



Northern Ireland
Assembly

Public Accounts Committee

OFFICIAL REPORT (Hansard)

**Inquiry into 'The Transfer of Former
Military and Security Sites to the Northern
Ireland Executive'**

25 April 2012

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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	Land and Property Services
Mr Noel Lavery	Office of the First Minister and deputy First Minister
Mr Tim Losty	Office of the First Minister and deputy First Minister
Mr Kyle Alexander	Strategic Investment Board

Also in attendance:

Mr Kieran Donnelly	Comptroller and Auditor General
Ms Fiona Hamill	Treasury Officer of Accounts

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?

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).

The Chairperson: Thank you. The usual procedure is that I ask some questions to set the scene, and other members ask their questions.

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?

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.

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.

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.

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.

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.

The Chairperson: Thank you for that update, Noel. What do you estimate the total projected expenditure of public funds to be?

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.

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?

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.

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 —

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.

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.

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?

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.

Perhaps I should have said earlier that OFMDFM accepts the recommendations in the report absolutely.

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.

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.

Mr Copeland: Is that for all of the sites?

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.

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.

Mr Copeland: How much was that?

Mr Losty: I will find that figure for you, Mr Copeland.

Mr Lavery: The Hillsborough site —

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.

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.

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?

Mr Lavery: Yes.

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?

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.

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.

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.

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.

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.

Mr Dallat: But you were getting offers.

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.

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.

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.

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?

Mr Lavery: Are you referring to the Hillsborough sites?

Mr Dallat: Those sites and whatever.

Mr Lavery: There was discussion at official and ministerial level. The final agreement was that the sites were gifted as is.

Mr Dallat: The MoD got a quare deal.

Mr Lavery: Again, as we said, the future value will tell the story.

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?

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.]*

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?

Mr Copeland: No. I think that that covered it.

Ms Fiona Hamill (Treasury Officer of Accounts): Do you want me to say something on ministerial directions?

The Chairperson: If you can be brief.

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.

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?

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.

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.

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?

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?

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?

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.

Mr McLaughlin: The paper trail would stand that up, and, if necessary, we could compare that with other examples of ministerial direction?

Mr Lavery: Yes.

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.

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.

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.

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?

Mr Lavery: I will take that site by site, Mr McQuillan. Kyle will speak about where we are with the Maze/Long Kesh site.

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.

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.

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.

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.

Mr McQuillan: When will that be finalised? Will it be August or September?

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.

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.

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.

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.

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?

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.

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?

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.

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.

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.

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 rubbish and the other model was chosen?

Mr Lavery: I am not sure of the answer. Direct rule Minister Ian Pearson made the final decision on the urban regeneration company.

Mr Losty: If I can follow on —

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.

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.

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.

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?

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.

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 it 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.

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?

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."

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.

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?

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 —

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.

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.

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?

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.

Mr McQuillan: You said that it would worry you if that was the case.

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."

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.

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?

Mr Lavery: Do you mind if I ask Mr Ross to come in on that? It is the LPS guidance.

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.

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?

Mr D Ross: The £5.5 million bid from bidder E was an invalid bid in terms of —

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.

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.

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.

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.

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.

Mr McLaughlin: But it was not £1.7 million.

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.

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.

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.

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.

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.

Mr D Ross: We have no idea of the motives behind that onward transaction.

Mr McLaughlin: We can guess.

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.

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?

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. 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."

As I have said, I am not an expert on conveyance. However, that suggests to me that —

Mr Copeland: It suggests that the land was bought on behalf of the person who eventually bought it.

Mr D Ross: Yes.

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.

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?

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.

Mr Murphy: Is the matter now closed as far as you are concerned?

Mr Lavery: I do not necessarily think so. As Mr Ross suggested, we could do more work and write to the Committee about that.

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.

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.

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?

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.

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.

Mr Copeland: Thank you, Chair. You are being very kind today.

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.

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.

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.

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?

Mr D Ross: I will undertake to get that information for the Committee.

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.

Mr S Anderson: Do we know how many there were? Do you have all that information, and can we get it?

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.

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.

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.

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.

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.

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.

Mr Lavery: I am sorry; no, that was not what I was trying to say. I mean —

Mr Murphy: I am not sure whether you are satisfied that you got a good price.

