

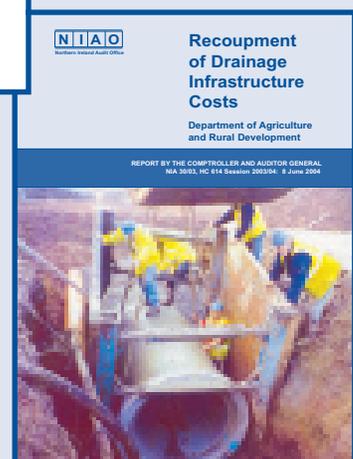
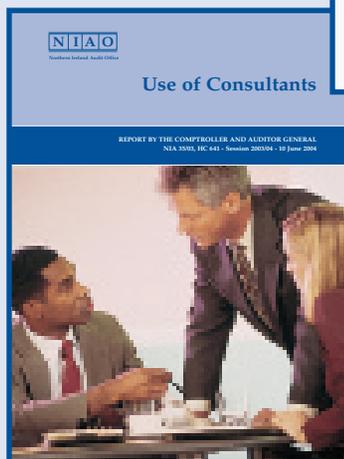
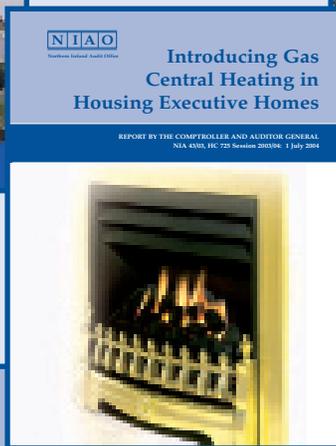
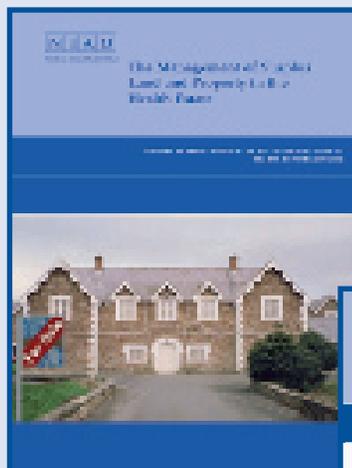


Northern Ireland Audit Office

# Departmental Responses to Recommendations in NIAO Reports

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL

HC 1149, Session 2005-06, 15 June 2006





Report by the Comptroller and Auditor General for  
Northern Ireland

# Departmental Responses to Recommendations in NIAO Reports

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This report has been prepared under Article 8 of the Audit (Northern Ireland) Order 1987 for presentation to the House of Commons in accordance with Article 11 of that Order.

*J M Dowdall CB*

**Northern Ireland Audit Office**

Comptroller and Auditor General

13 June 2006

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For further information about the Northern Ireland Audit Office please contact:

**Northern Ireland Audit Office**

106 University Street

BELFAST

BT7 1EU

Tel: 028 9025 1100

email: [info@niauditoffice.gov.uk](mailto:info@niauditoffice.gov.uk)

website: [www.niauditoffice.gov.uk](http://www.niauditoffice.gov.uk)

## **DEPARTMENTAL RESPONSES TO RECOMMENDATIONS IN NIAO REPORTS**

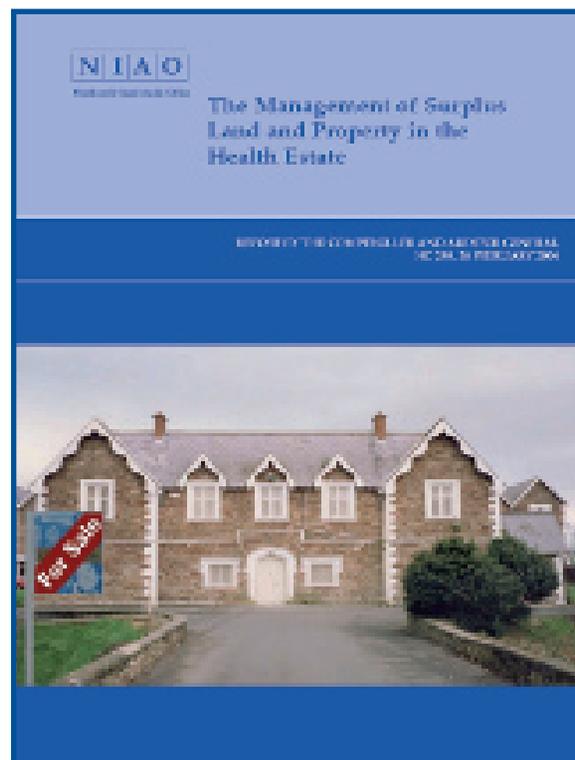
During Devolution all reports published by the Northern Ireland Audit Office were examined by the Assembly's Public Accounts Committee. In the absence of the Northern Ireland Assembly, the Westminster Committee has been taking evidence on the main reports but has been unable to include all reports in its programme. In order to have a mechanism to ensure that Civil Service departments formally respond to Audit Office findings and recommendations, a new procedure has been introduced to deal with those reports which are not the subject of a PAC hearing. Under this procedure the Audit Office writes to the Department concerned setting out the main issues and asking for a written response to questions about the progress made since the report was published. The departmental responses are put before Parliament in this report. This process should ensure that follow-up action is being properly monitored and that public accountability in Northern Ireland is strengthened.

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# The Management of Surplus Land and Property in the Health Estate



## List of Abbreviations

<b>CAU</b>	Central Advisory Unit - A strategic policy unit located within Valuation & Lands Agency
<b>DFP</b>	Department of Finance & Personnel
<b>HPSS</b>	Health and Personal Social Services
<b>NIAO</b>	Northern Ireland Audit Office
<b>RPA</b>	Review of Public Administration
<b>The Department</b>	Department of Health, Social Services and Public Safety
<b>The Review</b>	Health and Personal Social Services Asset Management Review
<b>VLA</b>	Valuation and Lands Agency

# The Management of Surplus Land and Property in the Health Estate

(Report Published 26 February 2004, HC 298)

## Background

The Department of Health, Social Services and Public Safety (the Department) has the statutory responsibility to provide or to ensure the provision of health and social care for the population of Northern Ireland. In order to provide the necessary facilities for patients, and to accommodate its staff and services, the health service requires an estate of land and buildings located in accordance with the needs of the community and the Department's health care objectives. At the time of our examination the estate was estimated to comprise around 400 sites with a land area of approximately 1,142 hectares and a building floor area of approximately 1.5 million square metres.

The Department seeks to plan and manage the rationalisation of its estate on a continuous basis. In addition to the provision of new healthcare premises and facilities, this rationalisation involves the shedding of land and property that is surplus to current and planned future requirements.

NIAO's report examined the performance of the Department in matching estate to operational needs, managing the overall disposal of surplus land and buildings and disposing of individual properties once they have been identified as surplus.

The following paragraphs detail the key issues arising from our report, together with the Department's response to them.

## Questions for the Department of Health, Social Services and Public Safety

### Question 1

**Paragraph 1.13 calls on the Department to ensure Trusts produce Estate Control Plans at the earliest opportunity and that it strengthens accountability by agreeing, with Trusts, rationalisation targets determined by assessment of estate needs. What progress has been made on these?**

### Departmental Response

Significant progress is being made in these areas. Estate Control Plans were completed by Trusts in March 2005, providing a full assessment of their estate needs at that time. Subsequent to this, in summer 2005 the Department commissioned a comprehensive review of the Health and Personal Social Services (HPSS) to:

- identify, by individual organisation and by ownership, areas of land and buildings no longer in use and which are considered suitable for disposal;
- describe the process required to facilitate the sale of the property;
- provide indicative valuations; and
- recommend a disposal strategy.

This *HPSS Asset Management Review* (the Review) will also provide for independent challenge of the current case for use or retention of the component elements of the estate and will ensure that all potential disposals are identified. The final report of the Review is due by June 2006. Based on the outcome of this systematic assessment of estate needs, and in conjunction with the development of site wide infrastructure business cases, the Department will determine appropriate rationalisation targets for the HPSS. The Department, in conjunction with individual Trusts, will then reassess their Estate Control Plans in accordance with the targets and the overall disposal strategy.

### Question 2

**Paragraph 1.14 points out that having sufficient information about the estate is central to the development of an effective estate strategy and the setting of disposal targets. What steps have been taken by Trusts to bring about improvement in the availability of up-to-date management information on their property holdings including reviewing past experiments by Trusts in developing shared service arrangements for this task?**

### Departmental Response

The Department and Health Estates Agency continue to work closely with Trusts on the management of this issue. Amongst the specified key outputs of the Review, due to report by June 2006, is a complete and up-to-date stocktake of the estate. This essential management information will, from then onwards, be maintained on a central database, based on the provision of relevant, accurate and timely information from Trusts.

Past experiments by Trusts in developing shared service arrangements have demonstrated that assurances, regarding the completeness and integrity of information on property holdings, are best obtained through maintaining a single central database. The Department's Capital Investment Unit, with the assistance of the Health Estates Agency and the HPSS, are to be responsible for updating and maintaining this database.

### Question 3

**Paragraph 1.20 notes that there are weaknesses in target-setting design for the disposal of surplus property. What action has been taken to establish reliable disposal targets for both Trusts and the overall estate? To what extent has this incentivised property holders to improve their sales performance?**

### Departmental Response

The Review will identify, by individual organisation and by ownership, areas of land and buildings no longer in use and which are considered suitable for disposal. This will enable the Department to determine, based on the assessment of estate needs, appropriate disposal targets for Trusts and, by extension, for the overall estate. It is expected that these targets will be established by September 2006.

