



Northern Ireland Audit Office

# **Hospitality Association of Northern Ireland:**

## **A Case Study in financial management and the public appointments process**



REPORT BY THE COMPTROLLER AND AUDITOR GENERAL  
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Northern Ireland Audit Office

Report by the Comptroller and Auditor General for Northern Ireland

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# Hospitality Association of Northern Ireland:

## A Case Study in financial management and the public appointments process



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  
10 April 2008

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## List of Abbreviations

BIFHE	-	Belfast Institute of Further and Higher Education
CEO	-	Chief Executive Officer
CIPFA	-	Chartered Institute of Public Finance and Accountancy
DCAL	-	Department of Culture, Arts and Leisure
DED	-	Department of Economic Development
DEL	-	Department for Employment & Learning
DHFETE	-	Department of Higher and Further Education, Training and Employment
DHSSPS	-	Department of Health, Social Services and Public Safety
EU	-	European Union
FAST	-	Financial Audit and Support Team
FOI	-	Freedom of Information
FRS	-	Financial Reporting Standard
HANI	-	Hospitality Association of Northern Ireland
HOW	-	HOW Systems Limited
IAS	-	Internal Audit Service
IIP	-	Investors in People
NI	-	Northern Ireland
NIAO	-	Northern Ireland Audit Office
NICO	-	Northern Ireland Certification Office
NIEC	-	Northern Ireland Events Company
NVQ	-	National Vocational Qualifications
OCPANI	-	Office of the Commissioner for Public Appointments for Northern Ireland

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OFMDFM	-	Office of First Minister and Deputy First Minister
PAC	-	Public Accounts Committee
PR	-	Public Relations
T&EA	-	Training and Employment Agency
THTC	-	Tourism and Hospitality Training Council

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## Introduction

1. This report is a case study on the lessons to be learned from events arising out of the funding of the Hospitality Association of Northern Ireland (HANI). It is a prime example of the problems that can arise in a third party organisation where there is weak financial management. Focusing on standards, the report deals with two main areas of concern – shortcomings in the financial management and control of HANI and the insights this provides into weaknesses in the public appointments process in Northern Ireland. In developing the report, we have benefited from the advice of the Commissioner for Public Appointments for Northern Ireland and have included her comments in the appropriate sections.
2. In the period since HANI largely ceased operations in 1998, it has been the subject of a number of investigations, including one which culminated in a successful criminal prosecution against it in the Belfast Magistrates' Court in 2002. HANI was dissolved in 2004.
3. In light of the range of concerns surrounding HANI, we reviewed the results of the investigations already carried out and examined the controls exercised by the former Training and Employment Agency<sup>1</sup>, the main source of project funds provided to HANI. It is clear that there were a number of serious shortcomings in the way that HANI had operated - including poor financial control and impropriety – as well as failings in the financial monitoring and control of HANI by the Agency. We also set out weaknesses in the procedures used to appoint the former Training Manager of HANI to a number of public posts, in the light of a substantial body of evidence raising concerns about her previous conduct, while in the employ of HANI.
4. The former HANI Training Manager (and other third parties) were consulted in the course of the preparation of this report. She submitted written comments and registered her view that various bodies – including the Northern Ireland Certification Office, the Agency's Financial Audit and Support Team and Internal Audit, Proteus<sup>2</sup>, the Department for Employment and Learning and the Department of Culture Arts and Leisure – which had investigated her conduct, had been unfair to her. Her comments on specific issues have been taken into account in the report, where appropriate. Also, in her correspondence with NIAO, she pointed to “*the considerable contribution*” which she had made through her public appointments from 2000-2007, a number of which had been unpaid. Subsequent to this process, the former HANI Training Manager submitted further comments to NIAO. These have been reproduced in full at **Appendix 1**. Following an assessment of the comments, NIAO considered that no further revision to the report was appropriate.
5. The standards for public appointments have been clearly stated by the ‘Office of the Commissioner for Public Appointments for Northern Ireland’. As regards ‘**probity**’, the guidelines state that:

*“Departments must ensure the highest standards of propriety in the conduct of their public bodies in order to ensure public confidence. To achieve these high standards departments must take care to ensure that individuals appointed to their bodies are committed to the principles and values of public service and are capable of performing their duties with integrity”.*
6. It is important that the public should have confidence in holders of public office in Northern Ireland, because the structure of regional administration is highly dependent on a wide range of public bodies whose Boards are filled by Ministerial appointment<sup>3</sup>. A further feature of local administration is that there are a relatively large number of bodies which, while not strictly in the public sector, are wholly or largely funded by public money. This requires that they too have regard to appropriate standards of conduct.

1 The former Training and Employment Agency (the Agency) administered a range of EU-funded programmes and, through Sectoral Partners and Intermediary Funding Bodies acting on its behalf, supported a number of schemes administered by HANI. Over the period from 1995 to 1999, the Agency's parent body was the former Department of Economic Development (DED). In December 1999, the Agency transferred to become part of the new Department of Higher and Further Education, Training and Employment (DHFETE). From April 2001, the Agency ceased to exist, its responsibilities being fully subsumed within the Department which, from that point, was renamed the Department for Employment and Learning (DEL).

2 Proteus is an Intermediary Funding Body responsible for the administration of European Union-funded programmes.

3 At March 2007, there were some 2,024 public appointees in Northern Ireland.

7. In May 2006<sup>4</sup>, the Public Accounts Committee observed that Northern Ireland is a relatively small society, where close connections between Senior Civil Servants and those who serve on Boards of Public Bodies is inevitable. In these circumstances, it is particularly important to be sensitive for the need to avoid even a perception of impropriety or conflict of interest. It follows, therefore, that Departments should ensure that only the highest standards of ethics and propriety operate in bodies for which they are responsible.

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<sup>4</sup> 'Governance Issues in the Department of Enterprise, Trade and Investment's former Local Enterprise Development Unit', Forty-sixth Report of Session 2005-06 (HC 918).



Part One:  
Background to HANI



# Part One: Background to HANI

## Introduction

1.1. The Hospitality Association of Northern Ireland (HANI) was founded in 1922 to encourage the growth and development of the hotel, restaurant and catering sector in Northern Ireland by acting as a representative and consultative body. Membership comprised hotel, restaurant and guesthouse owners, caterers and trade suppliers. HANI was run by a Council of Members, elected annually.

