



Northern Ireland Audit Office

NIHE Management of Response Maintenance Contracts



REPORT BY THE COMPTROLLER AND AUDITOR GENERAL
4 September 2012



Northern Ireland Audit Office

Report by the Comptroller and Auditor General for Northern Ireland

NIHE Management of Response Maintenance Contracts

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

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Comptroller and Auditor General

Northern Ireland Audit Office
4 September 2012

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Abbreviations

C&AG	Comptroller and Auditor General
CAU	Corporate Assurance Unit
CoPE	Centre of Procurement Expertise
CPD	Central Procurement Division of the Department of Finance and Personnel
DFP	Department of Finance and Personnel
DLO	Direct Labour Organisation
DSD	Department for Social Development
HMS	Housing Management System
ISG	Investigations Strategy Group
KPI	Key Performance Indicator
NDPB	Non-Departmental Public Body
NIAO	Northern Ireland Audit Office
NIHE	Northern Ireland Housing Executive
OGC	Office of Government Commerce
PAC	Public Accounts Committee
PSNI	Police Service of Northern Ireland
PRAWL	Property Repairs and Waiting List System
RIU	Repairs Inspection Unit
SoR	Schedule of Rates

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Introduction

1. The Northern Ireland Housing Executive (NIHE) is an executive Non-Departmental Public Body (NDPB) of the Department for Social Development (the Department). It is the largest landlord in Northern Ireland and is responsible for the management and maintenance of some 90,000 homes. It has an annual budget of some £750 million. It is also one of eight public bodies designated as Centres of Procurement Expertise (CoPEs) in 2002 (**Appendix 1**). Since then, it has undergone two accreditation assessments, in 2005 and 2009, and was assessed as an 'exemplar' CoPE.
2. Since 2009, significant concerns have been raised by whistleblowers, MLAs and the media in relation to the governance of the NIHE and in particular its procurement processes and the management of contracts. In the period 2009 to 2011, NIHE and the Department carried out a number of reviews to investigate response maintenance contracts, Egan partnership (Achieving Excellence in Construction Framework¹) contracts and NIHE governance.
3. These reviews found a range of failings and weaknesses in the governance of NIHE and in the management of contracts. In July 2011, following lengthy investigation, NIHE terminated its response maintenance contracts with Red Sky. These contracts were worth some £7 million a year.

4. In addition, NIHE has been implementing a range of actions to address recommendations from these reviews and to improve its governance and contract management.
5. We have previously identified concerns on a range of matters in NIHE, including the investigation and reporting of suspected fraud, poor performance of contractors and the overall lack of control of contracts exercised by NIHE which allowed contractors to produce poor work with impunity². In light of the problems that have again been found in NIHE's management of contracts, it appears that the issues covered in our earlier report were not taken sufficiently seriously by NIHE senior management and adequately addressed.

Scope and methodology of this report

6. NIHE operates a range of contracts to deliver its services. These are either fixed-term (Egan) contracts, which include response maintenance, demolition and major adaptations or fixed-price contracts, for works such as asbestos removal, heating installation and external cyclical maintenance.
7. Our report focuses on response maintenance, in view of the seriousness of the problems identified in the management of specific contracts and the significant level of expenditure. Over the five-year period 2006-07 to 2010-11 £200 million was paid to response maintenance contractors (**Appendix 2**).

1 Achieving Excellence in Construction (AEC) Framework contracts incorporate long-term partnering arrangements and aim to incentivise contractors to deliver work to a high standard with targets for annual improvement.

2 Introducing Gas Central Heating in Housing Executive Homes, NIAO: NIA 43/03, HC 725 Session 2003/04 1 July 2004.

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8. The problems identified in the management of response maintenance contracts are indicative of wider governance deficiencies. Some of these also have implications for other areas of expenditure, for example planned maintenance with expenditure of £72 million in 2010-11. Our report covers four main areas:
- management of response maintenance contracts and termination of the Red Sky contracts (**Part One**);
 - inspection of repairs and maintenance work (**Part Two**);
 - whistleblowing and complaints (**Part Three**); and
 - contract management and governance in NIHE (**Part Four**).
9. To inform our review, we:
- carried out a series of structured and semi-structured interviews with relevant personnel in NIHE and the Department for Social Development;
 - obtained and reviewed reports on NIHE governance and contract management;
 - reviewed relevant documents held by NIHE; and
 - reviewed and carried out our own analysis of reports on contractor performance prepared by NIHE.

Overall Conclusion and Key Findings

Management of response maintenance contracts

10. Based on our findings and in the absence of concrete evidence to the contrary, we can only conclude that, for many years, there has been a very significant risk to value for money in response maintenance expenditure. Indeed the weaknesses in assessment, reporting and management oversight of contracts, particularly at a high level within NIHE, left the organisation exposed to impropriety and fraud.
11. Concerns over NIHE's management of response maintenance contracts have been evident over a long period. It is also clear that NIHE failed to effectively address those concerns. Poor contract management has resulted in a loss of public funds and poor standard of work carried out for tenants.
12. NIHE's response maintenance contracts are largely based on the Egan partnership approach (**Appendix 3**). However, inherent weaknesses in NIHE's application of Egan type contracts, combined with a laxity of organisational culture at all levels, have exacerbated the impact of poor contract management within NIHE:
- Key Performance Indicators have not been objective;
 - performance data has not been independently validated;

- poor contractor performance has not been robustly challenged and as a result has been difficult to pursue against contractors; and
 - overpayments were identified but the action to address these issues was inadequate and the risk of fraud was not adequately assessed.
13. This is illustrated by the Red Sky case. In July 2011, NIHE terminated its response maintenance contracts with the company (worth £7 million a year) after a series of investigations into the company's performance. However, we found that there had been a long history of problems with the company stretching back to 2000 when concerns were raised by a whistleblower. Subsequently a NIHE Maintenance Officer was disciplined after having accepted excessive hospitality, including staying at accommodation in the USA owned by a director of the company³ and going on a Caribbean cruise with the director.
14. In 2005, NIHE received a further allegation that NIHE Maintenance Officers had accepted excessive hospitality at the Odyssey complex in Belfast from the company. NIHE had also carried out inspections in 2005 which found that £264,000 was overpaid to Red Sky; this was due to higher cost installations requested by NIHE Maintenance Officers and other overcharging by the contractor. Internal Audit and the Audit Committee were not informed when the overpayments were initially identified. Following investigations, NIHE decided not to penalise the contractor as responsibility for some of the overpayment lay with NIHE staff.
15. The amount to be recovered, after adjustment for the higher cost items requested by NIHE, was £81,000; this was reduced to £20,000 following negotiation in March 2007 between NIHE and Red Sky. Legal advice at the time was that it was reasonable to accept the offer from Red Sky. The negotiations involved, at the request of two of the most senior executives of NIHE, a former independent member of the NIHE Board who was also a member of the NIHE Audit Committee until early 2007. This member had, at a meeting of the Audit Committee in December 2006, declared that he may have a conflict of interest in relation to Red Sky as he had been approached in late 2006 by Board members of Red Sky asking him to consider joining its Board.
16. In April 2009, another investigation into Red Sky was commissioned by NIHE following whistleblower allegations made to the NI Assembly's Public Accounts Committee (PAC). Further, subsequent investigations identified significant overpayments to the contractor and NIHE has recovered some £650,000 from the company. At March 2012, additional problems with the quality of electrical work undertaken by Red Sky had been identified by NIHE. It anticipated that testing for these defects will cost at least £150,000 with further expenditure required to remedy them.

3 The name of company at that time was Spectrum. In June 2006, Spectrum merged with two other companies, Image Technical Services and AJ Kramer, to form Red Sky.

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17. In 2011, a file was submitted to the Police Service of Northern Ireland (PSNI). However, the PSNI subsequently advised that it would take no further action as there was not sufficient evidence of criminality and "that there had been systematic errors within NIHE in relation to accounting and supervision procedures relating to contracts for maintenance involving Red Sky".
18. The work of another contractor is also being investigated by NIHE following allegations received from a whistleblower. The Department has also commissioned a wider investigation of the performance of a number of contractors and this is expected to be finalised by autumn 2012. A draft report has been passed to NIHE for comment; its key findings cover:
- quality of workmanship;
 - invoices submitted by contractors;
 - completion of work on a timely basis;
 - NIHE inspections;
 - ability to recover overcharging; and
 - duplicate Schedule of Rates (SoR) codes.
- These are consistent with our findings.
- Inspection of repairs and maintenance work**
19. Poor contractor performance has been evident for many years but the actions necessary to strengthen the contract management regime were not taken. In addition, while NIHE's Repairs Inspection Unit (RIU) and Internal Audit had identified poor quality work, their findings were not properly considered and acted on by NIHE senior management.
20. While summarised reports of RIU findings were provided to the Audit Committee and Board, we found that three glossed over or did not adequately highlight significant issues.
21. In a significant number of cases RIU assessed the performance of NIHE District Maintenance Offices and the quality of work done by contractors as unsatisfactory or could only give Limited Assurance that objectives were being met. In some cases there has been a long history of poor workmanship and performance and one company's work was classified as Unacceptable over a four-year period. Despite this contractors were consistently assessed as Satisfactory by NIHE against key performance indicators set out in response maintenance contracts.
22. In 2011, NIHE established a Corporate Assurance Unit (CAU) bringing together its various inspection units and also introduced new arrangements for inspection reports to be brought to the Audit Committee.
23. We have identified a fundamental weakness in the RIU inspection methodology. In our opinion it fails to give sufficient weight to on-site inspections including standards or quality of work carried out by contractors. For example:

- weightings give insufficient focus to quality and cost of repairs carried out (on-site inspection);
- Districts with low scores for on-site inspection could, and did, get an overall satisfactory rating;
- there is a lack of transparency in relation to the methodology/weightings used;
- there has been a lack of senior management review and approval of RIU work and methodology; and
- it is not clear whether the necessary follow-up action was taken by NIHE to ensure poorly performing contractors improve or whether appropriate sanctions are applied.

24. This fundamental weakness becomes more stark when looking solely at the on-site inspection aspect. Based on the 2009-10 RIU inspection report, out of 35 Districts, 21 Districts would have achieved an Unacceptable rating with a further 2 being assessed as a Limited Assurance rating.

Whistleblowing and complaints

25. The reporting of serious concerns within NIHE is poor. In 2010-11, of 22 ongoing investigations of suspected fraud in NIHE, only 2 had been formally notified to the C&AG by the Department as required by Managing Public Money Northern Ireland. This is a serious breach of a long established and important

accountability control which meant that potential system weaknesses and susceptibility to fraud within NIHE may not have been identified and addressed.

26. There have been a number of cases where staff have raised concerns in relation to NIHE contract management in the course of their work or in a whistleblower capacity. In our opinion, based on the information available to us, there is a perception that they have not always received the protection required. It is not surprising that the bulk of whistleblowing cases are from anonymous sources.

27. The NIHE tenants' complaints process is well publicised and readily accessible for tenants. Analysis of complaints data can provide valuable information on the performance of contractors and the standard of work carried out. However, complaints data is not complete and does not record which contractor has been involved. In our view, the complaints system should be reviewed to ensure that where there is dissatisfaction with the work of a contractor, this is fully recorded; this information should also be viewed alongside other assessments of contractor performance, for example from RIU and NIHE District Maintenance Officers, to ensure assessments are balanced and objective.

Contract management and governance

28. Serious concerns have been raised about NIHE contract management and governance in a number of recent reports

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and investigations. These reviews have documented critical areas of concern and identified failings in governance and the level of service provided by NIHE. In relation to response maintenance work, there have been overpayments to contractors and poor performance by contractors has not been tackled.

29. While there is evidence of systematic and documented governance arrangements in place, the nature and scope of the failings in NIHE has demonstrated that, in practice, they did not work. The NI Assembly's Public Accounts Committee has said⁴, that "it is not sufficient only to have appropriate structures of governance in place. Departments need to ensure that there is a strong culture of accountability with their arm's length bodies and that good governance is delivered in practice". It is our view that this culture of accountability was absent in NIHE and indeed there is evidence to suggest that some members of senior management actively undermined the system of checks and balances that had been put in place.
30. Internal Audit experienced difficulties in agreeing reports which gave a Limited Assurance opinion with NIHE management. In one case, in 2007, a review of land disposals (a significant business area) was not finalised as a result of management intervention; a subsequent report in 2008 recorded a Satisfactory assurance rating. Since then significant issues have been identified in this business area.
31. In 2009, we also produced a report on
32. NIHE Board business has not always ensured there is adequate scrutiny of contract management. In the five years up to 2010-11, there was limited specific reference to contract expenditure monitoring or reporting in Board papers. Independent assurances from RIU on inspection findings were not being provided to the Board or Audit Committee. Reports from management did not provide sufficient information - including for example the overall number and value of contracts, the performance of contractors, the extent of overpayments and District inspection performance - to enable proper oversight.
33. NIHE Board and Audit Committee meetings generally cover a wide range of issues. However, the agenda for meetings includes large numbers of papers which do not necessarily focus on key strategic issues; it is possible that the large volume of papers and lengthy agenda meant that important business and scrutiny of performance did not get due attention.
34. Following recent reviews, NIHE and the Department have committed to implementing the changes necessary to improve governance and contract

the Belfast Education and Library Board on the investigation of suspected contract fraud⁵, in which we identified a number of lessons relevant to contract management across the public sector. It is important that NIHE, and all public bodies, take on board findings from other investigations which are relevant to their business activities.

4 Good Governance – Effective Relationships between Departments and their Arm's Length Bodies, 28/07/08R Public Accounts Committee Session 2007/08 24 April 2008.

5 The Investigation of Suspected Contract Fraud, NIAO: NIA 103/08-09 29 April 2009.

management. Action plans have been put in place to take forward the relevant recommendations from the various internal and external reviews (see paragraph 2).

Recommendations

35. We have made a number of recommendations in our report:
- As RIU is a vital control in delivering quality and value for money in maintenance services, the annual inspection programme and methodology for assessing and reporting on work carried out by contractors should be based on clear criteria; it should be regularly reviewed to ensure that performance of contractors and Districts is evaluated and reported to senior management, that inspections focus on the quality of work delivered for tenants and that contractors are paid only for work done to the required standard;
 - RIU should provide an annual summary of the types of unsatisfactory work identified at on-site inspections. This should also highlight particularly unusual failings or trends which may indicate intention to circumvent contractual obligations or controls;
 - It is important that the Corporate Assurance Unit inspection programme covers the full range of maintenance and repairs work.

For example, this should include response maintenance of heating systems which have not been subject to inspection by NIHE;

- It is also important that the work undertaken by the Corporate Assurance Unit is seen to be complementary to, and linked with, Internal Audit's review of systems and processes. This will enable the Board, Audit Committee and senior management to arrive at an informed overall conclusion.
- Lessons from the RIU model and methodology should be shared with the wider public sector. NIHE should work with the Department and the Department of Finance and Personnel to ensure that important lessons are disseminated, particularly to other public bodies which have substantial repairs and maintenance functions. The positive steps being taken by NIHE and the beneficial work of RIU, the Corporate Assurance Unit and other initiatives should be considered by other public bodies; and
- In relation to the organisational review which NIHE is currently undergoing, revised governance structures must ensure that there is a balance of control and responsibility across the senior management team.
- NIHE should review its handling of whistleblowing cases and ensure

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that this is in line with best practice and the spirit of the legislation.

- NIHE should also review its processes for dealing with concerns raised by staff relating to the effectiveness, efficiency and propriety of NIHE operations and ensure that those staff are appropriately supported and protected.
- It is important that NIHE emphasises its zero tolerance approach to fraud and corruption and ensures that it maintains consistent standards in dealing with breaches of discipline and its code of conduct.
- NIHE should make use of all objective feedback on the performance of contractors to ensure that a balanced and comprehensive assessment can be made of the standard of service being provided to tenants. In particular, NIHE should record on its Customer Complaints Management System, the contractor against whom a complaint is made. Information from the range of sources on complaints should be used to compile regular reports to the Board and Audit Committee to indicate the level of complaints on repairs by District and contractor over the period of the relevant contracts. This information should also be evaluated in conjunction with other reports on contractor performance to enable assessments

to be made of individual contractors and NIHE Districts.

Part One:
Management of Response Maintenance Contracts



Part One: Management of Response Maintenance Contracts

NIHE's application of the Egan partnership approach had inherent weaknesses that may have exacerbated the impact of poor contract management

- 1.1 Before 2001, repairs work for NIHE was undertaken by a large number of single trade contractors. In 2001, NIHE adopted the Egan principles (**Appendix 3**) for contracting and a pilot scheme was undertaken to let All Trades response maintenance contracts applying these principles. Based on the recommendations of the Egan Report 'Rethinking Construction', this approach included partnering concepts and use of Key Performance Indicators (KPIs). Following the pilot scheme, phased procurements for All Trades contracts were rolled out over the following two years from June 2003. Response maintenance for heating schemes is provided by two specialist contractors.
- 1.2 This led to a rationalisation of the number of response maintenance contracts and contractors. At April 2011, there were 16 contractors with 27 contracts.
- 1.3 The basis for the costing of maintenance jobs is a Schedule of Rates (SoR) set by NIHE. For the period 2003-04 to 2009-10, contractors were paid at the SoR plus a percentage adjustment; this adjustment is set out in the contract between NIHE and each contractor and ranges from zero percent to 45 percent. In addition, during the period of the contract, annual inflationary increases were applied to the adjustment and these ranged from 3.1 percent to 7.6 percent. Since 2010-11, contracts have been let where the

adjustment is negative and the rates payable to contractors are therefore less than the SoR; new contracts from August 2012 will have a fixed price for two years with an annual uplift in years 3 and 4 based on the building Cost Index, with a maximum adjustment of 5 percent.

There has been a long history of poor management of response maintenance contracts

- 1.4 Management of the response maintenance contracts has been weak and opportunities to strengthen this, arising from identified poor performance by contractors, have not been taken.
- 1.5 Poor contract management combined with laxity of organisational culture contributed to a range of problems which impact on the delivery of services for tenants and value for money:
- duplicate orders approved despite alerts being raised by NIHE's management systems;
 - post-completion inspections not carried out by District staff but recorded as having been done;
 - poor work not challenged yet approved for payment;
 - excessive hospitality accepted; and
 - maintenance staff who have challenged contractors' performance have, in some cases, not received

adequate support from NIHE management.

