

Briefing document – Social Development Committee

Relating to:

Strand 1 : Decision making relating to the award modification and cancellation of NIHE maintenance contracts to establish any impropriety or irregularity and, in particular, whether the actions of Ministers were appropriate;

Strand 3: The adequacy of actions proposed by the Minister, DSD and the NIHE to address previous well documented failings in relation to procurement and contract management.

Our role

The NIAO has two main roles:

- A statutory requirement to provide an audit opinion on the truth and fairness of the figures contained in the annual accounts of public spending bodies and the regularity of the expenditure contained in those accounts. The aim of these audits is to obtain enough evidence to provide assurance that the accounts are not materially misstated and monies are spent in line with Assembly intentions; and
- To carry out more detailed examinations and reports on specific issues to report on whether economy, effectiveness and efficiency has been achieved in the use of public funds.

Our 2012 report was a detailed VFM study which initially followed up on specific concerns relating to response maintenance raised by whistleblowers in respect of Red Sky. However, during our investigation we identified concerns across the whole area of response maintenance contract management. The detailed NIAO report was followed by a PAC session and report. A summary of our report is attached as Appendix A; Appendix B sets out the time line for our involvement with NIHE in relation to Red Sky.

In addition to one-off VFM reports, we carry out an audit annually on the accounts of all public sector bodies, including the NIHE. This includes giving an opinion on the regularity of the money spent in the year i.e. whether it has been spent properly in line with the intentions of the Assembly. For the year to 31 March 2011 we qualified our opinion on response maintenance and in 2012, 2013 and 2014 qualified our opinion on both planned and response maintenance. In each of these years we also produced a report, published along with the accounts, explaining the issues leading to the qualification. In addition, as is the case with all annual audits, a Report to those charged with governance has been produced each year with recommendations for improvement across all areas of internal control, including procurement and project management.

Background

Significant issues have been identified relating to NIHE's systems for managing its contractors involved in response and planned maintenance work and we have reported on these since 2011. The issues have arisen from a failure by NIHE to ensure that the work it was paying for has been carried out to the required standard and at the correct price.

There are numerous reasons why these problems were allowed to arise but they included:

- Poor contractor performance being allowed to go unchallenged;
- Key performance indicators set to manage the contracts not being objective;
- Inadequate action being taken to address potential overpayments when they were identified;
- The units set up to ensure that appropriate inspections of work were being carried out (Repairs Inspection Unit and Scheme Inspection Unit) were not independent of the part of NIHE managing the contracts. There were a number of areas where reports provided by these units either did not go to the audit committee and board or did not adequately highlight significant issues; and
- Poor governance arrangements – although the arrangements were in place, in practice they were not working. There was significant challenge by management to draft reports and opinions provided by RIU/SIU (now part of the Central Assurance Unit – CAU) and internal audit; insufficient information on contract management was provided to the Board and the Board/audit committee were inundated with large volumes of papers which didn't focus on strategic issues.

A summary of the specific issues and the degree to which they have been addressed are discussed in the sections below:

1 Response Maintenance

For response maintenance district offices are required to carry out on-site inspections of a sample of work done by contractors and ensure it is satisfactory before payments are made. If problems are identified they must be rectified prior to payment and the results of these inspections feed into key performance indicators. Under the latest contracts these results can be used to impose financial penalties and potentially, following escalation procedures, lead to contract termination.

Results of inspections since 2010-11

Assurance over the quality of the inspection processes applied by the district offices is provided through targeted inspections carried out by the CAU who give an overall rating. In the last number of years the results of these inspections have been:

Table 1 – Results of response maintenance district office inspections since 2010-11

	2013-14	2012-13	2011-12	2010-11
	%	%	%	%
Substantial	70	-	-	14
Satisfactory	30	50	8	46
Limited	-	29	25	31
Unacceptable	-	21	67	9
	<i>Note 1</i>	<i>Note 2</i>	<i>Note 2</i>	

Note 1 – this is under a new methodology which has changed scoring performance and moved to statistical sampling. We reviewed this new methodology and were content that it had been properly reviewed and considered by NIHE senior management. We also noted that when NIHE applied the new methodology to inspections in previous years the results would not have changed significantly.

