



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Housing Executive Special Accountability
Measures: DSD Briefing

27 June 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Mickey Brady (Deputy Chairperson)
Ms Paula Bradley
Mrs Judith Cochrane
Mr Michael Copeland
Mr Sammy Douglas
Mr Mark Durkan
Mr Fra McCann

Witnesses:

Ms Susan McCarty	Department for Social Development
Mr Michael Sands	Department for Social Development
Mr Jim Wilkinson	Department for Social Development

The Chairperson: I welcome Jim Wilkinson, Michael Sands and Susan McCarty. I apologise for the delay in starting the meeting; I appreciate that you have been here since before 10.00 am. Thank you for your patience.

This briefing was scheduled, as you know, some time ago. In the intervening period, however, we have had a lot of controversy over the issues around the maintenance contracts. You may well be going to do it anyway, but I ask that you incorporate that into your presentation.

Mr Jim Wilkinson (Department for Social Development): Thank you, Chairperson. I thank the Committee for the opportunity to update members on the special accountability measures in the Northern Ireland Housing Executive (NIHE) that Minister McCausland put in place last year in light of his concerns about contract management and governance issues in the Housing Executive.

It was around this time last year that Michael Sands and I first briefed the Committee on this issue. Since then, there have been a number of developments, not least the publication of the Public Accounts Committee (PAC) report into contract management, but also, as the Chairperson mentioned, the most recent statements by the Minister and the chair of the Housing Executive on issues around planned maintenance contracts.

As members will be aware, the Minister introduced the special accountability measures to enhance the Department's oversight arrangements and to ensure that there is a clear focus on action to address the shortfalls that were identified. With the Committee's permission, I would like to provide some brief background information on the special accountability measures and an update on the current position

on those measures. I will ask Michael Sands to provide a brief overview of the specific measures and the actions that have been taken to date.

Members will recall that Minister McCausland made an oral statement to the Assembly on 3 July 2012 on the Housing Executive's management of response maintenance contracts. At that time, there had been a range of concerns about the Housing Executive's contract management regime that stretched back as far as the previous Administration and culminated in his predecessor, Alex Attwood, commissioning, on 7 October 2010, a review of governance in the Housing Executive and a gateway review of contract management. That followed a series of internal and external investigations into the Housing Executive, which raised concerns that its governance systems and contract management arrangements were not sufficiently robust.

On taking up post, Minister McCausland expressed his concerns about the issue of contract management, on foot of briefing he received on the new governance arrangements and their implementation and on the issues leading to the termination of the Red Sky contract and ongoing investigations into other contracts. He wrote to the chair of the Housing Executive board at that time, seeking assurance that NIHE had in place robust and focused contract management arrangements for all response maintenance contracts. He was assured that the monitoring arrangements for response maintenance contracts were very thorough.

However, in light of his continuing concerns that the issues that led to the termination of the Red Sky contract and to ongoing investigations could be present in other contracts that had not been subject to full investigation, he asked for a forensic investigation to be carried out into a sample of Housing Executive maintenance contracts, concentrating on the quality of services to tenants and the proper use of public funds.

He was also aware at the time that the Northern Ireland Audit Office (NIAO), following significant concerns that were raised by whistle-blowers, MLAs and the media, had decided to examine the Housing Executive's management of response maintenance contracts in view of the seriousness of the problems that were identified in the management of specific contracts and the potential for important lessons to be learned across the public sector. The Comptroller and Auditor General (C&AG) had also raised concerns about the Housing Executive's management of contracts as part of his 2011-12 audit, and that extended to include concerns about planned maintenance contracts.

During that period, the permanent secretary advised the Minister of his concerns about the effective implementation of the governance review in relation to the management of contracts; in particular, his concerns that the Housing Executive was not making full use of its internal assurance regime to improve contract management. An important part of the assurance regime in the Housing Executive is its corporate assurance unit (CAU), which is made up of two inspection teams. Those teams post-inspect work that has already been cleared at the front line; one samples maintenance work and the other looks at work done on planned maintenance.

The permanent secretary asked the Department's head of internal audit to undertake an independent review of the actions taken by the Housing Executive to implement the recommendations in the 2010 governance review relating, in particular, to the use of that independent inspection team and how those reports were being used to improve contract management. Its overall conclusion was that senior management in the Housing Executive had not acted quickly enough to resolve the issue of the agreement of draft reports from the inspection unit.

Taking all of that together, the Minister believed that the Housing Executive had failed to demonstrate the required response to known shortfalls in contract management in a way that recognised the importance of the issues or that demonstrated the unequivocal determination to address them with the necessary pace and urgency. He also had major concerns about the culture in the organisation and the level of aspiration within the Housing Executive to deliver quality services.

In order to take immediate action to ensure that the Housing Executive dealt effectively with those issues and that the situation did not continue, the Minister introduced the special accountability measures with immediate effect to bring about improvements efficiently and effectively. Those measures both significantly enhanced the current oversight arrangements between the Department and the Housing Executive and asked the Housing Executive to put in place a comprehensive work plan focused on areas in which the Minister specified that action must be taken to ensure the provision of quality services. You will hear a bit more about that. The work plan that the Housing Executive put together in the areas it was targeting is attached at Annex A to the briefing paper and contains some 16 actions. Members will receive a bit more detail on that from Michael shortly.

The Housing Executive was also required in the first instance to provide fortnightly reports on the issues of concern. The reports are now provided monthly as some of the major issues are addressed, and they are considered and discussed at the monthly accountability meeting held between the permanent secretary and the chief executive. In view of the fact that there have been significant delays in the implementation of the recommendations of internal audit and repairs inspection unit reports, as well as the clearance and agreement of those reports, the Housing Executive is required to forward to the Department all draft reports and repairs inspection unit reports as soon as they are produced, along with a timetable to ensure that the reports and the recommendations are agreed and implemented immediately. We monitor when those reports are produced and when they are cleared. Obviously, the detail of the reports is a matter for the organisation. Finally, the permanent secretary's accountability meetings were increased from quarterly to monthly.