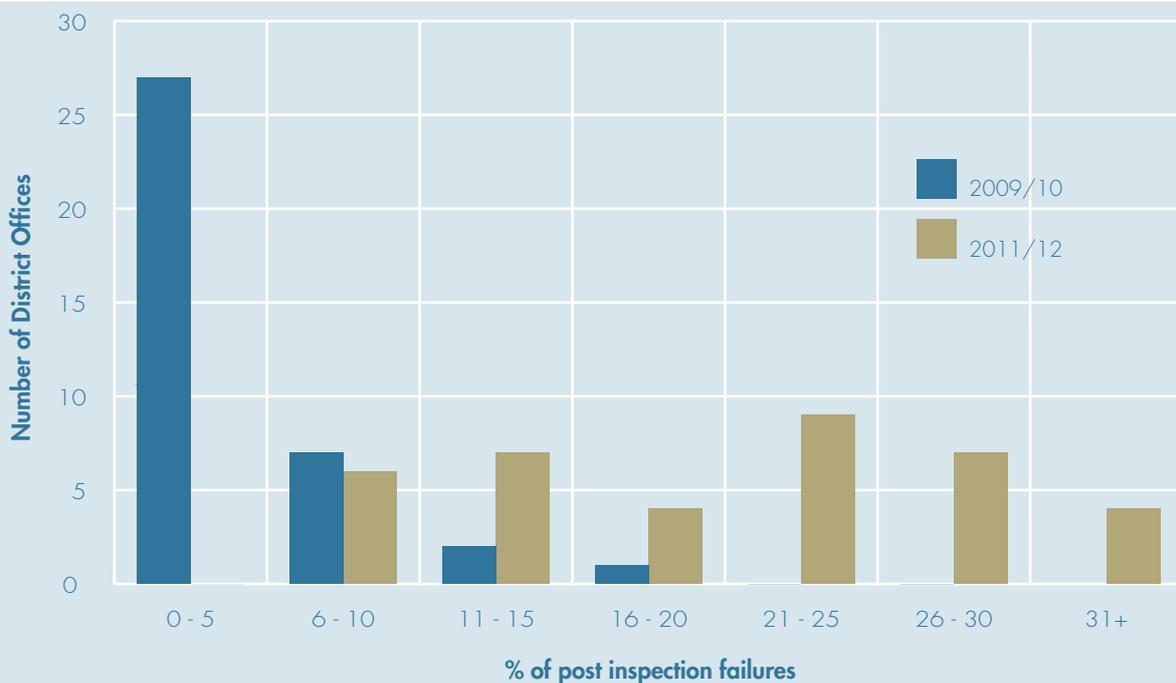
- 1.6 We also raised concerns in our Reports to those Charged with Governance following the audit of NIHE's annual accounts. These included contractor performance issues and non-rotation of Maintenance Officers in Districts. In addition, the Comptroller and Auditor General gave a qualified opinion on the regularity on response maintenance expenditure on the NIHE Annual Accounts for 2010-11 and 2011-12.
- 1.7 NIHE has commented that staff rotation is deemed to be good practice and managers are encouraged to rotate staff for both personal development and probity reasons. However, in practice it is very difficult to achieve particularly in rural areas with the geographic dispersal of management units. Staff rotation has been reviewed following the Governance Review in 2010 and divisional plans for staff rotation are to be put in place by December 2012.
- 1.8 NIHE's application of the Egan partnership approach had inherent weaknesses that may have exacerbated the impact of poor contract management. NIHE has commented that benefits obtained from the Egan approach include increased levels of tenant satisfaction with its repairs service and quality of contractors' work and reductions in the number and costs of NIHE maintenance staff. In response to the findings of the NIAO report on Introducing Gas Central Heating in Housing Executive Homes (July 2004), NIHE commented that the introduction of the partnership approach in contracts would lead to improvements in the performance of contractors and in the prevention of fraud. However, given the ongoing weaknesses in contract management, it is clear that these benefits have not been fully secured.
- 1.9 Furthermore, reviews of NIHE contracts have identified weaknesses in the performance management regime and KPIs. A review by Internal Audit in 2010 found that:
- measures had not been objective - only two of the KPIs were calculated using data from the computerised repairs system;
 - measures had not been independently validated - there was no independent validation process in place for District Office assessment of KPIs; and
 - poor performance had been difficult to pursue against contractors - the subjectivity of KPIs and lack of validation process would make it difficult for NIHE to pursue a default of contract case against a contractor.
- 1.10 KPIs were reported monthly to NIHE's Housing and Regeneration Review Group. However, these returns were not always complete. Between April 2011 and November 2011, and following the Internal Audit report in 2010 (paragraph 1.9) and criticisms in the Office of Government Commerce (OGC) Gateway Healthcheck Review (paragraph 4.1),

Part One: Management of Response Maintenance Contracts

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



Figure 1b: Analysis of the number of failed post-inspections of response maintenance jobs recorded by NIHE districts, 2009-10 and 2011-12



Source: NIAO based on NIHE data

the number of KPIs in contracts was reviewed and reduced from nine to six. From November 2011 new contracting processes have been introduced by NIHE which are intended to address weaknesses.

- 1.11 Under the new arrangements, performance will be assessed on a monthly basis with an annual review of each contract to monitor overall performance. There will be eight KPIs covering client satisfaction, quality, cost predictability, time predictability and tenant satisfaction. KPI failures may be considered as a breach of contract and damages applied if a cost has been incurred by NIHE. The changes were to be applied to new response maintenance contracts implemented from November 2011. However, letting these contracts has been delayed until August 2012 due to a challenge by one of the applicants.
- 1.12 NIHE reviewed the performance of 16 contractors over the period April 2011 to March 2012:
- 1 in 5 inspections recorded a failure;
 - For 13 contractors, the fail rate was greater than NIHE's target of 10 percent ranging from 14.8 percent to 32.0 percent; and
 - this contrasts with overall rates of 2 percent to 5 percent in the period 2006-07 to 2009-10 (**Figure 1** and **Appendix 4**);
- 1.13 We asked NIHE for an explanation of the recent upsurge in failed post-inspections. It told us that, prior to the review of the effectiveness of KPIs by Internal Audit in

2010, post-inspection failures recorded by district maintenance staff only related to poor workmanship and poor quality; failures due to accuracy of contractor invoices were not recorded as these had not been used as a measure of contractor performance. NIHE also told us that where errors were found in contractors' invoices (overclaims), these were adjusted by district maintenance staff prior to payment and the errors were not recorded on the NIHE repairs system.

- 1.14 This is a significant omission in light of the high level of errors and failures now being recorded. In addition, we are concerned that not all instances of poor quality workmanship were being recorded by districts. For example, in one district in 2009-10 only four post-inspection failures were recorded in 2,300 jobs inspected by district maintenance staff; in contrast, NIHE's Repairs Inspection Unit found quality failings in seven jobs in a sample of 75 jobs.

NIHE failed to address poor performance of contractors and take necessary steps to strengthen contract management

Red Sky – a case study

- 1.15 The persistence of contract management problems and the lack of effective response by NIHE are illustrated by the Red Sky case. In July 2011, NIHE terminated its response maintenance contract with Red Sky. This followed lengthy and detailed investigations into the performance of the contractor.

Part One: Management of Response Maintenance Contracts

- 1.16 The contractual relationships between NIHE and Red Sky, including its previous related trading entities date back to the mid 1990's. As far back as 1996, NIHE had concerns regarding performance of the maintenance service⁶; these included alleged continual overcharging and claiming for additional works. In February 2000, Spectrum Premier Services (later to amalgamate with two other companies in 2006 to form the Red Sky Group) was awarded 4-year maintenance contracts for Belfast East (2), Belfast North (6), Belfast Shankill (5), Bangor and two Newtownabbey Districts (**Appendix 5**).
- 1.17 Since then, there has been a series of concerns and investigations involving the company:

Red Sky chronology of events

1. **2000 Allegations of impropriety and payments dispute**
In early 2000, a whistleblower alleged that a NIHE Maintenance Officer had a close relationship with the directors of Spectrum and had accepted excessive hospitality from the company, including staying at accommodation in the USA owned by a director of the company and going on a Caribbean cruise with the director. Photographic evidence was provided in support of the allegations. The case was investigated by the NIHE Fraud Unit; Spectrum declined to comment.
2. **Outcome:** NIHE found that the officer had breached the NIHE Code of Conduct. He was disciplined and was dismissed. However, following appeal, he was reinstated, given a final written warning and offered relocation to another post within NIHE. Subsequently, the officer took a career break and later resigned.
3. In another District, also in 2000, a NIHE Maintenance Officer was dismissed for breaching the NIHE Code of Conduct. The officer had deliberately split a payment to Spectrum, for drainage works, in order to keep payment authorisation limits within his control. There was also evidence of overcharging on this work.
4. Concurrently, NIHE was in dispute with Spectrum over alleged outstanding payments due to the company. Spectrum initially claimed that £173,000 was being withheld but after scrutiny by NIHE officials, the company revised this to £68,000. NIHE was able to show that £30,000 of this amount had already been paid, £6,000 had been cancelled, £14,000 had been paid under another project reference and £10,000 related to the drainage works which had been subject to investigation. The inaccurate claims were attributed by Spectrum to failures within its accounting system.
5. **2004 Award of contracts**
In August 2004, Spectrum was awarded 5-year maintenance contracts for Belfast East (2) and Belfast South (7).

⁷ Repairs Monitoring Unit (RMU) prior to 2008.

6. **2006 Belfast South investigation**

In November 2005, NIHE received an anonymous allegation that Maintenance Officers in the Belfast South (7) District Office had accepted excessive hospitality at the Odyssey complex in Belfast from Spectrum and in turn would raise work orders for the company. NIHE initiated an investigation to establish if there was substance to the allegations. The investigation involved the NIHE Fraud Unit and Repairs Inspection Unit (RIU)⁷.

7. RIU had recently conducted a routine programmed audit in the District, which identified inappropriate charges valued at £3,230 for duplicate payments, incorrect measurements and additional unnecessary work. The team undertook a more detailed investigation, including inspection of 250 jobs across all of the districts in which Red Sky was the contractor. A draft report was completed in September 2006, and estimated the total overpayments to Red Sky to be £264,000. This included:

- Additional payment for kitchens - £157,000
- Over-specifying works - £47,000
- Duplicate ordering - £36,000
- Deemed to be included in another order - £14,000
- Work not done - £8,000
- Previous outstanding payment - £2,000.

8. Internal Audit and the Audit Committee were briefed, for the first time, on this investigation in October 2006. The Committee agreed that the Director of Housing and Regeneration "should bring a paper back to Committee outlining the case and the investigations undertaken to demonstrate proper investigation". The Board was informed of the conclusions of the investigation in December 2006, some 12 months after the whistleblower's allegations.

9. Following internal discussions, NIHE decided that work on kitchens had been approved by District Maintenance Officers and, although the officers did not have the authority to make such approvals, the contractor may have been under the impression that they did. As a result, this element of the overcharging claim was dropped. The RIU report finalised in November 2006 attributed irregularities totalling £81,476 to Red Sky.

Part One: Management of Response Maintenance Contracts

10. NIHE confirmed that the then District Maintenance Manager for Belfast South (7) received a written warning, was removed from his post and relocated. All other Maintenance Officers received written warnings.
11. RIU also provided a report to the Police Service of Northern Ireland (PSNI) who took the view, at the time, that there was insufficient evidence to establish a criminal investigation. Following further research, negotiations and meetings, the Red Sky overcharge was further reduced to £61,000.
12. At the December 2006 Audit Committee meeting an independent member declared "a possible association with one of the parties referred to in the late paper circulated on Fraud Investigation Good Practice". The matter was discussed by the Committee after the member had left the meeting. The member resigned from the Audit Committee prior to its March 2007 meeting. He became Chairman of the Red Sky Group in April 2007. He told us that he had been approached by the company in December 2006 with a view to him joining its Board, but at that time he had had only limited initial discussions with the company. He also told us that it was at the December 2006 Audit Committee meeting that he was first made aware of the ongoing issues with Red Sky and left the meeting when that was being considered.
13. NIHE officials met with Red Sky in January 2007 and March 2007. At the March 2007 meeting the NIHE Director of Housing and Regeneration agreed a settlement figure of £20,000 with Red Sky. This meeting was also attended by the ex-independent member of the NIHE Audit Committee. He told us that he had attended this meeting after discussion with two of the most senior executives of NIHE as it was considered that his participation would be beneficial to both NIHE and Red Sky in seeking to diffuse a divisive and contentious issue.
14. Legal advice at the time was that it was reasonable to accept the offer from Red Sky. The sum of £20,000 was repaid to NIHE in four instalments of £5,000 between April 2008 and August 2008.
15. **2006 Formation of Red Sky**
Red Sky was formed in June 2006, with the amalgamation of three companies - Spectrum, Image Technical Services and AJ Kramer.
16. **2007 Award of West Belfast response maintenance contract**
The letting of several maintenance contracts to Red Sky, which were tendered in May 2006, had been delayed pending the outcome of the Belfast South investigation. In light of the PSNI opinion that there was insufficient evidence for a criminal investigation of the

irregularities, Red Sky was awarded 4-year maintenance contracts for Belfast West (1 and 3), Belfast North (6) and both Newtownabbey Districts in March 2007.

The West Belfast contract soon ran into problems with numerous complaints both from tenants and local representatives about the standard of work. The Belfast West District Maintenance Manager's assessment concurred with tenants' views and this was reflected in the scoring of Key Performance Indicators for Red Sky. This resulted in difficulties in the working relationship and disputes between Red Sky and NIHE District staff around interpretation of contractual specifications. These led to a significant backlog of jobs.

West Belfast – Communal Areas Cleaning

One aspect of the backlog of work and subsequent withholding of payments to Red Sky, related to communal cleaning of flats in West Belfast. In January 2008, NIHE engaged consultants to independently review and inspect this work. The inspection report concluded that cleaning was not being done consistently to the contract specification and there was a need in some blocks to have a one-off comprehensive clean to bring blocks to a state where they could be regularly maintained to a satisfactory standard. There were weaknesses in the NIHE specifications and sub-standard work was done by Red Sky or jobs were not carried out.

Cleaning was undertaken weekly and unsuccessful jobs, which failed post inspections, were overtaken by new orders, leading to backlogs of work and payments being withheld by NIHE.

A pilot exercise to refurbish the communal area of poorer blocks was agreed and completed by Red Sky. This provided a better base from which to start routine cleaning. NIHE drafted a new specification moving cleaning to a monthly rota and this, along with a separate programme of refurbishment of blocks, was agreed with Red Sky.

Outstanding invoices for cleaning were dealt with by payment of a percentage against specific time periods: 60percent (£41,768.60) before March 2008 and 90percent (£35,100) after March 2008. These payments were based on the assessment that cleaning had taken place but was ineffective in some cases because of the condition of the communal areas.

17. **Outcome:** In December 2007, NIHE served three months' notice of termination of the contract. This was challenged by Red Sky and, after taking legal advice, NIHE agreed with the company to postpone the termination notice for 6 months, to September 2008. This was to allow Red Sky time to resolve performance problems and both parties time to productively re-engage. This process was to be administered by a group of senior

Part One: Management of Response Maintenance Contracts

officials from both organisations but Belfast West District staff refused to participate due to grievances with Red Sky staff. A review by the NIHE Contracts Policy Manager recorded that there had been improvements in performance although some key areas required further attention from Red Sky. These areas included quality control, post-inspections, outstanding works, backlogs, dayworks and out-of-hours service. In September 2008, NIHE wrote to Red Sky stating that it was no longer seeking to terminate the contract.

18. The District Manager in Belfast West District Office was subsequently moved from this post and relocated within NIHE in August 2009. NIHE stated that the decision to rotate the manager was taken by the Area Manager as part of a planned rotation. However, an independent review found that, while the Area Manager did act within the established process in relocating this officer, a letter from Red Sky to the NIHE Director of Housing and Regeneration dated November 2008 could be interpreted as potentially exerting influence in NIHE's staffing decisions. The review noted that the tone of the letter inferred that some level of success was expected and it was a concern that no reply was sent from NIHE refuting this expectation. NIHE subsequently told us that a robust reply was drafted but this appears not to have been sent and that this oversight or misjudgement was regrettable.

19. **2008 Concerns raised with PAC**

In late 2008, the Public Accounts Committee was contacted by a whistleblower with concerns about work being done by Red Sky. In response, in April 2009 NIHE requested an investigation by RIU into all Red Sky maintenance contracts. RIU reported in June 2009, identifying around £10,000 of overpayments across all five Districts in which the company worked. Belfast East District accounted for over £7,000 of the total; RIU concluded that, "performance across contracts is variable and particular attention needs to be paid to East Belfast".

Notwithstanding this, in August 2009, the Belfast East and Belfast South maintenance contracts with Red Sky were extended for twelve months. In 2009, NIHE extended a total of 14 contracts, including the Red Sky contracts. Extensions were issued for the period up to 31 March 2010, or until the new contracts were let, to allow completion of the renewal procurement process.

20. **Horwath and RIU investigations**

As a result of continuing concerns we asked that NIHE carry out further forensic investigation of the work done by Red Sky. In June 2009, the NIHE Audit Committee agreed that an independent examination should be carried out. NIHE engaged ASM Horwath to conduct the investigation.

Horwath's review found overpayments across all of the work undertaken by Red Sky in the period May 2008 to October 2009. Based on the sample of jobs examined, the

extrapolated total level of overpayments was estimated to be £924,000. However, based on legal advice, NIHE could only recover the specific actual overpayments identified which amounted to £35,000; it recouped this sum from the company in April 2011.

21. In response to the Horwath report, RIU carried out seven further in-depth investigations of the Red Sky maintenance contracts. This uncovered significant over-claims to the value of £573,000 for a 30-month period (January 2009 to July 2011) (**Figure 2** and **Appendix 6**). Despite the extent of the irregularities found, KPIs for the contractor in all Districts, with the exception of Belfast West, were broadly rated as Excellent. An investigation by RIU focusing on communal lighting found that a number of inspections had been issued by NIHE District Maintenance staff and subsequently claimed for by Red Sky for a block of flats which had been demolished and for flats with no communal lighting.
22. Following these investigations a file was prepared and submitted to the PSNI. NIHE was subsequently advised by PSNI that there was not sufficient evidence of criminality and “that there had been systematic errors within NIHE in relation to accounting and supervision procedures relating to contracts for maintenance involving Red Sky”. Consequently, the PSNI would be taking no further action. On the basis of this NIHE decided it would not be appropriate to submit any further files to the PSNI relating to recent alleged overcharging in other Districts served by the same contractor.
23. In April 2011, NIHE gave Red Sky three months’ notice that it intended to terminate all its contracts. Red Sky went into administration after this announcement and the contracts were terminated in July 2011. NIHE has recovered £650,000 from the company. This includes the overpayments identified by Horwath and RIU (£35,000 and £573,000), an overpayment (£41,000) relating to a planned improvement scheme and public liability damages (£1,000).
24. At March 2012, additional problems with the quality of electrical work undertaken by Red Sky had been identified by NIHE. It anticipated that testing for these defects will cost at least £150,000 with further expenditure required to remedy the defects.
25. NIHE has also undertaken disciplinary investigations relating to maintenance staff in the Districts serviced by Red Sky. In three offices, disciplinary sanctions ranging from verbal warnings to final written warnings have been applied. NIHE is progressing disciplinary action in the remaining three offices.

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Figure 2: RIU investigations revealed significant overcharging by Red Sky

Contract	Value Recouped £000
Newtownabbey (1)	70
Newtownabbey (1) (Communal Lighting)	15
Belfast East (2)	130
Belfast South (7)	144
Belfast West (1 and 3)	84
Belfast North (6)	85
Newtownabbey (2)	45
Total	573

Source: NIHE

26. In May 2011, NIHE wrote to Constructionline with concerns about the rating (notation value⁸) it had provided for Red Sky. NIHE indicated that it had become aware in 2010 that the company's accounts had shown it to be in a financially unstable position. NIHE contacted Constructionline in November 2010 and was told that Red Sky had failed to meet deadlines for the submission of annual audited accounts. In December 2010, the company was suspended from the Constructionline database pending submission of the accounts. However, the company was reactivated in January 2011 after providing its accounts; it was given a notation value of £50,000. This value was subsequently increased to £2 million, allowing the company to tender for contracts of this higher value, following oral conversations between Constructionline, Red Sky and the company's auditors. The company had also provided unaudited management accounts for 2009-10 and one month's accounts for 2010-11.
27. Following a meeting between NIHE and Constructionline in August 2011, Constructionline stated that management accounts are only ever used as supporting information but, in the Red Sky case, these were taken into consideration when determining the notation value. Constructionline also commented that the most significant piece of information in determining the final notation was an extensive telephone conversation with Red Sky's auditors. It has now undertaken that information provided verbally can only be taken into consideration when it has been confirmed in writing.
28. NIHE was aware of the problems with Red Sky over a prolonged period. However, the company continued to be awarded contracts and NIHE missed opportunities to strengthen

8 Constructionline gives suppliers (contractors) a recommended contract value; this value is called a notation. The valuation takes into account a supplier's financial ability and established track record for successfully delivering contracts to a certain value. The notation is available to customers to assist in assessing the financial status of a supplier and their ability to deliver a contract.

these. Procurement regulations did not allow bidders' past performance to be used to exclude them from bidding for new contracts in an open competition. CPD has issued guidance⁹ on dealing with contractors' unsatisfactory performance. This states that continued poor performance cannot be ignored and contracting bodies should, through increased monitoring and management, work with a contractor to ensure contract requirements are met. Repeated failures by contractors will be treated as grave misconduct and may lead to the exclusion of the contractor from all procurement competitions covered by the Northern Ireland Procurement Policy for a period of twelve months. It is critically important that contractors' performance is closely monitored and recorded. The actions for tackling poor performance, as set out in the guidance, must be followed so that past performance is properly taken into account. Action must be taken to protect public money and ensure that poor performance is not perpetuated.