Note 2 – in both 2012-13 and 2011-12 CAU did not carry out a full range of inspections in all the district offices – in each year only about half the offices were visited and inspected due to resource issues.

We have reviewed the work done by CAU so that we can rely on it for the purposes of our audit. This involved a review of the qualifications and experience of the people in CAU, a review of their working papers and shadowing of their inspection visits. While we are not technical experts, our review did not identify any significant issues relating to CAU's work on response maintenance.

Explanations for the improvement

The substantial improvement over the last few years is explained by a number of steps undertaken within the NIHE, including:

- Increased awareness of contract management issues at all levels within NIHE following the well publicised issues over the previous years;
- Establishment of an intervention team during 2012-13 to visit offices with poor performance to develop improvement plans. This team focussed on the reasons behind the poor performance to ensure that they were addressed and improvements made;
- Improved training to all staff;
- Appointment of contract managers and monthly reporting of contract performance;
- Increased disciplinary action for non-compliance with inspection procedures;

- The CAU is now independent of the part of NIHE which carries out response and planned maintenance work. There is also evidence that its reports are being cleared more quickly and that there is less challenge from senior management to their findings; and
- CAU is merging with Internal Audit and this will add to the independence of the unit and remove the possibility of duplication of work.

2013-14 audit opinion remains qualified

Despite this improvement in response maintenance we have again qualified our audit opinion for 2013-14 on the expenditure in this area because:

- For many years there has not been a review by CAU of heating response maintenance work carried out because they did not have the expertise within the unit to carry out the work. For 2013-14 CAU completed audits on two out of twelve areas and in each of these their opinion was limited. NIHE have told us that they expect to carry out a full inspection programme in 2014-15;
- This is the first year that CAU's work has identified a substantial improvement in the general response maintenance contract management and we would wish to see this sustained before removing our qualification; and
- As discussed below, NIHE has some concerns regarding the ratings that have been given to the inspection of some planned maintenance inspections and as a result have instituted a due diligence review of the CAU work by the Head of Internal Audit. While this work does not directly impact on response maintenance it does inevitably cast some doubt on CAU's work in this area also and has contributed to our decision to continue to qualify.

Gateway 5 review

The recent Gateway 5 review by the Office of Government Commerce has also confirmed the evidence of improved contractor performance. It did however point out that the KPI administration was onerous for both the contractors and NIHE and needed to be simplified and that the current assurance process needed to be reviewed as the contract progresses.

We accept that the current system could be simplified to reflect the key issues of importance to NIHE (the right quality, price and timeliness). In addition we have been advised that there have been instances where the pressure on district offices to manage contracts properly has led them to inflexibly follow the letter of the law rather than the spirit of the contract. However we do feel however that in general the current level of

assurance is appropriate at present and can be reassessed when new procedures and inspection results are bedded in completely.

Summary – response maintenance

We are satisfied that there has been a significant degree of improvement evident in the management of response maintenance contracts over the last few years. We have indicated that if the improvements identified so far continue and heating maintenance is included within the programme of inspections then we could remove the qualification in this area in 2014-15.

2 Planned Maintenance

Planned maintenance expenditure relates to larger schemes of maintenance which maintain the housing stock over time such as painting, boiler replacement, kitchens and double glazing. As with response maintenance there have been significant concerns relating to the management of these schemes for some time. The inspection process for these schemes is carried out at district level and then in order to get assurance over the quality of the district's inspection CAU review and report on a proportion of this work. The results of this work over the last few years has been:

Table 2 - Results of planned maintenance scheme inspections since 2011-12

	2013-14	2012-13	2011-12
	%	%	%
Substantial/Satisfactory	86	39	45
Limited	5	31	45
Unacceptable	9	30	10

As with response maintenance, we reviewed the work done by CAU so that we could rely on it for the purposes of our audit. This involved review of the qualifications and experience of the people in CAU, a review of their working papers and shadowing of their inspection visits. While we are not technical experts, we found that the work carried out in relation to planned maintenance was in line with CAU's methodology. However we did have some significant concerns:

- CAU has not had a quantity surveyor available for its inspections over the last few years. Therefore the work that they are able to provide an opinion on relates to the quality of the work done and not the financial position i.e. they do not provide an assessment of the inspection to ensure that only work that has been properly completed is paid for. Therefore we feel the results of the CAU work do not give a full picture;