As regards where we are at the moment, the NIAO report on the Housing Executive's response maintenance contracts was subject to a PAC hearing on 5 September. The PAC report was then published on 20 March, along with the laying of the memorandum of reply. All the recommendations were accepted and are in the course of being implemented.

The permanent secretary has instigated a further governance review by the Department's head of internal audit to assess and confirm that the recommendations from the first governance review have been implemented in full and that the special accountability measures that were agreed and the action that was indicated to have been taken has indeed been taken. The review is also to ensure that the recommendations of the ASM report, which are part of the special measures work plan, have been implemented. That is part of our process of not only seeking assurance and getting assurance, but moving forward to test those assurances to make sure that they have actually been implemented.

We have also been reviewing our own oversight arrangements in order to enhance those further in relation to governance of the Housing Executive, particularly in the area of contract management. Members will be aware that the board of the Housing Executive recently commissioned a further independent review of the issue of planned maintenance to report to the board on not only the quantum of the overpayment but why and how the situation arose. Again, the report is expected at the end of the summer. As regards our own actions, we have looked at our role in engagement with the Housing Executive, particularly on its role as a landlord. We have looked at the actions and how we work with housing associations, and we will be doing more focused work on our tenants' services in terms of our oversight.

With the Committee's indulgence, I will now ask Michael Sands to take the Committee briefly through the NIHE special accountability action plan and the progress that has been made on those actions.

Mr Michael Sands (Department for Social Development): Jim referenced the work plan a couple of times in his introduction. The plan was to detail the specific actions that are to be taken and the planned target dates for completion. That should take account of and report on some of the issues that I will refer to now.

The ASM report raised certain findings and recommendations, particularly in relation to inspections; fire doors; smoke alarms; seals on electric meters; forward planning between NIHE departments; variation in some of the contracts; duplicate works orders; and inaccurate descriptions of works carried out on the particular works order. In relation to monitoring ongoing performance, ASM identified a suite of reports that could, if collated and reviewed regularly, provide NIHE management with useful information on the performance of both its contractors and its maintenance officers. The report set out that NIHE should consider the establishment of a performance measurement function, either under the auspices of the repairs inspection unit or internal audit, but independent of the housing and regeneration division, whose role should be to proactively mine the data held on NIHE systems to identify trends that could direct specific further investigations into poorly performing contractors or maintenance officers.

Eleven of the 12 draft reports issued in the eighth round of inspections contained a negative rating; that is, limited or unsatisfactory. Of those, 10 remained in draft at the end of June 2012. Action to be taken includes a regular update on the current status of the draft reports from the repairs inspection unit and the implementation of any recommendations. Action needs to be taken to ensure that time is not spent on disputing the findings and methodology of the repairs inspection unit team rather than addressing the serious findings in the reports. We discovered that reports were sometimes taking up to seven months from initial draft to completion because of challenges that were being raised by the management team to initial findings of the reports.

The governance review of 2010 contained a recommendation stating:

"The Board will also wish to ensure, in establishing the Corporate Compliance Unit (Corporate Assurance Unit) that best use possible is made of the information generated by this unit to challenge management, identify areas of concern and direct the work of other review bodies such as internal audit."

As it appears that the best use possible has not been made of the unit or of the information it provides, action needed to be taken to improve that.

With regard to the scheme inspection reports, difficulties were experienced in obtaining management responses to reports, which I have referred to, and, in particular, agreement on the question of measurement and standards. Following the March 2012 audit committee, there has been an improvement in communication. However, on the issue of contractors making good on defects, that should be subject to further work by the scheme inspection unit (SIU).

With regard to the issue of potential overcharging by contractors in relation to the price product list, that issue has not been addressed with the speed that one would expect, and there is an urgent need for NIHE to determine the potential financial consequences to the Housing Executive. The director of design and property services has been tasked with identifying the extent of that issue, and, out of a total of approximately 245 schemes, 150 are still to be finalised. The results of the review and the quantification of the potential financial impact for NIHE should be clearly reported, and we are now getting that information through.

The action plan was to cover all the actions and steps communicated in the former chairman's letters and should also have included actions to ensure that the corporate assurance unit is provided with the full complement of suitably qualified staff to fully deliver its remit.

The 2010 governance review of the Housing Executive made a number of specific recommendations about the work of the repairs inspection team and the then proposed corporate assurance unit. In the context of the actions now being proposed by the board to address the issues arising in relation to response maintenance and how the board obtains the information to allow it to challenge senior management, it is worth revisiting those recommendations and considering whether, with hindsight, many of the actions proposed should have been initiated much earlier by the board.

In the governance report of 2010, a recommendation related specifically to the establishment of the corporate assurance unit. The recommendation was also earmarked as a critical recommendation and required that the Housing Executive consider, as part of the establishment of the proposed corporate compliance unit — now the corporate assurance unit — how that unit would provide an independent assurance on the adequacy of management controls over heating contracts. The Housing Executive was to confirm the reason why the installation, servicing and maintenance of heating systems is not undertaken as part of the current functions of the repairs inspection unit. Finally, the audit committee, which now receives reports from the repairs inspection unit and the scheme inspection unit, was to consider how it currently obtains assurance in relation to heating.

There are departmental concerns. Over the past four years, the budget has been worth £77 million, and we want to make sure that the same quality assurance and checking is being done on heating as in the maintenance contracts.

The recommendation was recorded as completed at June 2011 and then reopened in January 2012, as it had not been fully implemented. In June 2012, the activities of the corporate assurance unit still did not include providing an independent assurance on heating contracts, and that unit does not currently have any staff with the necessary training or expertise in that area. Details on how that will be delivered should be provided to us.

The new reporting protocols are welcomed. However, in order to ensure that the target timescales are fully complied with, CAU should develop report clearance targets and report performance against the target to each risk and performance committee meeting. Further, the scheme inspection unit should define time frames for each stage of the inspection process and agree those with design and property services.

NIHE had to determine the quantum of the overpayment on the Ballynahinch kitchen replacement scheme. It is important that that scheme is determined as soon as possible, as the findings have

implications for the 245 schemes that were being carried out by the Housing Executive. The Department seeks confirmation from the Housing Executive as to the total amount of overpayments, and we now know that the estimated overpayments are around £18 million.