The issue of incentivisation of property holders is also being considered as part of the current Review and the disposal targets will be set at challenging, but realistic, levels that will provide the maximum incentive to dispose of the most appropriate properties at the best obtainable price.

### Question 4

**Paragraph 2.20 emphasised the need for the Department to establish a routine system to oversee the disposal of surplus property assets across the health estate. We understand that this has now been implemented. Has there been any review of this system to assess whether it has led to improved control over sales costs and disposal timescales?**

### Departmental Response

A system to oversee the disposal of surplus property assets, as recommended by NIAO, was implemented in September 2004. This system is designed to ensure that surplus asset disposals are completed expeditiously and at maximum financial advantage. A review of the effectiveness of this system in improving control over sales costs and disposal timescales is currently being conducted by an in-house team and is due to be completed by 30 September 2006. The terms of reference for the review reflect the recommendations in the NIAO report and it will take account of the broader strategic *HPSS Asset Management Review*, mentioned in answer to Question 1, and due to report by June 2006.

### Question 5

**Paragraph 2.23 draws attention to the capital charging arrangements in place within the Department and questions whether they provide sufficient incentive for Trusts to identify non-essential estate for disposal. What steps have the Department taken to consider this issue further?**

### Departmental Response

Recognising that current capital charging arrangements may not provide sufficient incentives for Trusts to dispose of non-essential estate, the Department, during 2004/2005 and in conjunction with the Department of Finance and Personnel (DFP), reviewed the existing capital charging arrangements for both the Department and its Trusts in the context of Resource Accounting and Budgeting Stage 2.

However, moving Trusts to full resource budgeting would be a major step, possibly requiring legislation to change the status of the Trusts to that of central government bodies and significant additional funding to cover the new hard charging arrangements. With the imminent Review of Public Administration (RPA) for the Department, Boards and Trusts, it was agreed with DFP to await the outcome of this major reform before giving further consideration to the issue of Trusts' current capital charging arrangements.

The Department has now set up a working group to identify the finance issues that must be addressed during the implementation of the RPA. Consideration will be given by this group to the question of whether the current capital charging arrangements provide sufficient incentive for Trusts to identify non-essential estate for disposal.

### Question 6

**Paragraphs 2.36 and 2.37 provide details of a property disposal where all sale proceeds were used for revenue purposes. Departmental guidance states that only the profit element**

(i.e. proceeds over and above the net book value of the asset) is used for revenue purposes. What arrangements have the Department in place to ensure that guidance is adhered to?

### Departmental Response

Arrangements are now in place whereby, prior to Trust disposals taking place, the Department's Capital Investment Unit must be notified and agreement sought on the proposed utilisation of those proceeds. The organisation concerned must identify and record any planned and actual disposals, including profit/loss elements, on their monthly finance returns to the Department and Capital Investment Unit reviews these.

## Questions for Valuations and Land Agency

### Question 7

Paragraph 2.5 of the report recommends that Valuation and Lands Agency (VLA) guidance should include indicative timescales for the completion of negotiations between public sector bodies before a property is put on the open market. What steps have the VLA taken to ensure that the transfer of property between public sector bodies does not lead to the disposal of property being delayed?

### VLA Response

Following the recommendation in the NIAO Report, the guidance was revised and circulated to departments on 15 July 2005. The guidance now makes disposing bodies aware that in order to minimise the risk of delay, all legal documentation should be checked **before** declaring a property surplus.

Indicative timescales were also added to aid the process of completing public sector transfers. Additionally, the Central Advisory Unit (CAU) issues a letter to all acquiring bodies detailing the timescales and the processes required for a public sector transfer to take place once their interest to acquire has been established.

### Question 8

Paragraphs 2.13 to 2.17 draw attention to the need for property valuations to take account of movements in price over time. How does the VLA intend to address the valuation difficulties encountered with lapses of time?

### **VLA Response**

VLA now ensures that all valuation reports issued specify the lifespan of the valuations. The guidance states that all valuations should be revised after a 6 month period. This is, however, now reinforced by VLA in all correspondence going to clients.

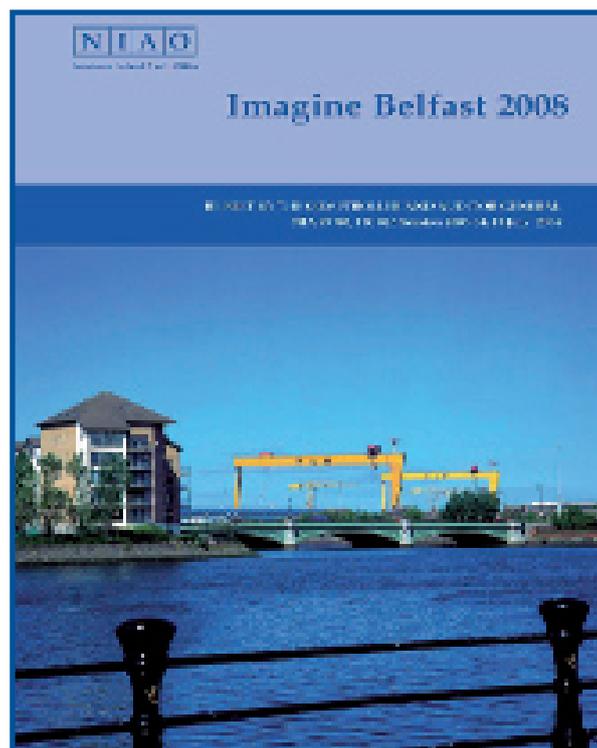
### **Question 9**

**Paragraph 3.9 concludes that the disposal of one site could have been more effectively handled had the VLA explored, at the outset, the potential for parcelling it with adjacent property into a site more attractive to prospective buyers. What steps have the VLA taken to ensure that property holders will be in a position to take advantage of the best possible disposal terms?**

### **VLA Response**

As part of VLA's ongoing Training and Development Strategy, professional staff are made aware of the necessity to provide a professional service to clients. Valuers are specifically required to consider the possibility of any increased value that could be achieved by selling the subject property with adjoining land held by another public sector body. Written guidance to this effect was issued to all VLA managers on 1 August 2005.

# Imagine Belfast



## List of Abbreviations

<b>NIAO</b>	Northern Ireland Audit Office
<b>The Council</b>	Belfast City Council
<b>The Department</b>	Department of Culture, Arts and Leisure
<b>The Programme</b>	Celebrate Belfast Programme
<b>The Company</b>	Imagine Belfast 2008

# Imagine Belfast

(Report published 15<sup>th</sup> July 2004, NIA 49/03, HC 826)

## Background

Under a 1999 European Union Agreement, a city is to be designated European Capital of Culture each year from 2005 to 2019, with a UK city fulfilling the role in 2008. The original idea for Belfast to submit a bid came from Belfast City Council (the Council). The Council approached the then newly-formed Department of Culture, Arts and Leisure (the Department) to help develop a bid process. Although the Department did not have the lead responsibility for the bid, it became the main funder, contributing £800,000 out of a total of £1.3 million. The bid was put together by a limited company, Imagine Belfast 2008 (the Company).

NIAO's report examined the process for the preparation of Belfast's bid in 2002 for the European Capital of Culture in 2008.

The following paragraphs detail the key issues arising from our report, together with the Department's response to them.

## Question 1

Paragraph 3.54 summarises a number of key lessons which the Department should apply to future projects as a matter of good practice:

- all parties involved must establish at an early stage a clear and common vision of what is to be achieved;
- the roles and responsibilities of all those involved must be clearly defined, documented and understood from the outset;
- the project must have a realistic timetable, to enable the available time to be used constructively. The setting of time targets for specific elements of the process will help to achieve this;
- the project must be adequately resourced both in terms of finance, and personnel with the appropriate skills. There must be appropriate resource planning to help prevent crisis management, and appropriate project management;
- where a number of different parties are involved, there must be appropriate mechanisms in place for effective communication and co-ordination, and a commitment from all concerned to adhere to these;

- where input is sought from a range of interested parties, there must be clear and consistent procedures for the recording, evaluation and use of such input. Those providing input should have a clear idea of how it will be evaluated.

**What steps has the Department taken in relation to each of these six points for projects since Imagine Belfast? Can you give an assurance that all future projects will take account of the recommendations?**

### **Departmental Response**

For projects of a similar nature to Imagine Belfast, the Department has taken steps to ensure that, where it is involved with one or more other organisations, clear objectives together with the respective organisational roles and responsibilities are agreed by all parties in the form of a Memorandum of Understanding.

The Department now also ensures that appropriate planning, monitoring and control - including the establishment of specific time targets - communication and co-ordination procedures are put in place to ensure that the project, using appropriate project management techniques, is delivered in accordance with the agreed timetable and resource allocation.

Where input is required from interested parties, appropriate procedures will be established and agreed with all concerned parties.

The Department can provide an assurance that these recommendations will also be taken into account for all future projects.

### **Question 2**

**Paragraphs 4.10 to 4.13 identify concerns about weak internal controls and procedures within the Company, in particular in relation to:**

- documented financial procedures;
- comprehensive tendering procedures;
- segregation of duties;
- hospitality guidelines;
- supporting documentation for expenditure; and
- proper authorisation procedures.

**What steps has the Department taken, in relation to similar future projects that it may fund, to ensure that proper internal controls are in place and are being applied in practice?**

### Departmental Response

The Department accepts it has a duty to exercise due diligence to ensure that recipient bodies have appropriate internal controls in place and that there is full compliance with the terms of grant. Prior to the provision of grant, the Department will draw up and agree a 'relationship document' with the funded body which will, inter alia, set out the necessary internal controls. The Department will then carry out regular assessments on funded bodies in order to ensure that proper internal controls are in place and they continue to be applied in practice.