- A recent issue has emerged following concerns raised by a whistleblower in relation to planned maintenance schemes in one area. These were investigated and as a result two employees were dismissed. NIHE identified that these issues had not been identified by CAU who had in fact given the area a satisfactory rating. As a result NIHE have commenced a due diligence exercise into the appropriateness of the methodology and the reporting of planned maintenance inspection results in 2013-14. This exercise has placed some doubt over the results reported by CAU in relation to planned maintenance; and
- Heating maintenance makes up 28% of planned maintenance expenditure but this year the CAU planned work in this area had to be suspended because staff were needed to follow up a separate investigation. Therefore there was no assurance in this area.

New planned maintenance contracts

New contracts have been established for planned maintenance and have been in place since the middle of this year. It is anticipated that the new contracts will help ensure that the issues that have arisen in the past do not recur.

Under the new contracts consultants will be employed as scheme managers to design schemes, agree costs and approve work done. This is then subject to monitoring by Housing Executive staff. The Housing Executive have told us that they expect that these new processes will reduce the risk of contractors inflating work content and also transfer some of the risks with scheme design to consultants who will have to meet KPIs or else suffer financial consequences.

As the contract had not commenced during our last audit year (2013-14) we have not yet looked at the new planned maintenance contracts but they will be examined in detail as part of our audit next year.

Summary- planned maintenance

There has been some progress in dealing with issues in planned maintenance but the work is not as far progressed as in response maintenance. In particular there are significant concerns relating to the assurance provided by CAU given the lack of a quantity surveyor in the team and the ongoing internal due diligence review. In addition heating maintenance which has made up a large proportion of planned maintenance expenditure has not been subject to review at all this year. We have therefore continued to qualify our audit opinion on planned maintenance as we have done for several years now.

3 Other issues

The overpayment in relation to planned maintenance

We have reported on this in some detail in part 3 of our report on the accounts for 2013-14 (included with this briefing). This report has provided the background to the overpayment, how the £18 million figure was estimated by NIHE in June 2013 and how the eventual settlement with the contractors was reached. The report also includes a detailed timeline.

Procurement

There have been issues in the past in relation to how NIHE has procured its work. In particular an issue has been that contractors have often sought to price their tenders very keenly in order to win the contracts and then seek to gain additional add-ons once they are appointed. In some cases the prices charged by contractors has been unrealistically low and contractors have gone into administration. Where this has happened their work has had to be taken on by the NIHE's direct labour organisation.

We reviewed NIHE's procurement process for the new response maintenance contract and were satisfied that it had been properly carried out. In relation to the new planned maintenance contracts we have not yet subjected them to audit as they fell outside the current period.

The role of the Department

The Department has played an important role in ensuring that the issues that have arisen are being dealt with. In particular:

- The regular accountability meetings between DSD and NIHE have ensured that a focus has been kept on dealing with very important issues. In particular DSD has had a close involvement in monitoring the implementation and achievement of the recommendations in the 2012 VFM report, the PAC report and our reports to those charged with governance;
- The requirement for DSD to get draft copies of internal audit and CAU draft reports has helped reduce the possibility of internal management pressure on those units; and
- DSD representatives attend the NIHE audit committee

Appendix A

Brief for the Social Development Committee

Summary of NIAO Report: NIHE Management of Response Maintenance Contracts (4 September 2012)

