably looking to 2015-2020 for Maze/Long Kesh, and I think that it would be similar at Ebrington; however, a great deal depends on the private sector and the private-sector market in the development of the sites and in getting private-sector investment. That is the aim, and one of the key questions is how the market moves and how we can attract private sector investment.
16. If you bear with me, Chairman, the Royal Ulster Agricultural Society investment is an encouraging start; we are getting £60 million of investment there. It is not

- as if we have not achieved anything at the sites, and Ebrington is now moving towards that stage too.
17. **The Chairperson:** Thank you. Paragraph 4 states that an agreement was reached with the Ministry of Defence as far back as 2004 in relation to some of the sites with significant development potential. How formal were those arrangements and what lessons did your Department learn, Noel? How were those applied to the management of more recent transfers of sites after the 2010 Hillsborough agreement?
18. **Mr Lavery:** The report mentions the cost of decontamination. We think that the final cost of decontamination at the Maze will be about £8 million, but some necessary demolition means that it will end up at £9.5 million. It is fair to say that that was unknown. The land quality assessments were known at the time, as the report states. I think that we have learned our lesson on the Hillsborough sites in taking them on and getting an estimate of what the cost of decontamination of the sites would be. That is one of the significant lessons.
19. Perhaps I should have said earlier that OFMDFM accepts the recommendations in the report absolutely.
20. **Mr Copeland:** I just want to gauge whether it was believed that the sites had a net value at the time of transfer. In other words, there was a figure of £24 million, if I remember rightly, that seemed to have its roots in the House of Commons as an answer from the Ministry of Defence. Were the liabilities in connection with this £24 million in excess of £24 million? In other words, were they a net asset or a net liability, notwithstanding the fact that they undoubtedly had potential? The numbers do not seem to gel.
21. **Mr Lavery:** The sites are definitely an asset; they were gifted. I am just trying to get to the core of your point, Mr Copeland. Figure 6 in my letter to the Committee shows that total remediation costs were £5.8 million. That figure will end up at £8 million or £9 million.
22. **Mr Copeland:** Is that for all of the sites?
23. **Mr Lavery:** Yes. The rest of the costs that we have used are the running costs that you would expect to incur in developing a major site, apart from the decontamination.
24. **Mr Tim Losty (Office of the First Minister and deputy First Minister):** We are looking at these sites. They were military sites and prison sites used specifically for those purposes. When the sites were gifted to us, a value, according to market forces, was put on them.
25. **Mr Copeland:** How much was that?
26. **Mr Losty:** I will find that figure for you, Mr Copeland.
27. **Mr Lavery:** The Hillsborough site —
28. **Mr Losty:** I was going to put the answer in relation to our investment in the sites to make them a long-term asset for the community. We are investing in those sites to change them from being military sites to community assets that will be used for economic and social benefits. We are already starting to see some of the benefits coming to fruition in some of the sites. We are looking at them in respect of their short, medium and long-term benefits. We are starting to get to the short-term benefits now, and we are looking at the long-term benefits, which is when the value to the taxpayer will be greatly increased.
29. **Mr Alexander:** I will make a more general point. I suggest that you do not judge the success of these sites on the value of what they can be disposed for. The sites are a tool; they are a means to an end. You judge what you spend on them on what their eventual output will be. We expect that the output for these sites will be significant investment and significant job creation. In the report you will see that we have spent £25 million to date on Maze/Long Kesh, but the work that we have done in the past two or three months suggests that there is potential for £250 million investment in the site and a potential to create 5,000 jobs. You need to judge the success of

- the sites in those terms and not simply on what the land value will be.
30. **Mr Dallat:** I had not intended coming in at this stage, but I picked up on a couple of things. We are here to learn from what happened in the past and to make sure that it does not happen in the future. Did I hear you right when you said that you had learned from the contamination and the cost of decontamination?
31. **Mr Lavery:** Yes.
32. **Mr Dallat:** I also picked up that when acquiring these sites it would have been useful to have had a vision for their future use or, in the simplest terms, a master plan. Am I right in that?
33. **Mr Lavery:** There are two questions there, Mr Dallat. The Department has learned lessons regarding the potential extent of decontamination. It has also learned lessons about the time it takes to discover the extent of decontamination and the works required; it takes a very substantial period, as has been shown at Maze/ Long Kesh. As for plans and timescales, you will see in the report that there was a significant consultation on each site, and the report acknowledges that that is extremely important, given the nature of the sites and the fact that the reinvestment and reform initiative (RRI) said that they should be to the benefit of the community.
34. **Mr Dallat:** There is a reason why I am asking the question, although it is not strictly part of our remit today. Last September, Shackleton Barracks was acquired. Decontamination costs were not known, and there was no master plan or vision for the future. You just told me that you learned lessons from those sites; which of those lessons were applied to the former Shackleton barracks at Ballykelly? It is sitting with no master plan and no vision, and nobody has a clue what the decontamination costs are.
35. **Mr Lavery:** I will answer that and then bring in my colleague Tim, if you are OK with that. You made two points; one was about the extent of the decontamination and the other was about the plan. The sites were gifted under the Hillsborough agreement. We got the Central Procurement Directorate (CPD) to get hold of the land quality assessments that were provided by the MoD. The CPD had the experience of dealing with the Maze/Long Kesh site, and we came up with an estimate of what the remediation costs would be. The report talks about a ministerial direction. That was one of the issues involved.
36. We took receipt of the site only in November 2011, and we have been working with the Strategic Investment Board (SIB) asset management unit to look at the plans for it.
37. **Mr Losty:** The purpose of our taking on the site was to sell it and use the proceeds. The market is not great at present, so we were not getting the offers that we wanted for the site.
38. **Mr Dallat:** But you were getting offers.
39. **Mr Losty:** There were offers when the Ministry of Defence first put it on the market, but we are looking at how we can maximise the economic and social benefits of the site. We received the site late last year, and we are looking at the short-, medium- and long-term uses. Hopefully, the market will change. We are also looking at lessons that were learned from dealing with the decontamination issue. The costs of decontamination will depend on the eventual uses of the site. We are working with the Central Procurement Directorate and the asset management unit on the costs of potential uses for the site. One of the lessons that was learned is that we will look for support from third-party organisations by way of advice on decontamination.
40. It is a very large site. We need to look at whether we should try to dispose of it in one lot or whether we can subdivide it into smaller lots and target different market groups. We have been talking to local stakeholders over the past few months. In fact, we are at an advanced stage of commercial negotiations about the use

- of one part of the site. We will also talk to the local council and community organisations in the coming weeks to get an idea of what local communities would like to see on the site.
41. **Mr Dallat:** I asked the question only because I do not want another Public Accounts Committee sitting in five years' time to hear a sad story about lessons having been learnt from the past. As you know, we will be watching very carefully to make sure that lessons have been learnt from the sites, that the criticism that is already flowing in the newspapers is eventually not justified and that Ballykelly does not become another albatross. The term "gifted" does not really convey the term.
42. It was all part of the Hillsborough agreement. Was there any discussion of the MoD making a contribution towards the mess that was left over the past 100 years?
43. **Mr Lavery:** Are you referring to the Hillsborough sites?
44. **Mr Dallat:** Those sites and whatever.
45. **Mr Lavery:** There was discussion at official and ministerial level. The final agreement was that the sites were gifted as is.
46. **Mr Dallat:** The MoD got a quare deal.
47. **Mr Lavery:** Again, as we said, the future value will tell the story.
48. **Mr Copeland:** There are two parts to this. You threw in the phrase "ministerial direction" in reference to, I think, the Hillsborough agreement sites. What is the context of a ministerial direction in that setting? Have ministerial directions been issued in connection with any of the others?
49. **Mr Lavery:** Shackleton was the only site for which ministerial direction was sought. I sought a ministerial direction on foot of the MoD sales process. The general principle is that accounting officers seek ministerial direction when they do not believe that a course of action represents best value for money. I am sure that the Treasury Officer of Accounts could give a longer explanation. *[Interruption.]*
50. **The Chairperson:** If you do not mind, I am chairing the meeting. We might bring the Treasury Officer of Accounts in in a moment. Is there a second part to your question?
51. **Mr Copeland:** No. I think that that covered it.
52. **Ms Fiona Hamill (Treasury Officer of Accounts):** Do you want me to say something on ministerial directions?
53. **The Chairperson:** If you can be brief.
54. **Ms Hamill:** An accounting officer seeks a ministerial direction if a Minister is seeking to move something forward, but the accounting officer is not confident that they can clearly demonstrate that it is value for money. That is their purpose. Therefore, when the decision needed to be taken in that situation, Noel, as accounting officer, was not able to demonstrate fully to his satisfaction value for money. Therefore, he sought a direction from the Minister to proceed. That is standard protocol under managing public money.
55. **Mr McQuillan:** To come back to John's question on Shackleton barracks, I was encouraged to hear Tim saying that he was going to have a conversation with the local community. Shackleton barracks is part of my constituency, and I know that the local community is keen to know what will happen to it and to acquire a piece of it for a community hub. Therefore, you need to have a conversation with the local community about that sooner rather than later before any draft plan or anything else is done. When do you intend to consult with the community?
56. **Mr Losty:** Over the last number of months, we have been looking at the site and looking at some of the issues in relation to maintenance. We have been talking to neighbours and local farmers who have been approached by some organisations that want to use the site in the short term. We have been dealing with those issues.

57. In relation to the consultation process, I believe that we are meeting the council early next week, and that will start the engagement process. Through the council, we will reach out to local community organisations.
58. **Mr McLaughlin:** My question arises from the information that Fiona gave us. Where a ministerial direction is involved, is it based on a specific concern expressed by the accounting officer on points on which he or she would seek ministerial direction, or are we talking about a Minister who simply says "Get on with it"? If we want to look at the issues that emerge subsequently and want to be clear about where responsibility in those particular circumstances resides, will we always find that the accounting officer sets out the areas of concern and then seeks ministerial direction on those specific points?
59. **Mr Lavery:** In this particular instance, my concern was that there was an MoD sales process that gave a market value. I took the advice of the LPS and the asset management unit. The MoD put a timescale on it, and, looking at the offer that was on the table, the potential decontamination and running costs, those were the issues of concern. Therefore, my advice recognised the market uncertainties at the time. It is an unusual site to take on. If I understood your question correctly, will you be questioning me again on what happened on those sites? Was that your question?
60. **Mr McLaughlin:** I do not know what will emerge. Looking at the report, I am concerned about what might emerge. To narrow this down, is there a general almost pro forma approach that involves the accounting officer setting out the reasons why they are concerned about approving the processing of a particular project and seeking ministerial direction, or is this a unique and specific set of circumstances in which a ministerial direction or intervention was given?
61. **Mr Lavery:** There is no pro forma. It will be quite different, depending on the nature of the value-for-money decision, and this was very specific to that site.
62. **Mr McLaughlin:** The paper trail would stand that up, and, if necessary, we could compare that with other examples of ministerial direction?
63. **Mr Lavery:** Yes.
64. **The Chairperson:** Paragraph 13, which is on page 7, and paragraph 2.4 refer to record keeping and documentation. There was a delay in giving the information to the Audit Office before completion of its report. That is a bugbear of mine and of the Committee, because we have seen it happen before. In fact, we have made recommendations on that in previous reports. I surmise that you have looked through some of those recommendations and know that it is an issue for us. In light of that, what are you doing about it, and how will you ensure that it does not happen again? It is unacceptable that information comes late in the day, just prior to an agreed report being signed off.
65. **Mr Lavery:** I absolutely accept that, and I apologise to the Committee for that. I am certainly not happy that records could not be found. Paragraph 13 refers to the generalities in relation to OFMDFM records, and paragraph 2.4 refers to the LPS records. I have written to all staff and told them that this is not acceptable. The Department's record management system changed in 2008, and we certainly learnt lessons from this. I assure the Committee that this should not happen again.
66. **The Chairperson:** I appreciate that assurance, and, obviously, we will be watching that. In the past, it has been an issue with other Departments, and we cannot find it acceptable. On this occasion, I will take your word for it. I appreciate that assurance, and it is the first time that we have had an assurance from anyone that it will not happen again. There you go, we might hold it against you one day.
67. **Mr McQuillan:** From figure 4 on page 12, I see that the master plans for the three development plans are still in draft form, some nine years after the sites were transferred to the Executive. Why

- have those not been finalised, and can you give the Committee an update on why that has happened with each of the sites?
68. **Mr Lavery:** I will take that site by site, Mr McQuillan. Kyle will speak about where we are with the Maze/Long Kesh site.
69. **Mr Alexander:** The Maze/Long Kesh (MLK) master plan was prepared in 2006. In 2009, when there was, in a sense, a change in the proposals for the site, Ministers said that we were not going back to start with a clean sheet and that we had to build on the work that was done before. Since April 2009, we have prepared a spatial framework, and that is now in place. I am ready to present that to the board of the development corporation when it is formed. We have prepared a revised plan for the site, which will be for the board of the development corporation to endorse.
70. A lot of master plans can be prepared without numbers against them, and a common criticism of master plans is that they do not have delivery plans linked with them. For the Maze, we have prepared the spatial framework, and we have prepared the delivery plan at the same time. That has a full 25-year financial model, and, on the back of that, we have prepared an outline business case that looks at the options for the overall development of the site. That is now with OFMDFM, so it means that we now have a revised plan in place and that we are looking at the options and what the costs will be. All of those plans are there to enable the corporation, when it is formed, to be able to create momentum and move on.
71. You can spend a lot of time and money working up master plans, and, after the previous scheme failed and as we moved on from April 2009, there was a need to create confidence in the Maze/Long Kesh site. The priority for the team, while we worked up the overall plans, was to get delivery on the site. That is why much of the effort since 2009 went into securing the move of the RUAS to the site and confirming funding for the conflict resolution centre. We now expect the board of the development corporation to be in place by August or September. It will come into play with a revised plan in place, with the RUAS on site and with funding confirmed for the conflict resolution centre. I believe that, for the first time, we have created momentum that will give the corporation the opportunity to start to attract private sector interest to the site.
72. Therefore, to sum up what has been quite a long answer, you need two things when working on any of these sites: a framework for investment decisions to be made, and a focus on getting things done. That was the approach that we took with the Maze/Long Kesh site.
73. **Mr McQuillan:** When will that be finalised? Will it be August or September?
74. **Mr Alexander:** The spatial framework is now in place in draft form, and we await the appointment of the chair and board of the development corporation. Obviously, they will want to have an input into the plan, so that it becomes their plan that they will want to promote. However, that has not stopped the work to get the RUAS onto the site. That work was under way at the same time.
75. **Mr Lavery:** Mr McQuillan, I am conscious that the point behind your question was about the time taken. As I indicated earlier, there were, previously, plans for a multi-sports stadium at the Maze/Long Kesh site, and that previous scheme is one of the reasons why we have only reached this stage now. On a more general point, given the importance of the sites, we have taken time to undertake community consultation. When Sir Roy McNulty became involved in the Ebrington site in 2007 or 2008, he was not convinced that there was consensus on the plans, and that is one of the reasons why it has taken a longer time. We expect the Ebrington master plan within the next six to nine months, but Tim can give you more details on that and on the master plan for the Crumlin Road jail.

76. **Mr Losty:** I will follow that up with some dates and an understanding of where we are. The Crumlin Road jail/Girdwood master plan was produced in 2007. We had to do an equality impact assessment, which generated substantial comment from the community. We are working closely with the Department for Social Development (DSD), which is taking the lead on that master plan. The Minister for Social Development has progressed the consultation on all aspects of that master plan, and we expect an announcement on it fairly soon.
77. As Noel said, a regeneration plan was produced for the Ebrington site, but it did not receive the required level of community support. Attention then focused on developing the One Plan, and the plan for Ebrington will be fed from that. We expect a master plan from Ilex for the Ebrington site within the next three to four months.
78. **Mr McQuillan:** You said that the master plan for the Ebrington site did not have the support of the community. Why was that? Was there not enough consultation with the community?
79. **Mr Losty:** A great deal of community consultation went on during the planning process. However, as I understand it, at the time, a number of organisations in the city were progressing a planning process. Therefore, there were a number of different plans, and it was felt by some sections of the community that those plans did not reflect the various needs of the communities in the city. The decision was taken to stand down many of the plans and to try to harness all the available resources to produce the One Plan, which all the stakeholder groups could support. That approach has been cited as best practice in the Organisation for Economic and Co-operation and Development (OECD) reports.
80. **Mr McQuillan:** I understand that. I will turn to paragraphs 1.8 and 1.9. Mr Alexander, as a former chief executive of the successful Laganside development corporation and having spent some time at Ilex, you are in a unique position.
- What do you see as the pros and cons of development corporations and urban regeneration companies, and, based on your experience, what do you see as the three or four key learning points emerging from the handling of the Maze/Long Kesh and Ebrington sites?
81. **Mr Alexander:** I will first take your comments on the merits of an urban development corporation or an urban regeneration company. The real strength of an urban development corporation is when the task is simply to focus on the regeneration of sites. For example, at Maze/Long Kesh there is a 350-acre site that is in OFMDFM ownership, and a development corporation is well placed to take that on. That was the same with Laganside, where the responsibility was very much only for the cleared sites along the waterfront. I am aware that there was a debate prior to Ilex being formed as to which vehicle was correct. My view at that time — I presented to the panel that was looking at it — was that, if the aim had been simply to regenerate the Fort George and Ebrington sites, there would have been merit in the development corporation approach. However, the role for Ilex was much more than that. It was not only to regenerate those sites but to have a role in the overall regeneration of the city, and it was felt at that time that the urban regeneration company (URC) was the more appropriate vehicle for that.
82. It is interesting, looking back now, that it has come through from the One Plan that the regeneration of Fort George and Ebrington must very much be part of thinking what is right for the city as a whole and about how those sites can be used to benefit the needs of the communities in the city. The approach to form a URC for Ilex was based on that.
83. The simple answer is that the urban development corporation works when you have a very clearly defined site to work within, and the URC approach works when you are working with communities. That explains some of the background.

84. **Mr Dallat:** Am I right in saying that the original concept for Ilex was the Laganside concept, namely a development plan? Do you know why that was rubbished and the other model was chosen?
85. **Mr Lavery:** I am not sure of the answer. Direct rule Minister Ian Pearson made the final decision on the urban regeneration company.
86. **Mr Losty:** If I can follow on —
87. **Mr Dallat:** I will put it to you another way: that model was chosen. The one that Mr Alexander outlined is probably the better one, and I want it on the record that that model was to happen at Ilex, and somebody else — Pearson or somebody — decided to not have that.
88. **Mr Alexander:** No, I was saying that, if Ilex had been formed simply to look at Fort George and Ebrington, my advice and thinking at the time was that the urban development corporation would have been correct. However, in order to look at those sites in the city as a whole and work with the communities, the view of the direct rule Minister at that time was that the URC was the preferred approach, and they went for that option.
89. **Mr Dallat:** I did not come here to praise you, but, on this occasion, you are absolutely right. I am sorry that they did not take your advice.
90. **Mr McQuillan:** Mr Lavery, paragraphs 1.20 and 1.22 set out the difficulties in reaching a consensus between the local communities on the draft Crumlin Road jail and Girdwood master plan. I also note that, in paragraph 1.19, the new arrangements for 2010 passed responsibility for the jail back to your Department and the responsibility for Girdwood back to DSD. We acknowledge that the issue is difficult to resolve, but what progress has been made since the Comptroller and Auditor General's report?
91. **Mr Lavery:** Progress has been made in completing some of the works at Crumlin Road jail, where a wing has been leased and the jail reopened. Tim
- has been dealing directly with the jail and will give you more detail on that.
92. **Mr Losty:** The jail was always owned by OFMDFM. DSD purchased the land at the Girdwood Barracks site a couple of years after OFMDFM got the jail. Therefore, it was decided to take forward the planning process on a combined-sites basis. We went to consultation in the knowledge that the communities surrounding that site had many concerns. We opened up the jail to assure the communities that they could use it and that it would be of benefit. As a result, when we carried out the equality impact assessment, the communities were happy for us to progress work on the jail site while issues were being discussed and agreed on the Girdwood site. Because the jail was still owned by OFMDFM and was in dire need of repair and restoration, that work was progressed by OFMDFM. I am not sure whether any of the members have visited the jail, but is now a fantastic amenity for that area and one that gets a lot of support from all of the stakeholders and communities in the area. We think that it has helped stimulate talk of regeneration in the wider area and encouraged communities to come together in agreement on the uses of the Girdwood site.
93. **Mr McQuillan:** My next question relates to the sale of the Malone Road site. Let us take this one step at a time. You can find this issue in paragraphs 2.2 and 2.11 the report. We have a prime site in a very desirable area of south Belfast with no major planning issues, and there was a rising market. Professionals in LPS told us not to worry about getting planning permission for the site. They also told us to expect to achieve for the site somewhere in the region of £4.5 million or maybe even £5 million on a good day. Yet the site was sold for only £3.8 million. To make matters worse, it was flipped the same day, probably at a significant profit but nobody knows how much. Of course, you followed the LPS advice and did not include a clawback arrangement in the contract. From my perspective and the perspective of

- many laypersons, that does not look like a good deal for the taxpayer. Will you explain why that happened?
94. **Mr Lavery:** I will make a couple of points. To be absolutely clear, if there is evidence that the site was sold on at a higher price and that the public sector did not get the maximum value, that would be of clear and significant concern to the Department. I just want to make that clear. I understand from LPS that there was some connection between the parties, but I do not know what that is. Paragraph 2.2 of the Audit Office report states:
- "We are unable to establish the onward ... price."*
95. I have no evidence about that, but I absolutely take your point. If all of this process, which was deemed to be due process at the time, culminated in not getting the maximum price, then that is of significant concern.
96. May I make one point about the valuation? Appendix 6 of the report states that the £3-45 million that is referred to at the top of page 22 was a valuation provided by Land and Property Services for OFMDFM's accounts. So that was the LPS valuation at the time, as stated by the Audit Office in the appendix. To answer your question: I would be concerned if we did not get best value through what was, at the time, the standard and advised process. May I bring in Mr Ross from LPS?
97. **Mr David Ross (Land and Property Services):** There are a couple of points to be made on best value. If I may, I will give a brief flavour of the housing market in Belfast at the time. The housing market was stable during that period. House completions were running at a steady 9,500 houses per annum, which is much different from the situation —
98. **Mr McQuillan:** It was not so stable that whoever bought it was able to flip it on the same day. So there was some movement there somewhere.
99. **Mr D Ross:** I will address that point now, if I may. Since the report was published, I have had the benefit of
- looking at documents in Land Registry relating to the onward transfer. The deed of conveyance does indeed indicate a connection between the parties. I am not qualified to comment in detail on those documents. That would require an expert in conveyance. Should the Committee request such research to be carried out on that, LPS would be happy to write to the Committee, through Mr Lavery, with more details.
100. **Mr McQuillan:** Are you trying to tell us, Mr Lavery, that you think that site was not flipped on and nobody made a profit on the day?
101. **Mr Lavery:** I do not know. The Audit Office said that it was unable to establish the onward price. I do not know what the onward price was.
102. **Mr McQuillan:** You said that it would worry you if that was the case.
103. **Mr Lavery:** Yes, it would. The Audit Office states at paragraph 2-2:
- "We also have concerns that OFMDFM may not have obtained best value for the site."*
104. We think that we went through a process that did obtain best value. All I am saying is that, if the evidence was there and said, "Well, hey, you did not", and we were wrong, clearly that would give me concern because we had gone through a recognised public sector process for disposal. A business case was done and advice was taken from Land and Property Services on clawback and planning permission. If we did not get the best value, clearly that would be of very significant concern to an accounting officer.
105. **Mr McLaughlin:** What is the formal guidance that LPS and yourselves would work to in achieving best value? What we see in this instance is a limited testing of the market, and that resulted in a number of bids. One was for £5.5 million, conditional on planning permission. It is that point with regard to achieving best value. Does the guidance preclude the option of pursuing planning permission as a means of maximising best value?

106. **Mr Lavery:** Do you mind if I ask Mr Ross to come in on that? It is the LPS guidance.
107. **Mr D Ross:** The simple answer is that the guidance does not preclude seeking planning permission in disposal of government land. We have to weigh up all the risk factors associated with any disposal. With the Malone site, we were of the view at the time, based on information received from the Planning Service, that the site would attract planning for residential development. In other words, its highest and best use. We then proceeded to value the site accordingly, based on high-density residential use, which turned out to be what was developed there, and we set the asking price accordingly at £3.45 million.
108. **Mr McLaughlin:** Despite having five responses to the initial advertisement, one of which was conditional on planning permission and was substantially more than £3.45 million?
109. **Mr D Ross:** The £5.5 million bid from bidder E was an invalid bid in terms of —
110. **Mr McLaughlin:** I understand that you were looking for unconditional bids, and that is interesting to me. I wonder why you did that, because that, perhaps, excluded many other developers.
111. **Mr D Ross:** Although high value, it was a reasonably straightforward sale. Because it would attract planning permission for the highest and best use, we took the view that to go to the market seeking conditional bids would delay the process and introduce risk and uncertainty. As we know from the actual development that took place, planning took in the order of 22 months there. So, we could have been sitting with conditional bids for a very long time before we accepted one and disposed of the site.
112. **Mr McLaughlin:** But there is a difference in the figures that are available to us — in what is a very limited testing of the market — of somewhere in the order of £1.7 million to £2 million. It certainly would not have cost that amount for the Department to process a planning application.
113. **Mr D Ross:** There are two points there. I would suggest that it was not a limited testing of the market. Our agent had the property on the market for eight months in total. During that period, 73 different parties expressed interest.
114. The other point is that it is quite costly to get planning permission. Our estimate of what it would have cost to do the necessary due diligence and commission all of the technical reports at that time was in the region of £150,000.
115. **Mr McLaughlin:** But it was not £1.7 million.
116. **Mr D Ross:** As I have said, the balance is between that and going to the market with an unfettered sale. Developers do not like conditions. We thought that the sale would attract interest due to the site's prime residential location, and it did. In our view, we got the market value.
117. If I may, I will illustrate market value. We were able to benchmark the price that was achieved for the site, £3.8 million, against similar sales during the period, both before and after the date of sale. If we look at the Belfast area, we can see that in the two-year period prior to our disposal, similar-sized sites for housing development were not achieving similar prices per acre. Our sale achieved a price per acre of £1.6 million. The best prices leading up to that were in the order of £1.3 million, £1.4 million or £1.5 million per acre. Obviously, with the benefit of hindsight, we can look at sales in the marketplace after our date of sale. It was another two or three years before sales of that magnitude were being achieved in the Belfast residential-housing-land marketplace.
118. **Mr McLaughlin:** Somebody moved in within hours of the site's disposal. That person figured that you had not got market value. They had a better idea of the market.
119. **Mr D Ross:** Again, I make the point that, since the publication of the

- report, we have obtained evidence from Land Registry that there was a clear connection between those two parties. My proposal is that we write to the Committee with more details.
120. **Mr McLaughlin:** That would be helpful. However, the point that I am making is that we clearly did not achieve best value. It is obvious. They could not have sold the site otherwise. It would not have been worth the effort. Somebody else got better value than the public purse.
121. **Mr D Ross:** We have no idea of the motives behind that onward transaction.
122. **Mr McLaughlin:** We can guess.
123. **Mr Copeland:** It is rapidly becoming my view that accepting any valuation from Land and Property Services can be less than sensible on occasion. A piece of land is no different from any other commodity. It is not worth one penny more than what someone is prepared to pay for it. I come from a family with around 60 years' history in the purchase of land for development. Generally speaking, you have to have a piece of land that can be developed or that you think can be developed. You do not pay any more for it than you can help. That land was developed to the tune of around 70 units. In 2005, the unit site value in Belfast was somewhere between £100,000 and £170,000 a unit. That would give you a figure that is vastly more than the one you suggest. Consideration should also have been given to apportioning outline planning permission, which is generally much simpler to achieve and is used by developers for rolling property on.
124. You can explain practically everything. However, what I cannot get my mind around is the fact that somebody bought that site and apparently flipped it in less than one day. You cannot do that unless you have prior knowledge that, first, you will be able to buy it and, secondly, that the person to whom you are selling it has the cash or funding in place to get it. Were there any similarities between the solicitors that were used or linkages that would suggest that the two events were connected in some way?
125. **Mr D Ross:** I have no knowledge about the solicitors who were involved in the carriage of sales. However, again, we can get back to you on that.
126. Another little bit of information is contained in the deed of conveyance, from which I will quote if I may. It states:
"The Premises were purchased by the Transferor as bare trustee for the Transferee with money provided for that purpose by the Transferee."
127. As I have said, I am not an expert on conveyance. However, that suggests to me that —
128. **Mr Copeland:** It suggests that the land was bought on behalf of the person who eventually bought it.
129. **Mr D Ross:** Yes.
130. **Mr Copeland:** You have the whack in the middle called a "finder's fee" or "commission" or whatever you want to call it. A lot of terms are appearing with alarming regularity.
131. **Mr Murphy:** Most of my questions were asked in some of the supplementaries. Mr Lavery, you said that you would be concerned if you had evidence that full value for money for the public purse was not achieved. Do you remain of the view that there is no evidence that full value for money was not got? If you are not of that view, have you initiated any inquiry into how full value for money was not achieved?
132. **Mr Lavery:** I have not initiated an inquiry, Mr Murphy. I was trying to make the point that, when we looked at the report again, we did not agree with the Audit Office's conclusion. I stand by that. The key point is that we are unable to establish the onward price. My point was simply that it would cause me concern if it was sold at a profit and we went through a standard public sector process that did not deliver the right outcome for the public sector. I am happy to do further work. I have not instituted further work on this at this stage.

133. **Mr Murphy:** Is the matter now closed as far as you are concerned?
134. **Mr Lavery:** I do not necessarily think so. As Mr Ross suggested, we could do more work and write to the Committee about that.
135. **Mr McQuillan:** David, you said that you were fit to benchmark against other sales. If you were fit to benchmark against other sales, why were you not fit to benchmark against what this site was sold on for? No one seems to know what it was sold on for, yet you say that you were fit to benchmark.
136. **Mr D Ross:** We benchmarked the purchase price that we achieved, which was £3.8 million. There is no evidence of an onward sale price, if any, to benchmark that against. I reiterate my offer to the Committee that we will do more work on this.
137. **Mr McQuillan:** I have a final question for Mr Lavery. LPS appointed the agent for selling the site. What instructions did your Department give LPS regarding the marketing and sale of the site? Were you content that the instructions were complied with?
138. **Mr Lavery:** I am not absolutely sure what the instructions were. There is no evidence in the papers that I have looked at of any discord between LPS and the Department about the process. The Department challenged LPS on whether clawback would be one of the conditions of the process. I think that that is in the report. The advice that we were given was that it would not. From what I have looked at, I cannot see any evidence of discord between the two parties.
139. **Mr McQuillan:** It might be handy if you forwarded to the Committee the instructions that you gave to LPS so that we can have a wee look at them.
140. **Mr Copeland:** Thank you, Chair. You are being very kind today.
141. I take it that you are aware of the concept of capital gains tax. If someone purchases something in the afternoon and sells it later the same day for more than they paid for it, they will bear the liability for capital gains tax on the assumption that the title had been transferred. You said that you would go and ask some questions. One of the questions that I would ask is whether the person whose bid was accepted and who purchased the site and then sold it on ever become the holder of the title to the land. The title is everything where land is concerned. Before you can sell land, you have to have a clear title. That title has to be seen to the satisfaction of both the buyer and the seller.
142. I am just curious. I would have thought that Her Majesty's Revenue and Customs (HMRC) should been in a position to give you some indication of what was paid for the land. If land is resold on the same day, there could be implications for capital gains tax, stamp duty and a whole raft of other things. I do not think that it would be that hard to find out what the second price was, and I really think that it will be substantially above what was paid initially.
143. **Mr S Anderson:** Mr Ross, you said that you are not an expert on conveyance, and I accept that. From listening to you, it seems that, since the deal was completed, a lot of issues have arisen for you that you are prepared to write another paper on and submit to the Committee.
144. What way was the bidding done on the day? How many bidders were there? When you are bringing that information back to us, can we get some insight into the process and the mechanics of the bidding on the day and see whether there are any connections there that suggest that something could be flipped on within hours? If anyone wants to flip something, they will not flip it at a loss; it has to be done at quite a substantial gain, even though we may not know what that is. I think that there is something that we have to tease out there about the bidders and the way that the bidding was done to see whether there are any other connections. Is it possible to get that information along with the other stuff that you are bringing back to us?

145. **Mr D Ross:** I will undertake to get that information for the Committee.
146. The re-marketing bidding was brought to a close in the same way as the initial bidding process, which was through the request for final written offers from interested parties.
147. **Mr S Anderson:** Do we know how many there were? Do you have all that information, and can we get it?
148. **Mr D Ross:** As is pointed out on paragraph 2.4 of the report, our Belfast district office case file no longer exists, so there is an incomplete record there of the correspondence between the agent and LPS on this.
149. **Mr S Anderson:** When we are trying to delve into the mechanics of the sale and how it was completed, it does not auger well that we seem to have so much missing. That information could tell us what we are trying to find out today and make connections. We are trying to get to the bottom of something here, and no one around this table today would not say that this was flipped at a substantial profit that should have gone into the public sector instead of into some private sector pocket.
150. That is causing great concern, and we have to get as much information back. I appreciate your saying that you will bring some information back, but we need to get as much back as possible to see whether we can make a connection on the completion of the sale of the property.
151. **The Chairperson:** Maybe we should write to the permanent secretary of the Department of Finance and Personnel asking for the same assurances that Mr Lavery has given us on the information that can be found. That is an option that is open to the Committee, because I hope that the assurances that we got from one Department would be replicated in another.
152. **Mr Lavery:** Mr Murphy asked me whether I had instituted an investigation and whether I was concerned. Yes, I am concerned. When we were preparing for this meeting, Mr Ross provided the benchmarking information. It gave me some comfort when I was told that the price that we got was a good price compared with those of previous and subsequent sales. I am sorry; I just did not make that point. I am not being complacent in any way, but I thought that that was some comfort about the value. However, I reiterate that I would not be happy if we did not get the best value.
153. **Mr Murphy:** I am not sure whether we are speaking at odds. The Committee is obviously very concerned and does not think that we got value for money. We would like to have evidence of how the flipping exercise worked and what it accrued for whoever was involved in it, but we cannot get that. We are not entirely sure that you are on the same page and that you think that there has been something untoward here, that you did not get value for money and that it is of significant concern for you. If that is not the case, as far as you are concerned, the case is closed and there is no further action to be taken and no lessons to be learned. I think that that is at odds with the Committee's general view on this incident.
154. **Mr Lavery:** I am sorry; no, that was not what I was trying to say. I mean —
155. **Mr Murphy:** I am not sure whether you are satisfied that you got a good price.
156. **Mr Lavery:** The benchmarking information gave me some comfort about the price. I am saying that evidence that we did not get the best price would cause me significant concern, and we would do some work on that.
157. **Mr Murphy:** So, you have not seen any evidence of that?
158. **Mr Lavery:** Not yet, but we take the points that have been made. We will take this away and look at it and see what evidence we can get.
159. **Mr McLaughlin:** Although the conditional bid of around £5 million was rejected because you were not looking for such bids, did that not cause any re-

- examination of the approach, given that you were going to proceed at a different time? The site was kept on the market, and it was re-advertised in the local newspaper, so the intention remained the same. Do you not see that conditional bid as evidence that the market would have responded to a reprofiling of the site, for example, as one that had necessary development planning permissions and that that would have been the best route to achieving best value for money?
160. **Mr Lavery:** If I am right, I think that LPS advice was taken at the time. The view was taken that it was not clear what the scheme was and it was not clear whether it would have got planning permission or how long it would have tied up the sale. I suspect that the LPS advice to continue with that process was taken at the time.
161. **Mr McLaughlin:** I am sorry, but the Department, as the owner of the site, was provided with advice at that time that the only viable route was to seek planning permission for housing and that that is what developers would be interested in. So, that was a clear option for the Department. I am very interested to know what the process was that set that aside and left it to the developers. I want to come to the disposal of the site and how it was managed. We have already had a conversation about the flipping of the site on the same day as the sale. Clearly, there were people in the private sector. I do not know whether there is guidance on accepting that you had your eye wiped, but the reality is that you had an option set before you, albeit that someone stepped outside the terms of reference that were provided in the initial approach to the market. Surely, however, that was clear evidence that another approach would have realised more money for the public purse.
162. **Mr Lavery:** All that I can say to you is that the Department had embarked on a process. It had accepted the LPS advice and agreed to the re-marketing in August. It had obviously got advice that taking conditional bids was not the right way forward, and it had got DFP approval for the process. The Department was content to go down that route at that time. There may have been discussions with LPS, but the Department was content with the process at that time.
163. **Mr McLaughlin:** If we look at paragraphs 2.2 to 2.6 of the report, we will see that neither your Department nor DFP is accepting the Audit Office's concerns about the procedures. I know that you were in agreement, but we seem to be dealing with an issue on which best value was not achieved. I am interested to know whether, today, you are still standing over your comments outlined in paragraph 2.6, stating that that represented best value. I do not know how you can do that.
164. **Mr Lavery:** In the absence of further evidence, I am standing over it. As I said before, I think that we should deal with it as an overall process. Was it the right decision to go without planning permission and without clawback? We agree with DFP and LPS. Again, I go back to the same point, which is that, if it turns out that there is evidence that we did not get the best value, it was clearly not the right answer.
165. **Mr McLaughlin:** You make two comments in paragraph 2.6. One is that the site had been "extensively marketed", although the evidence and the report indicate that that consisted of re-advertising it in a local newspaper around August 2003. The second comment is:
- "value for money has been obtained based on the expert advice that no better price could be obtained."*
166. Where did the expert advice come from?
167. **Mr Lavery:** It came from LPS.
168. **Mr McLaughlin:** Is the use of the phrase "extensively marketed" based on the single re-advertisement in a single newspaper?
169. **Mr Lavery:** The sites attracted 73 interested parties. David can give you more information about the agent's process.