### Question 3

**Paragraph 5.18 referred to all the cities which had submitted bids benefiting from the experience and The Council was involved in meetings with the Department of Culture, Media and Sports in taking this initiative forward. Can you say what benefits flowed from this?**

### Departmental Response (provided by Belfast City Council)

The Council used the Imagine Belfast experience in submitting a £2 million bid for its Celebrate Belfast Programme (the Programme) to the Millennium Commission under the Urban Cultural Programme. The Urban Cultural Programme was open to all cities, but as a direct consequence of the lessons learned from its preparation for the capital of culture bid, the Council was able to submit a well developed application. The Council was awarded the sum of £1.35 million from the Urban Cultural Programme. The Council has used this money to develop the Programme which runs from November 2005 to December 2006. The successful outcome of the application has acted as a lever for other funding which resulted in the value of the Programme attracting funding in excess of £3 million.

### Question 4

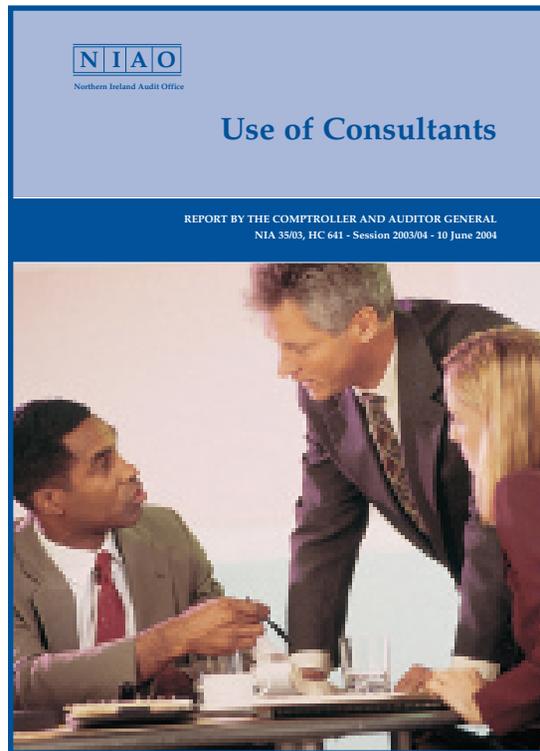
**Paragraph 5.20 refers to the findings of an external consultant's report and its recommendations on lessons to be learned (detailed at Appendix 6 of the NIAO Report). NIAO recommended that the Department make these findings available to all central and local government bodies involved in sponsoring similar time-bounded projects. What steps has the Department taken to share these lessons learned?**

### Departmental Response

On 10 May 2004 the Department issued a copy of the consultants' report to all Principal Finance Officers in the Northern Ireland Civil Service drawing their attention to the general lessons

learned so that they could be given appropriate circulation both within their own organisation and their sponsored bodies.

# Use of Consultants



## List of Abbreviations

<b>CoPE</b>	Centre of Procurement Expertise
<b>CPD</b>	Central Procurement Directorate
<b>DFP</b>	Department of Finance and Personnel
<b>NDPB</b>	Non-departmental Public Body
<b>NIAO</b>	Northern Ireland Audit Office
<b>PPE</b>	Post Project Evaluation

# Use of Consultants

(Report Published 10 June 2004, NIA 35/03, HC 641)

## Background

Northern Ireland government departments use consultants to provide a range of advisory and support services. Consultants can play an important role in investigating problems, providing analysis and advice or assisting with the development of new systems, new structures or new capabilities within departments.

However, consultancy can be expensive and it is therefore important that departments appropriately manage it.

The report examined the extent to which the Department of Finance and Personnel's (DFP) guidance on the use of consultants was being applied and whether there was scope to update the guidance to improve the purchasing of consultancy services by departments. Our examination covered the quality of procurement processes within Northern Ireland departments. We also reviewed the adequacy of DFP's guidance and the extent to which DFP fulfilled its monitoring role and responsibilities.

The questions below are aimed at identifying how DFP and other departments have responded to the issues arising from our report.

## Part 1 Introduction and Background

### Consultancy expenditure by Northern Ireland departments

#### Question 1

Paragraphs 1.2, 1.4 and Figure 2 set out the total consultancy expenditure reported by Northern Ireland government departments over the five year period to March 2003 and total consultancy expenditure for each department in 2002-03. What has been the consultancy expenditure incurred by each department in 2003-04 and 2004-05?

### Departmental Response

The tables attached show expenditure from 2002/03 up to 2004/5 using 2 bases:

- excluding Non Departmental Public Bodies (NDPBs) and Agencies
- including NDPBs and Agencies

**Table 1 - External Consultancy excluding Agencies / NDPBs**

	£m 2002/03	£m 2003/04	£m 2004/05
DARD	0.85	1.80	1.82
DCAL	0.53	0.55	0.27
DE	0.66	1.04	1.75
DEL	0.41	0.43	0.42
DETI	1.47	2.11	1.04
DFP	1.66	2.53	2.65
DHSSPS	0.84	0.60	0.40
DOE	0.40	0.48	0.31
DRD	0.43	1.04	2.18
DSD	1.81	1.99	1.68
OFMDFM	0.82	1.28	0.70
<b>TOTAL</b>	<b>9.88</b>	<b>13.85</b>	<b>13.20</b>

**Table 2 - External Consultancy including Agencies / NDPBs**

	£m			As % of Overall Budget		
	2002/03	2003/04	2004/05	2002/03	2003/04	2004/05
DARD	0.87	1.87	2.14	0.2%	0.4%	0.4%
DCAL	1.87	0.68	0.89	2.1%	0.7%	0.9%
DE	2.99	2.45	3.36	0.2%	0.1%	0.2%
DEL	0.44	0.43	0.42	0.1%	0.1%	0.1%
DETI	3.54	3.85	2.94	1.3%	1.5%	1.1%
DFP	2.49	3.50	3.66	1.2%	0.8%	1.0%
DHSSPS	2.18	3.65	2.24	0.1%	0.1%	0.1%
DOE	1.48	1.65	1.03	1.3%	1.2%	0.7%
DRD	2.41	4.29	7.44	0.1%	0.3%	0.4%
DSD	12.43	14.97	13.35	0.3%	0.4%	0.3%
OFMDFM	1.00	2.60	3.30	1.2%	2.6%	3.1%
<b>TOTAL</b>	<b>31.69</b>	<b>39.94</b>	<b>40.76</b>	<b>0.3%</b>	<b>0.3%</b>	<b>0.3%</b>

The figures set out in Table 1 provide agreed departmental figures on a consistent basis and they exclude consultancy expenditure in public bodies. (The figures in the NIAO report included some NDPB spend). They illustrate that there has been a levelling off in spending during 2004/05 in nearly all departments. Table 2 illustrates that spending as a % of the overall budget has remained at around 0.3% of the total. DFP has analysed differences between departments, as part of a recent monitoring exercise, and concluded that these are largely explainable in terms of the departments' functions or a programme of work in place at a particular time. Consultancy expenditure will also be subject to further review as part of the Comprehensive Spending Review programme.

Recent DFP guidance (see question 2) provides a clearer definition of external consultancy which becomes fully operational from 2005/06 onwards. There is evidence that this will reduce the expenditure figures reported for some departments, most notably the Department of Social Development.

## Part 2 Departmental Compliance with DFP Guidance

### Question 2

**Paragraph 2.5 noted that a high proportion of the consultancy contracts reviewed by NIAO were failing to meet DFP's requirements and that departments must address this lack of compliance. What steps have been taken by DFP to gain assurance that departments are complying with its guidance?**

### Departmental Response

DFP issued revised guidance on the use of consultants to departmental Accounting Officers on 18 February 2005. The guidance clearly sets out the roles and responsibilities of all involved in the procurement of consultancy services, and sets out responsibilities in respect of:

- Tendering arrangements and the use of Centres of Procurement Expertise (CoPE)
- Use of a Framework Agreement for external consultancy
- The production of an annual consultancy plan
- The need for a proportionate business case to justify expenditure
- Approval of expenditure at Departmental/DFP/Ministerial level
- Completion of post-project evaluations (PPEs)

It places a range of responsibilities on departmental Finance Directors to forecast spend, establish recording systems and avoid overlap with other departments in procuring consultancy.

Subsequent to the issue of the guidance, DFP wrote to Finance Directors in all NI departments on two separate occasions, in order to gain assurances that they were complying with the new guidelines. Departments were able to confirm that all the main aspects of the guidance were being observed.

Departmental Finance Directors provided examples of methods being used to ensure compliance with guidance including: use of Internal Audit, monitoring by Finance Branches, test checks on projects and the completion of evaluation reports.

DFP is following up some outstanding issues with departments.

### Question 3

**Paragraph 2.21 recommended that departments should put in place management systems to promote competitive tendering, that targets be set to reduce the value of consultancy which is tendered non-competitively and progress recorded over time. What targets have been set and what proportion of consultancy contracts are now tendered competitively?**

### Departmental Response

From 1 April 2005, all public sector non-pay spend is required to be managed by a Centre of Procurement Expertise (CoPE) of which DFP's Central Procurement Directorate (CPD) is one. Procurement of consultancy by departments through CoPEs ensures that consultancy contracts are managed competitively and departments have confirmed to DFP that general practice is to use CoPEs for procurement of consultancy services.

Departments have also confirmed that they have systems in place to promote, measure and monitor the incidence of competitive tendering. On the basis of information supplied to DFP, an average of 83% of consultancy contracts are now tendered competitively. This is a considerable improvement on the previously reported position and illustrates that departments have given priority to this issue. The main reasons provided for not going to tender are the number of assignments under £1,000 where single tender action is appropriate. In the latter situation all departments confirmed that approval must be obtained from senior officials before this can take place.