1. The Northern Ireland Housing Executive (NIHE) is the largest landlord in Northern Ireland and is responsible for the management and maintenance of some 90,000 homes. It has an annual budget of some £750 million of which around £50 million relates to response maintenance. It is also one of eight public bodies designated as Centres of Procurement Expertise.
2. Since 2009, significant concerns had been raised by whistleblowers, MLAs and the media in relation to the governance of NIHE and in particular its procurement processes and the management of contracts. In the period 2009 to 2011, NIHE and the Department for Social Development carried out a number of reviews. These found a range of failings and weaknesses in the governance of NIHE and in the management of contracts. In July 2011, following lengthy investigation, NIHE terminated its response maintenance contracts with Red Sky. These contracts were worth some £7 million a year.
3. The problems identified in Red Sky were indicative of much wider and systemic problems across all maintenance contracts and of wider governance deficiencies. These had been evident to NIHE senior management for many years having been identified in previous investigations and through the work of NIHE's Repairs Inspection Unit (RIU) and Internal Audit. However, NIHE senior management failed to effectively address the problems that had been identified.
4. The result has been a loss of public funds and poor standard of work carried out for tenants. Furthermore, the weaknesses in assessment, reporting and management oversight, particularly at a high level within NIHE, left the organisation exposed to impropriety and fraud.
5. On paper the governance arrangements in place in NIHE were reasonably good. However, the nature and scope of the failings identified in the NIAO and other reviews have demonstrated that, in practice, these did not work. In addition, a culture of accountability was absent in NIHE and indeed there was evidence to suggest that some members of senior management actively undermined the system of checks and balances that had been put in place. For example, while summarised reports of RIU findings were provided to the NIHE Audit Committee and Board, significant issues were glossed over or not adequately highlighted or addressed. In addition, Internal Audit experienced difficulties in agreeing reports which gave less than a satisfactory audit opinion.
6. Furthermore, NIHE Board business had not always ensured there was adequate scrutiny of contract management. In the 5 years prior to 2010-11, there was

limited specific reference to contract expenditure monitoring or reporting in Board papers. In addition, NIHE Board and Audit Committee meetings generally covered a wide range of issues. However, the agenda for meetings included large numbers of papers which did not necessarily focus on key strategic issues; it is possible that the large volume of papers and lengthy agenda meant that important business and scrutiny of performance did not get due attention.

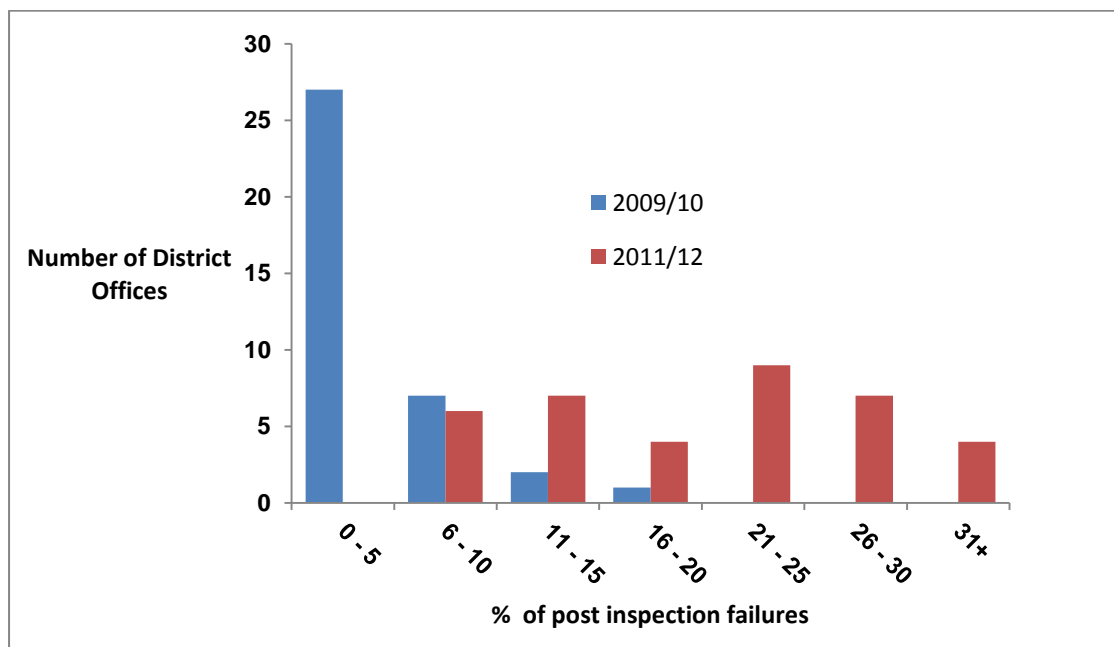
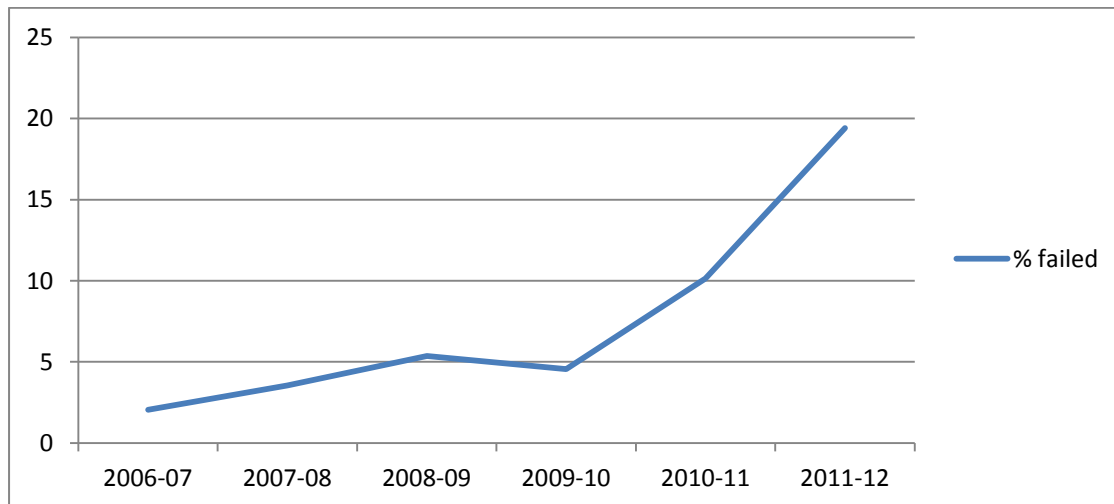
7. Our report highlighted that the investigation and subsequent reporting of serious concerns within NIHE was poor and there appeared to be inconsistencies in the application of disciplinary procedures. In addition, there was a perception that whistleblowers and staff who raised concerns about the performance of contractors in the course of their work had not always received the support they deserved.
8. Reporting fraud to the Department of Finance and Personnel and the C&AG is an integral part of the overall process for managing the risk of fraud in the public sector. However, in 2010-11, only 2 out of 22 ongoing fraud investigations in NIHE, had been formally notified to C&AG by DSD.