1.2. In September 1998, faced with insolvency, HANI's Council took the decision to cease trading. It is unclear, however, when trading actually ceased as activities continued for a number of months. HANI's 1998 accounts, the last full year of trading, showed a deficit of some £95,000 and debts of almost £76,000.

### HANI received substantial sums from public funds

1.3. During the period 1995 to 1998, HANI received over £860,000 in public funding. This was not 'core' funding (i.e. for day-to-day running costs) but to fund specific training programmes. Overall, it accounted for around 95% of its total income, with the balance coming from Members' subscriptions. The sources of public funding were as follows:

Figure 1.1: HANI Funding

Funding Source	£
Training and Employment Agency	828,000
Northern Ireland Tourist Board	36,000
<b>Total</b>	<b>864,000</b>

Source: DEL

1.4. The Department has commented that, in terms of programme delivery, HANI's performance was very good. It said that this view was supported by an Education and Training Inspectorate review in April 1997, which reported that the staff in HANI were committed to providing training of good quality and

the Jobskills programme training had been very successful. In addition, HANI received a national training award in November 1997.

### HANI was investigated by the Northern Ireland Certification Officer and prosecuted

1.5. Under the Industrial Relations (NI) Order 1992, HANI was designated as an Employers' Association and, as such, fell within the jurisdiction of the Northern Ireland Certification Office (NICO). NICO is headed by the Certification Officer, who may appoint an Inspector to investigate the affairs of any body within his remit, where he considers the 1992 Order may have been breached.

1.6. Following enquiries from the solicitor of a HANI creditor in 1999, the Certification Officer became concerned that HANI may have been in breach of the 1992 Order. An Inspector appointed to investigate HANI's financial affairs reported to the Certification Officer in March 2000 that:

- HANI's ruling Council had failed:
  - in its statutory duty to keep proper accounting records and to maintain a satisfactory system of control of its accounting records, its cash holdings and all of its receipts and payments
  - to appoint trustees of its assets
  - to submit proper returns to NICO
  - to adhere to its own rules by gifting an asset (a car) to a former employee
- there was evidence of fraud within HANI
- HANI's auditors had also breached the 1992 Order, in particular, by submitting misleading and incomplete audit reports to NICO.

In December 2002, HANI pleaded guilty to charges brought by the Certification Officer, principally for failing to keep proper accounting records and maintain a satisfactory system of control. It was fined £500 and ordered to pay costs of £5,000. HANI was subsequently dissolved by a Members' resolution in March 2004.

- 1.7 In June 1999 and October 2000, the allegations of fraud were investigated by the police, but they decided against a prosecution as they concluded that there was no evidence of dishonesty in the terms set out in the Theft Act (see also paragraphs 2.18 – 2.25).
- 1.8 In the wake of the Certification Officer's Report, NIAO received anonymous allegations, relevant to this case study, from two whistleblowers. These were investigated by the Department, who concluded that the allegations could not be substantiated.

## Scope of the NIAO Review

- 1.9 Our review focused on:
- shortcomings in the financial management and control of HANI (Part 2 of the Report)
  - the public appointments of the former HANI Training Manager (Part 3).

### **Documentation on a range of issues was of a poor standard**

- 1.10 We encountered considerable difficulties in the course of our investigation, due to the poor standard of HANI records. The papers that we examined were located in a storeroom at the former premises of HANI but were generally in a disorganised state. Follow-up meetings with former HANI office holders yielded little in the way of additional information in our enquiries. Based on what we saw, the standards of documentation which had been applied within HANI during its period of operation, often fell far below that which we would have expected from a body which was being funded for the most part with public monies – for example, we noted a lack of proper documentation in support of key decision-making, authorisations for activities and records of financial transactions.

- 1.11 A clear audit trail, to account for the use of public resources, is a minimum requirement. It is important that, where an outside body has been substantially funded with public monies, the sponsoring Department or Agency ensures that the body produces, and retains for external scrutiny, documentation in support of such matters as:

- key decision-making
- authorisations for activities undertaken
- all financial transactions.

It is NIAO's view that, whenever the use of public resources have been subjected to an investigation process leading to significant criticism or prosecution, records should be retained for at least 10 years from the conclusion of the investigation.





## Part Two: Shortcomings in the financial management and control of HANI



## Part Two: Shortcomings in the financial management and control of HANI

### Introduction

2.1. This part of our report looks at the financial management and control of HANI. Investigations by NICO, Proteus, and the Agency's Financial Audit and Support Team (FAST) and Internal Audit all revealed a clear pattern of financial mis-management in HANI. The pattern of concerns is similar to that revealed by other recent NIAO reports<sup>5</sup>.

### The financial management and control of HANI

2.2. From January 1996 until August 1997, the Agency's funding to HANI was channelled through the 'Tourism and Hospitality Training Council' (THTC), a 'Sectoral Partner'<sup>6</sup> set up to help administer EU-funded programmes. Funding contracts were drawn up between the Agency and THTC and, in turn, between THTC and HANI. These provided a mechanism by which the activities of both THTC and HANI could be effectively monitored and controlled. The terms and conditions of the contracts included requirements that:

#### **THTC** would -

- maintain proper financial controls and accounting records and ensure that any body obtaining grant payments from THTC would do the same
- provide the Agency with relevant information on the use of funding, as required
- provide the Agency with audited annual accounts and retain these accounts for seven years, ensuring that bodies in receipt of grant also retained relevant records for seven years

#### **HANI** would -

- maintain proper accounting records which would separately identify each individual financial transaction relating to the grant provided
- maintain proper financial controls and obtain an auditor's certificate to the annual accounts on the 'adequacy or otherwise of the internal controls operating within the Organisation'.