### Question 4

**Paragraph 2.24 noted that, in 45 per cent of our sample of contracts, payments exceeded the original contract price. We recommended that departments should work with CPD to control the number of contract extensions and the value of fee increases. In what percentage of contracts on DFP's database have final costs exceeded original contract price?**

### Departmental Response

On the basis of recent information supplied by departments, final costs exceeded original contract prices in 10.4% of cases, which is a reduction on the figure reported by NIAO. DFP will continue to emphasise to departments the need to ensure that such contract extensions are monitored to ensure that they are kept to a minimum.

All NI departments now use the services of CPD, and, in particular, make appropriate use of the Framework Agreement on external consultancy suppliers. As the arrangements for monitoring CPD's current Framework Agreement do not provide CPD with the required level of information to allow it to determine the number of contract extensions and value of fee increases, CPD is in the process of the evaluation of a new Framework Contract which is due to be implemented in July 2006.

### Question 5

**Paragraphs 2.32 to 2.35 recommended that departments adhere to DFP guidance on formal post-completion evaluation of projects and that, for each major consultancy project, implementation managers are appointed and a formal action plan established and implemented on completion of the assignment. Our sample (paragraph 2.29) indicated that 93 per cent of consultancy expenditure was paid without being subject to any documented assessment procedure. What percentage of consultancy projects and expenditure is now subject to formal post-completion assessment? What measures have departments put in place to ensure that DFP guidance is followed and that post-completion assessments are carried out and fully documented?**

### Departmental Response

The revised DFP guidance makes it explicit that for each consultancy project, there is a requirement for:

- the identification of an individual or team with responsibility for managing each consultancy assignment;
- a formal action plan to be drawn up for implementation; and
- the completion of a Post-Project Evaluation (PPE).

Information supplied by departments indicates that an average of 67% of contracts are now subject to post completion assessment. DFP will ensure that those departments failing to comply fully with the guidelines are reminded of their obligations in this regard. However it should be recognised that departments have put a range of measures in place recently to address the issue of PPEs including test drilling and audit scrutiny of sample cases.

### Question 6

**Paragraph 2.39 recommended that departments network and communicate more effectively to assess the opportunities for collaborative purchasing. What steps have departments taken to develop more formal communication networks and are there any examples of consultancy projects which demonstrate effective collaborative purchasing across departments?**

### Departmental Response

DFP's Central Procurement Directorate has established a formal network in the form of a sub-group of the Procurement Practitioners Group which has representatives of all CoPEs in Northern Ireland. Specifically it has been established to look at collaborative opportunities in procurement. DFP will also raise the issue at the inter-departmental Accountability and Audit Forum if considered necessary.

## Part 3 The Role of DFP in the Use of Consultants

### Question 7

**Paragraph 3.9 noted that greater use of the Framework Agreement would ensure compliance with European Procurement law and yield savings through the exercise of collaborative buying power. What procedures has the Department put in place to periodically review the workings of the Framework? What action has the Department taken to encourage departments to make fuller use of the Framework and what percentage of consultancy projects (by spend) are now let under the Framework?**

### Departmental Response

CPD has recently carried out a major review of the current Consultancy Framework and in doing so has engaged with the Institute of Management Consultants to develop a greater understanding of the industry. CPD has also been engaging with the consulting industry on the evaluation model for the current tendering exercise for the new Framework Agreement aimed at deriving best value from potential bidders.

The evaluation process is currently underway and it is planned to have a new Management Consultancy Framework Contract in place by July 2006. The new Framework Contract will make specific provision for contract monitoring. This will allow CPD to gather information in order to track spend and measure compliance with the Framework.

The revised DFP guidelines makes it clear that all procurement for external consultancy should be managed through a CoPE, and that organisations that do not have their own CoPE should contact and liaise with CPD on the use of it's Framework Agreement. As a result all departments now use CPD's Framework Agreement as appropriate.

Whilst CPD is able to provide a figure for the spend let under the Framework, it is not able to confirm the figure as a percentage of all spend on consultancy projects. There are valid reasons why departments do not use the Framework Agreement – low value consultancy contracts, single tender action and large bespoke projects. The value of these contracts is not held centrally. However CPD is confident that the vast majority of spend on consultancy projects is now let under the Framework. In addition DFP can at any point access relevant information from departments directly, in respect of all these categories of expenditure.

### Question 8

**Paragraph 3.13 noted that the Department should consider issuing updated guidance, supplemented by periodic reminders taking into account emerging best practice. What was the outcome of the Department's consideration? Has revised guidance, taking best practice into account, been issued by the Department?**

### Departmental Response

As noted above, DFP issued revised guidelines in February 2005. It keeps abreast of emerging best practice and should it consider it appropriate to amend/supplement the current guidelines, DFP will do so. DFP intends to highlight examples of good practice at finance related inter-departmental meetings.

### Question 9

**DFP's central database of consultancy expenditure contained only basic data which did not enable the Department to adequately monitor departments' consultancy expenditure. Departmental disclosures are insufficient to permit assessment of departmental compliance with guidance. Paragraphs 3.19 to 3.21 recommended that DFP's monitoring and audit responsibilities should be reviewed and clearly defined and that its central database of consultancy expenditure should be developed. What steps has the Department taken to clarify its responsibilities? What action has been taken to develop the central database and enhance DFP's monitoring of consultancy expenditure and departments' compliance with**

**guidance? Is DFP's database now able to provide accurate, comprehensive and relevant management information on: the value of consultancy input; the proportion of contracts competitively tendered; the full-life costs of assignments; performance of suppliers; and the scope for collaborative projects to reduce duplication (as per paragraph 3.19)?**

### **Departmental Response**

DFP's revised 2005 guidelines set out the respective responsibilities of DFP and the other NI departments. After careful consideration, DFP decided that more reliable data could be held and retrieved from individual departmental databases rather than a central database, which has proved difficult to maintain accurately. All NI departments now maintain a database on their use of consultants, and are able to provide most of the information listed in the NIAO question. Where the remaining information is unavailable departments are working to ensure that it is compiled at the earliest opportunity. DFP will follow this up with individual departments as necessary.

### **Question 10**

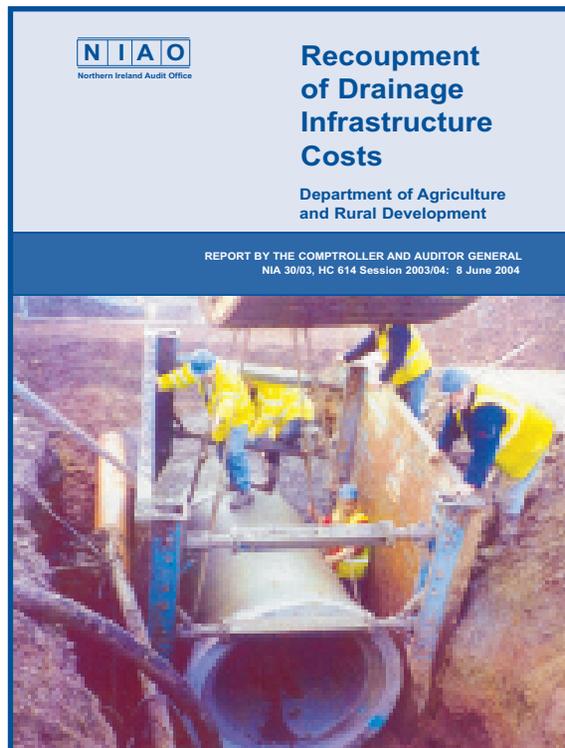
**Paragraphs 3.27 to 3.29 noted shortcomings in the accuracy and completeness of departmental annual returns on consultancy. What measures have been put in place to ensure departments have a clear understanding of what should be reported as consultancy and that annual returns, for departments and their agencies and NDPBs, are complete and accurate?**

### **Departmental Response**

The revised DFP guidance clarifies the difference between 'internal' and 'external' consultancy and provides specific examples of each. Whilst it no longer requires annual returns from departments, it does place on them a responsibility to record and store very precise information on the use of consultants should that information be required for Assembly/Parliamentary Questions, or any other type of internal or external scrutiny.

# Recoupment of Drainage Infrastructure Costs

Department of Agriculture and Rural Development



## List of Abbreviations

<b>DARD</b>	Department of Agriculture and Rural Development
<b>DFP</b>	Department of Finance and Personnel
<b>NIA</b>	Northern Ireland Assembly
<b>NIAO</b>	Northern Ireland Audit Office
<b>PAC</b>	Public Accounts Committee

# Recoupment of Drainage Infrastructure Costs

## Department of Agriculture and Rural Development

(Report published 8 June 2004, NIA 30/03, HC 614)

### Background

The Department has statutory responsibility for drainage and flood protection in Northern Ireland. The development of land for housing, or for commercial or industrial use, increases the amount of impermeable land and results in increased water run-off from the developed area to nearby watercourses. This increases the risk of overloading the downstream watercourse system. The Department, through its Rivers Agency, undertakes drainage infrastructure works to reduce the risk of flooding of property or neighbouring areas from future development. The cost of these schemes, at around £1 million each year, has been borne entirely by the taxpayer – developers benefiting from the schemes do not contribute.

In June 1990, the Public Accounts Committee (PAC) reported on drainage matters, noting that the Department was considering how to recover the infrastructure costs of development schemes through agreements with developers. Our report highlighted that for the 13 years since the PAC report, consideration on how to obtain contributions from developers had been ongoing, but remained unresolved. As a result, substantial sums of revenue had been lost to the public purse.

