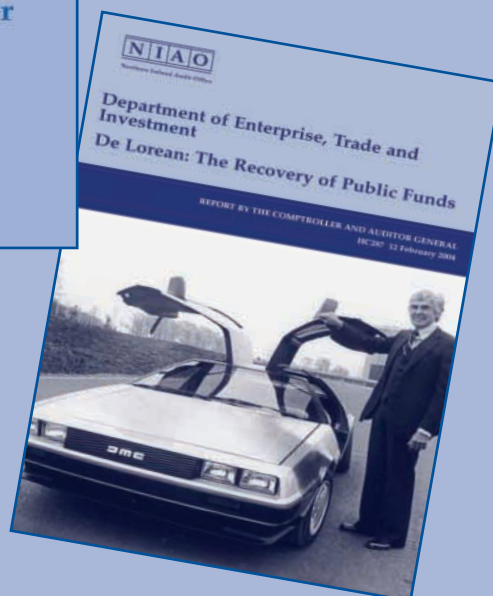
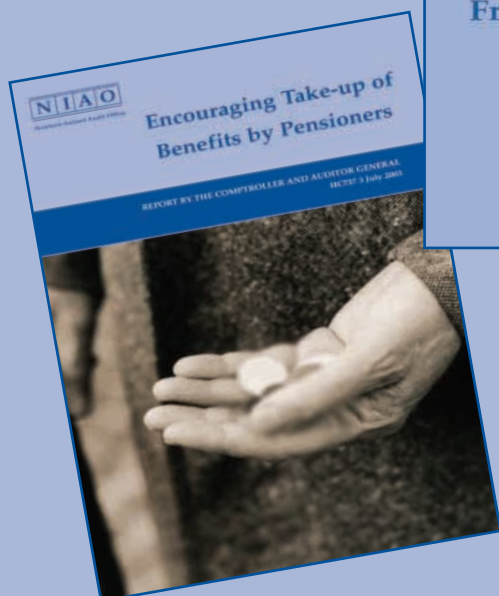
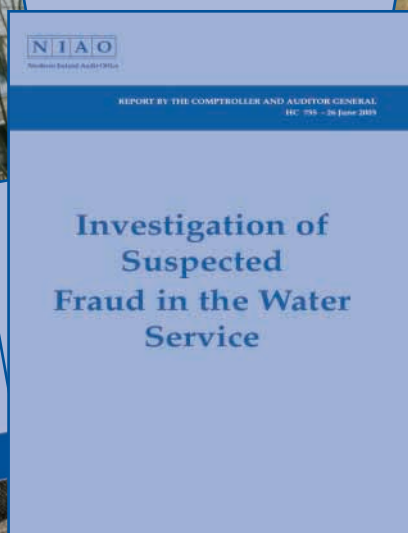
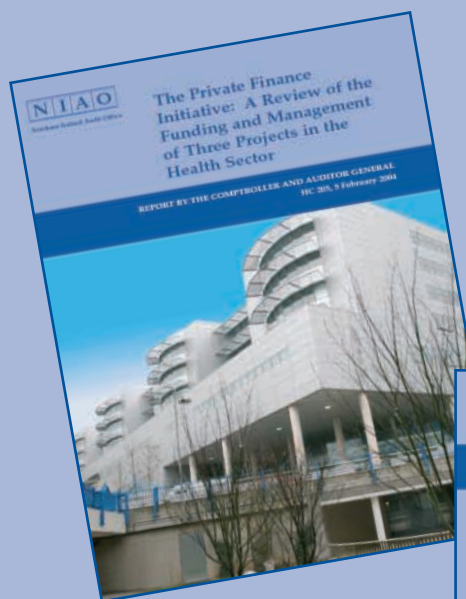


Departmental Responses to Recommendations in NIAO Reports

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL
HC 206, 19 July 2005





Northern Ireland Audit Office

Report by the Comptroller and Auditor General
for Northern Ireland

*Ordered by the House of Commons
to be printed 19 July 2005*

Departmental Responses to Recommendations in NIAO Reports

This report has been prepared under Article 8 of the Audit (Northern Ireland) Order 1987. The report is to be laid before both Houses of Parliament in accordance with paragraph 12 of the Schedule to the Northern Ireland Act 2000, the report being prescribed in the Northern Ireland Act 2000 (Prescribed Documents) Order 2002.

J M Dowdall CB
Comptroller and Auditor General

Northern Ireland Audit Office
19 July 2005

The Comptroller and Auditor General is the head of the Northern Ireland Audit Office employing some 145 staff. He, and the Northern Ireland Audit Office, are totally independent of Government. He certifies the accounts of all Government Departments and a wide range of other public sector bodies; and he has statutory authority to report to Parliament on the economy, efficiency and effectiveness with which departments and other bodies have used their resources.

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DEPARTMENTAL RESPONSES TO RECOMMENDATIONS IN NIAO REPORTS

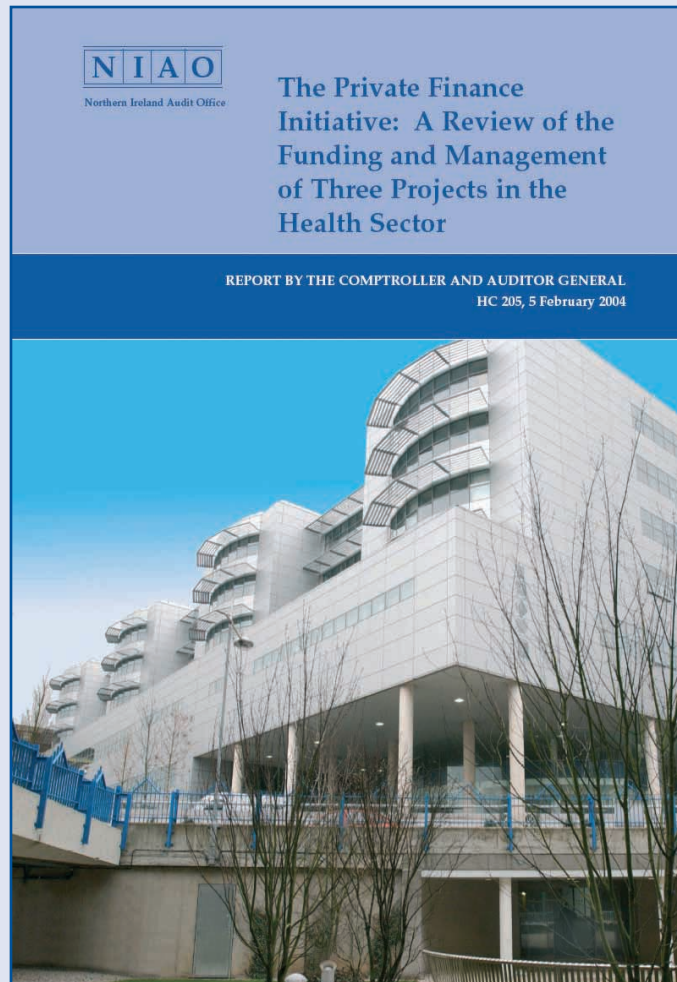
During devolution all reports published by the Northern Ireland Audit Office were examined by the Assembly's Public Accounts Committee. In the absence of a Northern Ireland Assembly, the Westminster Committee has been taking evidence on the main reports but has been unable to include all reports in its 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 PRIVATE FINANCE INITIATIVE: A REVIEW OF THE FUNDING AND MANAGEMENT OF THREE PROJECTS IN THE HEALTH SECTOR



LIST OF ABBREVIATIONS

DFP	Department of Finance and Personnel
DHSSPS	Department of Health, Social Services and Public Safety
HPSS	Health and Personal Social Services
HSS	Health and Social Services
NDPB	Non Departmental Public Body
NIAO	Northern Ireland Audit Office
NPV	Net Present Value
PFI	Private Finance Initiative
PPE	Post Project Evaluation
PPIU	Public Private Investment Unit
PPP	Public Private Partnership
PRONI	Public Record Office of Northern Ireland
PUK	Partnerships UK
RGH	Royal Group of Hospitals
SIB	Strategic Investment Board Ltd
SoPCNI	Standardised PFI Contract Northern Ireland

THE PRIVATE FINANCE INITIATIVE: A REVIEW OF THE FUNDING AND MANAGEMENT OF THREE PROJECTS IN THE HEALTH SECTOR

(Report published 5 February 2004, HC 205)

Background

Since its launch in November 1992, the Private Finance Initiative (PFI) has become one of the main methods by which the public sector procures services from the private sector. Its underlying objective is to use the best of both public and private sector skills to improve public services. In particular, this means the use by the public sector of capital assets provided, owned and managed by the private sector.

NIAO's review examined three PFI projects in the health sector in Northern Ireland: the provision of a car park at the Royal Group of Hospitals and Dental Health and Social Services Trust (RGH); the provision of contract energy services for Homefirst Community Trust at Holywell Hospital; and the provision of renal services for the United Hospitals Health and Social Services Trust at Antrim Area Hospital. These were small projects in PFI terms, undertaken in line with prevailing policy at that time, which encouraged departments to consider PFI for all services regardless of value. The projects have capital values of £2m, £0.2m and £2.7m respectively.

These were also very early PFI projects in Northern Ireland and as such did not have the benefit of the extensive guidance notes developed since then. The lack of experience, precedents and role models prior to the development of this guidance increased the risks, particularly in achieving value for money. Nevertheless, NIAO's approach was the same as in any other examination of the

procurement process i.e. to assess whether the projects were implemented in a sensible way with the justification for any decision clearly set out; whether the process was managed effectively, making best use of any available guidance; whether the risks involved were properly analysed; the projects were implemented in a way that took account of those risks; and that value for money was achieved.