2.3. The Department commented that, while THTC's contract with the Agency began in January 1996, HANI's major projects did not start until 1997 - the Multi-Skilling projects ran from January 1997 to September 1997 and the SELECT programme from October 1997 to September 1998. The Department said that during this period:

#### **THTC was subject to the following controls:**

- the Agency provided training to THTC staff
- a 'health check' review was carried out in January 1997 (by the Agency)
- an independent audit, in March 1997, by consultants
- THTC was required to provide progress reports to the Agency
- the Agency received copies of agendas and minutes of THTC's Selection Panel meetings
- Agency representatives attended meetings arranged by THTC to discuss and review new applications and other funding issues
- Following a number of meetings to discuss its concerns, the Agency terminated the contract with THTC which was closed down on 30 September 1997.

#### **HANI was subject to the following controls:**

- an inspection by the Agency's Financial Audit and Support Team (FAST) in 1996 on Jobskills
- an Education and Training Inspectorate review in April 1997
- Proteus, which was appointed by the Agency in October 1997 to monitor HANI, carried out a check in May 1998 on HANI's activities and raised concerns
- FAST investigated Proteus's concerns in June 1998

5 'Governance Issues in the Department of Enterprise Trade and Investment Former Local Economic Development Unit' (HC 817), February 2006; 'Into The West (Tyrone & Fermanagh) Limited: Use of Agents' (HC 877), March 2006.

6 Contracted directly by, and under the control of, the Agency.

- Proteus took follow-up action
- HANI ceased trading in October 1998.

**The Agency did not ensure that proper financial management and control arrangements were established and maintained within HANI**

- 2.4. Despite the control environment outlined above, it is clear that the Agency did not ensure that proper financial management and control arrangements were established and maintained within HANI. Indeed, the successful prosecution of HANI in December 2002 (paragraph 1.6) was largely based on its failure to keep proper accounting records and maintain a satisfactory system of control. While THTC also failed to meet its responsibilities in this regard, the Agency/Department, as primary funder, was ultimately responsible for ensuring the proper stewardship of public funds by HANI. The Department has commented that the Agency's interest in HANI was focused on the projects and activities it had funded. It said that the Agency took reasonable steps to ensure that HANI was subject to monitoring in line with EC requirements in force at the time.
- 2.5. In the course of our own review, we noted many instances of poor financial management and control, despite an adequate monitoring and control framework having been set out in the funding contracts. For example, contrary to the terms of the contracts, HANI did not:
- separately identify, in its accounting records, those financial transactions relating to the grants it had received
  - have a separate auditor's certificate in its annual accounts, on the adequacy of internal controls.
- These omissions were not picked up or acted upon by THTC or the Agency until a very late stage. We also noted that although the THTC/HANI contract *"strongly recommended"* that a copy of the 'European Social Fund Finance Guide' be obtained, this was never done. In our view, obtaining such fundamental guidance should have been a condition of funding.
- 2.6. Despite the control environment set up by the Agency (see paragraph 2.3), we found little evidence of the Agency's monitoring and control of THTC and HANI during 1996. In January 1997, a one-day 'health check' on THTC by the Agency noted major weaknesses, including the lack of a clear audit trail, weak financial controls, incomplete records of financial transactions and poor project documentation. As this was 12 months into the contract with THTC, we would have expected any such failings to have been highlighted much sooner. The Agency commissioned consultants to carry out a review of the body. The review concluded that, while THTC offered a valuable co-ordinating role for the sector, its management and control process was deficient. The Agency's response to the review was that:
- "it demonstrates clear systems deficiencies and alarming weaknesses in the accountability and credibility of the organisation. For its part [the Agency] does not come out of it unscathed and we have to hold our hands up and accept that there have been failings on our part. The potential risks regarding the peace funds come as no surprise".*
- 2.7. In light of the report's findings, the Agency refused to provide further funding to THTC and it ceased trading on 30 September 1997. Ongoing projects were re-assigned to Proteus in October 1997.
- 2.8. The Department told NIAO that the Agency did not have primary responsibility for establishing and maintaining controls in HANI. HANI was an independent organisation with its own constitution and personnel. In the Department's view, therefore, it is unreasonable to expect that the Agency should have scrutinised and controlled HANI's operations to the extent implied in this report.
- 2.9. It said that, unfortunately, THTC had its own internal problems, but the Agency took prompt and robust action, by first reviewing and then removing THTC and appointing Proteus. In the Department's view, the Agency's actions improved the monitoring process. The Department also said that the Agency was

## Part Two: Shortcomings in the financial management and control of HANI

required to implement the EC's funding and monitoring structure for 'Peace' projects. Given the scale of the Peace Programme, the Agency did not have the resources to monitor each individual project. In order to achieve this, a number of independent bodies such as Proteus and THTC were appointed to select projects, provide support and monitor their progress. As an additional safeguard, the Agency was the first organisation in the Northern Ireland Civil Service to create a specialist European 'inspection team', in 1997-98, to enhance the monitoring process.

### **Serious shortcomings were detected in the 'SELECT' Training Programme run by HANI**

- 2.10. HANI, along with six further and higher education colleges, received combined funding of £1.4 million from a European 'Peace and Reconciliation' initiative to run a training scheme known as SELECT. The programme was aimed at people in the tourism and hospitality industries and was scheduled to run from September 1997 to September 1998. HANI received approximately £221,000 of the overall funding.
- 2.11. The majority of payments under SELECT were to be output-related – that is, based on the successful completion and award of National Vocational Qualifications (NVQs). Under the funding contract of June 1997 with THTC, HANI was to receive a sum of £155 for each qualification attained. Not having the capacity to deliver the training itself, HANI 'sub-contracted' it to a commercial provider called HOW Systems Limited (HOW). The arrangement with HOW was that HANI would pay a sum of £100 for each NVQ attained. The balance of £55 per NVQ, received from SELECT, was retained by HANI to cover its own administration costs.
- 2.12. In October 1997, Proteus was assigned by the Agency to monitor SELECT (and formally contracted by the Agency in January 1998). In April 1998, it carried out a systems audit of HANI and raised a number of concerns over its handling of the programme. Proteus alerted the Agency, which tasked its 'Financial Audit and Support Team' (FAST) to investigate. The FAST report of July 1998 noted that:
- contrary to EU guidelines and the contract with THTC, HANI had not opened a separate SELECT

bank account. Instead, it was using its general business account to administer SELECT funding. This meant that there was not a clear audit trail of the SELECT transactions

- also contrary to EU guidelines and the funding contract, HANI's accounts did not separately identify those receipts and payments connected with the SELECT programme
- HANI was retaining £55 of the £155 output funding for each successfully completed NVQ, ostensibly to cover its administration costs. However, the administration was being carried out by HANI's SELECT Project Manager, whose salary was already being separately funded under the programme
- HANI had also claimed £12,500 in respect of its SELECT Project Manager's salary costs, based on an agreed level of 50% funding. However, as the Project Manager's *total* annual salary was £12,500, HANI had, in effect, been charging SELECT for 100% of her salary. It was further noted that the Project Manager worked only part-time on the programme
- the SELECT programme also provided funding to companies for Investors in People (IIP) training. The FAST review found that HANI's IIP co-ordinator, whose salary was paid from SELECT funds, also:
  - carried out Agency - funded Company Development Programme training
  - was involved in the production of a Training Directory.