The following paragraphs detail the key issues arising from our report, together with the Department's response to them.

### On Progress in Charging Developers

#### Question 1

The report noted that the Department did not have statutory authority to obtain contributions from developers. Paragraph 3.34 of the report recommended that the Rivers Agency take steps, as a matter of urgency, to seek an amendment to the Drainage Order to include provision for a free-standing power to charge, so that developer contributions towards the cost of development schemes can start to be obtained as soon as possible.

**What progress has been made in securing the necessary amendment to the Drainage Order?**

### **Departmental Response**

Following the recommendation in the NIAO report, a general power to charge was included in The Drainage (Amendment) (Northern Ireland) Order 2005 which was made on 7 June 2005 and came into operation on 8 August 2005. This power gives the Department statutory authority to obtain contributions from developers.

### **Question 2**

**The report noted that, within the overall process of establishing the power to charge, the Rivers Agency had to develop a charging methodology for Development Schemes. Paragraph 3.37 recommended that the Agency:**

- **carry out a review to estimate the levels of contributions from developers, likely to be obtained from various charging options;**
- **evaluates the merits and potential difficulties of alternative charging methodologies; and**
- **prepares a strategy paper on the way forward, setting out the preferred option for seeking contributions from developers and the anticipated levels and amounts of recovery.**

**Can you detail the progress made by Rivers Agency and the Department in addressing each of these recommendations?**

### **Departmental Response**

The Department appointed consulting engineers in May 2004 to examine the merits and potential difficulties of alternative charging methodologies, estimate the level of contributions from developers likely to be obtained from the various options and to recommend a preferred approach. The consultant's review identified and considered a wide variety of charging methodologies in a range of countries. Using pre-determined assessment criteria and findings from previous reviews, the consultants concluded that the most suitable option for Northern Ireland would be some form of 'Developer Contribution Charge'. A total of eight different Developer Contribution Charge options were identified and, following a thorough assessment, these were reduced to the following two for detailed analysis:

- an historic-based national charge; and
- a deductive catchment-based charge.

The long-term average cost recovery for 'historic-based charging' was estimated to be of the order of £1.2 million per annum, whilst for 'deductive catchment-based charging', it was of the order of £1.15 million to £1.3 million per annum; both estimates included the recovery of administration costs. As the estimated long-term average cost recovery amounts were very similar, the consultant's recommendation that charging for drainage infrastructure improvements in Northern Ireland should be based on an historic charging approach was influenced by the fact that it would be cheaper to set up and administer. This single charge would be simple, easily understood and provide a high degree of certainty for developers. The Department accepted the recommendation and DFP approved 'in principle' the introduction of a standard charge based on historic costs, which was subsequently approved by the Minister in May 2005. The proposal was then the subject of an inter-departmental consultation process followed by a public consultation process.

A Project Initiation Document for Drainage Infrastructure Charging was prepared in January 2006 to deliver the Rivers Agency's policies, systems and operational procedures to permit the introduction of Drainage Infrastructure Charging in 2007. The estimated level of charge is in the region of £6,300 per hectare (£315 per house) and, as indicated above, this will equate to a long-term average cost recovery of the order of £1.2 million per annum.

### Question 3

**Paragraph 3.38 of the report recognised that, in order to establish the most appropriate charging methodology, consultation and agreement with other Departments and Agencies may be necessary. The report also considered that consultation should be undertaken with developers and other stakeholders, at the appropriate stages, to help determine the most effective way forward. Can you outline what consultations the Rivers Agency has had with other Departments and Agencies and say what actions have been taken to engage with developers and other stakeholders?**

### Departmental Response

#### *Amendment to Drainage Order*

A public consultation on the amendment to the Drainage Order took place between 6 September 2004 and 26 November 2004 and drew specific attention to the NIAO report "Recoupment of Drainage Infrastructure Costs" and the intention to introduce a charge for drainage infrastructure works.

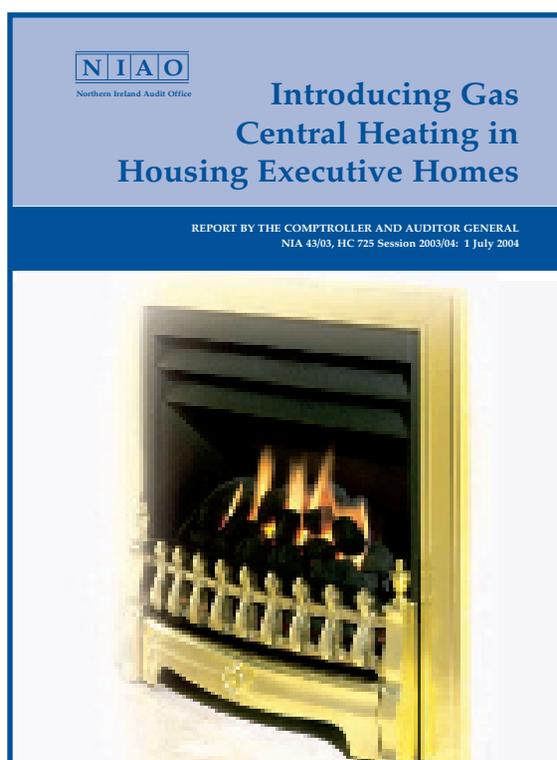
#### *Proposed Charging Policy*

A draft consultation paper on the policy for charging and the associated Integrated Impact Assessment was the subject of inter-departmental consultation and wider consultation with government agencies, political parties, MPs, MEPs, District Councils etc. Careful

consideration was given to the views provided to the Department, which helped form a subsequent public consultation paper. This was published on 31 October 2005 and the consultation period closed on 20 January 2006. Fourteen responses were received and, whilst there were no responses from individual developers, the Construction Employers Federation did respond to this and the previous consultation.

Whilst the consultation attracted limited interest, there was general support for the proposed charging policy from those who did respond. The responses are currently being assessed and the next steps include the preparation of subordinate legislation, based on the consultation document, to implement the charge and put in place the administrative systems and procedures. A public consultation on the subordinate legislation is required and this consultation is planned to take place between June and September 2006. It is planned to introduce the charge during 2007.

# Introducing Gas Central Heating in Housing Executive Homes



## List of Abbreviations

<b>CoPE</b>	Centre of Procurement Expertise
<b>DFP</b>	Department of Finance & Personnel
<b>EU</b>	European Union
<b>H&amp;R</b>	Housing and Regeneration (Division)
<b>IT</b>	Information Technology
<b>JCT</b>	Joint Contracts Tribunal
<b>KPI</b>	Key Performance Indicator
<b>NEC3</b>	New Engineering Contract
<b>NIAO</b>	Northern Ireland Audit Office
<b>NIHE</b>	Northern Ireland Housing Executive
<b>OGC</b>	Office of Government Commerce
<b>PPE</b>	Post Project Evaluation
<b>QS</b>	Quantity Surveyor

# Introducing Gas Central Heating in Housing Executive Homes

(Report Published 1 July 2004, NIA 43/03, HC 725)

## Background

The Northern Ireland Housing Executive (NIHE) is a Non-departmental Public Body of the Department for Social Development. NIHE is the largest landlord in Northern Ireland, with 113,000 domestic dwellings, including houses, bungalows and flats, and is responsible for providing adequate heating systems for tenants' use.

In the past, most NIHE properties were equipped with either solid fuel or electric heating systems. By 1995, NIHE's ongoing replacement programme had identified 10,000 systems as being in need of replacement or upgrading. In 1997, NIHE offered newly available natural gas heating to tenants as a replacement option, for the first time, and spent £25 million between 1997 and 2001 on installing gas heating systems.

The NIAO report examined the award and implementation of NIHE's initial gas heating contracts.

The following paragraphs detail the key recommendations from the NIAO report, together with NIHE's responses to them.

## Question 1

**The Executive Summary sets out nine general recommendations that emerged from the Gas Heating examination and that are applicable to public procurement generally. Please explain the actions taken to implement these good practice steps in NIHE. In particular, please provide details of policies and procedures now in place to translate them into practice, and the arrangements for monitoring and reporting on compliance with them.**

### *Recommendation 1*

**Capital investments should always be preceded by a proper business case, including an economic appraisal, which complies fully with Department of Finance and Personnel (DFP) guidance. The business case should also contain a clear indication of the criteria that will be used to measure outcomes through a subsequent post project evaluation.**

### **NIHE Response**

NIHE has set up a Central Procurement Unit to ensure that business cases/economic appraisals and subsequently sound procurement practices are in place for capital investment programmes. An advisor on the completion of economic appraisals has also been appointed.

Business cases are required to be completed in compliance with DFP guidance and are vetted by Project Boards, prior to Chief Executive's Business Committee approval, and subsequently for scrutiny by the Department for Social Development.

Objectives are set in specific projects and the outcomes are the subject of scrutiny through the life of the project by Post Project Evaluations, with results/improvements fed back in to assist continuous improvement. Reports are submitted, at least annually, through Project Boards and subsequently to the Chief Executive's Business Committee.

### *Recommendation 2*

**Especially where a project is innovative in nature, extensive efforts should be made by the sponsoring body to ensure that all risks have been identified and quantified, together with a full assessment of the likelihood of their occurrence, their potential effects upon project outcomes and how they will be addressed.**

### **NIHE Response**

In 2003 NIHE put in place a risk management policy supported by corporate, divisional and project risk registers.

All new programmes and projects, including those of an innovative nature, are subject to a thorough risk assessment at commencement to ensure that all risks have been identified and quantified along with their potential effects upon project outcomes and how they will be addressed.

Risk registers are subject to continuous review through the development phases of the project by the Project Manager and are reported to the Project Board as part of the high level monitoring of projects.