With the Ballynahinch scheme, nine months had elapsed since it was reported that the inspection findings on quality and cost had been reported by inspection staff, but the report had been modified to reduce the impact of the quality findings and to remove all reference to overcharging before it was submitted to the Audit Committee. The matter will now be formally investigated as part of the independent investigation announced by the chairman and referred to at this Committee's meeting in Coleraine last week. The financial implications that resulted from that action are significant, and the information should have gone to the audit committee in June 2010. NIHE should expeditiously conclude its investigation on the possible withholding of information from the audit committee. A regular update report on all current contract management arrangements should be provided to the board and to the Department, and a regular report on the work of the intervention team should be provided to the board and to the Department.

In total, there were 16 measures, as set out, plus another three issues were added in monthly accountability meetings. All internal audit and central assurance unit's reports are to be sent to the Department as soon as they are available in draft, not so that we can monitor the content of them initially, but to make sure that they are dealt with expeditiously and that they are not being challenged for six or seven months. The board then was to analyse trending. Out of those 19 measures, 13 have been completed and six are partially complete. I will rest there, and we will welcome questions.

The Chairperson: I think that you need a rest after that, Michael. Before I bring other members in, I want to thank you for your presentation. There is a lot of process involved. All that sounds very important and necessary; you need procedures in place. However, it looks to me as if a lot of stuff is getting lost. When you said that a recommendation was done and dusted, closed down in June and then reopened in January, that worries me because something was signed off as having been done, but, six months later, you said that it was not done. You have to query how many other recommendations that are described as having been dealt with have actually been dealt with.

I have a couple of questions arising from all that. It is welcome that all this is being done, but that is the second or third year that I have been hearing some of the same stuff. That might be the same kind of detail because I know that previous Ministers have also said that we need to get to the bottom of this and we need to put procedures in place so that these things do not happen, but they appear to be continuing to happen. First of all, can you give us an idea of how many reviews or investigations are under way because there seems to be quite a number of them? Given that this has spanned more than one Minister, are you satisfied that the Department's involvement has been as robust as it needed to have been? I am not making any judgement on that; I am simply saying that it is not as if this has all been contained within the Housing Executive in the last number of years because it has come through to the Department and the Minister. How soon does it take for the flag to be raised that there is a problem and somebody getting to grips with it?

Mr Wilkinson: First of all, you mentioned that there is a lot of process and procedure there, and you are concerned that there are recommendations reappearing that were closed down. I mentioned in my introduction that one of the things that the Department has been looking at is the fact that, as part of our role, we have our own oversight arrangements. We also receive assurances from the Housing Executive in respect of implementation of recommendations, but some of the reviews have been about testing the assurances, and you have cited several of them. The review that was commissioned last year with our head of internal audit was to go back in and check the position on all the recommendations that had been reported as being completed in the governance review. He emerged from that to say that more work needed to be done and that appeared on the work plan. He is going in again this year. It is about testing the assurances to make sure that recommendations are implemented. So, the role is not only about accepting assurances but about testing them to ensure that we are finding the issues and that they are being addressed.

Part of the reason why things are coming out year after year and we are finding more and more is because of the process of concluding investigations, finding out what the issues are and bringing them to the fore. In the action plan that Michael discussed, there were about four recommendations all linked to planned maintenance. Some of the outcomes of that work — to get to what the issues are, identify the problems and work out the costs, potential repayments and the action taken for recovery — are coming to the fore now.

From the Department's perspective, have we been focused and have we made sure that things have been addressed? A high percentage of my time is involved in looking at the governance arrangements and monitoring performance. We do that on a number of levels. First, we set performance targets for the Housing Executive. We monitor whether those targets are being met, whether budgets are being spent and how that is being achieved. We also look at the governance arrangements, and, throughout this, we have been enhancing our governance arrangements to the extent that our accountability meetings, which used to happen quarterly, now happen monthly until we get to the bottom of the issues and they are resolved. We have been very focused on the issue of contract management over the past two years, and progress has been made in that we have identified the issues with, for example, the response maintenance contracts. We have seen the plans that the Housing Executive put in place to deal with those, and we are monitoring the impact of those actions, which are coming through now on the new contracts and the new contractors. Issues arise continuously, and the Committee has been briefed on a number of concerns that have happened in response maintenance recently. We are taking the same action on planned maintenance and on other contracts.

So, since the issue has been identified, we have been very focused on it. Our interventions have been very intense, but we are also very keen to be responsive, so we have looked at our role and at what we do. For example, I mentioned that we are looking at how exactly we get the assurance on the landlord activity of the Housing Executive. That is why we are going to import some of the inspection activity that we do around landlord services for the housing associations and see whether we can apply that to the landlord element of the Housing Executive.

To clarify on the number of reviews: the reviews that are ongoing are our internal audit review to look back at how far these measures have been addressed and the Housing Executive's review of planned maintenance to confirm the quantum of what has happened and to ask why and how it has happened. The Department has one investigation — an internal audit — and the Housing Executive has an investigation into the how and the why in respect of planned maintenance. It also has to conclude its other investigations that were mentioned in the accountability matter, which are on how this was initially reported to the board and how well the board was informed by management. We will be awaiting the outcome of those.

Mr Sands: Last week, the Committee asked for copies of the terms of reference for that, and those are coming to you.

The Chairperson: Yes, I appreciate that. Thank you.

Ms Susan McCarty (Department for Social Development): A performance and efficiency delivery unit (PEDU) review of contract management is planned for later this year. That is not likely to begin until November.

The Chairperson: OK.

Mr Wilkinson: It is worth saying that that is not an investigation but a business improvement review.

The Chairperson: Yes, I understand and appreciate that.