170. **Mr D Ross:** The marketing was more than just simply placing an advertisement in the 'Belfast Telegraph', although one was placed in its commercial property section. The sites were on the agent's website for the full marketing period, including the initial period and the re-marketing period, of eight months in total. However, as would be typical for this type of site, the agent made direct contact with a full network of other agents and developers in the marketplace.
171. **Mr McLaughlin:** Mr Lavery mentioned 73 interested parties. Can you explain that?
172. **Mr D Ross:** Yes. There were 73 different enquiries about the site.
173. **Mr McLaughlin:** To the agent?
174. **Mr D Ross:** Yes.
175. **Mr McLaughlin:** Part of our difficulty is that there seems to be very little evidence of a paper trail. Does Land and Property Services have that information? Do we know how that was whittled down?
176. **Mr D Ross:** As I said, it does not help that our file has been disposed of. It was disposed of in line with our official file disposal policy, which requires a file for this type of sale to be retained for five years.
177. **Mr McLaughlin:** Would the agent have a file?
178. **Mr D Ross:** I have spoken to the agent since the publication of the report, but his file no longer exists either.
179. **Mr McLaughlin:** The sales process seems to have been informal. Would you accept that description of it?
180. **Mr D Ross:** I do not think that I would accept it, because, in line with our standard conditions of appointment, we appoint only professionally qualified firms, be they Royal Institution of Chartered Surveyors (RICS), Irish Auctioneers and Valuers Institute (IAVI) or National Association of Estate Agents (NAEA) firms, all of which have their own governance and professional standards. So, I would suggest that the sale was conducted in a thoroughly professional manner by the agent who was appointed.
181. **Mr McLaughlin:** Was the approach to the disposal of the site left to the agent? For example —
182. **Mr D Ross:** No. The marketing strategy would be —
183. **Mr McLaughlin:** Part of the conditions?
184. **Mr D Ross:** It would be agreed between LPS, the client and the agent.
185. **Mr McLaughlin:** So, would the Department have had a hands-on role in deciding, for instance, that it would not go to an auction?
186. **Mr D Ross:** The way to characterise that would be to say that, in conjunction with his own view, the agent would seek our opinion on the various alternatives for disposing of the property. There is no right or wrong way for a disposal for each and every property; there are alternatives.
187. **Mr McLaughlin:** Do we take it from that that the agent was appointed but was not given a specific brief for the method of disposal and that the Department was asking him to arrange and conduct an auction or simply the disposal of the site and that the decision was his?
188. **Mr D Ross:** No. The brief would have been agreed between LPS and the agent.
189. **Mr McLaughlin:** Beforehand?
190. **Mr D Ross:** On appointment. When we went to the —
191. **Mr McLaughlin:** I am trying to tie it down, but I think that you answered it. You can confirm that what you are telling us is, in fact, that LPS signed off on the appointment of the agent on the basis that it was going to be a sale that he conducted as opposed to an auction.
192. **Mr D Ross:** As part of the competitive tendering exercise, we would ask the agents for several things. We would ask

- them for their opinion of the value of the site, and we would ask them about their fee and advertising budget and their marketing strategy. We got tenders from 10 different estate agents. However, I should add that none of them agreed on value, and they all had different views on the optimal disposal strategy for the site. One or two recommended auction, but the vast majority recommended sale by private treaty.
193. **Mr McLaughlin:** Of course, the conflict comes between those who have a responsibility for the public interest in this and those who are on the interface between the private and the public interest. For example, an agent might well argue that a private sale is the way to proceed, because that allows them considerable room for manoeuvre and to establish relationships. However, I want to come to the question of whether, in your view, there is any impropriety in this process. If there were differences of opinion, what were the deciding factors on the route that the Department would follow?
194. **Mr D Ross:** It would ultimately be the recommendation of LPS.
195. **Mr McLaughlin:** So, LPS considered the bids from those who suggested auction, and it considered the bids of those who suggested that they would conduct a sale themselves. That is almost a private confidential negotiation that the agent conducts on behalf of the Department.
196. **Mr D Ross:** No. By way of a formal reporting process, the agent would typically keep LPS informed of each and every bid that it received on a property during the marketing period.
197. **Mr McLaughlin:** So, if I understand it correctly, and despite the evidence that emerged from the earlier market test, there would have been some interest in it and a considerably higher value if there had been a conditional sale route. That was set aside. When it came to appointing the agent going to an auction, which might well have elicited some competing interest from developers, again to the benefit of the public purse, that was also set aside in the arrangements that were eventually arrived at.
198. Mr Lavery, do you think that our procedures stand up to examination in the retrospective view of this particular experience?
199. **Mr Lavery:** Chair, it is very difficult to look at it all retrospectively. As we said in the report, when we looked at the process, we were content and agreed with DFP, and we got its approval at the time. The ultimate test is whether we get best price out of the process.
200. **Mr McLaughlin:** Do you completely understand and accept the reasons why interest from 73 parties was reduced to a single sale, which resulted in the site being flipped within a matter of hours, and that that was a robust system that protected the public interest?
201. **Mr Lavery:** Again, Chair —
202. **Mr McLaughlin:** I am only saying that you had time to look at this —
203. **Mr Lavery:** No; I agree with you.
204. **Mr McLaughlin:** — and you are challenging it now. The evidence has been destroyed under procedures and conditions. What lessons have been learned from this process when it was a contemporaneous process? Did somebody on the day say, “We were skinned”, or not?
205. **Mr Lavery:** I was not aware that there were any concerns at the time until the Audit Office raised this, Mr McLaughlin.
206. **Mr McLaughlin:** You see, that is what worries me, and I think that that is what is worrying others. There is a considerable amount of interest in this case, and you have to understand that people have a legitimate concern about how it was processed. They are wondering who is looking after the public interest.
207. **Mr Lavery:** Again, all I can say is that the report states that OFMDFM and DFP signed off on the process and were

- content that we got best value. However, if we did not get best value, that is of significant concern to us.
208. **Mr McLaughlin:** With regard to the process of reducing the number of bids to the serious bids and then eventually making a decision, were the Department or LPS represented in any way at all in the evaluation of those bids and in agreeing which bid would eventually be accepted?
209. **Mr D Ross:** I make the point that it was 73 enquiries, as opposed to 73 bids.
210. **Mr McLaughlin:** I know that the enquiries do not always materialise as serious bids. I understand that. So, we have arrived at a point where we say that decisions are going to be made. How involved was the Department?
211. **Mr D Ross:** There would be very active dialogue between the agent and LPS and from LPS to the client as we approached that decision-making point.
212. **Mr McLaughlin:** Does that include inspections of the bids documents?
213. **Mr D Ross:** It includes the agent reporting to us on the bids and, in this case, the letters of support that the bidders' financial backers provided. One of the conditions of the final written offers was that evidence of financial viability had to be associated with the bid.
214. **The Chairperson:** If I can just come in on Mr Ross's point about some of the stuff that was destroyed, it was well kept within the five-year recommendation. Can you tell us exactly when it was destroyed?
215. **Mr D Ross:** Yes, I have some information on that. It was in 2010. At that stage, the LPS headquarters building was based in Queen's Court in Belfast, and we were preparing for a move to our new regional offices at College Street. We were looking at old files as part of that move.
216. **The Chairperson:** So, it was in 2010. When did the Audit Office start looking at this piece of work? Perhaps I can ask representatives of the Audit Office. Do you have any idea when this piece of work was started?
217. **Mr Kieran Donnelly (Comptroller and Auditor General):** It was in 2009, and there were early presentations of findings in February 2010.
218. **The Chairperson:** So, the work had begun, but the information was destroyed?
219. **Mr D Ross:** I am not sure of the date of the first approach from the Audit Office.
220. **The Chairperson:** It was 2009. Does that make sense? I just wonder why a report was begun by the Audit Office in 2009 and files were destroyed in 2010. That seems very strange. Does that not seem strange to you?
221. **Mr D Ross:** I see the point that you are making, and it does seem strange. I will undertake to find out precise dates of when files were disposed of.
222. **The Chairperson:** That would be interesting. That would bear down on our inquiry, but it seems very strange. A couple of times now Departments have come in front of us after the Audit Office has taken the approach of going in to look at them for an inquiry or a report that it is working on, yet files have been destroyed. It is not good enough. It is simply not good enough, because it tells people out there that something is wrong. Whether there is or not, it smells as though there is something wrong. I do not think that it is acceptable that information is being destroyed when a report is being worked on. It is clear to me, as the Chairperson of this Committee, that it looks very strange. I do not think that it is acceptable. I think that processes need to be put in to all Departments on that.
223. **Mr McLaughlin:** You came in on that point, Chair, and it was very helpful.
224. You indicated that those records were destroyed in line with procedures. Can we have a copy of those procedures? Specifically, I would like you to examine whether they deal with issues where there would be an ongoing investigation

- and whether that precludes the destruction of documents that may be helpful to that investigation.
225. **Mr D Ross:** We can do that.
226. **Mr McLaughlin:** To return to my earlier point, if you take a retrospective overview, Mr Lavery, I wonder whether you would remain confident and satisfied that there was no impropriety in the process from the initial decision to dispose of the site, the process of testing the market and the eventual procedures that were used to dispose of the site.
227. **Mr Lavery:** Again, I was not aware of the timescale on the disposal of the papers in relation to the Audit Office inquiry. It would give me concern if there was any connection there. As I said, I remain content that the right process was followed. We could do further work. It all turns on whether it was — to use, I think, Mr Copeland's phrase — flipped on at a higher price. The question is whether the £3.8 million that was obtained was the best value. I am content with the LPS process; it was signed off by DFP. You asked me whether, looking at it retrospectively, we would go through a similar process. We probably would. Would I challenge harder on clawback? Looking at it now, I probably would. We have clawback processes. We take LPS's view as the experts, and LPS is also content with the process. It all comes down to whether we got best value in the end.
228. **Mr McLaughlin:** One point about the destruction of documents almost slipped my mind: who signs off on that ultimately and takes responsibility for that decision? Is it you, the accounting officer? Do you stand over the process? At what level is that decision taken or approved?
229. **Mr Lavery:** I think that —
230. **Mr McLaughlin:** It is LPS's documents, but does that come back to you, as the accounting officer?
231. **Mr Lavery:** Generally, in the public sector, an accounting officer is responsible for the records in a Department. There will be an information senior responsible owner in the Department. Each Department's records are the responsibility of each Department.
232. **Mr McLaughlin:** If we cannot find the records because they have been destroyed, we could establish who approved their destruction.
233. **Mr Lavery:** It would probably be for Mr Ross, as it is a DFP issue, but —
234. **Mr McLaughlin:** I would be happy for you to write to the Committee; I just need a yes or no.
235. **Mr Lavery:** I think that there will be a policy that records should only be destroyed within an existing policy.
236. **Mr McLaughlin:** Yes, but somebody has to approve that in the circumstances, including the fact that there might be an ongoing investigation. If you looked at it, we could establish who authorised the destruction of those records.
237. **Mr Lavery:** Certainly.
238. **Mr Copeland:** I presume that it is not beyond the bounds of imagination that the agent kept LPS informed and that LPS kept the Departments informed. Although there may not be records in the agent or LPS, there may be records in a Department.
239. **Mr Lavery:** Yes. We would look at whatever records we have.
240. **Mr Copeland:** David, rewind a wee bit to the appointment of the agent. Do you have a pool of people who are approved agents, or was it tendered?
241. **Mr D Ross:** That particular exercise was tendered.
242. **Mr Copeland:** Had the successful company operated for LPS in the past?
243. **Mr D Ross:** It had.
244. **Mr Copeland:** Successfully and satisfactorily? Are you aware of anything like that before?

245. **Mr D Ross:** No; they had operated successfully.
246. **Mr Copeland:** Does that company also act as an ordinary estate agent for the onward sale of properties, houses and apartments?
247. **Mr D Ross:** That would be the case with all our appointments.
248. **Mr Copeland:** The point that I am making, from personal experience, is that agents, like everybody else, need to make a dollar; they need to turn a few pounds and make a margin. That is quite legitimate. Generally, when an agent sells a property, be it on behalf of a Department or anybody else, the real money for them comes in the onward final ability to sell the property that is constructed on the site. Is there any evidence that the agent ended up as an agent, in any way, shape or form, for the sale of the properties that were eventually constructed?
249. **Mr D Ross:** There is no evidence to that effect. Our standard conditions of appointment for agents include undertakings at the appointment of the commission, including declarations of a conflict of interest. Should a conflict emerge during the commission of the disposal, there is a requirement to declare that as well.
250. **Mr Copeland:** However, for an agent to be appointed subsequently to someone who had purchased it on the same day as the person who originally purchased it might not be seen as a conflict of interest within those parameters. I am not saying that it happened; I am asking whether it did. Do you have any knowledge of who the eventual agent was who sold the properties that were developed on the site?
251. **Mr D Ross:** I do not, but it should be easy to find out. I will get back to the Committee.
252. **Mr Copeland:** What was actually sold? Was it just the site with the building, or had the building been removed?
253. **Mr D Ross:** It was sold with two fairly substantial buildings intact; they had not been demolished.
254. **Mr Copeland:** Was there any suggestion of who would be responsible for the removal of asbestos or contamination from the site, were it to be discovered? Would that have fallen to the Departments that sold it, or, based on the principle of “caveat emptor”, was it solely the responsibility of the person who purchased the site?
255. **Mr D Ross:** The sites were sold on an all-risks basis to the purchaser.
256. **Mr S Anderson:** When did the Department or LPS become aware that the site had been flipped? Was it common knowledge? Was there anything to raise interest before the audit people got started on it in 2009? I ask because I am back to the lost file. If there had been common knowledge that the site had been flipped, would there not have been a case for ensuring that all files were retained in a secure manner in case any questions were ever asked? Would LPS or the Department have realised that the site had been passed on earlier in 2004 or 2005 or whenever it was?
257. **Mr D Ross:** The first time that LPS became aware of the site being “flipped”, to use that word, was in the first draft report from the Audit Office.
258. **Mr S Anderson:** No one knew until 2009. Is that what we are saying? The site was sold in 2003, yet nothing was picked up and there was no knowledge.
259. **Mr D Ross:** To the best of my knowledge, that is correct.
260. **Mr S Anderson:** That is strange and interesting. You would think that you would hear about that along the line in any development sale in the property market, which at times seems to be quite open. People know about sites and what is happening, but, with this one, no one seemed to pick up on that. We look forward to the extra information that you are bringing to the Committee, and we will see whether we can find anything in it.

261. **Mr Dallat:** Mr Ross, you said earlier that you would say that the sale was conducted on a thoroughly professional basis. Given what we have listened to over the past hour and a half, are you still of that opinion? This hearing is being recorded by Hansard as a record for the future. Am I to go home to Kilrea this evening believing that you are still of the opinion that the sale was conducted on a thoroughly professional basis? I want an honest answer, not the rehearsed one.
262. **Mr D Ross:** I am of the view that the sale was indeed handled in a professional manner.
263. **Mr Dallat:** That news is as depressing as I have heard today. If you were to put together exemplar material on how not to do something, this has to be it. I most certainly would not be giving you my pig to take to market, because I am convinced that you would come home with no money. Surely, one of the oldest tricks in the book is for someone to put in a high dummy price and withdraw it for someone to pick up the loot. Is that not what goes on in the property market all the time?
264. **Mr D Ross:** There is a multitude of tactics out there.
265. **Mr Dallat:** You better believe it, mate.
266. **Mr McLaughlin:** Some of them are professional.
267. **Mr Dallat:** While I was sitting here pondering, I remembered that, in the past few weeks, there was an advertisement in the paper that caught the imagination of the media. The salary for it was £150,000 or something, and it was something to do with the sale of land and property. Can you help me with this? No qualifications were specified for that new appointment. Is that the sort of person who would sell off army sites? You do not know about that?
268. **Mr D Ross:** Was that recently?
269. **Mr Dallat:** Perhaps we should look into that. There was a lucrative salary on offer for someone who handled government property.
270. **Mr D Ross:** The appointment in question was of the member for the Northern Ireland Lands Tribunal.
271. **Mr Dallat:** Let us hope that he looks at this case.
272. We have, time and again this afternoon, gone over the issue of conditional basis and unconditional basis. After the highest bidder withdrew his bid, why did you not go back to the next-highest bidder and have some discussions with him? You obviously did not, because you only discovered that something had happened when the Audit Office became involved.
273. **Mr D Ross:** No. My information is that bidder D dropped out and withdrew his highest — or, should I say, the then accepted — bid of £4.7 million. Under-bidder C was approached, and he reduced his bid to £3.6 million, which was deemed to be an unacceptable offer. That precipitated the decision to go back to the marketplace.
274. **Mr Dallat:** That seems to me to be a rather unconventional way to get the best value for money. I am not sure what the follow-up question to that should be. We are talking about bidders A, B, C and D and about an agent. Chairperson, I hope that I have your support in trying to influence these reports so that they are open and transparent and so that the people involved in them are named. If some craythur is convicted of taking a Mars bar out of Tesco, he will be all over the front pages. Yet in these reports an enormous effort seems to be made to conceal the identities of everyone involved. Do we know who the bidders were? Is the Department prepared to name them? Who was the agent? Will you name him?
275. **Mr Lavery:** I am not sure what the protocols are, Mr Dallat, although I am happy to write to the Committee on that.
276. **Mr Dallat:** I feel sorry for you because there will be so much writing after this meeting that it will tie you down for

- months. To be honest, you might have come here much better prepared and with many more answers. The questions should have been fairly predictable, yet there is almost a conspiracy of silence among the four of you as to what information the Committee needs. We are charged with ensuring that government money is spent properly, that the public gets the best value for money and that lessons are learnt. We are still being told that you believe that the sale was conducted on a thoroughly professional basis, but it is obvious to me that it was not. We have no undertakings or suggestions as to how it can be done differently in future.
277. **Mr Lavery:** Chairman, there is absolutely no conspiracy of silence; we have provided the Committee with as much evidence as we can.
278. **Mr Dallat:** I have no more questions.
279. **Mr Copeland:** How was the first sale concluded. What method of payment was used — bank draft, guarantee or cheque? I presume it was not cash. How was the second sale concluded? Someone bought it for £3 million or whatever it was during the afternoon and allegedly sold it for more the same day. Did any financial transaction take place between the person who first bought it and the agent? What was the method of payment? If it was paid by cheque, the cheque would not have cleared by that time, so, technically, no sale took place. Was it paid by bank draft?
280. I am curious, because something stinks about this. It could be nothing, but I find the whole thing totally confusing. Going back to what John said, most of our experiences with ordinary people involved sums of £1 million, whereas sums of £3 million, £4 million, £5 million, or £10 million are almost unheard of. It begs the question: for whose benefit is this form of government being administered? There seems to be one rule for one set of people and another for ordinary folk. I do not want to hold you to account for it, but people come to us almost every week to tell us exactly the same story.
- You then cannot find out where the information is because the files have been destroyed or are missing. It gets very tedious on occasions.
281. I will stay with paragraph 2.6. Mr Ross, the Committee previously recommended the need for clawback arrangements to protect the public sector from excess profits made by developers. We had seen the problem on the horizon beforehand. Why did LPS choose to ignore what is, in effect, its own guidance in this case when advising the Department against the inclusion of clawback? Do you accept that, to the layperson, the advice appears to suit the private-sector developer as opposed to protecting the public sector's interest? That is what we and, I presume, you are charged with.
282. **Mr D Ross:** I respectfully suggest that we did not ignore our own rules on clawback. Appendix 8 has the extract of those rules. First, clawback is not mandatory, as it does not suit every occasion and every deal. The key points about clawback are that it is a device to protect against windfall gain at some point in future and, generally, a windfall gain that is precipitated by an enhanced planning permission. The two conditions that need to be satisfied, tested or considered are, first, whether there are likely to be any unusual delays in resolving the certainties about planning. That did not apply to the case in Malone because there was no uncertainty, and Planning Service was very clear about what permission it would give. The second question that needed to be considered was whether there was any doubt about which use would generate the best price. In the view of LPS at the time, there was no doubt that high-density residential housing development was the best option, and we valued and set an asking price accordingly.
283. **Mr Copeland:** Without knowing the sell-on price, do you suspect that there could have been an element of windfall gain, certainly for the person who bought it in the first case?

284. **Mr D Ross:** There is no evidence to suggest that there was any windfall gain; neither is there evidence to suggest that there was a disposal at a higher or better price. I go back to my benchmarking evidence, which shows that the price achieved for Malone was the best price at the time compared with similar sites and, indeed, remained the best price on a price-per-acre basis for some time in Belfast.
285. **Mr Copeland:** What leads you to that conclusion? What would be the motivation of the person who bought it in the first place?
286. **Mr D Ross:** The motivation of the developer who bought the site in the first place?
287. **Mr Copeland:** You said that there was no evidence of any windfall gain, and I fully accept that. We do not know that it was sold for more than it was purchased for, but it is very unlikely that it was sold for less. Therefore, without second-guessing, is there another possible motive why someone would buy something in the value of £3 million-odd and sell it on to another person on the same day? Is there another plausible reason for that?
288. **Mr D Ross:** The plausible reason is that they were connected parties and had a business relationship. I said earlier that I have looked at certain documents in the Land Registry and at the deed of conveyance between those two parties. That indicates a connection between them. I have offered to —
289. **Mr Copeland:** I do not want to pressure you. That is really what I was trying to establish. You will investigate that and come back with further information.
290. **Mr McQuillan:** I have one wee quick question. Surely, Mr Ross, you do not expect us to believe that it was sold at a loss? I know that there is no evidence that it was sold at a profit. However, nobody is going to buy something for £3.8 million only to sell it at a loss a couple of hours later. There is no way on this earth that that would ever happen. Even if the buyer had to sell it at a loss, they would have at least held it for while to try to get the best price. The fact that they sold it within an hour suggests to me that a profit was made — probably a very big profit. I know that there is no evidence of that, but surely you have to recognise that?
291. **Mr D Ross:** I go back to the evidence in the Land Registry. Perhaps it is necessary for me to go a little bit further on what I have already said. The deed of conveyance states:
“The premises were purchased by the Transferor, as bare trustee for the Transferee with money provided for that purpose by the Transferee.”
292. That means that the OFMDFM purchaser was a nominee of the second purchaser.
293. **Mr Copeland:** What would be the reason for someone using a proxy purchaser in the trade?
294. **Mr D Ross:** We can only speculate about the motives behind that. Some bidders like to remain anonymous in the marketplace; there can be tax advantages; there can be accounting efficiencies. We often find that developers can create subordinate companies simply for the purposes of taking forward a separate development. Again, there are accounting efficiencies there.
295. **Mr Copeland:** Would HMRC normally be notified when the government had disposed of a property to someone else? Is that normal?
296. **Mr Ross:** Yes. However, it is not just the government that have to do that. Any disposal has to be registered with HMRC for stamp duty and tax purposes.
297. **Mr Copeland:** Therefore there could be records in HMRC? Have you thought of making those enquiries?
298. **Mr Ross:** That is an enquiry that we will be making on behalf of —
299. **Mr Copeland:** I am pressuring you, and that is not kind procedure. Mr Ross, again I apologise.
300. Still on paragraph 2.6, I am trying to understand what the official guidance is

- in relation to the disposal of public land and buildings that would be different from people disposing of their own property. I would find it helpful if you could explain briefly what it says in particular about enhancing the value of a site, for example, through securing planning permission and the use of clawback. What is the guidance on those matters?
301. **Mr Ross:** I touched on the clawback guidance. In a similar vein, the planning guidance is merely guidance; it is not mandatory, and it is not a set of rules. The guidance makes the point that each and every disposal or sale of a site is unique, and we need to consider all the risk factors for each site. The prime risk factors that we are talking about at the minute are as follows: whether to go to the market with or without conditions; whether to seek outline or full planning permission before going to the market; and whether to impose some sort of clawback to protect the public purse against future enhancement in value. The guidelines emphasise those things but do not give explicit direction for each and every case that might arise.
302. **Mr Copeland:** Do they give protection to people like yourself who have to implement them? In other words, if you were you to follow one piece of guidance as opposed to another, how steadfast — if that is the right word — or robust would your decision be when assessed historically?
303. **Mr Ross:** To some extent, all Departments place a reliance on LPS as the experts in property.
304. **Mr Copeland:** You have already undertaken to go through a substantial piece of work, and I do have some sympathy. However, given the current financial strictures, these matters are extremely important to us and to the general public. To allow the Committee to assess how the guidance has operated historically, would it be possible for you to provide us with details for each of the past 10 years, or as far back as your records go, on the number of cases in which LPS has been involved and has recommended securing outline planning permission ahead of a sale to enhance the value of a site and/or recommended the inclusion of clawback? Would that be an operation that could be undertaken relatively easily?
305. **Mr Ross:** I undertake to provide that information to the Committee.
306. **Mr Copeland:** That is kind of you, sir. Thank you.
307. **Mr D Ross:** I want to make one point on the guidelines. They are not static; they are subject to review and are currently subject to a review. The reasons why we are undertaking that review mainly stem from the current economic conditions, and, given those conditions, we are asking whether the guidelines are fit for purpose. Structural changes in government, specifically the setting up of the asset management unit, also mean that we need to revise the guidelines.
308. **Mr Copeland:** Chairman, with your permission, my next question is for the Treasury Officer of Accounts. Paragraphs 2.12 and 2.13 deal with the handling of the proceeds for the sale of the sites, whatever that amount eventually was. What are the rules for the use of such proceeds from one-off capital asset sales? If, as in this case, they are surrendered to the consolidated fund, how are they used for the benefit of the peace process? Can you guarantee that none of that money went back to the Treasury?
309. **Ms Hamill:** The moneys would have been held in the Northern Ireland block under year-end flexibility. If sale proceeds are surrendered and the income is not in a Department's annual plan for expenditure, they would be returned and the Executive would decide how they are reallocated. Ring-fencing to reallocate specifically identified funds to community and peace issues can create a great deal of budgetary problems. However, there would be no difficulty in demonstrating that the total spend of the Executive in the years that those

- receipts were received was grossly in excess of that specific capital receipt.
310. **Mr Copeland:** Are you saying that we cannot tell, with any surety, where the money went once it came in, and that it would just be absorbed?
311. **Ms Hamill:** It was returned to the Executive and they redistributed it against their priorities.
312. **Mr Copeland:** Was that done through the normal budgetary process? Did it feature at the end of a cycle when this money suddenly became available and was then divvied up?
313. **Ms Hamill:** I would need to check the timing. However, if the moneys were not part of the Department's anticipated income that it had agreed to retain through the Assembly process, they would have come back when the receipts were received, whatever time of year that might have been.
314. **Mr S Anderson:** Mr Lavery, figure 7 shows expenditure against the funding that was allocated. The level of underspend on some of the surrendered moneys was quite staggering. What steps have you taken to review and approve your Department's financial planning process? Has that led to any improvements?
315. **Mr Lavery:** Do members have my letter that includes the updated figure 7?
316. **The Chairperson:** Yes.
317. **Mr Lavery:** That updated table may help to answer your question. I absolutely take the point about the total of in-year changes of £38 million. The Department has taken significant steps on its budgeting, and, as you will see, there were no in-year surrenders in relation to the capital and resource funding on the sites in 2011-12. The Department's provisional out-turn will, I think, be in about three or four weeks, but, at the minute, we are forecasting between 99% and 100% spend. Last year, the final out-turn against opening budget was 91%, but the underspend was 1.2%.
318. You asked what actions the Department is taking. It has improved the budgetary management, but it is also a demonstration of the fact that there has been significant spend and significant development at Crumlin Road jail, Ebrington and Maze/Long Kesh, because that reflects the spend against original budget and the out-turn. We have made significant progress, but I absolutely take the point about the level of in-year changes.
319. **Mr S Anderson:** You are quite happy with the action that you are taking and that the figures will end up positive?
320. **Mr Lavery:** We have to wait for our final audited accounts, but, today, it looks as though it will be between 99% and 100%.
321. **Mr S Anderson:** We cannot ask for more than that.
322. Mr Lavery, paragraph 3.4 on page 29 shows that one of the key factors in successfully developing the sites is maximising investment from the private sector. How have you sought to harness the private sector's interest in Ebrington and Maze/Long Kesh? Can you clarify how much private sector investment you have managed to attract to date?
323. **Mr Lavery:** As I said at the start, we have generated non-core public sector funds from EU Peace money, and we have attracted the RUAS to the site. As we said earlier, our estimate — Kyle can confirm this — is that that would bring £60 million of development value to that site. The period up to now has basically been spent on getting those sites ready, and it is now a question of moving forward with the private sector to attract private sector investment. Again, that depends on the market. Kyle can talk about MLK, but, for Ilex and Ebrington, we will have a development framework within the next six months for attracting private sector investment. We are in the process of leasing the A wing of Crumlin Road jail and bringing investment into that, and we will bring in a contractor to re-open the jail as a visitor attraction. That all demonstrates that we are

- making progress in bringing in external investment.
324. **Mr S Anderson:** You said that, up to now, most efforts have been concentrated on preparing sites, but surely part of that is bringing investment and the interested private sector people to work along with you? That period should have been used to develop the sites in a two-way project.
325. **Mr Lavery:** The OECD report on Laganside says that the first 10 years is about getting the infrastructure right, and, on these sites — certainly at Maze/Long Kesh — it has been about de-risking, given the level of decontamination. You have to get to a stage where the private sector will have confidence that it will get a return on its investment. With Ebrington, we have been doing site works to get the parade ground, for instance, to the stage that it is at now. Necessarily, that has been public sector pump-priming to make that investment, and now is the time to look at the private sector. The sports stadium project at MLK would have taken part of the timescale. That project did not proceed, and we then had to restart in 2008-09.
326. **Mr S Anderson:** I still think that there are opportunities there. I realise that you maybe had to get sites prepared, but it is good to get organisations and people interested in the site when it is prepared and have a plan on the table ready to run.
327. **Mr Lavery:** Again, if you look at the Laganside experience, you will see that the investment from the public and private sectors in the first 10 years was 1:1 at that stage; the private sector investment came in during the next 10 years. I will bring Tim in.
328. **Mr Losty:** I want to confirm that, although we were going through development on a lot of the sites, it was not that we were not talking to the private sector; we were maintaining contact through officials and, more recently, through the asset management unit. We are ensuring that we get information out to the private sector. We are taking some people round the sites, and we are talking to them about the overall plans. There is an interest there, and there is the definite intention to involve the private sector. However, the general position is that, although they are interested, they want to come back and talk to us.
329. **Mr S Anderson:** I appreciate that.
330. **Mr Losty:** However, it is very important that we maintain that contact, because we see the private sector as being the main investor in these projects in the future.
331. **Mr Lavery:** Soft market testing has been done at the Maze/Long Kesh site. I will bring Kyle in.
332. **Mr Alexander:** You are quite right. The aim is to get all the sites to the stage where they are attractive to the private sector, and there is a judgement to be made about when you do that. As Noel said, as part of the spatial framework and planning work that we have done over the past few months, we have engaged with the private sector, and the view from those people is that we need to take steps to gain their confidence. We need to be at the stage when we can say that the site is now cleared and clean, and we need to be able to explain to them what our plans are for the infrastructure that we are going to provide. The right time to go to the private sector will be a matter of judgement.
333. As I said earlier, we are starting to create momentum on the site; all of the remediation work is virtually complete; the site is cleared; we are starting to open up the site to public access; we have got the first two commitments for the funding for the resolution centre and the commitment of the RUAS. Therefore, we will be in a much stronger situation sometime in the next 12 to 18 months to go out to the market. However, we need to judge that and get it right. The last thing that I want to do is go to the market too soon. We have already had one approach to the private sector as

- part of the sport stadium scheme that was terminated. Therefore, we need to ensure that, when we go to the market next time, we have got everything in place. My judgement is that that will be within the next 12 to 18 months.
334. As part of my day-to-day work, the advantage of the development corporation is that it will be seen as the one-stop shop for anything to do with the site. There is the opportunity for me and others in the team to start to engage with the private sector. When the news came out, in the past two months, that the deal had been done with the RUAS, the perceptions of the site started to change. The whole point of our work is that there is a need for the public sector to intervene to get the sites to the stage where we can attract interest, but that is still some months away.
335. **Mr S Anderson:** You talked about 12 to 18 months. How confident are you of that timescale?
336. **Mr Alexander:** Well, if you look at where we are now, you will see that the site is now clean and clear. The key step will be in the next few months when the development corporation will be formed. That will be a real statement to the private sector that government is now committed to the development of the site. I would be confident that, within that timescale, we would be ready to go to the market.
337. **Mr Dallat:** A senior official from your Department travelled to the United States in December 2002 — just before Christmas — to gain some experience on how to handle the decontamination of military sites. Their experience was that decontamination can be costly and that appropriate protocols should be put in place. How was that insight used to advise and inform decisions on the transfer of the sites? Was it just another junket? Why did your Department not take that advice on board?
338. **Mr Lavery:** These sites were gifted. I am not aware of any more detail on that beyond what you have said, Mr Dallat, although I reiterate that our experience on these sites and at MLK is that it takes a long time to find out exactly what the contaminant it is and how to work with it and decontaminate it. That is a lesson we have learned in taking on the Hillsborough sites.
339. **Mr Losty:** To add to that, there was the initial visit to look at the disposal of former military sites. The issue of contamination and decontamination was a big one. My understanding is that, in the United States, that cost is passed over to the people who are developing the site. There was a follow-up visit to some of the former military bases in the US by the Maze/Long Kesh panel, and it was made aware of some of the costs involved in decontamination of sites. We are a lot more knowledgeable now about the decontamination of sites than we were at that time. That visit helped to inform how we should best manage decontamination of sites. How we decontaminate the sites is dependent on how we intend to use those sites. That will determine the level of decontamination that we will go to. That is factored into the costs and the ultimate usage of the sites, so, it is not information that has been lost.
340. **Mr Dallat:** I am a bit lost here. This was a senior official, and I am not sure whether someone was carrying his briefcase, but I would be pretty certain that he was travelling business class. He went to the United States in December. He got the information, brought it back and you did not use it. Why?
341. **Mr Losty:** The overall information from that visit was about the practices used in the US and the organisations that worked with the US in the disposal of military sites. Details on some of those sites were brought back, and I was involved in helping to manage return visits from a number of interested parties from here to the United States back in 2005.
342. **Mr Dallat:** That was three years later. OK. Turning to paragraph 3.11 of the report, and forgive me for being puzzled by your comments that carrying out due

- diligence checks ahead of the transfer of the sites:
- “would have been counter to the aims of the Reinvestment and Reform Initiative”.*
343. Am I interpreting that correctly by saying that it does not matter about the condition of the sites, and that we should just get on with it and accept it, regardless of the impact on the Northern Ireland block grant?
344. **Mr Lavery:** No. I think that is not what the Department was trying to say, Mr Dallat. I think that what the Department was trying to say was that these sites were gifted and Ministers at the time were eager to take ownership of the sites and get them developed. As paragraph 2 states:
- “The Executive must bear the cost of making the sites ready for use”.*
345. **Mr Dallat:** Who said that?
346. **Mr Lavery:** That was the agreement with the UK Government. It is in paragraph 2 of the Audit Office report. The Executive were always going to bear that cost. So, the Department instituted its first investigation following the information on decontamination from the MOD. I think that first examination was in June 2003.
347. **Mr Dallat:** With hindsight, would you say that the British Government got a great deal, leaving all their contamination behind them and leaving a fledgling, little regional Assembly to pick up the bill for cleaning it up?
348. **Mr Lavery:** It cost us £9.5 million to decontaminate the ground and to remove some buildings at the MLK site, and the tables in the report show that that was where the major contamination was. We did not know the full extent of the decontamination at the time, but we will get a greater amount for the sites than it has cost to decontaminate them.
349. **Mr Dallat:** Paragraphs 3.19 and 3.20 on page 25 of the report point out what appears to be a serious and worrying gap in legislation that has existed for 15 years. As a former councillor for far more years than I want to admit, I know that pollution is a big issue for local councils. In the past few years, it has become a really big issue. However, it seems that there was no legislation to force the owners of those sites to clean up their own back yards. Where did the principle of polluter pays apply?
350. **Mr Lavery:** The Department of the Environment (DOE) has provided advice on the legislation, and I can come to that later. The agreement was that the Executive would bear the cost of making the sites ready. It would have been a different matter if we had purchased the sites, as it was for DSD with the Fort George site.
351. **Mr Dallat:** Let us stick with the issue of pollution. If there had been a proper regime in place to ensure that the principle of polluter pays applied, surely we would not have had to pick up the tab up from the MOD? The Environment Agency would have had the power to deal with the contamination and compel the MOD to clean up the mess.
352. **Mr Lavery:** That would have been the case if we had purchased the site. However, it was gifted, and we took on that liability.
353. **Mr Dallat:** Chairperson, forgive me, but I am starting to get a completely different interpretation of the term “gifted”. Initially, it was a nice term that meant that we were getting something for nothing. However, it seems that it involved inheriting the asbestos, lead, bomb dumps and everything else on those sites. If there had been proper legislation in place that gave the Environment Agency or the local councils powers, surely those so-called gifted sites would not have carried the baggage of cleaning up the pollution?
354. **Mr Losty:** To some extent, we are looking back in hindsight at some of the experiences. However, if that had been the case, it is most likely that we would have had to purchase the sites, and, given the market value of sites at the time, the cost of our purchasing those