- 1.18 RIU has consistently, over a number of years and across Districts, identified overpayments to contractors. In 2009-10, in addition to the overpayments of £10,000 to Red Sky, the RIU annual inspection programme identified £44,000 of overpayments and £17,000 of underpayments across all NIHE Districts.
- 1.19 NIHE told us that it has a long track record in identifying and recovering overpayments and that overpayments are taken seriously. NIHE also stated that it invests more in the post inspection process than equivalent authorities in Great Britain and its review of contractor performance for the period April 2011 to March 2012 (paragraph 1.12) shows the effectiveness of its controls. In relation to suspected fraud or impropriety, these are thoroughly investigated and a number of potential fraud cases have been referred to the PSNI but these have not progressed in the absence of proof beyond reasonable doubt.
- 1.20 While recognising that NIHE has sought to recover overpayments and has investigated suspected frauds, in our view, the overall pattern of overpayments was not considered seriously enough by NIHE management or recognised as an indicator of potential fraud. NIHE's recent review of contractor performance and investigation of the causes of overpayments along with other initiatives, including enhancement of the role of RIU, are important developments.
- 1.21 The Red Sky case also raises concerns about the role of NIHE Maintenance Officers in inspecting work and, in some cases, failing to challenge poor work or identify work claimed for but which has not been carried out.
- 1.22 Further investigations are now being undertaken by NIHE and the Department into the work of a number of contractors. The Department commissioned a wider investigation of the performance of a number of contractors and this is expected

9 Procurement Guidance Note 01/12; http://www.dfpni.gov.uk/pgn_0112.pdf.

Part One: Management of Response Maintenance Contracts

to be finalised by autumn 2012. A draft report has been passed to NIHE for comment and its key findings cover:

- quality of workmanship;
- invoices submitted by contractors;
- completion of work on a timely basis;
- NIHE inspections;
- ability to recover overcharging; and
- duplicate Schedule of Rates (SoR) codes.

These are consistent with our findings. Part 2 of this report includes further comment on the quality of contractors' work.

Lessons from failings should be learned

- 1.23 There are a number of key lessons which have been highlighted by the Red Sky case. Contract management was weak and there were numerous significant warning signs. These should have led NIHE to take stronger action against the contractor to improve performance and against NIHE staff for breaches of expected standards of conduct. Failure to address these issues resulted in sub-standard work for tenants and loss of public money. The steps being taken by NIHE to improve contracting arrangements and contract management are welcome. However, improvements in performance and value for money need to be delivered in practice.
- 1.24 NIHE told us that weaknesses have been identified, which would not be considered to be systemic and action was and will continue to be taken as and when issues

arise. It has stated that lessons have been learned and these have informed the approach to the latest round of procurements. However, our findings (Part 2 of this report) and a recent review of contractor performance by NIHE (paragraph 1.12) indicate that contract management deficiencies go beyond this one case and across NIHE Districts.

- 1.25 Under new contracting arrangements, where there are service failures, NIHE intends to charge its costs to the contractor in the form of damages. In NIHE's view this should drive a behavioural change for contractors and promote an ethos for contractors to 'get it right first time'. However, we note that this was also a key principle within the NIHE procurement strategy (August 2006) that "contractors should be remunerated in a way which incentivises them to deliver good quality construction on time and to budget".

Part Two: Inspection of Repairs and Maintenance Work



Part Two: Inspection of Repairs and Maintenance Work

Inspection of repairs and maintenance work is undertaken by District Office maintenance staff

- 2.1 Response maintenance contracts are in place across NIHE's 35 Districts. These contracts cover day-to-day repairs requested by tenants, minor adaptations for disabled persons and immediate response to make repairs to properties resulting from incidences such as storms or civil unrest.
- 2.2 Requests for maintenance work are received initially by NIHE and passed on to the contractor responsible for this work in the relevant District. Where a job is expected to cost more than £100, is for

a change of tenancy or minor adaptation, a NIHE Maintenance Officer provides the specification for the work required and authorises the contractor to carry out the work. For jobs expected to cost less than £100, it is the contractor who specifies the work to be done.

- 2.3 Pre-inspection of work requests and post-inspection of work carried out by contractors is the responsibility of District Maintenance Officers. The process for inspection is set out in **Figure 3**. NIHE inspects jobs after completion of the maintenance work and before the contractor is paid. The extent of inspection is linked to the value and type of job.

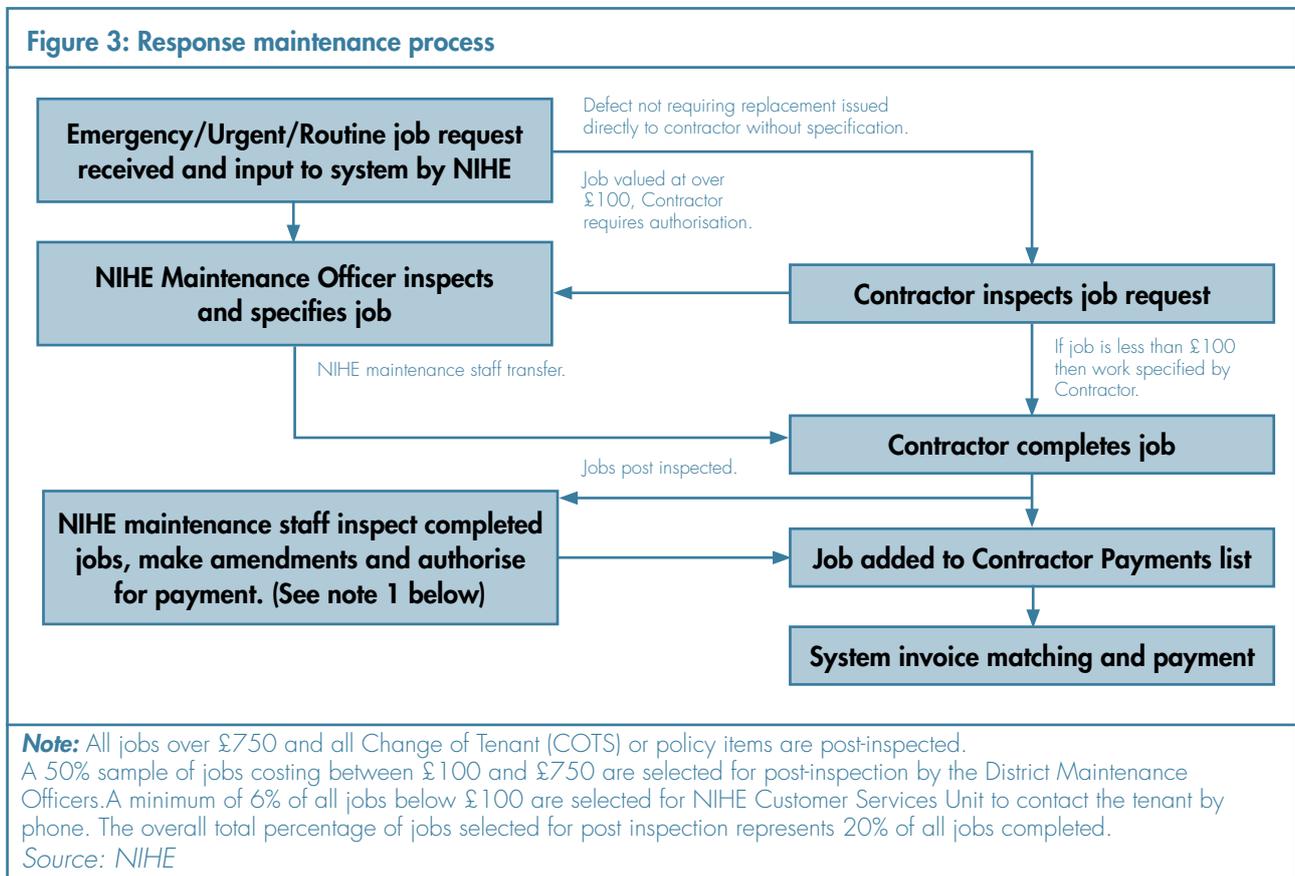


Figure 4: Numbers and cost of NIHE district maintenance staff 2009-10 to 2011-12

Year	Number of District Maintenance Managers	Number of Maintenance Officers		Annual Gross Salary Cost £'000	Overtime Costs £'000	Travelling & Subsistence Costs £'000	TOTAL COSTS £'000
		NIHE	Agency				
2009-10	28	124	11	4,993	69	398	5,460
2010-11	24	114	8	4,627	169	388	5,184
2011-12	24	107	14	4,666	206	360	5,232

Source: NIHE

2.4 NIHE employs around 150 District maintenance staff. Total costs for these staff are in excess of £5 million each year (**Figure 4**).

2.5 The approach to selecting jobs for post-inspection is based on NIHE's consideration of best practice. However, NIHE Internal Audit has stated that a static target for post-inspection is not always appropriate. The Governance Review of NIHE (December 2010) (paragraph 4.1) also recommended that NIHE review the current approach and consider whether the current sampling of jobs provides sufficient on-site inspection of jobs valued at less than £100 (jobs with a value of less than £100 are not subject to on-site inspection). In addition, following a recommendation of the OCG Gateway Healthcheck Review (December 2010) (paragraph 4.1) that a statistical approach to inspection be developed and incorporated into future contract management regimes, NIHE has reviewed its approach to the selection of cases for inspection.

2.6 In January 2011, NIHE added a new risk to its corporate risk register relating to the contract management issues identified by the Gateway Healthcheck review. This risk was to be addressed by increasing the level of inspections. NIHE has proposed a two-tier statistical approach, covering a random sample of jobs selected from the NIHE Housing Management System (HMS) and more targeted inspections where particular problems are identified.

The extent and impact of poor performance has not been fully appreciated by NIHE

2.7 In addition to the District inspection process outlined above, NIHE's Repairs Inspection Unit (RIU) provides a second tier check carrying out annual technical and management inspections of the maintenance functions across all 35 District Offices. NIHE explained that RIU was established primarily as a business improvement initiative within the Housing and Regeneration Division and to provide

Part Two: Inspection of Repairs and Maintenance Work

Figure 5: District performance based on RIU inspections 2007-08 to 2009-10

Name of District	Round 5 2007-08 Performance %	Round 6 2008-09 Performance %	Round 7 2009-10 Performance %
Antrim	92	92	91
Fermanagh	81	94	96
Portadown	83	90	87
Brownlow	74	90	94
Coleraine	87	88	82
Strabane	71	85	92
Londonderry (Waterloo Place)	80	85	90
Ballycastle	72	85	82
Armagh	79	78	93
Ballymoney	78	79	85
Lisburn (Antrim St)	78	90	72
Ballymena	80	79	89
Newtownards	63	81	91
Dungannon	78	79	87
Magherafelt	85	71	81
Omagh	65	79	92
Larne	77	75	76
Downpatrick	77	71	77
Londonderry (Collon Terrace)	68	75	83
Belfast North (4)	78	77	73
Londonderry (Waterside)	67	69	84
Cookstown	74	71	74
Newry	78	73	76
Belfast South (7)	69	77	78
Banbridge	61	75	86
Belfast North (6)	66	69	72
Carrickfergus	61	65	73
Bangor	66	56	85
Newtownabbey	62	60	70
Lisburn (Dairy Farm)	67	62	62
Castlereagh	62	48	71
Limavady	74	38	65
Belfast East (2)	45	52	57
Belfast West	46	36	72
Belfast Shankill (5)	49	23	51
Rating Key	A score of under 60% is deemed unacceptable performance		
	A score of 60% or more up to 75% is deemed limited assurance performance		
	A score of 76% or more up to 90% is deemed satisfactory performance		
	A score of over 90% is deemed substantial performance		

Source: NIHE

Note: Round 7 is latest available complete round of RIU inspections

assurance that policies and procedures were being implemented correctly.

2.8 **Figure 5** summarises District performance from 2007-08 to 2009-10 based on the results of RIU inspections. This indicates that performance has been improving; in 2007-08 and 2008-09, more than 50 percent of the District Offices were awarded Unacceptable or Limited opinions compared with 34 percent in 2009-10. However, poor performance continues to be a widespread problem in urban areas, particularly within Belfast and the Greater Belfast area. For example:

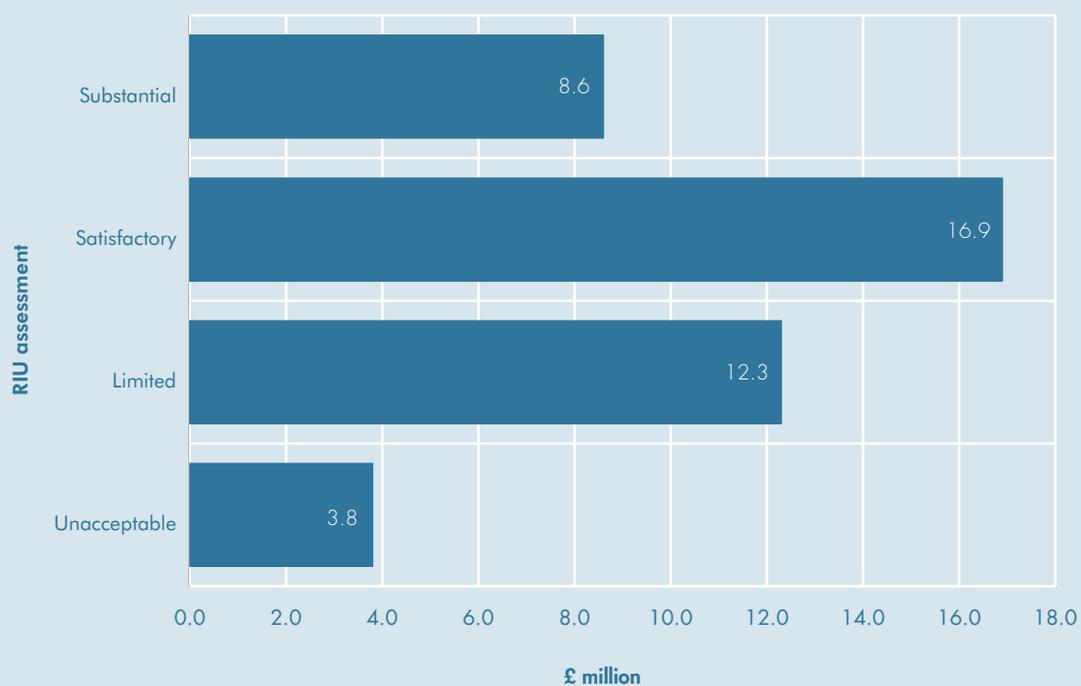
- Belfast West (1 and 3), Belfast East (2), Belfast Shankill (5), Castlereagh and

Lisburn (Dairy Farm) have consistently received Inadequate or Limited opinions; and

- Antrim and Fermanagh have consistently received Substantial or Satisfactory opinions.

2.9 In 2009-10, inspection classifications were also changed to align with Internal Audit classifications i.e. the previous Adequate classification was changed to Limited Assurance. As a result it is likely that, prior to 2009-10, Districts which were performing poorly were included within the Adequate rating.

Figure 6: NIAO analysis of 2009-10 response maintenance expenditure based on Repairs Inspection Unit's assessment of district performance



Source: NIAO

Part Two: Inspection of Repairs and Maintenance Work

- 2.10 While the RIU's assessments are based on checks of a small sample of work undertaken, they are important indicators of likely performance across all work undertaken within a District. **Figure 6** sets out our analysis of 2009-10 response maintenance expenditure (£42 million) based on RIU's latest available assessment of District performance; we were surprised to find that no such analysis had been undertaken by NIHE. This shows that some 39 per cent of expenditure (£16.1 million) relates to Districts where performance has been assessed as Unacceptable or Limited.
- 2.11 The RIU inspection assesses District maintenance performance under four key headings - contract management, probity, inspections (on-site) and Procedures. The Contract Management, Probity and Procedures assessments are essentially concerned with compliance with controls, processes and procedures and have generally accounted for 80 percent of the overall inspection score.
- 2.12 The on-site element of the assessment includes inspection of a sample of maintenance jobs. These include jobs that have been post-inspected by District maintenance staff and other jobs which have not required post-inspection. The part of the RIU inspection which focuses on the quality of workmanship, quantities of materials claimed by the contractor and the accuracy of the contractor's invoicing accounts for 10 percent of the overall inspection score.
- 2.13 There is evidence that NIHE did carry out annual reviews of the RIU inspection approach. However, there is no documentary evidence of the rationale for the weightings for the overall on-site element of the inspection. This weighting has varied in recent years. In 2009, it was reduced from 25 percent to 20 percent of the overall inspection score; in 2011 it was increased to 29 percent.
- 2.14 In the 2009-10 RIU inspection round, we found a number of District Offices which, according to RIU, achieved a Satisfactory overall assessment yet scored poorly for the on-site inspection element, in relation to quality of contractors' work and accuracy of contractor payments (cost predictability) (**Figure 7**):
- Downpatrick, South Belfast and Bangor scored zero out of 10;
 - Coleraine scored 1 out of 10; and
 - Larne and Newry scored 3 out of 10.
- 2.15 We also noted that some Districts with an overall Limited assessment, scored poorly in relation to quality of contractors' work and accuracy of contractor payments:
- Cookstown, Carrickfergus, North Belfast, Lisburn (Antrim Street) and Newtownabbey scored zero out of 10; and
 - Lisburn (Dairy Farm) scored 1 out of 10.
- 2.16 NIHE told us that Districts work to a target of restricting overpayments and quality failures to less than 1 percent.