It might be a bit early, because, obviously, the reviews are under way, but a lot of anecdotal stuff is going round and there are different bits and pieces of discussion. People are saying that part of the problem for a lot of the contractors who are involved in maintenance is that they have to go in too low, at 30% under sustainability pricing structures and all the rest of it. I do not know how valid that is, but I know that Gerry Flynn from the Housing Executive sat here a few weeks ago and said that the Housing Executive did not think that that was a problem because, when it brought in staff from other contractors that had gone bust, for example, Garrivan and O'Rourke and maybe others, to the direct labour organisation (DLO), it was using the work ongoing to determine whether those contracts and the pricing were viable. He told us that they were. I am not sure, because we are getting other information that the so-called competitive pricing structure is not competitive and not sustainable. I do not know whether that is true or not, and we have to grapple with the information that we are getting.

On the matter of accountability in all this, obviously, you cannot prejudge reviews, but is there a systemic problem? Is it cultural? Are people accountable for some of this? Is there human error? Are there other problems?

Mr Wilkinson: I noted the briefing that you received from the Housing Executive last week. In that, it identified four causes that it felt, from its perspective, led to the contract failure. It mentioned culture as a big issue. It mentioned that the contracts were an issue; that those were wrong. It also mentioned that the skills set of staff was wrong. Finally, it indicated that the processes it had in place were not being applied. This is fairly consistent with what the PAC and our investigations found. Our recommendations in the original governance review and these recommendations are about addressing those four issues. You cannot make a recommendation to address culture but you can put recommendations and procedures in place that should address the cultural issue.

I think that there has been a fairly consistent message. There was a problem with Egan contracts. The new contracts, which have been subject to Office of Government Commerce (OGC) review, suggest that those contractual issues should be addressed. I think there will be an adjustment to the market, and you described some of that, but that is a matter for the Housing Executive's procurement and understanding of prices.

Having the contracts in place still does not address how those contract are managed and used. The fact that the Housing Executive put in place a training regime and intervention teams seemed to be the right things to do, but we need to see the output of those to judge their success fully. That is why a lot of our activity — and you mentioned the ongoing review — is about testing assurance and looking at the effect.

We look at the repairs inspection unit team as an example; and say that it was telling you for a number of years that ratings were very poor across districts, and that there was limited assurance. We look at those we receive and ask whether there is a pattern and whether they are getting better or worse. We monitor them, but we do not go into detail because that is for the Housing Executive. Across the piece, we looked at, I think, 14 this year, and about 50% have limited assurance. That is a slight improvement, but there is a lot of work to be done. That is how we are testing those assurances.

There is probably no one single answer, but everybody is now aware of the four broad issues that contributed to it. The question for the Department, and the challenge for the Housing Executive, is to address those and make sure that they are turned around. The issues of culture and governance are a challenge. If investigations into the why and how things happened show a fault in any structure or management, the chair of the board of the Housing Executive indicated that he ready to address all those issues, and the Department would be supportive.

Mr Sands: As we now get those reports, we can monitor them and see the position exactly. We were not getting them previously. Until mid-2012, only seven of the 22 reports showed satisfactory or substantial recommendation. Since September 2012, that increased to 11 out of 20. There has been an increase, but it will be slow in an organisation such as the Housing Executive.

The Chairperson: Thank you for that. It gives us some assurance. However, my fundamental concern is that we have been having this over a period of years, and there seem to be consistent arguments being put forward. I interpret culture as bad practice. I may be wrong, but that is how I would describe it.

I would be more satisfied — if I could be satisfied — that this is being dealt with in the round, robustly and urgently, if we are not sitting here next year saying, "Well, we are still monitoring". I appreciate that things have been monitored and that there have to be processes, but do you understand where we are coming from? We are hearing this year on year. The bit of improvement is welcome, but that is from a low baseline, which is the difficulty that we have to address.

Mr Brady: Thanks for the presentation. You mentioned governance and different reviews and reports from the Department and Executive. What is the exact relationship there? Does the Department have an overseeing role? Who is ultimately responsible?

Do you think that the origins of this go back to the introduction of Egan contracts? A figure of £18 million was mentioned, which is a large figure. How was that figure arrived at? It was suggested to us that it is a sort of arbitrary figure of £1,000 per house. The ASM report referred to fire doors and smoke alarms. It is possible that contractors used higher spec installations that were maybe not approved but that they may have felt necessary.

I asked about the £18 million last week and was not given any answers then. It is a big figure and I wonder how it was arrived at. Again, I go back to the introduction of Egan contracts: a lot of this

seems to have stemmed from that period. It goes back a few years. Fra and I have been on this Committee since 2007, and this has been a recurring theme. I think that the previous Minister instigated a review on 7 October 2010. It has been going on for a long time. I wonder whether there were suspicions that something was wrong because this figure has built up to £18 million in three years. There has been talk of wilful corruption. Do you agree with that? It seems to be a very strong statement without any evidence being produced.

Contractors have been stigmatised, in a sense, and mentioned publicly. They have then been given other work in Craigavon, for instance, and they would argue that they are owed money. There are a lot of issues that really have not been addressed and do not seem to have been resolved.

Mr Wilkinson: I will start from the first —

The Chairperson: You will have to go back to Hansard to get all of it.

Mr Wilkinson: First, I will explain the relationship between the Department and the Housing Executive. The Housing Executive is an NDPB with its own accounting structure. It is responsible for operational delivery and has an executive board to authorise and approve decisions. It is the Department's NDPB, so the Department sets the policy framework, the funding framework and the performance targets that it should achieve. The Department is also responsible for overseeing the activities of the Housing Executive, ensuring that it has appropriate governance regimes in place and holding the Housing Executive accountable for its actions.

The split is between policy and funding, and operational delivery, and the responsibilities sit that way, however the Department has overall responsibility for ensuring governance regimes.

Therefore, when we come to the contracts issue with Egan, the Housing Executive is obviously a major procurement body in Northern Ireland and is a centre of procurement expertise and excellence. It introduced Egan contracts at the same time as all major procuring bodies introduced Egan contracts.

I suppose that, with any new contract arrangements, there are teething problems and lessons to be learned. I think there have been lessons learned about Egan, which was a partnership approach moving to a command/control approach of contracts. Lessons have been learned as that has moved on. That is not uncommon.