### *Recommendation 3*

**Where a large project is to be carried forward in stages, as in the case of the gas heating schemes, sponsoring bodies should carry out a post project evaluation on early stages, so that any lessons to be learned can be incorporated into the design of subsequent stages.**

### **NIHE Response**

NIHE has built the completion of interim post project evaluations or PPEs, and, where necessary, gateway reviews, into the implementation plans for large projects which have multiple stages. Lessons learned from the interim PPEs can then be incorporated into the plans for the remaining stages of the project.

Guidance was issued to staff in 2005.

The completion of and follow-up to PPEs are monitored through the Project Board.

### *Recommendation 4*

**It is essential that public bodies should estimate probable project costs as accurately as possible, and group together similar blocks of work, where possible, in order to ensure that European Union procurement regulations are applied properly and that value for money can be obtained in letting public contracts.**

### **NIHE Response**

NIHE's 'Modernising Construction' Programme (Programme) was set up in 2000 after an evaluation of the Egan Rethinking Construction Report. A summary of the recommendations of the evaluation is given at Annex 1. This Programme, which is in compliance with EU regulations, defines new client/contractor relationships, the achievement of best value (quality and the right price), project innovation and the development of long term contracts to build on skills and relationships developed through the life of projects.

This Programme aggregates similar works and estimates for project costs are based on analysis of previous tender costs, work components and predicted volumes.

The coverage of and timescales for the Programme are given at Annex 1. The programme is monitored through a Programme Board which reports to the Chief Executive's Business Committee.

### *Recommendation 5*

**When letting contracts, public bodies' overriding concern must be to ensure that value for money is maximised. Awarding contracts on the basis of lowest price alone is not sufficient to ensure the achievement of this objective.**

### **NIHE Response**

NIHE's 'Modernising Construction' programme (shown at Annex 1) uses quality and price criteria to evaluate tender bids for major projects.

Procedures for each procurement are vetted at Programme Board level and approved by the Chief Executive's Business Committee.

Quality and price criteria are evaluated following each procurement and are adjusted to reflect the response of the industry and the nature of the procurement.

### *Recommendation 6*

**Any suspicion of possible fraudulent activity on the part of bidders for contracts must be treated with the utmost seriousness by public bodies and subjected to rigorous and independent investigation. It is important to ensure that such suspicions are reported as soon as possible, to both DFP and the Comptroller and Auditor General (C&AG) and, where it is considered appropriate, the police.**

### **NIHE Response**

Suspicion of possible fraudulent activity is taken seriously by NIHE and the policy in relation to fraud and irregularity was reviewed in 2004. NIHE is committed to maintaining and improving effective controls to prevent fraud and to ensuring that, if it does occur, it will be detected and subjected to rigorous and independent investigation.

Procedures were also revised in 2004 and staff advised of the policy changes in writing. The Policy and Procedures manual is also available electronically to staff on the NIHE's Portal.

The Director of Finance as the NIHE's financial advisor, Internal Audit Services and the Advisor to the Director of Finance are responsible for monitoring the progress of each and every case identified and report progress to the Audit Committee. The Chief Executive, through the Director of Finance, notifies the Department who will advise DFP/C&AG of all new and suspected fraud cases as soon as these are detected.

### *Recommendation 7*

**Awarding authorities should specify, as fully as possible, the volume and nature of work required before letting contracts, so that the need for subsequent additions and alterations can be minimised. Substantial alterations to work required, after the contract has begun, can expose the letting authority to a risk of not achieving value for money.**

### **NIHE Response**

NIHE reviewed its Scheme Delivery Process and implemented a revised process in 2004. This document sets down the procedures to be followed in the development of schemes, from inception, through development (design and estimation of content and costs), tendering and on-site management including procedures for progressing additional works post contract. The monitoring and control stages built in minimise variations in work content. The scheme control measures are set out in Annex 3.

### *Recommendation 8*

**Notwithstanding the legal obligations of contractors, public bodies must ensure that they have in place adequate controls, including physical checks, where appropriate, to ensure that work being carried out on their behalf is of a proper standard. Minimising problems as work is under way is easier, and cheaper, than attempting to rectify them at a later date and attempting to recoup additional costs from contractors.**

### **NIHE Response**

Prior to commencement of a contract, NIHE specifies the inspection regime for each contract, including the controls and physical checks to be applied.

Contract/Project Managers are required to measure contract performance using Key Performance Indicators (KPIs) by performance data collected monthly. Action on low performance is taken at project level.

KPIs are reported on quarterly and corrective action in respect of low performance is monitored at Project Board level. In addition, NIHE has a dedicated Scheme Audit team

and its work programme was changed in 2004 to include 'real time' audits of schemes which provide input to interim PPEs.

### *Recommendation 9*

**Partnering arrangements have the potential to deliver tangible improvements in public procurement. These arrangements must include an adequate balance of incentives for both parties, as well as clear definitions of the triggers for bonus payments or penalties to be applied for performance that is above or below the required standard.**

### **NIHE Response**

NIHE uses the Joint Contracts Tribunal (JCT) form of contract for its existing partnering arrangements. This form of contract has been widely used by public bodies and has, hitherto, been accepted as the standard form of contract.

Following guidance issued by the Office of Government Commerce (OGC) in 2005, the NIHE, as a Centre of Procurement Expertise (CoPE) has been evaluating the New Engineering Contract (NEC3) suite of agreements as a replacement for the JCT form. NEC3 is better suited for partnering-type arrangements providing for collaborative working, risk management and dispute prevention. This form includes a balance of incentives for employer and contractor and provision of robust bonus payments and penalties related to performance.

The introduction of NEC3 is subject to an evaluation by NIHE which is due for completion in April 2006. Subject to the successful completion of the evaluation, the NIHE proposes to introduce this form of contract for all future partnering contracts from September 2006.

### **Question 2**

**In 2000, NIHE produced a revised economic appraisal for its fuel policy. Although it addressed most of the weaknesses contained in the original 1997 document, the report said there were still weaknesses that may have skewed the evaluation of options in favour of gas (paragraph 1.19). Paragraph 1.20 recommends that NIHE should carry out a PPE of the gas installation, up to 2004, and factor its results into a new economic appraisal to determine the most appropriate future heating policy. Please provide details of when the PPE and the new economic appraisal were completed, the conclusions and recommendations of both, and action taken by NIHE as a result.**

### NIHE Response

NIHE completed a PPE of the pre-partnership heating contracts in March 2005 and a PPE of the partnering heating contracts in July 2005. The results of both have been factored, where appropriate, into the economic appraisal of heating policy completed in February 2006.

This appraisal has been forwarded to the Department for Social Development for approval and the target date for approval is May 2006.

The conclusions/recommendations and action arising from the two PPEs undertaken are given in Annex 2.

### Question 3

Paragraph 2.20 says that NIHE did not have any written guidance, either in its contracts manuals or fraud policy documents, outlining checks that should be performed to prevent or detect collusive tendering on the part of firms bidding for its contracts. Figure 6 outlines suggested steps for improved prevention and detection of collusive tendering. Please explain what action you have taken to implement these recommendations, or any other relevant measures, to prevent fraud through this form of collusion.

#### *Recommendation 1*

**Reduce the potential for collusion by providing the largest competitive base possible. As the number of bidders increases, the potential for collusive bidding decreases. However, the desire to encourage genuine competition must be balanced with the need to minimise the costs to firms of preparing bids that may be unsuccessful. Current EU guidance is that a minimum of five suppliers should be invited to tender.**

### NIHE Response

Procurement under NIHE's Modernising Construction Programme strictly complies with EU Guidance.

#### *Recommendation 2*

**Schemes should be consolidated into large contracts to increase the value of the prize. This is more likely to heighten competitive tension between contractors, resulting in keener, non-collusive bidding.**

### **NIHE Response**

NIHE's Modernising Construction Programme aggregates similar work programmes in its business and bundles these into long-term contracts (no less than 4 years). This increases the value of the contracts significantly, provides better competition and results in keener, non-collusive bidding.

#### *Recommendation 3*

**While disclosure of the prices bid enhances transparency and may help encourage competition for future contracts, contracting authorities should consider not publicly disclosing the identity of firms that have submitted bids. This would prevent competitors from knowing which other firms to contact. Consideration should also be given to not publicly disclosing the scheme design estimate so that bidders do not have an incentive to use that estimate as a baseline for submitting tenders. In each case, a balance must be struck between facilitating transparency and guarding against providing opportunities for collusion between potential bidders.**

### **NIHE Response**

Whilst the NIHE accepts that the non disclosure of tender results may be commercially sound, it is required under EU procurement regulations to disclose the names of tenders and tender outcomes. Also, under the same regulations the NIHE is required to publish the estimated value of works when seeking expressions of interest.

#### *Recommendation 4*

**Ensure that staff involved in procurement and contract-letting are fully trained, so that they understand both the indicators of collusion and relevant effective measures for preventing and detecting it.**

### **NIHE Response**

In order to ensure that staff are fully trained a Procurement Competence Career Path Framework has been agreed by all CoPEs including the NIHE. Training of staff has commenced and the framework will form the basis of recruitment and staff development in the NIHE's Central Procurement Unit from 2006.

### *Recommendation 5*

**Develop an IT-based programme for recording, analysing and identifying tendering patterns. It would also be beneficial, as a deterrent measure, to advise bidders that this type of analysis is carried out on an ongoing basis.**

### **NIHE Response**

NIHE maintains a database of all tendering undertaken by its Central Procurement Unit. This provides tendering patterns and price levels. It is monitored regularly and irregularities investigated.

Suppliers are made aware of this through NIHE's quarterly liaison meetings with the Construction Employers Federation (CEF).