Figure 7: RIU 7th round inspection programme 2009-10 final reports

District	Overall Rating	Overall score (out of 100)	On-site inspection score: quality of work and cost predictability (out of 10)	On-site inspection score (%)
Antrim	Substantial	91	6	60
Armagh	Substantial	93	10	100
Brownlow	Substantial	94	8	80
Fermanagh	Substantial	96	10	100
Newtownards	Substantial	91	10	100
Omagh	Substantial	92	10	100
Strabane	Substantial	92	8	80
Ballycastle	Satisfactory	82	5	50
Ballymena	Satisfactory	89	10	100
Ballymoney	Satisfactory	85	5	50
Banbridge	Satisfactory	86	10	100
Bangor	Satisfactory	85	0	0
Coleraine	Satisfactory	82	1	10
Londonderry (Collon Terrace)	Satisfactory	83	10	100
Belfast South (7)	Satisfactory	78	0	0
Downpatrick	Satisfactory	77	0	0
Dungannon	Satisfactory	87	10	100
Larne	Satisfactory	76	3	30
Magherafelt	Satisfactory	81	5	50
Newry	Satisfactory	76	3	30
Portadown	Satisfactory	87	6	60
Londonderry (Waterloo Place)	Satisfactory	90	10	100
Londonderry (Waterside)	Satisfactory	84	10	100
Belfast North (4)	Limited	73	0	0
Belfast North (6)	Limited	72	0	0
Belfast West	Limited	72	0	0
Carrickfergus	Limited	73	0	0
Castlereagh	Limited	71	3	30
Cookstown	Limited	74	0	0
Limavady	Limited	65	3	30
Lisburn (Antrim St)	Limited	72	0	0
Lisburn (Dairy Farm)	Limited	62	1	10
Newtownabbey	Limited	70	0	0
Belfast East (2)	Unacceptable	57	1	10
Belfast Shankill (5)	Unacceptable	51	0	0
Rating Key				
	A score of under 60% is deemed unacceptable performance			
	A score of 60% or more up to 75% is deemed limited assurance performance			
	A score of 76% or more up to 90% is deemed satisfactory performance			
	A score of over 90% is deemed substantial performance			

Source: NIAO based on NIHE data

Part Two: Inspection of Repairs and Maintenance Work

RIU inspections in 2009-10 found overpayments (net of underpayments) in Districts ranging from 0.1 percent to 3.8 percent of work inspected; the average across Districts was 1.7 percent. Applying this average to the total response maintenance expenditure in 2009-10, equates to a value of some £700,000. In the same period quality failures ranged from 0.2 percent to 6.0 percent of jobs inspected with an average across all districts of 1.8 percent.

2.17 In our view, the RIU inspection methodology gives insufficient weight to the quality of work carried out by contractors and hence value for money. In addition, it should be a requirement that an on-site inspection must achieve at least a Satisfactory rating for the quality of work in order for a District to attain an overall Satisfactory assessment.

2.18 This fundamental flaw in NIHE's current methodology becomes more stark when the on-site inspection scores are considered separately and the same assessment classifications applied – 21 Districts out of 35 would have achieved an Unacceptable rating with a further

2 being assessed as Limited. Applying these assessments to 2009-10 response maintenance expenditure shows the value of maintenance work by classification of on-site inspection (**Figure 8**).

2.19 This highlights very serious concerns about the value for money being obtained from response maintenance expenditure. Although the RIU sample of maintenance jobs is relatively small, in our view these findings, over several years regarding poor quality of post-inspections by District maintenance staff, poor quality of contractors' workmanship and inaccuracy of contractor invoicing, were indicators that improvements were required in the District maintenance process and that there was a significant risk to value for money. Senior management should have identified the risk indicators and acted to protect the public purse.

Concerns raised by RIU reports were not properly addressed by NIHE senior management

2.20 It is evident that RIU reports which identified areas of concern had not

Figure 8: Analysis of response maintenance expenditure by on-site inspection assessment 2009-10

Repairs Inspection Unit Assessment (on-site)	£ million
Unacceptable (21)	25.5
Limited (2)	2.2
Satisfactory (2)	2.9
Substantial (10)	11.0

Source: NIAO

been brought to the Audit Committee or Board for proper consideration and action. Reports provided by NIHE senior management to the Board were also structured in a way which failed to highlight important issues.

- 2.21 The outcomes of RIU inspections were reported quarterly to the Performance Review Group within the NIHE Housing and Regeneration Division. The Audit Committee also received quarterly progress reports on the RIU inspection programme. These provided a summary of the number of inspections completed and the assessments for Districts. Since November 2009, the format of these reports has been expanded to include a summary of the key issues identified by RIU.
- 2.22 Despite the serious nature of the RIU findings and the significant range of performance issues identified over a number of years, these were not adequately highlighted or addressed. No information was provided directly by RIU to the NIHE Board which highlighted significant issues. Furthermore, the annual reports for 2006-07, 2007-08 and 2008-09 provided no historical comparison to inform senior management of any trends in contractor and district performance or evidence that NIHE was taking effective action to improve performance where required.
- 2.23 The minutes of Housing and Regeneration Performance Review Group meetings provided only a brief summary of discussions; these minutes, and not the RIU reports, were provided to the Chief Executive's Business Committee meeting. Information on the details of the inspection programmes were not requested by this Committee and consequently, it did not see details of the outcomes of inspections.
- 2.24 Although RIU inspection reports were provided to Internal Audit, the significance of the findings was not reported by Internal Audit to senior management. NIHE has commented that response maintenance was not included as a high risk issue on its Corporate Risk Register in June 2008, and the new Head of Internal Audit taking up post at that time was unaware of any major concerns. In March 2012, a contractor performance report was submitted to the NIHE Risk and Performance Sub-Committee and NIHE has indicated that this will be a regular agenda item for that Committee.
- 2.25 In addition, prior to 2010, RIU did not formally monitor the implementation of its recommendations. In our view, this limited the impact of the Unit's work. RIU has now established a formal monitor for tracking implementation of recommendations with effect from the current round of inspections.
- 2.26 In effect RIU lacked independence as it was managed within the Housing and Regeneration Division. This was not addressed until May 2010, when the Audit Committee and Internal Audit recommended that RIU should relocate temporarily to the Internal Audit Unit within Corporate Services Division and report directly to the Audit Committee. It has

Part Two: Inspection of Repairs and Maintenance Work

since relocated to the new Corporate Assurance Unit (see paragraph 2.30).

2.27 Performance of contractors was also assessed against Key Performance Indicators (KPIs) set out in response maintenance contracts. The KPIs were also reported monthly to NIHE's Housing and Regeneration Performance Review Group and reflected the client and contractor's assessment of each other. However, these gave a much more favourable assessment of performance than the findings from RIU on-site inspections (**Appendix 7**). More worryingly, no one within NIHE appears to have made the connection, never mind challenged the inconsistencies, between the KPI reports and RIU's assessment reports.

2.28 The findings from RIU inspections, which indicated significant concerns about the operation of District maintenance controls and work being carried out by contractors, should have been brought to the attention of senior management, the Board and the Audit Committee. As a consequence, major concerns were not given the required attention by the Board, Audit Committee, NIHE senior management and Area and District managers.

2.29 NIHE accepts that, with hindsight, more detailed information on specific failings and action plans to address these should have been presented to the Board. It has also commented that:

- senior management, Audit Committee members and Board members were

aware of any special investigative work carried out by RIU;

- quarterly reports on inspection classification outcomes were provided to the Audit Committee, including an annual report, up to June 2010;
- more detailed information or further analysis on specific failings could have been presented to the Board but this was not an attempt to suppress information; and
- the new Risk and Performance Sub-Committee will have an important role in providing a filtering mechanism for both the Audit Committee and Board and enable a higher degree of scrutiny on these issues.

Changes are being made to improve inspection and reporting

2.30 In 2011, NIHE took steps to ensure that the functions of RIU are independent from operational management and that their reports and findings are provided to the Board and Audit Committee. NIHE also established a Corporate Assurance Unit, in June 2011, to provide assurance on the effectiveness of and compliance with existing controls. It comprises RIU, Grants Inspection Unit, Divisional Inspection Unit and Scheme Inspection Unit.

2.31 The establishment of a new Risk and Performance Sub-Committee (paragraph 2.29) will enable a greater degree of scrutiny on these matters. This Sub-Committee will be able to review RIU

findings in more detail and will have an essential role in both challenging performance and assessing risk. Contractor performance reports, as well as District performance reports, will be produced more regularly and reported to the Sub-Committee. The first report was submitted in March 2012.

- 2.32 These are important steps. However, processes and procedures alone are not sufficient. It is important that independent reviews are not only carried out and reported, but that management also takes appropriate action in response to findings and that contractor performance is improved.
- 2.33 RIU is making greater use of IT-based interrogation to assist in increased risk-based and targeted inspections. The approaches being adopted by RIU could provide lessons for similar inspections in other parts of the public sector.
- 2.34 RIU is also increasingly interrogating repairs data on the NIHE Housing Management System (HMS). This desk-based interrogation work is uncovering a greater level of overpayments. This work, combined with on-site inspection, could have wider application in other public bodies with response maintenance functions. It is important that lessons gained from the work of RIU are shared across the wider public sector.
- 2.35 RIU inspection methodology and approach must be flexible to respond to risks as they arise. It is essential that management evaluates the findings from

inspections and takes relevant action to improve performance, with robust action plans to ensure corrective action. NIHE Districts and contractors must meet the level of performance required to ensure the delivery of services to tenants and achieve value for money. We note that RIU methodology is currently being reviewed following RIU's incorporation within the Corporate Assurance Unit.

- 2.36 However, based on our findings and in the absence of any contrary concrete evidence, we can only conclude that, for many years, there has been a very significant risk to value for money in response maintenance expenditure. Indeed, in our opinion, the weaknesses in assessment, reporting and management oversight, particularly at a high level within NIHE, left the organisation exposed to impropriety and fraud.

Our recommendations are that:

- As RIU is a vital control in delivering quality and value for money in maintenance services, the annual inspection programme and methodology for assessing and reporting on work carried out by contractors should be based on clear criteria; it should be regularly reviewed to ensure that performance of contractors and Districts is evaluated and reported to senior management, that inspections focus on the quality of work delivered for tenants and that contractors are paid only for work done to the required standard;

Part Two: Inspection of Repairs and Maintenance Work

- RIU should provide an annual summary of the types of unsatisfactory work identified at on-site inspections. This should also highlight particularly unusual failings or trends which may indicate intention to circumvent contractual obligations or controls;
- The Corporate Assurance Unit inspection programme covers the full range of maintenance and repairs work. For example, this should include response maintenance of heating systems which have not been subject to inspection by NIHE;
- It is also important that the work undertaken by the Corporate Assurance Unit is seen to be complementary to, and linked with, Internal Audit's review of systems and processes. This will enable the Board, Audit Committee and senior management to arrive at an informed overall conclusion;
- Lessons from the RIU model and methodology should be shared with the wider public sector. NIHE should work with the Department and the Department of Finance and Personnel to ensure that important lessons are disseminated, particularly to other public bodies which have substantial repairs and maintenance functions. The positive steps being taken by NIHE and the beneficial work of RIU, the Corporate Assurance Unit and other initiatives should be considered by other public bodies; and
- In relation to the organisational review which NIHE is currently undergoing, revised governance structures must ensure that there is a balance of control and responsibility across the senior management team.

Weaknesses have also been identified in the management of planned maintenance contracts

- 2.38 During the course of our examination of the management of response maintenance contracts, we also became aware of concerns in relation to planned maintenance (see case studies opposite). NIHE planned maintenance expenditure since 2006-07 is shown in **Figure 9**:

Figure 9: NIHE planned maintenance expenditure 2006-07 to 2010-11

Year	£ million
2006-07	54
2007-08	55
2008-09	48
2009-10	67
2010-11	72

Source: NIHE

Case Study: planned maintenance - role of consultant managing agent

An external firm had been appointed by NIHE to manage contractors undertaking Adaptations for Disabled People Extensions work on NIHE properties. NIHE is currently in mediation to obtain recovery of alleged overcharging as a result of negligence by the managing agent. The estimated value of overpayments to the firm was £800,000 extrapolated across all schemes. NIHE has obtained legal opinion that there is no evidence of fraud and therefore is pursuing resolution of the dispute through mediation.

The final amount claimed by NIHE was £725,000, comprising overpayments of £525,000 and legal and expert fees of £200,000. At December 2011, NIHE had received an offer to settle from the firm's insurers. There remain some outstanding matters but NIHE was expecting to achieve recovery of a sum in excess of 80 percent of the amount claimed. Settlement of the case was expected in summer 2012.

Source: NIHE

Case Study: planned scheme contracts

NIHE's Scheme Inspection Unit inspected nine heating, windows and kitchen replacement schemes in the period June 2011 to September 2011. The inspection report rated three of the schemes as Satisfactory and six with Limited Assurance.

The inspections highlighted a number of serious concerns on the quality of work] and on the costs included in contractors' claims:

- poor quality work in many of the dwellings inspected, including fitting of faulty smoke alarms and loft insulation and ventilation not to the required standard;
- in some heating replacement schemes, tenants' focal fire and fireplaces were reused by the contractor but included for in the unit price; and
- in one heating scheme, in 30 percent of dwellings inspected, items were not fitted but claimed for in the final cost.

Action to be taken by NIHE following the inspection included requiring the contractor to remedy any sub-standard or incomplete work and, where necessary, payment to the contractors to be adjusted in relation to the varied works. While the inspection work has been effective in detecting poor performance, it is deeply concerning that there were widespread failings in the quality of work undertaken and that contractors so readily submitted claims for work that was not done.

Source: NIHE

Part Three:
Whistleblowing and Complaints



Part Three: Whistleblowing and Complaints

Cases of suspected fraud were not reported to the C&AG

- 3.1 Reporting fraud to the Department of Finance and Personnel (DFP) and the C&AG is an integral part of the overall process for managing the risk of fraud in the public sector. Departments are required to report immediately to DFP and C&AG, all proven or suspected frauds, including attempted fraud, which affect their Department or sponsored Agencies and NDPBs¹⁰.
- 3.2 In 2010-11, we found that of 22 ongoing fraud investigations in NIHE, only two had been formally notified to C&AG by the Department for Social Development (DSD) (see case study opposite). Failure to notify suspected frauds breaches an important accountability control and means that potential system weaknesses and susceptibility to fraud within an organisation are not identified and addressed. In light of our findings, the Department put in place arrangements to ensure procedures for notification were being followed promptly.

Case study: investigation of suspected fraud

In July 2005, a District Manager requested that an investigation be carried out by RIU in relation to allegations of inappropriate management by a former staff member in the District Office. The investigation focused on:

- 30 randomly-selected jobs where the individual concerned had both carried out inspections and approved related payments – the investigation identified overcharging in 27 cases, valued at £3,068;
- eight additional jobs identified by the District for consideration - overcharging of £2,516 was detected; and
- the identification of erroneous job codes linked to 42 jobs - overcharging valued at £2,083 was found.

The total value of overcharging detected was £7,667, which represented 5 percent of total payments.

This case involved both NIHE's Fraud Unit and the Department's Corporate Investigations Unit; however, there is no evidence that these circumstances were notified to C&AG in accordance with the requirements of Managing Public Money Northern Ireland.

Source: NIAO based on information held by NIHE

The NIHE whistleblowing policy is robust but procedures for dealing with concerns raised by staff need to be improved

- 3.3 The NIHE whistleblowing procedures were updated and issued to staff in July 2010. This includes assurances on the safety of the whistleblower, confidentiality and anonymity and information on external disclosures, the steps involved in raising a concern internally, how the matter will be handled and the availability of independent advice.
- 3.4 In 2010, NIHE established an Investigations Strategy Group (ISG) for

all types of investigations of alleged misconduct by staff, including allegations made by whistleblowers. ISG considers the nature of each case, determines what is the most suitable lead division to investigate, and considers the most appropriate actions required in relation to each individual case. It reports to the Audit Committee.

- 3.5 The number of whistleblower cases in the past six years has ranged from two to seven each year, with most of these allegations being made anonymously (**Figure 10**).

Figure 10: Number of whistleblower cases 2006 to 2011

Year	Total	Source		
		Anonymous	Internal	External
2006	2	2	-	-
2007	7	6	1	-
2008	3	3	-	-
2009	4	1	2	1
2010	7	7	-	-
2011 [to June 2011]	7	1	2	4

Source: NIAO based on NIHE data

Part Three: Whistleblowing and Complaints

- 3.6 NIHE whistleblowing files hold documentation on investigations of the whistleblowers' allegations and record the action taken or the reason why an investigation ceased, as illustrated by the following case study:

Case study: anonymous internal staff letter to the NIHE Fraud Unit

Approximately seven years after the dismissal of a District Maintenance Manager for misconduct, an anonymous letter was received stating that the new Maintenance Manager was actually the guilty party in relation to the acceptance of 'backhanders' (bribes) from contractors and continued to benefit from fraudulent claims – for example, removing fictional rubbish or inflating bills.

NIHE Repairs Inspection Unit conducted a preliminary investigation to try to establish any corroboration of the allegations. No evidence was found to support the allegations and it was concluded there were no grounds upon which to pursue the case.

Source: NIAO based on NIHE documents

- 3.7 However, we also found practices that are at odds with the whistleblowing procedures. In relation to anonymity, the procedures note that if a whistleblower does not disclose their identity it will be much more difficult to look into the matter, to protect their position, or to give them feedback. This is standard wording. However, in one case we found that NIHE initiated a search of its IT system

for words and phrases in an anonymous letter from a whistleblower to try to trace the writer. NIHE had also contacted the line manager in the relevant District to identify possible writers. NIHE told us that IT searches are carried out in exceptional circumstances and only with the approval of the Chief Executive or Director of Personnel when it is considered to be in the public interest. This is not intended, nor was it ever intended, to be to the detriment of a whistleblower.

- 3.8 The procedures also give an assurance that a whistleblower will not be at risk of losing their job or suffering any form of retribution. While this refers specifically to whistleblowing cases, it is also important that staff who raise concerns in the course of their work are protected. However, we found instances where staff who had raised concerns about performance of contractors had been transferred from their current post or had a contract of employment terminated (see case study opposite). While NIHE has provided explanations for its decisions in these instances, there is nevertheless the potential for perception that these decisions were influenced by the fact that the officers were raising concerns and challenging contractors. It is important that NIHE ensures that there is complete transparency in staffing decisions and that the rationale for these is fully documented. Clear communication and consistency in the treatment of staff in such circumstances are essential to maintain confidence and ensure staff are not deterred from raising valid concerns in relation to NIHE or contractor performance.

Case study: complaints from an ex-employee to the Department regarding fraud

In October 2010, an ex-employee of NIHE wrote to the Department questioning why a contractor's previously processed invoices were paid twice and whether this represented value for money. The whistleblower added that when he had been employed by NIHE he had been instructed to sign off substantial amounts of fraudulent invoices, which he refused; his employment was terminated a short time later.

The investigation into the claims did not support the allegations. However, the file notes that the employee had a very good knowledge and often challenged the contractor on their invoicing, identifying errors and overcharging to be rectified before he would approve payment. This challenging led to delays in payments and the contractor being owed a significant amount of money, resulting in acrimony between the contractor and NIHE. The employee had been employed by NIHE on a temporary contract. In April 2008, as his period of employment approached four years (after which he would have been made a permanent member of staff) his employment was terminated on the instruction of the Head of Design and Property Services.

NIHE told us that the whistleblower's employment contract had been terminated due to the restructuring of

technical posts. NIHE records do not include the reason for an agency worker leaving the organisation. However, it has said that as the agency worker in question was approaching four years employment and NIHE was about to embark on a major voluntary early release programme in 2009, it would not have been prudent to make this position permanent while releasing technical posts elsewhere.

We accept that NIHE commenced a programme to reduce the number of temporary or contract staff in its technical services. However, although the majority of staff had their contracts terminated, others were retained and given permanent posts.

Source: NIAO based on NIHE documents

- 3.9 Our review also found inconsistency in terms of disciplinary actions against members of staff. For example, disciplinary actions issued for breach of the NIHE Code of Conduct ranged from a verbal warning to dismissal. The NIHE Fraud Policy Statement and Fraud Response Plan state that 'the Housing Executive will not accept any level of fraud or corruption from within or outside the organisation'. However, we found that one member of staff who had used NIHE time and resources to carry out work of a private nature received only a written warning. NIHE told us that all cases referred to Disciplinary Hearings are dealt with on the individual merits of the case and take account of the seriousness of the allegations, the position and seniority

Part Three: Whistleblowing and Complaints

of the officer, their level of responsibility, the evidence presented by management, and the representations and mitigation put forward on behalf of the employee.