In addition, 30% of her salary was being claimed from another EU-funded training programme. It was clear, therefore, that the IIP co-ordinator had not spent all of her time on IIP duties and an overpayment had resulted. We were unable to identify the amount concerned but noted FAST's comments that:

*"...on the basis that.... claims are payable on reimbursement of actual costs to the provider, then any amounts beyond actual salary costs would be a surplus payment to date reckoned at £39,200".*

- 2.13. In the wake of the FAST report, Proteus used HANI staff member's diaries to construct timesheets as a basis for payments made in relation to staff time. We understand that HANI's salary claims were substantially reduced to reflect the actual hours worked on the programme. Due to the lack of supporting documentation, we were unable to confirm the actual value of the adjustments.
- 2.14. Proteus also determined that the £55 administration fee was, in fact, profit which, under EU rules, was not permitted. It therefore disallowed the £55 from subsequent claims and calculated an amount of £43,230 overpayment in respect of payments already made. The overpayment sum was not recovered directly, but treated as an outstanding debt against which subsequent claims were offset until the sum was cleared. In November 1998, the Agency submitted an 'Irregularity Report'<sup>7</sup> to the European Commission, naming HANI's former Training Manager (who had left in October 1997) as the person responsible for the over-claiming on SELECT. The Report noted the "total amount of irregular expenditure" (including the amounts that would have been paid had the irregularity not been discovered) at £93,500.
- 2.15. The former HANI Training Manager commented to NIAO that she had left HANI in October 1997 before the SELECT Programme was launched; she also said that she had not made the claim submissions. Our review of the evidence found that she did leave full-time employment with HANI in October 1997, but continued to carry out certain activities for HANI on a part-time basis until April 1998. The evidence also showed that the arrangements to claim £155 per NVQ were established under the funding contract with THTC in June 1997, when the former Training Manager was still in post, and that SELECT began in September 1997.

#### **There were other findings noted by FAST during its investigation**

- 2.16. While reviewing FAST's working papers, we noted a number of other issues which had been raised at the fieldwork stage but not in its report. These were as follows:
- the FAST papers indicate that, in September 1997, HANI's then Honorary Treasurer<sup>8</sup> had specifically instructed HANI staff to lodge SELECT funds to HANI's general bank account. This contravened the EU rules of the scheme and overruled an earlier written instruction, in December 1996, that financial assistance monies must go through the Peace and Reconciliation account specifically set up for it. The Honorary Treasurer told NIAO that he did not instruct HANI staff to lodge SELECT funds into the general bank account
  - SELECT funds had been lodged into a high interest 'money desk' account, again contrary to EU guidelines. Any interest earned in this way, therefore, was repayable to SELECT. Proteus told us that it subsequently deducted the interest amount from payments made to HANI, but we were unable to confirm the sum involved
  - following her resignation from HANI in October 1997, the former Training Manager charged amounts totalling £1,813 to the HANI credit card, which continued to be held in her name. She told NIAO that this expenditure was authorised and reflected her continuing part-time services to HANI. We noted, however, that some of this expenditure was questioned by Proteus - two entries in December 1997, described as being for alcohol, had been annotated on the credit card statement to the effect that these were Christmas presents in the form of wine and spirits for "VIPs". Ten recipients were listed, comprising eight Agency staff and two from Proteus. As well as questioning the nature of this spend, Proteus said that no gifts had been offered to them. This issue was included in the irregularities reported to the EU by the Agency (paragraph 2.14)
  - the HANI Honorary Treasurer was one of the persons responsible for checking and approving the HANI Training Manager's credit card expenditure. At this time, the HANI Honorary Treasurer was married to the HANI Training Manager. In NIAO's opinion, this relationship constituted a fundamental conflict of interest within HANI. He told NIAO that there is no evidence

<sup>7</sup> The irregularities cited were – purchase of ineligible equipment, purchase of gifts, triplicate claim for staff time and overcharging bonus payments.

<sup>8</sup> This Treasurer later resigned, in March 1998, and was replaced the following month.

## Part Two: Shortcomings in the financial management and control of HANI

that the expenditure was inappropriate and unauthorised – nine HANI Officers could approve expenditure. He also said that the former Training Manager did not have a personal credit card and that, in his view, there was no conflict of interest because:

- all Council members were aware he was married to the former Training Manager
- no Council members raised any concerns
- where he perceived a conflict of interest might arise, he absented himself from the proceedings.

The evidence shows, however, that the HANI credit card was held in the name of the former Training Manager. Further, the expenditure on 'VIP' Christmas presents, noted above, had been annotated on the former Training Manager's credit card statement as having been approved by the Chair of the Training Committee and by her husband.

2.17. In a meeting with NIAO, the former Head of FAST stated that it was clear at the time of the FAST review that questionable expenditure had been charged to the HANI credit card but, as HANI had not set up a specific SELECT bank account, FAST could not prove that SELECT money was involved. In our view, given that HANI was some 95% publicly-funded and that there was no distinction in use between public and other monies, FAST should have included this information in its report.

### **The HANI Training Manager was identified as having obtained false supporting documents**

2.18. The Certification Officer reported that evidence of fraud committed by HANI staff had been found (see paragraph 1.6 above). This involved the EU-funded 'Multi-Skilling' programme and first came to light when, in October 1998, during an audit by Proteus, HANI's then Honorary Treasurer (appointed in April 1998) drew attention to two invoices for items of equipment that had been claimed as hire costs, when in fact they had been purchased outright.