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.

Mr Murphy: So, you have not seen any evidence of that?

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.

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?

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.

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.

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.

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.

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.

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."

Where did the expert advice come from?

Mr Lavery: It came from LPS.

Mr McLaughlin: Is the use of the phrase "extensively marketed" based on the single re-advertisement in a single newspaper?

Mr Lavery: The sites attracted 73 interested parties. David can give you more information about the agent's process.

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.

Mr McLaughlin: Mr Lavery mentioned 73 interested parties. Can you explain that?

Mr D Ross: Yes. There were 73 different enquiries about the site.

Mr McLaughlin: To the agent?

Mr D Ross: Yes.

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?

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.

Mr McLaughlin: Would the agent have a file?

Mr D Ross: I have spoken to the agent since the publication of the report, but his file no longer exists either.

Mr McLaughlin: The sales process seems to have been informal. Would you accept that description of it?

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.

Mr McLaughlin: Was the approach to the disposal of the site left to the agent? For example —

Mr D Ross: No. The marketing strategy would be —

Mr McLaughlin: Part of the conditions?

Mr D Ross: It would be agreed between LPS, the client and the agent.

Mr McLaughlin: So, would the Department have had a hands-on role in deciding, for instance, that it would not go to an auction?

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.

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?

Mr D Ross: No. The brief would have been agreed between LPS and the agent.

Mr McLaughlin: Beforehand?

Mr D Ross: On appointment. When we went to the —

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.

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.

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?

Mr D Ross: It would ultimately be the recommendation of LPS.

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.

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.

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.

Mr Lavery, do you think that our procedures stand up to examination in the retrospective view of this particular experience?

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.

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?

Mr Lavery: Again, Chair —

Mr McLaughlin: I am only saying that you had time to look at this —

Mr Lavery: No; I agree with you.

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?

Mr Lavery: I was not aware that there were any concerns at the time until the Audit Office raised this, Mr McLaughlin.

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.

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.

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?

Mr D Ross: I make the point that it was 73 enquiries, as opposed to 73 bids.

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?

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.

Mr McLaughlin: Does that include inspections of the bids documents?

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.

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?

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.

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?

Mr Kieran Donnelly (Comptroller and Auditor General): It was in 2009, and there were early presentations of findings in February 2010.

The Chairperson: So, the work had begun, but the information was destroyed?

Mr D Ross: I am not sure of the date of the first approach from the Audit Office.

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?

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.

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.

Mr McLaughlin: You came in on that point, Chair, and it was very helpful.

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.

Mr D Ross: We can do that.

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.

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.

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?

Mr Lavery: I think that —

Mr McLaughlin: It is LPS's documents, but does that come back to you, as the accounting officer?

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.

Mr McLaughlin: If we cannot find the records because they have been destroyed, we could establish who approved their destruction.

Mr Lavery: It would probably be for Mr Ross, as it is a DFP issue, but —

Mr McLaughlin: I would be happy for you to write to the Committee; I just need a yes or no.

Mr Lavery: I think that there will be a policy that records should only be destroyed within an existing policy.

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.

Mr Lavery: Certainly.

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.

Mr Lavery: Yes. We would look at whatever records we have.

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?

Mr D Ross: That particular exercise was tendered.

Mr Copeland: Had the successful company operated for LPS in the past?

Mr D Ross: It had.

Mr Copeland: Successfully and satisfactorily? Are you aware of anything like that before?

Mr D Ross: No; they had operated successfully.

Mr Copeland: Does that company also act as an ordinary estate agent for the onward sale of properties, houses and apartments?

Mr D Ross: That would be the case with all our appointments.

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?

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.

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?

Mr D Ross: I do not, but it should be easy to find out. I will get back to the Committee.

Mr Copeland: What was actually sold? Was it just the site with the building, or had the building been removed?

Mr D Ross: It was sold with two fairly substantial buildings intact; they had not been demolished.

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?

Mr D Ross: The sites were sold on an all-risks basis to the purchaser.

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?

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.

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.

Mr D Ross: To the best of my knowledge, that is correct.

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.

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.

Mr D Ross: I am of the view that the sale was indeed handled in a professional manner.

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?