3.10 Our recommendations are that:

- NIHE should review its handling of whistleblowing cases and ensure that this is in line with best practice and the spirit of the legislation;
- NIHE should also review its processes for dealing with concerns raised by staff relating to the effectiveness, efficiency and propriety of NIHE operations and ensure that those staff are appropriately supported and protected; and
- NIHE emphasises its zero tolerance approach to fraud and corruption and ensures that it maintains consistent standards in dealing with breaches of discipline and its Code of Conduct.

The formal complaints process is not able to identify poorly performing contractors

Complaints process

3.11 NIHE recognises that information obtained from complaints can provide an opportunity to improve services. The procedure for tenants to follow when making a complaint is easily found on the NIHE website and information is available in local Offices. NIHE states that it wishes to sort out problems quickly and that local Offices will try to settle complaints immediately.

3.12 Complaints made to local Offices are classified as informal complaints. These complaints may be resolved by the local Office and many will not be registered on the NIHE Complaints Management System. If the local Office is unable to resolve a complaint, the tenant may avail of the NIHE formal complaints process (**Figure 11**). Most informal complaints

Figure 11: NIHE complaints process

Informal Complaint

NIHE aims to resolve problems quickly at local Offices. If a local Office is unable to put things right, the tenant can then use the formal Internal Complaints System.

Formal Complaint Stage 1

Complaints are investigated by the Area / Grants / Land & Property Manager.

Formal Complaint Stage 2

If the complainant is not satisfied, they may then appeal to the Chief Executive, to conduct a thorough independent investigation of the complaint.

Where a complainant remains dissatisfied with the outcome of the NIHE complaints process, they have recourse to the Commissioner for Complaints who may decide to investigate.

Source: NIAO based on NIHE documents

- recorded on the Complaints Management System are those where letters have been addressed to the Chief Executive or Area Manager.
- 3.13 NIHE's Complaints Officers meet regularly to discuss cases of interest and share best practice. These meetings are formally recorded and senior management are informed of any significant cases. There have been a number of reviews of the complaints procedure. In 2008, a NIHE review made a number of recommendations relating to complaints procedures, all of which were accepted and have largely been implemented. The 2008 Annual Report of the Commissioner for Complaints also noted that it is important that the public sector recognises that complaints can offer a valuable insight which enables learning from what has gone wrong.
- 3.14 It is important that NIHE continues to review the way in which informal complaints are handled and recorded to ensure consistency of treatment between Area and District Offices and that vital feedback on services and quality of work is not being missed.
- 3.15 NIHE monitors the formal complaints it receives and reports on these annually to the Board. Complaints mainly concern repairs, improvement schemes, transfers of tenancy, housing applications, house sales and neighbour disputes (**Figure 12**). The figures from the Complaints Management System show that the total number of complaints is slowly reducing over time.
- 3.16 In 2009-10, NIHE conducted an analysis of complaints in the 'repairs maintenance' category. It found that the largest number of complaints related to the timeframe in which the repair was carried out. In the period April 2010 to October 2010, the majority of complaints which progressed to the second stage of the complaints process related to the standard of workmanship.
- 3.17 These analyses also found that there were variations in the recording of complaints and what constituted a complaint. This resulted in training being provided to Districts in order to bring a greater level of consistency.
- 3.18 Formal complaints statistics are available by District and Area but not by contractor. In response to an Assembly Question in October 2010 on the number of complaints related to an individual contractor, NIHE had to manually examine each individual complaint to identify those relating to the relevant contractor.
- 3.19 NIHE is aware that the formal complaints process and the information obtained from complaints records do not fully reflect all of the issues relating to dissatisfaction with repairs carried out by contractors.
- Informal complaints are used to assess contractor performance**
- 3.20 Tenants also report problems related to repairs to the NIHE Customer Service Unit. This is a telephone service for tenants. Following a tenant's initial call to

Part Three: Whistleblowing and Complaints

Figure 12: Tenant complaints by category

Category	2005-06		2006-07		2007-08		2008-09		2009-10	
	Stage		Stage		Stage		Stage		Stage	
	1	2	1	2	1	2	1	2	1	2
Adaptations	9	2	8	2	7	2	17	7	5	2
Change of heating	5	-	5	-	3	-	6	-	4	1
Housing	91	30	134	31	112	41	95	30	94	17
Housing benefit	17	6	10	6	7	5	9	5	12	1
Neighbour complaints	18	7	19	7	17	5	16	5	24	7
Payment to tenants	7	2	5	2	9	1	6	1	3	-
Planned schemes	37	9	24	10	33	7	30	4	13	6
Rent account	6	3	10	1	4	2	3	-	9	2
Repairs maintenance	164	26	164	34	117	32	143	26	131	28
Staff attitude	15	6	12	4	21	6	28	5	22	4
Grants	21	10	23	20	21	11	23	23	70	24
Land and property	20	20	18	16	15	9	7	6	6	5
Total actioned	410	121	432	133	366	121	383	112	393	97
Total received	554		580		509		501		499	

Source: NIAO based on NIHE documents

the Unit regarding a repair, for example where a repair has not been carried out as scheduled, these complaints are classified as informal complaints. If a customer complains again about the same incident, the complaint is classified as a service failure and escalated to the relevant District Manager. There were a total of 9418 recorded informal complaints in 2010-11, with a further 8,932 recalls made to contractors where a similar defect at a property is referred within six months of a repair being carried out.

3.21 Since 2006, analyses of the reasons for the second time calls have been reported to the monthly meeting of the NIHE Performance Review Group. From April 2011, this report has shown the number of failures and the reason for the failure against each individual job. This provides an overall score for each District and each contractor. This information is used when assessing a contractor's Customer Service Key Performance Indicator and is provided to contractors prior to their monthly performance meeting with District Maintenance staff.

Figure 13: Continuous Tenant Omnibus Survey on tenants' satisfaction with repairs

Year	Respondents having repair in previous 12 months %	Satisfied with staff handling request for repair %	Repair completed within the timescale advised %	Satisfied with contractors' speed %	Satisfied with contractors' quality of work %	Satisfied with contractors' quality of materials %	Overall satisfaction with repairs service %
2010	68	88	83	90	88	87	75
2009	66	88	83	92	87	85	75
2008	64	87	n/a	89	86	86	73
2007	66	86	84	89	87	87	73
2006	65	84	84	87	85	83	71

Source: NIAO based on NIHE documents

3.22 Where a contractor fails to achieve the acceptable target score in Customer Service, an improvement plan must be agreed and implemented by the contractor to bring about improvements within the agreed time period.

Continuous Tenant Omnibus Survey

3.23 An annual Continuous Tenant Omnibus Survey is a key element of NIHE's research programme, informing and assessing compliance with a range of legislation and government policies. The survey includes information on tenants' satisfaction with repairs carried out (**Figure 13**). The main reasons reported for dissatisfaction are broadly similar each year:

- still waiting for the work to be done;

- poor quality workmanship; and
- taking several attempts to fix properly.

Although the surveys indicate that the percentage of tenants who are satisfied with the quality of contractors' work and the material used ranges from 83 percent to 87 percent, overall satisfaction with the repairs service has only been between 71 percent and 75 percent.

3.24 The scores from the surveys are not used when assessing contractor performance against Key Performance Indicators of Tenant Satisfaction with Service and Tenant Satisfaction with Quality of Workmanship. However, NIHE considers that they provide an additional source of information on customers' views of the service.

Part Three: Whistleblowing and Complaints

- 3.25 Our recommendations are that: NIHE should make use of all objective feedback on the performance of contractors to ensure that a balanced and comprehensive assessment can be made of the standard of service being provided to tenants. In particular, NIHE should record on its Customer Complaints Management System, the contractor against whom a complaint is made. Information from the range of sources on complaints should be used to compile regular reports to the Board and Audit Committee to indicate the level of complaints on repairs by District and contractor over the period of the relevant contracts. This information should also be evaluated in conjunction with other reports on contractor performance to enable assessments to be made of individual contractors and NIHE Districts.
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Part Four:
Contract Management and Governance



Part Four: Contract Management and Governance

Concerns have been raised about NIHE contract management and governance in a number of reports and investigations

- 4.1 There have been a number of recent detailed reviews of NIHE governance and contract management. These have included:
- Governance Review of NIHE (December 2010) carried out by the Department for Social Development Internal Audit;
 - Gateway Healthcheck Review of Egan Contracts (December 2010) carried out by the Office of Government Commerce (OGC) on behalf of the Department for Social Development; and
 - Review of management of response maintenance contracts with Red Sky (October 2010) carried out by consultants for NIHE.
- 4.2 These documented critical areas of concern and identified:
- failings in governance and the level of service provided by NIHE; and
 - that overpayments to contractors and poor performance by contractors had not been tackled.
- 4.3 Key findings from the NIHE Governance Review and the Gateway Healthcheck Review are set out in **Appendices 8** and **9**. While there is evidence of systematic and well-documented governance arrangements in place in NIHE, the nature

and scope of the failings has shown that these were not working in practice.

Governance within NIHE was not as effective as it should have been

- 4.4 The December 2010 report on NIHE governance identified many areas of concern. The report concluded that NIHE had good governance structures in place (**Appendix 10**) and there was much evidence of good practice at Board, Committee and management level. The report also concluded that there was good evidence that management were being challenged and held to account through the Board and Audit Committee.
- 4.5 However, the report identified a range of critical control issues which weakened the structures of governance and their effective operation. In addition to concerns relating to how RIU reports were handled, weaknesses and failings included:
- the nature and quality of information going to the Board; control, compliance and assurance issues relating to governance; handling of Internal Audit reports and the reliability of internal controls;
 - breaches of Standing Orders; for example at December 2010 there were over 280 breaches in relation to variations in contracts with overspend ranging from £34 to £600,000;

- significant issues which should have been drawn to the attention of the Board were not highlighted in Board papers; the review found that the manner in which information was brought to the Board by management was not appropriate given the relative gravity of the situation that prevailed for some time;
- Internal Audit had difficulty in clearing with management any reports which had Limited or Unsatisfactory ratings; this was noted particularly in relation to the Housing and Regeneration Division which covered much of NIHE's core business; and
- taking assurance from business activity is weak, relying on the integrity of individuals and dependent on all relevant matters being properly routed through governance structures; within NIHE there has been a culture of no blame and important issues have not always been highlighted.

Organisational structure

4.6 It is important that governance arrangements ensure that organisational structures do not create the circumstances where any single Director may have excessive influence and control. Organisational structures and culture are also critical elements in achieving good governance. Within NIHE, the Housing and Regeneration Division encompasses a large area of NIHE core business and it is likely that the Director of the Division held significant control in comparison to other

Directors. NIHE has recognised the need to achieve a fair balance of responsibility within the organisation and has indicated that it is taking the opportunity to do so as part of organisational restructuring.

Internal Audit reports

4.7 In June 2008, NIHE appointed a new Head of Internal Audit. At that time, an independent member of the Audit Committee expressed surprise that the Internal Audit Annual Report did not contain a list of all audits carried out during the year together with the relevant opinions. The member stated that this would be useful in informing the overall summary and in advising officers. This detail has subsequently been included in Internal Audit Annual Reports since 2009. We also noted that from 2009-10 the listing was further enhanced by linking audits undertaken to the six NIHE Corporate Objectives - Decent Homes, Independent Living, Urban and Rural Regeneration, Promoting Affordable Housing, Building a Stronger Community and Delivering Better Public Services.

4.8 It has been suggested to us that, for a period before 2010, senior management, particularly in the Housing and Regeneration Division, was resistant to Internal Audit findings and potential Limited Assurance opinions. The two case studies overleaf provide useful illustrations of (1) where senior management suppressed a critical Internal Audit Report and (2) where they brought pressure to bear on Internal Audit to change an adverse opinion. NIHE also informed

Part Four: Contract Management and Governance

us that challenges to audit opinions from senior management were made at pre-Audit Committee meetings of the Chief Executive's Business Committee. These challenges were not recorded. In addition, our review of Internal Audit's Annual Reports (**Figure 14**) identified that, from 2006-07 to 2008-09, only two Internal Audit reports had a Limited Assurance audit opinion in over 150 audits completed. In contrast, in 2010-11 ten reports had Limited Assurance opinion out of 44 audits.

Figure 14: There were only two Internal Audit Limited Assurance opinions between 2006-07 and 2008-09

Year	Number of audits completed	Limited Assurance opinions
2006-07	52	0
2007-08	50	1
2008-09	57	1
2009-10	55	4
2010-11	44	10

Source: NIAO based on NIHE Audit Committee Minutes

Case study: Land Disposals-report suppressed by NIHE senior management

In January 2007, Internal Audit produced a report on land disposals. The report made a number of recommendations but, unusually, no audit opinion was attached. The report was referred to the Director of Housing and Regeneration Division and copied to the Chief Executive and the Deputy Chief Executive. Management responded to the report in February 2007, taking issue with the recommendations.

In March 2007, the Audit Committee was provided with an information brief on the land disposal process; however, no major issues were raised and the Audit Report was not included with the paper. The report was never finalised.

As part of the Internal Audit Plan for 2007-08, a further audit was conducted to obtain assurance that controls were adequate to effectively manage land disposal risks. A satisfactory audit opinion was given and a report was presented to the Audit Committee in June 2008. However, yet another audit in June 2009 on land disposals gave a Limited Assurance opinion. A key issue in arriving at this opinion was the absence of economic appraisals for land disposals, which had been an issue raised in the previous report in 2007.

Source: 'The Review of Governance in the Northern Ireland Housing Executive', 8 December 2010

Case study: kitchen replacement schemes-Internal Audit opinion changed

In May 2009, a draft Internal Audit report on kitchen replacement schemes was classified overall with a Limited Assurance opinion and issued to Housing and Regeneration Division management. Following management response, Internal Audit retained the Limited Assurance opinion.

Following a Chief Executive's Business Committee meeting, at which the Chief Executive challenged the findings, the audit team met with Assistant Directors with responsibility for the kitchen replacement programme. A further management response was received in August 2009 stating that it was not satisfied with the opinion. The report was subsequently finalised in August 2009 with an overall Satisfactory opinion and presented to the Audit Committee in October 2009. However, one of the objectives covered by the report (to ensure all schemes are fully monitored for both financial and physical progress and appropriate change control procedures are in place) remained with a Limited Assurance opinion. Internal Audit documentation does not clearly show why the overall opinion was changed.

In December 2011, the Corporate Assurance Unit reported to the Audit Committee on inspections of five kitchen replacement schemes. The Unit's report raises concerns about quality and

possible significant overcharging. In our view, this suggests that the concerns identified by Internal Audit in 2009, regarding weaknesses in financial and physical progress controls, had been deliberately set aside and ignored by senior management in NIHE.

NIHE has commented that the original audit report classified three of the five objectives covered as Satisfactory; two were classified as Limited with an overall Limited Assurance opinion. Following discussions with the Chief Executive and Director of Housing and Regeneration Division, the Head of Internal Audit undertook to review the findings with the relevant Audit Manager. Due to absence, the report did not make the deadline for the planned Audit Committee meeting and was deferred to the October 2009 meeting. By that time additional written procedures had been developed and reviewed by the Internal Audit team which moved one objective from Limited to Satisfactory. This had the effect of changing the overall opinion from Limited to Satisfactory.

NIHE accepts that, for the purposes of transparency, an adequate written explanation for this change of opinion would be preferable and any changes to draft Internal Audit opinions are now reported to the Audit Committee each quarter – this will enable the Audit Committee to track reports which are still in progress.

Source: NIAO based on NIHE documentation

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4.9 It is critically important that Internal Audit and inspection functions are fully independent of the operational side of the business and that these report to the Audit Committee and the Board. Cases of overpayments should always be closely considered in terms of the risk of fraudulent or irregular activity. The independence of Internal Audit was being compromised, but recent changes by NIHE are intended to address this issue. NIHE recognises and accepts the importance of the principle of independence. Internal Audit and Corporate Assurance Unit are within the Corporate Services Division which has operational functions. However, NIHE considers that the roles of Internal Audit and Corporate Assurance Unit, which reports to the Board's Risk and Performance Sub-Committee, are sufficiently independent from other operational Divisions.

Board and Audit Committee business

4.10 Having looked at the range of business covered by the NIHE Board and reviewed Board documentation, in our opinion Board business did not provide adequate scrutiny of contract management. Reports from management did not provide information to enable proper scrutiny on overall number and value of repairs and maintenance contracts, performance of contractors, overpayments and the effectiveness of NIHE's inspection regime. In the five years up to 2010-11 there is limited reference in Board papers to contract

expenditure monitoring or reporting. Also, in relation to addressing compliance issues, the Board indicated that it is continuing to hold senior management to account for evidenced failings, and notes that compliance issues are being addressed following the introduction of Assurance Statements, the creation of an independent Corporate Assurance Unit and the recently established Risk and Performance Sub-Committee of the Board.

4.11 NIHE has commented that there is an important balance to be struck between strategic and operational management. NIHE considers that it has applied adequate scrutiny to the appropriate level and appropriate action was taken or initiated by the Board, the Audit Committee or Project Group when any deficiencies were identified. Addressing compliance issues has been delegated to senior management and it is not the role of the Board to micro-manage operational issues, but rather hold senior management to account for evidenced failings. NIHE has also indicated that all previous reports and assurances to the Board and the Audit Committee from a variety of sources indicated that contract management was satisfactory within the organisation but where issues arose immediate actions were put in place to address weaknesses and deficiencies.

4.12 In addition, we found that Board and Audit Committee agendas were long, included large numbers of papers and did not focus on strategic objectives. It is likely that the regular large volume of papers

and lengthy agenda meant that important business and scrutiny of performance did not get due attention.

- 4.13 NIHE commented that the scope and extent of both agendas and papers is indicative of the extensive role of the organisation. The information requested by and provided to the Board is constantly under review to enable the organisation to deliver its strategic role. Papers are issued in a timely fashion to provide members with adequate time to review content and ensure the Board makes best use of the expertise within its membership. NIHE also told us that it has reviewed the material going to the Board to allow more time for scrutiny of issues of greater significance.

The Assembly's Public Accounts Committee has identified important lessons to improve governance in the public sector

- 4.14 In 2011, the Assembly's Public Accounts Committee (PAC) reported on the governance of NI Water. The Committee identified important lessons:

- the Board is required to hold management to account and should call for any information necessary. Board members must recognise that they have a responsibility to challenge management, auditors and the information put before them;
- Board members must receive accurate information from management, accurate independent assurance

from auditors, and the support of the Department;

- Internal Audit should retain a risk-based approach but introduce an increased level of detailed testing; and
- contract audit should be given greater prominence in the audit programmes of all government departments and NDPBs.

- 4.15 NIHE stated that it had noted the lessons from the PAC report on the governance of NI Water and is satisfied that the Board has been holding management and internal auditors to account. It also said that additional Internal Audit resources had been devoted to contract management issues, with nine of 49 audit assessments (18 percent) in 2011-12 examining contract management issues.

- 4.16 PAC, in its 2008 report on the governance of arm's length bodies¹¹, also recommended that:

- Departments should be represented at the audit committee of arm's length bodies;
- Non-executive members of boards have a responsibility to challenge board processes where these are weak or do not follow best practice; and
- Non-executive directors should raise their concerns with the sponsor department if these are not adequately

¹¹ Public Accounts Committee Report 28/07/08R Effective Relationships between Departments and their Arm's Length Bodies, 24 April 2008.

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addressed by the arm's length body in the first instance.