2.19. Proteus investigated and confirmed that, on two separate occasions, HANI's Training Manager had requested duplicate invoices from a retail supplier, for goods which had already been purchased outright – in each case, a television and a video cassette recorder. Under the EU rules for the scheme, the upper limit for equipment purchases was £350, whereas the value of the goods concerned totalled some £380 in one case and £360 in the other. HANI believed that, in order to qualify for grant funding, the goods would have to be hired, rather than purchased.

2.20. We understand, however, that HANI was unable to source a hirer and, instead, purchased the goods. HANI's Training Manager arranged with an employee of the retail supplier to have duplicate invoices prepared, showing the equipment as hired. On the first occasion, the purchase invoice shows goods bought on 30 November 1996. The duplicate invoice of the same date shows the goods being hired for a period of 13 weeks. In the second case, the purchase invoice shows the goods having been bought on 6 July 1997, while the duplicate invoice indicates that the goods were hired for the period June to September 1997.

2.21. Proteus also reported a third case of duplicate invoicing to the Agency, involving an overhead projector for the Multi-Skilling programme. In this case, a junior member of staff at HANI told Proteus that, after HANI had received the equipment, she had been asked to contact the supplier (not the same retailer as in the other two cases) to obtain an invoice for hire instead of purchase. While there was some uncertainty as to who within HANI had asked for this to be done, the junior member of staff provided a written statement that she believed it had been the Training Manager.

2.22. Following its investigation, Proteus reported to the Agency, stating that:

*"as this would appear to be a deliberate attempt to misappropriate EU funds by masquerading purchases of equipment as hire, with a view to building up HANI's asset base, [we are] now reporting the irregularity formally and asking you to take the appropriate action".*

2.23. In October 1998, Proteus contacted the police, who investigated the case. The police decided against prosecuting the HANI Training Manager because, in their opinion, there was no evidence of dishonesty in the terms set out in the Theft Act, no gain to any person or loss to another and no evidence that the HANI Training Manager had sought to conceal the equipment from Proteus.

2.24. The Agency passed the case papers to its Internal Audit Service who, in January 1999, commented that:

*“IAS considers that the action taken to deliberately misrepresent purchased equipment does constitute a fraudulent action, regardless of whether the project could have legitimately claimed for the purchases or whether there was any personal gain”.*

NIAO noted that the employee of the retail supplier, who had provided the duplicate invoices, was dismissed by his employer.

2.25. The Agency subsequently submitted an irregularity report on the Multi-Skilling programme to the European Commission. The report named the HANI Training Manager as having obtained *“false supporting documents”* (for £380 and £360 – see paragraph 2.19) in order to misrepresent items purchased as having been hired. When interviewed about the incident by the Department, in January 2004, HANI’s former Training Manager accepted that she had obtained duplicate invoices and commented that :

- the retailer did not have a rental facility
- her only motive was to reduce the cost to the public purse
- her intention was that, when the programme had come to an end, the equipment would be returned to the retailer. (It is not clear to NIAO how this would have been possible, as the retailer involved does not trade in second-hand goods).

### **HANI’s Honorary Treasurer was paid for unvouched consultancy work by HANI and, frequently, he co-signed his own cheque payments**

2.26. Segregation of duties is a key internal control and seeks to ensure that errors and irregularities are either prevented, or detected on a timely basis. No single individual, therefore, should have control over two or more phases of a transaction or operation. We noted, however, a serious lapse of this important control within HANI, in relation to the work of the Honorary Treasurer. The Certification Officer’s report highlighted that, one month after his appointment in April 1998, the HANI Honorary Treasurer began to undertake consultancy work for HANI. From May to December 1998, he invoiced and was paid sums totalling some £16,000. We noted the findings in the Certification Officer’s report that:

- no details of hours worked or the rate charged were ever given
- HANI staff did not maintain any independent record of hours worked
- invoices were submitted in the name of ‘Hospitality Resource Professional Services’ and, frequently, the Honorary Treasurer co-signed his own cheque payments for the work he carried out as a consultant. We noted that, on the final payment, for an amount of £1,800, he authorised his own invoice for payment and co-signed the cheque, but failed to provide supporting documentation.

The Certification Officer’s report concluded that, *“consequently, HANI could not properly or independently vouch the validity of his claims, therefore they failed to maintain a satisfactory system of control over receipts and remittances”*. We also noted, during our own review, that there was no documentation describing the nature and need for this consultancy work, no authorisation for it to be carried out and no evidence of the work ever having been tendered. Subsequently, the Honorary Treasurer provided us with documentation indicating that there had been an arrangement to provide assistance to HANI for a sum of around £7- £8,000. Also, he told us that all invoices were vouched by detailed

## Part Two: Shortcomings in the financial management and control of HANI

timesheets contained in a spreadsheet format. However, we saw no evidence of this.

- 2.27. Under 'Financial Reporting Standard (FRS) 8, Related Party Disclosures' (the relevant Accounting Standard at this time), a related party transaction was defined as one where two or more of the parties involved had a special relationship, prior to any transaction or work taking place. This would include, for example, a business transaction between a body and one of its main office bearers. FRS 8 requires such transactions to be specifically noted within the body's accounts, in order to maintain transparency and to avoid any impression of impropriety. However, the consultancy work carried out by the Honorary Treasurer was not noted in HANI's accounts and its omission was not challenged by HANI's external auditors.

### NIAO Conclusions and Recommendations

- 2.28. The Department has commented that, while it is true that both THTC and HANI suffered poor management practices, these were quickly discovered by the control systems set up by the Agency and that it was corrective action initiated and prompted by the Agency that identified and dealt with these failings. In NIAO's view, however, it is clear that financial management and control within HANI was of a poor standard, over a long period of time. Although HANI was a private organisation, it was the recipient of very substantial sums of public money and, as such, was contractually obliged to properly manage these funds. It failed to do so. Similarly, THTC, as sectoral partner, failed to meet its contractual responsibility to ensure that there was proper financial management within HANI. Ultimately, however, it was the Agency, as primary funder, which had the responsibility for ensuring the proper stewardship of public funds by HANI. As the Agency itself conceded, the fact that there were "*clear systems deficiencies and alarming weakness in accountability*" demonstrates that it failed to do so.