- sites ready for development could have been excessive.
355. We are looking at the long-term value of the sites and believe that there is already a value in our receiving the sites. Previously the sites were military bases and prisons. We now have the sites as part of the normalisation process, and they are in community ownership. We have to invest in the development of the sites, and that includes decontamination and other infrastructure costs. However, we believe that that is an investment that will maximise the value of the sites in the future.
356. We do not know what the potential cost of the purchase of those sites would have been if it had been up to the MOD or the polluter to manage all the decontamination and make those sites ready for selling on. It may not have been attractive for the MOD or the Government to give the sites to us at that stage, and it would have been a pure market sale.
357. **Mr Dallat:** Although it is not a part of this inquiry, we know that the market value of Shackleton Barracks in Ballykelly was £1.25 million. We have a fair idea that the pollution costs will amount to between £8 million and £10 million. Is that good value for money?
358. **Mr Losty:** We are looking at taking on sites at a time when the market value is at rock bottom. We are looking at 730 acres that will be normalised and demilitarised and used for the benefit of the community. We will work with local communities and other stakeholders to see how we can maximise the benefit of the site. That may require an investment from us and from partners in the private sector, but, in the years to come, the value of that site will be a lot more than £1.25 million.
359. **Mr Lavery:** May I just add to that, Mr Dallat? The key point about the Shackleton site was that Ministers were not satisfied that the sales proceeds from the MOD process demonstrated a maximum return for the site.
360. **Mr Dallat:** I am glad that you are saying that, because I thought that I was going to have to say it for you. You were not satisfied at all.
361. **Mr Lavery:** The Ministers' view was that the return for the site was not maximised, and that is why they issued a direction.
362. **Mr Dallat:** I suppose that someone else in the future can make a judgement on whether it was a good decision. The kernel of the issue was that, in hard times, to tell the wider community that, effectively, it is picking up the tab for the contamination left behind over the span of 100 years, did not seem to me to be a very good deal. I am surprised that you are still advocating that it was.
363. **Mr Lavery:** As Tim said, our challenge now is to maximise the value of the site.
364. **Mr Copeland:** Mr Lavery, paragraphs 4.6 to 4.10 and figure 9 in the report discuss the public service agreement (PSA) targets set for the sites and highlight the importance of being transparent and accountable. It is my understanding that your Department is ultimately responsible for dealing with Departments on matters surrounding PSA targets. Forgive me, but you do not seem to practice what you preach. There seems to have been a reluctance to establish specific, measurable, attainable, realistic and time-bound (SMART) targets for these sites and to publish strategy documents and business and operational plans. Would you agree with that, and, if so, what steps have you taken to remedy that or develop the process?
365. **Mr Lavery:** There are a couple of points there about targets and publication. I fully accept the Audit Office's point about the targets not being SMART. They reflected the situation at the time, and the desire to develop the sites. SMART targets and milestones and outputs for MLK and Ebrington have been published in the Programme for Government. The Department will produce delivery plans to back that up, and they will have milestones. The Department's business

- plan, which is published annually, will include specific targets and milestones for Crumlin Road jail.
366. You asked about publishing. The Department published its 2011-12 business plan subsequent to the Audit Office report, if I am not mistaken. Certainly, it was around that time. Publication is a matter for Ministers. The Department works to the targets in its draft business plan and the departmental board monitors that. We would include a reference to that in our annual report and in our accounts.
367. **Mr Copeland:** When you say that the publication time is a matter for Ministers, are you, in effect, saying that the Minister now has all the information that he requires to publish if he so wished?
368. **Mr Lavery:** I was considering the Department's 2012-13 business plan, which has not yet gone to Ministers, but it will do so shortly. It is a matter for Ministers to decide when they want to publish that.
369. **Mr Copeland:** What sort of input do Ministers have on the way in which information is presented? Do they simply approve it, sign it off and have it printed, or do they have an editorial role, if that is the proper way to put it?
370. **Mr Lavery:** OFMDFM's practice is to produce a business plan in a balanced scorecard format, and, if it is published, it will go on the website. We give it, in draft, to Ministers, and Ministers comment on it.
371. **Mr Copeland:** So they sign off the final document and have sight of the proposed documents at each stage?
372. **Mr Lavery:** Ministers see drafts and sign off on the final version.
373. **Mr Copeland:** Paragraphs 4.11 and 4.13 deal with your Department's oversight. I am aware that the OFMDFM Committee has considered oversight arrangements, and I have no doubt that some of my colleagues will pick up on some of the problems in Ilex. Can you give some detail on what steps you have taken to improve oversight and control in your Department? It comes back to the basic grass roots from where most of us have come, where small community groups and small to medium-sized businesses have to account for absolutely every penny, be it for toilet roll, Domestos or tea and biscuits. At the other end of the scale, however, you seem to find vast amounts of money that can be disbursed in ways in which it is not meant to be, with little recompense or accountability. It is sometimes difficult for me to comprehend someone getting paid an amount of money and then having the tax and national insurance liability that would go with that paid on top of it. I know that it has happened in the Parades Commission and in a number of other places, such as within Ilex. It seems to beg this question: for whose advantage does the system operate? It has to operate for the benefit of the ordinary citizen, whose money this is. There is no such thing as public money; it belongs to people. Most of us have bank accounts and are very familiar with what happens when you spend more than you have got. It appears that some of these groups spent money that they should not have spent. Apparently, Ilex spent money that it was not supposed to spend, and, fair enough, you said that you would not authorise the expenditure. However, it had been spent by that stage. What steps have you taken to improve oversight and control?
374. **Mr Lavery:** I will cover the generality of my approach to oversight and control in the Department, and then I will go on to the specifics. Since I have been accounting officer, I have had a complete review of the Department's oversight arrangements. I have taken best practice from DFP and produced that in our guidance in relation to arm's-length bodies. I have completely revamped the stewardship statements.
375. As to how we get assurance, effectively, we were getting assurance from the organisation, and part of that was a proactive stewardship statement

- on a quarterly basis from the arm's-length body chief executives. I completely revamped that and made it proactive, so that it covered such key issues as business planning, post-project evaluations, consultancy spend, procurement and budgetary management.
376. Given concerns that were expressed by the Department of Finance around our consultancy spend, I reduced consultancy delegations to our arm's-length bodies, and I have changed our system of budgetary control. I have also put in place a governance unit with enhanced qualified accountancy experience to ensure closer control. I have taken a range of actions. The proactive assurance is a key element of that. The Department monitors expenditure and receives information. Under my guidance, I have instituted a quarterly liaison meeting, which goes through governance matters, stewardship statements, and audit and governance issues. I believe that I have strengthened the system since I have come in.
377. You mentioned Ilex —
378. **The Chairperson:** By and large, we will be talking about Ilex separately.
379. **Mr Lavery:** Mr Copeland raised it.
380. **The Chairperson:** I know, but I think he just referred to it and mentioned that some members will be pressing questions on it later.
381. **Mr Copeland:** Do you agree that the most fundamental thing that has to be addressed in some ways is the attitude? I do not mean this badly, but there is an attitude of mind that needs to be addressed. There is an attitude of mind that seems to operate differently to the way in which normal finance and business and community groups do, and when we find something that is irksome, papers and records are not available and nobody can tell us X, Y and Z. I know from business experience that you know every single nut and bolt in the system and that you know where all the moves are. It strikes me sometimes that the public purse is lying open for those who have the fastest horse to gallop past it, scoop the money up and put into their bootlegs. That is not something that everybody has the ability to do, but I have become seriously cynical in the time that I have spent on this Committee. I think that the general public will look at a lot of these things with a good deal of concern and many raised eyebrows. We get the ultimate blame for it, because we preside over the system that allows such actions.
382. Those are comments rather than questions, but you will get from them a sense of my admiration for the way in which some of the answers have been given and my cynicism about their content, which is perhaps a slightly different thing.
383. Fiona, given what we have just listened to, can I have your assessment on the arrangements that are now in place in the Department? Are you in a position to review OFMDFM's delegations?
384. **Ms Hamill:** Do you mean review the delegations that DFP has placed on OFMDFM?
385. **Mr Copeland:** Yes.
386. **Ms Hamill:** They are reviewed annually between DFP and OFMDFM. That is an ongoing process between the supply teams.
387. **Mr Copeland:** OK. Are you reasonably content with the safeguards and changes that, as we discussed, are in place, or is there still room for improvement?
388. **Ms Hamill:** I cannot speak on that matter; I am sorry.
389. **Mr Copeland:** Mr Lavery, you are last, you will be glad to hear. Paragraph 4.13 and recommendation 8 deal with the establishment of strategic oversight arrangements. Have you signed up to and accepted that recommendation?
390. **Mr Lavery:** Yes, Mr Copeland, we have.
391. **Mr Copeland:** Unequivocally?

392. **Mr Lavery:** Unequivocally, and the board has been established and has met.
393. **Mr Murphy:** This is my final question, you will be glad to hear, and it is about the involvement of the community. Obviously, there was extensive consultation, particularly on the Crumlin Road site and the Derry sites. How do things lead on from consultation and people giving responses to the actual involvement of the community in the development of lands? For instance, does the community have a voice on the boards that manage those projects? Is it that there is simply a consultation exercise where you take views but then go off and do what you intended to anyway?
394. **Mr Losty:** It would not be appropriate to simply consult and then move on. Some vehicles have to be designed that allow for participation from communities or their representatives, or there should at least a way of reporting back to communities on what has been done and a mechanism by which they can come along and see what has been done.
395. The different sites have various mechanisms for doing that. With MLK, there are various reference groups. With Ilex, there would be community participation in the City of Culture preparations and some of the other projects that it is involved in. With the Crumlin Road jail and the Girdwood site master plan, there will be community involvement in the final decisions on its outworkings. The local communities will be involved and invited to use the Crumlin Road jail for meetings. Also, we will bring the community groups in regularly throughout the work so that they can see what is being done.
396. **Mr Murphy:** You seemed to indicate that, in the case of the Crumlin Road/Girdwood site, there is community involvement in the decision-making process. Is that consistent across the other sites?
397. **Mr Losty:** With some of the other sites, decisions have been made based on the consultation. The next stage is finding out how communities would be involved in either the delivery mechanisms or at various stages in the delivery of a programme when people would come back to tell the community what is happening. In the situation of Ilex and the One Plan, various groups have been formed, from a strategy and regeneration group through to smaller groups that are looking at individual aspects of the delivery. There are still reference groups on MLK and the peace-building and conflict resolution centre. We are still finalising consultation with the communities on Girdwood, and we are doing that with DSD. Then, when we start to move forward with the projects that will be put in place, we will be looking to see how we can satisfy the communities through their involvement in those projects. With some of them, it may be involvement in a board; with some it might be through some sort of social economy enterprise; and with some it may simply be reporting back at a regular period.
398. **Mr Dallat:** Following on from Conor's question, which I think was very relevant and good, based on your experience with the existing sites that we are talking about, how do you intend to approach the Shackleton site? We have the unique experience of having over 300 families already living in the former army houses. As someone who has represented that area for the past 14 years, I am sick to the back teeth of writing letters, tabling questions and being treated like a mushroom and kept in the dark. I do not know what is happening there. I get the gossip around the streets in Limavady. If that is how you treat elected representatives, how do you intend to treat the wider community, based on the experience that Conor just talked about?
399. **Mr Losty:** It is important that the community and stakeholders are involved, and certainly the local council and local elected officials would be the first port of call. As I mentioned to Mr McQuillan, we intend to meet with the council very early. I think that that

meeting is scheduled for next week. We will be rolling out a series of meetings after that with interested parties. What we have been doing since we received ownership of the site is looking to see what has to be done to it. We have been engaged in discussions with some of the neighbours of the site, so we have been getting a better feel for what has to be done for the maintenance and to reduce those costs. We are now in a position where we feel that we can start to go out and talk with the relevant parties.

400. **Mr Dallat:** It is good that we are having this meeting today, because I had no idea that there was a meeting next week. I had no idea about the meeting that was in Ballykelly. That caused me huge embarrassment when people there asked why I was not at it. Are the Assembly members of all political parties invited to those meetings, or are we out on a limb?
401. **Mr Lavery:** We will make sure that the Assembly Members are invited, Mr Dallat.
402. **Mr Dallat:** That is progress.
403. **The Chairperson:** On that progress note, this particular session has ended. There is a lot of information that we need to come back and forth with, and I am sure that there might be other material, which we will put to you in writing. Thank you very much, Kyle, Tim and David.

25 April 2012

Members present for all or part of the proceedings:

Mr Paul Maskey (Chairperson)
 Mr Sydney Anderson
 Mr Michael Copeland
 Mr John Dallat
 Mr Mitchel McLaughlin
 Mr Adrian McQuillan
 Mr Conor Murphy

Witnesses:

Mr Will Haire	<i>Department for Social Development</i>
Dr Aideen McGinley	<i>Ilex Urban Regeneration Company</i>
Mr Noel Lavery	<i>Office of the First Minister and deputy First Minister</i>

Also in attendance:

Mr Kieran Donnelly	<i>Comptroller and Auditor General</i>
Ms Fiona Hamill	<i>Treasury Officer of Accounts</i>

404. **The Chairperson:** This session is about the Ilex accounts for 2010-11. Will you introduce your team, please?
405. **Mr Noel Lavery (Office of the First Minister and deputy First Minister):** On my left is Will Haire, permanent secretary and accounting officer of the Department for Social Development (DSD); and Dr Aideen McGinley, chief executive and accounting officer of Ilex.
406. **The Chairperson:** Thank you. I will start, but other members will also come in with questions. Please keep your comments and answers succinct, because we need to push this on. Members have an updated biography of Dr Aideen McGinley, which was tabled today.
407. I think that it is nine years since Ilex was established. It has had four chairmen and the same number of chief executives. That seems a very large

number of chairpersons and chief executives. Paragraphs 4.14 to 4.16 of the Comptroller and Auditor General's report that we were considering in the previous session state that there have been major problems with working relationships, staffing levels, skills, quality of corporate planning, governance and delivery. There seem to be a lot of serious issues with those with a number of sponsoring Departments. How long have the Departments been aware of these issues, and what have you done about it?

408. **Mr Will Haire (Department for Social Development):** Chair, I will lead off on that, as we have a shared accounting role. We are very aware of the challenges that there have been and of their history. The quinquennial review by BDO, which was done last year, made these points very clearly. It pointed to the real problems that the body had in organisational and other terms over the first six years. It pointed out that, with Sir Roy arriving, there had been an improvement in other structures but that the organisation was taking time to bed down.
409. It also pointed to the issue of two Departments, which comes from the fact that my Department has responsibility for Fort George, which we own, and that Ebrington has been gifted to the Office of the First Minister and deputy First Minister (OFMDFM). I should also point out that Ministers decided at the time that both Departments would act as sponsor. We have produced a lot of joint documentation and processes and have split the work as best we can, but I think that that report and the recent work by the Department of Finance and Personnel (DFP) indicates that we need one Department with a clear line of sight to take a clear lead responsibility. That is an issue that Noel and I are working through. I want to make sure that any clear line of sight is clear for everybody

- and does not produce more complexities with government.
410. That said, we have worked together, and since Noel and I have been together in this dual role and since Dr McGinley has been there, we have tried as best we can to make sure that Departments speak with joint voices on these issues, that we combine processes as best we can and that we can simplify processes. However, complexities are thrown up for Ilex that it has to deal with. It is not an easy environment, but we are very conscious of it. As I said, the clear line of sight process, which we hope to conclude in the coming months, will be piloted for the rest of this year, and, next year, one Department will be in a stronger lead role. I think that that will be helpful to Ilex.
411. **The Chairperson:** Are you saying that the process will be concluded within the next couple of months? Do you have a date or a time frame for that?
412. **Mr Haire:** I have been talking to my finance colleagues, and we hope to conclude the work in the coming months. Obviously, we have to engage with our Ministers to see that they are content with the process. The aim would then be, I understand, to run the organisation in the new way in shadow form for the rest of this financial year but to do the formal process only from April 2013 to ensure that the financial side is right.
413. **The Chairperson:** If that is provided to us in writing, we could include it in our report. That would be quite useful.
414. **Mr S Anderson:** Dr McGinley, I find paragraph 11(i) of the accounting report totally astonishing. Expenditure on consultancy was £75,000, but the contract was extended to £479,000. That is £404,000 in excess of the original approval, yet DSD was told about that only in November 2011. By that stage, huge amounts of unapproved expenditure had already been incurred. How do you explain what appears to be, quite honestly, a blatant disregard for the rules and for sponsor control?
415. **Dr Aideen McGinley (Ilex Urban Regeneration Company):** First, I want to say that I and the board are extremely disappointed at what we have found in the organisation, and we are committed to addressing it. The Peace Bridge project is a very good case in point. That was tendered under the Central Procurement Directorate (CPD) secondary framework back in 2008, and, as an NEC3 contract, the scale of the project and the nature of the consultancy support that was required went from A to C. In other words, it was a better level of project management. I think that that was the right thing, because it made sure that the project itself was run. As you say, the original tender came in very low compared with the final tender, and I know that the Committee is very tasked by the scale of the differences. At the time, it was procedurally correct, and it was possible to extend contracts. It predated a European case in 2008 about reporting of extensions of contracts subsequently, either for re-tendering or going back out. CPD has assured us that there was no breach in procedure. It reflected the change in the nature of the surveillance that we were asking for. However, it was wrong for us to not let the Department know. We did not find that until we did the review of adherence generally between May and September 2011, and, as soon as I was aware of it, I brought it to the Department's attention.
416. **Mr S Anderson:** We are talking about a vast amount of money and consultancy fees of £75,000 that jumped to £400,000-odd. Surely something would have got the alarm bells ringing to make you think, "We cannot not run without approval for this. Someone needs to be told what is wrong and why things went wrong before we forge ahead and do something." There is surely something wrong in the organisation if that was not picked up and acted on.
417. **Dr McGinley:** In this case, the contract management was done according to procedures. You are quite right to question the extension. In theory, it was

- a single tender action (STA), but it could have been classified as a single tender negotiation (STN) and should have had approval. We have had assurances from CPD that we got value for money on the issue. It is against a £13.5 million build of the Peace Bridge, and I am assured about the value for money. I, personally, have a difficulty, and you are quite right about this, as we should have kept the Departments informed of the change in the nature of the contract that led to the increase in the fees. However, the value for money has been agreed. A recent report of yours was on any preponderance for fraud, and my internal audit, which is provided to me by DSD, is looking at this case along with a number of others to satisfy me that no other alarm bells are ringing. I think that that is the point that you are making.
418. **Mr S Anderson:** Given that there was such a vast difference, I do not know whether you got value for money.
419. **Dr McGinley:** It came in at 3.9% of fees against the capital value, which is under the threshold of what is acceptable for a large capital project.
420. **Mr S Anderson:** You have accepted that that was unapproved and should not have happened.
421. **Dr McGinley:** We did not report it to the Departments, and that is where we went wrong and why it was unapproved. That should not have happened.
422. **Mr S Anderson:** Are you saying that lessons have been learned?
423. **Dr McGinley:** Absolutely.
424. **Mr S Anderson:** Are procedures now in place so that things like that will not happen again?
425. **Dr McGinley:** We have put very formal systems in place for our purchase order procedures and the logging of our business cases. We have looked at literally all our systems. When we discovered a number of issues similar to this, we went right back to basic principles and have now put an action plan in place that reflects what the Departments have subsequently asked us to do. We had a report in March against progress, and our internal audit team told us that they saw some improvements. There is still work to be done, and we will report again in June on the progress of the plan. It is about having a fundamental system of logging business cases and purchase order systems and making them much more robust. That will mean that, literally, work cannot be done without formal approvals.
426. **Mr S Anderson:** Is that action plan completed and in place?
427. **Dr McGinley:** Yes. We started it in December, and there has been an outworking of some of the actions. For example, as discussed in the previous session, we have implemented procedures for information issues. It will take a while to align our electronic records with our manual records, but we have started that process. So, the actions that we have identified in the plan have all been commenced. Some have been completed, and some are in progress.
428. **Mr S Anderson:** When do you hope to complete those actions?
429. **Dr McGinley:** By the end of this year. We have completed the actions that we wanted to complete by March, and there will be a further review in June. We have reported to Ministers on our March progress and will report in June on further progress. Our audit committee has set up a special committee, called a governance committee, which meets monthly to scrutinise our progress on issues. The Departments are also assisting us with some of the backlogs to ensure that we meet our targets.
430. **Mr S Anderson:** I suppose that that is progress, Chair. That finishes my supplementary questions.
431. **The Chairperson:** I ask members to keep their supplementary questions as brief as possible.
432. **Mr Haire:** Chair, I want to make one additional point. This is obviously a very

- serious issue for us. Our Minister has met with the board of Ilex, emphasised the importance of the issue and got a clear statement from the board about the seriousness with which it takes the matter.
433. Noel and I meet with Dr McGinley and her director of corporate services once a month to go through the action plan and a number of other actions, including a review by the performance and efficiency delivery unit (PEDU) of the governance and other structures in the organisation, to make sure that the processes are correct. There are a range of issues to consider, but, in those meetings, we look at the processes and the capabilities. Until I can assure the Ministers that all those issues are dealt with and are in the blood of Ilex, as it were, that system will be in place.
434. **Mr Copeland:** Thank you, Chair. Good afternoon, Dr McGinley. What was the purpose of the first tendering process that led to the acceptance of a tender of £75,000? What was that designed to do? Did the company that won that tender win a £75,000 contract or a £479,000 contract? That is the essential question and is one that some of the other companies that tendered could express an interest in. You have told me that the contract represented value for money, and I have no reason to doubt that. However, the bottom line is that a company was asked to do x, y and z, and it said that it could do it for £75,000. When they got x, y and z with a, b and c tagged on by some external process, the contract ended up at almost half a million pounds.
435. Secondly, how is it possible to spend half a million pounds when you do not have it? Was that money owed or written off? Did you submit a docket to the Department that it stands over? Again, from my experience in the ubiquitous community groups, I know that you cannot spend tuppence unless you have it. Do you have an overdraft facility?
436. **Dr McGinley:** Absolutely not. It is a very good question. The lesson from this is that we should be as sure as we can at the outset of what the requirement is when we go out to tender. The original requirement was for basic design. Subsequently, the scale of the project, which is European funded, increased. The percentage of 3.9% was well within the allowance set by the European funding for the fees against the capital.
437. **Mr Copeland:** I do not doubt that. What I am questioning is the attitude that will be taken to all the other companies in Northern Ireland who are hungry for this sort of work and who find themselves excluded from £479,000 of business on the basis of an accepted tender for £75,000.
438. **Dr McGinley:** It would not happen now, because the European procedures have changed since the Priesetext case in 2008, insofar as if you were aware of any substantial increase you would have to go back out to tender. At the time, it was acceptable to do that. We have had CPD guidance, and we are still talking to SEUPB about these matters.
439. You are right: the ideal would have been to go back out to tender. We used the CPD secondary framework, which is, as you know, open to a variety of companies, and there is a call-off. I believe that a couple of companies responded to the tender at the time, and the lowest tender was accepted. The business case cost was slightly larger as well; it was approximately £79,000. However, the fact that the tender came in low, together with the change in the nature of the contract, is what led to the increase in the fees regime.
440. Again, there are two lessons: first, we should be clear about what we are looking for in our tender at the outset so that we go out to the market in a fair way; secondly, it would not happen now, because even in European terms, the precedent has now been set that in the event of any substantial increase you would be expected to at least consider going back out to the market.
441. **Mr Copeland:** I would be more content if it would not happen now because we have learnt the lessons here rather than

- importing anything from Europe. Can you tell me how you spend money that you do not have?
442. **Dr McGinley:** No, this would have been part of the overall contract for the building of the bridge. We would have worked with SEUPB on that element of the spend in the budget that was allowed to us for the building of the bridge. Another thing to mention is the managing of the risk. The existing company had the design, and it was a huge capital infrastructure project. The level of scrutiny that was brought to it was that which was required to ensure the safe provision of the bridge. The technicality is that we should have declared that the schedule had changed and had gone back out to market. Those were some of the factors that were taken into account when the decision was made.
443. **Mr Copeland:** Has this happened on many occasions?
444. **Mr Haire:** The Committee looked at this issue recently. The issue exists across the system, and we know that there are lessons that we have to learn around that. We have here particular instances reported against Ilex where there have been a range of incidents of misunderstandings around clarity.
445. **The Chairperson:** I remind members to be brief with their supplementary questions, because we are probing supplementaries at this stage.
446. **Mr Dallat:** Will, you had officials sitting on the board of Ilex. Were they sitting on their hands or were they sleeping? They were bound to know about all this.
447. **Mr Haire:** We had observers in that process. The interesting point is that these issues were not being reported. The quality of information was not coming to the board, so it was not getting the insight because reporting was not clear enough. That is interesting, because we have entire systems, and we are getting assurances from the chief executive about all these systems, but the key point is that when Dr McGinley came into the system, the quality of information, as I understand it, coming from the staff who were operating the systems showed that they were not pushing these issues up the system. Therefore, we were getting false information in the process. The lesson that I take from this is that you have to build in the quality of information right from the start.
448. **Mr Dallat:** That is important for our report, because it is not just a question of tendering but of information that is flowing right to the top.
449. I hear many good stories about Ilex. The one criticism here is that perhaps it is not moving fast enough. Is it a question of being damned if you do and damned if you do not? Perhaps things are being held up because you need to get approval from Departments. I am not saying that you should not get that approval, but is that an issue?
450. **Dr McGinley:** What we want is performance with compliance. The company has made considerable progress in the past three years, which was recognised in the BDO report; there is some very good development. Will was saying that there were no real alarm bells when I came into the post; we had not really had any qualification on the accounts. Issues had been raised by the Audit Office for the financial year 2009-2010; however, it was October 2011 before those were formalised and there were internal audit issues.
451. I brought in a gateway review as soon as I started because, as accounting officer, I needed assurance about going into a very different phase for the company. You heard this afternoon about the slow start; we were starting to move into a phase where we had to deliver and I had to assure the Departments and the board that the company was fit to deliver. It has been an iterative process for about the past year and a number of these issues have now emerged. I am confident that we know what has gone wrong and that we can deal with it. We got it wrong, and we are going to put it right. Part of the dilemma is that it is difficult, but it is essential. We cannot

- use public money in the wrong way. Part of this is about knowing where we are going from here and doing it.
452. **Mr Dallat:** The Peace Bridge is a wonderful project. It symbolises much more than two communities coming together again; it symbolises everything that is right and proper and is a reflection of the future that we want. Unfortunately, that includes questioning the methods of procurement for consultancy fees.
453. **Dr McGinley:** More than half-a-million people have been over the bridge since it opened in June.
454. **Mr Dallat:** I know; I went there myself and thoroughly enjoyed it.
455. **Mr McQuillan:** I appreciate what you said, Dr McGinley, about a lesson being learned, and that you brought it to the Department's attention in November; however, at £404,000 it was a very expensive lesson. Did this take place under the watch of the former chief executive who was on £110,000 a year? Over the two and a half or three years that he was in post, he received £29,500 in bonuses. Is there any clawback there?
456. **Dr McGinley:** Some of the issues date back to 2007 and before, and some are on my watch. I am reluctant to comment on the salary or performance of my predecessor.
457. **Mr McQuillan:** I did not expect you to, but I thought that the Department might have had something to say.
458. **Mr Haire:** My understanding is that the payment there was one where —
459. **Dr McGinley:** It was contractual; it was as per the contract agreed with DFP. The payment was made on that basis. Again, the mistake made was that it should have been reported because it was a bonus. No bonuses have been paid in the company since.
460. **Mr McQuillan:** It is refreshing to hear that.
461. **Mr McLaughlin:** I want to associate myself with the positive comments about the developments, including the Peace Bridge. At a social level, that becomes more and more evident each day. The issue that has been skirted around is the blatant disregard for rules and sponsor control. That has not been addressed at all. I am looking at three senior civil servants. You, Dr McGinley, are a former permanent secretary of two Departments — the Department for Employment and Learning and DCAL. Are we expected to believe that you did not know the absolute duty to report these issues that are now dealt with as unapproved expenditure, or do you expect us to accept that you blatantly disregarded rules that you are completely familiar with?
462. **Dr McGinley:** No. There are two things here; one is that, because I have experience at accounting officer level, when I came into the organisation I started with a gateway review. I also did a staffing review, and I introduced a balanced scorecard methodology to improve performance management. I did the basics of what I felt was necessary to make the organisation the best that it could be. One of the things that had been identified was the need for a senior support on corporate affairs. As soon as I got a director in that post, I was able to address forensically some of the issues that had started to emerge. As soon as those issues were addressed, I reported them to the Department and to the Audit Office.
463. **Mr McLaughlin:** You came into post knowing that you had a responsibility to get expenditure approved; you did not need the gateway process to tell you that. We assume that, as a permanent secretary, you had the knowledge, experience and skills from your previous appointments. Why were they not applied to this post? You still have not addressed that question for me.
464. **Dr McGinley:** That is the second point that I was going to make.
465. **Mr McLaughlin:** It was absolutely your responsibility, and you accept that you failed and blatantly disregarded standard practice that every permanent

- secretary should be completely and absolutely familiar with.
466. **Dr McGinley:** I am totally aware and totally committed to being the accounting officer responsible for the stewardship of the funds. I made the mistake in two instances. In the first, the work of the OECD was interpreted as a grant and should have been treated as an STA and reported.
467. The second involved the City of Culture. I set about working retrospectively to try to regularise that spending. The company took a positive decision to partner the City of Culture competition, because it helped us to realise some of the issues that arose in the earlier evidence session about attracting private-sector investment and other things to the city. After our bid was successful, there was an interim period where we did business cases for smaller items, and the board agreed that we continue in the partnership. It became evident that we had to report to the jury team in October.
468. **Mr McLaughlin:** My colleague will come to the City of Culture. I simply want to nail the fact that you came into post with the necessary training, qualifications and experience and blatantly disregarded standard operating procedures on clearing expenditure.
469. **Dr McGinley:** No. As soon as I became aware of the issues, I dealt with them as my experience allowed me. I did not know many of the issues when I came into the organisation, but I identified and addressed them.
470. **Mr McLaughlin:** No, but you knew that you had to have approval for expenditure. I know that, and I am not a permanent secretary.
471. **Dr McGinley:** Yes, absolutely. That is the basic principle.
472. **Mr S Anderson:** We have touched slightly on the City of Culture. Paragraph 10(i) of the report deals with the City of Culture expenditure and states that Ilex did not request approval on the grounds of urgency. That does not seem very convincing. How long does it take to prepare and submit a proposal to your sponsoring Departments? Did it not occur to you that if you won the bid you would have to spend money? Did you not think it prudent to flag that up to your sponsor Departments, or were they unaware that Ilex was planning to submit a bid?
473. **Dr McGinley:** First, the Departments were very supportive of the bid, as the Executive have been, even recently. We worked with the Departments as we went along. When we won the bid, there was an interim steering group. We identified the work streams with our partners: Derry City Council and the Strategic Investment Board. Winning the bid was unexpected. We were absolutely delighted to have secured what the OECD said is “the” success for the city rather than “a” successful opportunity.
474. As I explained to Mr McLaughlin, we followed due process on smaller business cases. It was when it became evident that the quantum would exceed my delegated limit that we went wrong. In parallel, we were doing the terms of reference. We appointed external consultants in October to go out between July and October and do the larger business case for the long-term input of £2.2 million. Indeed, the lesson is that there has been no expenditure whatsoever by Ilex on the City of Culture in 2011-12, because we did not have approvals.
475. I apologise and accept full responsibility. The business case should have been in with the Departments; it should not have become a retrospective matter. I understand why it was not approved; that is where I take responsibility. There were issues, and we had obligations to the jury and to DCMS. We secured events such as the Turner Prize and the Peace One Day concert, we did more than 30 community meetings, we were meeting with business, and we attracted a £3.75 million investment from BT for digital infrastructure during that time. That is not excusable. I can explain but cannot defend what I did. I was aware that I should have had approvals, and it

- should not have been retrospective. In that instance, I take full responsibility.
476. **Mr S Anderson:** You accept full responsibility in this case? You said that when you came into the organisation with your experience you were perhaps just testing the water as you went along to pick up on things. However, in this case, are you telling the Committee that you totally accept that that should not have happened?
477. **Dr McGinley:** I am. It should not have happened. I have discussed that lesson with my staff to show that I also should not have got into that position. We have taken it very seriously, and the staff team is fully aware of the need to follow due process. Our theme is performance and compliance; we will not avoid compliance. We want to perform as a company, but we want to do so on a very sound basis. There has been a real lesson personally and corporately.
478. **Mr S Anderson:** What is the Department's view? Dr McGinley says that she accepts full responsibility in this case in working with the Department and knowing that she did not have approval.
479. **Mr Haire:** In this case, we did not give approval because it was retrospective and we could not do so. However, no more unapproved expenditure has taken place in that area since then. As Dr McGinley said, that is wrong. The key lesson for all of us in managing public funds is that the organisation, along with the supply division of DFP, should have made sure in this process that there was general agreement that if one wins this sort of process, there is agreement on how things go straight away. It was too slow, and Ilex will admit that it did not scope the amount of work that it had to do; it grew very big too rapidly, and it failed. However, the accounting officer has made her position absolutely clear.
480. **Mr Lavery:** There is now an oversight board to co-ordinate the funding for the City of Culture and to make sure that business cases are all in place. All the relevant Departments are involved in that, and the Executive have since announced £12.6 million of funding for the City of Culture.
481. **Mr S Anderson:** We have established today, Dr McGinley, that when you went to the organisation many issues needed addressed, and it took you some time to address them. However, on the back of that, you are now telling us that perhaps, in this case, you got it wrong even after trying to make the organisation fit for purpose. Is that what you are telling us?
482. **Dr McGinley:** That is a good summary.
483. **Mr S Anderson:** That is fine. You are openly accepting that, and we have to accept that. We will move on.
484. **Mr Copeland:** Dr McGinley, you have been very courageous in coming here and saying that; it is a fair cop. Did anyone have a responsibility to make sure that you could not make those mistakes? What there anyone at a higher level who had oversight of your activities?
485. **Dr McGinley:** I report to the board and to the accounting officers in the Departments. However, I am the accounting officer, and I have to accept responsibility; I am the designated accounting officer, and the buck stop here. Noel and Will have described the lesson, and it was learned very quickly. I hasten to add that I was not comfortable, and there were many pressures to do a great deal at the time. However, that is still not a good excuse, but at least we got the business case. Once we went into the next financial year, there was absolutely no spend because I was not going to allow us to get into that situation. Subsequently, the stewardship arrangements, which Noel chairs, will bring in the layer that prevents that happening again.
486. **Mr Copeland:** You, as a position, are one thing and you, as a person, are another. The fact that you have been an accounting officer may or may not have given you some inherent advantage. Somebody who had not been an accounting officer could have got the job. Was there something in place to

- ensure that, whether or not you had experience as an accounting officer, you could not get it wrong when such a set of circumstances happened?
487. **Dr McGinley:** I am responsible to the board. However, the measures that I described earlier that we have implemented on purchase ordering and the basics now mean that alarm bells would ring. My staff would now be able to tell me if we were starting to exceed budgets or over-running. We now have better information, and I hope that we have addressed that gap.
488. **Mr McLaughlin:** The City of Culture bid involved Ilex and two other partner organisations, Derry City Council and —
489. **Dr McGinley:** The SIB.
490. **Mr McLaughlin:** Who is responsible for the City of Culture project now? I understand that there is some incoherence in the management and the decision-making process. That alarms people, including me.
491. **Dr McGinley:** Derry City Council is the lead organisation; it has the memorandum with DCMS in London. There is a publicly appointed board that oversees the work of the Culture Company, and there is a very busy —
492. **Mr McLaughlin:** You have answered that question.
493. **Dr McGinley:** Sorry.
494. **Mr McLaughlin:** Ilex expended a quarter of a million of pounds-plus of unapproved expenditure on the City of Culture. What was the total expenditure? What did the partner organisations bring to the table?
495. **Dr McGinley:** We picked up the expenditure for that period; indeed, that was part of the dilemma. I was able to secure the funds from my existing baseline and prioritised the City of Culture over other things, because the other partners did not have the resources. I hasten to add that SIB resources tend to be repaid in kind with its expertise, and it has been invaluable in that respect. The council did not have the funds in its baseline. We were in a position to cover the expenditure, but we did not do so correctly.
496. **Mr McLaughlin:** You did not seek approval or follow the procedures that you understood so well.
497. **Dr McGinley:** No. We completed a business case, but it was not submitted in a timely manner.
498. **Mr McLaughlin:** Thank you.
499. **Mr Dallat:** Chairperson, we want to produce a report that is useful for the future, and I do not think that it is sufficient simply to say that Aideen McGinley blatantly disregarded protocol. I am reflecting on the television pictures and the enormous pressures that there must have been to get all the professional work done. It was an emotional time, and the whole of Northern Ireland and far beyond backed Derry in its bid for the City of Culture. I am not taking up your position, but, for the future, our report needs to reflect the conditions that you were working under at the time. I share Michael's view that you have been very courageous in coming here and putting your hands up, and I hope that that was not rehearsed.
500. How can we have a system that would react much more quickly to a situation such as Derry's having the opportunity to win an award that could transform it for ever? What is wrong with a system that put you in the position that you disregarded the protocol for consultancy fees? What element of the £404,000 related to the City of Culture bid?
501. **Dr McGinley:** The City of Culture bid cost £254,000, approximately £130,000 of which was for community events and for securing the Tate etc. Approximately £75,000 was set aside to set up the Culture Company, which was done in record time. Again, I am not trying to excuse what happened, but you are right: the quantum and momentum meant that we had to meet some requirements for DCMS in October, and we also had a deadline to have the Culture Company in place. I was perhaps light on internal resources to complete

