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11 September 2014

Dear Kevin

SDC Inquiry – Phase 3 evidence session – 23 September 2014

I refer to your letter dated 7 July 2014 requesting Clark Bailie, NIHE to attend a Phase 3 Inquiry session which is to be held on 23 September 2014. Mr Bailie will attend as requested.

In advance of his attendance a written briefing is attached at Annex A.

Yours sincerely



SUSAN MCCARTY

Briefing for Social Development Committee – 18th September 2014
Clark Bailie – Director of Finance (NIHE)

1. Director of Corporate Services (Acting)

- 1.1 Clark Bailie took up post as Director of Finance in the Housing Executive on 1st December 2007, a post which he has held continuously except for the period 1st February – 23rd September, 2011, during which time he served as Acting Director of Corporate Services. This temporary re-assignment came about as a result of the substantive post holder, Mr Stewart Cuddy, being asked to serve as the Acting Chief Executive.
- 1.2 The Director of Corporate Services post had responsibility for Secretariat and Information, Strategic Partnerships, Internal Audit, Corporate Planning and Performance and the then newly established Corporate Assurance Unit.

2. Investigations into the Red Sky Group by the NIHE Repairs Investigation Unit, NIHE Internal Audit and ASM Horwath / VB Evans.

- 2.1 Following an Audit Committee meeting on 3rd March 2010, Clark Bailie was asked by the then Chief Executive (Paddy McIntyre) to lead a small team to consider and implement the recommendations made in the ASM Horwath draft report on allegations about the management and delivery of the Red Sky Maintenance Contracts. ASM Horwath had been appointed by the Housing Executive in August 2009 and had submitted its initial draft report on 1st March 2010. The first meeting of the team took place on 12th March 2010.
- 2.2 The team comprised of Senior Housing Executive officers covering Personnel, Maintenance, Legal and Procurement.
- 2.3 The main responsibility of the team was to review the draft report and advise ASM Horwath of any factual inaccuracies, omissions and any other significant points. These comments/suggestions were shared with ASM Horwath to confirm the accuracy and completeness of the report. It was intended that the report's findings would be used to support a recovery process for any agreed overpayments.
- 2.4 The team met on a regular basis, including several contacts with ASM Horwath and VB Evans. Part of this work was also focused on identifying why the suspected overpayments had occurred and what should be done to prevent recurrence. Consideration was also given to the possibility of fraudulent activity. The ongoing and previous work on Red Sky contracts carried out by the Housing Executive's Repairs Inspection Unit was also reviewed. In addition, previous work undertaken by the Housing Executive's Counter Fraud Unit was also revisited. The latter largely related to events before Clark Bailie's appointment to the Housing Executive in 2007.

- 2.5 During the review of the draft report, management responses to recommendations made by ASM Horwath were prepared and incorporated into an action plan. This was later considered by the Board at its Special Meeting on 27th October 2010, using a paper submitted by the then Acting Director of Housing and Regeneration (Stephen Graham).
- 2.6 ASM Horwath submitted its Final Report on 21st October 2010. This was also considered at the Special Board Meeting.
- 2.7 As part of the project governance arrangements set up by the Board and Senior Management, a 'Project Young'¹ Steering Group' was established and met regularly from November 2010 until April 2011. Membership of the group included the Chair and Vice Chair, Chief Executive, Deputy Chief Executive, Director of Finance, Director of Housing and Regeneration, Director of Personnel, Chief Internal Auditor and Under Secretary (DSD). Clarke Bailie provided the group with regular updates on progress made against the work plan. The group exercised an oversight function and approved the general strategy and key decisions relating to the implementation of the ASM Horwath report and related recommendations.
- 2.8 Following receipt of the ASM Horwath final report in late October 2010, Clarke Bailie was instructed to meet with Red Sky Senior Management. This took place on 24th November. The purpose of the meeting was to advise the company of the results of the site inspections undertaken by VB Evans under ASM Horwath's direction and provide an opportunity for Red Sky to offer a response, particularly if the company wanted to provide an alternative explanation for the alleged overpayments.
- 2.9 In April 2011, Red Sky submitted a response but it was not considered to be satisfactory and was not accepted by the Housing Executive.
- 2.10 As a result of the serious concerns identified by ASM Horwath in its draft report, Clark Bailie instructed the Repairs Inspection Unit to undertake detailed investigations into each of the District Response Maintenance Contracts served by Red Sky. The investigations started in June 2010 and continued into 2011. This work identified further suspected overpayments.
- 2.11 From 1st February 2011, Clark Bailie was temporarily assigned to the post of Acting Director of Corporate Services. While the Repairs Inspection Unit had by then been relocated to Internal Audit (which fell within his responsibility as Acting Director of Corporate Services), the Repairs Inspection Unit generally reported to the then Acting Chief Executive (Stewart Cuddy) with regard to the Red Sky investigations. However, Clark Bailie was kept informed about the investigations and was aware that further suspected overpayments had been identified.

¹ The Red Sky investigation was initially identified as "Project Young"

2.12 Upon Clark Bailie's return to his substantive post of Director of Finance in September 2011, He resumed his responsibility for the Counter Fraud Unit which had been undertaking an investigation into the Red Sky contracts. As a result of this work, a case file was submitted to PSNI which, after consideration, concluded there was insufficient evidence to support a criminal investigation.

3. Investigations into other NIHE Contractors as requested by the Minister

3.1 Clark Bailie was aware of the nature and scope of the DSD commissioned investigation undertaken by ASM Horwath but was not directly involved in the process.

4. Investigations into other NIHE Contractors undertaken by NIHE Internal Audit and the Repairs Inspection Unit (RIU)

4.1 Clark Bailie was aware of the following investigations, as a member of the Investigation Strategy Group (ISG) and through the work of the Counter Fraud Unit, which sits in the Finance Division,:

- A response maintenance contractor, following concerns identified by the Repairs Inspection Unit regarding the installation of showers.
- A response maintenance contractor, following concerns identified by the Repairs Inspection Unit regarding potential overpayments and concerns identified by a Whistleblower. This case was subsequently extended to include an investigation by the Counter Fraud Unit which prepared an evidence file which identified suspected fraudulent activity. The contractor was by then in administration and, on the basis of Queen's Counsel advice, it was decided there was not sufficient evidence to support a referral to PSNI. An amount was subsequently recovered through negotiation with the administrator.
- A planned maintenance contractor, following concerns raised by an internal inspector about suspected overcharging on a kitchen replacement scheme. This was extended to include an investigation by the Counter Fraud Unit which identified a number of issues. However, Queen's Counsel advised that there was not sufficient evidence to support a referral to PSNI.

5. Meetings with the Red Sky Group to discuss the issue of overpayments

5.1 Clark Bailie attended two meetings with Red Sky Group officials.

- 24th November 2010: meeting to advise Red Sky of the ASM Horwath Report. Clark Bailie was accompanied by the Housing Executive's Contract Claims Manager (Peter Craig). Red Sky was provided with only the findings of the site inspections undertaken by VB Evans and not the full ASM Horwath Report. Red Sky was asked to submit a response to the findings which was not received until April 2011.

- 4th February 2011: Clark Bailie attended the meeting with the then Acting Chief Executive (Stewart Cuddy) and the Repairs Inspection Unit Manager (Raymond Kitson). The purpose of the meeting was to discuss the issue of overpayments as identified by ASM Horwath and the Repairs Inspection Unit, and confirm the timescales for responses by Red Sky.

Clark Bailie did not attend any other meetings with Red Sky officials although he was aware that a further meeting did take place on or about the 16th February 2011.