4.17 In particular, the Committee has recommended that:

- Non-executive members of boards are made aware, on appointment, of their responsibility to challenge board processes where these are weak or do not follow best practice. Non-executive members should raise their concerns with the sponsor department if these are not adequately addressed by the arm's length body in the first instance; and
- Accounting Officers in all departments must learn from the Department of Culture, Arts and Leisure's experience and its action to implement a review of all of its arm's length bodies, and all departments should consider periodically undertaking similar independent reviews of the systems of control in their arm's length bodies.

4.18 NIHE has indicated that it has taken action on the lessons from the PAC report on governance of arm's length bodies and several reviews of corporate governance within NIHE have been undertaken. Since January 2010, a Departmental representative has attended NIHE Audit Committee meetings as an observer and NIHE is satisfied that Board members are fulfilling their roles and responsibilities.

4.19 Board members have a responsibility to challenge management. The Board

must ensure that it is fully informed and it must receive timely and accurate information from management. PAC stated that "it is not sufficient only to have appropriate structures of governance in place. Departments need to ensure that there is a strong culture of accountability with their arm's length bodies and that good governance is delivered in practice". This culture of accountability was absent in NIHE and over a period of years significant weaknesses were not addressed.

4.20 In addition, it is essential that Board members have a clear understanding and knowledge of the organisation's business activity to enable them to exercise effective challenge to management. NIHE Board members do undertake site visits to observe specific areas of NIHE's business and have reported that these have been particularly useful. This is welcome. However, it is not clear to us how the knowledge gained on such visits was applied at Board or Audit Committee meetings. For example, as happened within NIHE, where information was withheld or cursory in nature, members must have sufficient knowledge and understanding of the business to challenge management.

4.21 In our view, it is important that members of the Board and Audit Committee are proactive within the organisation across the range of business areas and engage with staff at all levels, tenants and other stakeholders.

NIHE has taken steps to improve governance arrangements but management information systems need to be improved

- 4.22 NIHE and the Department have committed to implementing the recommendations from the governance and contract management reviews (paragraph 4.1). NIHE has put in place action plans to take forward the recommendations. An Oversight Implementation Group was established, chaired by the Department, with two other representatives from the Department and external representatives from the Department of Enterprise, Trade and Investment, Central Procurement Directorate of DFP and an independent member. While this Group's remit included assessing the content of and progress with the implementation plans put forward by NIHE and providing broad strategic advice and guidance, it no longer meets. Oversight arrangements are operating instead through quarterly accountability meetings and the Department's membership of the NIHE Oversight Board.
- 4.23 A NIHE Oversight Board, comprising the NIHE Chief Executive, Directors and two Board members, was set up to approve the implementation plans and to oversee their effective and efficient delivery. A representative from the Department also sits on the Oversight Board.
- 4.24 In September 2011, a follow-up report to the OGC Gateway Healthcheck Review (see paragraph 4.1), looking primarily at the delivery of new response maintenance contracts, noted that

considerable progress had been made in taking forward recommendations from the December 2010 review.

- 4.25 The Gateway Review recommended that urgent attention should be given to issues that are critical to contract management for both current and future contracts. This included having a named member of staff, or responsible officer, undertaking contract/contractor management. The review also recommended that the detailed reporting requirements for District Managers, Area Managers, central Directorates and the Board should be identified and agreed. NIHE has indicated that issues in relation to reporting arrangements have been resolved and Area Contract Managers have been appointed.

Important lessons on contract management identified by previous PAC and NIAO reports have not been learned

- 4.26 Our report on Introducing Gas Central Heating in Housing Executive Homes¹² raised concerns on a range of matters. These included the investigation and reporting of suspected fraud, poor performance of contractors and the overall lack of control of contracts exercised by NIHE which allowed contractors to produce poor work with impunity. NIHE considered that its responses to our report had been appropriate and that improvements would be delivered through the new partnering arrangements in contracts. However, it appears that the

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serious issues raised were not properly addressed.

- 4.27 Our report on the Investigation of Suspected Contract Fraud in Education and Library Boards¹³ also identified a number of lessons relevant to contract management in general. These included:
- proper checks of contractors' invoices should be made before payment;
 - physical inspection of work is key both to the prevention and detection of fraud; and
 - sole reliance on management information provided by a third party represents a system weakness.
- 4.28 PAC subsequently reported¹⁴ on this matter and recommended that "all public bodies with annual maintenance procurement of more than £1 million should conduct a similar review against the lessons emerging from this report". The review, as recommended, was carried out by NIHE's Internal Audit and the findings considered by the NIHE Audit Committee in June 2010;

Case study: NIHE Internal Audit review of lessons from the Public Accounts Committee report on Suspected Contract Fraud

NIHE's June 2010 Audit Committee considered the report by Internal Audit on the lessons set out in the PAC Report on Suspected Contract Fraud.

This covered Procurement, Contract Management, Fraud Investigation, Whistleblowing and Organisation and Public Sector Standards.

Internal Audit recorded a limited Assurance opinion on contract management and commented that "while this review indicates that documented procedures do exist, recent investigations would indicate issues surrounding non-compliance with controls. The Executive's systems of control are adequate, but if designed systems are not adhered to, then the Executive is at risk".

Source: NIAO based on NIHE documents

- 4.29 Prior to this Internal Audit report, no significant concerns about contract management had been brought to the attention of the Board or Audit Committee, even though the evidence indicates that there had been weaknesses and failings over a period of years. We can only conclude that these lessons had not been read across and taken on board by NIHE. It is essential that all public bodies take on board the findings from investigations in other areas of the public sector which are relevant to their business activities.
- 4.30 NIHE has accepted that more detailed information on specific failings and action plans to address these should have been presented to the Board. However, it has also commented that, whilst the strategic reviews of contract management have been positive over the last decade, some contract management concerns have

12 Introducing Gas Central Heating in Housing Executive Homes, NIAO: NIA 43/03, HC 725 Session 2003/04 1 July 2004.

13 The Investigation of Suspected Contract Fraud, NIAO: NIA 103/08-09 29 April 2009.

14 Report on the Investigation of Suspected Contract Fraud 01/09/10 2 July 2009.

been raised on a periodic basis with the Audit Committee, including the consultant managing agent (paragraph 2.38) and Red Sky cases. NIHE considers that the Board and Audit Committee received assurances both internally and externally regarding contract management and that these were at the strategic level appropriate to the Board. In its view, matters were investigated and assurances received that issues had been or were being addressed and information was not deliberately suppressed by management.

Monitoring of response maintenance contract expenditure

4.31 Expenditure in 2009-10 and 2010-11 on all response maintenance work (including heating) was £49.2m and £49.3m respectively, against budgets of £42.4m and £51.1m (**Figure 15**). In most NIHE Areas, expenditure has significantly exceeded budget. Variances have ranged from 26 percent overspend to 4 percent underspend.

Figure 15: Response maintenance expenditure 2009-10 and 2010-11

Area	2009-10				2010-11			
	Budget £'000	Actual £'000	Variance £'000	Variance %	Budget £'000	Actual £'000	Variance £'000	Variance %
WEST	6,744	8,521	1,777	26	8,102	8,591	489	6
NORTH EAST	9,085	10,504	1,419	16	9,863	9,436	-427	-4
SOUTH	7,384	8,128	744	10	8,277	9,197	920	11
SOUTH EAST	8,717	10,426	1,709	20	9,000	9,905	905	10
BELFAST	10,507	11,620	1,113	11	11,851	11,753	-98	-1
	42,437	49,199	6,762	16	47,093	48,882	1,789	4
HQ ¹					4,000	439	-3,561	-89
Totals	42,437	49,199	6,762	16	51,093	49,321	-1,772	-3

Note 1:

NIHE received an additional £4m in February 2011 to cover severe weather payments. NIHE was unable to allocate the budget to specific Areas as its reporting system was not sufficiently detailed to provide an analysis of severe weather payments by Area.

Source: NIHE

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- 4.32 Contract expenditure is reported on generally through management accounts, a monthly finance paper to the NIHE Board and in annual accounts. However, these accounts and reports do not separately identify contract expenditure.
- 4.33 NIHE told us that more detailed information is presented, for example, at Area management level for monitoring, reporting and identifying significant trends and variances. Information is communicated to the central finance team for budget monitoring. Alongside this, the contract monitoring system records expenditure against approved budget, on a project by project basis for planned schemes, and this information is presented to management to allow them to control scheme expenditure on an ongoing basis.
- 4.34 In view of the high value of expenditure on response maintenance, the inherent risks with these contracts and the previously identified weaknesses in contract management, it is important that expenditure and performance of contractors is monitored by senior management. However, definitive information on the number of contracts and expenditure analysed by contractor was not readily available from NIHE. In addition, there were only limited specific references to contract expenditure and contract management in Board and Audit Committee papers in the period since 2005. NIHE told us that further analysis on contractor performance has recently been undertaken and reported to the Risk and Performance Sub-Committee of the Board and contractor performance will be a regular item on the agenda of this Committee.
- 4.35 Monitoring of expenditure and performance of contractors is carried out at District and Area level in NIHE. District Managers have the facility to produce reports on contract expenditure for monitoring purposes and also meet monthly with the NIHE Finance Division to discuss management accounting issues around contracts. However, there is no indication that contract expenditure has been monitored at an organisational level or that the reasons for variances from budget on response maintenance, and in particular the significant levels of overspend, have been sought or investigated by senior management. NIHE told us that Area management accountants have played a key role in monitoring and challenging significant variances at local level but, in light of recent experience, further improvements are necessary to strengthen controls. The NIHE Finance Division is being restructured and it is intended that this will lead to better oversight of contract costs and trends.
- 4.36 In April 2010, a paper on the control framework for Egan response maintenance contracts was provided to the Board. The paper listed All Trades maintenance contracts (34) and contractors (16) operating at that time. However, the paper did not include information on the amounts paid to the contractors. Our review of expenditure on the contracts indicated a number of

inconsistencies in the information held by NIHE:

- the Board paper listed the NIHE Direct Labour Organisation (DLO) as the contractor for Coleraine and Belfast 4 North Districts from June 2004 and August 2004 respectively. Financial reports for response maintenance expenditure did not include payments to the DLO in these districts after 2006-07; however, payments in respect of the DLO were recorded separately; and
- the Board paper did not include details of an All Trades response maintenance contract in Armagh District which had come into effect in February 2010.

4.37 In our view, given the importance of contract management to the core business of NIHE, the information provided to senior management, the Board and Audit Committee has not been adequate. This is a matter of concern and NIHE should ensure that accurate and timely information on contracts let, contracts operating and contract expenditure against budget and by contractor is readily available and routinely reviewed by senior management, the Board and Audit Committee.

Appendix 1 (paragraph 1)

Centres of Procurement Expertise (CoPE)

To be recognised as a CoPE, a procurement organisation must have a procurement expenditure of at least £80million. NIHE has procurement spend averaging £263million each year. Arrangements in place in NIHE are for the procurement of supplies, works and services.

Eight CoPEs were established in Northern Ireland in May 2002 as part of the public procurement policy reforms. These organisations have procurement expertise in their respective areas of responsibility. CoPEs are appointed and monitored by the Procurement Board for Northern Ireland.

A subsequent NIHE document dated August 2006 refers to NIHE being 'one of 8 Centres of Procurement Expertise in the Northern Ireland Public Sector. As a CoPE, we are committed to making the Housing Executive an exemplar of how the public sector in Northern Ireland and business can work together to improve the service to the public.....there is a requirement that CoPEs should satisfy the Procurement Board of their competency every three years against set criteria'.

Procurement through a CoPE is intended to ensure that there is a professional influence on all procurement activity in order to maximise value for money and ensure compliance with EU and UK legislation. Value for money is to be achieved through compliance with the 12 Principles of Public Sector Procurement: accountability, competitive supply, consistency, effectiveness, efficiency, fair dealing, integration, integrity, informed decision making, legality, responsiveness and transparency.

Appendix 2 (paragraph 7)

Response maintenance expenditure by district 2006-07 to 2010-11

District	All Trades Response Maintenance Expenditure (£)	Heating Response Maintenance Expenditure (£)	
Belfast 7 (South)	8,061,780	1,319,570	
Belfast 5 (Shankill)	9,751,857	1,164,251	
Belfast 2 (East)	6,328,455	1,045,765	
Castlereagh	7,403,049	931,727	
Lisburn (Antrim Street)	7,532,303	1,222,481	
Lisburn (Dairy Farm)	3,014,342	660,489	
Banbridge	3,480,934	494,771	
Armagh	3,280,361	463,528	
Lurgan/Brownlow	7,606,188	895,753	
Portadown	4,080,595	546,308	
Magherafelt	1,904,313	297,174	
Limavady	2,599,969	465,132	
Omagh	4,490,255	699,449	
Cookstown	1,543,601	314,955	
Downpatrick	6,798,392	876,422	
Newry (1-5)	4,735,996	685,536	
Dungannon	3,949,359	567,480	
Fermanagh (4&5)	4,596,737	668,535	
Strabane	4,999,663	864,567	
Belfast 1 (West)	2,753,920	570,753	
Belfast 3 (West)	3,993,138	1,056,567	
Belfast 6 (North)	4,694,803	1,000,013	
Newtownabbey 1	3,938,739	732,014	
Newtownabbey 2	3,232,313	759,208	
Ballymena	5,756,096	1,400,054	
Carrickfergus	1,674,130	833,827	
Larne	1,889,886	613,710	
Bangor	3,871,228	1,043,650	
Newtownards	6,568,369	1,499,841	
Londonderry (Waterloo Place)	4,270,623	754,960	
Londonderry (Collon Terrace)	5,658,969	871,431	
Londonderry (Waterside)	5,106,781	815,759	
Antrim	5,287,390	966,364	
Ballycastle	1,292,900	246,931	
Ballymoney	2,762,802	480,609	
Coleraine	6,390,613	938,138	
Belfast 4 (North)	5,869,270	832,438	
TOTAL EXPENDITURE	171,170,119	29,600,160	200,770,279

Source: NIAO based on NIHE data

Appendix 3: (paragraphs 1.2 and 1.1)

Egan contracts

Up to the 1980s there was emphasis on competitive tendering and lowest price, which led to increasing confrontation, claims to recover costs, and budget and time over-runs. The problems as identified by Sir Michael Latham in 1994 are summarised: client dissatisfaction; poor performance by all; adversarial relationships; claims culture; non-existent profit margins; and heavy lobbying by specialist contractors.

The Construction Task Force was set up by the Deputy Prime Minister in 1998, against a background of deep concern in the industry and among its clients that the construction industry was underachieving, both in terms of meeting its own needs and those of its clients. The industry recognised the need to modernise and identified a few problems: it had a low and unreliable rate of profitability; it invests little in research and development and capital; there is a crisis in training; and too many clients are indiscriminating and still equate price with cost, selecting designers and constructor almost exclusively on the basis of tendered price.

In 1999 the UK public sector, as a result of the Egan report, began an initiative entitled 'Achieving Excellence in Construction' and all major bodies were required to deliver a response in terms of their procurement of construction contracts. DFP launched an initiative in Northern Ireland and the NIHE, along with many other organisations adopted the Egan principles in 2001.

Key principles and objectives of Egan contracts

Rethinking Construction 1998 (the Egan Report) published by the Department of Trade and Industry focused on the scope for improving the quality

and efficiency of UK construction. It recommended substantial changes in the construction industry's culture and structure, and replacing competitive tendering with long-term relationships based on clear performance measurements, sustained quality, efficiency improvements and shared learning. It developed Key Performance Indicators (KPIs) for the whole of the UK industry which overtime have become a widely used tool for the UK construction industry, with over 700 different types of KPI for analysis.

The report recommends five key drivers:

- Committed leadership
- Focus on the Customer
- Integrated processes and teams
- A quality driven agenda
- Commitment to people.

The report recommended several targets to be achieved annually, including:

- Reducing cost and construction time by 10%
- Reducing accidents and defects by 20%
- Increasing productivity, turnover and profits by 10% and predictability by 20%.

In 2002, Sir John Egan published the Accelerating Change report to build on and reaffirm the principles set out in the 'Rethinking Construction' report. Its vision was to realise maximum value for all clients, end users and stakeholders to exceed their expectation through consistent delivery of world class products and services. The report set

targets, including the achievement of Integrated Project Teams and Integrated Supply Chains:

- 20% each by the end of 2004 (not achieved)
- 50% each by the end of 2007 (not achieved).

The report recommended the introduction of a 'Toolkit' providing invaluable guidance on how to achieve Best Practice.

To reinvigorate the recommendations in the 'Rethinking Construction' report, the Strategic Forum for Construction developed the '2012 Construction Commitments' bringing together the six key areas vital to delivering construction projects on time, safely and to budget.

- Procurement and Integration
- Commitment to People
- Client Leadership
- Sustainability
- Design Quality
- Health and Safety.

These principles aimed to ensure all construction projects achieve a better industry and exceed best practice. A number of key targets were set to demonstrate the improvements that the industry is making as a result of the adoption of these commitments.