- the business case and, perhaps, I should have resourced it externally. However, it can take between six and eight weeks to get external resources. That describes some of the factors, but, again, I am not using those as excuses.
502. **Mr Dallat:** Finally, I do not understand the whole workings of Ilex, and, as an outsider, I am envious of some of the things. I do not hear any criticism of the work that was done at St Columb's Cathedral. That went very well. The work at First Presbyterian Church went brilliantly, as did the Guildhall Square project and the Walled City project. Are you working on different models? I know that much of it was done under the integrated development fund.
503. **Dr McGinley:** That is right.
504. **Mr Dallat:** Did that model create fewer problems?
505. **Dr McGinley:** Ilex was responsible for the integrated development fund, and, with £33 million, we delivered about £122 million worth of benefit to the city. Most of the projects that you cited were recipients of funds from the integrated development fund.
506. **Mr Dallat:** Yes, I wanted to hear that because I was not sure. The Chairman is looking at me in disgust for spinning this out, but it is important.
507. **Mr Murphy:** He thinks that you have been kidnapped and replaced by somebody else.
508. **Mr Dallat:** It is important that we go away from here recognising that there were problems, but, having known Aideen McGinley for a long time, I do not think that she blatantly did it. There were other factors, and the report should reflect that.
509. **The Chairperson:** I will ask a brief question before I bring Sydney back in. As the accounting officer of that organisation, you have been very honest in saying that this was done and should never have been done. If it had been a member of staff below you, what action would you have taken?
510. **Dr McGinley:** We have been much more robust in our performance management and dealt with some difficult issues in the organisation. We have built into everyone's job plan 20% on governance issues, and it would have been addressed as part of the performance-appraisal process. I had a discussion with the chairman of the company on my performance appraisal. Hands up, I accepted that I did not perform on that front by sticking to the rules.
511. **The Chairperson:** Would you have gone through any other procedure to take action against an individual who was below your grade?
512. **Dr McGinley:** When necessary, we have done so on several issues. We take performance management very seriously.
513. **The Chairperson:** You said that you spoke to the chairperson. Did the chairperson come up with any other decision? Was there any procedure to go through?
514. **Dr McGinley:** I made him aware of what had happened, and, obviously, he did not condone it in any way. I appreciate Mr Dallat's intervention —
515. **The Chairperson:** I am sure that you do.
516. **Dr McGinley:** Absolutely. The chairman recognised the similar pressures, and we set about ensuring that it would not recur. Hence, there is no expenditure in this current year. The lesson was learnt.
517. **Mr S Anderson:** Fiona, are any procedures available to organisations such as Ilex to seek approval for spending in situations where an urgent response is important?
518. **Ms Fiona Hamill (Treasury Officer of Accounts):** If you are talking about where there is a need to make an urgent decision, the answer is yes. The principles of 'Managing Public Money' must be followed; however, 'Managing Public Money' is also clear that if an accounting officer considers that they need to resolve an issue quickly, they should do so directly, in this case with

- the sponsor body and with DFP. Several mechanisms can be brought into play in those circumstances. Noel referred to one in the previous session when he mentioned the ministerial direction for Shackleton. Actions can be taken, and there is a way to deal with the short-term approval cover that would be required to allow the business cases to proceed.
519. **Mr S Anderson:** Therefore there was a procedure that Dr McGinley could have availed herself of in that case.
520. **Ms Hamill:** Yes.
521. **Dr McGinley:** It was a matter of timeliness. During that period, we did not bring the business case to the Departments quickly enough to enable them to make a decision. It was a matter of about four or five months. We should have brought it to the Departments on a more timely basis.
522. **Mr S Anderson:** You have been very open and honest about the organisation from the start, and you have accepted your position on not seeking approval. I know that there are procedures to prevent it from happening again, although I hope that it does not.
523. **Mr McLaughlin:** Turning to paragraphs 27 and 28 of the report, Dr McGinley, why did Ilex feel that it was appropriate to appoint a new director on a salary of £80,000, when the normal starting salary for that grade would have been about £57,000?
524. **Dr McGinley:** The company designated that post as far back as 2007. Indeed, the board agreed the post in 2008, and the Departments approved it in March 2010. With the help of SIB, we went out to the market, and it was felt that the nature of the post was such that it needed international experience. We had 20 applicants, seven of whom were shortlisted, and the list was further reduced to four. One of the applicants was not interviewed, because their salary scale exceeded the salary range.
525. **Mr McLaughlin:** The point that I am getting at is that you did not submit a business case. If, in your view, the existing salary level was too low, according to the memorandum under which Ilex operates, you would have been required to seek prior approval again and to submit a business case to argue for and get support for an increased salary.
526. **Dr McGinley:** We got actuarial advice on the post and put a case to the Department, which considered it. However, there was something that we did not do, which I think that we probably should have sought approval for. We had a grant from the Department of Arts, Heritage and the Gaeltacht in the South, reflecting the cross-border nature of some of the work. That meant that the actual expenditure to the public purse in Northern Ireland was within the minimum range of the scale. Therefore, it was interpreted that there was no issue. However, we now recognise that even getting that additional resource of £20,000 should have been reported to DFP.
527. **Mr McLaughlin:** You did not actually know that? Even with your background and experience, you did not realise that you needed to submit a business case to pay an enhanced salary?
528. **Dr McGinley:** We worked closely with the Department on this issue.
529. **Mr Haire:** The point is that that was submitted to the Department at the time.
530. **Dr McGinley:** Yes, it was submitted in August.
531. **Mr Haire:** There was a failure in the Department to understand it. Someone read that the salary was at the lower level and that the cost to the exchequer in the North was at the lower end. The Department should have gone to DFP to argue the case, and there was a failure in that Department to do that. However, Dr McGinley apprised the Department of that issue.
532. **Mr McLaughlin:** What really alarms me is that, up to now, I have been dealing with one former permanent secretary who was disregarding guidance, but now I am being told that two permanent

- secretaries were in difficulty about following procedures.
533. **Mr Haire:** The situation was that the permanent secretary did not know about this issue because it was not —
534. **Mr McLaughlin:** Is that not why you get paid so much money? Are you not supposed to know all this?
535. **Mr Haire:** Omniscience is not one of our qualities, as you know. The point is that our systems failed. We should have known about it, and the Department should have reported the matter to DFP. We put our hands up on that issue. Somebody misread the information about the cost to the exchequer. The point is that this could have been seen as contentious and the rules should have therefore said that the matter should have been referred to DFP. That was an anomaly in the Department.
536. **Mr McLaughlin:** Let me clear this up between you and Dr McGinley. Was a business case submitted? You said that it was raised, which might be a different thing. Was a business case submitted?
537. **Dr McGinley:** We submitted a submission. It would not have —
538. **Mr McLaughlin:** Sorry; was a business case submitted?
539. **Dr McGinley:** It would not have constituted a business case, but actuarial advice was included to justify the salary. It was within the delegated limits. The interpretation by officials at the time was that we were offering the candidate the lower end — the minimum — of the scale and that we had sought resource to allow the enhancement on the actuarial advice. That is the piece —
540. **Mr McLaughlin:** I understand the thought processes. I want to be clear in my conclusion that a business case was not submitted, although you knew that it should have been.
541. **Dr McGinley:** There was an actuarial —
542. **Mr McLaughlin:** Was there a business case? That is all I am asking.
543. **Dr McGinley:** It was not a formal business case; it was actuarial advice.
544. **Mr McLaughlin:** Thank you. Could we, perhaps, move on?
545. **Mr Murphy:** Can I just ask one question? The money from the Department of Arts, Heritage and the Gaeltacht was specifically for the post, but you could assume that it was almost sleight of hand for —
546. **Dr McGinley:** Yes —
547. **Mr Murphy:** If you would let me finish. I do not mean that it was almost sleight of hand for you and the Department to say that the money was always going towards contributions to that salary. However, you then disregarded it and went with the lower level of salary that was available to you.
548. **Dr McGinley:** If I can explain, that particular post was crucial to the bid, even in the run-up to the City of Culture award. It was one thing that the jury was seeking the appointment of. As part of the bid process, we had been in discussion with our colleagues in the South of Ireland, who were very supportive of the bid. When it became clear that we could not make an appointment on the salary scale, we had already had the interviews, and it became clear that two candidates were suitable for appointment, both of whom were at the top end of the scale.
549. We did not offer any posts, and we did not do anything until we went to the Department in the South and said that we wished to secure the post holder at that salary. It offered and said that it would be content to make a contribution, because it saw the benefit of cross-border cultural relations. It was on that basis that we secured the additional resource to be able to secure the candidate. We would have made no appointment to that post and would have had to go back out to the market. This was the culmination of the extensive recruitment selection exercise that we had already had.

550. **Mr Murphy:** It just strikes me as a bit strange that someone was recruited on the basis of a certain salary, and the two candidates that you end up with wanted a bigger salary. You then dipped in to a supporting agency, which was the Department in the South, and got the top-up that was required to pay that salary. How fair was that to all the people who were looking at the process from the application at the start and at what was available for the post?
551. **Dr McGinley:** The salary range was £57,000 to £80,000; it was in the grade 5 range. Candidates would have been made aware of that. The ad did not specify that; it invited applications and expressions of interest, so it was wide open in the marketplace, and any candidate who applied was told the salary range. The actuarial advice was based on post holders' existing circumstances, because we would not have offered anything over and above the norm unless that was where the post holder was starting from.
552. **Mr Murphy:** Sorry, I have just one final point to make. If your salary range was up to that level, why did you need to go to the Department in the South for a top-up?
553. **Dr McGinley:** The minimum of the range is now more or less the standard of what is offered. That has become the norm.
554. **Mr Murphy:** It seems slightly misleading to offer a salary range if you are going to get only the bottom end.
555. **Mr McLaughlin:** We will move on to another subject — the tax and national insurance contributions that were paid on behalf of the chairperson. That amounted to some £30,735. Did you consider that to be a novel or contentious issue on which you should get advice from the sponsor Departments?
556. **Dr McGinley:** That dated from July 2009 to October 2011. The advice that we got from HMRC was that the liability was placed on the company. Again, that shows that the advice that we got was that the liability was for the company, and I think that the Departments recognised that and were working with the Audit Office on this ongoing issue. There is also Cabinet Office guidance that shows that it is the Department's responsibility to make this payment. So, it was on that basis that we proceeded to make the payment.
557. **Mr Lavery:** If I can just come in there, Mr McLaughlin. The Cabinet Office guidance concerns independent board members. The question is whether that applies to board members, and we are consulting with DFP on that. We think that this could have implications for board members elsewhere in the public sector.
558. **Mr McLaughlin:** Of course it does. There is a considerable amount of disquiet at the level of remuneration and performance bonuses that do not seem to be related to performance and expenses. On this issue, travel expenses were paid to the individual, and the company paid the tax and national insurance contributions. That seems to be an absolutely wonderful sweetheart deal. I would have thought that it should have been challenged in Ilex as opposed to simply being complied with.
559. **Dr McGinley:** We were in discussions with HMRC from July 2009 to October 2011. It took a considerable amount of time to resolve the issue, because, as Noel said, there is a potential precedent in it. If we had not acted on the payment, we would potentially have been fined the equivalent amount, so we had to make a judgement. The liability was on the company, and that was the advice that we were given. We negotiated down from a figure of potentially £56,000 to £30,000 with HMRC. There was a long process of negotiation, and I think that there is an issue going forward.
560. **Mr McLaughlin:** Was adjudication of responsibility or liability established in discussions with the revenue authorities?
561. **Dr McGinley:** Yes, and also through the legal advice that we sought.

562. **Mr McLaughlin:** Is it possible that we could have sight of that advice?
563. **Dr McGinley:** Certainly.
564. **Mr S Anderson:** Were the tax and national insurance contributions on travelling expenses?
565. **Dr McGinley:** It was on travelling expenses over four years.
566. **Mr S Anderson:** What did the travelling expenses come to if those payments amounted to almost £31,000? What travelling expenses were paid out?
567. **Dr McGinley:** I can give you the figures. I do not have them added up. The figure involved other expenses; it would have been out-of-pocket expenses if the chairman was staying. It was expenses in general, not just —
568. **Mr S Anderson:** Can we get those figures from you? Can you forward them?
569. **Dr McGinley:** Certainly. They are in the annual accounts, which are in the public domain. There is no problem in doing that.
570. **Mr S Anderson:** It seems that £31,000 is a lot of money for tax and national insurance contributions in comparison with what was actually paid.
571. **Mr McLaughlin:** Before we depart from that issue, the expenses were paid on an ongoing basis. They were being paid in full to the chairperson. Does that mean that Ilex was operating on the assumption all along that the chairperson would look after his own national insurance and tax liabilities, or was Ilex operating on the basis that it was going to have to pick up the tab, which it eventually did?
572. **Dr McGinley:** That is one point that needs to be clarified for the post that is currently being advertised. The Departments are looking at that. There was nothing in the contract —
573. **Mr McLaughlin:** The entire claims for travel expenses, the detail of which would be very interesting, were paid 100% by Ilex. Was that done on the assumption that the chairperson would then look after tax and national insurance liabilities, or was it done on the assumption that Ilex would subsequently have to pick up the bill, which amounted to £30,000?
574. **Dr McGinley:** It was all around the interpretation of travel to work and where your home base is.
575. **Mr McLaughlin:** Sorry; I understand that, but who, all along, was to be responsible for paying the tax and national insurance? Was it the chairperson, out of the expenses that were paid over by Ilex, or was Ilex coming in behind that, so that the chairperson departed with whatever the amount was for travel and other expenses that were claimed, but, when the bill emerged, Ilex would pick up the tab for tax and national insurance?
576. **Dr McGinley:** The chairman was recompensed for actual out-of-pocket expenses. It then became a taxation issue about the interpretation of whether he was an employee and where the place of work and the home base were. We will be happy to give you a further, more detailed note to explain it, because it is quite a technical issue.
577. **Mr Lavery:** I suspect, Mr McLaughlin, that nobody was thinking about any tax implications of the travel —
578. **Mr McLaughlin:** Nobody was.
579. **Mr Lavery:** It was not an issue at the time.
580. **The Chairperson:** The chairman won.
581. **Mr Lavery:** The Cabinet Office guidelines state:
“we have entered into special arrangements with HM Revenue and Customs, which mean we can effectively pay the tax on your behalf.”
582. **Mr McLaughlin:** Nobody anticipated it; nobody rang the alarm bell. Who picks up the tax and national insurance liabilities for the travel expenses of senior civil servants?
583. **Mr Dallat:** Do not go there.

584. **Mr McLaughlin:** I am just wondering why nobody thought of it.
585. **The Chairperson:** The Treasury Officer of Accounts may be able to comment on that.
586. **Ms Hamill:** To clarify, the travel and subsistence rates set by the Civil Service are negotiated with HMRC to be tax exempt. Any non-business travel and subsistence payments are made through pay and are taxed at the normal rate.
587. **Mr McLaughlin:** Thank you for that clarification; that was helpful. That was really only an aside for me about how we arrived at the situation and how we always seem to deal with situations post facto. That leads me to my final question. Paragraph 17 refers to the role of the sponsor Departments in ensuring that Ilex is fully aware of the spending control process. Can you explain the steps that the respective Departments have taken over the past few years to ensure that Ilex understood the spending control rules?
588. **Mr Haire:** Over many years and at different times, Ilex has been provided with a series of training courses on different aspects of the spending control rules. In my time, as we worked on various elements of consultancy, training courses were provided, and my economists and internal audit people ensured that Ilex's staff members were trained in those processes. As you said, our responsibilities are referred to in paragraph 17, and we explained those to the Audit Office.
589. The key element for me is that you can do those things, but you really have to go in deep, get a good quality of training and put structures and systems in place to change the processes. We have seen that with the new systems that Ilex has put in place for the purchasing order system and the enhanced role of the director of corporate services, who, in essence, watches all the expenditures and ensures that all the approvals are in place. As part of his role, he makes a monthly report to us to give us the quality assurance that he is tasked with and to ensure that all those things are being done effectively. The process is a combination of all those elements.
590. On 19 April, the entire board and staff of Ilex went through the report, looked at every case and identified the failures in the processes. Bespoke training was then given. This is an issue for which you have to constantly ensure that the systems and the training are right. That is where we are the moment.
591. **Mr Lavery:** A breach of approvals is, by definition, a breach. One of the key controls that Ilex has put in place is the mapping of expenditure against each approval. That means that it is able to track each approval letter, the conditions in each approval and the expenditure. That should deal with the core issues. Through the stewardship statements, the Departments get confirmation that all approvals are in place on drawdown and expenditure.
592. I want to link that to Mr Dallat's point about boards. The Departments are represented on Ilex's audit committee, which plays an important monitoring role. It is expected that the board's audit committee would deal with governance and delivery through its governance assurance processes, and we want to control those. As Will said, we also have a monthly meeting with the Ilex accounting officer.
593. **Mr McLaughlin:** Given the material and information that we have before us, that is positive. However, it begs the question: could and should the responsible Departments have acted sooner?
594. **Mr Haire:** We were very shocked by the report. We thought that we had the systems in place, as we had done the training in the past. It comes back to the point that we did not have the quality of information that would have told us that the approvals were not being dealt with. We have had very tough discussions in the system about why that was not happening, and we now have the assurance of a director of corporate services, who is deputy chief executive

- to Dr McGinley, working on that. We have had very tough discussions, and our Minister has had very clear discussions with the board, such is the importance of the issue. The question that we have to ask is a bit like Rumsfeld's "known and unknowns", and we have to reflect on the reason why. That is certainly a big issue for Noel and me.
595. **Mr McLaughlin:** You will be glad to hear that I am finishing my questions. Are the two Departments now confident that the action plan that Ilex has devised will resolve these issues and meet its objectives? The question that underpins that is the existence of an oversight board. How unusual and uncomfortable is the fact that an oversight board is required in these circumstances?
596. **Dr McGinley:** If I can explain, the oversight board that Noel referred to is the one for the City of Culture. As a company, we have tightened up on project management very significantly, so we now have an oversight board over the two sites. So, there are project boards for each of the sites and an oversight board on which the Department is represented. That tightens up our project management.
597. The Departments have asked for further oversight, as the delegated limits have been reduced from £150,000 to £100,000. PEDU's work, which will be starting shortly, is a further test to see that we are doing what we said we were going to do. We got this wrong, and we are putting it right. I am here to explain, but there are things that I cannot defend. I am confident that we now know what it is that we have to do, and, as a company, we need to be in good shape. We have a lot of things to do for the city and a lot of very exciting things to be delivered on the two sites and through the One Plan. We need to regain the trust and confidence of this Committee, the Assembly, our sponsor Departments, but, most importantly, the city. As a board and as a staff, that is what we are determined to do.
598. **Mr Haire:** Mr McLaughlin, you asked how often this is done, but when I went to the Department of Education, I inherited a situation in which two education and library boards had faced problems, and such a regime was required for a year. In fact subsequently, I had to bring a board back into this regime. As Dr McGinley said, it is difficult and it takes up a lot of time in everybody's diary, as well as a lot of focus, but it is necessary, because these things should not happen. The system should work. If it does not work —
599. **Mr McLaughlin:** Outside the timeline that is defined in this report, have those new oversight arrangements informed you of other problems that have happened after the report was compiled and that are now coming down to us? I am getting indications that there are other issues that are not reflected in this report but that reflect the character of the mistakes and misjudgements that have been made.
600. **Dr McGinley:** One point to note is that we will have qualified accounts for the next two years because of the irregularity of the expenditure. As you know, once the spend is declared irregular, the subsequent spend of any description is irregular; therefore, we will have the qualification of accounts. My assurance is that there will be no new departures from the line that has been drawn by this report. That is what we are aiming to achieve.
601. **Mr McLaughlin:** Let me be specific and go back to my question, because I really am trying to get finished. I have information that there is an issue with the electricity supply of the parade ground, which is to be used as an open-air site and performance area. The issue is that that supply may have been underspecified. These examples are outside the scope of this report, but they reflect the unfortunate history. The parade ground was initially intended to be a grassed area, and a contractor was in position. I presume, as I have no information saying otherwise, that the procurement process was satisfactory. The contractor was preparing the ground for a grassed area and was putting in subsoil and whatever, and there was a change of plan. It was decided

- to change it to a gravelled area. The contractor involved, somehow, and clearly from within the system, was alerted to the fact that there had been a change of job specification. Immediately, a convoy of lorries turned up to complete the subsoil process and the preparation for the grassed area, and the same convoy of lorries was used to take the soil back out again because of the decision to put in a gravel surface. In other words, a contractor was paid to prepare the ground for a grassed area and got the word in advance so pretty much completed the process, but the same contractor was used to dig it all back out again because there was a change of plan. We have only heard about that. Can you enlighten us today?
602. **Dr McGinley:** Absolutely. The references to the changes in the contract for the parade ground relate to what you just described, Mr McLaughlin. The contract for the parade ground went through all the proper protocols and procedures, and the business case was approved. That was all part of a larger project in three parts. I will deal with the electricity as well.
603. The three parts were the parade ground, the car park and infrastructural works. The parade ground was to be a grassed area with a change of surface. It was an undulating surface that was much more like a parkland. A couple of planning situations arose. We had work done by Space Syntax, which showed that the plan for the parade ground was not the most favourable. The original business case had looked at hard surfacing, but that would have cost £1.6 million more, so it went for the lower option, which was the grass.
604. We went back to the Department. The board felt quite concerned that, once we had won the City of Culture bid, the nature of the use of the parade ground changed, because we needed a large-scale event space for which grass would not have been suitable, never mind a change of surface, for health and safety reasons and even for vehicular access for large trucks coming in for events and so forth.
605. The board did an extra piece of work and went back to the Department to see whether we could get an extra £1 million to change the surface. The Department did not have the resource, so we went back to the original business case, and we treated it as a compensation event within the original case. The grass was nowhere near being laid. There were some savings, and we will be negotiating the final contract price in the next couple of weeks. I do not want to get into too much detail, because I do not want to lose my opportunity to negotiate, but I can assure you that the subsurface that was installed for the grass was also suitable for the surface that we have now. What you are describing is entirely in the report.
606. A myth has emerged about the electricity at Ebrington. I referred to the infrastructure works, and, given the fees issue, we have stopped work on the car park and the infrastructure works. We are working with the Departments to compile a revised business case. The electricity will be dealt with as part of the infrastructure works. Originally, an issue came to light that caused people to worry, but I do not know where that came from, because I can show minutes dating back two years to CPD, which has assured us that what we need to do for City of Culture can be done. If we lit up Ebrington completely as it will be in the next 10 years, we would need additional infrastructure for electricity. For the next two or three years, for the projects that are planned, we do not have any issues about electricity.
607. **The Chairperson:** You will be glad to hear that that is it for now. Other people may want to write to us, because there are other issues out there, but we will take all that on board. We may request other information from you, which is just standard practice. It has been a long day, especially for you, Noel, but you did get a short break, so you can count yourself lucky. Thank you very much, Will and Dr McGinley.



Northern Ireland
Assembly

Appendix 3

Correspondence

Correspondence of 28 March 2012 to Mr Noel Lavery

Public Accounts Committee
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From: Aoibhinn Treanor
Clerk to the Public Accounts Committee

To: Noel Lavery
Accounting Officer, OFMDFM

Date: 28 March 2012

PAC Evidence Session 25 April: Transfer of Former Military and Security Sites

Dear Noel,

In preparation for the evidence session in April, I would be grateful if you could provide the following update information to inform Committee members in advance of the meeting.

Although the C&AG's report was published in November 2011, it referred to expenditure up to 31 March 2011. To give a fuller picture, perhaps you can provide an update to Figures 2 and 6, reflecting the period to 31 March 2012 or the latest month available (pages 4 and 28); and an update to Figure 7 for 2011-12 (page 29) with a projected figure in terms of final outturn.

I would appreciate receipt of this information by 16 April. Please give me a call if you have any queries about this.

With kind regards,

Aoibhinn

Correspondence of 5 April 2012 from Mr Noel Lavery

Noel Lavery
Director of Resources, Regeneration, International
Relations and Institutional Review Directorate
Room E5.27
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Telephone: 028 905 28281
E-mail: noel.lavery@ofmdfmi.gov.uk

Paul Maskey MLA
Chairperson
Public Accounts Committee
Room 371 Parliament Buildings
Ballymiscaw
Belfast
BT4 3XX

5 April 2012

Dear Paul

Valuation of the Former Military Bases

I thought I should write to you on this matter as it relates to the valuation of the military sites that are the subject of the Public Accounts Committee Evidence Session on 25 April.

In line with accounting standards, for the last 4 years OFMDFM has capitalised the value of the Work in Progress on three of the former military sites: Maze/Long Kesh, Ebrington and Crumlin Road Gaol.

The sites are valued each year by Land and Property Services for inclusion in our Annual Accounts. OFMDFM intends to write down the value of these sites as at 31 March 2012, as the market value has only increased marginally between 31 March 2011 and that date.

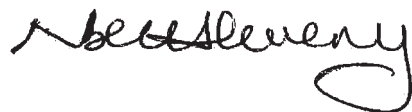
The write down in valuation would be split as follows

Maze/Long Kesh	£5m
Crumlin Road Gaol	£10m
Ebrington	£12m

We are currently discussing the valuation of the military sites with Colette Kane of NIAO and her team for inclusion in the Department's Resource Accounts.

If you need any further information I am happy to discuss.

Yours sincerely

A handwritten signature in black ink, appearing to read "Noel Lavery". The signature is written in a cursive style with a large, looped final letter.

Noel Lavery

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Correspondence of 17 April 2012 from Mr Noel Lavery

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Ms Aoibhinn Treanor
Clerk to the Public Accounts Committee
Room 371
Parliament Buildings
Belfast
BT4 3XX

17 April 2012

Dear Aoibhinn

PAC Evidence Session 25 April: Transfer of Former Military and Security Sites

Your letter of 28 March 2012 refers.

You asked for updated information to inform Committee members in advance of the Evidence Session on 25 April. The information is as shown below:

- (a) update to Figures 2 and 6, reflecting the period to 31 March 2012 (pages 4 and 28);
- (b) update to Figure 7 for 2011-12 (page 29) with a projected figure in terms of final outturn.

It should be noted that these figures are provisional as at 17 April and may be subject to change during final accounts preparation and audit verification.

With kind regards.

Yours sincerely



Noel Lavery

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FIGURE 2 – £62 million has been spend on the sites up to 31 March 2012

Expenditure	Total
	£'000
Site Acquisition Cost	1,155
Demolition / Clearance	4,348
Remediation / Contamination	5,804
Site Management (e.g. security, maintenance, utilities and facilities)	7,521
Infrastructure and Capital Works	23,240
CPD Costs	4,918
Professional Fees	10,918
Internal Costs	3,285
Other Costs	664
Total	61,853

FIGURE 6 – Expenditure on Sites - 31 March 2012

Expenditure	Maze / Long Kesh £'000	M'felt (OFMDFM) £'000	M'felt (NEELB) £'000	Malone £'000	Crumlin Road £'000	Ebrington £'000	Total £'000
Site Acquisition Cost	-	-	1,155	-	-	-	1,155
Demolition / Clearance	2,869	-	50	-	426	1,003	4,348
Remediation / Contamination	5,780	-	24	-	-	-	5,804
Site Management (e.g. security, maintenance, utilities and facilities)	2,738	36	21	1	1,239	3,486	7,521
Infrastructure and Capital Works	330	-	-	-	10,316	12,594	23,240
CPD Costs	1,853	3	-	-	2,423	639	4,918
Professional Fees	9,682	-	412	4	380	440	10,918
Internal Costs	1,185	-	11	-	1,366	723	3,285
Other Costs	-	21	-	-	222	421	664
Total	24,437	60	1,673	5	16,372	19,306	61,853

Figure 7 – OFMDFM funding allocated against actual expenditure as at 31 March 2012

Year	Opening Budget £'000	In-Year Changes £'000	Final Plan £'000	Final Outturn £'000	Underspend £'000
2003-04	3,000	-2,066	934	619	-315
2004-05	2,200	-177	2,083	2,041	-42
2005-06	3,900	-2,017	1,883	1,583	-300
2006-07	9,100	-4,134	4,966	3,806	-1,160
2007-08	17,400	-10,435	6,965	6,895	-70
2008-09	17,848	-11,576	6,272	5,568	-704
2009-10	16,082	-6,983	9,099	8,719	-380
2010-11	15,928	-1,305	14,623	14,458	-165
2011-12	15,146	169	15,315	15,169	-146

Chairperson's Letter of 26 April 2012 to Mr Noel Lavery

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26 April 2012

Mr Noel Lavery
Accounting Officer
Office of the First Minister and deputy First Minister
Stormont Castle
Belfast
BT4 3TT

Cc Stephen Peover
Fiona Hamill TOA

Dear Noel,

PAC Evidence Session on 'Transfer of Former Military Sites to the Northern Ireland Executive'

Thank you for your participation in the Committee's evidence session yesterday.

As agreed in the course of your evidence, I would be grateful if you could provide the following information to the Committee. You will of course wish to liaise with colleagues in DFP to ascertain much of this detail.

1. The monetary value placed by the Department on all of the sites at the time they were "gifted" to the Northern Ireland Executive.
2. The Department of the Environment's assessment of the gap in legislation for "gifted" sites in respect of the NIEA's power to make the polluter pay, and of the potential for legislative change in this area.
3. A summary of the information that led LPS to conclude that "there was a clear connection" between two of the parties involved in the purchase and subsequent onward sale of the Malone Barracks site; and all papers relating to the Malone transfer available to LPS including those identified since the NIAO investigation.
4. The details of all solicitors appointed to act for the parties to transfer of Malone Barracks, namely for the Department/DSO/ vendor, for the initial purchaser and for the final purchaser of the site.
5. A copy of the Department's instructions to Land and Property Services stipulating its requirements for the disposal of the Malone Barracks site.

6. Details of the nature of the 73 inquiries received regarding the Malone Barracks site; the values and dates received of the 10 bids submitted and any conditions attached; and how they were processed and assessed.
7. The dates of destruction of LPS records relating to the Malone Barracks site and the dates of approach and first draft by the Northern Ireland Audit Office in its investigation into the transfer of military sites.
8. A copy of the guidance on record destruction and retention in Land and Property Services in application at the time of the destruction of the aforementioned papers and your assessment of what impact if any a live NIAO investigation should have on this guidance.
9. A copy of the form which authorised the destruction of these case files.
10. Details for each of the last 10 years of the number of cases in which Land and Property Services has:
 - a. recommended securing outline planning permission ahead of sale to enhance the value of a site; and
 - b. recommended the inclusion of clawback.
11. Whether HMRC records show that stamp duty was paid on both sales of the site.
12. Whether end-year flexibility was available for the proceeds of sale of both the Malone and the Magherafelt sites; if not, what happened to the proceeds; and whether they were lost to the Northern Ireland Block.

I would appreciate receipt of this information by 10 May 2012.

Yours sincerely,



Paul Maskey
Chairperson
Public Accounts Committee

Chairperson's Letter of 30 April 2012 to Dr Aideen McGinley

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30 April 2012

Dr Aideen McGinley
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Londonderry
BT48 7AS

Dear Aideen,

PAC Evidence Session on 'Ilex Accounts 2010 - 2011'

Thank you for your participation in the Committee's evidence session.

As agreed in the course of your evidence, I would be grateful if you could provide the following information to the Committee.

1. The extension of the peace bridge consultancy contract from £75,000 to £479,000 represented a single tender action which although allowed under EU rules when the contract was initially tendered is not permitted under those rules now.

Will this rule breach result in a recovery of EU grants and if so how much funding is potentially at risk?
2. Please provide any papers that were prepared to support the salary decided upon for the Director appointed in September 2010.
3. Please provide details of the travel and subsistence payments made to the Chairman in each of the years from 2007-08 to 2010-11 together with the related tax that Ilex paid on his behalf.
4. Please submit a copy of the legal and other advice provided to Ilex supporting the payment of the tax and national insurance on behalf of the Chairman of Ilex.

I would appreciate receipt of this information by 25 May 2012.

Yours sincerely,



Paul Maskey
Chairperson
Public Accounts Committee

Correspondence of 11 May 2012 from Mr Noel Lavery

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Mr Paul Maskey,
Room 371,
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11 May 2012

Dear Mr Maskey

PAC Evidence Session on 'Transfer of Former Military Sites to the Northern Ireland Executive'

Further to your letter of 26 April please find outlined in the attached Annex the Department's response to the queries raised at points 1, 2 and 12 of your letter.

I am liaising with colleagues in DFP and LPS in respect of queries 3 – 11. They have requested a short extension to 18 May in order to ensure an effective response is provided to the Committee on these matters.

I will seek to ensure that the remaining reply will be provided to you as soon as possible.

Yours sincerely



Noel Lavery

cc Tim Losty
Stephen Boyd
June Wilkinson
Philip Magee

Annex

- The monetary value placed by the Department on all of the sites at the time they were “gifted” to the Northern Ireland Executive.

Please see the table below for this information.

Site	Initial Valuation £m
Maze/Long Kesh	8.00
Crumlin Road Gaol	1.30
Ebrington	4.00
Malone Road Barracks	4.30
Magherafelt Barracks	0.30
St Patricks Barracks, Ballymena	4.50
St Patricks Houses, Ballymena	2.80
St Lucia, Omagh	1.25
Shackleton	7.50
	29.35

- The Department of the Environment’s assessment of the gap in legislation for “gifted” sites in respect of the NIEA’s power to make the polluter pay, and of the potential for legislative change in this area.

I had obtained written briefing on this issue prior to the Evidence Session on 25 April. The DOE Accounting Officer has now confirmed to me that he is content that this briefing is forwarded to the Committee. You will note that I had asked specific questions on the issue of DOE’s legislative powers.

Waste and Contaminated Land Legislation in Northern Ireland/Other UK regions.

- What is the current position regarding the current NI legislation in terms of remediation, waste and contaminated land requirements?**

The principal legislative regime for regulating and managing land contamination in Northern Ireland is Planning Control under the Planning (Northern Ireland) Order 1991. Contamination is a material consideration in so far as it affects the development and use of land. The redevelopment of contaminated land is subject to the planning process, providing a suitable mechanism for its management and remediation.

Under the Waste and Contaminated Land (Northern Ireland) Order 1997 the treatment of waste soils would require a waste licence or exemption. The treatment of water, with respect to contamination would require a discharge consent under the Water (Northern Ireland) Order 1999.

The Environmental Liability (Prevention and Remediation) Regulations (2009) provide controls in respect of new contamination and pollution.

- How does/did this legislation apply to the MOD or NIO while in ownership of former military sites in Northern Ireland?**

Unless there is a change in use the legislation will not apply. However existing planning and environmental protection legislation should ensure that any development on these lands will require the management and remediation of any contamination.

3. Why has NI not introduced legislation like GB that the polluters should pay?

The Planning process has significantly dealt with historical contaminated land sites as they were undergoing redevelopment. Likewise Planning Control and environmental protection legislation, such as the Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009, have dealt with new contamination and pollution. The Department is satisfied that this legislation provides a reasonable level of control to bring about the remediation of contaminated sites which are undergoing change of use in Northern Ireland.

Part 3 of the Waste and Contaminated Land (Northern Ireland) Order 1997 has not been commenced because a considerable amount of public resources would be required over a sustained time period to fully implement the requirements of the legislation. Costs incurred by public bodies in other parts of the United Kingdom help illustrate the substantial monies required. Between 1990 and 2006 the Environment Agency spent £190m on contaminated land projects and since the introduction of the Capital Grants scheme in 2006 a further £70m has been approved in grants. In Scotland 34 staff were employed across local authority areas with further a 25 in SEPA to oversee the implementation of Part 2A of the Environmental Protection Act 1990. The full extent of contaminated land in Northern Ireland and associated costs in managing it will not become clear until inspection strategies for Council areas are complete and the remediation scheme has been in operation for some time. However in 2007 as part of a business case seeking monies to commence Part 3 the potential cost to the public purse of the regime has been estimated by consultants Casella Stanger at up to £123m over 15 years.