The following paragraphs detail the key issues arising from our report together with the Departmental responses to them.

Questions for the Department of Finance and Personnel and the Office of the First Minister and Deputy First Minister

On Minimising Transaction Costs (paragraph 3)

Question

1. **What steps have been taken, both centrally and at departmental level, to ensure that transaction costs are minimised through the adoption of a more strategic approach to procurement as outlined in the HM Treasury paper, “PFI: Meeting the Investment Challenge”? Has any assessment been made of the value of the potential savings such an approach might realise in Northern Ireland?**

Answer

One of the objectives behind establishing the Strategic Investment Board (SIB) was to bring a more strategic approach to major investments. SIB advisers are working with PFI procurement teams in departments to identify and develop more strategic procurement approaches, in some instances on a sectoral basis,

which will support the recently published Investment Strategy for Northern Ireland. This strategy looks at investment priorities beyond the Budget period to a 10 year horizon facilitating an effective allocation of public funds and enabling departments and providers to plan ahead to achieve cost effective provision. The strategy will provide Northern Ireland departments, their agencies and Non Departmental Public Bodies (NDPB) with a framework to enhance their skills base to become better informed clients and to examine the potential for a more co-ordinated approach to procurement through, for example, the bundling of projects. One such example of this new approach is the identification of a Strategic Partner to deliver the Belfast Schools bundle of PFI projects for the Belfast Education and Library Board. At this early stage it is not yet possible to assess the extent of financial savings. However, the potential gains in value for money through lower procurement costs, better operational effectiveness and speed of delivery could be considerable.

On Document Retention (paragraphs 5 and 6)

Question

2. **What consideration has been given by the Department of Finance and Personnel and Public Records Office to the relevance of current guidance on document retention to PFI projects and how has this been communicated to departments and other public bodies?**

Answer

The Disposal of Documents Order (NI) 1925, sets down the formal procedures for the disposal of records covered by the Public Records Act (NI) 1923. These procedures allow departments and the Public Records Office of Northern Ireland (PRONI) together to determine whether records are worthy of permanent preservation and thus of transfer to PRONI, or whether, at some agreed time,

they should be destroyed as having neither continuing administrative value nor historical or other research value.

The compilation of a disposal schedule for any class of records is a joint procedure in which a department considers the continuing administrative value (e.g. for accountability purposes or precedent), and PRONI assesses the historical or other research value. This approach applies to all records created in or received by a department, including any that relate to PFI projects.

The records of PFI projects can be approached as a special category because of their long term nature and PRONI will be working with departments on records retention guidance and how that guidance can best be communicated.

On Dissemination of Best Practice (paragraph 7)

Question

3. **What steps have been taken to ensure that the best practice points and key lessons identified in this report have been drawn to the attention of other departments and public bodies, particularly those considering pursuing PFI?**

Answer

The Public Private Investment Unit (PPIU), in the Office of the First Minister and Deputy First Minister is responsible, in conjunction with the DFP, for the development and co-ordination of Public Private Partnership policy in the public sector in Northern Ireland and for the evaluation of its implementation. In taking forward this role revised guidance and best practice lessons identified through HM Treasury papers and audit reports (both NI and GB) are disseminated to the Inter-Departmental Practitioners Group on PPPs, chaired by the PPIU. This group provides a forum for the exchange of views on policy and best practice

issues to ensure consistency in the implementation of Northern Ireland's PPP programme across the public service. PPIU collaborates with colleagues in DFP to develop formal guidance on financial and accountability issues for issue to Departments. The SIB also has a clear role in spreading good practice.

Question

4. **Specifically, in relation to contracts, what steps have been taken to introduce a standardised contract for PFI projects; what are seen as the advantages of such an approach and can these be quantified in financial terms?**

Answer

Acknowledging the demonstrable benefits in terms of reducing the period and costs of negotiations and allowing a consistency of approach that have accrued in GB from a standardised framework for PPP/PFI contracts, the SIB worked in conjunction with Partnerships UK (PUK) and HM Treasury to develop a version of the Standardisation of PFI Contracts Version 3 which took account of the local situation and NI legislation. Guidance on the application of SoPCNI was sent to NI Departmental Permanent Secretaries on 14 October 2004 prior to it being made freely available to both the public and private sector through the SIB's website. The SIB liaises closely with PUK to ensure that revisions to SoPC3 are sent, as necessary, to NI practitioners.

Building on the development of SoPCNI the SIB will be working with NI Departments over the coming months to develop sector specific Standardised PFI Contracts where this is considered appropriate and will add value to the overall procurement process. With a standardised contract framework in place the contracting authority and the service provider can get closer together quicker. Consequently, risk, procurement lead times and transaction costs are reduced on both sides of the contract. At this early stage it is difficult to assess the financial benefits of this standardisation particularly in Northern Ireland where there have

been relatively few PFI contracts up until now, and the more strategic approach to procurement will change the nature of many future deals.

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

The Provision of Car Parking at the Royal Hospitals

On the Maintenance and Retention of Records (paragraphs 2.2 and 2.6)

Question

5. Prior to the production of the report what advice and guidance had the Department issued to its NDPBs and other sponsored bodies regarding the maintenance and retention of proper records? Following the report's publication what steps has the Department taken to remind these bodies of their obligations, particularly in light of the implementation of the Freedom of Information Act?

Answer

Since 1965, the Department has issued advice and guidance on the maintenance and retention of proper records. The most recent substantive guidance, prior to the production of the report, was issued by way of a Departmental circular: HSS (F) 14/03 - "Preservation and Destruction of Financial and Associated Records", dated 25th March 2003.

Since the publication of the report, the Department has issued guidance to HPSS bodies, including its NDPBs, dated December 2004 and entitled "Good Management, Good Records".

The Good Management, Good Records guidance covers in detail the principles, processes and practices of good records management. It also refers to the Northern Ireland Records Management Standards published by the Public Record Office of Northern Ireland and specifies minimum retention periods for all records regardless of the medium in which they are held. The guidance contains a Disposal Schedule that has been approved by the Public Records Office. Records in relation to Contracts/Service Level Agreements have a minimum retention period of between 6 and 15 years (depending on the record sub-type) from the date on which the file is closed.

The Good Management, Good Records guidance draws attention throughout to the requirements of the Freedom of Information Act. In addition, an HPSS Freedom of Information Steering Group, established in October 2002 and chaired by the Department, ensures that up-to-date guidance and training on all aspects of the Freedom of Information Act is made available to the Department's NDPBs and other sponsored bodies.

On the Appointment of Consultants (paragraphs 2.4 to 2.8)

Question

- 6. What steps has the Department taken to remind its NDPBs and other sponsored bodies of best practice in the appointment of advisors and consultants, including open competition, capping of fees and monitoring and evaluation of performance?**

Answer

The Department's guidance on the appointment of consultants is set out in Circular HSS (F) 20/96 - issued on 30 Sept 1996. Subsequent to this, a total of six supplements have been issued, the latest of which is dated 9 November 2004.

These supplements draw to the attention of all bodies the ongoing applicability of the circular, and remind them of the need for strict adherence to the guidance and provide clarification or updates as appropriate. The circular, including supplements, provides comprehensive guidance, consistent with Department of Finance and Personnel guidance, on issues including the selection of consultants by means of open competition, scrutiny of fees and expenses and monitoring and evaluation of performance.

Question

- 7. Why was approval not sought from DHSSPS to the appointment of consultants in this case? How does the Department monitor compliance with delegations it sets and what steps have been taken to align its delegation authorities with those set for it by DFP?**

Answer

In this case there was a requirement on the Trust to seek Departmental approval since it was a consultancy assignment above £20,000. The RGH has acknowledged that it proceeded, inappropriately, without Departmental approval, in this instance and has confirmed that procedures are now in place within the Trust aimed at preventing a recurrence. Departmental guidance with regard to management consultancy has been circulated to the Trust senior management team and the offices of the Chief Executive and the Director of Finance are coordinating the process of compliance.

Regarding monitoring of compliance with set delegations, departmental bodies are required to forward a report to the Department on completion of an assignment and an annual return detailing expenditure on all assignments completed/started in that year. These are scrutinised against original requests for approval to use consultants, in accordance with delegated limits, to assure compliance.

Regarding alignment of delegation authorities with those set for the Department by DFP, in respect of consultancy the delegated limits set internally by the Department for its sponsored bodies are, in all cases, lower than those stipulated by DFP.

On the use of Public Sector Comparators (paragraphs 2.9 to 2.12)

Question

- 8. The report records (paragraph 2.10) that the preferred bidder's proposal would have to pass the test of being "socially acceptable". How was this defined by the Trust and in the absence of a public sector comparator how did the Trust assess whether the successful bid met this criterion, particularly with regard to the level of parking charges and projected profits?**

Answer

The term "socially acceptable" was used in discussions with the Northern Ireland Audit Office during their review. It pertained to the clear indication to bidders that the RGH Trust would expect the car-parking tariff to be substantially below the average car park charge, including charges for long term parking, in Belfast city centre. The Trust had in fact placed significant importance on the need to minimise the cost to the end user and placed a 30 per cent weighting on the proposed staff and visitor tariffs in evaluating the contract tenders.

This expectation has been borne out in practice as the preferred bidder's tariffs were significantly lower than the other two bids and the charges were (and remain) substantially below the Belfast city centre comparator. This, in turn, had a direct impact in restricting the level of projected profits.