- 2.29. The Agency was over-reliant on THTC to monitor the actions of HANI. It compounded this weakness by not monitoring the activities of THTC itself closely enough. One of the main lessons emerging from this case, therefore, is that, where a Department or Agency engages an intermediary body to administer publicly-funded programmes on its behalf, it must, itself, periodically test that procedures and controls have been properly set up and are operating satisfactorily.

- 2.30. HANI's handling of the SELECT programme was an area of particular concern. The failure by HANI to open a separate bank account breached EU rules and led to a loss of audit trail. The triplicate claiming of staff time and the overcharging of training fees were serious irregularities which led to the report to the European Commission, naming the former Training Manager of HANI as the person responsible. Without the April 1998 review by Proteus, it is likely that these matters would not have come to light. We are also concerned that important issues, noted by the Agency's Financial Audit and Support Team during its investigation into SELECT, were omitted from their report. In our view, this was poorly judged.

- 2.31. In NIAO's view, the former HANI Training Manager's admitted behaviour in obtaining false supporting documents raises significant concerns. The standards of integrity required from anyone handling taxpayers' money are well established.

### The winding-up of HANI (1998 to 2004) and the performance of HANI's Auditor

- 2.32. The Certification Officer's investigation raised a range of concerns about the winding-up of HANI, including unpaid debt, asset disposals and the gifting of a car to a former employee. The performance of HANI's auditor was also questioned. These issues are fully outlined at **Appendix 2**.



Part Three:  
The public appointments of the former HANI Training  
Manager



## Part Three: The public appointments of the former HANI Training Manager

- 3.1 The former Training Manager of HANI was reported to the European Commission in 1998 for over-claiming on the SELECT programme (paragraph 2.14). In July 1999, following reports by the Agency's Financial Audit and Support Team and the Department's Internal Audit Service (paragraph 2.24), she was again reported to the Commission, as having misrepresented payments on the Multi-Skilling programme. This matter was also included in the NICO Inspector's report in 2000, where she was named as having improperly obtained duplicate invoices in connection with the Multi-Skilling project (paragraph 2.18). While we recognise that she was not the only person responsible for shortcomings within HANI - and we note that she told us she had disputed the findings in the NICO Report - there were concerns on record about her role in the irregularities referred to above.
- 3.2 The Department has commented that the NICO Inspector's report was not available to it until December 2002 and this post-dated all of the former HANI Training Manager's initial public appointments (but not two subsequent extensions). However, the Department has acknowledged that the key issue involved - the obtaining of duplicate invoices by the former Training Manager - was known to the Agency/Department in 1998.
- 3.3 Despite the substantial body of evidence that pointed to concerns about the former Training Manager's conduct, she was subsequently appointed to a number of public offices. This is an important issue because public appointees may, from time to time, be party to sensitive information and to decision-making involving substantial sums of both public and private money. As such, holders of public office must be seen to meet the principle of probity. Failure to do so inevitably weakens public confidence.
- 3.4 In this part of the report, we examine the procedures that were followed in each appointment, looking in particular at why the concerns about the former HANI Training Manager's previous conduct appears to have had no impact on the appointment process. We also examine the subsequent response of the wider public sector to the issues raised by this case.

### The public appointments system

- 3.5 In the course of our review, we noted that there is not a precise definition of what constitutes a 'public appointment'. For the purposes of this report, therefore, we have differentiated between those appointments made by Ministers - 'Ministerial Appointments' - and 'non-Ministerial Appointments'. In this case, each of the 'non-Ministerial' category of appointments related to the role of independent interview panel member, where the former HANI Training Manager was appointed to a panel, interviewing and recommending candidates for Ministerial Appointments.
- 3.6 Prior to November 1995, public appointments were made either through a direct personal contact with an individual, or through selection from a database held by the Central Appointments Unit in the Department of Finance and Personnel<sup>9</sup> of members of the public who had expressed an interest in serving on public bodies.
- 3.7 In November 1995, the post of 'Commissioner for Public Appointments for Northern Ireland' was established, on the recommendation of the Committee on Standards in Public Life (known as the Nolan Committee). Independent both of Government and the Civil Service, the Commissioner's role is to regulate, monitor and report on Ministerial appointments to executive non-departmental public bodies and health and personal social services bodies. Although there are many other public appointments which fall outside of the Commissioner's remit, Northern Ireland Departments agreed to apply the Commissioner's 'Code of Practice' to their own appointments, as far as practicable and with due regard to proportionality.
- 3.8 In July 1996, the Commissioner produced guidance on appointments, which became known as the 'Peach Guidelines' (named after the first Commissioner). These were subsequently replaced by a 'Code of Practice' in April 2002. Under the 'Peach Guidelines', several principles of public service were noted, including '**probity**' whereby *"Departments must ensure the highest standards of propriety in the conduct of their public bodies in order to ensure public confidence. To achieve these high standards departments must take care to ensure that individuals appointed to their*

<sup>9</sup> Since 1999, the Unit has been part of the 'Office of the First and Deputy First Minister'.

*bodies are committed to the principles and values of public service and are capable of performing their duties with integrity”.*

November 2002, generally for terms of between two and four years. Two of these were subsequently extended. The term of office has now expired in all seven cases (see **Figure 3.1**).