4. When will this issue be addressed by DOE/NIEA?

See Q3.

Part 3 of the 1997 Order is unlikely to be commenced in the near future as it is considered that the current legislative provisions provide a reasonable level of control, although the situation is being kept in review.

5. What are the current legislation requirements in terms of remediation in NI?

See Q1.

Historical contaminated land issues are currently dealt with under the Planning (Northern Ireland) Order 1991, as part of the Planning Control process where there is a change of land use. New contamination is dealt with under the Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009.

Land contamination, or the possibility of it, is a material consideration when redeveloping an area of land. Risks to health, buildings or the water environment due to contamination need to be identified with appropriate remediation action taken to manage them and support the new use of the site.

Restoration and remediation of new land contamination is dealt with primarily through site licences (e.g. pollution prevention control (PPC) permits and waste management licensing) and also through the Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009.

In some cases, the carrying out of remediation may constitute development and require planning permission. On site remediation treatments are regulated through the waste licensing regime and discharge consents under the Water Order if required.

6. What is the current process in place to manage and resolve the issue of Waste and Contaminated Land?

All contaminated lands, including the former military and security sites, are managed through a combination of legislative control and voluntary action on the part of the landowners. The

technical process for assessing and managing risks due to ground contamination follows the UK risk management framework.

Both the NIEA and the district council Environmental Health Departments are consultees to Planning Service in respect to the redevelopment of contaminated sites. This should ensure that new developments on such sites are supported at the application stage by a suitable quantitative risk assessment that has been informed by an intrusive ground investigation and a remediation strategy in the event that unacceptable risks are identified to health and /or water receptors. Thereafter the implementation and verification of this remediation strategy are subject to negative conditions being added to any planning approval and enforced thereafter by Planning Service.

A number of companies are also taking voluntary action in an effort to manage their liabilities. Through this approach NIEA provide advice to ensure that the approach and standard of remediation achieved would be such that the risks are effectively managed. Examples, where this approach is being taken include; Dupont at its Maydown site, Akzo Nobel at the former Courtaulds site in Carrickfergus and Translink at some Belfast Depots.

Restoration and remediation of new land contamination due to recent spills etc is dealt with through the application of environmental protection legislation.

7. What steps have been put in place to manage the situation until legislation is in place?

See Q6.

8. Is there any public health issue as a result of this legislation not being in place?

District Council Environmental Health Departments currently use the planning/development control process in bringing about successful resolution to land contamination risks and ensuring that the site is made fit for purpose and that there are no residual risks or land contamination/public health issues "lying in wait".

9. What are the implications of the Councils and NIEA being unable to fully exercise their inspection and regulatory powers re former military sites?

While the absence of the statutory controls, as provided by Part 3 of the Waste and Contaminated Land (Northern Ireland) Order 1997, means that NIEA and the District Councils have no authority to proactively inspect historical contaminated sites, there has been some voluntary engagement between the MOD and the Department in respect of former military sites. Any contaminated land with MOD ownership which has been transferred to other ownership would be expected to be properly investigated and the risk to the environment and health fully understood before it either comes into public use or is 'sold with information' so that the buyer is aware of the contamination and takes on the liability.

10. Any other information in relation to the NIAO recommendation which you would view relevant.

With regard to the possible contaminated land issues associated with the transfer of former military and security sites, DOE would propose to deal with these on an individual basis through planning and environmental protection controls as part of the process of changing their use.

12. Whether end-year flexibility was available for the proceeds of sale of both the Malone and the Magherafelt sites; if not, what happened to the proceeds; and whether they were lost to the Northern Ireland Block.

End-year flexibility was available for the proceeds of disposal of the Malone Road site (November 2003) but not the transfer of the Magherafelt site (February 2010).

There are a number of specific points to be made regarding the disposal of Malone and transfer of Magherafelt.

Malone Road site

The proceeds of the Malone sale were not lost to the Northern Ireland Block. OFMDFM sought End Year Flexibility in 2003/04. However the funding was not required at Crumlin Road Gaol and OFMDFM surrendered the funding to DFP as part of the Monitoring Round processes in 2005/06 and 2006/07. This funding was therefore available for use elsewhere in the Northern Ireland Block.

It is important to note that the Gaol and all the other sites, received the necessary funding for its development when required. Figure 7 in the NIAO report highlights this by showing that OFMDFM actually had reduced funding requirements each year from 2003/04 until 2010/11.

Magherafelt site

There are a number of important points regarding the Magherafelt transfer.

Firstly, as paragraph 2 of the NIAO report states, “the **sites** and/or proceeds must be used specifically for purposes which represent a tangible benefit of the peace process”. A key point on the Magherafelt transfer is that the **site was transferred** for a use that has and will benefit the local community i.e. an important step in school provision in the area. The local council were, I believe, in support of the plans.

The transfer had, however taken a very long time to effect. NEELB and OFMDFM had experienced significant difficulties with the site. Full planning permission was only obtained in February 2009. The NEELB had pressed for the sale to be completed as soon as possible so that they could get on site to start construction and this view was supported by the legal advice OFMDFM received at the time. Had OFMDFM held back on the transfer we would also have delayed construction of the school and NEELB would have had to surrender the funding they had in place. This money could not be recycled in the 2009/2010 financial year as the last monitoring round and Estimates process had been completed before approval for the sale was obtained in February 2010. Like OFMDFM, NEELB would have had no access to End Year Flexibility.

My understanding is that HM Treasury are very strict that cash available and not immediately required must go back to the Consolidated Fund. My understanding is that in line with DFP management of the block finances it would not have been possible for the funding to have sat ring-fenced until it was required.

As stated earlier, our regeneration plans, approved by Ministers were therefore adequately resourced. Figure 7 in the NIAO report shows the overall reduced funding requirements were £6.98m in 2009/10 and £1.3m in 2010/11.

Correspondence of 17 May 2012 from Dr Aideen McGinley



Ilex URC Ltd
Exchange House
Queen's Quay
Derry~Londonderry
BT48 7AS

T. 028 7126 9226
F. 028 7127 9669

info@ilex-urc.com
www.ilex-urc.com

Strictly Confidential

Paul Maskey
Chairperson
Public Accounts Committee
Room 371
Parliament Buildings
BELFAST
BT4 3XX

17 May 2012

Dear Paul,

RE: PAC Evidence Session on Ilex Accounts 2010-2011

I appreciated the opportunity to attend the evidence session on the 25 April to outline to the Committee the issues that have occurred within Ilex and to reassure the Committee on the steps I have taken to rectify the situation. In response to your letter, I have outlined additional information below and as contained within the attached annexes.

1. As highlighted at the hearing the Single Tender Action was permitted under procurement rules and the extension of the Peace Bridge consultancy project is being reviewed by SEUPB and when SEUPB make their final decision on the matter legal opinion will be sought. I will keep the Committee fully apprised. If SEUPB advise that this extension is not in line with their grant conditions of approval then the excess above the original approved amount, circa £400k, may be deemed irregular; therefore, we would not be able to reclaim £400k from Europe with the liability falling to the NI Executive.
2. I have attached in Annex 1 information to support the starting salary for the Director appointed in September 2010. I would ask that this be treated in confidence as it relates to personnel issues. This includes:
 - a. Submission from DSD to their Minister
 - b. Correspondence between Ilex and ROI government
 - c. Business Case prepared internally
 - d. Advice from recruitment agent and actuarial advice from PriceWaterhouseCoopers

Please note that this information is private to the individual and should be treated confidentially.

3. The Chairman incurred expenses in the normal performance of his duties as Ilex Chairman. HMRC calculated the tax liability based on the detail supplied for the 2009/10 year and applied that proportionately to the relevant years. Expenses incurred by the Chairman are as follows.

Year	Expenses	Tax	Total Expenses
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Please note that this information is private to the individual and should be treated confidentially.

4. Moore Stephens confirmed in an email on the 7 September 2011 that they consider 'that the amounts received by the Chairman should be the gross amount of the expenses incurred and if any tax and NIC is due it is the responsibility of the company. This is consistent with the approach taken by HMRC'. In addition, in Annex 2, I have included correspondence from HMRC on the matter which supports the payment made by the Company. As stated at the Hearing, OFMDFM are also following up with DFP on the Treasury guidance on this matter.

I am obviously happy to provide any further information you may require or any further clarification necessary.

Yours sincerely,

Aideen McGinley
Chief Executive
Ilex URC Ltd

Annex 2.1

ANNEX 2.1



145000:00000083:001

ILEX LTD
EXCHANGE HOUSE
QUEENS QUAY
LONDONDERRY
BT48 7AS

Issued by:
LOCAL COMPLIANCE
CUSTOM HOUSE
CUSTOM SQUARE
BELFAST
ANTRIM
BT1 3ET

Phone number 028 9056 2784
Charge reference XA002617399177
Customer reference X916PE00123985
Only use this reference if you phone or write to us
Date of issue 15/11/2011

Notification of Charge and Notice to Pay

Description of Charge	Period of Charge	Amount	Due date
ENQUIRY SETTLEMENT	06/04/2008 to 05/04/2011	£ 30,735.00	09/11/2011
Interest accrued to date (where applicable)		£ 0.00	
Already paid		£ 30,735.00	
Total amount due		£ 0.00	

Please pay the amount due.

▼ If you need to use the payslip, please detach here ▼

SAFE 1 HMRC 10/08

Alliance & Leicester <small>Trans cash</small> COMMERCIAL BANK Boyle Merseyside GIR DAA		Payslip		HM Revenue & Customs		bank giro credit	
158	Reference	Credit account number	Amount due (no fee payable at PO counter)				
24	XA002617399177	157 8049	£			For official use	
ILEX LTD			CHEQUE ACCEPTABLE				
Signature _____		Date _____				For official use	
NATWEST BANK PLC HEAD OFFICE COLLECTION AC HM REVENUE & CUSTOMS				CASH _____ CHEQUE _____			
		57-80-49				£	
SAFE 1	HMRC 04/09	Please do not fold this payslip or write or mark below this line					

Annex 2.2 & 2.3

ANNEX 2.2

Mary O'Dwyer

From: mdolan@msca.co.uk
Sent: 26 September 2011 13:45
To: Mary O'Dwyer
Subject: RE: HMRC Enquiry

Mary

Hope you are well.

I suspect that it would be easier for HMRC to process a cheque. If you want to send it on to me I will forward it to Alan on behalf of the Company.

Best regards

Mervyn

Mary O'Dwyer <Mary.O'Dwyer@ilex-uro.com>

26/09/2011 13:36

To "mdolan@msca.co.uk" <mdolan@msca.co.uk>
cc
Subject RE: HMRC Enquiry

Mervyn,

We plan to make the payment to HMRC for £30,735.87. Shall we process a direct transfer to the same account we make our normal monthly payments to? Or shall we send you a cheque to give to Alan, or what would you advise? Thanks,

Mary.

From: mdolan@msca.co.uk [mailto:mdolan@msca.co.uk]
Sent: 07 September 2011 14:54
To: Mary O'Dwyer
Subject: RE: HMRC Enquiry

Mary

I refer to our recent discussions.

It is clear to me that the Inspector dealing with the case is prepared to settle on the basis outlined in his letter. In the circumstances that the Company is not prepared to accept the offer the next stage would be the Tax Tribunal. Reporting from the Tax Tribunal will be in the public domain and I understand from the Inspector that HMRC believe that the issue of home to work travel is of such importance that they would seriously consider appealing to the Higher Courts should they lose at the Tax Tribunal. Whilst I believe the

Company has a reasonable argument the onus is on it to prove its case at the Tribunal.

There are a number of negative factors in taking a case to the Tribunal. Firstly there is the cost of preparing for and attending the hearing. Secondly as the Tribunal reports in public the case may attract negative publicity for the Company. Finally I understand that HMRC are unlikely to let the matter rest should they lose. These should be weighed against the current proposal from HMRC. The Inspector dealing with the case has been persuaded to exclude previous Chairmen, he has accepted the 2010 year for making all the assessments without examining the claims made by the Chairman in other years, he has agreed to collect the tax on the amounts paid rather than gross up the payments for tax and NIC and he has excluded a number of the expenses from the calculation of the tax and NIC due. In the circumstances that the matter is listed for hearing it is likely that all these matters would be subject to further assessment.

Clearly the decision as to whether or not to accept the proposal is for the Directors of the Company but it would seem to me that should the offer be refused there is a significant risk of the eventual tax bill being higher and also the Company may incur substantial costs in the Appeals process.

Turning to the other question. I have reviewed the contract provided and it would appear on a natural reading of the section on Expenses and Subsistence the Chairman is entitled to claim the expenses which HMRC consider to be subject to tax. Whilst no provision is made for tax in the section on remuneration the Contract states that it is the responsibility of ILEX to apply PAYE deductions. Taking the two provisions together I consider that the amounts received by the Chairman should be the gross amount of the expenses incurred and if any tax and NIC is due it is the responsibility of the Company. This is consistent with the approach taken by HMRC.

I trust you will contact me should you wish to discuss or require any further information.

Best regards

Mervyn

Mary O'Dwyer
<Mary.O'Dwyer@ilex-urc.com>

To "mdolan@msca.co.uk" <mdolan@msca.co.uk>

07/09/2011 12:29

cc

Subject RE: HMRC Enquiry

Mervyn,

As discussed, can I seek your advice on whether you believe the company should now accept this offer and make payment? Thanks,

Mary.

From: mdolan@msca.co.uk [mailto:mdolan@msca.co.uk]
Sent: 25 August 2011 17:23
To: Mary O'Dwyer
Subject: RE: HMRC Enquiry

Mary

That is correct. He has reserved his position in respect of a penalty and will revert to me on this point when the tax position is agreed.

Best

Mervyn

Mary O'Dwyer <Mary.ODwyer@ilex-
ure.com>

To "mdolan@msca.co.uk" <mdolan@msca.co.uk>

25/08/2011 17:21

cc

Subject RE: HMRC Enquiry

Thanks Mervyn,

Am I reading an amount payable of £30.7k?

Mary.

From: mdolan@msca.co.uk [mailto:mdolan@msca.co.uk]
Sent: 25 August 2011 16:46
To: Mary O'Dwyer
Subject: HMRC Enquiry

Mary

I attach a copy of a letter that I have received from Alan Finnigan in connection with the ongoing HMRC enquiry. I am of the view that he has reached his final position in connection with negotiating a settlement and perhaps you would pass the letter to the relevant parties.

I am available to discuss either by phone or in person.

Best regards

Mervyn

MOORE STEPHENS
CHARTERED ACCOUNTANTS

Belfast: Tel: 028 9032 9481, Fax: 028 9043 9185
Coleraine: Tel: 028 7035 2171, Fax: 028 7035 8419
Larne: Tel: 028 2827 2698, Fax: 028 2827 7882
Limavady: Tel: 028 7772 2189, Fax: 028 7772 2268
Londonderry: Tel: 028 7126 1020, Fax: 028 7136 0005

Web: www.moorestephens.co.uk/ni

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Offices at Belfast, Coleraine, Larne, Limavady and Londonderry.
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ANNEX 2-3



**HM Revenue
& Customs**

Local Compliance
Custom House
Custom House Square
Belfast
BT1 3ET

Fao Mr Mervyn Dojan
Moore Stephens Chartered Accountants
Waterford House
32 Lodge Road
Coleraine
BT52 1NB

23 AUG 2011

Phone 02890 334593
8.30am to 5.00pm Monday to Friday

Email alan.finnigan@hmrc.gsi.gov.uk

Date 23 August 2011
Our ref ECR/916LZ46239/HET/AF
Your ref DS 1640 NT/MD/Tax

www.hmrc.gov.uk

Dear Mervyn,

Ilex Limited

Further to our telephone conversation today, please find my computation amended in line with our discussion.

In order to reach agreement I have reduced the car hire and petrol expenses by 25%. This is in addition to removing the amounts relating to the Belfast business trips already reflected in my last computation.

I would be grateful if you could let me have your clients' agreement to the figures as soon as possible and I will provide you with the settlement paperwork. In the meantime I will have to consider a penalty addition and will let you know the outcome in due course.

Finally, I need confirmation of how the expenses have been treated in the 2011/12 tax year and how the company intends to deal with the matter for subsequent years.

I look forward to hearing from you.

Yours sincerely,

Alan Finnigan
Caseworker

Information is available in large print, audio and Braille formats.
Text Relay service prefix number – 18001



Business Head: Jim Nisbet

Annex 2.3(i)

Our Reference DS 1640 NT/MD/Tax

MOORE STEPHENS

Your Reference

Date 24th October 201132 Lodge Road
Coleraine
Co Londonderry
Northern Ireland
BT49 0FB**Strictly Private and Confidential,**Mary O'Dywer,
ILEX Limited,
Exchange House,
Queen's Quay,
Derry-Londonderry,
BT48 7AST: 028 7772 2189
F: 028 7772 2268
E: cole@msca.co.uk
www.moorestephens.co.uk**Partners:**John Bradley
 Trevor Griffin
 William Henry
 Steven Lindsay
 John Love
 Rosemary Peters Gallagher OBE
 Nigel Thomson

Dear Mary,

HM Revenue and Customs Enquiry

I enclose a letter of offer from HM Revenue and Customs the completion of which will see the formal end to the enquiry.

As you are aware Mervyn felt that the final calculation was not in keeping with the agreement he reached with the Inspector. In discussions the Inspector conceded that the agreement and the final calculation were inconsistent but was unable or unwilling to reduce the final contractual settlement further. Whilst this is disappointing I do not believe that it significantly detracts from the settlement achieved. In particular

- No penalty has been charged. As discussed the penalty may be up to 100% of the tax due and in this particular case the Inspector suggested that a penalty of around £4,500 may have been appropriate.
- The Inspector sought tax on the payments made rather than treating the payments made as the net amount. In the circumstances that the settlement had been on the correct technical basis the settlement (before penalty) would have been in the region £52,000.
- The Inspector agreed not to investigate the period prior to the appointment of Sir Roy
- The Inspector agreed to use 2010 as the base year for calculating later and earlier years.
- The Inspector allowed travel and associated costs in full when travel was to Belfast rather than Derry and allowed 50% of travel costs when the visit coincided with travel to an addition location.

In order to close the enquiry I would be grateful if you would arrange to have the contract signed as indicated and return it to me at your earliest convenience.

Finally I enclose a copy of my firm's fee note in respect of the work done which I trust you find in order.

£1,770.00

Yours faithfully,



Moore Stephens is a member of the Chartered Accountants in Ireland, and is regulated by the Financial Services Authority for investment business. An incorporation in the United Kingdom does not constitute an admission of the firm's principal place of business in the United Kingdom.

Annex 2.4



**HM Revenue
& Customs**

Local Compliance
 Custom House
 Custom House Square
 Belfast
 BT1 3ET

Fao Mrs Mary O'Dwyer
 Ilex Regeneration Company Ltd
 Exchange House
 Queen's Quay
 Londonderry
 BT48 7AS

Phone 02890 334593
 8.30am to 5.00pm Monday to Friday

Email alan.finnigan@hmrc.gsi.gov.uk

Date 7 June 2011
Our ref ECR/916LZ46239/HET/AF
Your ref DS 1640 NT/MD/General

www.hmrc.gov.uk

Dear Mrs O'Dwyer,

Further to our earlier correspondence, I am writing to you again about the travel expenses paid to Sir Roy McNulty.

As you know, I have been corresponding with your agent Mr Mervyn Dolan of Moore Stephens on the matter. I last spoke to him on 21 April 2011 when he advised me that you were preparing an analysis of the expenses with a view to arriving at a taxable figure.

As I have not heard from you or your agent since then, I have no alternative but to take action to recover the money I feel that the company owes in respect of PAYE tax and National Insurance Contributions due on the travel expenses.

Please find the enclosed spreadsheet of expenses paid to Sir Roy during the 2009/10 tax year. This is based on the copy claims provided by you.

I have used the total figure for 2009/10 to arrive at the following estimates for the earlier years:

2009/10	Expenses	£22511.45	x	40%	=	tax due	£9004.58	
			x	13.8%	=	NIC due	£3106.58	
2008/09	12 months	so estimated same tax and NIC due					£9004.58	
							£3106.58	
2007/08	In post 6 months	(appointed Oct 2007) so 6/12					tax due	£4502.29
						NIC due	£1553.29	

Information is available in large print, audio and Braille formats.
 Text Relay service prefix number – 18001



Business Head: Jim Nisbet

We will issue

- Income Tax determinations under Regulation 80 of the Income Tax (Pay As You Earn) Regulations 2003 (SI 2003 No 2682), and
- National Insurance contributions (NICs) decisions under Article 7 of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (SI 1999 No 671).


PAYE Regulation 80 determinations cover situations where employers fail to deduct tax under the PAYE system. We use Regulation 80 determinations to make a legal assessment of the tax that you owe and to tell you about your right of appeal. We only do this when we are unable to agree the amount you owe by other means.

Article 7 of the Transfer Order lists decisions that carry a right of appeal. They include decisions about NICs and statutory payments. In your case the decision we will issue will show what NICs you are liable to pay. We issue such decisions to give you the right of appeal. We only do this when we are unable to reach an agreement by other means.

If I don't hear from you by 21 June 2011, I will send you the tax determinations and the NICs decision notice. If you want to avoid this, please call me as soon as possible on the number above. We may also charge you a penalty for any inaccuracies we have found. We will write to you separately if we do this.

Finally, I have sent a copy of this letter to Moore Stephens.

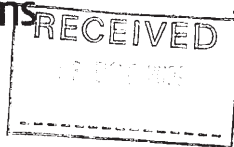
Yours sincerely,



Alan Finnigan
Caseworker

Annex 2.5

ANNEX 2-5



Tel-call to Louis 12/11/09
- working through
will respond "no problem at all"
in next
wk. or two

Local Compliance
Custom House
Custom House Square
Belfast
BT1 3ET

Ilex Urban Regeneration Company Ltd
Exchange House
Queens Quay
Londonderry
BT48 7AS

Phone 028 9056 2636
Mon - Fri 8:30 to 17:00

Fax 028 9056 2971

Email louis.mcgrath@hmrc.gsi.gov.uk

Date 12 October 2009
Our ref 916/LZ46239
Your ref Mary O'Dwyer

www.hmrc.gov.uk

Dear Mary

Check of Employers' and Contractors' Records

I refer to your letter of 18 September, thank you for the explanation of how the payment of Sir Roy's travel and subsistence expenses came about.

Unfortunately my opinion that the journeys are classed as home to work still stand for the reasons explained in the legislation.

Sir Roy lives in England through choice and the location of his home was not determined by the duties of his employment. He also works from home because it is convenient rather than because the nature of the job actually requires him to carry out the duties of the employment their.

I have enclosed some extracts from HMRC guidance, but obviously there is more guidance available, and you will always have the right of appeal if you do not accept the position. If you want to review the position again then contact me I can either arrange another meeting or take forward any further views you may have.

Yours sincerely

Louis McGrath
Employer Compliance Officer

Moy tel. call 25/10/09
left message
thank you - got letter
and working through it.

Information is available in large print, audio and Braille formats.
Text Relay service prefix number – 18001



Business Head: Jim Nisbet

Correspondence of 18 May 2012 from Mr Noel Lavery

Noel Lavery
Director of Resources, Regeneration, International
Relations and Institutional Review Directorate
Room E5.27
Castle Buildings
Stormont
Belfast
BT4 3SR

Telephone: 028 905 28281
E-mail: noel.lavery@ofmdfmi.gov.uk

Paul Maskey MLA
Chairperson
Public Accounts Committee
Room 371 Parliament Buildings
Ballymiscaw
Belfast
BT4 3XX

18 May 2012

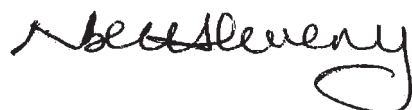
Dear Mr Maskey

PAC Evidence Session on 'Transfer of Former Military Sites to the Northern Ireland Executive'

Further to your letter of 26 April please find outlined in the attached Annex the input from Land and Property Services (LPS), Department of Finance and Personnel to the remaining queries raised at points 3 -11 of your letter. You will note that in Appendix 5 LPS/DFP have stated that the names of the bidders constitute personal data under the Data Protection Act and have been redacted.

I hope that both this and my earlier response of 11 May serves to answer the questions you raised.

Yours sincerely



Noel Lavery

cc David Ross, LPS
Tim Losty
Stephen Boyd
June Wilkinson
Philip Magee
Brandon McMaster, NIAO

Transfer of Former Military Sites to the NI Executive

Response to follow up questions 3 – 11 from the PAC

- 3. A summary of the information that led LPS to conclude that “there was a clear connection” between two of the parties involved in the purchase and subsequent onward sale of the Malone Barracks site; and all papers relating to the Malone transfer available to LPS including those identified since the NIAO investigation.**

Full details of the requested transactions relating to the Malone Barracks site have been provided in a separate, independent letter from Patricia Montgomery, the Registrar of Titles and Director of Registration in LPS. This letter is attached as Appendix 1.

This letter outlines the history of the title to the property and the sequence of transactions. It confirms that there was in effect only one sale of the site – from OFMDFM to Point Four Properties Limited via a bare trustee, Patrick McCormack.

Point Four Properties Limited later changed its name to McGinnis Developments Limited who developed the site as Malone Square and sold the individual apartments.

A file copy of the deed of conveyance dated 18 December 2003 between OFMDFM and Patrick McCormack is attached as Appendix 2.

A Land Registry copy of the deed of conveyance dated 18 December 2003 between Patrick McCormack and Point Four Properties Limited is attached as Appendix 3.

- 4. The details of all solicitors appointed to act for the parties to transfer of Malone Barracks, namely for the Department/DSO/ vendor, for the initial purchaser and for the final purchaser of the site.**

Parties	Date	Solicitor 1	Solicitor 2
Aborted sale from OFMDFM to Bidder D	June 2003	Solicitor for the vendor - Sheila Broadbent of the Departmental Solicitor's Office	Solicitor for the purchaser (Bidder D) James T Johnston & Co, Donegall Chambers, 138 Donegall Street, Belfast
Transfer from OFMDFM to Patrick McCormack	18/12/2003	Solicitor for the vendor - Sheila Broadbent of the Departmental Solicitor's Office	Solicitor for the purchaser - Elliott Duffy Garrett, Royston House, 34 Upper Queen Street, Belfast
Transfer from Patrick McCormack to Point Four Properties Limited	18/12/2003	Solicitor for the transferor – Elliott Duffy Garrett, Royston House, 34 Upper Queen Street, Belfast	Solicitor for the transferee – Elliott Duffy Garrett, Royston House, 34 Upper Queen Street, Belfast

5. A copy of the Department's instructions to Land and Property Services stipulating its requirements for the disposal of the Malone Barracks site.

Following the announcement on 4 February 2003 by Minister Ian Pearson of his decision to sell the Malone Barracks site, OFMDFM instructed LPS by email on 5 February 2003 to proceed with selling the site.

A copy of the 5 February 2003 email is attached as Appendix 4.

6. Details of the nature of the 73 inquiries received regarding the Malone Barracks site; the values and dates received of the 10 bids submitted and any conditions attached; and how they were processed and assessed.

As noted by LPS at the PAC hearing, LPS records indicate that the estate agent received 73 enquiries during the sales process.

The estate agent appointed by LPS to sell the Malone Barracks site was The Whelan Partnership. This firm no longer exists but Mr Brian Nixon FRICS, a director of its successor firm Whelan Commercial Limited has provided information on the marketing of the site, the nature of the enquiries received and how bids were processed and assessed. This is attached at Appendix 5.

Details of bids received during the initial marketing process, and how they were processed and assessed by the appointed agent, were reported by the agent in a letter to LPS dated 21 May 2003. This letter is attached as Appendix 6. The bids, dates and conditions are summarised in the tables below.

For clarity, none of these bids during the initial marketing of the site were from the eventual purchaser of the site. The eventual purchaser's successful bid of £3.775 million was accepted in October 2003 during the second marketing period.

Valid bids

Bidder	Offer	Date	Conditions
Bidder A	£3 million	9 May 2003	None
Bidder B	£3.8 million	9 May 2003	None
Bidder C	£4.5 million Bidder C, approached as under-bidder when Bidder D withdrew, later reduced this offer to £3.6 million.	9 May 2003	None
Bidder D	£4.71 million	9 May 2003	None

Invalid conditional bid

Bidder E	£5.5 million	9 May 2003	Offer made subject to grant of planning consent for bidder's preferred scheme
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Invalid late bids

Bidder C Late bid	£4.8 million	14 May 2003	None
Bidder F Late bid	£4.2 million	15 May 2003	Offer made subject to grant of planning consent for bidder's preferred scheme and based on stage payments.

For clarification the "10 bids" referred to in the question appears to be a reference to the 10 tenders received from estate agents in response to the competitive tendering exercise conducted by LPS to appoint an agent to sell the site. LPS would refer the PAC to page 16 of the Hansard transcript which deals with this.

The agent's letter of 21 May 2003 included recommendations to LPS and our client OFMDFM on the treatment of the invalid bids, as follows –

"In our opinion the highest offer of £5.5m from XXXXXXX (Bidder E) must be disregarded as it is made subject to the grant of planning consent. It could well take in excess of eighteen months to obtain planning permission for the applicants preferred scheme and there is no guarantee of success. Furthermore, as bids were specifically requested on an unconditional basis, if the vendors were to accept a conditional bid, it would be appropriate to allow the other bidders who have fulfilled the criteria to also submit a bid conditional on planning consent. On the same criteria the late offer from XXxxXXXX (Bidder F) should be disregarded, notwithstanding the fact that it is also based on stage payments and in any event is not the highest bid.

The second offer submitted by XXXXXXXX (Bidder C) of £4.8m is the highest unconditional offer. However, this bid was submitted four working days after the closing date and was made after the bidder had been advised that their offer was not the highest received. If this late offer is to be considered, we believe that it will be necessary to re-open the bidding process and allow all parties a chance to submit a further offer or indeed offers. Following discussion between yourself and the vendors we understand that they wish to disregard the late bid and only consider offers submitted in accordance with the terms of our original letter dated 29 April."

LPS accepted the agent's recommendations, rejected the invalid bids and accepted the highest valid bid of £4.71 million from Bidder D.

The site was marketed on the basis of unconditional offers. This is why the £5.5 million bid was rejected; it was invalid. To have done otherwise would have resulted in a potentially long drawn-out sale depending on the highest bidder getting planning consent for their preferred scheme which, in the end-up, might not be forthcoming. Additionally, this would have incurred significant site holding costs for OFMDFM.

Given that all valid bidders declined to proceed with a sale and the reduced offer of £3.6 million from Bidder C could not be accepted,

"the property was then placed back on the market and advertised later that summer on the same basis as before. The property was agreed for sale to the highest unconditional

offer received after completion of the remarketing, which was from Pat McCormack at £3.775m.” (See Appendix 5).

The LPS valuation of the Malone Barracks site when it went to the market was £3.45 million. It was not any higher figure. The bids received during the sales process and the eventual sale price achieved should only be compared to this figure and not to any previous outdated valuations.

7. The dates of destruction of LPS records relating to the Malone Barracks site and the dates of approach and first draft by the Northern Ireland Audit Office in its investigation into the transfer of military sites.

The Belfast District file was closed on the VLA computer system on 5 March 2004. Under the VLA Disposal Schedule (copy attached as Appendix 7) the Belfast District Office file was eligible for destruction 5 years after the case was closed, i.e. from the 5 March 2009.

Subsequently, LPS was advised of the NIAO investigation by an email from OFMDFM on the 13 August 2010 asking for LPS comments on the first NIAO draft report. This was the first indication that LPS had of a NIAO investigation in to this case.

Because the Belfast District file had been disposed of in line with the file disposal policy outlined above, the Central Advisory Unit (CAU) file became the primary source of reference material for the LPS reply to OFMDFM.

LPS has concluded that the Belfast District file was destroyed some time between 5 March 2009 and 13 August 2010 in line with the LPS policy; the Belfast District file was just one of many files disposed of during this period. The LPS policy does not require the date on which individual files are destroyed to be recorded.

8. A copy of the guidance on record destruction and retention in Land and Property Services in application at the time of the destruction of the aforementioned papers and your assessment of what impact if any a live NIAO investigation should have on this guidance.

The VLA Disposal Schedule is attached at Appendix 7.

The LPS Disposal of Paper Documents Schedule is attached at Appendix 8. This became operational on the 13th August 2010.

The VLA Disposal Schedule and the LPS File Disposal Schedule comply with the Public Records Act (1923) and the Disposal of Documents Order (1925). The current policy document was approved by the LPS Board, signed off by PRONI and ratified by the Assembly.

The timescales for file retention in the Disposal Schedules vary according to the type of case in order to permit a reasonable period for follow-up queries, issues and investigations.

Both the Disposal Schedules are silent in terms of what impact, if any, that a live NIAO investigation should have on the guidance. However, LPS has made it clear that the guidance on disposal would be set aside if and when any live NIAO investigation is ongoing. It is standard practice that as soon as LPS is made aware of any investigation from any source, including NIAO, that all files needed for the investigation would be retained in order to facilitate that investigation.

9. A copy of the form which authorised the destruction of these case files.

LPS on an annual basis disposes of thousands of paper records. These are disposed of in accordance with the LPS Disposal of Paper Documents Schedule which does not require a record of authorisation.

The earlier VLA Disposal Schedule did not require a record of authorisation.

A HQ Central Advisory Unit file still exists. This file was inspected by the NI Audit Office on 9th August 2011.

10. Details for each of the last 10 years of the number of cases in which Land and Property Services has:

- a. recommended securing outline planning permission ahead of sale to enhance the value of a site; and
- b. recommended the inclusion of clawback.

LPS management information systems do not record the requested historical information in respect of either planning applications or the inclusion of clawback.

Furthermore, many disposal files older than 5 years will have been destroyed in line with the LPS file disposal policy.

11. Whether HMRC records show that stamp duty was paid on both sales of the site.

LPS wrote to Her Majesty's Customs & Revenue (HMRC) requesting this information from their records. HMRC replied on the 3rd May 2012 stating that,

"Where a person acquires an interest in land as bare trustee or nominee for another person, then (unless the transaction is the grant of a lease) SDLT legislation "looks through" the bare trustee and treats the other person as the purchaser (paragraph 3 of schedule 16 of the Finance Act 2003)."

In other words, HMRC consider that there is only one transaction that is liable to Stamp Duty Land Tax.

HMRC also state that it "can neither confirm nor deny that it holds the information requested and it could not disclose it in any event as disclosure is prohibited by HMRC's statutory duty of confidentiality at section 18 of the Commissioners for Revenue and Customs Act 2005 (CRCA)".

HMRC further advise that "none of the provisions of section 20 of CRCA (public interest disclosure) applies here. Further, wrongful disclosure, or onward disclosure, of information which is held for the purposes of HMRC's functions and which relates to an identifiable person constitutes an offence under section 19 of the CRCA."

Appendix 1 - Letter from the Registrar of Titles to OFMDFM

Patricia Montgomery
Registrar of Titles &
Director of Registration
Land & Property Services
Queen's Court
56-66 Upper Queen Street
Town Parks
Belfast
BT1 6FD

Tel: 028 90 543921

Fax: 028 90 543800

E-Mail: patricia.montgomery@dfpni.gov.uk

Noel Lavery
Accounting Officer
OFMDFM
Room E5.27 Castle Buildings
Stormont Estate
Belfast
BT4 3SL

14th May 2012

Dear Mr Lavery

Property at 44 Windsor Avenue, Belfast

In relation to the above property, I have been asked to comment on the history of this property and the documents presented for registration.

History of the Title to the Property from 1990¹

The property was originally unregistered (not registered in the Land Registry) and as such any information relating to same would have been registered in the Registry of Deeds – by way of production of a memorial of any conveyance or assignment.

In the period 1st January 1990 to 13th March 2003 no memorials relating to this property were lodged in the Registry of Deeds.

On 14th March 2003, a memorial was registered of a conveyance dated 7th March 2003. The parties to same were the Secretary of State for Defence and the Office of the First and Deputy First Minister (OFMDFM).

On 19th January 2004 a memorial was registered of an Assignment dated 18th December 2003. The parties to same were OFMDFM and Patrick McCormack.

Also on 19th January 2004, a memorial was registered of an Assignment dated 18th December 2003. The parties to this Assignment were Patrick McCormack and Point Four Properties Limited.

A memorial of a document is not a full copy of the document. The memorial provides only the following information:

1 See Annex A

- The name and address of the Applicant for Registration – usually the Solicitor acting for the Purchaser.
- The Nature and Date of the Document – in this instance a Conveyance or Assignment – but no further details of the document are set out.
- The Parties to the Document – Vendor and Purchaser.
- The address of the property.
- The Term of Years if the property is leasehold – not applicable.
- The execution of the document – contains details of the witnesses to the execution of the document.

There are therefore no copies of the Conveyances or Assignments relating to the property held in the Registry of Deeds.

However, the Land Registration Act (NI) 1970 permitted the phased implementation of Compulsory Registration of Title which introduced the system whereby unregistered title (Registry of Deeds) would move to the Registered Title System (Land Registry). The Compulsory Registration of Title Order (NI) 2002 extended compulsory registration to the whole of Northern Ireland. Where properties were conveyed/assigned/transferred for valuable consideration. Compulsory First Registration (CFR) for lands in County Antrim came into effect on 1st May 2003 by virtue of the Compulsory Registration of Title (No 2) Order (Northern Ireland) 2002.