On the Trusts Contributions to Car Parking Charges (paragraphs 4.1 to 4.6)

Question

9. To date how much has the Trust contributed to visitor, first hour and staff car parking charges since the commencement of the project (please detail by year, updating Figure 1 in the report)? Has the Trust completed its review of these contributions and what has been the outcome? In terms of the employee contribution, what are the procedures for paying this and how does the Trust ensure that it is only paid in respect of those staff who are car park users?

Answer

The following table is an update to Figure 1 in the report.

Contributions to Visitor and Staff Car Parking Charges				
	Visitor £	First Hour £	Staff £	Total £
1998-99	36,537	65,325	245,519	347,381
1999-00	83,905	74,563	271,960	430,428
2000-01	96,198	75,377	299,929	471,504
2001-02	107,086	78,139	291,871	477,096
2002-03	113,928	84,726	283,286	482,440
2003-04	90,582	NIL	279,288	369,870
Total	528,236	378,130	1,672,353	2,578,719

The Trust has completed the review of its contributions. Between 2002-03 and 2003-04 it reduced its contributions by over £112,000. As indicated in paragraph 4.6 of the report, the first hour subsidy was removed with effect from 2003-04. There has also been a reduction in the contribution to visitor car parking charges due to a review of usage and eligibility.

In relation to the policy and procedure for paying the employee contribution, this subsidy is only paid to those staff paying car-parking charges directly from their salaries and wages. This ensures that only staff who use and pay for the car park are in receipt of the subsidy and also that the staff contribution is limited to 0.4 per cent of an agreed salary threshold (£25,000 @ 0.4 per cent = £100 upper limit).

On the Service Provider's Financial Performance (paragraphs 3.16 and 4.9 to 4.12)

Question

10. Please provide, in the same format, an update of the information contained in Figure 2, page 35. How do actual turnover and pre-tax profit after interest compare with forecast for the years ended 7 May 2003 and 2004 and with those in the original agreement (see paragraph 3.16)?

Answer

The following table is an update to Figure 2 in the report.

Comparative Summary of Turnover and Profits

Year Ended May 7	Turnover		Pre-tax Profit after Interest	
	£		£	
	Forecast	Actual	Forecast	Actual
1998	687,309	474,265	73,242	(120,511)
1999	721,674	844,121	115,325	283,212
2000	757,758	1,058,571	158,174	250,250
2001	795,646	1,209,040	204,399	477,656
2002	835,428	1,286,606	253,038	574,210
2003	877,199	1,292,066	249,782	510,093
2004	921,059	1,329,282	310,347	478,770

Source: Service provider

The forecast for the years ended 7 May 2003 and 2004 are as set out in the original agreement.

The information presented above indicates that the actual turnover and pre-tax profit after interest continues to out perform the forecasts from the original agreement. However, the difference between the actual and forecast profit has been reducing over the last three years.

Question

11. **At what other Trusts in Northern Ireland are charges levied for car parking; are these operated by the Trusts or in conjunction with a private company; how do incomes compare with those at the Royal Hospital and what arrangements are in place for sharing of profits?**

Answer

In addition to the Royal Group of Hospitals HSS Trust, car park charges are levied at the Belfast City Hospital HSS Trust, the Mater Infirmorum HSS Trust and the Ulster Community and Hospitals HSS Trust.

At each of these other three trusts, the car parking facilities are operated solely by the Trust without private sector involvement. Therefore the issue of profit sharing with a private company does not apply.

DEPARTMENTAL RESPONSES TO RECOMMENDATIONS IN NIAO REPORTS

The gross income generated at each site in 2003-04* was:

	Gross Income £	(Average) No of Car Park Spaces (during 2003/04) with charges levied	Average Gross income per space (2003/04) £
Belfast City Hospital	553,053	1,177	470
Mater	107,877	373	289
Ulster Community and Hospitals	266,382	285	934
Royal Group of Hospitals	1,329,282	2,220	599

* Year to 31st March 2004 in all cases except RGH where figures are for year to May 7th 2004.

The Trusts differ in the level and structure of user charges and the available capacity can vary considerably within any given year.

On Renegotiation with the Service Provider (paragraph 4.12)

Question

12. The report records that the Trust was in discussion with the service provider concerning the provision of additional spaces to meet increased demand. What has been the outcome of these discussions and has the Trust been able to secure any improvement in the profit sharing arrangements to the existing contract?

Answer

Discussions between the Trust and the service provider regarding the issue of

provision of additional spaces are ongoing. These discussions have been based on an increased income to the Trust, which reflects the performance of the entire car park. The contractor has constructed a further 80 spaces and has bought adjoining land to provide a further 60 spaces. They are also considering remodelling the existing layout to increase the numbers of spaces and further alleviate excess demand at the car parks.

The provider has demonstrated a willingness to increase the contributions to the Trust and has agreed that an independent third party can consider and provide professional estate management advice on what is reasonable. This will inform the Trust's negotiations with the provider. The Trust aims to conclude these discussions by the end of September 2005.

Holywell Hospital: Provision of Contract Energy Systems

On Performance of the Contract and Monitoring Delivery (paragraphs 2.6 to 2.8)

Question

13. **Figure 2, page 46 provides details of payments made under the contract. Please update these for the financial years 2002-03 and 2003-04. How does the cost compare with the net present cost estimated in the public sector comparator at paragraph 2.3?**

Answer

The following provides the update to Figure 2, page 46 for the years 2002-03 and 2003-04.

Payments made to the Supplier

Year	Annual Charge (£)	Maintenance Charge (£)	Energy Charge (£)	Misc Use (£)	Total (£)
1995/96	0	0	0	32,754	32,754
1996/97	10,000	80,633	121,078	34,332	246,043
1997/98	10,000	93,406	143,973	0	247,379
1998/99	10,000	88,948	137,628	0	236,576
1999/00	10,000	100,744	143,160	0	253,904
2000/01	10,000	104,582	177,152	22,821	314,555
2001/02	10,000	110,531	152,754	0	273,285
2002/03	10,000	112,493	172,785	10,906	306,184
2003/04	10,000	114,889	189,644	4,791	319,324
Total	80,000	806,227	1,238,174	105,604	2,230,004

As per Figure 4 in the report, the Net Present Value (NPV) of the contract for the ten-year period was £1,175,000. For the first eight years i.e. 1995-96 to 2003-04, the NPV was calculated as £1,073,000. The actual cumulative NPV of the project for this period is £1,068,191. This reflects the fact that expenditure, over the period, has been marginally less than forecast.

The similarity between the actual and forecast figures reflects the robustness of the original projections and the effectiveness of the Trust in managing the project to date.

Question

14. Subsequent to the production of the report, what steps has the Department taken to evaluate the project, what lessons have been learned and how have these been disseminated?

Answer

Homefirst HSS Trust continues to monitor closely the operation of the contract to ensure that its terms continue to be met by the contractor and that the production of energy continues to be carried out economically and efficiently, and the Trust has assured the Department that this is the case. Contract management and performance arrangements ensure that the contractor meets contract requirements throughout the life of the project.

As acknowledged in the report, the evaluation of PFI projects is an ongoing process and the final assessment of value for money in such projects will only be feasible many years down the line. Nonetheless, DHSSPS has asked the Trust to complete a project evaluation and this is due for completion by the summer of 2005.

When the evaluation is completed the Department will ensure that all lessons will be disseminated to all HPSS bodies.

Provision of Renal Services at Antrim Area Hospital

On Financial Performance (paragraphs 2.6 to 3.14)

Question

15. The report records that United Hospitals did not form a view on the rate of return investors might expect from such a project or define a pre-determined rate of return (paragraph 2.6). In addition, the contract makes no provision for the Trust to share in windfall profits made by the service provider (paragraph 3.14). What has been the service provider's financial performance to date and how does this compare with their expected performance?

Answer

The Full Business Case presented clear evidence that Bidder 1 provided better value for money and complied with PFI accounting rules relevant at that time. The rate of return was not explicitly used as a performance measure (although the Trust did take guidance from its corporate finance advisors that the rates of return put forward by the bidders were reasonable). Therefore, the type of profit share arrangements suggested in the NIAO report were not built into the contract. Given this, the Trust has not required the successful bidder to produce ongoing reports as to the financial performance of the service provided by it. However, the contract does provide for monitoring, and the provider's financial performance, in the context of the PFI agreement, will be considered as part of a planned 5-year review to be concluded by autumn 2005.

On Post Project Evaluation (paragraph 4.3)

Question

16. **At the time of the report's publication no evaluation of the project had been undertaken since the Unit's opening, although this had been envisaged in the Full Business Case. What arrangements have the Department in place to ensure that such reviews are undertaken in all projects? Has such a review now been undertaken in this case; what did it show and have the lessons been used to inform the decision making process regarding the provision of further units?**

Answer

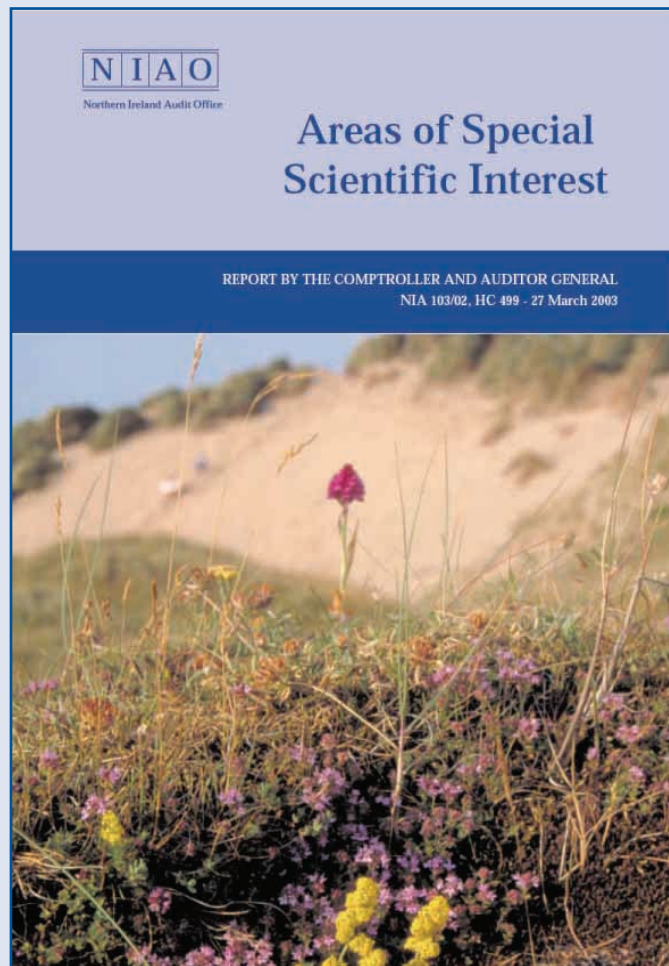
Guidance on Post Project Evaluation has been issued to all HPSS Trusts in May 2005, enabling the Department to build a database of information on completed projects, assess lessons to be learned and disseminate accordingly.