Mr D Ross: There is a multitude of tactics out there.

Mr Dallat: You better believe it, mate.

Mr McLaughlin: Some of them are professional.

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?

Mr D Ross: Was that recently?

Mr Dallat: Perhaps we should look into that. There was a lucrative salary on offer for someone who handled government property.

Mr D Ross: The appointment in question was of the member for the Northern Ireland Lands Tribunal.

Mr Dallat: Let us hope that he looks at this case.

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.

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.

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?

Mr Lavery: I am not sure what the protocols are, Mr Dallat, although I am happy to write to the Committee on that.

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.

Mr Lavery: Chairman, there is absolutely no conspiracy of silence; we have provided the Committee with as much evidence as we can.

Mr Dallat: I have no more questions.

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?

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.

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.

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.

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?

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.

Mr Copeland: What leads you to that conclusion? What would be the motivation of the person who bought it in the first place?

Mr D Ross: The motivation of the developer who bought the site in the first place?

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?

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 —

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.

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?

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."

That means that the OFMDFM purchaser was a nominee of the second purchaser.

Mr Copeland: What would be the reason for someone using a proxy purchaser in the trade?

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.

Mr Copeland: Would HMRC normally be notified when the government had disposed of a property to someone else? Is that normal?

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.

Mr Copeland: Therefore there could be records in HMRC? Have you thought of making those enquiries?

Mr Ross: That is an enquiry that we will be making on behalf of —

Mr Copeland: I am pressuring you, and that is not kind procedure. Mr Ross, again I apologise.

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?

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.

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?

Mr Ross: To some extent, all Departments place a reliance on LPS as the experts in property.

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?

Mr Ross: I undertake to provide that information to the Committee.

Mr Copeland: That is kind of you, sir. Thank you.

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.

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?

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.

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?

Ms Hamill: It was returned to the Executive and they redistributed it against their priorities.

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?

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.

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?

Mr Lavery: Do members have my letter that includes the updated figure 7?

The Chairperson: Yes.

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%.

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.

Mr S Anderson: You are quite happy with the action that you are taking and that the figures will end up positive?

Mr Lavery: We have to wait for our final audited accounts, but, today, it looks as though it will be between 99% and 100%.

Mr S Anderson: We cannot ask for more than that.

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?

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.

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.

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.

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.

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.

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.

Mr S Anderson: I appreciate that.

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.

Mr Lavery: Soft market testing has been done at the Maze/Long Kesh site. I will bring Kyle in.

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.

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.

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.

Mr S Anderson: You talked about 12 to 18 months. How confident are you of that timescale?

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.

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?

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.

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.

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?

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.

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".

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?

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".

Mr Dallat: Who said that?

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.

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?

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.

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?

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.

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.

Mr Lavery: That would have been the case if we had purchased the site. However, it was gifted, and we took on that liability.

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?

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.

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.

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.

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?

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.

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.

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.

Mr Lavery: The Ministers' view was that the return for the site was not maximised, and that is why they issued a direction.

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.

Mr Lavery: As Tim said, our challenge now is to maximise the value of the site.

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?

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.

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.

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?

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.

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?

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.

Mr Copeland: So they sign off the final document and have sight of the proposed documents at each stage?

Mr Lavery: Ministers see drafts and sign off on the final version.

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?

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.

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.

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.

You mentioned Ilex —

The Chairperson: By and large, we will be talking about Ilex separately.

Mr Lavery: Mr Copeland raised it.

The Chairperson: I know, but I think he just referred to it and mentioned that some members will be pressing questions on it later.

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.

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.

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?

Ms Hamill: Do you mean review the delegations that DFP has placed on OFMDFM?

Mr Copeland: Yes.

Ms Hamill: They are reviewed annually between DFP and OFMDFM. That is an ongoing process between the supply teams.

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?

Ms Hamill: I cannot speak on that matter; I am sorry.

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?

Mr Lavery: Yes, Mr Copeland, we have.

Mr Copeland: Unequivocally?

Mr Lavery: Unequivocally, and the board has been established and has met.

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?

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.

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.

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?

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.

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?

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.

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?

Mr Lavery: We will make sure that the Assembly Members are invited, Mr Dallat.

Mr Dallat: That is progress.

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.