Overview of Part 1 – Management of Response Maintenance Contracts

1. Before 2001, repairs work for NIHE was undertaken by a large number of single trade contractors. In 2001, NIHE adopted the Egan principles for contracting; this approach included partnering concepts and use of Key Performance Indicators (KPIs) which NIHE believed would lead to improvements in the performance of contractors and in the prevention of fraud. However, NIHE's application of the Egan partnership approach had inherent weaknesses. A review by Internal Audit in 2010 found that:
 - KPIs had not been objective;
 - measures for KPIs had not been independently validated;
 - because of the subjectivity of KPIs and lack of validation process poor performance has been difficult to pursue against contractors – this was evident in NIHE's handling of the Red Sky contract (see paragraph 5 below).
2. In our opinion this, combined with laxity of organisational culture, contributed to a range of problems which impacted on the delivery of services for tenants and value for money:
 - duplicate orders approved despite alerts being raised by NIHE's management systems;
 - post-completion inspections not carried out by District staff but recorded as having been done;
 - poor work not challenged yet approved for payment;
 - excessive hospitality accepted; and
 - maintenance staff who have challenged contractors' performance have, in some cases, not received adequate support from NIHE management.
3. Following the commencement of our investigation NIHE reviewed the performance of the 16 contractors providing response maintenance over the period April 2011 to March 2012:
 - 1 in 5 inspections recorded a failure;
 - for 13 contractors, the fail rate was greater than NIHE's target of 10 percent ranging from 14.8 percent to 32 percent;
 - this contrasted with overall rates of 2 percent to 5 percent in the period 2006-07 to 2009-10 (see Figure 1);
 - the significant increase in failures was due to accuracy of contractor invoices now being recorded – such errors had not previously been recorded as they were not used as a measure of contractor performance.
4. New contracting processes, which are intended to address weaknesses, were introduced by NIHE following the letting of new response maintenance contracts let from August 2012. Under these new arrangements, performance is assessed on

a monthly basis with an annual review of each contract to monitor overall performance. KPI failures may be considered as a breach of contract and damages applied if a cost has been incurred by NIHE.