DEPARTMENTAL RESPONSES TO RECOMMENDATIONS IN NIAO REPORTS

In the case of the “Provision of Renal Services at Antrim Area Hospital” project, United Hospitals HSS Trust has now completed a Post Project Evaluation and this is being considered within the Trust. Initial conclusions provide assurance to the Department that, overall, the project was well managed with a clear project structure, well-defined lines of accountability and positive working relationships.

All lessons learned will be used to inform the decision making process regarding the provision of any further units.

AREAS OF SPECIAL SCIENTIFIC INTEREST



LIST OF ABBREVIATIONS

ASSIs	Areas of Special Scientific Interest
DARD	Department of Agriculture and Rural Development
EC	European Community
EHS	Environment and Heritage Service
EU	European Union
MOSS	Management of Sensitive Sites
NIAO	Northern Ireland Audit Office
SCI	Sites of Community Importance
SLA	Service Level Agreement
SPAs	Special Protection Areas

AREAS OF SPECIAL SCIENTIFIC INTEREST

(Report Published 27 March 2003 - NIA 103-02, HC499)

Background

The Environment and Heritage Service (EHS), an Agency within the Department of the Environment, is responsible for selecting and designating Areas of Special Scientific Interest (ASSIs). Following designation, EHS may enter into management arrangements with landowners or occupiers to secure the scientific interest and promote the better management of sites. It has the power to take appropriate enforcement action against owners or occupiers who fail to obtain its consent to carry out notifiable activities that have the potential to damage the special interests of the sites. EHS is also responsible for identifying and designating sites that are of international importance, in accordance with the requirements of the 1973 Ramsar Convention on wetlands of international importance and the EU Directives on Habitats (1992) and Birds (1979).

The Environment (Northern Ireland) Order 2002 included measures to enhance the management and conservation of ASSIs and to ensure compliance with the Habitats Directive.

Against this background, NIAO's Report examined EHS's arrangements for establishing and protecting ASSIs.

The following paragraphs detail the key issues arising from our report, together with the Departmental responses to them.

The Arrangements for Identifying and Designating ASSIs

Question

- 1. EU member states are required to adhere to its requirements in respect of site designation, and to transpose Directives fully into domestic legislation. Paragraphs 1.11 and 1.12 describe a risk of EU infraction proceedings because of delayed site designations and the incompleteness of the Habitats Regulations.**

Are site designations and NI legislation now fully in line with EU requirements?

Answer

To date, 52 sites have been designated in Northern Ireland as Sites of Community Importance (SCI) in accordance with the EC Habitats Directive, and 13 Special Protection Areas (SPAs) classified under the EC Birds Directive. The EU requires Northern Ireland to designate and classify three additional sites under these Directives. These sites will be completed during the 2005-06 financial year with the designation of one SCI for Atlantic Salmon and classification of two SPAs for raptors.

Question

- 2. Paragraph 1.16 recommended seven steps that are designed to improve management of the ASSI designation programme.**

Please detail the specific actions you have taken to follow up these recommendations.

Answer

Point 1

The survey and assessment of potential Areas of Special Interest (ASSIs) in Northern Ireland will be completed by 2015. This timescale has been established following consideration of the likely number of sites to be designated and the potential workload involved. EHS published on its website in March 2003 its long-term strategy, "A forward Programme for the Declaration of Areas of Special Scientific Interest in Northern Ireland", for completing the designation of ASSIs by 2015. Yearly progress reports are completed, there will be an interim review of targets in 2006 and, after six years, a comprehensive review of progress towards the completion of the programme will be undertaken.

Point 2

The strategy (mentioned at Point 1) prioritises those sites awaiting designation on the basis of international importance and commitments, in addition to factors such as rarity, fragility and coverage in the existing ASSI series. Resource requirements for survey work are estimated on an annual basis and refined as surveys are concluded. These are used to assess overall resource requirements as the work progresses. EHS will buy in resources, as necessary, to complete this survey work, though this is expected to be minimal.

Point 3

EHS has published a timetable for completing the ASSI series by 2015, with priority habitats identified (please see Point 1 above for more detail on the 2015 deadline). While there will be a major review of progress towards meeting this target date in 2009, EHS continues to monitor progress on an annual basis and will ensure that the target remains challenging.

Point 4

A work plan of priority designation targets is established each year and included as part of the Operational Plan targets, which are monitored on a quarterly basis.

Resource allocation is calculated on the basis of the outcome of the survey work and later refined as subsequent costs are known. With effect from 1 April this year, EHS has introduced a more robust costing system.

Point 5

EHS has developed a database of existing and potential sites to enable progress towards ASSI declaration to be monitored. Work is ongoing to develop a fully integrated, geo-referenced database for all sites, charting progress across all stages of the work, from initial survey through to monitoring and management. EHS intends to have this database in place during the 2006-07 financial year.

Point 6

EHS can confirm that all staff are supplied with appropriate and comprehensive written guidance on the designation and management of sites. In addition, they also receive appropriate external and in-house training as necessary. Management ensures that quality control of the processes involved is maintained.

Point 7

The potential for infraction action by the EU has been addressed through the EHS Natural Heritage Directorate Risk Register, and the possible level of fines payable as a result of designation delays has been quantified and is revised on an ongoing basis.

The Proper Management of ASSIs

Question

- Paragraphs 2.7 to 2.10 recorded changes in EHS's ASSI management agreements, which previously involved lump-sum payments to owners, in return for not undertaking certain damaging operations. Since January 2000,**

new-style agreements have been designed to encourage proactive site conservation and improvement, in return for smaller, annual, payments. How many of the new management agreements are now in place? What are the estimated financial saving realised, since January 2000, as a result of the revised payments mechanism?

Answer

Seventy-six management agreements have been made under our Management of Sensitive Sites (MOSS) scheme since January 2000.

A comparison of the years 1999-2000 when the one-off lump sum agreements were issued and 2004-05, when the revised payments mechanism was applied, showed that the average payment per hectare changed from £1,809 to £167 (MOSS), which is a 91 per cent reduction. This reduction is due largely to the change from capital payments to annual ones.

Question

- 4. The 2002 Environment Order proposed five key changes, designed to improve arrangements for monitoring and managing the condition of designated sites (paragraph 2.19). Paragraph 2.20 recommended additional steps to improve the standard of service to ASSI landowners and optimise use of EHS funds. Has EHS now implemented the key changes outlined in paragraph 2.19 and accepted the further steps in paragraph 2.20?**

Answer

Point 1 (Paragraph 2.19)

Each landowner/occupier is now issued with a statement (known as “Views about Management”) which gives details of the land management principles and objectives.

Point 2 (Paragraph 2.19)

The presumption in favour of compensation, when consent to undertake a notifiable operation is withheld, ceased with the introduction of the Environment (Northern Ireland) Order 2002 (the Order) in February 2003. Six management agreements relating to the buyout of turbary rights for peat, restricted as a consequence of ASSI declarations, have been signed since this date, resulting in payments totalling £26,250. The negotiation of these agreements began prior to the introduction of the Order and were dealt with under the nature Conservation and Amenity Lands (NI) Order 1985, which was later repealed by the Order.

Point 3 (Paragraph 2.19)

The operation of the MOSS scheme has been reviewed and reports have been issued. Financial guidelines will be developed as a matter of urgency and published following consideration of the findings of these reviews, and consultation with the Department of Agriculture and Rural Development (DARD) as regards the interface between the agri-environment schemes operated by them and the MOSS scheme applied by EHS.

Point 4 (Paragraph 2.19)

Article 32 of the Order enables the Department to refuse consent for a notifiable operation that may result in damage to an ASSI.

Point 5 (Paragraph 2.19)

The role of voluntary conservation organisations has been examined since the issue of the NIAO Report (the Report). These organisations have been engaged in the management of a small number of ASSIs and they are supported in their activities through involvement as landowners in our MOSS scheme, the provision of grant support, and the management of EHS lands, either under lease agreements or through land management contracts. EHS will continue to actively encourage this involvement. As regards lands in private ownership within ASSIs, EHS maintains and continually endeavours to enhance the nature

and extent of its dealings with landowners/occupiers to secure and promote conservation through direct cooperation.

Point 1 (Paragraph 2.20)

The need to adhere to statutory time limits for progressing ASSI consent applications is accepted and is being adhered to. There have been no breaches but, should any occur in the future, the reason will be fully explained and documented.