However, I think to refer to "all contracts" would be simplifying things. Even bad contracts can be managed very effectively. If it was a bad contract and, if you look at the Housing Executive's assurance regime, you would ask why 50% of districts are running contracts very effectively and getting substantial assurance while others are not. Why are some schemes overpaid and others not? It is a contributor, but it is not the sole issue.

You asked about the figure of £18 million. To go back to the relationship between the Department and the Housing Executive, the Housing Executive is responsible for operational delivery. In tracing that back, the Department, in its action plan, said, in its oversight, that the Housing Executive must get to the bottom of how much this is and take the necessary action to find out what to do about it.

The Department has been pursuing how the Housing Executive gets on top of it and what the amount is. It is the Housing Executive that has come up with the figure of £18 million. I have been advised that it produced that figure by going from the original four schemes that its scheme inspection unit at Ballynahinch and a couple of others identified, and pointed out that there was a problem with overpayment specifications.

The Housing Executive critically examined those schemes to ask whether it had got them right or wrong. That took a bit of time. Having agreed what the four schemes were telling us, it then hired an independent team, Moore MacDonald, to look at a wider sample of schemes: I think it was up to 150 of them. Through that, it extrapolated the figure of £18 million.

Part of the Housing Executive's current report is to confirm that that is a reasonable and fair figure to pursue. That is the figure it has given us, so we have to take it. From the work it has done, it has good reason for giving us that figure. Our role now is to say that if it has got that figure, then the Housing Executive must make sure it is right. We want it to tell us what it is doing about it and how it is going to get the funding back that it can get back. More importantly, we want the Housing Executive

to reassure us that this can never happen again in new contracts going out for procurement. It all goes back to our role and relationship. I hope that this has addressed some of your questions.

The Chairperson: Thank you. Well done there.

Mr Douglas: Thanks very much for your presentation. At last week's Committee meeting in Coleraine, the chairman of the Housing Executive said:

"My view is very straightforward: we need to get this out in the open. We have to be open and transparent about it, and it is important that we resolve it as quickly as possible."

You talked about the various reports, Jim. Is there a timeline for when you hope this will be finally put to bed? Having listened to the chairman last week, I am assured that he is very committed to getting this resolved. He realises the problems that there have been in the Housing Executive over the past number of years, but I think that he wants to resolve it.

Mr Wilkinson: The Chair asked us whether the Department is focused on this issue. A lot of our time is being spent on it. We are of the view that the first step in resolving any issue is to identify exactly what it is and quantify it. You then need to be assured that action is being taken to resolve it and then monitor progress against that action. As regards timescales, we engage monthly with the Housing Executive on this issue. The first step is to get real clarity and confirmation that the figure that you are seeking to pursue is correct. That is what the Housing Executive's current investigation aims to do.

Mr Douglas: Is that figure still £18 million?

Mr Wilkinson: The figure that the Housing Executive has given us is £18 million. It is confirming whether that figure is right. Its report is due to come back at the end of August. I take it that, by that stage, the Housing Executive must have confirmation of the full amount and how it is pursuing that. The Housing Executive has also asked the independent investigation to offer an opinion on the steps that it is taking to recoup overpayments, whether those are the correct steps, and whether there is anything else to be done. We will monitor that. Finally, the Housing Executive has asked the independent investigation to ask whether there is any explanation of how and why this happened.

From the Department's perspective, it is about finding out what the overpayment is and asking the Housing Executive to show us how it will pursue that, so that the matter is dealt with and done. This time last year, the Housing Executive said that there was a money overpayment that could not be quantified. It has taken us until now to quantify it. Now that the figure is there, we need to pursue it. We will be pushing it. I need to say to the Housing Executive, from the Department's perspective, "Now that you have got this figure, what is your assurance that it will not happen again? Tell me what you are doing. Is there a similar plan to that which was required for repairs inspection? What is your scheme telling us?" We will then monitor the impact of that work.

At the end of the August, we will hopefully know the issues and how they will be addressed. Thereafter, it will be a contractual process, and it could be a legal process. We will be asking the Housing Executive to keep us fully updated and briefed on progress.

Mr Douglas: Michael, you talk in your report about the Ballynahinch scheme. On page 9, you say:

"The Department seeks confirmation from NIHE as to the total amount of overpayments and the total amount to be written off."

Will money be written off? Why would it be written off? Is there a ballpark figure for what percentage of the £18 million will be written off?

Mr Sands: Until we get the review at the end of August, we will not know the exact position or the liability as far as each individual contractor is concerned. It will be a question of working with the contractors. Comment was made at last week's Committee meeting that the contractors are still working with the Housing Executive. There may be a possibility to recoup some of that funding while that work is being done. It will be the responsibility of the Housing Executive to do that. How much might be written off — and it is only a might and not a definite — still needs to be determined.

Mr Wilkinson: The Department's position is that we want everything to be clearly out in the open. We want to know exactly what the overpayment is and how much has or has not been recovered. There may be a whole raft of reasons why that can or cannot be done. However, if there has been an overpayment of £18 million and there has been x recovered and y cannot be recovered for a whole variety of reasons, we want to make sure that the total quantum is out in the open. We want to ensure that it is all accounted for: it is either recovered, not recovered, or written off. It is about making sure that everything is perfectly clear and getting the clarity that the Chair said that the Committee is determined to get. We want to know everything that has happened and how it is all being dealt with.

Mr Douglas: This process will also indicate very clearly whether a contractor to whom there has been an overpayment has the wherewithal to pay the money back. Is that what we are talking about?

Mr Wilkinson: It is impossible for us to say how that will pan out, because there is a whole process for us to follow. If you look at the PAC report, you will see that there may have been overpayments in response maintenance in certain contracts. However, you may not be able to get that back because, as part of your regime led to that, you are partly responsible. We are saying that we need to know the full quantum, deal with it and make sure that this does not happen again.

The Chairperson: Before I bring in Michael, I want to stick with this point for a wee minute. You might be able to help us on this. Last week, Donald Hoodless referred to an adjudication process that is underway. Fra mentioned that there could be an argument that some contractors put higher specification items into contracts without approval.