## The public appointments of the former HANI Training Manager

3.9 The former Training Manager of HANI was appointed to seven public offices between June 2000 and

**Figure 3.1 (a): The Ministerial Appointments of the former HANI Training Manager**

Position Held	Organisation	From	To
Board Member	Training and Employment Agency	July 2000	June 2002 <sup>1</sup>
Board Member	New Deal Task Force	June 2000	April 2002 <sup>2</sup>
Board Member	Learning and Skills Advisory Board	July 2002 <sup>1</sup>	June 2004 <sup>3</sup>
Governor	Belfast Institute of Further and Higher Education	April 2002	July 2006, extended to July 2007
Board Member	Northern Ireland Events Company	June 2002	June 2005, extended to June 2006 <sup>4</sup>

**Figure 3.1 (b): The non-Ministerial Appointments of the former HANI Training Manager**

Independent Panel Member	DHSSPS	December 2001	March 2004 <sup>5</sup>
Independent Panel Member	DCAL	November 2002	August 2003 <sup>5</sup>

Source : DEL, OFMDFM, DCAL, DHSSPS

- Notes: 1. The Training and Employment Agency ceased to exist from April 2001 and its duties were subsumed by DEL. The Agency Board continued to operate until January 2002 when it amalgamated with the Further Education Consultative Committee to form the Learning and Skills Advisory Board.
2. In March 2002, the New Deal Task Force was dissolved and its responsibilities transferred to the Learning and Skills Advisory Board.
3. The Learning and Skills Advisory Board was dissolved in December 2003.
4. A further extension to June 2008, offered by DCAL, was declined.
5. The former HANI Training Manager sat on two panels for DHSSPS in October 2002 and September 2003 and on one panel for DCAL in November 2002. She was due to sit on another panel for DCAL in August 2003, but was replaced.
6. A number of these public appointments were unpaid.

## Part Three: The public appointments of the former HANI Training Manager

### There were fundamental weaknesses in the appointments procedures used

3.10 We examined the procedures followed in each appointment and noted several areas of concern – summaries are set out in **Appendix 3**. Overall, it is clear that there were a number of fundamental procedural weaknesses, including:

- information on concerns about the previous conduct of the former HANI Training Manager:
  - does not appear to have been properly addressed by key personnel within the Agency/Department who were aware of it
  - does not appear to have been shared with the appointments panels set up by the Department
  - was not made known in advance to the Departmental Ministers who approved the appointments
  - was not shared with the Central Appointments Unit and other Departments at an early stage. DHSSPS and DCAL subsequently appointed the former HANI Training Manager to public office
- there was insufficient testing of probity prior to appointments being made
- powers to deal with issues of probity that came to light after appointments had been made were limited.

3.11 Senior officials in the Agency were aware of concerns about the former HANI Training Manager's previous conduct, prior to her being appointed to public office. The Department was also aware, through the Internal Audit Service letter of January 1999 (paragraph 2.24) and when, in April 2001, the Agency ceased to exist, its staff transferred to the Department. However, on each occasion that the former Training Manager applied for an appointment within the Department's areas of responsibility – the Agency Board, the Learning and Skills Advisory Board, the New Deal Taskforce and the Governing Body of the

Belfast Institute of Further and Higher Education – details of concerns about her previous conduct do not appear to have been drawn to the attention of the appointments panel or properly addressed by officials.

3.12 Of particular concern were the events outlined in **'CASE C' at Appendix 3** where, in May 2002, shortly before appointing the former Training Manager to the Learning and Skills Advisory Board, the Department noted that it was content to appoint her (and three others), *"except that there is a possibility that one of these candidates may attract some adverse publicity in the press in the next week or two"*. The Department was *"inclined to wait a little if possible"*. While there was no indication on file as to which candidate this referred to, the Department has confirmed that it was the former HANI Training Manager. The Department decided that, *"Since the appointments are from 1/7 we have no choice but to go ahead"* and the appointments were made.

3.13 It is not clear to us why the Department felt that it had *"to go ahead"*. Earlier that year, the former Training Manager had applied for a position on the Board of the Belfast Institute. The selection panel, which had not been made aware of concerns about her previous conduct, had recommended her appointment (along with a number of other candidates for each of the 16 further education colleges). We found, however, that the Department chose to intervene in two cases (neither of which involved the former HANI Training Manager), to change the appointment panel recommendations, because it had been unhappy with the previous performance of the two individuals concerned. It is clear, therefore, that the Department was prepared to intervene and take action to ensure that some candidates would not be appointed, even after they had been approved by the selection panel. No intervention was made, however, in respect of the former HANI Training Manager.

3.14 Crucially, once the former Training Manager had been given her first public appointment, she was placed (as are all new appointees) on the central list of appointees held by the Central Appointments Unit. This opened the way to her appointment as an independent interview panel member for DHSSPS (see **'CASE F' at Appendix 3**). The failure by the Agency

and the Department to alert the Unit to concerns about the Training Manager's previous conduct, therefore, was a serious omission.

- 3.15 Another significant failing was that the application and interview processes for public appointments did not rigorously test candidates for issues of probity. Also, it was apparent in the case of the post on the Governing Body of the Belfast Institute that, having made the appointment, the Department considered that it was limited in the extent to which it could then deal with concerns about the Training Manager's probity (see paragraph 3.19 below).
- 3.16 We asked the Department to explain why, repeatedly, the information it had about the former Training Manager had not been properly addressed in any of its appointments. It said that:

*"no record is available which would suggest that consideration was given to whether the matters listed in paragraph 3.1 should have been taken into account when considering the public appointments made in 2000-2002. However, it should be noted, that public appointments procedures and policy have developed significantly since then and that, in 2000-2002, this case was the first time such an issue had arisen since the procedures were introduced following the Nolan report in the mid-1990s.*

*As noted elsewhere in the report, at the time of the Department's review of the case, the Department had no power to remove the former training manager from the BIFHE Governing Body.*

*Likewise, at the time the tenure of the BIFHE Governing Body was extended in 2006, the Department had no power to remove an individual. This could only have been done by the BIFHE Board and only if certain very specific circumstances arose".*

### **In late 2003, the Department began a detailed review of the HANI case, including the public appointments of the former HANI Training Manager**

- 3.17 Following publication of the Certification Officer's report in September 2003, the Department initiated a detailed review of the HANI case. In November 2003, it appointed a retired senior civil servant to examine papers relating to the affairs of HANI, to advise whether the part played by the former Training Manager was consistent with her appointment to public office. The reviewer considered the circumstances surrounding the obtaining of duplicate invoices, the poor standards of financial management of HANI training courses, the gift of a car and motor insurance and the use of the HANI corporate credit card<sup>10</sup>. His report noted that:

*"in carrying out this task, I have not contacted any of the parties involved nor seen any other papers, especially those relating to the standards expected of public appointees. Nevertheless, I am aware that those standards are high and that there is a considerable gap between failure to match up to these standards and actions justifying the relevant authorities in initiating criminal proceedings. On this basis, my conclusions are that [the former HANI Training Manager] does appear to have fallen below the standards expected of a public appointee in some of the actions she took while in the employment of HANI and consideration should, therefore, be given to removing her from any public appointments".*

- 3.18 The conclusion reached by the reviewer was that:

*"Viewed in isolation, [the former HANI Training Manager's] actions during her employment by HANI fall below the standard of someone being considered for public appointment. Whilst there was no loss of public funds in the use of duplicate invoices, her actions need to be judged on the facts as she supposed them to be and those actions appear to have the intention of incorrectly claiming public funds; although not, of course, for her own benefit. Also, her part in the*

<sup>10</sup> The HANI credit card had been used to purchase wines and spirits to be used as Christmas presents and in training courses, not all of which could be accounted for and which constituted 'irregular expenditure' under EU funding rules.