An application for the compulsory registration of the property was made on 24th March 2004 by way of Solicitor's Certificate dated 23rd January 2004 and the supporting documentation lodged comprised the Conveyance dated 18th December 2003 made between Patrick McCormack and Point Four Properties Limited.

Recital Number 2 of the Conveyance states:

“By a Conveyance dated the same date as this deed, but executed and delivered before this deed and made between the Office of the First Minister and Deputy First Minister (1) and the Transferor (2) (Patrick McCormack) the premises were purchased by the Transferor as bare trustee² for the Transferee (Point Four Properties Limited) with money provided for that purpose by the Transferee who has requested the Transferor to convey the premises to the Transferee”.

The provisions of any Trust which existed between the parties are not set out in the Conveyance of 18th December 2003 – therefore the Land Registry has no notice of same.

Further, by virtue of the provisions of S54 of the Land Registration Act (NI) 1970, the Land Registry is required to keep Trusts off the title.

Recital Number 3 of the Conveyance states:

“The Transferor has agreed with the Transferee to convey the Premises to the Transferee for a like estate”.

There is no indication in the Conveyance of the purchase price paid for the premises – but Recital 2 clearly states that Point Four Properties Ltd provided the money to Patrick McCormack for the earlier purchase (as bare trustee) from OFMDFM.

A copy of the Land Transaction Return Certificate was also enclosed with the CFR application. This indicates that Stamp Duty Land Tax had been paid but again there is no indication of the purchase price attributable to the transaction. The certificate does however confirm the

2 See Annex B

Vendor as OFMDFM and the purchaser as Patrick McCormack and Point Four Properties Limited.

In effect therefore, Patrick McCormack was purchasing on behalf of Point Four Properties Ltd – with monies provided by Point Four – and on the same day as he acquired the premises, he conveyed same to Point Four.

The CFR application was accepted and Folio AN 106173 was created on 17th May 2004.

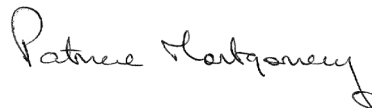
One further document has been lodged in the Land Registry and that is a Certificate of Incorporation of Change of Name dated 3rd August 2005. This certified that Point Four Properties Limited had changed its name to McGinnis Developments Limited.

Since the transfer of the whole of the property in 2003, the ownership of Folio AN 106173 has remained with Point Four Properties Limited now incorporated as McGinnis Developments Limited.

In all subsequent leases of the individual apartments lodged for registration to date, McGinnis Developments Limited are the lessors of the properties.

I attach at Annex A, a short note of the sequence of transactions and at Annex B, short definitions of Bare Trustee, which I hope you find helpful.

Yours sincerely

A handwritten signature in cursive script that reads "Patricia Montgomery". The signature is written in black ink and includes a small flourish at the end.

Patricia Montgomery (MRS)

Annex A

44 Malone Road

Sequence of Transactions

- 1. Conveyance 7th March 2003**
Secretary of State for Defence – to – Office of First and Deputy First Minister (OFMDFM).
- 2. Assignment 18th December 2003**
OFMDFM – to – Patrick McCormack.
- 3. Assignment 18th December 2003**
Patrick McCormack – to – Point Four Properties Limited.
- 4. Application for Compulsory First Registration of Titles - 24th March 2004**
New Folio AN 106173 created on 17th May 2004.
- 5. Certificate of Incorporation of Change of Name - 3rd August 2005**
Four Point Properties Limited changed its name to McGinnis Developments Limited.

Annex B

Definition of Bare Trustee

1. House of Lords Decision

Jerome .v. Kelly (HM Inspector of Taxes) 2004 UK HL 25

Lord Hoffman said:

“In the case of bare trusts, such as nominee shareholdings, it ignores the trustee and treats his acts as those of the beneficiary. The latter is treated as having the entire economic interest in the assets and is therefore treated as having dealt with them”.

2. Excerpt from an Article in the Trusts and Estates Law and Tax Journal September 2011.

“A bare trust exists where a person simply holds property for someone else of full age and mental capacity. The trustee generally has no active duties, other than to transfer the trust property to the beneficiary or as he directs”.

Appendix 2 – OFMDFM to P McCormack

DATED this day of 2003

OFFICE OF THE FIRST MINISTER AND DEPUTY FIRST MINISTER

and

PATRICK McCORMACK

CONVEYANCE

44 Windsor Park
Belfast
BT9 6FS

Elliott Duffy Garrett
Solicitors
Royston House
34 Upper Queen Street
Belfast
BT1 6FD

THIS DEED is made the day of Two thousand and three
BETWEEN the **OFFICE OF THE FIRST MINISTER AND DEPUTY FIRST MINISTER** of
Stormont Estate, Belfast ("the Vendor") and **PATRICK McCORMACK** of Hampton Park Belfast
("the Purchaser")

WHEREAS:-

- (1) The Vendor is seized of the premises hereinafter described and intended to be hereby conveyed ("the Premises") in fee simple subject to the payment of the yearly rent of Seventy-one pounds three shillings and five pence adjusted to Sixty-nine pounds three shillings and four pence (now Sixty-nine pounds and seventeen pence) reserved by a Fee Farm Grant ("the Grant") made the 25th day of November 1873 between William Cosgrave and Samuel Gibson of the one part and William McNeill of the other part and to the observance and performance of the grantees covenants and the conditions therein contained and subject also to but with the benefit of a Lease made the 22nd day of February 1928 between Sir Kenneth Sinclair of the one part and the Lord Mayor Aldermen and Citizens of the City of Belfast of the other part ("the Lease")
- (2) The Vendor has agreed with the Purchaser for the sale to the Purchaser of the Premises for a like estate for the sum of £3,775,000.00 (Three million seven hundred and seventy five thousand pounds)

NOW THIS DEED WITNESSETH as follows:-

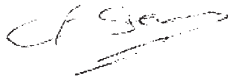
1. In pursuance of the said agreement and in consideration of the sum of £3,775,000.00 (Three million seven hundred and seventy five thousand pounds) now paid by the Purchaser to the Vendor (the receipt whereof the Vendor hereby acknowledges) the Vendor as Beneficial Owner hereby grants and conveys unto the Purchaser **ALL THAT AND THOSE the Premises** comprised in the Grant and therein described as "All That Piece or Parcel of building ground being part of the Townland of Malone in the Parish of Belfast otherwise Shankhill Barony of Upper Belfast and County of Antrim containing Two acres One rood and Fifteen perches statute measure or thereabouts be the same more or less and is bounded on the North by a portion of the lands of Derryvolgie in possession of Forster Green on the South by an intended new road hereinafter referred to on the East by the Old Malone Road and on the West by other ground belonging to the grantors as the said hereby granted premises are now more particularly delineated (as to the boundaries thereof) in the map or ground plan thereof endorsed on these presents and coloured red" which said premises with the buildings erected thereon are now known as Number 44 Windsor Park, Belfast and more particularly described in the map attached to a Deed made 7th March 2003 between Secretary of State for Defence (1) the Vendor (2) and thereon shown edged red together with the benefit of the covenants on the part of the Grantors contained in the Grant **TO HOLD** the same unto

the Purchaser his successors and assigns in fee simple Subject to the said adjusted yearly rent of Sixty-nine pounds and seventeen pence reserved by the Grant and to the observance and performance of the grantees covenants and the conditions therein contained **AND SUBJECT ALSO** to but with the benefit of the Lease and the rent of one peppercorn (if demanded) thereby reserved and the covenants therein contained

2. The Purchaser hereby covenants with the Vendor that the Purchaser and his successors and assigns will henceforth pay the said adjusted yearly rent and perform and observe the grantees covenants and conditions contained in the Grant and will indemnify and keep indemnified the Vendor and its successors from and against all future costs claims and demands in respect of the non-payment of the said rent or the breach non-performance or non-observance of the said covenants and conditions or any of them


IN WITNESS whereof the Official Seal of the Vendor and the hand and seal of the Purchaser have been hereto affixed the day and year first before written

THE OFFICIAL SEAL of the OFFICE
OF THE FIRST MINISTER AND
DEPUTY FIRST MINISTER was affixed
In the presence of:-



SIGNED SEALED and DELIVERED
by the said PATRICK McCORMACK in the
presence of:-




Solicitor
Belfast.

Appendix 3 – P McCormack to Point Four Properties Ltd

DATED this 18 day of December 2003

PATRICK McCORMACK

And

POINT FOUR PROPERTIES LIMITED

CONVEYANCE

44 Windsor Park
Belfast
BT9 6FS

Elliott Duffy Garrett
Solicitors
Royston House
34 Upper Queen Street
Belfast
BT1 6FD

THIS DEED is made the 18 day of December Two thousand and three **BETWEEN PATRICK McCORMACK** of Hampton Park Belfast ("the Transferor") and **POINT FOUR PROPERTIES LIMITED** (Company Number NI 19081) whose registered office is at 68 Tamnaherin Road Eglinton County Londonderry ("the Transferee")

WHEREAS:-

- (1) The Transferor is seized of the premises hereinafter described and intended to be hereby conveyed ("the Premises") in fee simple subject to the payment of the yearly rent of Seventy-one pounds three shillings and five pence adjusted to Sixty-nine pounds three shillings and four pence (now Sixty-nine pounds and seventeen pence) reserved by a Fee Farm Grant ("the Grant") made the 25th day of November 1873 between William Cosgrave and Samuel Gibson of the one part and William McNeill of the other part and to the observance and performance of the grantees covenants and the conditions therein contained and subject also to but with the benefit of a Lease made the 22nd day of February 1928 between Sir Kenneth Sinclair of the one part and the Lord Mayor Aldermen and Citizens of the City of Belfast of the other part ("the Lease")
- (2) By a Conveyance dated the same date as this deed but executed and delivered before this deed and made between the Office of the First Minister and Deputy First Minister (1) and the Transferor (2) the Premises were purchased by the Transferor as bare trustee for the Transferee with money provided for that purpose by the Transferee who has requested the Transferor to convey the Premises to the Transferee.
- (3) The Transferor has agreed with the Transferee to convey the Premises to the Transferee for a like estate



NOW THIS DEED WITNESSETH as follows:-

- 1. In pursuance of the said agreement the Transferor as Trustee hereby grants and conveys unto the Transferee **ALL THAT AND THOSE the Premises** comprised in the Grant and therein described as "All That Piece or Parcel of building ground being part of the Townland of Malone in the Parish of Belfast otherwise Shankhill Barony of Upper Belfast and County of Antrim containing Two acres One rood and Fifteen perches statute measure or thereabouts be the same more or less and is bounded on the North by a portion of the lands of Derryvolgie in possession of Forster Green on the South by an intended new road hereinafter referred to on the East by the Old Malone Road and on the West by other ground belonging to the grantors as the said hereby granter premises are now more particularly delineated (as to the boundaries thereof) in the map or ground plan thereof endorsed on these presents and coloured red" which said premises with the buildings erected thereon are now known as Number 44 Windsor Park, Belfast and more particularly described in the map attached to a Deed made 7 March 2003 between Secretary of State for Defence (1) the Office of the First Minister



and Deputy First Minister (2) and thereon shown edged red together with the benefit of the covenants on the part of the Grantors contained in the Grant **TO HOLD** the same unto the Transferee its successors and assigns in fee simple Subject to the said adjusted yearly rent of Sixty-nine pounds and seventeen pence reserved by the Grant and to the observance and performance of the grantees covenants and the conditions therein contained **AND SUBJECT ALSO** to but with the benefit of the Lease and the rent of one peppercorn (if demanded) thereby reserved and the covenants therein contained

2. The Transferee hereby covenants with the Transferor that the Transferee and its successors and assigns will henceforth pay the said adjusted yearly rent and perform and observe the grantees covenants and conditions contained in the Grant and will indemnify and keep indemnified the Transferor and his successors from and against all future costs claims and demands in respect of the non-payment of the said rent or the breach non-performance or non-observance of the said covenants and conditions or any of them
3. **IT IS HEREBY CERTIFIED** that this deed falls within category F in the Schedule to the Stamp Duty (Exempt Instruments) Regulations 1987.

IN WITNESS whereof the parties hereto have executed this document as a deed the day and year first before written

SIGNED SEALED and DELIVERED
by the said **PATRICK McCORMACK** in the
presence of:-



Witness x *[Signature]*
Soline
Belfast

EXECUTED AND DELIVERED AS A DEED BY
POINT FOUR PROPERTIES LIMITED
Acting by:-

Director

x *[Signature]*

Director/Secretary

x *[Signature]*



Appendix 5 – Correspondence dated 8th May 2012 from Mr Brian Nixon FRICS of Whelan Commercial Limited regarding Question 6

“I can confirm that I handled the sale of the above site in 2003 on behalf of the then Valuation and Lands Agency. At that stage I was a partner in The Whelan Partnership, that partnership was subsequently incorporated as Whelan (Property Consultants) Limited and more recently that company has ceased trading. In 2010 I formed a new company Whelan Commercial Limited. As a consequence of these various changes the majority of the former practices file archive has been shredded, including the file relating to the sale of the Malone Road site. In any event I would note that it would not have been our normal practice to hold closed archive files for more than a few years due to a lack of storage space.

Therefore I can only comment as requested on the basis of my letter to the VLA dated 21st May 2003.

From memory the subject site was extensively marketed “For Sale” in the local press in March 2003 and details circulated to a comprehensive data- base list of estate agents, builders, developers and investors.

I recall that although our instructions were that the site was to be marketed unconditionally, VLA or OFMDFM obtained advice from the DoE Planning Service on the likely development that they would permit.

I cannot confirm if we received 73 enquires; but I do recall that the marketing of the site (i.e. the For Sale board, mail shots and press advertising) generated a substantial amount of interest with numerous viewings of the site, so it is quite possible that this level of enquiries was received.

Our standard procedure would have been to log all requests for brochure details/site contamination surveys/tree preservation orders etc., and all viewings of the property. Each interest logged could therefore range from a viewing of the site to a simple request for a brochure to be sent out. The level of interest received would have been fed back to the VLA.

Parties who expressed serious interest were then invited to submit unconditional offers, supported by letters of bank funding, by a closing date of Friday 9th May 2003. As noted five offers were received by the closing date and a further two after the closing date. The highest unconditional offer received by the relevant date was £4.71m from (Bidder D). The other offers were as follows:

£4.5m from (Bidder C)

£3.8m from (Bidder B)

£3m from (Bidder A)

A conditional offer subject to planning consent for residential use of £5.5m was received from ██████████ (Bidder E) a house builder. A further offer was received from ██████████ (Bidder C) of £4.8m after the closing date when he along with the other under bidders were advised that they were not the top bid. An offer of £4.2m on the basis of staged payment and subject to planning from ██████████ (Bidder F) was also received after the closing date.

Following discussions with the VLA the offer from ██████████ (Bidder D) was accepted. The conditional offer from ██████████ (Bidder E) was dismissed as it did not comply with the conditions of sale advised by the VLA. The offer from ██████████ (Bidder F) was disregarded on the same basis.

Subsequently [REDACTED] (Bidder D) decided not to proceed with the sale and we approached [REDACTED] (Bidder C) to see if he would stand by his offer of £4.8m but he declined.

The property was then placed back on the market and readvertised later that summer on the same basis as before. The property was agreed for sale to the highest unconditional offer received after completion of the remarketing, which was from Pat McCormack at £3.775m.

I would also confirm that following the completion of the sale The Whelan Partnership, and subsequent firms, had no further involvement with this site and was not involved in any capacity in the eventual marketing of the completed residential units.”

Data Protection Act 1998 - the names of bidders constitute personal data and have been redacted.

Appendix 6 – Whelan letter to VLA 21 May 2003



CHARTERED SURVEYORS
PROPERTY CONSULTANTS

44 Upper Arthur Street
Belfast BT1 4GJ
Tel. 028 9044 1000
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Our Ref: 7413/WS/gk

Date: 21 May 2003

email - william.stewart@whelan.co.uk

W P Redpath Esq
Valuation & Lands Agency
Belfast District
Queens Court
56/66 Upper Queen Street
BELFAST
BT1 6FD

Dear Sir

Re: 44 WINDSOR PARK, MALONE ROAD, BELFAST

I refer to our meeting of 13th inst. in connection with the various offers received for the above site.

Briefly, to recap, we had written to the various parties interested in the property on 29th April 2003, inviting unconditional written offers by Friday 9th May 2003 accompanied by a banker's letter confirming the availability of finance.

Five offers were received, together with letters from [redacted] and [redacted] property consultant advising that they would not be bidding. A further two offers were submitted after the closing date. The five offers received on Friday 9th are as follows, listed in ascending bid order:-

	<u>Purchaser</u>	<u>Financial Bid</u>	<u>Finance</u>
a)	[redacted]	£3 m	Letter of confirmation from First Trust Bank, High St, Antrim.
b)	[redacted]	£3.8 m	Bankers details only, no confirmation of funding provided.
c)	[redacted]	£4.5 m	Letter from Bank of Ireland Corporate and Business Banking, Belfast, confirming the availability of funds, subject to detailed banking terms and conditions.



Alliance Member of the ATIS Real Group



Partners:

S C French BA FRICS MCIArb
B R Nixon FRICS
C J Callan BSc DipSurv FRICS IRRV MCIArb

Associates:

K A Gilchrist MRICS
W Stewart BSc(Hons) MRICS

- | | | | |
|----|----------------------|------------|---|
| d) | ████████████████████ | £4,710,000 | Letter from Bank of Scotland (Ireland) confirming their relationship with ██████████ and also confirming that they would be happy to progress a formal application for Credit Board Approval. |
| e) | ████████████████████ | £5.5 m | Letter from Bank of Scotland (Ireland) Ltd confirming availability of funding. |

NB: Although offers were sought on an unconditional basis, ██████████ offer is made subject to the grant of planning consent for his preferred development scheme.

The two further offers submitted after the closing date are as follows:

- | | | | |
|----|--------------------------------------|----------------------------|--|
| f) | ████████████████████
(14.05.2003) | £4.8 m | Verbal confirmation from Bank of Ireland Corporate and Business Banking, confirming the availability of funds, subject to detailed banking terms and conditions. |
| g) | ████████████████████
(15.05.2003) | £4.2 m
(stage payments) | No confirmation of funding provided. |

NB: Although offers were sought on an unconditional basis, ██████████ offer is made subject to the grant of planning consent for their preferred development scheme and is based on payment of £2m on the grant of planning permission and a further £2.2m after a further 18 months.

Recommendations

In our opinion the highest offer of £5.5 m from ██████████ must be disregarded as it is made subject to the grant of planning consent. It could well take in excess of eighteen months to obtain planning permission for the applicants preferred scheme and there is no guarantee of success. Furthermore, as bids were specifically requested on an unconditional basis, if the vendors were to accept a conditional bid, it would be appropriate to allow the other bidders who have fulfilled the criteria to also submit a bid conditional on planning consent. On the same criteria the late offer from ██████████ residential should be disregarded, notwithstanding the fact that it is also based on stage payments and in any event is not the highest bid.

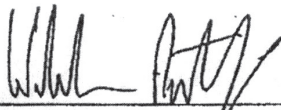
The second offer submitted by [REDACTED] of £4.8m is the highest unconditional offer. However, this bid was submitted four working days after the closing date and was made after the bidder had been advised that their offer was not the highest received. If this late offer is to be considered, we believe that it will be necessary to re-open the bidding process and allow all parties a chance to submit a further offer or indeed offers. Following discussion between yourself and the vendors we understand that they wish to disregard the late bid and only consider offers submitted in accordance with the terms of our original letter dated 29 April.

Of the four qualifying bids, the offer from [REDACTED] is the highest at £4.71 m and consequently we would recommend that this offer is accepted. However, as discussed at our meeting the initial letter from [REDACTED] bankers was not particularly strong and we had some reservations over their ability to complete the transaction. We have now spoken with [REDACTED] the promoter of [REDACTED] and his bankers who have confirmed the availability of funding, subject to normal banking terms, to support a purchase price of £4.71 m. A letter of support has also been provided by Bank of Ireland Corporate in relation to [REDACTED], [REDACTED] partner in this venture.

We would therefore suggest that a contract is forwarded to [REDACTED] solicitors, Messrs. James T Johnston & Company for signature. If a signed contract is not returned within the sixteen day period specified in our letter, we would then recommend that the papers are returned and forwarded to [REDACTED]

Please feel free to contact either Brian Nixon or William Stewart of this office should you wish to discuss any of the issues raised in this letter in greater detail.

Yours faithfully



THE WHELAN PARTNERSHIP

Appendix 7 – VLA Disposal Schedule

Department of Finance and Personnel Disposal Schedule For Valuation and Lands Agency

Version 1.0**Implementation Date:****Review Date:**

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Section 3

1. Definitions of Records Held By VLA in Respect of Each Business Area

Abbreviations

BAIM	Business Area Information Area
BF	Brought Forward
CSC	Civil Service Circular
DFP	Department of Finance and Personnel
DIM	Departmental Information Manager
DP	Deputy Principal
EDRMS	Electronic Document Records Management System
EO1	Executive Officer 1
FISD	Finance and Information Services Division
GB	Great Britain
HSAW	Health and Safety at Work
IMU	Information Management Unit
IT	Information Technology
NI	Northern Ireland
NIO	Northern Ireland Office
NICS	Northern Ireland Civil Service
PA	Put Away
PBL	Promotion Board List
PMB	Personnel Management Branch
PRONI	Public Record Office of Northern Ireland
RFMS	Records File Management System
RHS	Right Hand Side
SO	Staff Officer
UK	United Kingdom
VLA	Valuation and Lands Agency

Section 1

Introduction

1.1 Functions of the Department

The Department of Finance and Personnel (DFP) is one of eleven Northern Ireland Departments created in 1999 by the Northern Ireland Act 1998 and the Departments (Northern Ireland) Order 1999.

DFP is responsible for:

- the strategic oversight of the expenditure managed by Northern Ireland Departments;
- the corporate personnel management policies of the Northern Ireland Civil Service; and
- a wide range of services, many of which are carried out centrally on behalf of the Northern Ireland Civil Service as a whole.

The Department is also responsible for five Agencies:

- Valuation and Lands Agency
- Business Development Service
- Land Registers of Northern Ireland
- Northern Ireland Statistics and Research Agency
- Rate Collection Agency

In addition, the Department is responsible (jointly with the Department of Finance, Dublin) for the Special EU Programmes Body (SEUB).

1.1 Aims of the Department

DFP aims to enable other NI Departments to achieve their aims and objectives while ensuring that important rules and regulations are applied and adhered to.

Whilst DFP is not responsible for any executive Non Departmental Public Bodies, it oversees the following bodies:

- Lay Observer, reporting on complaints made to the Law Society of Northern Ireland
- Northern Ireland Building Regulations Advisory Committee
- Statistics Advisory Committee

DFP provides a secretariat service to the Law Reform Advisory Committee and the Civil Service Appeal Board.

1.3 Functions and Aims of VLA

The Valuation and Lands Agency is an Executive Agency within the Department of Finance and Personnel and has been in existence for 11 years. Originally known as the Valuation Office we have been responsible for rating assessments for over 150 years, and since 1945, for a range of general valuation and estate management services within the public sector.

Our main business areas and associated goals are:

Domestic Rating:

“To maintain a Domestic Rating Assessment Service that achieves high credibility with all stakeholders, delivering regular Revaluations, the next by April 2006”.

Non-Domestic Rating:

“To maintain a Non-Domestic Rating Assessment Service that achieves high credibility with all stakeholders”.

Client Services:

“To deliver a Valuation and Advice Service to the public sector which achieves high levels of satisfaction with all stakeholders”.

The mandate for these activities flows from the Departmental Objective 2 - “To meet the social and economic needs of the community in the Department’s areas of executive responsibility”. In addition, we were mandated to undertake our estate management and advisory functions, following a report by the Northern Ireland Efficiency Scrutiny on the “Management and Disposal of Government Owned Land” (March 1994).

2. Purpose of the Disposal Schedule

A Disposal Schedule is a document which outlines all types of records held within an organisation and provides guidance on:

- Destruction
- Review
- Permanent preservation

The document will provide the Department with the legal basis for destroying records. It is vital that if a request for information under Freedom of Information is received and the records are no longer available, that the Department can prove they were destroyed in line with current policy, i.e. the Disposal Schedule.

The Disposal Schedule is necessary to ensure that the Department complies with the following legislative requirement:

- Public Records Act (N.I.) 1923
- Disposal of Records Order (S.R. 80 1925 No 167)
- Freedom of Information Act 2000

3. Consultation and Acknowledgements

In the preparation of this document consultations were undertaken with both the Agency’s Finance and Personnel as well as with the operational functions.

4. Background to Records Management within VLA

In March 2001 the Department appointed a Departmental Information Manager (DIM), bringing together the duties of the Data Protection Officer and the Departmental Records Officer. The DIM was also tasked with ensuring that the Department complies with the obligations outlined in the Freedom of Information Act 2000 this led to the formation of the Information Management Unit in November 2002. The Unit is responsible for providing advice and guidance to staff on Freedom of Information (FOI), Data Protection and Records Management and for carrying forward the projects outlined in the DFP Information Management Strategy.

The Information Management Unit endeavour to promote good practice in records management throughout the Department. This involves the creation of disposal schedules. Currently the Department has a limited understanding of records management policies and procedures. In order to address the need to improve records management procedures within the Department the following recommendations should be made.

- Records management should be recognised as specific corporate activity.

- A records management policy statement should be drawn up.
- The Department should devise a disposal schedule which will provide guidelines on the retention and disposal of records.
- Responsible officers should be appointed within business areas to undertake the role of Business Area Information Manager.

The need to improve records management practices supports not only management practice, but also reflects the challenges associated with the implementation of the Freedom of Information (FOI) Act. Under FOI those holding records and/or information will be required to comply with FOI requests directly and will therefore be required to know what information they hold and where it can be found.

5. Roles and Responsibilities

The **Permanent Secretary** has a duty to ensure that DFP complies with the requirements of legislation affecting the management of records and with supporting regulations and codes.

The Chief Executive and Commissioner of Valuation has a duty to ensure that VLA complies with the requirements of legislation affecting the management of records and with supporting regulations and codes.

The **Departmental Information Manager** will ensure that there is consistency in the management of records and advice and guidance on good records management practice is provided.

Managerial and professional staff are responsible for ensuring that records and information systems in their areas conform to this policy and to the requirements of legislation.

All members of staff are responsible for documenting their actions and decisions in the records and for maintaining the records in accordance with good records management practice.

The role of the **Business Area Information Manager** is to ensure compliance with Records Management standards within their Business Area and to co-ordinate activities aimed at ensuring that information is recorded, stored, managed and disposed of both effectively and legally.

6. File Management System

The file management system currently operated in VLA is the new Departmental File Management System recently approved by the Departmental Board. The system is replacing the IMPReS system, used by around one third of DFP, and will be in use throughout the Department in the New Year.

7. Putting Records on a Registered File

Generally any items should be filed that:

- Contain information or work done on the file subject.
- Show the reasons why something has been accepted or rejected or why something has been done or not done.
- Show who was involved in any decision-making or work done.
- Contain financial papers or statistics relating to the file subject.
- Relate to the success or failure of any work or project associated with the file subject, or success or failure to meet targets, standards or other material.

As a guide registered files **should** contain records relating to:

- All correspondence
- Minutes of meetings
- Bids for contracts
- Copies of accounts
- Financial statements
- Statistical records
- Draft papers for comments received
- Final papers together with a record of any changes made, the reasons for them and alternatives considered

Examples of items that **should not** be kept are:

- Domestic arrangements for meetings or travel
- Copies of personal expense claims
- Copies of minutes and papers sent for information only. (Generally the person taking the minutes should file the original minutes in a registered file. There is no need for each attendee to file their copy in a registered file.)
- Any items which are purely administrative and which have no bearing on the file subject.
- Material of a short-term nature.

8. What if it's not on Paper?

Currently the majority of official Departmental records are kept on paper. However, some information that should be filed may be received by phone, fax, e-mail or gathered in informal conversation. The guidelines are that, if it has to be filed, it must be printed out or written out and filed in the usual manner.

9. Who is Responsible for Filing?

If you initiate a document, you are responsible for filing it or ensuring that someone else files it. Documents, which are sent out of the Department, such as a document for comment or a form for completion, must have a copy placed on file. It is also necessary to ensure that any replies or comments are filed. This applies to paper, e-mail, phone, fax or conversation. Thermal fax paper can fade through time so a more permanent copy may need to be produced.

Section 2

Operation of this Disposal Schedule

1. Close

Records should be closed as soon as they have ceased to be of active use other than for reference purposes. Registered files have a maximum life span of 5 years. They can be closed at any time up to five years old for the following reasons:

- They reach 2.5 cm thick
- The file subject is finished
- Nothing new has been added for 2 years.

When a file is due to be closed the appropriate officer, of at least Executive Officer I (EOI) grade, should consult the disposal schedule and complete the front cover of the file. Details should include the date on which the file can be destroyed, transferred to the Public Record Office of Northern Ireland (PRONI) or whether it should be subject to normal review procedures. The file should be returned to the Central Resources in Headquarters who will complete the closure box on the front of the file cover by inserting the date of the last paper, stamping the word closed and inserting a yellow closure sheet on the inside Right Hand Side (RHS) of the file. If the file can be destroyed at a particular date Central Resources will Bring Forward (BF) the file on the destruction date. The file can be returned to the branch or Put Away (PA) in the file store. Closing a file simply means that no further papers can be added but file can be used for reference.

2. Retention

The retention period required for each type of record is calculated from the point the file/record is closed. For example financial records will be held for 7 years.

3. Destroy by District Valuer (DV)

Where the disposal action is 'Destroy By District Valuer' the records should be kept for the period stated and then destroyed on the District Valuers instructions in accordance with directions on recycling and shredding.

4. Destruction by Team Leader/Manager/Supervisor

Where the disposal action is 'Destruction by Team Leader/Manager/Supervisor' the officer in charge of day-to-day operations within the branch will dispose of the records. (Where the record is an annual report, individual staff file or time keeping record of an SO or above, the line manager is responsible for ensuring that destruction is carried out.)

5. Review

Where the disposal action is 'Review' the file will be subject to the normal review processes. This will be initiated by Central Resources. The review procedures are as follows:

- The files concerned should be closed 5 years after their opening (if they have not been closed earlier for other reasons) and no further papers added.
- An officer of Executive Officer I level or above should carry out a first review of each file (5 years after its closure or not more than 10 years after the file was opened), based solely on its administrative value. Files recommended for destruction should be referred to PRONI, whose staff will inspect such files to consider whether or not they should be preserved permanently or held in storage to await a second review, 15 years later.

6. Permanent Preservation/Transferred to PRONI/Copy sent to PRONI

Where the disposal action is Permanent Preservation/Transferred to PRONI/Copy sent to PRONI, the records are exempt from the normal review procedures. The file should be sent to Central Resources marked for transfer to PRONI. Central Resources will make arrangements to have the records transferred as soon as possible.

In some cases PRONI will ask for an annual percentage of particular files or a random selection to be sent to them. The selection should be made by the branch and sent to the supervisor in Central Resources who will arrange for them to be transferred.

Records such as reports, published or otherwise, and strategy documents should be considered for Permanent Preservation. Copies of these documents should be sent to IMU who will arrange for them to be transferred to PRONI.

7. Commitment to Preserving Files/Records

The Valuation and Lands Agency as part of the Department of Finance and Personnel declares that it will take measures to ensure that the records it creates will be physically well maintained and cared for while they are in its custody, i.e. either destroyed or transferred to PRONI for permanent preservation. These measures will include:

- Removing paper clips and pins from papers before filing with particular attention being given to those records, which, according to the Disposal Schedule, are to be preserved permanently.
- Removing any floppy disk from paper files and converting its contents to hard copy.
- Using files with file covers as opposed to buff covers, which do not provide the same protection to the papers inside.
- Using continuation files if the files become too bulky (i.e. not more than 2.5 cm thick).
- Punching papers to be filed 2.5cm in and 2.5cm down from the edge to minimise the danger of detachment, which may result in loss of information.
- Storing bulky or outsize items in a pocket or envelope inside the file cover on the left hand side.

The attached schedule of records sets out the disposal and retention periods for designated business areas within VLA and the appropriate course of action to be taken.

Section 3

Definition of records held by VLA in respect of each functional work area.

1. Operations

1.1 Rating – List Maintenance

This category refers to all records, which are kept in relation to maintaining the currency of the Valuation List. This statutory function is mandated by the Rate (Northern Ireland) Order 1977. Records are held for each hereditament (rateable entity) noting the Net Annual Value and the details required to establish this. The Rating Valuation List is a public document available to view on our internet site at www.vla.nics.gov.uk. Further information on the Valuation List and its contents are also available at the website.

1.2 Rating – Domestic Revaluation – Non-Domestic Revaluation

This category refers to all records, which are kept in relation to the planning and undertaking of a revaluation of all the properties of either type. These records will largely be held on registered files.

2. Client

This category refers to the provision of a valuation, estate management and property data service to the public sector including a pro-active approach to estate management. The records are held on registered files detailing such things as the Service Levels Agreements under which this type of work is undertaken and also on the Casework files specific to the type of work undertaken.

3. Corporate Services

3.1 Personnel

This category includes records relating to VLA specific personnel matters. Records are held on registered files. No individual staff files are kept as this would be duplication with DFP Personnel.

3.2 Information Systems

This category includes all records in relation to the current VLA main frame system VALCOM and its management along with records for the new Core System Replacement computer system currently being introduced.

3.3 Finance

This category includes all records necessary to facilitate the production of the Agency's Annual Accounts. Records include details of all receipts and payments.

3.4 Training

This category includes all records of training applied for by Agency staff whether in house, DFP or external training. Records include individual staff training applications, registered files of policy decisions and course content papers. Training plans are held at both District and Corporate levels.

3.5 Programme Office

This category includes all records relating to the programme of projects being undertaken by the Agency. Records for the programme and its projects are kept in line with PRINCE 2 requirements. Records are held on registered files.

3.6 Premises

This category includes records relating to the premises where VLA is the sole or main occupier of a building. Records are held on registered files.

3.7 Business Planning/Management Board Support

This category includes records of Management Board Decisions and meetings along with business planning for the Agency. All records are held on registered files. Minutes of Management Board meetings are made available to all staff via the VLA shared database.

Section 4

VLA Disposal Schedule

Work Area	Types Of Files/Records	Description	File/Record Action	Retention	Final Action
Rating	V30s	2nd Revaluation background papers on valuation of properties.		Permanently	Currently held in PRONI
Rating	Appeals Certificates	Certificates of Valuation following appeal to the Commissioner of Valuation.	Held by Appeals Section	Retain current and last 2 years forms	Destruction by Appeals DV
Rating	Rating Case Files	Rating Cases	Held in District Office.	Retain while hereditament exists, papers relating to previous Revaluations can be removed once new valuation is published.	Destroy when hereditament no longer exists.
Rating	CR2s CR3s	Application for revision of Valuation list entry from RCA/NIHE. Application for revision of Valuation list entry from ratepayers.	Hold in District Office.	Retain current and last 2 years forms.	Destruction by rating team leader.
Client Services	Acquisition Case Files	1. Purchase by agreement 2. New lease files 3. SPED	1. Files after case completed. 2. Retain while lease is current. 3. Retain while property remains unsold.	1. 5 years 2. 2 years after expiry of lease. 3. 2 years after resale.	1. Destruction by Client Senior Valuer. 2. Destruction by Client Senior Valuer. 3. Destruction by Client Senior Valuer.