Figure 1: The percentage of failed post-inspections of response maintenance jobs recorded by NIHE maintenance officers increased significantly in 2010-11 and 2011-12



5. **Red Sky:** in July 2011, NIHE terminated its response maintenance contract with Red Sky. This followed lengthy and detailed investigations into its performance. The contractual relationships between NIHE and Red Sky, including its previous related trading entities, dates back to the mid 1990s. At that time NIHE had concerns about alleged continual overcharging and claiming for additional works. Since then, there have been a series of concerns and investigations involving the company, including NIHE staff accepting excessive hospitality, overcharging, disputes over outstanding payments, and additional unnecessary work being undertaken:
- A 2006 investigation, prompted by an anonymous allegation, identified overpayments totalling £264,000 – settled, following negotiation, for £20,000.
 - A 2009 investigation, prompted by concerns raised by a whistleblower, identified around £10,000 of overpayments across all five Districts in which Red Sky worked.
 - However, as a result of continuing concerns NIAO pressed NIHE to carry out a further forensic investigation (undertaken by ASM Horwath). Based on a sample of jobs examined over the period May 2008 to October 2009, ASM Horwath estimated the total level of overpayments to be £924,000. However, based on legal advice, NIHE could only recover the specific actual overpayments identified which amounted to £35,000.
 - In response to the Horwath report, NIHE carried out seven further in-depth investigations of the Red Sky maintenance contracts. These uncovered significant over-claims to the value of £573,000 for a 30-month period (January 2009 to July 2011).
 - In April 2011, NIHE gave Red Sky three months' notice that it intended to terminate all its contracts. Red Sky went into administration after this announcement and the contracts were terminated in July 2011.
 - At March 2012, additional problems with the quality of electrical work undertaken by Red Sky were identified by NIHE. It anticipated that testing for these defects would cost at least £150,000 with further expenditure required to remedy the defects.
6. The Red Sky case also raised concerns about the role of NIHE Maintenance Officers in inspecting work and, in some cases, failing to challenge poor work or identifying work claimed for but which had not been carried out. This is dealt with in more detail in Part 2. In addition, it also raised questions about the role of Constructionline, a company which assesses a contractor's ability to undertake public sector contracts; in the case of Red Sky it made its assessment on the basis unaudited management accounts.

Overview of Part Two: Inspection of Repairs and Maintenance Work

1. At the time of our report NIHE employed some 150 District maintenance and agency staff to carry out pre-inspection of work requests and post-inspection of work carried out by contractors. The results of post-inspection work feed directly into Key Performance Indicators which are used to assess contractor performance. The KPIs showed that, with a few exceptions, contractors were performing well. Total costs for these staff were in excess of £5 million a year.
2. In addition to the District inspection process, NIHE's Repairs Inspection Unit (RIU) carried out annual technical and management inspections of the maintenance functions across all 35 District Offices. These inspections assessed District maintenance performance under four key headings:
 - Contract Management;
 - Probity;
 - Inspections (on-site); and
 - Procedures.
3. The Contract Management, Probity and Procedures assessments were essentially concerned with compliance with controls, processes and procedures and generally accounted for 80 percent of the overall inspection score.
4. The on-site element of the assessment included inspection of a sample of maintenance jobs, including jobs that had been post-inspected by District maintenance staff and other jobs which had not required post-inspection. In this respect the RIU inspection also provided another perspective on contractor performance from that provided by the KPIs.
5. Based on RIU assessment criteria Districts could, and did, achieve a '**satisfactory**' overall assessment despite scoring poorly (in some cases zero) for the on-site inspection element. This fundamental flaw in RIU's methodology became more stark when the on-site inspection scores were considered separately – in 2009-10, **21** Districts out of 35 would have achieved an **Unacceptable** rating with a further **2** being assessed as **Limited**. Applying these assessments to 2009-10 response maintenance expenditure showed that out of £41.6 million, some £25 million was covered by an unacceptable classification.
6. The outcome of RIU inspections were considered by the Performance Review Group within NIHE's Housing and Regeneration Division. This Group also considered the Key Performance Indicator reports on contractor performance. However, no one appears to have made the connection, never mind challenged the inconsistencies, between the KPI reports and RIU's assessments.