We tried to tease out some of this last week when Donald and John McPeake were with us. I assume that a contractor who is awarded a job says, "Here is the work to be done. Here are the specifications of the items to be used. Here is the bill." You may then have received an invoice for more than that. However, is there a sit-down process in which it is all worked out and the contractor says, for example, that they had to do a, b or c on top of the original plans? In such a case, the bigger invoice could be valid. Could some of the overspend be valid spend as opposed to being things that should not have been done?

Mr Wilkinson: The detail of this is really a matter for the Housing Executive. The Department's position is that once the Housing Executive tells us what the overpayment is, it should deal with that and account for all of the overpayment. If the overpayment has happened because work was done above specification, that is outside the Housing Executive's regime. However, if someone in the Housing Executive approved it, that is still an overpayment. We want to make sure that it is all accounted for. As for the detail of that sort of analysis, there is an adjudication process, and potentially a litigation process if that does not work out. Those are, quite rightly, matters for the Housing Executive to pursue. We want to make sure that, when the Housing Executive comes out of this, we can account for the full figures that went in.

The Chairperson: I appreciate that. It is just that we got information that the adjudication process is underway. Some people told us that they were involved in that process but that it was usurped or moved on by the Department or the Minister. Last week, the Housing Executive told us that it had an adjudication process underway but that it was not working. In fact, whoever the adjudicator is has basically said that some people are not complying with it.

Mr Wilkinson: The Department was advised that the Housing Executive was moving into adjudication. We have no role in the adjudication process or even in the litigation process. It is entirely a matter for the Housing Executive.

As part of our accountability, we were advised that the Housing Executive had hit an issue with the adjudication process, that it could not move it forward and that it was looking at other approaches. A number of contractors are involved, and the process is carried out sequentially. I think that the Housing Executive was testing the adjudication ones, and then moving on. From our perspective, it is very much about making sure that the Housing Executive is doing something, knowing what the actions are, reporting those, and finding out what the outcomes are. However, it is a matter for the Housing Executive.

The Chairperson: Fair enough; that will unfold in due course.

Mr Copeland: Thank you. I understand, and have some sympathy for, the complexities of this issue. The figure of £18.5 million, which may be accurate and may be inaccurate, is the only figure that we have at the minute. What percentage of the overall contracts does that amount of money represent? Is the variance compatible with that of other contracts in other parts of the United Kingdom jurisdiction, where I presume some of our contracts were taken?

Mr Wilkinson: I will try to answer that as best I can. The Housing Executive advised us of that figure. My understanding is that £18 million is roughly 10% or 11% of the total value of the response maintenance contracts. The overpayment work that the Housing Executive has done to date suggests that there are differentials in the overpayment. The planned maintenance contracts can include a variety of cyclical works, including work on windows, kitchens and a variety of other things. The most challenging area of work appears to be kitchens; that is what the Housing Executive is telling us.

I do not have the facts and figures with me as to how that compares with other parts of the jurisdiction, but we can certainly ask for that information. I would be quite surprised if a 10% variation in a contract of £178 million over four years is acceptable. That is not a variation. My understanding is that there are acceptable variations built into contracts. The Housing Executive tells me that that is to do with the size of the product and the scheduled payment plans. Again, I am not sure of the detail. The Housing Executive contract experts would need to come in on that. However, I do not think that this is about a variation. It is about payments over and above what should have been paid.

Mr Copeland: It also comes back to whether they are talking about overcharging or overpayments. I asked the Minister about this in the Chamber on the day of the announcement. The person who pays is the one who commits an overpayment, but it is the person who provides the service who may occasion an overcharge. One may be fraud, and the other may be stupidity or a lack of due diligence; there is a difference.

Will you also, perhaps, confirm for me the difference between a forensic examination and the sort of normal investigation, the checks and balances, that organisations such as the Housing Executive routinely employ? I dare say that I could sit down and set up an invoice this morning for some unknown goods or services, but I would not think that I would stand much chance of being paid for it. What is the difference between the forensic examination and routine safeguards?

Mr Wilkinson: In many ways, it is probably best described as the difference between the certification process that the operational side does to sign off the invoice and the work that the repairs inspection unit or the scheme inspection unit of the Housing Executive comes in to do. The scheme inspection unit makes a detailed measurement of all the works against the bill of products, the invoice and the original specification, and they check against all the procedures.

So, they will check whether the original specification was correct and whether all the work was done. They will measure everything, and then check whether all the processes were done. So the checks and balances are whatever is in the contract that must be agreed for them to be paid off. A forensic investigation, however, is coming back and looking at every single aspect of that particular piece of work; how it was specified; was it done correctly; how it was checked; how the invoice was signed off; were there any variances between what was checked and what was not, and how those variances were accounted for. It is just a much more in-depth review. The contractors' own teams do something similar to that; their works investigation team would do something similar.

Mr Copeland: So, perhaps in the case of a kitchen replacement, wall tiles were to be removed from the walls, the walls made good and then retiled. Let us say that it was concluded that removing the existing wall tiles would damage the wall to a point where it would cost more to fix it than simply tiling over the existing tiles. Would that count against those responsible for inspecting the job?

Mr Wilkinson: There is a level of detail that I would not know about. My understanding is that a forensic investigation, and indeed the contractors' own works investigations, ask: "If that is what you said you would do, was it done? If it was not done, is there an accounting process that shows that a conscious decision was taken not to do it?" I would not be across the detail on that.

Mr Copeland: I understand that. Have you any indication as to the number of investigations, whether forensic or not, that took place into money that changed hands between the Housing Executive in connection with those contracts during the term of office of the previous chairman or chief executive? Were there any investigations, or was there smoke on the horizon that indicated that there may be something untoward? Do you know?

Mr Wilkinson: The work we are doing in investigations is all about the contracts, and it spans the length of time specified in the contracts.

Mr Copeland: That straddled the time of the current chief executive and chairman?

Mr Wilkinson: The contracts are extant, yes. They are still ongoing. However, as I said, we are getting regular monthly briefings from the Housing Executive on the actions that are being taken. It has reported that it has taken a whole raft of actions, and the chair has given a public commitment that all those matters will be addressed.