There is no statutory time limit under Article 34 of the Order for completing management agreements.

Point 2 (Paragraph 2.20)

Large, one-off, payments to landowners referred to in the Report are no longer made under the Order or the MOSS scheme.

Question

- 5. Paragraph 2.3 describes lengthy delays in processing consent applications from ASSI owners requesting the required EHS consent to carry out certain activities on their sites. Paragraph 2.21 said that EHS was implementing consultants' recommendations in order to improve its performance. What performance improvements have you achieved as a result of these new measures?**

Answer

All consent applications have been processed within the statutory time limit since the Order came into operation on 3 February 2003 (175 in total). EHS is fully committed to maintaining this level of service and a target has been included in the Operational Plan for the functional unit responsible for this work.

Protecting ASSIs from damage

Question

6. The report noted (paragraph 3.4) that EHS did not have a comprehensive, up-to-date, picture of the condition of existing ASSIs, but that it had set a target of completing 15 per cent of site assessment work by March 2003. What percentage of sites has now been monitored and what is the target date for completing this exercise? What have been the findings of this monitoring work to date?

Answer

Since 2002, 59 per cent of sites have been assessed through field survey and the target date for the completion of this monitoring cycle is March 2008. As the results of the 2004 field survey season are not yet available, it is only possible to report on the findings from the first two years of the work. These findings show that 69 per cent of the features assessed were in favourable condition.

EHS is currently addressing specific issues leading to unfavourable condition by applying the strengthened legislative provisions contained in the Order that provide for the use of management incentives, giving direction on the appropriate management of land through management notices and by compliance action.

Question

7. Paragraphs 3.11 and 3.12 highlighted the ongoing absence of a formal enforcement policy and procedures. Please confirm that the deadline for completing formal enforcement procedures, referred to in paragraph 3.11, was met. Please also summarise the

nature and extent of any enforcement actions taken by EHS since the report was published.

Answer

A policy on enforcement (now referred to as compliance) and associated general procedures were introduced in November 2002, prior to the 31 March 2003 deadline. Both the policy and procedures are subject to ongoing review.

Since the issue of the Report on 27 March 2003, compliance action has been taken by several means, including referral to the Director of Public Prosecutions (DPP) for court action (4 cases referred and 2 with EHS for referral), issuing warning or informative letters to those responsible for the compliance occurrence (64 letters), and referral to other departments/agencies for investigation or information (29 referrals).

The Organisational Structures and Liaison Arrangements for Efficient and Effective Service

Question

8. Paragraph 4.7 highlights the need for a joined-up approach in respect of ASSIs between EHS and both Planning Service and the Department of Agriculture and Rural Development (DARD).

Please confirm that the recommended Service Level Agreements are now in place, and that the Agreement between EHS and Planning Service includes the requirements described in paragraph 4.11.

Answer

A Memorandum of Understanding (MOU) is now in place between the Department of Agriculture and Rural Development (DARD) and the Environment and Heritage Service (EHS). This MOU relates to the agri-environment schemes administered by DARD and the MOSS scheme operated by EHS. Following the conclusion of the review of MOSS, mentioned at Question 4.3 above, it is planned to replace the MOU by a Service Level Agreement (SLA) during the 2005-06 financial year. A separate MOU is presently being developed with Forest Service, in relation to its grant scheme and this will be in place during the first half of the 2005-06 financial year.

A draft Service Level Agreement (SLA) is currently being developed in conjunction with Planning Service. It is the subject of ongoing discussions and it will be progressed as a matter of urgency. The draft SLA will provide for the referral of information as recommended by the report.

Question

9. **Paragraphs 4.13 to 4.14 recommend that all ASSI data should be consolidated into one database, with online access provided to Planning Service and DARD, in order to maximise the efficiency of ASSI management. Is this database now operational? What information is currently available online to Planning Service and the Department of Agriculture (DARD)?**

Answer

EHS has carried out a scoping exercise to assess the information needs of EHS regional offices and the best means of satisfying them. Work has progressed on issues identified, including the digitisation of the manual file systems and the review and re-organisation of the shared computer file and folder structure. EHS

plans to provide regional offices with online access to the database by early 2006-07, provided the necessary resources are available.

The outcome of this IT project will be used to progress the requirement to provide online access to the EHS database, which Planning Service and DARD require to carry out their functions, by the end of the 2006-07 financial year. At present, Planning Service and DARD are provided with information on demand.

Question

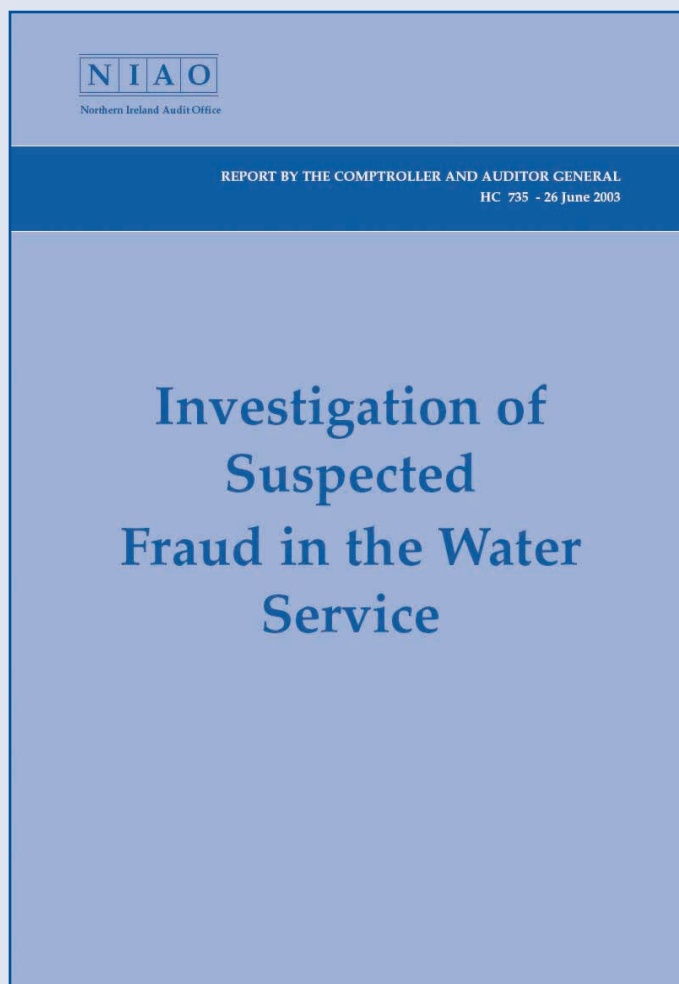
10. **Paragraph 4.16 recorded a recommendation by consultants that agricultural and conservation financial assistance should be administered by a single body (probably DARD).**

What consideration has been given to this recommendation?

Answer

Administrative methods for providing conservation and agricultural assistance have been a consideration of the recently completed review of the MOSS scheme operated by EHS. A recommendation of this review is that further work with DARD should commence to explore closer, even unified, links for the delivery of conservation objectives and associated payments. It is anticipated that an improved, financially secure and agriculture/environment focused, method of delivery will be agreed as an outcome.

INVESTIGATION OF SUSPECTED FRAUD IN WATER SERVICE



LIST OF ABBREVIATIONS

NIAO	Northern Ireland Audit Office
DSO	Departmental Solicitor's Office

INVESTIGATION OF SUSPECTED FRAUD IN WATER SERVICE

(Report Published 28 June 2003 - HC735)

Background

The Water Service engages contractors under competitive tendering arrangements to undertake a range of maintenance and capital works. It is important that contracts are managed in a way which minimises the risk of fraud or impropriety and ensures value for money.

This report examines investigations by Water Service into two suspected frauds, one where there was an allegation of fraud and impropriety by a Water Service employee and one where there were allegations of impropriety by a contractor.

In the first case, investigations indicated that a contractor was overpaid by almost £100,000. In March 2003, five years after the original allegations, Water Service issued a Writ of Summons for the recovery of the overpayment. In the second case the investigation, uncovered examples of working practices which seemed to indicate that the complainant's allegations did have some foundation.

In both cases the report highlights concerns about the manner in which the investigations were handled.

The questions below detail the key issues arising from our report, together with the Water Service's responses to them.

Case 1: Alleged Fraud in a Divisional Office

Action taken to Recover Overpayments (paragraph 59)

Question

1. Paragraph 59 of the report states that in March 2003 Water Service issued a Writ of Summons against the Contractor. What progress has been made in recovering the overpayment of £99,249.35 plus interest? If recovery has not been achieved when does Water Service expect to do so?

Answer

The case of seeking the recovery of the overpayment was notified to the Departmental Solicitor's Office (DSO) in March 2002 and considerable ongoing discussions have been held with DSO in order to progress the matter. Whilst both Water Service and DSO had hoped to have made more progress by this time, both organisations are working together to ensure that a resolution can be reached in the near future. The DSO is making arrangements to meet with the Defendant's Solicitors with a view to resolving the matter without the need for a Court Hearing. However, if a resolution cannot be reached in this way, Water Service will do all it can to have the case progressed through the Court as quickly as possible. Water Service will keep the Audit Office informed of progress. It is Water Service's firm intention to recover the overpayment plus interest as soon as possible.

On the Propriety of Expenditure (paragraph 60)

Question

2. At the time of the report Water Service told NIAO that it continued to use the Contractor (paragraph 60). What steps has Water Service taken to ensure that

claims for payment submitted by the Contractor are thoroughly checked? What actions has Water Service taken to alert other public sector bodies to the problems it experienced with this Contractor?