The implementation of the Modernising Construction Programme and the aggregation of works will reduce the number of procurements necessary to deliver the NIHE's business.

### **Question 4**

**From the beginning of the gas heating programme, contract prices overran consistently and stood at £2.5 million (net) in 2004, with 22 out of 52 contracts not yet finalised. Paragraph 3.4 recommends that NIHE should carry out a full analysis to identify the extent of overspends/variances, as part of the PPE of the contracts. Please provide details of final outturn overspends/variances (gross and net), calculated as a result of this exercise.**

### **NIHE Response**

In the period 1998-2001, 52 contracts were let for the installation of replacement roomheaters. The details of the final outturns are detailed in the table below:

Cost element	£ million
Project Cost	18.508
Additions	3.685
Omissions	1.300
<b>Actual Cost</b>	<b>20.894</b>
Gross overspend/variation	3.685
Net overspend/variations	2.385

Note: Additions included fuel switching by tenants (solid fuel to gas), additional houses added to contracts and changes of the technical works specified (replacement of chipboard flooring, work to chimneys/fireplaces, heating upgrades, work to plumbing installations).

Omissions included houses omitted from contracts, omission of contingencies, smoke alarms (in accordance with NIHE policy) and work to chimneys.

### Question 5

**The report noted (paragraph 3.16) variations and overspends on 26 contracts amounting to £2.3 million and underspends of £0.18 million that were incurred without first obtaining the prior approval of the Chief Executive’s Business Committee, as required by NIHE Standing Orders. Please explain what updated guidance has been provided to the relevant staff to address the shortcomings experienced on the gas heating contracts, as recommended in paragraph 3.16. Please also explain what monitoring arrangements are in place to ensure that this guidance is being complied with.**

### NIHE Response

In order to address project variations and overspends, NIHE reviewed its procedures for scheme management in the Scheme Delivery Process issued in 2004. This now provides staff with details of scheme development, approvals, cost controls, monitoring arrangements and PPEs.

An outline of the Scheme Control measures is given at Annex 3.

Project costs are monitored on a scheme-by-scheme basis at NIHE Area level at each interim payment stage to ensure compliance with NIHE’s financial controls. Further checks are made at Central level by NIHE’s Finance Division. Irregularities are challenged. Furthermore, NIHE’s Scheme Audit Department provides assurances of delivery compliance through

its annual programme of planned audits which is reported to the NIHE Audit Committee. Audit findings/conclusions are fed back through a programme of seminars as a “lessons learned” exercise. This was last completed in October/December 2005.

### Question 6

**Paragraph 3.34 says that NIHE was attempting to recover £100,000, and had withheld payment of £80,000, in respect of the cost of work done by contractors whose installation work was unsatisfactory and had to be rectified by another firm. It also says that the full remedial costs on another contract, carried out by the same contractors and estimated to be in the region of £220,000, would only be identified once remedial works were complete. Please provide details of the outcome of negotiations with the contractors in relation to the recovery of the £100,000 on the first contract. Please also state the final costs of the remedial work on the second contract, and how much of this sum, if any, was recouped by NIHE.**

### NIHE Response

The £100,000 referred to was an estimate at the time for the work at Highfield undertaken by two contractors.

The position as at March 2006 in relation to cost recovery from two contractors is provisional and is stated below:

NIHE has withheld £60,000 (of the original estimate of £80,000) owed to the first contractor on other contracts as off-set against the full costs owed to NIHE. The company has disputed the off-set, but has not taken any action.

In relation to the second contractor NIHE has on one contract withheld £20,000 and issued a Writ in respect of a further £21,600.

On the second contract NIHE has issued a negative Final Certificate. NIHE has instructed its Solicitors to pursue the claim as a debt by way of a Writ for non-payment and is seeking to recover the final costs of the remedial work now estimated at £190,000 (previously £220,000).

### Question 7

**In March 2000, the NIHE Board approved the consolidation of the heating replacement programme into three large partnership contracts (paragraph 5.3). In letting the contracts in 2001 and 2002, NIHE said it had produced formal risk allocation schedules, but these had not yet been agreed by the contractors. Paragraph 5.7 recommends that these should be agreed without delay and that NIHE should ensure that such schedules are formally incorporated into future contracts. Please explain what NIHE has done to comply with this recommendation.**

### NIHE Response

In 2005 NIHE formally reviewed the allocation of risk with its major heating contractors and as a result a greater element of risk is transferred to the contractors.

This reduction in risk to the NIHE has a corresponding reduction in the level of inspection by NIHE based upon the contractors' method/quality statements. This will further allow the NIHE to restructure its contract administration to provide efficiency savings at no added risk to NIHE. This is targeted for full implementation by June 2006 for the major heating contracts.

Once the proposed legislation is in place, contractors will carry the risk of self-certification for building control purposes at no added cost to NIHE.

From April 2006 all new procurements will embed formal risk allocation schedules into contract documents for works programmes.

### Question 8

**Although the partnership contract terms clearly specified the performance standards required for partners to achieve payment of any bonus, they did not specify the extent to which performance would have to deteriorate in order for NIHE to terminate the contract. Paragraph 5.11 recommends the introduction, as standard practice for all partnership contracts, of a more soundly based allocation of risks and better definitions of performance shortcomings, linked to specific penalties. Please provide details of the arrangements NIHE has in place to implement this recommendation, and say when they were introduced. Please also outline any penalties that have been imposed following their introduction.**

### NIHE Response

Since inception NIHE has used the JCT form of contract. This form of contract is widely used by public bodies and is accepted as the standard form of contract. JCT is used by the NIHE for existing partnering arrangements. This contract provides for the application of liquidated and ascertained damages, off-setting costs, determination and suspension from tendering for further NIHE work. It has not proved necessary to apply any penalties in the new heating contracts.

However, following guidance by the OGC in 2005 on the use of the NEC3 form of contract in partnering arrangements, the NIHE has been conducting an evaluation. This form of contract provides for incentives and penalties related to performance measured by Key Performance Indicators in a more transparent way than the JCT format.

Subject to the successful completion of the evaluation, the NIHE proposes to introduce this form of contract for all future partnering contracts from September 2006.

### Question 9

**NIHE's initial review of the partnership contracts concluded that they had been a success, achieving a high standard of work and value for money. Paragraph 5.18 recommends that NIHE should complete full PPEs of the contracts, to demonstrate whether or not the higher standard of work ultimately delivered the anticipated financial savings. Please provide details of evaluations completed to date, together with their main findings**

### NIHE Response

NIHE completed two PPEs in July 2005. The conclusions, recommendations and actions arising from this are given at Annex 2(B).

## MODERNISING CONSTRUCTION PROGRAMME

1. The Modernising Construction Programme is based on the principles set out in the Egan 'Rethinking Construction' report.
  
2. The programme covers:-

Heating Systems (inc. servicing/maintenance)	-	implemented 2001
Heating Adaptations	-	implemented 2004
Grounds Maintenance	-	implemented 2004
Void Property	-	effective April 2006
Response Maintenance	-	part implemented 2004 - due to complete Aug 2006
Planned Maintenance (inc. component replacement)	-	due to complete Dec 2006
  
3. Multi-element improvement and major adaptations remain outside the programme. Work content, location and programme continuity represent significant obstacles to aggregating these programmes. Further investigation is being undertaken into options available for these programmes in the light of publication of the Public Contract Regulations 2006 issued on 30<sup>th</sup> January 2006.

## Annex 2 (A)

### PRE-PARTNERSHIP HEATING CONTRACTS POST PROJECT EVALUATION

LESSON LEARNED	ACTION
1. Contracts involving a distinct, repetitive work type should be larger (scale) and longer (duration).	(a) Modernising Construction Programme being advanced for all major work types (except multi-element improvement major adaptations).  (b) Review multi-element improvement/major adaptations (following publication of Public Contract Regulations).
2. Consultants should be vetted for skills necessary to fulfil the commission.	(a) new consultant framework (design/project management) based on quality/price in place  (b) new consultant framework (planning/feasibility) based on quality/price at tender evaluation stage.
3. Contractor bids should be based on quality/price.	(a) quality/price criteria built into procurement through Modernising Construction Programme.  (b) quality/price ratio reviewed after each procurement.
4. Risk analysis must be carried out at job planning stage and monitored during life of scheme.	(a) risk assessment and management plan set as requirement for new procurements.
5. Full design and quantities should be provided as part of tender documentation.	(a) priced bill and predicted quantities being used for new contracts (notional bill no longer in use).
6. Scheme reviews should be carried out and include client design team and contractor.	(a) post project evaluation built into implementation plans.  (b) scheme audit programme adjusted to include inspection and reporting at various stages of scheme implementation
7. Inspections should be sufficient to ensure contract quality is being delivered.	(a) inspection regime put into place for new modernising contracts.  (b) performance reporting system reviewed and implemented.  (c) scheme audit programme reviewed and implemented.
8. Controls on contract variations should be strictly applied.	(a) review of scheme delivery process completed – staff retrained on requirements.  (b) breaches monitored and reported through performance review system (abatement in fees applied where appropriate).
9. Final Account/Certificate must be issued in accordance with the contract terms.	(a) monitor of outstanding Final Accounts put into place and reported for action.