Appendix 4: (paragraph 1.12)

District maintenance inspections 2006-07 to 2011-12

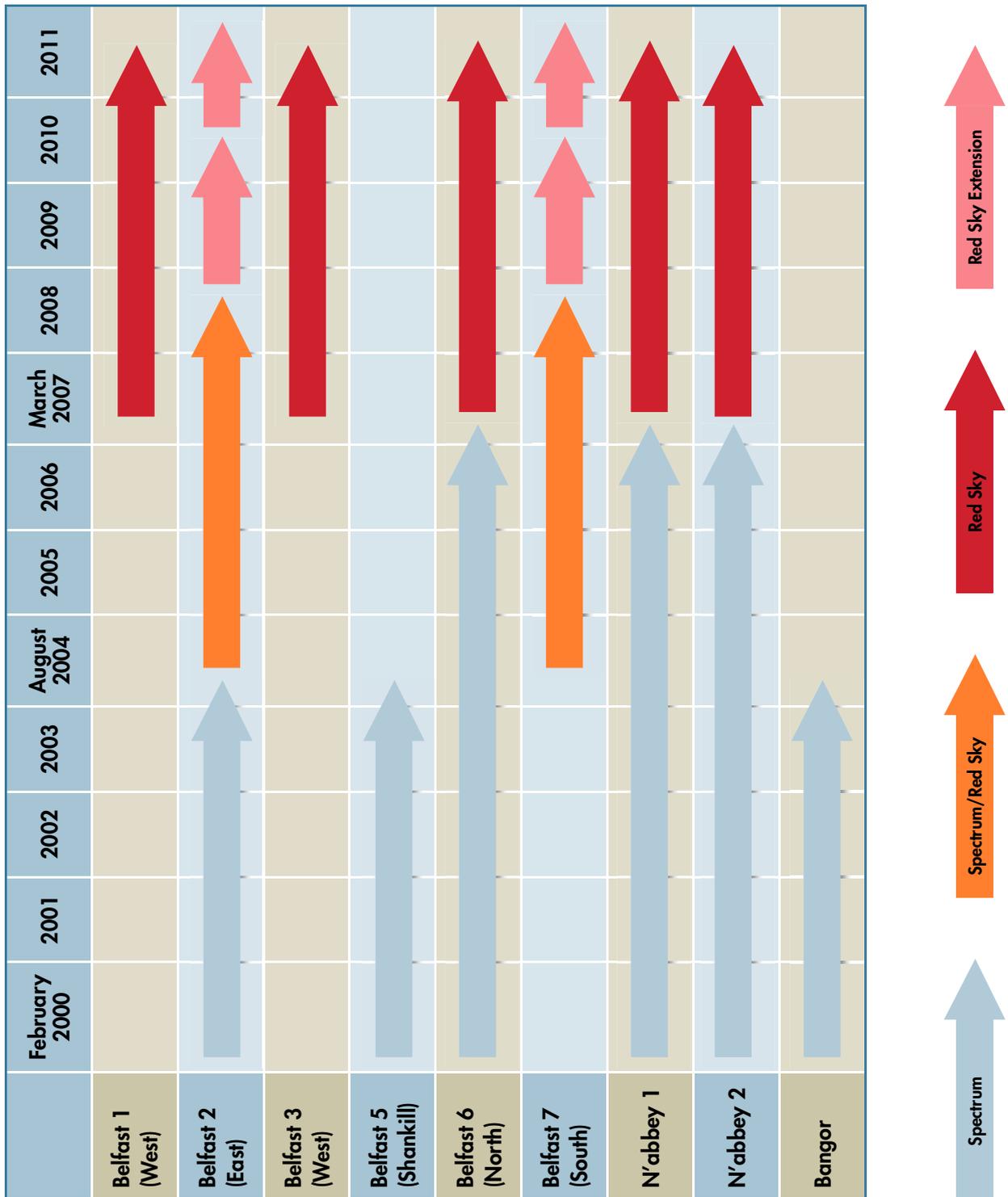
Belfast Area	Post Inspection Failure Rates (%) ^a					
	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
West Belfast 1 ^b	4.1	30.1	30.9	19.9	27.8	32.9
East Belfast ^b	1.6	3.9	4.6	1.5	6.9	16.1
West Belfast 3 ^b	4.0	17.1	19.4	14.0	17.2	28.2
South Belfast ^b	2.0	4.7	6.3	9.0	1.7	6.6
North Belfast 4	2.7	1.0	0.9	1.4	21.8	29.6
Shankill	2.9	0.6	3.9	3.2	18.2	22.9
North Belfast 6 ^b	0.1	10.7	7.7	9.7	15.5	27.0
South East Area						
Bangor ^c	1.0	2.1	7.0	11.2	8.6	27.6
Newtownards ^c	0.2	0.4	1.3	1.8	8.7	24.4
Castlereagh	3.2	4.2	4.6	4.1	14.6	35.2
Lisburn Antrim St	4.3	6.6	7.2	5.2	12.3	24.9
Lisburn Dairy Farm	3.4	1.7	4.4	4.7	16.1	23.7
Downpatrick	1.2	1.9	8.2	5.3	11.6	23.9
South Area						
Banbridge	6.2	4.1	6.2	3.8	20.5	22.2
Newry	1.8	3.5	1.6	4.1	9.9	13.4
Armagh	1.1	0.9	2.9	1.9	11.4	16.1
Lurgan/Brownlow	0.3	0.1	0.8	2.3	4.0	6.9
Portadown	2.0	1.9	6.0	4.4	6.0	8.6
Dungannon	3.0	4.3	5.4	4.9	2.8	8.7
Fermanagh	3.2	4.2	5.8	4.8	10.0	12.5
North East						
Ballymena ^c	0.2	0.3	1.0	0.4	16.3	30.6
Antrim ^c	0.2	0.1	0.0	0.2	6.5	16.6
Newtownabbey 1 ^b	0.1	3.2	8.9	7.2	6.6	11.9
Newtownabbey 2 ^b	5.5	8.3	7.7	6.8	15.0	24.8
Carrickfergus ^c	2.9	3.0	1.6	1.3	8.2	33.8
Larne ^c	1.8	5.1	4.9	5.3	17.0	30.1
Ballycastle	1.1	1.5	1.4	1.5	9.9	26.4
Ballymoney	0.2	0.1	0.6	0.7	1.1	10.6
Coleraine	1.0	0.5	1.5	1.8	3.0	11.6
West Area						
Londonderry 1 (W'loo Pl.) ^c	2.3	4.7	7.5	7.1	22.6	25.2
Londonderry 2 (C Terr.) ^c	4.0	4.6	12.1	7.9	16.6	13.2
Londonderry 3 (W'side) ^c	2.4	3.3	3.7	2.0	10.6	16.3
Limavady	10.4	5.7	3.6	4.0	6.3	24.0
Magherafelt	0.0	0.3	1.0	1.2	11.3	32.3
Strabane	1.8	3.7	2.7	4.6	10.4	12.4
Omagh	1.0	3.7	1.5	0.9	1.8	9.7
Cookstown	0.2	0.5	0.6	0.8	6.6	15.3
Overall Average	2.2	4.2	5.4	4.5	11.0	19.4

Notes: a. Prior to 2010-11 failures in relation to the accuracy of contractor invoices were not recorded (see paragraph 1.13). Jobs may be failed where only part of the job is assessed as Unsatisfactory.

b. New contractor from July 2011 c. New contractor from September 2010

Appendix 5: (paragraph 1.16)

Spectrum/Red Sky response maintenance contract timeline



Appendix 6: (paragraph 1.17.21)

Examples of Red Sky overcharging uncovered by RIU investigations

1. Claiming self levelling while replacing PVC floor tiles but the price had already been built into the Schedule of Rates code.
 2. Claiming for communal lighting inspections for blocks of flats that had been demolished or where communal lighting does not actually exist.
 3. Claiming inflated payments for work to shower units.
 4. Charging for Change of Tenancy (COT) house clean outs on non COT jobs and double claiming clean out works.
 5. Charging for multiple identical plastering codes on the same job.
 6. Duplicate work orders raised for the same work to the same property.
 7. Claiming separately for copper pipe and associated fitting when these are 'Deemed To Be Included' in other jobs.
 8. Incorrect SoR coding input to the Repairs system by NIHE staff leading to inflated payment rates for communal lighting inspection.
 9. Claiming payment for work on a more expensive electrical RCD unit than existed in NIHE properties.
 10. Claiming an Immediate Call Out payment on non immediate jobs and multiple Immediate Call Out payments for the same job.
-

Appendix 7: (paragraph 2.27)

KPI assessments for response maintenance contractors 2009-10

District	2009-10 average score for KPI Client Satisfaction with Quality of Workmanship
Antrim	100
Armagh	No data
Brownlow	99
Fermanagh	89
Newtownards	99
Omagh	99
Strabane	91
Ballycastle	100
Ballymena	100
Ballymoney	100
Banbridge	94
Coleraine	98
Collon Terrace	98
District 7 (S. Belfast)	91
Downpatrick	78
Dungannon	91
Larne	71
Magherafelt	98
Newry	93
Portadown	91
Waterloo Place	92
Waterside	89
Bangor	86
Belfast 4 (N. Belfast)	99
Belfast 6 (N. Belfast)	88
Carrickfergus	98
Cookstown	98
Belfast 2 (East Belfast)	99
Limavady	100
Lisburn	93
Lisburn (Dairy Farm)	93
Newtownabbey	91
Belfast 5 (Shankill)	96
Castlereagh	97
Belfast 1+3 (West Belfast)	74

Appendix 7: (paragraph 2.27)

Example of response maintenance KPI scores – quarter ending March 2010

District	KPI 1	KPI 2	KPI 3	KPI 4	KPI 5	KPI 6	KPI 7	KPI 8	KPI 9
	10 max	10 max	100 max	100 max	100 max	100 max	10 max	100 max	100 max
Belfast West	6.40	6.37	72.97	94.00	90.33	71.00	9.33	91.00	100.00
Belfast East	9.20	7.67	97.53	100.00	100.00	98.00	10.00	97.33	100.00
Belfast North (4)	8.60	9.00	99.00	100.00	100.00	98.33	10.00	100.00	100.00
Belfast North (6)	8.67	9.00	88.10	98.67	98.67	94.67	10.00	91.00	100.00
Belfast Shankill	8.00	7.87	94.97	79.00	79.00	97.00	10.00	100.00	100.00
Belfast South	7.87	8.00	93.07	95.33	95.33	92.33	10.00	96.00	88.00
Belfast Area	8.12	7.98	90.94	94.50	93.89	91.89	9.89	95.89	98.00
Bangor	9.00	8.67	90.27	100.00	100.00	100.00	10.00	100.00	100.00
Newtownards	10.00	10.00	99.47	100.00	100.00	100.00	10.00	99.33	100.00
Castlereagh	8.00	7.40	98.67	100.00	100.00	84.33	10.00	98.67	100.00
Lisburn	7.00	7.00	93.53	97.00	95.00	92.33	10.00	99.00	100.00
Dairy Farm	8.00	7.50	84.50	95.33	95.67	90.67	10.00	99.00	100.00
Downpatrick	9.00	8.23	55.63	100.00	100.00	98.00	10.00	93.67	100.00
South East Area	8.50	8.13	87.01	98.72	98.44	94.22	10.00	98.28	100.00
Banbridge	9.00	8.67	97.20	94.33	97.67	85.00	10.00	100.00	100.00
Newry	8.27	8.13	95.20	98.67	98.67	79.33	10.00	98.67	100.00
Lurgan/B'low	10.00	10.00	97.70	100.00	100.00	100.00	10.00	100.00	100.00
Portadown	10.00	10.00	69.87	100.00	100.00	100.00	10.00	100.00	100.00
Dungannon	9.00	9.00	93.63	96.00	96.00	100.00	10.00	99.33	100.00
Fermanagh	8.93	8.87	84.50	97.67	96.33	99.67	10.00	100.00	100.00
South Area	9.20	9.11	89.68	97.78	98.11	94.00	10.00	99.67	100.00
Ballymena	9.57	9.57	99.27	100.00	100.00	98.73	10.00	100.00	100.00
Antrim	10.00	10.00	99.87	98.67	98.67	99.67	10.00	100.00	100.00
Newtownabbey	9.20	8.07	90.03	97.00	97.00	96.00	10.00	99.67	88.00
Carrickfergus	8.00	8.00	98.50	99.00	98.33	94.67	10.00	100.00	100.00
Larne	9.07	9.00	74.33	100.00	100.00	100.00	10.00	92.27	100.00
Ballymoney	9.00	9.00	98.37	100.00	100.00	100.00	10.00	100.00	100.00
Ballycastle	no return								
Coleraine	9.20	9.00	96.15	100.00	100.00	100.00	10.00	100.00	100.00
North East Area	9.15	8.95	93.79	99.24	99.14	98.44	10.00	98.85	98.29
Waterloo Place	9.00	8.00	89.67	100.00	100.00	99.67	10.00	100.00	100.00
Waterside	9.00	9.00	91.67	100.00	100.00	100.00	10.00	100.00	100.00
Collon Terrace	9.00	8.10	98.50	100.00	100.00	99.33	10.00	100.00	100.00
Limavady	8.40	9.00	99.03	97.67	97.67	99.67	10.00	100.00	100.00
Magherafelt	9.00	9.00	95.10	100.00	100.00	95.67	10.00	100.00	100.00
Strabane	8.00	8.00	96.50	100.00	100.00	99.33	10.00	97.33	100.00
Omagh	8.87	9.03	100.00	100.00	100.00	93.33	10.00	97.67	100.00
Cookstown	9.00	9.03	98.73	100.00	100.00	79.67	10.00	100.00	100.00
West Area	8.78	8.65	96.15	99.71	99.71	95.83	10.00	99.38	100.00

Index of KPIs

KPI 1 - Contractor satisfaction with service from Client **KPI 2** - Client satisfaction with service from Contractor **KPI 3** - Client satisfaction with Quality of Workmanship **KPI 4** - Tenant satisfaction with Service **KPI 5** - Tenant satisfaction with Quality of Workmanship **KPI 6** - Time Predictability **KPI 7** - Safety **KPI 8** - Appointments **KPI 9** - Skills Certification

Appendix 8: (paragraph 4.3)

Extracts from: Review of Governance in the NIHE - December 2010

Key Findings	Conclusions	Recommendations/Lessons
<p>Governance</p> <p>3.9.16 & 3.9.17 A significant number of references to breaches of Standing Orders, whereby variations to Revenue / Replacement Schemes were being approved without challenge in some cases, even though they had breached the original contract approved by the Chief Executive's Business Committee by more than 5% or £50k whichever is less. In the past it was not uncommon for contractors to be paid and then retrospective approval obtained from the CXBC. This practice has now ceased as of August 2010 due to the introduction of a new payments system which has more robust controls in place to prevent payments being made without the appropriate approvals. However there remain 280 breaches of the Standing Orders in the system with a range of overspends from £34 to £600,000 approximately.</p> <p>3.9.18 A scheme approval for Category 'A' Kitchen replacement, was identified which did not appear to be passed to the CXBC before being submitted to the Board.</p>	<p>Governance</p>	<p>Governance</p> <p>26. The Chief Executive should ensure that all Schemes currently in breach of Standing Orders identified by the Contract Payment System are addressed by Management as a matter of urgency and the necessary approvals sought. The Chief Executive should also arrange for an update on clearing these breaches of Standing Orders to be presented to the CXBC and the Board as well as the Audit Committee and assurance given that action is being taken to rectify the approvals. The Chief Executive should ensure that any further breaches of Standing Orders are clearly highlighted and notified to the Board and that timely action is taken to identify and resolve any underlying problems. The Chief Executive should arrange for an analysis of the management of the contracts where breaches of Standing Orders have occurred to establish why so many have required additional funding and if better management would have prevented the breaches occurring in the first place.</p>
<p>Response Maintenance</p> <p>4.11.8 The results of post inspections are not analysed by management and their main purpose is a quality check on the work of the contractor. A total of 21.6% of jobs with a value of less than £100 were selected for post</p>	<p>Response Maintenance</p> <p>4.11.8 The NIHE may wish to revisit its methodology for the selection of jobs for inspection to ensure that a reasonable sample of jobs with a value less than £100 is given an onsite inspection.</p>	<p>Response Maintenance</p> <p>41. NIHE should ensure that the work and results of the RIU are utilised to the best effect, both as a sources of management information for H&R Division but also to allow the Chief Executive and the Board to challenge the effectiveness of the management of Response Maintenance. Further consideration should be given to the results of the</p>

Appendix 8: (paragraph 4.3)

Extracts from: Review of Governance in the NIHE - December 2010 cont'd

Key Findings	Conclusions	Recommendations/Lessons
<p>inspection but the majority of these took the form of a telephone call to the tenant by the Customer Services Unit. However, jobs with a value of less than £100 make up 81% of all jobs.</p> <p>4.11.10 On a monthly basis the District Maintenance Manager conducts an audit on completed jobs based on a random sample and the District Managers are required to carry out monthly audits on a sample of jobs. The results of both these audits are held on file in the Districts and are subject to review by the RIU but there is no formal reporting to the Centre.</p> <p>4.11.13 Management have acknowledged that a number of the current KPIs are too subjective and that a final overall score for a contract can be influenced by softer measures which do not directly impact on daily contract management. The Area Manager is seen as the owner of the contract and advice is regularly sought from the Central Procurement Team who take forward any issues with the contractor but they do not have a formal role in the ongoing monitoring and management of contracts.</p> <p>4.11.14 Acting Director of H&R identified a number of areas where existing controls needed strengthened: Greater segregation of duties; a report to identify where</p>	<p>4.11.10 Monthly audit results should serve as the basis of an assurance to the centre that management inspections of completed jobs are being undertaken and an assessment on the quality of work.</p>	<p>the recent round of inspections and in particular, the results of onsite inspections. The Board should investigate the reasons why one of the Districts has been rated as unacceptable for the last three years and what actions management has taken to address this. The Board will also wish to ensure, in establishing the Corporate Compliance Unit, that the best use possible is made of the information generated by this Unit to challenge management, identify areas of concern and direct the work of other review bodies such as Internal Audit.</p> <p>42. NIHE should review its current procedures for post-inspection of Response Maintenance jobs. Consideration should be given to whether the current sampling of jobs for post inspection provides sufficient onsite inspection of those jobs whose value is less than £100.</p> <p>43. The results of the monthly audits undertaken by District Managers should serve as a basis of an assurance from the district to the Area Manager and from the Area Manager to the Director of H&R that management inspections of completed jobs are being undertaken and that the results of these audits provide assurance on the quality of works delivered.</p> <p>44. NIHE should consider the current KPIs used to measure all of its 'Egan' type contracts, not just the ones for Response Maintenance. The NIHE should also give consideration to greater involvement of the Central Procurement Team in the oversight of contracts and monitoring of Contractor performance.</p> <p>45. The NIHE should consider how the work of the RIU can be further enhanced, for example, by the greater use of data analysis to identify patterns and areas of potential concern that could direct the work of the unit.</p>

Extracts from: Review of Governance in the NIHE - December 2010 cont'd

Key Findings	Conclusions	Recommendations/Lessons
<p>the same officer has ordered a job and authorised payment; the maintenance manual is being redesigned; introduction of new KPIs in new contracts; and a report to highlight where contractors have amended job codes, quantities and claimed for the same work in the same dwelling in any six month period.</p> <p>4.11.18 & 4.11.19 The RIU's results are now being reported to the NIHE Audit Committee. These results compared to the KPIs show a clear displacement.</p> <p>4.11.21 Even allowing for RIU's different methodology than that used for KPIs, it is difficult to see how a district which has been scored as unacceptable by RIU is reporting universally positive scores in its KPIs.</p> <p>4.11.22 RIU also scored the quality of works and quantities claimed by contractors in the majority of Districts as unacceptable or limited.</p> <p>4.11.24 The result of the last round of RIU inspections has highlighted a number of issues that the NIHE needs to investigate further.</p> <p>4.11.26 A risk based inspection function had been established to help monitor risk controls and ensure that VFM is being achieved across all response maintenance 'Egan contracts'. These identified</p>	<p>4.11.23 The results of the RIU work remain a key source of information to H&R Division to enable them to monitor performance and improve the quality of the service provided to the tenants.</p> <p>4.11.29 Analysis of the data on the HMS to identify trends and to allow drill down on specific issues is an essential tool in managing risks around contractor performance and preventing and detecting fraud.</p> <p>4.11.37 In conclusion, NIHE has a reasonable control framework that should provide adequate assurance over the performance of contractors and prevent and detect fraud. However from the work of the RIU and the changes that management are proposing, there is a clear recognition that existing controls have to be improved and that existing KPIs need to be revised to provide a more robust challenge to contractors. In addition, greater use should be made of the results of the work of RIU to identify areas of particular</p>	<p>46. The NIHE should ensure that all the recommendations made by RIU are effectively implemented in a timely manner.</p> <p>47. The NIHE should also consider, when retendering contracts, whether the practice of including an annual uplift to contract costs based on the Buildings Trade Cost Index is still sustainable.</p> <p>48. The NIHE should ensure that a printout is obtained from the HMS showing all 'emergency' and 'urgent' jobs that are greater than one month overdue and all 'routine' jobs that are greater than two months overdue. At the monthly divisional performance meeting the director of H&R should seek an explanation for why specific jobs have not been completed. An overview of maintenance jobs overdue should be provided to the Performance Review Committee, Chaired by the Director of Corporate Services Division.</p> <p>49. The NIHE should explore the potential of the trend analysis undertaken by the risk based inspections to highlight areas of concern, improve the delivery of response maintenance to tenants and provide a source of information to challenge the quality of controls. In particular, consideration should be given to analysis of potential duplicate payments.</p>

Appendix 8: (paragraph 4.3)