Mr F McCann: I have a couple of questions. Much of what I wanted to ask has already been asked by Mickey and I will not repeat that. Before I start, there are several questions. Michael confirmed that this goes back to the introduction of the Egan contracts. I, Mickey and some others asked quite a number of questions on the introduction of the Egan contracts and the impact that they would have. The whole concept of Egan was to get more for less money. What has happened has to have been a direct consequence of what happened then. Can you explain what the term "variation in the contractor uplift" means in the written submission?

Mr Wilkinson: These are Housing Executive contracts, they are not Egan contracts. They are for a four-year period. In bidding for the contract, the contractor says what price he will charge over the four years. The contracting authority usually makes additions. The contractor says that he anticipates certain requirements over those four years, to take account of whatever variations there might be. The contracts are usually very detailed, thick documents in which the contracting body makes its pitch to win the contract and the contracting authority says what it wants to achieve.

Mr F McCann: In the constituency that I represent, I was party to a debate that went on between a contractor and the Housing Executive over price. I understand that when the Housing Executive tenders for, say, the fitting of 1,000 doors, there is a set price per door. Many of the contractors, for whatever reason, bid for the work. Then the additions and the arguments take place over every single item, whether it is a door or the filling in of holes in a floor. I stood one day, looking at a hole in the floor of the house of one of my constituents. It had been like that for a couple of weeks. The problem was that the contractor would not do it because the price that had been initially settled would not cover the cost of fixing it. That is what I understand "variance" to be; when an agreement is reached, about a price over and above what was originally tendered. I have seen that in operation.

Can you imagine that that might take place over smoke alarms? Say the Housing Executive was changing smoke alarms. A contractor puts in a better-quality smoke alarm than that which was specified; maybe it is of higher quality, lasts longer or offers better protection to tenants. However, there may be a difference in the price between the initial smoke alarm and the one put in. As I understand it, that is where a lot of the stuff has come from.

Mr Wilkinson: These are matters for the Housing Executive.

Mr F McCann: We have been told by the Minister and the Department that there is an £18 million overspend. We have been trying to drill down and find out exactly where that has come from. Alex touched on the point that the Committee, in its scrutiny, has to get to the bottom of that. I respect your position on this, but I have a difficulty. The problem is that we talk about investigations and inquiries but, as far as we can tell, the Department and the Housing Executive are joined at the hip in most things. Why not call an inquiry into the role of the Department, the Housing Executive and contractors, so that we can see where all this has come from?

Mr Wilkinson: I have a couple of points to make. It is important for me to say this: the operational implementation of contracts is for the contracting authority, which is the Housing Executive. It has the detail and the workers. It is the Housing Executive which has identified the overpayments. Because £18 million is a significant sum, the Housing Executive has advised the Department that, at this point, it is important that the Department is aware that there have been overpayments and it is pursuing them.

In relation to the oversight of such issues, we are the sponsoring Department of the Housing Executive. It is policy and the governance that we manage, and the Housing Executive has operational accountability and responsibility. Those measures must be looked at. The published PAC

report examined the role of the Housing Executive and the Department in all those matters of contract management. We are subject to scrutiny and review and, indeed, we reviewed our own processes. It is important that those issues have been identified, that we have been focused, that there are action plans and action has been taken, and we are closely monitoring the situation to see that there is improvement. We are reliant on the Housing Executive, as the operational body, to take the necessary action to recover those payments. We are also reliant on it, as the expert in procurement and construction, to set up the right contracts, manage them appropriately and, where there are failings, address them. So we monitor that activity, and we are very focused and have worked intensively on this issue. We will continue to do so, until it is resolved to the satisfaction of the Department and the Minister and also, more importantly, of the public, tenants and taxpayers.

Mr F McCann: I do not disagree with what you say. Alex pointed out last week and this week that if there is wrongdoing, we need to get to the bottom of it and, the people responsible, whether it is the Housing Executive, the contractors or the Department, need to be accountable. You said that the Department reviews itself; that is where I have the problem. To restore confidence that everything is transparent, the Department should have been included in the report. A lot of this originates in differences between the roles and responsibilities of the Department, the Housing Executive and contractors. It is difficult to get to the crux of the matter. Some people talk about drilling down. The Minister talked about "corruption". He spoke about "incompetence" in the context of contractors and the Housing Executive. Those are strong words. Do you buy into that? Obviously, most of the information that the Minister had came from reviews or within the Department itself.

Mr Wilkinson: Let me just clarify this: the PAC report looked into the responsibilities of contractors and looked across Departments, Ministers, etc.

Mr F McCann: The PAC did not use those words.

Mr Wilkinson: The Department has been very focused on this issue. We have had reports and done investigations. As soon as information has been found, we have shared it with the Committee and with the processes being followed. This latest information, related to a substantial overpayment of £18 million, was identified by the Housing Executive itself. It identified the four issues associated with it. Certainly, we will focus on this issue until it is resolved. We can offer that assurance.

Mr F McCann: Michael mentioned the Moore MacDonald report. My understanding is that it also identified a number of problems and difficulties. I take it that that was a number of years ago? Or was it —

Mr Sands: Sorry, Fra. Moore MacDonald, so far as we are aware, has only been looking at those contracts as a result of the Ballynahinch scheme, which was raised with us initially in 2011 or 2012. It has been looking at those and taking a sample of 20 schemes out of the 250 to see exactly what the level of overcharging or overpayment was. It has only been there this last two years. Its calculations and investigations and its work with the Housing Executive have produced this figure.

Mr Wilkinson: Moore MacDonald was commissioned by the Housing Executive. It was asked to provide —

Mr F McCann: The question I asked last week was whether, as a result of the Moore MacDonald investigation, the Housing Executive expected any contractors to be charged with fraud. The witnesses said that they did not think so. I have to say that, when Mickey was asking questions, I was just setting up. You would probably need about three days just to go through a lot of the stuff that is going on here. However, Alex would not allow me that privilege.

Sammy has raised it. Sammy and I are probably coming at this from different perspectives, mostly because Red Sky is an east Belfast firm. He is pursuing that case. Are the issues raised with these contractors similar to those raised with Red Sky? Is it the same sort of stuff?