Answer

Following this case Water Service Management took immediate steps to ensure that all claims for payment submitted by the Contractor were vigorously scrutinised. As a result, all subsequent claims by the Contractor were found to be in order and there were no other issues identified. Water Service can confirm that the Contractor is not currently used by Water Service.

Subsequent to this case, Water Service's Finance Directorate carried out a review of the organisation's internal financial controls. Areas for improvement were identified and procedures have been revised appropriately as a result. New Roles and Responsibilities for staff involved in the procurement of goods have been established and appropriate training provided. Staff are required to sign a declaration to the effect that they understand and accept their roles and responsibilities in this area. Management monitor closely adherence by staff to these new procedures.

At the time the incident occurred, Water Service did not alert other public sector bodies, but acknowledges that it would have been appropriate to do so in the circumstances. Water Service has now alerted the Finance Director in each NI department. In future, if issues of suspected fraud arise, Water Service will notify other relevant public sector bodies on a more timely basis.

On the Handling of Fraud Investigations (paragraph 26)

Question

3. **Water Service commissioned a report by a Technical Expert (paragraph 26) who concluded that “the method of investigation adopted by Water Service was not conducive to identifying if there was fraudulent activity”. What changes has the Water Service implemented to ensure that its investigations will identify fraudulent activity if it is present?**

Answer

Water Service accepts that the method of investigation into this particular issue could have been more robust. As a result, Water Service has developed its own Fraud Policy which sets out procedures to be followed if fraud is uncovered or suspected.

Water Service is currently revising its procedures for investigating cases of suspected fraud with the aim of ensuring that these are in line with Government Accounting Northern Ireland requirements and best practice. These will be kept under review.

Water Service is also developing its own Whistleblowing Policy in order to protect staff who disclose irregularities. This will be in place by September 2005. However, in the interim staff have been informed of the Public Interest Disclosure (NI) Order 1998 which enables workers who report wrongdoing to complain to an Industrial Tribunal if they are dismissed or suffer any other form of detriment for doing so.

On the Identification of Suspected Fraud (paragraph 77)

Question

4. **Although the report noted that fraud has not been proven (paragraph 77), on what basis did Water Service conclude that paying for work not done or approving inflated invoices (Appendices 3 to 6) was not fraudulent? Why was the expertise of the police not used to inform the decision?**

Answer

Early investigations involving the Police led to a conclusion that there was no evidence of fraud and this information was used to inform decisions taken by Water Service at the time. However, following the conclusions of the NIAO report the Police were approached a second time and asked to investigate whether there were sufficient grounds for a criminal prosecution. The Police sought advice from the Criminal Justice Unit and advised Water Service that no criminal proceedings should ensue.

Water Service accepts that paying for work not done and approving inflated invoices should have been treated as suspected fraud. As stated in the answer to question 1, Water Service is seeking the recovery of the overpayment plus interest. Internal controls have been tightened and include more rigorous monitoring by management to reduce the risk of a similar occurrence in future.

On Actions to Combat Fraud (paragraph 50)

Question

5. **Water Service detailed action it had taken to amend its procedures and systems (paragraph 50). What steps has it taken to ensure that the revised procedures**

are being followed? Has Water Service found any instances where procedures have not been followed and what action has been taken when this has occurred?

Answer

Following this case a comprehensive review of internal financial controls was undertaken. New Roles and Responsibilities for staff, including those involved in the procurement of goods, have been established and appropriate training provided. Staff are required to sign a declaration that they understand and accept their roles and responsibilities. Water Service management ensure that the revised procedures are being followed by closely monitoring adherence to them by staff. To date, whilst there have been some minor clerical errors, there have been no significant breaches causing concern to management.

On the Treatment of the Complainant (paragraph 45)

Question

- 6. The report (paragraph 45) noted that the Civil Service Commissioners upheld the allegations made by the Complainant and that they were impressed by his tenacity and determination. In what way did Water Service recognise the Complainant's efforts in bringing these cases to light and have any steps been taken to ensure that his actions have not hindered his career prospects?**

Answer

Since making the original allegations the Complainant continued to carry out his duties within the same work function, albeit at a different location, following a routine, internal reorganisation. He continues to enjoy good working relationships with his managers and colleagues. His work performance

continued to improve over the past four years to the extent that his overall performance was recently assessed as “outstanding” and his promotability rating as “exceptionally well fitted”.

Although no official recognition has been made, Water Service is appreciative of the Complainant's efforts in bringing these cases to light.

In January 2001, Water Service's Director of Corporate Services and the Head of Personnel met the Complainant to discuss any concerns he had, following the investigation of allegations made by him against his colleagues in the Lisburn Office. The Complainant was offered any further support he felt was necessary to address his concerns at the time. The Complainant confirmed that he was generally satisfied that the whole episode had been brought to a conclusion and that no further action was required by Water Service in any respect. A further meeting was arranged with the Complainant some 6 months later. The Complainant decided not to attend the meeting and no further meetings were requested by him until very recently, when he wrote to Water Service seeking a meeting to discuss his intention to initiate a grievance. At this point, the cause of the Complainant's grievance is unclear and will require further investigation. Water Service will keep the Audit Office apprised of developments.

On Handling NIAO Requests for Information (paragraph 53)

Question

7. Paragraph 53 sets out the length of time it took for Water Service to provide NIAO with a particular piece of information. Although Water Service set out the reasons for the delay, can an assurance be given that such a delay in providing information to NIAO will not occur again? What action has Water Service taken to ensure that requests for information from NIAO will be responded to on a timely basis?

Answer

Water Service regrets that this particular incident occurred, but it was an exception. Water Service will ensure that in future all requests from the Audit Office will be responded to in a timely manner. Should a difficulty arise the issue will be referred to the appropriate Director and, if necessary, to the Chief Executive to ensure that the matter is resolved satisfactorily.

Case 2: Alleged Contract Impropriety in a Divisional Office - Complaint Alleging Impropriety

On the Propriety of Expenditure (paragraph 65)

Question

8. Paragraph 65 refers to a contractor laying pipes which could only have been supplied by Water Service but the contractor was paid for both supplying and laying the pipes. How does Water Service explain this and did it seek a refund from the contractor in respect of the pipes?

Answer

The allegation in this case was that a contractor used Water Service pipes on a job that he was undertaking for it and that he was being paid for both supplying and laying the pipes. This raised a number of important issues of accountability about which Water Service was greatly concerned.

Following an internal investigation, which was later referred to the Police, it transpired that within this particular Water Service Depot a limited and informal system of 'lend and borrow' existed between Water Service and certain contractors whereby, on occasions, when either Water Service or a contractor

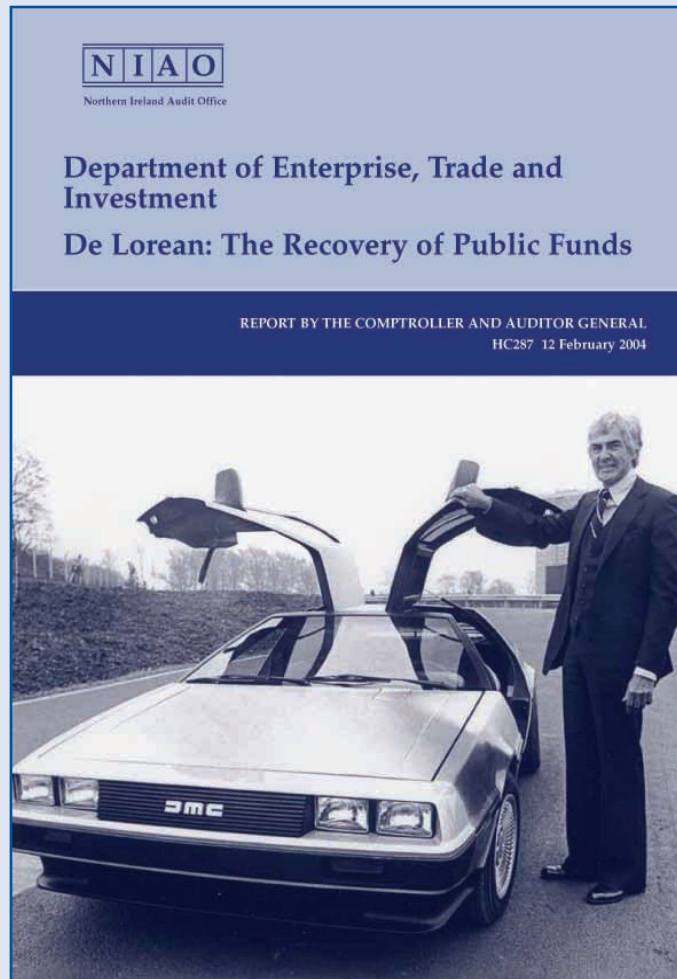
were short of pipes, they would borrow pipes from each other. The rationale given for this arrangement was that it was done to ensure that pipe shortages did not hold up work.

In this particular project, the contractor used pipes which he had earlier obtained from Water Service as part of this 'lend and borrow' arrangement. Whilst certainly not condoned by Water Service, it explains why the contractor was in possession of the pipes. As regards seeking a refund from the contractor in respect of the pipes, the Police concluded that the outcome of this 'lend and borrow' arrangement with this particular contractor was that Water Service still owed this contractor approximately one thousand pounds. This explains why, albeit in these very unusual and unsatisfactory circumstances, Water Service has not sought a refund from this contractor for the pipes in question.

Water Service was disturbed to find out that this wholly inappropriate informal 'lend and borrow' arrangement existed and took immediate steps to stop it. All relevant Water Service Depot staff have been advised accordingly. Following a thorough investigation by both itself and the Police, Water Service is content that no fraud occurred and that there is no loss to public funds as a result.