Extracts from: Review of Governance in the NIHE - December 2010 cont'd

Key Findings	Conclusions	Recommendations/Lessons
<p>trends and cost-cutting risks: review of expenditure on door saddles; external cleaning; inappropriate use of Schedule of Rates codes; and review of the use of 'no access' schedule of rates code.</p> <p>4.11.30 At the monthly Divisional Performance Review Group meeting the Director of H&R reviews an overview on the percentage of jobs completed within required timescales but no details of jobs that are significantly overdue.</p> <p>4.11.31 There is a need for further analysis on jobs that might potentially be duplicate payments.</p> <p>Planned Maintenance</p> <p>4.12.6 As the majority of planned Schemes are designated as Revenue Schemes the current Standing Orders do not require the Board to approve individual schemes. The current Standing Orders only require that Capital Schemes with a value greater than £100,000 should go to the Board for approval.</p> <p>4.12.8 The contractor is asked to survey properties, provide a condition report and make recommendations on what specific items of work need to be done, and will make suggested changes to the brief and highlight any potential changes to the projected costs.</p>	<p>concern and inform the monitoring of the contractors' performance. It is recommended that greater use be made of the information on the HMS to identify trends and patterns in response maintenance work and to direct the management of contractors.</p> <p>Planned Maintenance</p>	<p>Planned Maintenance</p> <p>50. The NIHE should examine the reasons behind the increase in unacceptable ratings in 2009/10 and should report on this to the Audit Committee and Board. Management has advised that work is currently ongoing to review the robustness of the current KPIs used to measure the performance of contractors.</p> <p>The Board should ensure that this work is completed as soon as possible and that all future contracts make use of more objective and robust performance indicators.</p> <p>51. The NIHE should consider, as part of the establishment of the proposed Corporate Compliance Unit, how this unit will provide independent assurance on the adequacy of management controls over heating contracts. The NIHE should also confirm the reason why the installation, servicing and maintenance of heating systems is not undertaken as part of the current function of the RIU or the Scheme Inspection Unit.</p>

Extracts from: Review of Governance in the NIHE - December 2010 cont'd

Key Findings	Conclusions	Recommendations/Lessons
<p>4.12.12 After the tenant consultation the contractor finalises drawings and prepares a project price list which is checked by the Area Project Manager.</p> <p>4.12.18 Key documentation was on file demonstrating the controls over the specification of the scheme, the oversight of works undertaken by the contractor and the authorisation of payments but a number of issues were identified.</p> <p>4.12.28 The recommendations made by the Scheme Inspection Unit are effectively implemented in a timely manner.</p>		<p>Finally, the Audit Committee, which now receives reports from both the RIU and the Scheme Inspection Unit, should consider how it currently obtains assurance in relation to heating.</p> <p>52. The NIHE Board should consider whether the current Standing Orders and Scheme of Delegations should be amended to ensure that Revenue Schemes over a given value receive specific consideration and approval by the Board.</p> <p>53. The Review Team found a lack of consistency in how files were structured. While we confirmed that key documentation was on file it was not always easy to find the relevant paperwork quickly. The NIHE should review the layout of project files, files should have a consistent layout, which should not differ between Areas and duplication of papers should be avoided. The Board may wish to ask their Internal Audit Unit to conduct a more detailed review of the consistency of project files.</p> <p>54. In the case of two of the large Revenue Replacement Schemes selected, the Review Team noted that the Final Reconciliation report was not on file. The Review Team was advised that Final Reconciliations were due, pending the resolution of an outstanding issue with the contractors regarding payment for the disposal of 'gypsum'. The NIHE should ensure that this issue is resolved as quickly as possible and the Final Reconciliations are completed.</p> <p>55. The NIHE should ensure that all the recommendations made by the Scheme Inspection Unit are effectively implemented in a timely manner.</p>

Appendix 9: (paragraph 4.3)

Extracts from: OGC Gateway Healthcheck Review-December 2010

Key Findings	Conclusions	Recommendations/Lessons
<p>Procurement and Procedures</p> <ol style="list-style-type: none"> 1. Since the introduction of partnership principles there has been a change in management style and the day to day contract management of suppliers has been, and is, conducted in an appropriately non adversarial manner, consistent with good practice. 2. Contract management over the ensuing years has been localised to the point of service delivery and has become reliant on the effectiveness of relationships with contractors, rather than having an underpinning contractually supported and enabled performance regime. 3. People within the NIHE tend not to distinguish the form (terms, conditions, schedules, etc) of a contract from the type (EGAN, NEC3, JCT etc), with the consequence that business requirements of the contract documentation are not well enough defined when the contracts are being drafted. 	<p>Procurement and Procedures</p> <ol style="list-style-type: none"> 1. The culture of non adversarial management as the primary technique for managing contractor behaviour has created a weakness in the system which will need to be addressed. 	<p>Procurement and Procedures</p> <ol style="list-style-type: none"> A. We recommend that the NIHE produces and adopts a new corporate procurement vision and strategy. B. We recommend that all new major procurement have a named individual client / owner and a specific procurement strategy approved by the CXBC or an equivalent authority. C. We recommend that all major procurements are run as projects with identified project managers and using a consistent recognised project management methodology. D. We recommend that every contract has a named individual who is responsible for the effective management of the contract and contractor. Each contract manager should be suitably skilled or experienced, familiar with OGC best practice guidance on contract management and be engaged as part of the project team throughout the procurement. E. We recommend that, regardless of the type of contract relationship envisaged in the individual procurement strategy, attention is given to the form (detailed terms and conditions) so that the contract enables effective and enforceable management to be delivered.

Extracts from: OGC Gateway Healthcheck Review-December 2010 cont'd

Key Findings	Conclusions	Recommendations/Lessons
<p>4. There are some improvements which can be made to the processes and activities which precede the advertisement of contracts and which are part of the development of the strategic approach to each significant contract that is offered to the market.</p> <p>5. It is difficult in a number of areas to identify a single point of ownership, direction and responsibility. This results in differing views within the organisation as to where issues should be referred on a day to day basis or where management responsibility ultimately rests.</p> <p>6. For each major contract there was no identifiable ownership of the procurement.</p>	<p>4. There is a need for a procurement strategy to be produced for each of these major contracts. This should be set in the context of a corporate procurement vision.</p> <p>6. This is a singular weakness which risks the outcomes of the procurement failing to meet the organisation's needs.</p>	
<p>Management</p> <p>7. Governance surrounding contract management was poor, with lack of clarity within the NIHE as to who, if anyone, is responsible for the overall management of individual contracts. However, contracts are being made to work and to deliver a reasonable level of service.</p>	<p>Management</p>	<p>Management</p> <p>F. We recommend that a contract governance structure is developed and agreed, if necessary for each type of service, which ensures that all those engaged in service delivery know how, and to whom, to escalate problems and resolve consistent or material poor performance.</p>

Appendix 9: (paragraph 4.3)

Extracts from: OGC Gateway Healthcheck Review-December 2010 cont'd

Key Findings	Conclusions	Recommendations/Lessons
<p>8. There was a poor understanding of what is needed, or could be done, to instigate more formal contract management processes when a contractor was performing consistently badly. There was an expectation that 'the centre' would pick up the problem and act upon it but in reality this did not happen.</p>		
<p>9. The people engaged in the day to day management are poorly sighted of the contracts and their relevant enforcement opportunities and requirements. Contract management is dependent on regular meetings to discuss performance, extra inspections at a considerable cost to both parties with no efficient approach to changing contractor behaviour.</p>	<p>9. Problems identified in respect of one contractor will need to be addressed with that contractor but the more important matter is to ensure that the management, governance and activities remove the risk of a repetition of the problem.</p>	
<p>10. Training is given to the people who interface with the contractors and are involved in managing their performance, but it tends to deal with local responsibilities and roles rather than overall contract management governance.</p>	<p>10. Performance failures unresolved through local engagement need to be resolved through the contractual remedies which must be adequate, robust and readily available.</p>	

Extracts from: OGC Gateway Healthcheck Review-December 2010 cont'd

Key Findings	Conclusions	Recommendations/Lessons
<p>Controls</p> <p>11. KPIs as the most significant control available to the NIHE over the performance of contractors was not accepted because:</p> <ul style="list-style-type: none"> • KPIs are not set by NIHE; • KPI levels have been agreed with the contractors after the contract has been let; • KPIs are set at levels which are demonstrably lower than is appropriate for the nature of services provided under the contract; • there are no expectations set for continuous improvement in KPIs; • measurement of KPIs is not consistent from District to District because they involve subjective judgements; • the embedding of KPIs in the contract as a remediable performance measure is not completed; and • there is no incentivisation of contractors to perform at high levels. 	<p>Controls</p> <p>11. The next round of contracts will address this which is regarded as essential rather than desirable. KPIs should be at the heart of contractor performance improvement and enforcement and based on clear understanding.</p>	<p>Controls</p> <p>G. We recommend that KPI targets / levels are set prior to the procurement of any contract and embedded in the contract so that bidders can price against known targets.</p> <p>H. We recommend that the KPIs and levels of performance expected are set on the basis of business needs for the specific services to which they relate. We consider it unlikely that four / five KPIs, as currently planned, will be enough to cover the complex contracts being tendered.</p> <p>I. We recommend that urgent attention is given to resolving the issues with HMS that are critical to contract management for both current and future contracts.</p> <p>J. We recommend that the trend analyses and detailed reporting required for local managers, area managers, central directorates and the Board are identified and agreed in the light of this report and that HMS is enabled to generate them.</p> <p>K. We recommend that a statistical approach to inspection is developed and incorporated into future contract management regimes. Appropriate contract clauses may need to be developed but should not describe the precise detail of any regime, rather encapsulate the right to inspect on this basis and incorporate any financial consequences in terms of payment into the appropriate schedule to the contract. If this approach can be agreed with contractors currently in post this should be done for existing contracts. We would envisage that this might prove most difficult in response maintenance contracts.</p>

Appendix 9: (paragraph 4.3)

Extracts from: OGC Gateway Healthcheck Review-December 2010 cont'd

Key Findings	Conclusions	Recommendations/Lessons
<p>12. Despite the requirement for KPI levels to be agreed in the recent contract award for response maintenance, there is no progress on that matter. A contributing factor to this failure is that the new IT system (Housing Management System) cannot yet produce the full range of reports and information that would be required to monitor the KPIs.</p> <p>13. The IT system should not permit the input of 'Day Works' by the contractors but should allow for the NIHE management. A simple work around should be developed.</p> <p>14. There is an inspection regime in place for contracts in each Division with the same principles applied across each division for high value schemes and activities. Response maintenance jobs under £100 are subject to a telephone survey inspection on the basis of a random 6% sample generated by the system. Jobs over £750 are subject to 100% inspection which is undertaken rigorously. The percentage of jobs inspected between £100 and £750 is variable depending on the volume of larger jobs.</p>	<p>12. The system being unable to provide the reports and analysis that the business needs for contract management is a fundamental weakness and its impact on contract management must be addressed urgently. Given the current governance arrangements for contracts, it is unlikely that the requirements will have been developed adequately.</p> <p>14. The need to inspect large volumes becomes an essential control over high value jobs. The current approach is that the NIHE has become a significant contributor to the Quality Assurance process. With appropriate contractual permission and explanation, to reduce the levels of inspection significantly and therefore the costs of inspection to the NIHE and the contractor.</p>	

Extracts from: OGC Gateway Healthcheck Review-December 2010 cont'd

Key Findings	Conclusions	Recommendations/Lessons
<p>There is no rationalised consideration of the reasons for the sample levels being set as they are with no overall application of the sampling approach used and people just inspecting the number because they are expected to do so. The high levels of failure in some Districts led to increased inspections.</p> <p>15. Internal Audit currently provides a back up to the controls that exist for the contractor because system integrity cannot be a basis for their programme of work.</p> <p>Contract</p> <p>16. Current area and district staff are not adequately aware of the relevant existing contract clauses, so that when breaches of the contract occur, they are recognised as performance / KPI failures and weaknesses but not as contract breaches. As a result the messages given to contractors may impact the potential for later enforcement.</p>	<p>Contract</p>	<p>Contract</p> <p>L. We recommend that all future contracts are drafted on the basis of the detail set out in the procurement strategies and that a report is produced to confirm that they meet the need and, insofar as can be determined, they will be enforceable.</p> <p>M. We recommend that the contract manager ensures that processes are put in place to recognise and collect the evidence that may be needed to enforce any provision of the contract.</p>

Appendix 9: (paragraph 4.3)

Extracts from: OGC Gateway Healthcheck Review-December 2010 cont'd

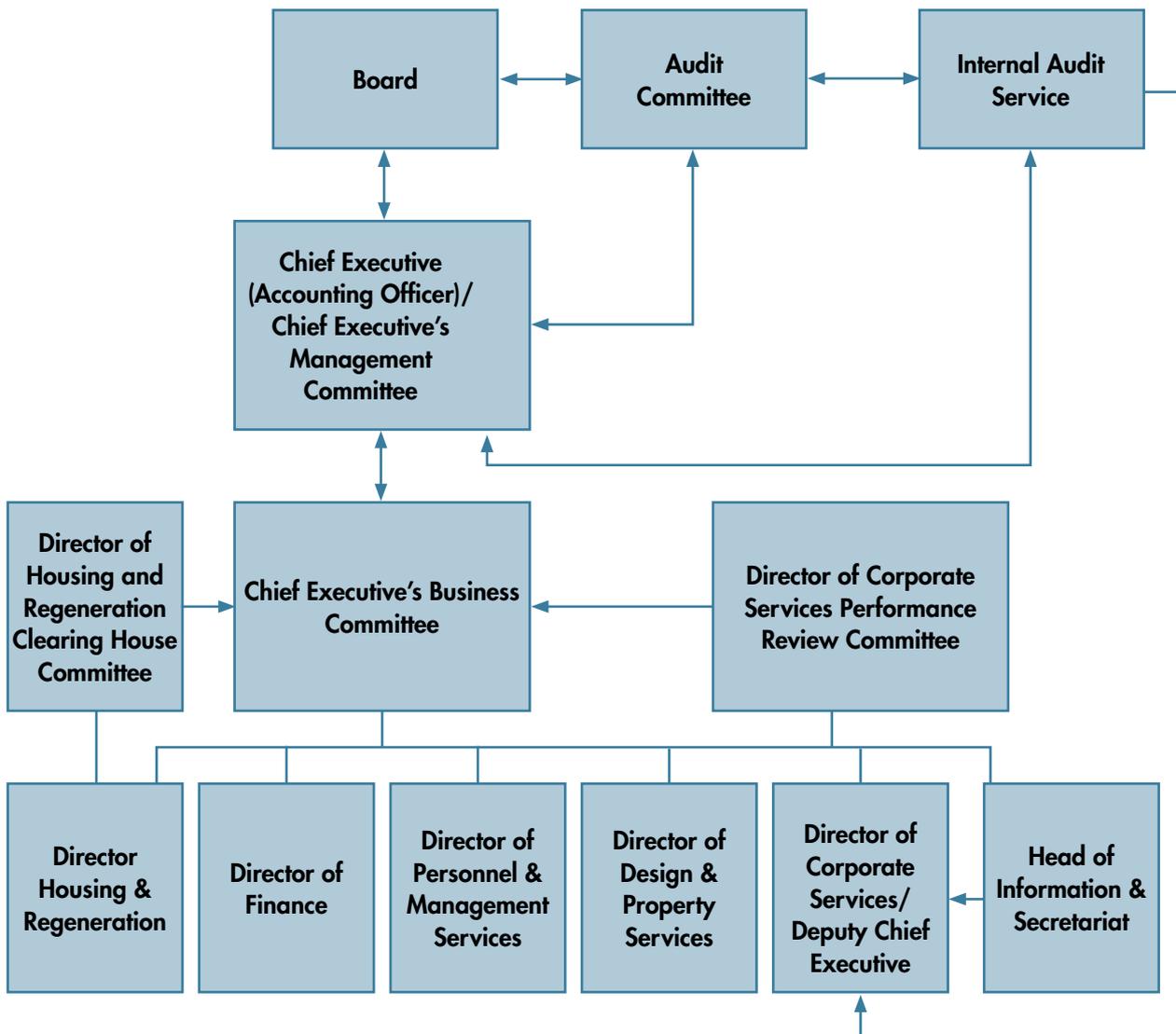
Key Findings	Conclusions	Recommendations/Lessons
<p>17. Specific clauses within the existing and new draft contracts represent the best intentions of NIHE in attempting to 'contract for a partnership' have been diluted. The ability to ensure appropriate performance under the contract is compromised.</p> <p>18. There are no provisions within the contract to incentivise the contractor to make continuous improvements during the life of the contract in line with best practice and as identified by EGAN nor any corporate desire to incentivise the contractors.</p> <p>19. The new response maintenance repairs contract incorporates changes from the previous form of contract, but of these are unhelpful and tend to consist of chopping out bits without any evident consideration of the impact. There is no evidence that any legal oversight and sign off of the process for contract development was undertaken and that difficulties continue to be accepted in terms of enforceability.</p>	<p>17. There are a number of specific clauses which need careful review and redrafting in light of this report.</p> <p>19. It is essential to have strong and clear management of the procurement process which engages with the business needs before translating them into a robust contract with appropriate clauses to underpin the required service, performance measures and appropriate controls.</p>	

Extracts from: OGC Gateway Healthcheck Review-December 2010 cont'd

Key Findings	Conclusions	Recommendations/Lessons
<p>The Way Forward</p> <p>20. The new response maintenance repairs contract and KPI regime which are within this procurement are not really fit for purpose and the letting of a four year contract on a basis that is weak creates a significant risk in a couple of years if these contracts run into difficulty and cannot easily be enforced or are operated at inappropriately low KPI levels.</p> <p>21. The outcome of this report will be a series of actions that may be best incorporated into a plan for implementation in 2011.</p>	<p>The Way Forward</p>	<p>The Way Forward</p> <p>N. We recommend that the contractual and procurement options for phases 1, 2 and 3 of the response maintenance repairs contracts are reviewed and that an early decision is taken on the way forward for these contracts.</p>

Appendix 10: (paragraph 4.4)

Organisational committee and board structures



The Chief Executive's Business Committee: which is chaired by the Chief Executive and meets weekly to consider and provide a challenge function on routine business and business delegated to Management by the Board under the Scheme of Delegation such as Capital Scheme approvals under £100k, tenders, initiatives and information papers for the Board.

The Housing and Regeneration Clearing House Committee: which is chaired by the Director of Housing and Regeneration Division and provides a challenge function, meeting weekly (previously every fortnight) to consider papers for submission to the Chief Executive's Business Committee on Scheme Approvals,

Scheme Designs, Post Tender Reports, Heating Scheme Approvals, Emergency Approvals, Tenders, Major Heating Contracts, Policy and Standards.

The Performance Review Committee: is chaired by the Director of Corporate Services Division, and challenges all Directors on performance against Key Performance Indicators; informing the monthly Business Plan Monitor, which is submitted through the Chief Executive's Business Committee to the Board. The Performance Review Committee also considers and reviews the Finance Monitor on a monthly basis and the Corporate Risk Register on a quarterly basis.

The Chief Executive's Management Committee: is also chaired by the Chief Executive and meets monthly before Board meetings to consider all available Board papers, discuss any issues in advance of the Board Meeting that might reasonably be raised by the Board and provide a forum for a proposed ordering of the Agenda for the Board meeting in advance of agreement with the Board Chairman.

An Internal Audit Service: was established to provide assurance to the Accounting Officer on risk management, Governance and control. The Head of Internal Audit reports to the Director of Corporate Services on day-to-day management issues while retaining direct access to the Accounting Officer and the Board through the Chair of the Audit Committee.

The Head of Information and Secretariat Services: also forms part of the Governance arrangements and is a member of the Chief Executive's Business and Management Committees.

A Finance Review meeting, attended by the Chair and Vice-Chair of the Board, the Chief Executive and Deputy Chief Executive and the Director of Finance, convenes at a pre-Board Meeting to discuss the extant financial position of the organisation. This is not a formal Board or Management Committee.

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