7. Despite the serious nature of the RIU findings and the significant range of performance issues identified over a number of years, these were not adequately highlighted or addressed. For example, the minutes of Housing and Regeneration Performance Review Group meetings provided only a brief summary of discussions; these minutes, and not the RIU reports, were provided to the Chief Executive's Business Committee meeting.
8. Information on the details of the inspection programmes were not requested by this Committee and consequently, it did not see details of the outcome of inspections. Furthermore, no information was provided directly by RIU to the NIHE Board or Audit Committee; reports that were provided by NIHE senior management were also structured in a way which failed to highlight important issues.

Overview of Part 3 – Reporting of Fraud, Whistleblowing and Complaints

1. We found that NIHE had a robust whistleblowing policy which included an assurance that a whistleblower would not be at risk of losing their job or suffering any form of retribution.
2. However, we also found evidence of practices that were at odds with this policy which, at the very least, created a perception that staff who raised concerns about the performance of contractors would not be supported. For example, a full time member of staff was transferred from their post while in another a contract of employment of an agency worker was terminated. In one case we examined NIHE initiated a search of its IT system for words and phrases in an anonymous letter from a whistleblower to try to trace the writer; the line manager in the relevant district was asked which staff might have written the letter.
3. There were also inconsistencies in terms of disciplinary action taken against members of staff. For example, disciplinary actions issued for breach of the NIHE Code of Conduct ranged from a verbal warning to dismissal. The NIHE Fraud Policy Statement and Fraud Response Plan state that ‘the Housing Executive will not accept any level of fraud or corruption from within or outside the organisation’. However, one member of staff found to have used NIHE time and resources to carry out work of a private nature received only a written warning.
4. Information obtained from complaints can provide an opportunity to improve services. However, only formal complaints, primarily those where letters had been addressed to the Chief Executive or Area Manager, were recorded on NIHE’s Complaints Management System – there are approximately 500 formal complaints a year. We found that complaints made to local offices or through NIHE’s Customer Service Unit were classified as informal complaints; there were a total of 9418 recorded informal complaints in 2011-12, with a further 8932 “recalls” made to contractors i.e. this is where a similar defect at a property is reported within 6 months of a repair being carried out.
5. Reporting fraud to the Department of Finance and Personnel and the C&AG is an integral part of the overall process for managing the risk of fraud in the public sector. Departments are required to report immediately to DFP and C&AG, all proven or suspected frauds, including attempted fraud, which affect their Department or sponsored Agencies and NDPBs However, in 2010-11, only 2 out of 22 ongoing fraud investigations in NIHE, had been formally notified to C&AG by DSD.

Overview of Part Four - Governance in NIHE

1. While there was evidence of systematic and well-documented governance arrangements in NIHE, the nature and scope of the failings identified by the various reviews, including NIAO's, has shown that these were not working in practice.
2. A December 2010 report commissioned by the Department on NIHE governance identified a range of critical control issues which weakened the structures of governance and their effective operation:
 - breaches of Standing Orders;
 - significant issues which should have been drawn to the attention of the Board were not highlighted in Board papers;
 - Internal Audit had difficulty in clearing with management any reports which had limited or unsatisfactory ratings; this was particularly prevalent in relation to the Housing and Regeneration Division which covered much of NIHE's core business; and
 - relying on the integrity of individuals and dependent on all relevant matters being properly routed through governance structures; within NIHE there has been a culture of no blame and important issues had not always been highlighted.
3. Having the right organisational structure is a critical element to achieving good governance. A key concern within NIHE was that the organisational structure created the circumstances where a single Director may have had excessive influence and control. Within NIHE, the Housing and Regeneration Division encompassed a large area of NIHE core business and it is likely that the Director of that Division held significant control in comparison to other Directors. While some steps were taken to mitigate this risk, for example, the establishment of the Corporate Assurance Unit and a Risk and Performance sub-committee of the Board, structural problems still existed – the Housing and Regeneration division dwarfed the other Divisions within the organisation.
4. In addition, good governance is dependent on having a culture which recognises and accepts accountability. This was absent in NIHE and indeed there was evidence to suggest that some members of senior management actively undermined the system of checks and balances that had been put in place. For example, while summarised reports of RIU findings were provided to the NIHE Audit Committee and Board, significant issues were glossed over or not adequately highlighted or addressed by NIHE management.
5. Another key issue was the independence of internal audit and inspection functions from the operational side of the business and their reporting lines to the Audit Committee and the Board. There is evidence that Internal Audit was put under significant pressure by senior management to change adverse audit opinions and in one case a critical audit report was suppressed.