Mr Wilkinson: The £18 million relates to planned maintenance, which is a different sort of work. Response maintenance was subject to the second ASM report. The first ASM report —

The Chairperson: We need to be careful that we do not stray into prejudging or making any sort of comment. We are on the record. A review is under way. Let us not make accusations.

Mr F McCann: The reason I raise that point is that it has been said that the inquiry into Red Sky led to all this. It highlighted some of the stuff that is going on. So it is already on record as having been said. I am asking whether there are similarities between the two situations. A lot of the contractors would say that there are not. I think that you are right and that they are two completely different situations.

The Chairperson: I do not want to interrupt you, Jim, but we should not be implying that anyone is guilty of fraud. We are not making accusations. There is a review under way and we need to make sure that we do not accuse people of being fraudulently involved. There is an overspend. A review has been established to find out what that is; how it was accrued; its nature; a breakdown of it; whether anything can be recouped; and to ensure that it does not happen again.

We need to be careful that we do not link one case — which was kind of proven — to this review. That is for the protection of the companies and everyone else involved.

Mr F McCann: The Minister's statement specifically mentions a company that was suspended. This issue has been raised a number of times in Committee. Many of the contractors that the Minister referred to say that the stuff that they are being accused of is nothing by comparison to the Red Sky affair. The Minister mentioned corruption and various other things. What I am trying to get at this morning is around the variations that take place and the additions that make up the bulk of that £18.5 million. Is it down to different materials, or is it down to —

The Chairperson: All I want to say on that — I want to move on to another question — is that, last week, the Committee made it clear that we felt that it was inappropriate to talk about corruption. Therefore, we should not be talking about corruption. That is the only point I want to make. We are putting the questions — rightly so — about making sure that we examine exactly what happened. We have been told that we should get that response back around September, so it is important that all Members make sure that they are satisfied that all of the relevant questions are being put. For example, we asked for the terms of reference, which we are getting. We just need to be careful that we do not stray into using language that, last week, we thought was inappropriate when used by others. Let us not stray into using the same inappropriate language.

Mr Sands: As Jim has pointed out, there is a difference between the routine response maintenance, which has been investigated, and the planned maintenance. You are absolutely right. We will wait to see what is happening as far as the planned maintenance is concerned, but, in relation to the response maintenance, the ASM report is publicly available on the Department's web page.

The Chairperson: OK. All of the questions that you want to put have been put. Are you happy enough?

Mr Durkan: I will be brief. We have established, Jim, that overpayments were identified by the Housing Executive. In response to an earlier question from Michael you went through the sort of checks and balances that exist in the Housing Executive to prevent such occurrences. Internally, is there an audit team or audit committee in the Housing Executive? Who does that comprise? Is the Department represented on that?

Mr Wilkinson: The Housing Executive has an audit committee, and at once stage, it also had a risk and compliance committee looking at those sorts of things. The audit committee is made up of the board of the Housing Executive with independent members and two observers — one from the Department and one from the Northern Ireland Audit Office.

Mr Durkan: OK. For something of this scale, regardless of whether the smaller stuff or the checks and balances were being done, it is difficult to see how it would not have come across that committee's desk earlier.

Mr Wilkinson: One of the things that we are pursuing, which you will have seen in one of the recommendations, was picked up in the original governance review in 2010 commissioned by the Minister's predecessor. The internal audit committee needed to assure itself that it was making full use of all of the assurance regimes and mechanisms it had within the organisation. It was taking account of those and looking at them appropriately. It is the audit committee, for example, that commissioned some of those initial works to find out where the issues were coming from.

Mr Durkan: Chair, I know that you do not want to go down the road of talking about corruption, but one of the statements earlier was around a report having been modified, and there was another that, to me, certainly implied something along those lines. Can you go into any more detail on that?

Mr Wilkinson: That is one of the action plans. Michael mentioned the 19 actions, 13 of which are complete and six are ongoing. The audit committee identified that there was a report from the scheme inspection unit but that the report it had received was different. The Housing Executive commissioned an investigation into why that happened. The Department, in its recommendation, said that that investigation needed to take place, needed to be concluded and we needed to be told the results of it. That is one of the ongoing measures. It has not concluded that investigation yet.

Mr Durkan: It might have been a question for the Housing Executive last week, but have you any idea how much has been spent on investigations and reports commissioned by the Housing Executive and the Department?

Mr Wilkinson: We know how much we have spent, but I do not have the full figures for the work of the Housing Executive. It is also worth bearing in mind that a lot of the Housing Executive's information comes from its central assurance unit, which is part of its core cost delivery. We can get some of that information from over the past two years, and I am happy to write back to the Committee on those figures.

The Chairperson: The reference that you raised there, Mark, is in paragraph 13 on page 9 of your paper. That did jump out at me earlier. I was concerned about that. The only point I want to raise on that is that it says that it is "yet to be formally investigated." Has that now been formally investigated?

Mr Wilkinson: Yes, it has been formally investigated. That is the action that was required. Of the 13 that have been completed, that one is ongoing. Those four were all about planned maintenance, so the first thing was to find out how much. It has just come back with that in the recent announcement, but it has told us the Moore MacDonald stuff. The second thing was to find out why, since the audit committee was originally told about this, there seemed to be a change in the reference. That is ongoing. We also want to find out what actions are taking place, and that is ongoing. We do not have a report on it yet.

The Chairperson: Thanks for that explanation, Jim.

Mr Copeland: I have three very small points. Is change of tenancy included in any of those contracts or is that a separate issue altogether?

Mr Wilkinson: They have been looked at under response maintenance.

Mr Copeland: I presume that the Housing Executive has a chief accounting officer, who is that?

Mr Wilkinson: It is the chief executive.

Mr Copeland: Is DSD represented on the board of the Housing Executive?

Mr Wilkinson: No.

The Chairperson: No other members have indicated that they want to speak. So, Jim, Michael and Susan, if you are happy enough that you have made your presentation this morning, I thank you again and apologise again for the delay this morning. Thanks very much for your presentation. We are all keenly focused on the issue. It is unfortunate but, nevertheless, we have to get to the bottom of it.