DEPARTMENT OF ENTERPRISE TRADE AND INVESTMENT

DE LOREAN: THE RECOVERY OF PUBLIC FUNDS



List of Abbreviations

DETI	Department of Enterprise, Trade and Investment
DFP	Department of Finance and Personnel
HMT	Her Majesty's Treasury
NIA	Northern Ireland Audit Office
NDPB	Non-Departmental Public Body

DE LOREAN: THE RECOVERY OF PUBLIC FUNDS

(Report Published 12 February 2004 - HC 287)

Background

Following the demise of the De Lorean car project in 1982, Government embarked on a wide range of actions, including a number of litigation proceedings, in a bid to recover public funds lost as a result of the failure of the project.

One of the major areas on which our report focused was the Department's litigation against Arthur Andersen, the De Lorean companies' auditors. In November 1997, over 12 years after the action was initiated, the case was settled for £20.72 million. Against this, however, the Department had incurred direct legal costs of £20.32 million, together with substantial administrative and in-house legal costs which could not be quantified.

Although it is unlikely that there will again be a litigation of the size and complexity of the action against Arthur Andersen, there are a number of lessons arising from the case which could read across to any major action in the future. The questions below are aimed at identifying how the Department has adopted the lessons learned from the Arthur Andersen case, within its operating procedures.

Question

1. **At paragraph 4.11, the report noted that it was not until 1997, some 12 years after the action against Arthur Andersen was initiated, that a formal, independent review of the strengths and weaknesses of the case was**

commissioned. What action has the Department taken to ensure that, in any future cases, formal, independent reviews will be undertaken at appropriate stages throughout a major litigation?

Answer

DETI accepts the need for formal, independent, reviews of major litigation cases and, for that reason, has recently promulgated guidance on litigation throughout DETI and its sponsored bodies, which requires formal independent reviews of the strengths and weaknesses of a case at major milestones in the litigation process. These reviews are also required to take into account the costs that are likely to be incurred and weigh them against the likely benefits of the action. In addition, the guidance requires major litigation to be carefully managed, with appropriate discussion at Board level, and a risk register to be maintained to identify and manage risk throughout the litigation process.

Question

- 2. Counsel's advice (paragraph 4.15) as to the prospects for damages, in an English forum, was not obtained until 1997. That advice indicated that the most optimistic level of damages, even if the Department won, was well below the level of direct legal costs already incurred by the Department. Can you confirm that, in any future case involving more than one jurisdiction, expert advice will be sought in each jurisdiction on a timely basis?**

Answer

The guidance referred to in the answer to question 1 addresses the issues raised by NIAO. DETI can confirm therefore that, in any future major litigation case involving more than one jurisdiction, expert advice will be sought in each jurisdiction on a timely basis.

Question

3. The Department's direct legal costs for its action against Arthur Andersen were £20.32 million. However, this excluded its administrative costs over the 12 year period, the administrative costs of other Departments involved at various times in the action, and the costs of the Treasury Solicitor's Department between 1985 and 1991. None of these additional costs could be calculated (paragraph 4.25). What procedures have been introduced to ensure that, in future, the full cost of litigation is recorded, both to assist the ongoing consideration of the value of pursuing a case and to facilitate assessment of the final commercial outcome?

Answer

DETI is in agreement with the principle of recording the full cost of major litigation. The guidelines referred to in the answer to question 1 require the full cost of each major litigation case to be held on file. Both actual and notional charges must be recorded together with an estimated cost of the associated administration work.

Question

4. The Department said that its action against Arthur Andersen (paragraph 4.26) was not simply a commercial issue - it was seeking to uphold a principle. In its view, Government has a responsibility to hold professionals to proper standards and this may sometimes make it necessary to litigate, even where there is no direct financial benefit. What are the guidelines by which the Department will ensure that the pursuit of an action, in which there is no direct financial benefit, represents value for money for the taxpayer?

Answer

Any decision to commit public funds whether in pursuit of litigation, or otherwise, is governed by the principles of economic appraisal as set out in the HMT publication “Appraisal and Evaluation in Central Government” (The Green Book). In addition, however, in cases where it may be necessary to litigate in order to hold professionals to proper standards, even where there is only limited likelihood of direct financial benefit, procedures have been supplemented by the guidance referred to in the answer to question 1. This requires DETI and its NDPBs to consider carefully the monetary and non-monetary benefits of the available options and to consult DFP colleagues where it is considered appropriate to do so.

Question

5. **At paragraph 4.41(2) of the report, the Department stated that over the period of the Arthur Andersen case, a greater recognition of the need for continual review of the costs and objectives of litigation, and the relationship between the two, had developed. What procedures have been introduced to ensure that, in all future cases of litigation, the level of costs will be regularly reviewed and assessed against the objectives of the action, including the likely damages?**

Answer

The guidance referred to in the answer to question 1 requires those who are responsible for managing litigation cases to take fully into account, at major milestones, the costs that are likely to be incurred and, in such cases, to assess them against the objectives of the action including the likely damages.

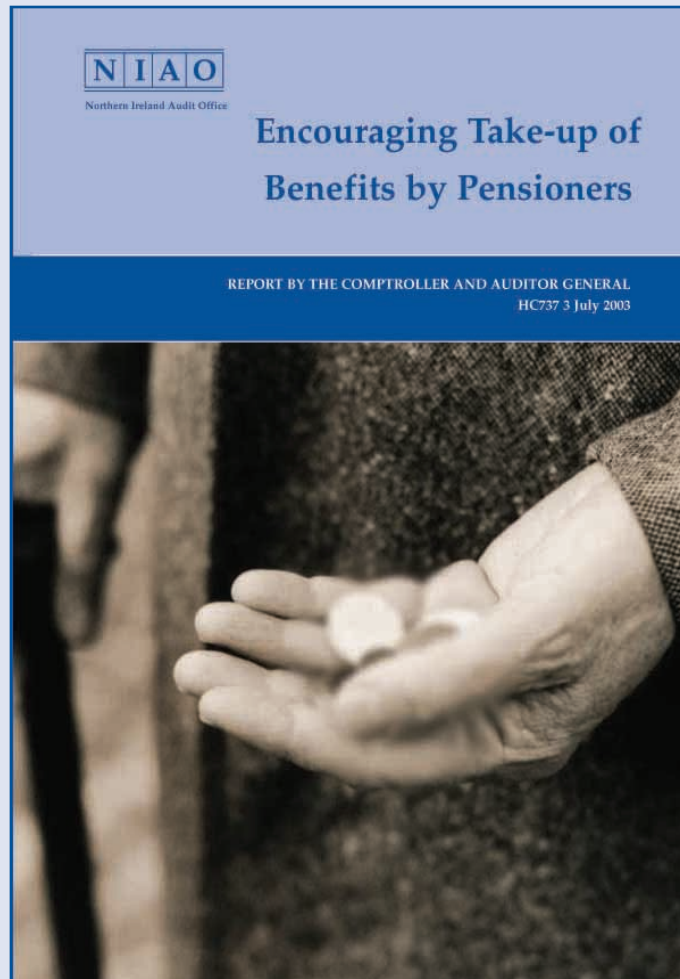
Question

6. One of the lessons noted in the Arthur Andersen case (paragraph 4.41(3)), was that all opportunities for legitimate commercial leverage should be taken, so as to exert maximum influence on defendants to settle at an acceptable figure. Can you confirm that, in any future cases, the Department will ensure that new commercial arrangements are not entered into with defendants, during the course of an action? Also, can you clarify whether it would be the Department's intention to seek to extend such an 'embargo' to all other areas of Government during the course of the action?

Answer

DETI can confirm that in future major litigation cases it will ensure, within the confines of current legislation, that new commercial arrangements are not entered into with the defendants during the course of an action. At the same time DETI will work in conjunction with other relevant departments to seek to extend such an 'embargo' to all other areas of Government during the course of the action

ENCOURAGING TAKE-UP OF BENEFITS BY PENSIONERS



List of Abbreviations

DWP	Department for Work and Pensions
GIS	Geographical Information System
OSNI	Ordnance Survey for Northern Ireland
SSA	Social Security Agency
PSA	Public Service Agreement

ENCOURAGING TAKE-UP OF BENEFITS BY PENSIONERS

(Report published 3 July 2003, HC 737)

Background

In Northern Ireland, there are nearly 260,000 pensioners and it is projected that this will increase to 314,000 by 2021, representing one fifth of the population. While many older people now have a good standard of living, many live in poverty. It has been estimated that around one third of all pensioners - 81,000 - are living in households in the bottom 30 per cent of gross household income. As a result, many pensioners rely heavily on means-tested income from social security benefits. However, despite pensioners' high level of dependency on benefits, many of them fail to claim their entitlements. For example, on the basis of estimated take-up levels in GB, between 24,000 and 36,000 pensioners in NI are potentially entitled to Minimum Income Guarantee but are not claiming it. Non take-up of benefits can be for a number of inter-linking factors, including lack of knowledge of entitlement, a perception of being stigmatised by the receipt of benefit and physical or other difficulties in the processes of claiming.

The report examines what the Department for Social Development (the Department), through the Social Security Agency (the Agency), the Housing Executive and a range of other organisations, has done to tackle the problem by encouraging pensioners to take up their social security benefit entitlements; the extent to which pensioners take-up their benefit entitlements; and how successful the Department has been in improving take-up.

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

Question

1. Paragraph 2.4 points out that the lack of sufficient and reliable information on take-up of social security benefits has left the Department unable to estimate accurately the numbers of pensioners who do not take-up the means-tested benefits to which they are potentially entitled. What steps have the Department/the Agency taken to ensure that reliable data is collected on estimated non take-up of benefits by pensioners?