6. At the time of our investigation Board business did not provide adequate scrutiny of contract management. In the five years up to 2010-11 there was limited reference in Board papers to contract expenditure monitoring or reporting. In addition, we found that Board and Audit Committee agendas were long, included large numbers of papers and did not focus on strategic objectives. It is likely that the regular large volume of papers and lengthy agenda meant that important business and scrutiny of performance did not get due attention.
7. Board members have a responsibility to exercise effective challenge on management. The Board must ensure that it is fully informed and it must receive timely and accurate information from management. In addition it is essential that Board members have a clear understanding and knowledge of the organisation's business activity. NIHE Board members did undertake site visits to observe specific areas of the business. However, it was not clear to us how the knowledge gained on such visits was applied at Board or Audit Committee meetings. For example, as happened within NIHE, where information was withheld or cursory in nature, members must have sufficient knowledge and understanding of the business to challenge management.

Appendix B

Requested Briefing: Role of NIAO in advising NIHE with regards to the Red Sky contract from 2006-11.

The following time line sets out our involvement with NIHE in relation to Red Sky (a detailed case study and chronology of events in relation to Red Sky can be found in pages 16-23 of our 4 September 2012 report):

November 2008: The Public Accounts Committee contacted by a whistleblower with concerns about work being done by Red Sky. Concerns passed on to NIAO by PAC.

NIAO write to whistleblower advising that we were already aware of contract difficulties with Red Sky and that these, together with issues raised by whistleblower, would be looked at as part of our audit of 2008-09 accounts. accounts.

December 2008-March 2009: Issues discussed with NIHE Chief Executive

April 2009: NIHE advise NIAO of intention to carry out detailed investigation of the Red Sky contract and associated work.

NIAO confirm that it is content with proposal and that if any fraud identified the established arrangements for notifying the C&AG should apply.

NIHE senior management ask NIHE's Repairs Inspection Unit (RIU) to investigate all Red Sky maintenance contracts.

June 2009: RIU report back identifying around £10,000 of overpayments across all five Districts in which the company worked. RIU concluded that, "performance across contracts is variable and particular attention needs to be paid to East Belfast."

Another whistleblower raises concerns with NIAO about Red Sky contracts.

As a result of continuing concerns NIAO ask that NIHE carry out further forensic investigation of the work done by Red Sky.

NIHE Audit Committee agrees that an independent examination should be carried out.

August 2009: ASM Horwath provide proposal for forensic accounting service.

NIAO raises concerns with NIHE scope of proposal.

September 2009: NIHE write to NIAO addressing concerns.

October 2009: NIAO briefs NIHE Internal Audit and ASM Horwath re concerns raised by whistleblowers in relation to Red Sky and need for these to be taken on board in proposed investigation.

November 2009: Final Terms of Reference provided to NIAO.

March 2010: ASM Howarth present draft report to NIHE Chief Executive: findings based on review of all work undertaken by Red Sky in period May 2008 to October 2009; based on sample of jobs examined, the extrapolated level of overpayments was estimated at £924,000.

Copy of draft report passed to NIAO.

March 2011: NIAO advise NIHE Audit Committee of intention to carry out a review of response maintenance contracts.

April 2011: NIHE give Red Sky three months' notice that it intended to terminate all its contracts

May 2011: Copy of ASM Howarth report provided to NIAO.

NIAO formally write and advise NIHE of value for money review and intention to present a report to N I Assembly.

July 2011: Red Sky contracts terminated.

March 2012: NIAO draft report forwarded to NIHE Chief Executive.

September 2012: NIAO report published (4 Sept)

PAC Evidence Session (12 Sept)