Work Area	Types Of Files/Records	Description	File/Record Action	Retention	Final Action
Client Services	Management Case Files	1. Rent Review 2. Conacre lettings and others	1. Retain while lease is current 2. Close files after case completed	1. 2 years after expiry of lease 2. 2 years	1. Destruction by Client Senior Valuer 2. Destruction by Client Senior Valuer
Client Services	Disposal Case Files	1. Unrestricted sales. 2. Sales subject to clawback or profit.	1. Close file on completion of case. 2. Retain while subject to clawback or profit sharing arrangements	1. 5 years 2. 5 years after expiry of clawback or profit sharing period.	1. Destruction by Client Senior Valuer 2. Destruction by Client Senior Valuer
	Asset Valuation Case files	Records of valuations of assets.	Retain until asset has been disposed of.	3 years after disposal of asset.	Destruction by Client Senior Valuer
Client Services	Management Case Files	1. Rent Review 2. Conacre lettings and others	1. Retain while lease is current 2. Close files after case completed	1. 2 years after expiry of lease 2. 2 years	1. Destruction by Client Senior Valuer 2. Destruction by Client Senior Valuer
Client Services	Disposal Case Files	1. Unrestricted sales. 2. Sales subject to clawback or profit.	1. Close file on completion of case. 2. Retain while subject to clawback or profit sharing arrangements	1. 5 years 2. 5 years after expiry of clawback or profit sharing period.	1. Destruction by Client Senior Valuer 2. Destruction by Client Senior Valuer
	Asset Valuation Case files	Records of valuations of assets.	Retain until asset has been disposed of.	3 years after disposal of asset.	Destruction by Client Senior Valuer
Client Services	Taxation case files	1. Valuation not relevant to other assessments. 2. Valuation relevant to other assessments.	1. Close file when case completed. 2. Retain but remove non-relevant papers after 5 years.	1. 5 years 2. Permanently	1. Destruction by Client Senior Valuer 2. Permanent Preservation

Work Area	Types Of Files/Records	Description	File/Record Action	Retention	Final Action
Client Services	Regeneration Grant case files		Retain while subject to clawback or overage provisions in the grant	5 years after expiry of clawback period.	Destruction by Client Senior Valuer
Client Services	Economic Appraisal case files	<ol style="list-style-type: none"> 1. Subject to Post Project Evaluation (PPE) 2. Not subject to PPE 	<ol style="list-style-type: none"> 1. Retain until PPE has been completed. 2. Close file after case completed. 	<ol style="list-style-type: none"> 1. 2 years after PPE. 2. 5 years 	<ol style="list-style-type: none"> 1. Destruction by Client Senior Valuer 2. Destruction by Client Senior Valuer
Client Services	Compensation Case files	<ol style="list-style-type: none"> 1. Domestic Disturbance 2. Planning Compensation 3. Other compensation cases 	<ol style="list-style-type: none"> 1. Close files after case completed 2. Retain 3. Close files after case completed 	<ol style="list-style-type: none"> 1. 2 years 2. Permanently 3. 5 years 	<ol style="list-style-type: none"> 1. Destruction by Client Senior Valuer 2. Permanent Preservation 3. Destruction by Client Senior Valuer
Client Services	Valuation Case Files	<ol style="list-style-type: none"> 1. NIHE House sales 2. NIHE Housing Grants 3. Housing Benefit 4. Social Security 	<ol style="list-style-type: none"> 1. Close files after case completed 2. Close files after case completed 3. Close files after case completed 4. Close files after case completed 	<ol style="list-style-type: none"> 1. 2 years 2. 2 years 3. 2 years 4. 2 years 	<ol style="list-style-type: none"> 1. Destruction by Client Senior Valuer 2. Destruction by Client Senior Valuer 3. Destruction by Client Senior Valuer 4. Destruction by Client Senior Valuer
Client Services	Compensation Case files	<ol style="list-style-type: none"> 1. Domestic Disturbance 2. Planning Compensation 3. Other compensation cases 	<ol style="list-style-type: none"> 1. Close files after case completed 2. Retain 3. Close files after case completed 	<ol style="list-style-type: none"> 1. 2 years 2. Permanently 3. 5 years 	<ol style="list-style-type: none"> 1. Destruction by Client Senior Valuer 2. Permanent Preservation 3. Destruction by Client Senior Valuer

Work Area	Types Of Files/Records	Description	File/Record Action	Retention	Final Action
Client Services	Valuation Case Files	1. NIHE House sales 2. NIHE Housing Grants 3. Housing Benefit 4. Social Security	1. Close files after case completed 2. Close files after case completed 3. Close files after case completed 4. Close files after case completed	1. 2 years 2. 2 years 3. 2 years 4. 2 years	1. Destruction by Client Senior Valuer 2. Destruction by Client Senior Valuer 3. Destruction by Client Senior Valuer 4. Destruction by Client Senior Valuer
Client Services	Compensation Case files	1. Domestic Disturbance 2. Planning Compensation 3. Other compensation cases	1. Close files after case completed 2. Retain 3. Close files after case completed	1. 2 years 2. ermanently 3. 5 years	1. Destruction by Client Senior Valuer 2. Permanent Preservation 3. Destruction by Client Senior Valuer
Client Services	Valuation Case Files	1. NIHE House sales 2. NIHE Housing Grants 3. Housing Benefit 4. Social Security	1. Close files after case completed 2. Close files after case completed 3. Close files after case completed 4. Close files after case completed	1. 2 years 2. 2 years 3. 2 years 4. 2 years	1. Destruction by Client Senior Valuer 2. Destruction by Client Senior Valuer 3. Destruction by Client Senior Valuer 4. Destruction by Client Senior Valuer
Client Services	Compensation Case files	1. Domestic Disturbance 2. Planning Compensation 3. Other compensation cases	1. Close files after case completed 2. Retain 3. Close files after case completed	1. 2 years 2. Permanently 3. 5 years	1. Destruction by Client Senior Valuer 2. Permanent Preservation 3. Destruction by Client Senior Valuer

Work Area	Types Of Files/Records	Description	File/Record Action	Retention	Final Action
Client Services	Valuation Case Files	1. NIHE House sales 2. NIHE Housing Grants 3. Housing Benefit 4. Social Security	1. Close files after case completed 2. Close files after case completed 3. Close files after case completed 4. Close files after case completed	1. 2 years 2. 2 years 3. 2 years 4. 2 years	1. Destruction by Client Senior Valuer 2. Destruction by Client Senior Valuer 3. Destruction by Client Senior Valuer 4. Destruction by Client Senior Valuer
		5. GP Rent and Rates 6. Others	5. Retain while premises fall within repayment scheme 6. Close files after case completed	5. 2 Years 6. 5 Years	5. Destruction by Client Senior Valuer 6. Destruction by Client Senior Valuer
Client Services	Particulars Delivered (PDs)	Documents containing the transaction particulars prescribed by the Stamp Duty (Production of Documents) (NI) Regulations 1996		5 years	Destruction by Client Senior Valuer
Client Services	Magazines	1. Rating Valuation Reporter 2. All other business related magazines	1. Retain in District Office Library 2. Retain in District Office Library	1. Permanently 2. 1 year	1. Permanent Preservation 2. Destruction by Client Senior Valuer
Client Services and Rating	Lands Tribunal	1. Decisions 2. Lands Tribunal files relating to rating cases. 3. Non Rating Case files.	1. Retain in District Office 2. Retain until following Revaluation is completed and new List published 3. Retain in District Office	1. Permanently 2. 1 Complete Revaluation 3. 5 years	1. Permanent Preservation 2. Destruction by Client Senior Valuer 3. Destruction by Client Senior Valuer

Work Area	Types Of Files/Records	Description	File/Record Action	Retention	Final Action
Client Services	Magazines	<ol style="list-style-type: none"> 1. Rating Valuation Reporter 2. All other business related magazines 	<ol style="list-style-type: none"> 1. Retain in District Office Library 2. Retain in District Office Library 	<ol style="list-style-type: none"> 1. Permanently 2. 1 year 	<ol style="list-style-type: none"> 1. Permanent Preservation 2. Destruction by Client Senior Valuer
Client Services and Rating	Lands Tribunal	<ol style="list-style-type: none"> 1. Decisions 2. Lands Tribunal files relating to rating cases. 3. Non Rating Case files. 	<ol style="list-style-type: none"> 1. Retain in District Office 2. Retain until following Revaluation is completed and new List published 3. Retain in District Office 	<ol style="list-style-type: none"> 1. Permanently 2. 1 Complete Revaluation 3. 5 years 	<ol style="list-style-type: none"> 1. Permanent Preservation 2. Destruction by Client Senior Valuer 3. Destruction by Client Senior Valuer
Client Services	Magazines	<ol style="list-style-type: none"> 1. Rating Valuation Reporter 2. All other business related magazines 	<ol style="list-style-type: none"> 1. Retain in District Office Library 2. Retain in District Office Library 	<ol style="list-style-type: none"> 1. Permanently 2. 1 year 	<ol style="list-style-type: none"> 1. Permanent Preservation 2. Destruction by Client Senior Valuer
Client Services and Rating	Lands Tribunal	<ol style="list-style-type: none"> 1. Decisions 2. Lands Tribunal files relating to rating cases. 3. Non Rating Case files. 	<ol style="list-style-type: none"> 1. Retain in District Office 2. Retain until following Revaluation is completed and new List published 3. Retain in District Office 	<ol style="list-style-type: none"> 1. ermanently 2. 1 Complete Revaluation 3. 5 years 	<ol style="list-style-type: none"> 1. Permanent Preservation 2. Destruction by Client Senior Valuer 3. Destruction by Client Senior Valuer
Client Services	Sales Registers	Record of property sales maintained		Permanently	Permanent Preservation
Client Services	Rent Books	Record of lettings maintained		Permanently	Permanent Preservation
Client Services	Maps	2nd Revaluation and Current		Permanently	Permanent Preservation
Operations	Field Survey Notebooks	Record of all notes taken while working in the field		6 years (as recommended by RICS)	Destruction by Valuer

Work Area	Types Of Files/Records	Description	File/Record Action	Retention	Final Action
Corporate Services/ Personnel and Training	Training files	Individual file for each member of staff recording all training and development activities	Close when staff member leaves the agency	Retain for 6 months after staff member leaves	Destruction by Training manager
Corporate Services/ Finance	Authorisation for Payment Forms		Retain to reference with original invoices	Retain for 7 years	Destruction by Head of Branch
Corporate Services/ Finance	Travel Claims	Travel claim forms for all members of staff claiming travel expenses	Retain to reference with original Claims in DFP	Retain the current and 2 immediately previous financial years records	Destruction by Head of Branch
Corporate Services/ Finance	Lodgement slips		Retain to reference with original in DFP	Retain the current and immediately previous financial years records	Destruction by Head of Branch
Corporate Services/ Finance	Excess Fares		Retain to reference with original in DFP	Retain the current and 2 immediately previous financial years records	Destruction by Head of Branch
Corporate Services/ Central Resources	Certified Extracts	Copy of the original issued to ratepayers under Article of the Rates Order 1977	Retain for production of duplicate if required	Retain the current and immediately previous financial years record	Destruction by Branch Supervisor
Corporate Services/ Central Resources	Certified Extracts	Copy of the original issued to ratepayers under Article of the Rates Order 1977	Retain for production of duplicate if required	Retain the current and immediately previous financial years record	Destruction by Branch Supervisor
Corporate Services/ Central Resources	Purchase Orders	Purchase record including request, delivery docket and Purchase Order	Retain to reference with original invoices	Retain the current and 2 immediately previous financial years records	Destruction by Branch Supervisor
Corporate Services/ Central Resources	Photocopying readings	Copy invoices and associated meter readings	Close at end of contract	Not past end of Contract	Destruction by Branch Supervisor

Work Area	Types Of Files/Records	Description	File/Record Action	Retention	Final Action
Corporate Services/ Central Resources	Map Requisitions	Record of Map requisitions from OSNI and LRNI	Close at end of financial year	3 years	Destruction by Branch Supervisor
Corporate Services/ Central Resources	Business Plan	Printed copy of Agency Corporate and Business Plan	Held by Central Resources	Permanently	Permanent Preservation Printed Copy to PRONI
Corporate Services/ Central Resources	Annual Report and Accounts	Printed copy of Agency Annual Report and Accounts	Held by Central Resources	Permanently	Permanent Preservation Printed Copy to PRONI
Corporate Services/ Central Resources	Framework Document	Publication	Held by Central Resources	Permanently	Permanent Preservation Printed Copy to PRONI
Corporate Services/ Central Resources	Order Books	Printing Orders Central Print unit only	Held by Central Resources	Retain the current and 2 immediately previous financial years records	Destruction by Branch Supervisor
Corporate Services/ Finance	Bookmakers Cases	Time and charging details on all cases	Held by Finance	5 years	Destruction by Branch Supervisor
Corporate Services/ Central Resources	Registered files	All policy files recorded on the File Management System	Closed and reviewed in line with PRONI Guidance	Normal Review Process	Determined on Review
Corporate Services/ Central Resources	Order Books	Printing Orders Central Print unit only	Held by Central Resources	Retain the current and 2 immediately previous financial years records	Destruction by Branch Supervisor
Corporate Services/ Finance	Bookmakers Cases	Time and charging details on all cases	Held by Finance	5 years	Destruction by Branch Supervisor
Corporate Services/ Central Resources	Registered files	All policy files recorded on the File Management System	Closed and reviewed in line with PRONI Guidance	Normal Review Process	Determined on Review

Section 5 – Signatories

Signed in Accordance with the Public Records Act (Northern Ireland), 1923

Patricia Kernaghan

Head of Records Management & Administration Section,

Public Record Office of Northern Ireland

Gerry Slater

Deputy Keeper of the Records,

Public Record Office of Northern Ireland

Paul Sweeney

Permanent Secretary

Department of Culture, Arts and Leisure

John Hunter

Permanent Secretary

Department of Finance and Personnel

Nigel Woods

Chief Executive

Valuation and Lands Agency

John Morgan

Departmental Information Manager

Department of Finance and Personnel

Appendix 8 – LPS Disposal of Paper Documents Schedule

Land & Property Services (LPS) of Northern Ireland

Disposal of Paper Documents Schedule

Version Number – 1 - Dated 9th November 2009

Implementation Date – 6th May 2010

Review Date – 6th May 2012

Contents

Section 1	Introduction
Section 2	Operation of this Disposal of Records Schedule
Section 3	Example of Records held in each Directorate
Section 4	Disposal Schedule
Section 5	Signatories

Section 1 – Introduction

1. **Directorates of LPS are as follows:**

- Corporate Services
- Customer and Business Improvement
- Operations
- Data Information Systems
- Valuation

Brief list of Functions of Directorates are as follows -

- Systems Improvement and Assurance Management
- Communication and marketing
- Personnel
- Facilities Management
- Training & Development
- Freedom of Information
- LPS Finance
- Business Continuity
- Management Information Systems
- IT and Data Management
- Rating Services
- Land Registration Services
- Commercial Mapping Services
- Mapping Services
- Valuation Services

2. **Purpose of Disposal Schedule**

This disposal schedule identifies the disposal arrangements for all records created by all LPS Directorates. The schedule complies with the requirements in the Public Records Act (NI) 1923 and by the Disposal of Documents Order (S.R.& O.1925 No 167).

3. **Categories of Disposal**

- Destruction
- Review
- Permanent preservation

Section 2 – Operation of this Disposal of Records Schedule

1. Registered Files

Files should be closed as soon as they have ceased to be of active use other than for reference purposes. Registered files should be closed 5 years after the date of opening. They can be closed at any time prior to five year rule for the following reasons:

- They reach 2.5 cm thick;
- The file subject is finished (eg the title is time bounded); or
- Nothing new has been added for 2 years.

When a file is due to be closed the appropriate officer of at least Staff Officer grade should consult the disposal schedule and complete the front cover of the file, indicating the date on which the file can be destroyed, or transferred to the Public Record Office of Northern Ireland, (PRONI) or whether it should be subject to the normal review procedures. The file should be returned to the Local Information Manager (LIM) who will complete the closure box on the front of the file cover by inserting the date of the last paper, stamping the word “closed” and inserting a yellow closure sheet on the inside right hand side of the file. If the file can be destroyed at a particular date the Local Information Manager will BF the file on the Registered File Management System for the date on which it can be destroyed. The file can be stored by the division or put away in PRONI. Closing a file simply means that no further papers can be added but the file can still be used for reference. It is imperative that management keep the LIM updated with registered file details at any point of change.

New Registered Files

Since the introduction of TRIM registered files are no longer opened.

File Note: Both RCA and VLA used the DFP File Management System (FMS) to manage their registered files. RCA also had a stand-alone system on a Lotus Approach Database

(which I believe has been deleted). These systems were/are managed by RCA Personnel and VLA Premises side, who will now be responsible to ensure that files from these systems are sent out for review – Ray Meikle.

2. Retention Period

The retention period required for each type of record is calculated from the point the file/record is closed. For example if a file is closed on 4th October 2009 and is to be retained for 7 years, it should therefore be disposed of on 4th October 2016.

Where the disposal action is ‘Destroy at Branch Level’ the records should be kept for the period stated and then destroyed by the office manager. It is imperative that management keep the Local Information Manager updated with registered file details at any point of change.

3. Destruction by Office Manager

Where the disposal action is ‘Destruction by Office Manager’ the records must be disposed of by the Executive Officer 1, Staff Officer or Deputy Principal in charge of the day to day operations within the division. It should be destroyed by the division in accordance with the procedures contained in the Guide to Document and IT Security. <http://isuclarweb/personnel/Contman/uploads/A%20Guide%20to%20Document%20and%20IT%20Security.pdf>. Where the record is an annual report or individual staff files of a Staff Officer or above, the line manager is responsible for ensuring that destruction is carried out. The Office Manager

must inform the Local Information Manager of all actions in relation to registered files to ensure the Directorate Retention File Plan is kept current.

4. **Destruction by Public Records Office**

Records that fall into this category of disposal should already have been closed and the file cover noted with the date of destruction. These files should be reviewed by the Public Records Office therefore the relevant Local Information representative for each Directorate should contact the Reviewer of the file to arrange destruction or storage in the PRONI. It is the responsibility of the Reviewer in association with the Local Information Manager to ensure that all data within the files is examined thoroughly and that no information is viewable to the public that contravenes the Data Protection Act 1998.

5. **Review**

Where the disposal action is 'Review' the file will be subject to the normal review processes. This will be initiated by the LIM. The review procedures are as follows: -

- (a) The files concerned should be closed 5 years after their opening (if they have not been closed earlier for other reasons) and no further papers added.(b)
- (b) An officer of Staff Officer level or above should carry out a first review of each file (5 years after its closure or not more than 10 years after the file was opened), based solely on its administrative value. Files recommended for destruction should be referred to PRONI whose staff will inspect such files to consider whether or not they should be preserved permanently or held in storage to await a second review, 15 years later.(d)

In normal circumstances, the retention period for such files should not exceed 20 years from their respective closure dates. The LIM will refer all files described in (b) above to the PRONI

Received Correspondence which is not registered files for example Official Public Searches and Rate payments received within any directorate should be held for a minimum of 7 years for Audit Purposes. **PLEASE NOTE** – (As per Addendum to DAO (DFP) 08/07) All financial records where there has been an investigation or prosecution in relation to the same must be retained for a 10 year period from the conclusion of that investigation or prosecution.

6. **Permanent Preservation/Transferred to PRONI / Copy sent to PRONI**

Where the disposal action is Permanent Preservation/Transferred to the PRONI /Copy sent to the PRONI, the records are exempt from the normal review procedures. The file should be sent to the LIM marked for transfer to the PRONI. The LIM in consultation with LPS IMU will make arrangements to have the records transferred as soon as possible.

In some cases the PRONI will ask for an annual percentage of particular files or a random selection to be sent to them. The selection should be made by the branch and sent to the LIM who in consultation with the LPS IMU will arrange for them to be transferred.

Records such as Official Reports, published or otherwise, Strategy documents, specialised files and the like should always be considered for Permanent Preservation. Copies of these documents should be sent to the Local Information Manager who in consultation with the Support Information Manager (SIM) and LPS IMU will arrange for them to be transferred to the PRONI.

7 **Commitment to preserving files/records**

LPS declares that it will take measures to ensure that the records it creates will be physically well maintained and cared for while they are in its custody, ie until either destroyed or transferred to the PRONI for permanent preservation. Please see below for instruction on how such files should be maintained -

- Removing paper clips and pins from papers before filing, with particular attention being given to those records which, according to the Disposal Schedule, are to be preserved permanently;
- Removing any floppy disk from paper files, and converting its contents to hard copy;
- Holding records inside proper file covers, as opposed to buff folders, which do not offer the same protection to the papers inside;
- Using continuation files if files get too bulky (ie more than 25 mm thick);
- Punching papers to be filed 25 mm in and 25 mm down from the top left hand corner to minimise the danger of detachment and resulting loss of information;
- Storing bulky or outsize documents in a pocket or envelope inside the file cover on the left hand side.

8. Roles and Responsibilities

The Chief Executive has a duty to ensure that LPS complies with the requirements of legislation affecting management of the records, and with supporting regulations and codes.

The LPS Information Manager will work closely with the LIM and SIM (Directorate Representatives) to ensure that there is consistency in the management of records and that advice and guidance on good records/information management practices are provided.

Management are responsible for ensuring that records and information systems in their areas conform to this policy and to the requirements of legislation.

All members of staff are responsible for documenting their actions and decisions in the records and for maintaining the records in accordance with good records management practice.

The role of the LIM in conjunction with the SIM and the LPS IMU is to ensure compliance with Records Management standards within their business area, and to co-ordinate activities aimed at ensuring that information is recorded, stored, managed and disposed of both effectively and legally in conjunction with the Information Management Unit. File Plans for each Directorate will be kept updated and reviewed by this manager and they will liaise with the Information Management Unit for any documents requiring review or destruction by the Public Records Office.

Section 3 - Examples of records held by Corporate Services in respect of each Work Area

Human Resources

This business area holds all the records in relation to -

- The Performance Management System;
- Pay and Conditions of Service Code

This includes registered classified files containing staff contact details for Emergency Planning.

Finance

Hold originating documents for Purchase Orders, invoices etc.

Training

This business area holds records/files on the branch training plan including all records of individuals' training requirements held electronically by the branch Training Liaison Officer, files related to branch training & team building, plus Departmental training for FOI, Data Protection, Records Management, EIR and Emergency Planning.

Emergency Planning

Files containing information regarding various emergency planning situations and Business Continuity Planning

Chief Executive's Office, Corporate Support and Management Information

The majority of records are electronic and held on TRIM.

The Chief Executives' Office holds record of general correspondence, Management Board agendas and minutes.

Corporate Support has records for Management Committee and Trade Union side meetings. It also holds records of corporate risk management, business planning, business performance monitoring and the Agency's Annual Report and Accounts.

Management Information keeps records of Balanced Scorecards, Monitors (including Public Accounts Committee and Audit Recommendations); the Management Board & Committee Information Packs and ARTEMIS (project management system and database).

Each section also holds records on staff performance and related training.

Examples of records held by Customer and Business Improvement in respect of each Work Area

Minister and Permanent Secretary's Private Office Correspondence.

This business area hold Records/files on submissions or briefings for Minister's and Permanent Secretary's cases and responses to Assembly and Parliamentary Questions, both written and oral.

Complaints and Correspondence.

This business area holds Records/files on correspondence to and from Customers in relation to LPS Complaints or Land Registration queries both written and oral.

Public Counters – front line Services.

This business area holds records/files on Land Registration, Mapping and Rating information/queries both written and oral.

Other Customer Services.

- a) Landweb Direct and E Registration Help Desk for customer suspense accounts, information/queries both written and oral.
- b) Monitory Land Registration Searches and receipted applications
- c) Commercial Mapping Services inclusive of contracts and financial transactions in relation to map sales and copy right.

Marketing and Communication

This business area holds records/files on marketing promotions for LPS and internal staff and customer communications.

Requests for Information – Information Management Unit

This business area holds records/files on FOI, EIR and Data Protection requests and monitoring information for these requests. The maintenance of Registered files relating to file reviews, access decisions and retention/disposal schedules.

Examples of records held by Operations in respect of each of the following work areas –

Premises

This category includes records relating to the premises where LPS is the sole or main occupier of a building. Records are held on registered files.

File Note: Should the Premises section not relate to all LPS Premises Officers. The records that we hold are dependant upon Departmental Policy and directives from LPS CEO. As registered files are no longer open I think that all LPS Premises Officers should have access to a scanner so documents/reports can be stored on TRIM.

Land Registration business areas can be broadly broken into the following groups-

Correspondence, Intake, DIPIS, Document Storage, Despatch, Statutory Charges Registry, Registry of Deeds, Casework Processing, Casework Support and Legal Officers team.

Correspondence.

This business area processes, receipts and despatches all mail in relation to the three registries, Land Registry, Registry of Deeds and Statutory Charges.

Intake

This business area records all applications received for registration in the Land Registry and Statutory Charges registries unto the LandWeb system (Electronic), task includes the processing of fees.

DIPIS

This business area scans all paper documents received for registration in the Land Registry and Statutory Charges registries. Tasks include the dismantling and reconstitution of paper documents prior and post scanning and the validation of scanned outputs

Document Storage

This business area is responsible for management and transient storage of legal papers relating to applications for registration which have been processed through the scanning system.

Despatch

This business area is responsible for the reconciliation of any returnable documents with correspondence notifying applicants for completion of registration. Preparing completed registration files for transfer to final storage.

Statutory Charges Registry

This business area is responsible for the processing of legal applications for registration on the Statutory Charges Register.

Registry of Deeds

This business area is responsible for the processing of legal applications for registration in the Register of Deeds.

Casework Processing

This business area is responsible for the processing of legal applications for registration on the Land Register.

Casework Support

This business area is responsible for the management of all files relating to Land Registry legal applications for registration which have not been processed through the scanning solution

Legal Officers team

This business area is responsible for the processing of complex Land Registry registration applications.

All paper records held within the above work areas are in relation to Land Registration. This official record known as the "Register" inclusive of Registry of Deeds, Statutory Charges and Land Registers all are open to inspection by the public. These records are historical documents used for registration purposes only and are stored under Permanent Preservation and are not recorded in the Disposal/Retention Schedule.

Service Management

This business area holds all non legal records/files in relation to the operational management of the three registries, reviewing charges inclusive of Private Finance Initiative, establishing business priorities, forward planning and supplier management.

Rating Services**Central Collection**

This business area holds all records/files associated with: -

Direct Debit

NIHE

This covers Northern Ireland Housing Executive payment of rates, house sales, Special Purchase Evacuated Dwellings scheme properties, Certificates of Revision and NIHE Direct Credit payments.

Maintaining and Reconciling the Bank Giro, Giro bank and the Suspense Accounts

Agents

The Billing and Collection of monies for Agents, Public Bodies and multi-ratepayers and inputting Bank Automated Clearing System payments.

Insolvency and Enforcement Section

This business area holds all records/files associated with debt enforcement and the following specific functions: -

Progression of Decrees obtained by Local Offices in the Magistrates Court,

Receipt of rate payments made to EJO and

Action on further legal action cases (FLAC), which may involve bankruptcy or liquidation proceedings.

Liaison between RCA and the Enforcement of Judgements Office (EJO).

Housing Benefit Central Unit

This business area holds all records associated with the management of the Housing Benefit scheme for owner-occupiers and the Disabled Persons Allowance scheme.

Local Offices

BAB (Direct Payments)

This business area holds all correspondence between LPS and the Social Security Agency or Direct Payment Branch regarding the deduction of a small weekly amount from a ratepayers benefit to clear an existing rate debt.

Correspondence

This business area holds all letters from customers and their representatives (solicitors etc.)

Londonderry House Post-room

This business area is responsible for cheque receipting and returning cheques to Banks and Ratepayers where there is insufficient information on the cheque to trace the Ratepayer or the Ratepayer has incorrectly completed the cheque or omitted their signature etc. Updating the Ratepayers notes on ABBACUS and storing copies of the returned letters (which includes details of the cheque) on TRIM. Copies of the cheques are no longer retained by this business area.

Continuous Revisions (CRs) Section

{CRS are loaded electronically on to Abbacus – actioned via workflow. No hard copy required}

NIHE Direct Payments

This business area holds records/files associated with the payment of a tenants rate rebate from the Northern Ireland Housing Executive direct to the RCA.

Recovery

This business area holds records/files associated with recovering monies, which the RCA has been unable to collect by the approved methods of payment as stipulated in the Rates Demand.

Refunds

This business area holds records/files associated with the refunding of credits to Ratepayers.

Vacancy Inspections

This business area holds records/files associated with the inspection of vacant non-domestic properties with a Rateable Value less than £2,000 and all domestic vacant properties in the Province.

Non-Domestic Vacant Rating

This business area holds all records/files associated with the rating of non-domestic vacant properties with a Rateable Value of more than £2,000, introduced with effect from 1 April 2004 as a result of the Review of Rating Policy.

Rating Reform Project Team (RRPT)

This business area holds all records/files associated with the implementation of recommendations emerging from the Review of Rating Policy. These include the introduction of vacant rating, the phasing out of industrial derating, the reform of the domestic valuation service and the likely introduction of new reliefs.

Examples of records held by Data Information Systems in respect of each of the following work areas -

Data Collection consists of Field Collection and Planning & Production; Field Collection consists of Greater Belfast Survey (which incorporates Geodetic Survey) and Regional Survey.

Data Management Group consists of:

- Improvement
- Development
- GeoHub NI
- Database and Spine Management.

Improvement Branch

This business area holds records/files on Specifying and agreeing Data Sharing protocols with a range of other bodies, including Local Authorities and Utilities.

Developing and implementing a vacancy inspection policy for LPS;

Data cleansing of LPS datasets.

Development Branch

This business area holds records/files on Data Enhancement team's validation of Pointer data, creation of the 1:10 000 map product, and maintenance of the Road Network product.

GeoHub NI is a web based platform for Sharing, Using, and Developing Geographic Information for Northern Ireland.

The Web Services Support section is responsible for the maintenance of services that LPS deliver via the Internet.

Database Management

This business area hold records/files on the management of the LPS databases which relate to the following systems: GeoHub NI, CAMEO, STAR, Pointer, MIDAS and Mapbase.

Information Systems Group's

This business area holds records/files on ICT contract management, supplier liaison, system development and maintenance, data analysis and management information, Help Desk and user support services, line-of-business infrastructure management, and ICT procurement, security and standards.

Examples of records held by Valuation in respect of each Work Area

Rating – List Maintenance

This business area holds records/files which are kept in relation to maintaining the currency of the Valuation List. This statutory function is mandated by the Rate (Northern Ireland) Order 1977. Records are held for each hereditament (rateable entity) noting the Net Annual **or Capital Value** and the details required to establish this. The Rating Valuation List is a public document available to view on our internet site at www.lpsni.gov.uk further information on the Valuation List and its contents are also available at the website.

Rating – Domestic Revaluation – Non-Domestic Revaluation

This business area holds records/files which are kept in relation to the planning and undertaking of a revaluation of all the properties of either type. These records will largely be held on registered files.

Client

This category refers to the provision of a valuation, estate management and property data service to the public sector including a pro-active approach to estate management. The records are held on registered files detailing such things as the Service Levels Agreements under which this type of work is undertaken and also on the Casework files specific to the type of work undertaken.

Information Systems

LPS holds records/files in relation to AO, its core computer system.

Programme Office

This business area holds records/files relating to the programme of projects being undertaken by Valuation. Records for the programme and its projects are kept in line with PRINCE 2 requirements. Records are held on registered files.

Section 4

Disposal Schedule

Corporate Services Directorate Disposal Schedule

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
Corporate Services/Personnel and Training	Training files	Close when staff member leaves the agency	Retain for 6 months after staff member leaves	Destruction by Training manager
	Individual file for each member of staff recording all training and development activities			
Corporate Services/Finance	Authorisation for Payment Forms	Retain to reference with original invoices	Retain for 7 years	Destruction by Head of Branch
	Lodgement Slips	Retain to reference with original Claims in DFP	Retain the current and immediately previous financial years records	Destruction by Head of Branch
	Purchase record including request, delivery docket and Purchase Order	Retain to reference with original invoices	Retain the current and 2 immediately previous financial years records	Destruction by Head of Branch
Corporate Services/Corporate Support	Printed copy of Agency's Corporate and Business Plan	Held by Corporate Support	Permanently	Permanent preservation. Printed copy to PRONI
	Printed copy of Agency's Annual Report and Accounts.	Held by Corporate Support	Permanently	Permanent preservation. Printed copy to PRONI
Corporate Services/Chief Executive's Office	Framework Document publication	Held by Chief Executive's Office	Permanently	Permanent preservation. Printed copy to PRONI
	Registered files. All policy files recorded on the File Management system.	Closed and reviewed in line with PRONI guidance.	Normal Review Process.	Determined on review
	Board Papers	Stored in a registered file and locked in cabinet.	Normal Review Process.	Determined on review

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
	Whitley Papers	Stored in a registered file and locked in cabinet.	Normal Review Process	Determined on review.
Corporate Services/Corporate Support Finance	Agency Accounts	Invoices, journals etc.	Current financial year + six financial years	Destruction by Business Area Office Manager
Corporate Services/Finance	Budget Files	Paper files stored in a locked cabinet. * Operational requirement	Current financial year + six financial years	Destruction by Business Area Manager
	Budget Holder Papers	Paper files stored in a locked cabinet * Operational requirement	Current financial year + six financial years	Destruction by Business Area Manager
Corporate Services/Chief Executive's Office	Framework Document publication	Held by Chief Executive's Office	Permanently	Permanent preservation. Printed copy to PRONI
	Registered files. All policy files recorded on the File Management system.	Closed and reviewed in line with PRONI guidance.	Normal Review Process.	Determined on review
	Board Papers	Stored in a registered file and locked in cabinet.	Normal Review Process.	Determined on review
	Whitley Papers	Stored in a registered file and locked in cabinet.	Normal Review Process	Determined on review.
Corporate Services/Corporate Support Finance	Agency Accounts	Invoices, journals etc.	Current financial year + six financial years	Destruction by Business Area Office Manager
Corporate Services/Finance	Budget Files	Paper files stored in a locked cabinet. * Operational requirement	Current financial year + six financial years	Destruction by Business Area Manager

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
	Budget Holder Papers	Paper files stored in a locked cabinet * Operational requirement	Current financial year + six financial years	Destruction by Business Area Manager
	Manual Refund Papers	Retention as per No. 8, Appendix 1 AHC1/96	Current financial year + six financial years	Destruction by Business Area Office Manager

Customer Business Improvement Directorate Disposal Schedule

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
Customer Service Centre	Audit Till Rolls	Paper Till Rolls. Retention as per Section 11 AHC1/96	Current Financial Year + Six further Financial Years.	Destruction by Business Office Manager
	LWD Suspense Account Details	Paper. Stated Retention is an *Operational Requirement.	Current Financial Year + Six further Financial Years.	Destruction by Business Office Manager
	Manual Receipt Books mapping services.		Current Financial Year + Six further Financial Years.	Destruction by Business Office Manager
	Daily balance sheets and stats	Paper printout and handwritten balance sheet.	Current Financial Year + Six further Financial Years.	Destruction by Business Office Manager
	Registered Files Customer files	Stored in secure cabinets.	Normal Review Process	Determined on Review
	Customer Service Statistics	Stored on a Registered File in locked cabinet.	Current financial year + one financial year	Destruction by Business area Manager

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
Customer Correspondence and Complaints Unit	Complaint Files	Stored on a Registered File in locked cabinet. (Copy Held by Correspondence Team)	Normal Review Process	Determined on Review
	Chief Executive Queries	Stored on a Registered File in locked cabinet.	Normal Review Process	Determined on Review
	MLA Queries	Stored on a Registered File in locked cabinet.	Normal Review Process	Determined on Review
	Ombudsman Complaints	Stored on a Registered File in locked cabinet.	Normal Review Process	Determined on Review
	Parliamentary Questions	Stored on a Registered File in locked cabinet.	Normal Review Process	Determined on Review
	Land Registration correspondence	Stored in secure cabinets.	Normal Review Process	Determined on Review
	Submissions or briefings for Minister's and Permanent Secretary's Cases.	Close at the end of the year or when files reach capacity	5 years - subject to normal review process	Determined on Review
Customer Correspondence and Complaints Unit	Responses to Parliamentary Questions both written and oral and Assembly questions	Close at the end of the year or when files reach capacity	5 years - subject to normal review process	

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
Information Management Unit	Individual FOI requests	When signed off and any appeal resolved	3 years, unless an access decision has been made to redact information 10 years	Destruction by Business Office Manager
	Individual EIR requests	When signed off and any appeal resolved	3 years, unless an access decision has been made to redact information 10 years	Destruction by Business Office Manager
	Data Protection Subject Access Requests	When signed off and any appeal resolved	3 years, unless an access decision has been made to redact information 10 years	Destruction by Business Office Manager
	Monitoring of requests for information including FOI, Data Protection and EIR	Close within 5 years or when files reach capacity	10 years	Destruction by Business Office Manager
	Papers relating to the Publication Scheme	Close within 5 years or when files reach capacity	5 years	Destruction by Business Office Manager
	Operations & implementation of FOI activities	Close within 5 years or when files reach capacity	5 years	Destruction by Business Office Manager
	Liaison with the Information Commissioner	Close within 5 years or when files reach capacity	5 years	Destruction by Business Office Manager
	Information regarding file reviews, access decisions, retention and disposal	Close within 5 years or when files reach capacity	5 years	Destruction by Business Office Manager
	EDRMS (TRIM) Project operation & implementation	Close within 5 years or when files reach capacity	5 years	Destruction by Business Office Manager
	Policy Case Files	Stored on a Registered File in locked cabinet.	Normal Review Process	Determined on Review
1. Business Improvement Unit	Registered Files	Stored in secure cabinets.	Normal Review Process	Determined on Review