Answer

The Agency recognises the need to collect data on the non take-up of benefits by Pensioners. Work is currently underway to use information held on the Agency's computer systems to facilitate a telephone survey of the 260,000 customers who are claiming Retirement Benefit/Bereavement Benefit. It is estimated that around 170,000 of these customers are not in receipt of Pension Credit and the survey will be used to estimate how many could potentially be entitled to Pension Credit. A report on the findings should be available by the end of August 2005.

The Agency is aware that the Department for Work & Pensions (DWP) in Great Britain is developing a Geographical Information System (GIS) product for the Pension Service that will visually pinpoint Pension Credit, Housing Benefit and other benefit recipients on Ordnance Survey Maps down to street level, thereby allowing local Pension Service staff to identify areas where take-up levels are lower than expected. The Agency is currently considering how developments to the Ordnance Survey for Northern Ireland (OSNI) Geographical Information System will enable a similar type of analysis and how this system can be used to improve benefit take-up. GIS will form one of the strands of the Agency's Benefit Take-Up Strategy.

Question

2. Paragraph 2.10 calls on the Department to “set realistic targets” for increasing take-up of benefits by pensioners. What progress has been made in drawing up such targets?

Answer

The Department has set a challenging Public Service Agreement (PSA) target of paying Pension Credit to at least 98,500 pensioner households by 31 March 2006. This is an increase of 6,500 on the PSA target of 92,000 by 31 March 2005 and is comparable to the increase in DWP's PSA target. By the end of December 2004 the Agency was well on course to meet this target, with over 91,550 pensioners receiving Pension Credit. The Department is currently considering targets for the Budget 2004 planning period and a figure of 104,000 pensioner households receiving Pension Credit by 31 March 2008 (matching the DWP target) has been proposed. The Department will seek to use information obtained from the Family Resources Survey and from its own research to determine if these proposals provide sufficiently challenging targets.

Question

3. Paragraph 3.4 indicates that less burdensome administrative arrangements attaching to the new State Pension Credit and Housing Benefit should contribute to higher take-up rates. To what extent have these hopes been realised?

Answer

The number of pensioners in receipt of Pension Credit at the end of December 2004 is 91,550 compared to 76,500 who received Minimum Income Guarantee immediately prior to the introduction of Pension Credit on 7 October 2003. The

Agency has taken a number of administrative steps to promote and improve benefit take-up including the creation of the new Pension Service, introduction of Pension Advisers, improved telephone access, closer working with voluntary bodies and extensive publicity and media campaigns, which have all contributed to increasing the numbers of pensioners receiving Pension Credit.

Coinciding with the introduction of Pension Credit the use of benefit periods for Housing Benefit claims for pensioners was abolished with the result that after making an initial claim there is no longer a requirement for pensioner customers to provide the same information on an annual basis. The link between Housing Benefit and Pension Credit means that customers do not have to provide any further financial details in relation to their Housing Benefit claim.

The Agency has also been working with the Northern Ireland Housing Executive to increase Housing Benefit take-up through better co-operation and sharing of information. Plans are currently being developed to target Housing Benefit customers to ensure that they are claiming any appropriate Pension Credit entitlement. Discussions are also ongoing between the Agency and the Housing Executive to identify if a reciprocal match would be possible.

Question

- 4. Paragraph 3.10 refers to the need to devise cost-effective simplification options in relation to the design of benefit application forms used by pensioners. What steps have been taken to further simplify the benefit claims process so that take-up rates can be improved? Has this involved liaison with your GB counterparts?**

Answer

The Agency has a number of initiatives to improve benefit take-up rates. The Agency actively promotes the use of its Tele-Claims service for both Retirement

Pension and Pension Credit. Calls are free, and are a quick and easy way for new pensioner customers to claim as the claim forms are completed by Agency staff. In addition our network of local Pension Advisers visit people in their homes and local communities to provide help and advice on completion of forms.

Where customers do not avail of the Tele-Claims or Pension Adviser services the Pension Credit application form is designed for easy use and was assessed for Plain English. However, the Agency, in consultation with our counterparts in GB and the voluntary sector, is reviewing the Pension Credit application form to ensure that it continues to meet customer requirements whilst capturing the key information to determine benefit entitlement. A revised form will be introduced from April 2005.

The Agency has also introduced a new simplified Attendance Allowance claim form.

Question

5. **Paragraphs 3.13 and 3.14 demonstrate that the benefit claims process is heavily dependent on the telephone but indicates also that its success in improving take-up among pensioners is inconclusive. What action has the Department/the Agency taken to monitor its ongoing effectiveness as a means of providing advice and information to pensioners?**

Answer

The Agency accepts that a more robust monitoring system should be established to determine the effectiveness of the telephone in providing information and advice. Whilst the Agency has a call monitoring system which captures information to assess performance against Citizen Charter targets, facilitates call management and records the volume of telephony applications there is currently

no formal mechanism to capture data which identifies the nature of individual calls. The Agency has taken steps to identify a system that will capture this data which is aligned to DWP's Pension Transformation Programme.

The Pension Centre is undertaking a customer survey during February and March 2005 specifically targeting those customers who have contacted the Pension Centre by phone to determine their satisfaction with the telephony service. A report should be available by the end of April 2005.

Question

6. **Paragraphs 3.21 and 3.26 encourage the Department to continue to build on the work undertaken in targeting potentially eligible pensioners. What further action has the Department taken to improve take-up initiatives?**

Answer

The Department has used an extensive media campaign including TV, press and outdoor advertising to promote the take-up of Pension Credit. Benefit take-up is also promoted at outreach events and roadshows in local areas specifically targeted at the pensioner client base. Events take a holistic approach, promoting all benefits the potential customer may be entitled to.

As part of its review of the Benefit Take-Up Strategy, the Department will determine how well its take-up initiatives reach pensioners and if the information being provided actually meets their needs. The Agency has also made available on the Internet a Pension Credit Calculator for use by the voluntary sector and advice staff, as well as individuals, to assess entitlement to Pension Credit.

Question

7. Paragraph 3.35 refers to the potential for collaboration between agencies as a way of identifying, targeting and encouraging pensioners to take-up their entitlements to benefits. What progress has the Department made in facilitating the exchange of information between agencies to identify and contact pensioners who may be entitled to benefits but are not claiming?

Answer

The Department accepts that increased collaboration between partner organisations could improve the identification of potential Pension Credit customers. Through close contact with colleagues in Great Britain the Department is aware that DWP is responsible for the Link Age Programme, which focuses on the promotion of well-being and independence for older people. A key element of this programme is building on existing relationships with partner organisations to have joint co-located teams, which provide a single point of contact for older people, their carers and the professionals who serve them. Team members are able to perform the full range of data capture and verification required by all partners. The outcome focused approach encourages take-up of benefits and services and the Department is considering how this approach can be applied in Northern Ireland.

A close working relationship has been established between the Agency and the Northern Ireland Housing Executive to enable effective and efficient processing of Housing Benefit applications. It is intended to further develop these links by March 2006 to ensure that the sharing of information is optimised to facilitate the increase in benefit take-up. Plans are already in place to target a number of customer groups including Attendance Allowance, Disability Living Allowance and Housing Benefit customers from August 2005 to November 2005 with the aim of increasing benefit take-up. The Department is also considering how the

latest developments to OSNI's Geographical Information System can be exploited to identify pensioners who may be entitled to benefits.

In addition, Pension Advisers work with their contacts in local statutory/voluntary bodies to identify potential Pension Credit customers. We are working to expand their function and formalise a programme of work to meet the wider needs of pensioners and plan to have this work completed by March 2006.

Question

8. **Paragraphs 3.15, 3.40 and 3.45 all refer to the introduction of Pension Advisers to work in an "outreach" capacity within the local community in order to develop local partnerships and foster greater co-ordination with the voluntary sector. How successful has this initiative been in bringing about improvement in the take-up of benefits among pensioners?**

Answer

A recent evaluation has highlighted the success of the Pension Advisers. During the period April 2004 to September 2004 Pension Advisers provided 21,500 pieces of information and advice across a range of social security benefits to older people. As a result of this 4,100 applications for benefit were made with 50 per cent of these being for Pension Credit. A key element of their work is to establish local partnerships with the main voluntary sector organisations and the many pensioner related groups across Northern Ireland and the Agency continues to seek new opportunities to further develop these local partnerships. The role of the Pension Adviser has been developed to provide Pension Credit presentations and awareness surgeries to these groups. The Agency is currently undertaking a review of the Pension Adviser role to ensure that it is properly focused on meeting the wider needs of our customers.

During the past twelve months the Agency has increased the number of awareness sessions delivered to Pensioner Groups. As a result of this and other initiatives mentioned above, the Agency is on course to meet its Public Service Agreement Target of paying Pension Credit to 98,500 pensioner households by March 2006.

Additionally, a pilot is on-going in the North-West where a "Pensioner Clinic" has been established in one of the Agency's outreach offices. This initiative was developed in partnership with local voluntary and community groups.

Question

9. **Paragraphs 3.46 and 3.47 tell us about the costs and benefits of take-up initiatives. Has the Department/the Agency established a standard method for measuring the costs and benefits of take-up campaigns to allow it to make better informed decisions about targeting resources?**

Answer

The Agency is currently undertaking a review of its Benefit Take-Up Strategy which will include the development of an evaluation framework. In developing the evaluation framework the Agency will take account of feedback received from customer consultations and information from the Geographical Information System on relevant geographical and gender data. The review of the strategy will be completed by the end of March 2005.

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