## Annex 2 (B)

### REVIEW OF MAJOR HEATING CONTRACTS

RECOMMENDATIONS	ACTION
1. Open price negotiations with contractors for contract extension.	<ul style="list-style-type: none"> <li>• Cost model developed based on unit prices.</li> <li>• Key Performance Indicators reviewed.</li> <li>• Use of cost indices reviewed.</li> <li>• Negotiations opened February 2006.</li> <li>• Target for completion April 2006.</li> </ul>
2. Re-structure contract management.	<ul style="list-style-type: none"> <li>• Model structure developed and undergoing consultation.</li> <li>• Target for completion June 2006.</li> </ul>
3. Develop business case for IT project to streamline processes.	<ul style="list-style-type: none"> <li>• Absorbed into specification for new core Housing System.</li> <li>• Target for completion dependent on implementation plan for new system – currently being developed.</li> </ul>
4. Inspection regime to be amended.	<ul style="list-style-type: none"> <li>• Agreement reached with contractors to reduce NIHE inspection level subject to satisfactory quality assurance system by contractors (transfer of risk).</li> <li>• Quality Assurance Systems submitted and validated.</li> <li>• Implementation linked to re-structure of contract management (targeted June 2006).</li> </ul>
5. Update specification	<ul style="list-style-type: none"> <li>• Completed Feb 2006 and agreed with contractors.</li> <li>• Further review targeted May to reflect likely changes in building regulations.</li> </ul>
6. Establish 'centre of excellence' for mechanical and electrical services; and re-introduce 'good practice' development through partnering committee.	<ul style="list-style-type: none"> <li>• Contractors unwilling to participate until results of negotiations known.</li> </ul>
7. Further investigation of costs/processes for response and planned maintenance.	<ul style="list-style-type: none"> <li>• Investigation complete and factored into contract negotiations.</li> </ul>

### SCHEME CONTROL MEASURES

The NIHE has formulated a manual to provide a framework of control and accountability for the development of projects or schemes of work from inception to completion. This is known as the Scheme Delivery Process Manual.

The Scheme Delivery Process Manual sets down a series of “gateways” or workstages, broadly based upon the Royal Institute of British Architects Plan of Work. There are eight gateways/workstages at which formal approval is required before progressing to the next. Each is designed to bring independent scheme reviewers to provide a query/challenge and checking regime to the progress of a scheme from inception to completion. The gateways/workstages are designed around compliance with Departmental, Organisation and statutory requirements and are subject to approval by high level Area and Central Committee/Board structures.

For the purpose of clarity and to illustrate the detailed level of scrutiny each project receives throughout its life each gateway/workstage is highlighted with the appropriate control checks required. It should be noted that the level of scrutiny is proportional to the level of risk involved at each stage. For example, at tender stage, where the risk is deemed to be highest, it is important that there is a high level of independent scrutiny before progressing to ensure accountability, probity and value for money for the NIHE.

Details of the gateway/workstage framework structure and controls are detailed in Appendix A. Formal checking and approval are required throughout the life of a project. These are highlighted in bold for ease of reference.

# Appendix A

<b>Workstage 1</b>	
Project Initiation	<ul style="list-style-type: none"> <li>• Feasibility Appraisal/option</li> <li>• Economic Appraisal (if required)</li> </ul>
<b>Workstage 2</b>	
Brief Prepared	<ul style="list-style-type: none"> <li>• Budget cost prepared               <ul style="list-style-type: none"> <li>- Based on work content, stock condition and local knowledge</li> <li>- Information used for planning purposes</li> </ul> </li> </ul>
<b>Workstage 3</b>	
Survey work and establishing scheme content	<ul style="list-style-type: none"> <li>• In accordance with the brief. Any major variances referred back for interim instruction.</li> </ul>
<b>Workstage 4</b>	
Scheme Design Approval	<ul style="list-style-type: none"> <li>• Area Clearance (by Design Services)               <ul style="list-style-type: none"> <li>- scheme content checked and challenged against brief and NIHE policy and standards</li> <li>- scheme costs scrutinised against NIHE library rates</li> <li>- final content and cost <b>recommended</b> by Design Services Manager</li> </ul> </li> <li>• Area Approval Housing and Regeneration Division(H&amp;R)               <ul style="list-style-type: none"> <li>- independent scrutiny and challenge where appropriate</li> <li>- content and costs <b>endorsed</b> by Area Technical Support</li> <li>- Area Manager recommends approval</li> </ul> </li> <li>• Central Approval               <ul style="list-style-type: none"> <li>- H&amp;R Clearing House <b>clears</b> and checks compliance with organisational, departmental and statutory compliance</li> <li>- “cleared” scheme to Chief Executive’s Business Committee for <b>approval</b> and high level challenge</li> <li>- Board approval required for certain categories of schemes</li> </ul> </li> </ul>

# Appendix A (continued)

Workstage 5	
Tendering	<ul style="list-style-type: none"> <li>• Tender documents prepared</li> <li>• Final document checked by Design Services against work content and scheme design estimate. Costs updated by <b>Post Scheme Design Approval</b> if variance greater than +10%</li> <li>• Request tender action by Gold Form</li> <li>• Project advertised on NIHE Website</li> <li>• Expressions of interest vetted against Constructionline data: financial capacity, insurances, Health and Safety accreditation and technical capability</li> <li>• Interim list of contractors sent to Area for acceptance/comment</li> <li>• Final list established independently by Contract Procurement</li> <li>• Scheme tendered</li> <li>• Tender returns opened in accordance with policy, procedure and practice</li> <li>• Status of lowest tenderer risk reviewed</li> <li>• Tender documents forwarded to Area Design Services for tender reporting. This includes:               <ul style="list-style-type: none"> <li>- check arithmetic, consistency of pricing, amount in preliminaries, strategic pricing (high level of preliminaries may present a risk to the NIHE should work be omitted from the contract - 15% of the value of the tender is acceptable)</li> <li>- final check against other tender submitted</li> <li>- check price level of tender (historical database held by NIHE of all tendering activity by work content and location)</li> </ul> </li> <li>• Design Services <b>recommends</b> approval or rejection of tender</li> <li>• H&amp;R Area Technical Support carries out <b>independent scrutiny</b> and seeks additional information/assurances if required</li> <li>• Area Manager <b>approves</b> tender (within specified delegated approval limits) or recommends approval by Centre where required</li> <li>• <b>Central Endorsement</b> by Central Quantity Surveyor (QS) Standards as required. QS Standards maintains central database of all tendering Central Endorsement by Central QS Standards as required. QS Standards approvals. QS Standards scrutinises tender report, benchmark tender level against historical trends, challenges variances and receives assurances before endorsing tender report</li> <li>• H&amp;R Clearing House challenges/queries and checks scheme compliance</li> <li>• “Cleared” tender for high level challenge and <b>approval</b> by Chief Executive’s Business Committee</li> <li>• Area checks final programme and finance detail and issues letter of acceptance as appropriate</li> </ul>

# Appendix A (continued)

<b>Workstage 6</b>	
Post Contract/On Site	<ul style="list-style-type: none"> <li>• Handover meeting</li> <li>• Progress control reports: finance, quality of work, timeliness (measured by Key Performance Indicators)</li> <li>• Certification of monies due and completion of work in accordance with the contract documentation</li> <li>• <b>Independent audit compliance</b> checks undertaken by Scheme (Technical) Audit</li> <li>• Monthly progress reports – physical and financial monitor maintains regular scrutiny</li> <li>• Post Tender reports as required:             <ul style="list-style-type: none"> <li>- value of house sales omitted from the approved contract sum</li> <li>- Post Tender reports required when it is anticipated that expenditure will increase by more than 5 percent of the original contract sum or £50,000 (whichever is greater)</li> <li>- additional work content in such circumstances <b>endorsed</b> by Area Technical Support <b>recommended</b> by the Area Manager, <b>cleared</b> by H&amp;R Clearing House Committee and <b>approved</b> by Chief Executive’s Business Committee</li> </ul> </li> </ul>
<b>Workstage 7</b>	
Final Account	<ul style="list-style-type: none"> <li>• Completion and agreeing (with contractor) of final account</li> <li>• Approval of final account in compliance with Standing Orders</li> <li>• Final Account <b>approved</b> by Area and Central Committee structures</li> </ul>
<b>Workstage 8</b>	
Post Contract Evaluation	<ul style="list-style-type: none"> <li>• Lessons learned</li> <li>• Feedback to assist improvement</li> <li>• Customer satisfaction appraisal</li> </ul>

# NIAO Reports 2005-06

Title	NIA/HC Reference	Date Published
<b>2005</b>		
Modernising Construction Procurement in Northern Ireland	NIA 161/03	3 March 2005
Education and Health and Social Services Transport	NIA 178/03	9 June 2005
Decision Making and Disability Living Allowance	NIA 185/03	16 June 2005
Northern Ireland's Waste Management Strategy	HC 88	23 June 2005
Financial Auditing and Reporting: 2003-2004 General Report by the Comptroller and Auditor General for Northern Ireland	HC 96	7 July 2005
Departmental Responses to Recommendations in NIAO Reports	HC 206	19 July 2005
The Private Finance Initiative: Electronic Libraries for Northern Ireland (ELFNI)	HC 523	10 November 2005
<b>2006</b>		
Insolvency and the Conduct of Directors	HC 816	2 February 2006
Governance Issues in the Department of Enterprise, Trade and Investment's Former Local Enterprise Development Unit	HC 817	9 February 2006
Into the West (Tyrone & Fermanagh) Ltd: Use of Agents	HC 877	2 March 2006
Department for Social Development: Social Security Agency - Third Party Deductions from Benefit and The Funding of Fernhill House Museum	HC 901	9 March 2006
The PFI Contract for Northern Ireland's New Vehicle Testing Facilities	HC 952	21 March 2006
Improving Literacy and Numeracy in Schools	HC 953	29 March 2006
Private Practice in the Health Service	HC 1088	18 May 2006
Collections Management in the National Museums and Galleries of Northern Ireland	HC 1130	8 June 2006

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