Operations Directorate Disposal Schedule

Work Area	Types of Files/ Records	File/Record Action	Retention	Final Action
Central Collection Side (CCS)	Bank cancellations	Paper records held in local office for current financial year + one financial year then additional five financial years storage in Rathgael, Bangor. Retention is an *Operational Requirement.	Current financial year + six financial years.	Destruction by Business Area Office Manager
	Direct Debit Mandates	Paper Applications. Retention is an *Operational Requirement.	Current financial year + six financial years	Destruction by Office Manager
	Bank Giro/Girobank Suspense Account	Electronic records. Retention dates to earliest payment in suspense.	Current financial year + six financial years.	Destruction by Business Area Office Manager
	Paperless Direct Debit Applications	Letters from Ratepayers asking to change payment method to Direct Debit. Held in local office for current + one year then an additional five financial years storage in Rathgael, Bangor. Retention is an *Operational Requirement.	Current financial year + six financial years.	Destruction by Business Area Office Manager
	Ongoing Enforcement Cases	Enforcement Files stored on a rotating Lectrever Filing system. Retention as per RG 2/2000	Retained for the length of the Decree (six years) if not Enforced Twelve Year retention if enforced	Destruction by Business Area Office Manager
Rating Services Insolvency and Enforcement Section	Bankruptcy Cards	Indexed in a Rolodex-type-box on desk. Retained for stated as an *Operational Requirement.	Retain for current year plus one further Financial Year.	Destruction by Business Area Office Manager
	Paid In Full Cards	Indexed in a Rolodex-type-box on desk. Retained for stated as an *Operational Requirement.	Permanent retention	Permanent Preservation.
	Paid In Full Files	Files stored in secure cabinets. File closed at end of Financial Year.	Current financial year + one financial year	Destruction by Business Area Office Manager
	Withdrawals/ Irrecoverables	Paper copies stored in a locked cabinet. Retention as per RG 2/2000. File closed at end of Financial Year.	Retained in Rathgael, Bangor for a further six financial years.	Destruction by Business Area Office Manager

Work Area	Types of Files/ Records	File/Record Action	Retention	Final Action
	Further Legal Action (FLAC) NOT Cleared Cases	Retention as per *Operational Requirement. File closed at end of Financial Year.	Current financial year + one financial year	Destruction by Business Area Office Manager
Housing Benefit Central Unit	Workflow System.	Electronic scanning and image retrieval system. RCA 126/99 obtained approval for the disposal of paper records when scanned for the Workflow System. File closed at end of Financial Year. Documents are retained for stated as an *Operational Requirement.	Current financial year + one Financial Year.	Destruction by Business Area Office Manager
	Disabled Person's Allowance (DPA) Outstanding Applications	Paper Applications. Retention as per Article 16 AHC 1/96 i.e. file closed at end of Financial Year.	Current financial year + one Financial Year	Destruction by Business Area Office Manager
	Disabled Person's Allowance (DPA) Assessed Applications	Paper Applications. Documents are retained for stated as an *Operational Requirement.	Retain while Applicant is on Disabled Person's Allowance.	Destruction by Business Area Office Manager.
	Registered Files	Stored in secure cabinets.	Normal Review Process	Determined on Review
	Rates Levy	Payable Orders, Account Adjustments, Credits Set Aside, Write-on's etc. Retention as per Northern Ireland Resource Accounting Manual (NIRAM) and Government Accounting Northern Ireland (GANI).	Current financial year + six financial years	Destruction by Business Area Office Manager

Work Area	Types of Files/ Records	File/Record Action	Retention	Final Action
Correspondence Section	Copy Manual Refund Papers	Locally held copy - original sent to RCA Finance Dept. Retention as per No. 8 Appendix 1 AHC 1/96 i.e. file closed at the end of the Financial Year.	Retain local copy for one further Financial Year. Finance original retained for a further Six Financial Years.	Destruction by Business Office Manager
	Correspondence	Stored in locked presses. Retention as per Section 1(b) AHC 1/96 i.e. file closed at the end of the Financial Year.	Current financial year + one Financial Year	Destruction by Business Area Office Manager
	Bad Service	Mail returned by Royal Mail to LPS for investigation as undeliverable. Processed inline with general correspondence and stored in locked presses. Retention as per Section 1(b) AHC 1/9 i.e. file closed at the end of the Financial Year.	Current financial year + one Financial Year	Destruction by Business Area Office Manager
Correspondence Section/Refund/CR	Ratepayer Account Adjustments	Retention as per Section 8(b) AHC 1/96	Current financial year + six financial years	Destruction by Business Area Office Manager
Londonderry House Post-room	Returned Cheques	Stored in a Lever arch File containing copies of cheques with insufficient info. Returned to addressee or bank. Since XX/XX/09 copies of letters with cheque details stored on TRIM, copies of cheques no longer retained. Processed inline with general correspondence. Retention as per Section 1(b) AHC 1/96 i.e. file closed at the end of the Financial Year. TRIM records will be subject to the electronic disposal schedule	Current financial year + one Financial Year	Destruction by Business Office Manager
Central Collection	NIHE Direct Payments	NIHE notification letters and small balance letters stored in locked presses. File closed at the end of the Financial Year. Retention is an *operational requirement.	Current financial year + one Financial Year	Destruction by Business Office Manager
	BAB Direct Deductions Letters	Schedules stored in locked presses. Retention as per Section 2 AHC 1/96 i.e. File closed at the end of the Financial Year.	Retain for current year plus two further Financial Years.	Destruction by Business Office Manager
	Residential Homes Files	Paper Application Forms in Ring binders. Retention as per Account Adjustments (which they contain) Section 8(b) AHC 1/96. File closed at the end of the Financial Year.	Retain for current plus six further Financial Years.	Destruction by Business Office Manager

Work Area	Types of Files/ Records	File/Record Action	Retention	Final Action
Recovery Section	Further Legal Action (FLAC) Cleared Cases	Paper records stored on Ring binders in locked cabinets. Retention as per AHC 1/96, Appendix 1 HQ Enforcement section no.2 i.e. File closed at end of Financial Year.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Further Legal Action (FLAC) NOT Cleared Cases	Paper records stored on Ring binders in locked cabinets. File closed at end of Financial Year. Retention is an Operation requirement.	Copies retained in local office for one further Financial Year. Originals retained in Enforcement for one further Financial Year.	Destruction by Business Office Manager
Recovery Section	Refer to Drawer Cheques	Paper records stored on Ring binders in locked cabinets. Retention as per Section 1.3(b) AHC 1/96. File closed at end of Financial Year.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Affidavit, Court List and Court Register.	Paper records stored on Ring binders in locked cabinets. Retention is an Operation requirement.	Current financial year + one Financial Year	Destruction by Business Office Manager

Work Area	Types of Files/ Records	File/Record Action	Retention	Final Action
	Process in Debt Proceedings	<p>Paper records stored on Ring binders in locked cabinets.</p> <p>1. Retention as per Section 3.1 RG2/2000 i.e. File closed at the end of the Financial Year.2.</p> <p>2. Operational Requirement i.e. File closed at the end of the Financial Year.</p>	<p>1. If attached to the Decree then current + six further financial months from the date of the Court (i.e. settled in full including court costs).</p> <p>2. If NOT attached then one further financial year from date of the Court (i.e. Settled in full including court costs).</p>	Destruction by Business Office Manager
	Decrees	Paper records on Ring binder. Retention as per Section 3.1 RG2/2000 i.e. File closed at the end of the Financial Year.	Decree retained for a period of a further six financial months from the date of the Court (i.e. Settled in full including court costs)	Destruction by Business Office Manager
	NOIs	Paper records stored on Ring binders in locked cabinets. File Closed at the end of the Financial Year. Retention is an Operation requirement.	Current financial year + further six financial Months after settlement in full.	Destruction by Business Office Manager
	Registered Files	Stored in secure cabinets.	Normal Review Process	Determined on Review
Vacancy Section	Property Inspection Records	Paper records stored in Lever arch Files in carousels and storerooms. Retention as per Section 6 AHC 1/96 i.e. File closed at the end of the Financial Year.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Registered Files	Stored in secure cabinets.	Normal Review Process	Determined on Review

Work Area	Types of Files/ Records	File/Record Action	Retention	Final Action
Vacancy Section	Property Inspection Records	Paper records stored in Lever arch Files in carousels and storerooms. Retention as per Section 6 AHC 1/96 i.e. File closed at the end of the Financial Year.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Registered Files	Stored in secure cabinets.	Normal Review Process	Determined on Review
Non-Domestic Vacant Rating (NDVR) Section	Continuous Revisions (CRs) Certificates	Paper records stored in locked cabinet. File closed at the end of the Financial Year. Retention as stated is a suggested. *Operational Requirement as this Business Area was only recently setup.	Current financial year + two financial years.	Destruction by Business Office Manager
	Completion Notices	Paper records stored in locked cabinet. File closed at the end of the Financial Year. Retention as stated is a suggested *Operational Requirement as this Business Area was only recently setup.	Current financial year + two financial years.	Destruction by Business Office Manager
	Exemption Forms	Paper records stored in locked cabinet. File closed at the end of the Financial Year. Retention as stated is a suggested *Operational Requirement as this Business Area was only recently setup.	Current financial year + two financial years.	Destruction by Business Office Manager
	NDVR Refunds	Paper records stored in locked cabinet. File closed at the end of the Financial Year. Retention as stated is a suggested *Operational Requirement as this Business Area was only recently setup.	Current financial year + two financial years.	Destruction by Business Office Manager
	NDVR Correspondence	Paper records stored in locked cabinet. File closed at the end of the Financial Year. Retention as stated is a suggested *Operational Requirement as this Business Area was only recently setup.	Current financial year + two financial years.	Destruction by Business Office Manager

Work Area	Types of Files/ Records	File/Record Action	Retention	Final Action
	NDVR Complaints	Paper records stored in locked cabinet. File closed at the end of the Financial Year. Retention as stated is a suggested *Operational Requirement as this Business Area was only recently setup.	Current Financial year + two financial years.	Destruction by Business Office Manager
	Power to require information notices	Paper records stored in locked cabinet. File closed at the end of the Financial Year. Retention as stated is a suggested *Operational Requirement as this Business Area was only recently setup.	Current Financial year + two financial years.	Destruction by Business Office Manager
	NDVR account adjustment	Paper records stored in locked cabinet. File closed at the end of the Financial Year. Retention as stated is a suggested *Operational Requirement as this Business Area was only recently setup.	Current Financial year + two financial years.	Destruction by Business Office Manager
	NDVR Vacancy Inspection sheets	Paper records stored in locked cabinet. File closed at the end of the Financial Year. Retention as stated is a suggested *Operational Requirement as this Business Area was only recently setup.	Current Financial year + two financial years.	Destruction by Business Office Manager
Rating Reform Project Team (RRPT)	Registered Files	Stored in secure cabinets.	Normal Review Process	Determined on Review
	Revaluation/ Transitional relief Scheme	Stored on a Registered File in locked cabinet.	Normal Review Process	Determined on Review
	Finance File	Stored on a Registered File in locked cabinet.	Normal Review Process	Determined on Review
Systems Support Unit	Module File Archive Library	In a Secure Filing Cabinet.	Operational Requirement - Permanent	Permanent Preservation
	Transitional relief Files	Stored on a Registered File in locked cabinet.	Normal Review Process	Determined on Review

Work Area	Types of Files/ Records	File/Record Action	Retention	Final Action
Training & Development Section	Personal Development Plans	Individual PDPs stored in Ringbinders. Retention is an *Operational Requirement.	Current Financial Year only.	Destruction by Business Office Manager
	Registered Files	Stored in secure cabinets.	Normal Review Process	Determined on Review
Training & Development Section	Personal Development Plans	Individual PDPs stored in Ringbinders. Retention is an *Operational Requirement.	Current Financial Year only.	Destruction by Business Office Manager
	Registered Files	Stored in secure cabinets.	Normal Review Process	Determined on Review
Training & Development Section	Personal Development Plans	Individual PDPs stored in Ringbinders. Retention is an *Operational Requirement.	Current Financial Year only.	Destruction by Business Office Manager
	Registered Files	Stored in secure cabinets.	Normal Review Process	Determined on Review
Training & Development Section	Personal Development Plans	Individual PDPs stored in Ringbinders. Retention is an *Operational Requirement.	Current Financial Year only.	Destruction by Business Office Manager
	Registered Files	Stored in secure cabinets.	Normal Review Process	Determined on Review
Supervisory Reports (All Business Areas)	Ratepayer Change Supervisory Report (Actioned by Operations monthly)	Report listing 10% of Ratepayer Changes by Region – monthly, checked by Supervisor. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Occupancy Date Audit Report (Actioned by Operations monthly)	Report listing 10% of Occupancy dates amended for a specific month by Region – monthly, checked by Supervisor. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager

Work Area	Types of Files/ Records	File/Record Action	Retention	Final Action
	Refunds Not Processed Due to Existing Debt (Actioned by Refunds Section monthly)	Report listing Credits which have not appeared on Refunds List because (1) Debt in another year in same account (2) Debt in another property linked to ratepayer. Report checked and actioned as appropriate. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
Refund Section	Refunds Held Report	Report listing refunds which have been authorised but not printed – details have changed, e.g., amount of credit, each PO to be checked and deleted from list as appropriate File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Stop All Bills Report (Actioned by Operations monthly)	Monthly Report listing accounts with 'Stop All Bills' indicator set – to be checked by Supervisor and indicator removed if appropriate. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Missed Discount Check Report HQ bi-annually {Under Review by Management}	Bi-monthly Report listing accounts for which payment has been received but discount not granted – to be checked and discount allowed or Missed Discount Letter issued. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Monthly questionnaire report	Monthly Report listing outstanding Valuation and Occupier Questionnaires – to be checked and Reminder Questionnaires issued as necessary. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Properties Without an Effective Date Report (Actioned by CR Section monthly)	Monthly Report listing properties on system for more than 30 days which do not have an Effective Date input – to be checked and actioned. File closed at the end of the Financial Year. Retention period as per Dept. Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager

Work Area	Types of Files/ Records	File/Record Action	Retention	Final Action
(additional for Refund team)	Effective Date Changes Report (Actioned by CR Section monthly)	Monthly Report listing 10% of Effective Dates Changes input – to be checked by Supervisor. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Effective Date Input Report	Monthly Report listing 10% of Effective Dates input – to be checked by Supervisor. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Outstanding Visits Reports (Actioned by Local Office monthly)	Report listing all property visits in an area which have not been carried out – checked and actioned as necessary. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Property Inspection Monitoring (Actioned by Local Office monthly)	Report listing Properties requiring Supervisor Inspection (5%). File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Reports on Shorts and Overs (Actioned by Local Office monthly)	Reports printed monthly listing Cash Shorts and Overs – to be checked and matched where possible. File closed at the end of the Financial Year. Retention as Dept Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Report on Non-Cash Credits (Actioned by Local Office monthly)	Report listing accounts where credit exists in 'Rates' and a debit exists in another rate category – to be checked and actioned as appropriate. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager

Work Area	Types of Files/ Records	File/Record Action	Retention	Final Action
	Ratepayer Account Adjustments (Actioned by Operations monthly)	Monthly Report listing Account Adjustments carried out by Region – checked against ratepayer account and relevant paperwork. File closed at end of the Financial Year. Retention period per Dept. Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Court Monitoring Report (Actioned by Local Office monthly)	Monthly Report listing all debtors by Court Date, who have had a Process issued but have not paid their debt in full – checked by Recovery Staff. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Process Stamp Schedule (Actioned by Local Office monthly)	Report listing number of Processes issued by month, Court, Court date, and Process issued date. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Arrangement Payers Who Have Received a New Bill (Actioned by Local Office monthly)	Report listing ratepayers with current arrangements who have received a subsequent bill – to be checked and a letter issued and arrangement amended if necessary. File closed at the end of the Financial Year. Retention period as per Dept. Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Monitor Fully Paid Arrangements (Actioned by Local Office monthly)	Report listing arrangements which have been fully paid – to be run before Monitor Broken Arrangements. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Monitor Broken Arrangements (Actioned by Local Office monthly)	Reports listing arrangements which have been broken – to be checked, arrangements terminated, etc. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager

Work Area	Types of Files/ Records	File/Record Action	Retention	Final Action
	List Revision Required Local ad-hoc	Report listing Properties requiring Revision/Revaluation – to be sent to VLA. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Unactioned Final Notices HQ ad-hoc	Report listing Ratepayers with Final Notices but who have not appeared on Initiate Process module – to be checked and actioned as appropriate. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Ratepayer Balance Reports HQ ad-hoc (Oct-Mar)	Reports listing ratepayer accounts with an outstanding balance for the current year – checked and actioned as appropriate. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Error Log HQ ad-hoc	Report listing errors on output, each account to be checked and actioned File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Properties Not Billed as Start of Year HQ annual	Annual Report listing properties/accounts for which a START OF YEAR bill did not issue – to be checked, problems identified and/or a supplementary demand requested. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Recovery Status Monitoring Report HQ annual	Report listing Recovery cases which are currently HELD or TERMINATED. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Arrears List HQ annual	Report listing all ratepayer accounts with an outstanding balance prior to the current year – checked and actioned as appropriate File closed at the end of the Financial Year. Retention period as per Depart. Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager

Work Area	Types of Files/ Records	File/Record Action	Retention	Final Action
	TOY Ratepayers at Recovery Stages B, C and D HQ annual	Annual Report run at TOY where recovery for previous year has not been terminated. File closed at the end of the Financial Year. Retention period as per Depart. Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Highlight Costs and Fees to be Written Off HQ annual	Annual Report run at end of year to list accounts where main debt has been cleared and costs and/or fees are still outstanding – to be checked and costs/fees waived if appropriate. File closed at the end of the Financial Year. Retention period as per Departmental Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	List Refunds disallowed report (Actioned by Refund team monthly)	Weekly Report showing details of Ratepayers where a No Refund Indicator 3 has been set – to be checked and actioned as appropriate. File closed at the end of the Financial Year. Retention period as per Depart. Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Local Office Payments in Suspense HQ weekly	Report listing local office payments in Suspense – each item on list to be checked and transferred to correct account if possible. File closed at the end of the Financial Year. Retention period as per Depart. Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
	Ratepayers Under Recovery Having Received a Supplementary Bill HQ weekly	Report listing Ratepayers under Recovery who have received supplementary bill – to be checked and recovery terminated if necessary. File closed at the end of the Financial Year. Retention period as per Depart. Internal Audit.	Current financial year + one Financial Year	Destruction by Business Office Manager
Land Registration	British Telecom Private Finance Initiative Copy Invoices	Stored in a Secure Cabinet	Current financial year + one Financial Year	Destruction by Business Office Manager

Work Area	Types of Files/ Records	File/Record Action	Retention	Final Action
	British Telecom Private Finance Initiative Registered Files inclusive of Change Requests and Contract	Stored in a Secure Cabinet	Permanently	Permanent storage in LPS

Data Information and Systems Directorate Disposal Schedule

Work Area	Types of Files/ Records	File/Record Action	Retention	Final Action
IT Service Desk and Technical Team	Turn of Year Billing Timetables	Paper records stored in a locked cabinet. Documents are retained for stated as an *Operational Requirement.	Current financial year + two financial years	Destruction by Business Area Office Manager
	Disaster Recovery	Hard copy of Procedures Manual kept off site. Documents are retained for stated as an *Operational Requirement.	Permanent Retention	Permanent Preservation
	Operations logs and run sheets	Stored in a secure cabinet of site. File closed at the end of the Financial Year. Documents are retained for stated as an *Operational Requirement.	Current financial year + one financial year	Destruction by Business Area Office Manager
	System Spool (all print jobs on the system)	Retained off site. Retained for stated as an *Operational Requirement.	Retained for one month and then overwritten.	Overwritten.
	Budget File (not registered)	Locally held copy - original sent to RCA Finance Dept. Finance retention as per Section 8(b) AHC 1/96 i.e. closed at the end of the Financial Year.	Retain copy for Current financial year + one financial year Finance original retained current year + six further financial years.	Destruction by Business Area Office Manager
	CDs	Data Backup. Retained for stated as an *Operational Requirement.	Permanent Retention	Permanent Preservation
	Tape Database	All backup tapes for Morning Output etc. Approx. 4 tapes (2 Logs, 1 Sequent and 1 Sunserver). Retained for stated as an *Operational Requirement.	Retained for three weeks and then over-written. Retention for Turn of year tapes is current financial year +one financial year.	Overwritten

Work Area	Types of Files/ Records	File/Record Action	Retention	Final Action
	ID Backup	Details of Passwords etc. stored in Fireproof Safe off site. Billing backup stored in Tape Store of site. Retained as an *Operational Requirement.	Retained for three weeks and then over-written.	Overwritten
	Registered Files	Stored in secure cabinets.	Normal Review Process	Determined on Review
Information Technology (IT) Replacement Section	Tenders	Original paper Tenders with Central Procurement.	As per Central Procurement Guidelines.	Retained by Central Procurement Directorate.
	Project Board/ Agenda/Minutes	Registered Files	Normal Review Process	Determined on Review
	Registered Files	Stored in secure cabinets.	Normal Review Process	Determined on Review

Valuation Directorate Disposal Schedule

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
Rating	V30s 2nd Revaluation background papers on valuation of properties.		Permanently	Currently held in PRONI
	Appeals Certificates Certificates of Valuation following appeal to the Commissioner of Valuation.	Held by Appeals Section	Retain current and last 2 years forms and any related to ongoing/live cases.	Destruction by Appeals DV
	Rating Case Files Rating Cases	Held in District Office.	Retain while hereditament exists, papers relating to previous Revaluations can be removed once new valuation is published.	Destroy when hereditament no longer exists.
	CR2s Application for revision of Valuation list entry from RCA/NIHE. CR3s Application for revision of Valuation list entry from ratepayers.	Hold in District Office.	Retain current and last 2 years forms.	Destruction by rating team leader.

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
Client Services	Acquisition Case Files 1. Purchase by agreement 2. New lease files 3. SPED	1. Files after case completed. 2. Retain while lease is current. 3. Retain while property remains unsold.	1. 5 years. 2. 2 years after expiry of lease. 3. 2 years after resale.	1. Destruction by Client Senior Valuer. 2. Destruction by Client Senior Valuer. 3. Destruction by Client Senior Valuer.
	CR2s Application for revision of Valuation list entry from RCA/NIHE. CR3s Application for revision of Valuation list entry from ratepayers.	Hold in District Office.	Retain current and last 2 years forms.	Destruction by rating team leader.
Client Services	Acquisition Case Files 1. Purchase by agreement 2. New lease files 3. SPED	1. Files after case completed. 2. Retain while lease is current. 3. Retain while property remains unsold.	1. 5 years. 2. 2 years after expiry of lease. 3. 2 years after resale.	1. Destruction by Client Senior Valuer. 2. Destruction by Client Senior Valuer. 3. Destruction by Client Senior Valuer.

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
	CR2s Application for revision of Valuation list entry from RCA/NIHE. CR3s Application for revision of Valuation list entry from ratepayers.	Hold in District Office.	Retain current and last 2 years forms.	Destruction by rating team leader.
Client Services	Acquisition Case Files 1. Purchase by agreement 2. New lease files 3. SPED	1. Files after case completed. 2. Retain while lease is current. 3. Retain while property remains unsold.	1. 5 years. 2. 2 years after expiry of lease. 3. 2 years after resale.	1. Destruction by Client Senior Valuer. 2. Destruction by Client Senior Valuer. 3. Destruction by Client Senior Valuer.
	Management Case Files 1. Rent Review. 2. Conacre lettings and others	1. Retain while lease is current. 2. Close files after case completed	1. 2 years after expiry. 2. of lease 3. 2 years	1. Destruction by Client Senior Valuer. 2. Destruction by Client Senior Valuer
	Disposal Case Files 1. Unrestricted sales. 2. Sales subject to clawback or profit	1. Close file on completion of case. 2. Retain while subject to clawback or profit sharing arrangements	1. 5 years. 2. 5 years after expiry of clawback or profit sharing period.	1. Destruction by Client Senior Valuer. 2. Destruction by Client Senior Valuer. 3. Destruction by Client Senior Valuer

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
	Asset Valuation Case files Records of valuations of assets.	Retain until asset has been disposed of.	3 years after disposal of asset.	Destruction by Client Senior Valuer
	Management Case Files 1. Rent Review 2. Conacre lettings and others	1. Retain while lease is current 2. Close files after case completed	1. 2 years after expiry 2. of lease 3. 2 years	1. Destruction by Client Senior Valuer 2. Destruction by Client Senior Valuer
	Disposal Case Files 1. Unrestricted sales. 2. Sales subject to clawback or profit	1. Close file on completion of case. 2. Retain while subject to clawback or profit sharing arrangements	1. 5 years. 2. 5 years after expiry of clawback or profit sharing period.	1. Destruction by Client Senior Valuer. 2. Destruction by Client Senior Valuer 3. Destruction by Client Senior Valuer
	Asset Valuation Case files Records of valuations of assets.	Retain until asset has been disposed of.	3 years after disposal of asset.	Destruction by Client Senior Valuer
	Management Case Files 1. Rent Review 2. Conacre lettings and others	1. Retain while lease is current 2. Close files after case completed	1. 2 years after expiry 2. of lease 3. 2 years	1. Destruction by Client Senior Valuer 2. Destruction by Client Senior Valuer
	Disposal Case Files 1. Unrestricted sales. 2. Sales subject to clawback or profit	1. Close file on completion of case. 2. Retain while subject to clawback or profit sharing arrangements	1. 5 years. 2. 5 years after expiry of clawback or profit sharing period.	1. Destruction by Client Senior Valuer. 2. Destruction by Client Senior Valuer 3. Destruction by Client Senior Valuer

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
	Asset Valuation Case files Records of valuations of assets.	Retain until asset has been disposed of.	3 years after disposal of asset.	Destruction by Client Senior Valuer
	Taxation case files 1. Valuation not relevant to other assessments.2. 2. Valuation relevant to other assessments.	1. Close file when case completed. 2. 2. Retain but remove non-relevant papers after 5 years.	1. 5 years2. 3. Permanently	1. Destruction by Client Senior Valuer 3. Permanent Preservation
	Regeneration Grant case files	Retain while subject to clawback or overage provisions in the grant	5 years after expiry of clawback period.	Destruction by Client Senior Valuer
	Economic Appraisal case files 1. Subject to Post Project Evaluation (PPE)2. 2. Not subject to PPE	1. Retain until PPE has been completed.2. 3. Close file after case completed.	1. 2 years after PPE.2. 3. 5 years	1. Destruction by Client Senior Valuer2. 3. Destruction by Client Senior Valuer

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
	Compensation Case files 1. Domestic Disturbance 2. 3. 4. Planning Compensation 5. 6. 3. Other compensation cases	1. Close files after case completed 2. 3. Retain 4. 5. Close files after case completed	1. 2 years 2. 3. 4. Permanently 5. 6. 7. 5 years	1. Destruction by Client Senior Valuer 2. Permanent 3. Destruction by Client Senior Valuer

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
	Valuation Case Files 1. NIHE House sales 2. 3. 4. NIHE Housing Grants 5. 6. 7. Housing Benefit 8. 9. 10. Social Security 11. 12. 5. GP Rent and Rates 6. Others	1. Close files after case completed 2. 3. Close files after case completed 4. 5. Close files after case completed 6. 7. Close files after case completed 8. 5. Retain while premises fall within repayment scheme 6. Close files after case completed	1. 2 years 2. 3. 4. 2 years 5. 6. 7. 2 years 8. 9. 10. 2 years 11. 12. 5. 2 Years 6. 5 Years	1. Destruction by Client Senior Valuer 2. Destruction by Client Senior Valuer 3. Destruction by Client Senior Valuer 4. Destruction by Client Senior Valuer 5. Destruction by Client Senior Valuer 6. Destruction by Client Senior Valuer

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
	Compensation Case files 1. Domestic Disturbance 2. 3. 4. Planning Compensation 5. 6. 3. Other compensation cases	1. Close files after case completed 2. 3. Retain 4. 5. Close files after case completed	1. 2 years 2. 3. 4. Permanently 5. 6. 7. 5 years	1. Destruction by Client Senior Valuer 2. Permanent 3. Destruction by Client Senior Valuer

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
	Valuation Case Files 1. NIHE House sales 2. 3. 4. NIHE Housing Grants 5. 6. 7. Housing Benefit 8. 9. 10. Social Security 11. 12. 5. GP Rent and Rates 6. Others	1. Close files after case completed 2. 3. Close files after case completed 4. 5. Close files after case completed 6. 7. Close files after case completed 8. 5. Retain while premises fall within repayment scheme 6. Close files after case completed	1. 2 years 2. 3. 4. 2 years 5. 6. 7. 2 years 8. 9. 10. 2 years 11. 12. 5. 2 Years 6. 5 Years	1. Destruction by Client Senior Valuer 2. Destruction by Client Senior Valuer 3. Destruction by Client Senior Valuer 4. Destruction by Client Senior Valuer 5. Destruction by Client Senior Valuer 6. Destruction by Client Senior Valuer

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
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Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
	Compensation Case files 1. Domestic Disturbance 2. 3. 4. Planning Compensation 5. 6. 3. Other compensation cases	1. Close files after case completed 2. 3. Retain 4. 5. Close files after case completed	1. 2 years 2. 3. 4. Permanent 5. 6. 7. 5 years	1. Destruction by Client Senior Valuer 2. 2. Permanent 3. Destruction by Client Senior Valuer

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
	Valuation Case Files 1. NIHE House sales 2. 3. 4. NIHE Housing Grants 5. 6. 7. Housing Benefit 8. 9. 10. Social Security 11. 12. 5. GP Rent and Rates 6. Others	1. Close files after case completed 2. 3. Close files after case completed 4. 5. Close files after case completed 6. 7. Close files after case completed 8. 5. Retain while premises fall within repayment scheme 6. Close files after case completed	1. 2 years 2. 3. 4. 2 years 5. 6. 7. 2 years 8. 9. 10. 2 years 11. 12. 5. 2 Years 6. 5 Years	1. Destruction by Client Senior Valuer 2. Destruction by Client Senior Valuer 3. Destruction by Client Senior Valuer 4. Destruction by Client Senior Valuer 5. Destruction by Client Senior Valuer 6. Destruction by Client Senior Valuer

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
	Compensation Case files 1. Domestic Disturbance 2. 3. 4. Planning Compensation 5. 6. 3. Other compensation cases	1. Close files after case completed 2. 3. Retain 4. 5. Close files after case completed	1. 2 years 2. 3. 4. Permanent 5. 6. 7. 5 years	1. Destruction by Client Senior Valuer 2. 2. Permanent 3. Destruction by Client Senior Valuer

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
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Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
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Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
	Valuation Case Files 1. NIHE House sales 2. 3. 4. NIHE Housing Grants 5. 6. 7. Housing Benefit 8. 9. 10. Social Security 11. 12. 5. GP Rent and Rates 6. Others	1. Close files after case completed 2. 3. Close files after case completed 4. 5. Close files after case completed 6. 7. Close files after case completed 8. 5. Retain while premises fall within repayment scheme 6. Close files after case completed	1. 2 years 2. 3. 4. 2 years 5. 6. 7. 2 years 8. 9. 10. 2 years 11. 12. 5. 2 Years 6. 5 Years	1. Destruction by Client Senior Valuer 2. Destruction by Client Senior Valuer 3. Destruction by Client Senior Valuer 4. Destruction by Client Senior Valuer 5. Destruction by Client Senior Valuer 6. Destruction by Client Senior Valuer
	Magazines 1. Rating Valuation Reporter 2. All other business related magazines	1. Retain in District Office Library 2. 3. Retain in District Office Library	1. Permanently 2. 3. 1 year	1. Permanent Preservation 2. 3. Destruction by Client Senior Valuer

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
	<ol style="list-style-type: none"> 1. Lands Tribunal files relating to rating cases.². 2. Non Rating Case files. 	<ol style="list-style-type: none"> 1. Retain until following Revaluation is completed and new List published (files should be sifted for legal opinions, which should be removed and retained indefinitely)². 3. Retain in District Office 	<ol style="list-style-type: none"> 1. 1 Complete Revaluation 2. 5 years 	<ol style="list-style-type: none"> 1. Destruction by Client Senior Valuer
	Magazines <ol style="list-style-type: none"> 1. Rating Valuation Reporter². 2. All other business related magazines 	<ol style="list-style-type: none"> 1. Retain in District Office Library². 3. Retain in District Office Library 	<ol style="list-style-type: none"> 1. Permanently 2. 3. 1 year 	<ol style="list-style-type: none"> 1. Permanent Preservation². 3. Destruction by Client Senior Valuer
	<ol style="list-style-type: none"> 1. Lands Tribunal files relating to rating cases.². 2. Non Rating Case files. 	<ol style="list-style-type: none"> 1. Retain until following Revaluation is completed and new List published (files should be sifted for legal opinions, which should be removed and retained indefinitely)². 3. Retain in District Office 	<ol style="list-style-type: none"> 1. 1 Complete Revaluation 2. 5 years 	<ol style="list-style-type: none"> 1. Destruction by Client Senior Valuer
	Magazines <ol style="list-style-type: none"> 1. Rating Valuation Reporter². 2. All other business related magazines 	<ol style="list-style-type: none"> 1. Retain in District Office Library². 3. Retain in District Office Library 	<ol style="list-style-type: none"> 1. Permanently 2. 3. 1 year 	<ol style="list-style-type: none"> 1. Permanent Preservation². 3. Destruction by Client Senior Valuer

Work Area	Types of Files/Records	File/Record Action	Retention	Final Action
	1. Lands Tribunal files relating to rating cases.2. 2. Non Rating Case files.	1. Retain until following Revaluation is completed and new List published (files should be sifted for legal opinions, which should be removed and retained indefinitely)2. 3.Retain in District Office	1. 1 Complete Revaluation 2. 5 years	1. Destruction by Client Senior Valuer
	Sales Registers Record of property sales maintained prior to computerisation		Permanently	Permanent Preservation
	Rent Books Record of lettings maintained prior to computerisation		Permanently	Permanent Preservation
	Maps 2nd Revaluation and Current		Permanently	Permanent Preservation
Operations	Field Survey Notebooks Record of all notes taken while working in the field		6 years (as recommended by RICS)	Destruction by Valuer

Section 5 – Signatories

Signed in Accordance with the Public Records Act
(Northern Ireland), 1923

David Huddleston

Head of Records Management Cataloguing and Access Section

Public Record Office of Northern Ireland

Aileen McClintock

Director and Deputy Keeper of the Records

Public Record Office of Northern Ireland

Rosalie Flanagan

Permanent Secretary

Department of Culture, Arts and Leisure

Mr Stephen Boyd

Director of Corporate Services Division

Land and Property Services

Mrs Patricia Montgomery

Director of Customer and Business Improvement Division

Land and Property Services

Mr Iain Greenway

Director of Operations Division

Land and Property services

Mr Trevor Steenson

Director of Data Information Systems Division

Land and Property Services

Mr Alan Bronte

Director of Valuation Division

Land and Property Services

Mr John Wilkinson

Chief Executive

Land and Property Services

Correspondence of 22 May 2012 from Mr Will Haire

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Facsimile: 028 90 829560
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Aoibhinn Treanor
Clerk to the Committee for Public Accounts
Room 371, Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

22 May 2012

Dear Aoibhinn

Public Accounts Committee Hearing - ILEX Accounts 2010-2011 - 25 April 2012

The Sponsor Departments and Ilex have now reviewed the official Hansard record of the Public Accounts Committee meeting held to discuss Ilex's Accounts 2010/11. I can confirm that no differences between spoken and written English have been identified and Hansard has been notified accordingly.

However, I would like to take this opportunity to share with the Committee a number of points, which Ilex has raised regarding the factual accuracy of the evidence given.

Please find at Appendix A the information which should have been presented at the Committee hearing.

I should be grateful if you would consider adding this letter and appendix to the correspondence section of the Committee's Report for completeness.

Yours sincerely



Will Haire

cc: Jenny Pyper
Noel Lavery
Tim Losty
Paul Laughlin
Pauline Campbell
Gerry O'Neill
Fiona Hamill

John McGinnity
Paddy Hoey

Appendix A

Page 4, paragraph 1 should read: 'by the end of the "2011/12" year'.

Page 4, paragraph 10 should read: 'It would not happen now, because the procedures have changed since the "European" Presstext case in 2008,.....'

Page 5, paragraph 11: replace "October 2011" with "October 2010".

Page 10, paragraph 4: replace "£33m" with "£30m".

Page 14, paragraph 1: replace "legal" with "professional"

Editorial Note

The references above read against the Hansard transcript on Ilex at pages 61 to 77 of this report, at respectively, paragraphs 429, 438, 450, 505 and 561.



Northern Ireland
Assembly

Appendix 4

List of Witnesses who Gave Oral Evidence to the Committee

List of Witnesses who gave Oral Evidence to the Committee

1. Mr Noel Lavery, Accounting Officer, Office of the First Minister and deputy First Minister (OFMDFM);
2. Mr Kyle Alexander, Programme Director, Maze Long Kesh Programme Delivery Unit Office of the First Minister and deputy First Minister (OFMDFM);
3. Mr Tim Losty, Director of Strategic Investment, Regeneration and International Relations Division, Office of the First Minister and deputy First Minister (OFMDFM);
4. Mr David Ross, District Valuer, Land and Property Services, Department of Finance and Personnel, DFP;
5. Mr Will Haire, Accounting Officer, Department for Social Development (DSD);
6. Dr Aiden McGinley, Chief Executive and Accounting Officer, Ilex;
7. Mr Kieran Donnelly, Comptroller and Auditor General; and
8. Ms Fiona Hamill, Treasury Officer of Accounts, Department of Finance and Personnel.



information & publishing solutions

Published by Authority of the Northern Ireland Assembly,
Belfast: The Stationery Office

and available from:

Online

www.tsoshop.co.uk

Mail, Telephone, Fax & E-mail

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Fax orders: 0870 600 5533

E-mail: customer.services@tso.co.uk

Textphone 0870 240 3701

TSO@Blackwell and other Accredited Agents

£20.00

Printed in Northern Ireland by The Stationery Office Limited
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ISBN 978-0-339-60435-3



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