## Part Three: The public appointments of the former HANI Training Manager

*running of HANI and her use of a credit card, suggest that she is unfamiliar with public accountability standards. Having said that, she was not the most senior employee in the organisation and before deciding on the extent of her responsibility for HANI's mismanagement, it would be helpful to ascertain its management structure and why the Structural Funds Irregularity Reports both named her.*

*These reprehensible actions [by the former HANI Training Manager] also need to be considered alongside what else was known about her when [the Department] decided to appoint her to public bodies and, in fairness, she should be given another opportunity to explain her actions over the invoices and the credit card and her part in running the organisation".*

In December 2003, the Department put the report to the Departmental Solicitor's Office for its opinion. Its view was that it is plain that she was prepared to use duplicate invoices for accounting purposes and that cannot be regarded as acceptable or appropriate behaviour.

- 3.19 In November 2004, the Department summed up its findings. Its view was that it could not ignore the Certification Officer's findings in respect of the false accounting. However, given the lapse of time (some seven years), the decision of the police not to prosecute, the lack of personal gain and the public criticism already borne by the former HANI Training Manager<sup>11</sup>, the Department considered that, on the grounds of proportionality, it should not seek to remove her from her post as a Governor of the Belfast Institute. Instead, it would seek to persuade her to resign. The Department told us that it did not actually have the power to terminate the appointment – it said that authority to do so lay with the Governing Body of the Belfast Institute.
- 3.20 In the event, the former HANI Training Manager declined to resign and so the Department wrote to the Chair of the Governing Body, in February 2005,
- 3.21 Both NIAO and the Commissioner for Public Appointments question whether it was appropriate to apply a 'proportionality' judgement in a case such as this. The position as a Governor of the Institute was an important and high profile appointment and the former Training Manager's previous conduct, about which concerns had been raised, was difficult to reconcile with the Nolan standards. Moreover, the publicity that the case had already attracted should have alerted the Department that there was already a significant public perception issue that had to be dealt with.
- In March 2005, the Commissioner for Public Appointments decided that it would not be appropriate to appoint the former HANI Training Manager to the central pool of independent assessors**
- 3.22 In 2004, the former HANI Training Manager applied for appointment to the central pool of independent assessors, administered by the Office of the Commissioner for Public Appointments. In June 2004, the Commissioner wrote to the former Training Manager to explain that she was awaiting the results of the Department's review of HANI, prior to making a decision (paragraphs 3.17 to 3.20).
- 3.23 Following completion of that review, the Commissioner wrote to the former Training Manager in March 2005 stating that she believed it would not be appropriate to appoint her to the central pool of independent assessors. In explaining her decision, the Commissioner noted the importance of meeting - and being seen to meet - the principle of probity. Given that the probity of the former Training Manager's actions had already been questioned, the Commissioner believed that appointment as an Independent Assessor may jeopardise public confidence in the central list, which would inevitably undermine the whole process.

<sup>11</sup> The matters reported by the Certification Officer had, by this time, been reported in the local press.

**The Department extended the period of service in one of the public appointments held by the former HANI Training Manager**

- 3.24 In contrast to the Commissioner's judgement on the suitability of the former HANI Training Manager for public appointment, the Department extended the period of service in her public appointment to Governing Body of the Belfast Institute - with the impending re-organisation of the further education college sector as a whole, to take effect from 2007-08 academic year, the term of office of all existing Governors was extended in July 2006 by 12 months. Even though there seemed to be an opportunity to bring the public appointment to an end, the Department did not do so. It told us that it had no power to terminate the appointment of any individual Governor. We note that the Department's decision, in July 2006, *post-dated* the Commissioner's analysis (paragraph 3.23 above) by some 15 months.

**Appointments by the Department of Culture, Arts and Leisure (DCAL)**

- 3.25 DCAL also appointed the former HANI Training Manager to public office. Initially, this involved a three-year appointment, from June 2002, to the Board of the Northern Ireland Events Company (see '**Case E' at Appendix 3**). The Events Company is an 'arms length body' - a company limited by guarantee with a Board of Directors bound by Articles of Association. Although, at this stage (early to mid-2002) concerns about her conduct were well known within DEL, we saw no evidence that DCAL had been made aware of them. Subsequently, she was also appointed by DCAL, on two separate occasions in 2002 and 2003, as an Independent Interview Panel Member. In the event, the second of these, in August 2003, was withdrawn by DCAL shortly after appointment (see '**Case G' at Appendix 3**).

**In NIAO's view, the former HANI Training Manager entered into an arrangement which constituted a major conflict of interest**

- 3.26 In mid-March 2004, a conflict of interest situation arose, involving the former HANI Training Manager.

The Events Company had agreed to provide financial support to a major sporting tournament. Negotiations, beginning in February 2003, led to a funding agreement for £0.5 million in June 2004, payable to the company managing the event in July 2004. However, in the intervening period, the former HANI Training Manager entered into a contract with the managing company, to carry out the PR function. Details are set out in '**Case E' at Appendix 3**.

- 3.27 This case raises a number of issues which are relevant to conduct in public life. As far back as 1996, the PAC<sup>12</sup> made clear that "*Potential conflicts of interest are very serious matters indeed. We do not have to prove that something wrong has happened as long as the potentiality for that wrong doing exists.*" More recently, in 2006, the PAC in reporting on the problems identified in the Emerging Business Trust<sup>13</sup>, made the point that "*where there is a perception of serious conflicts, it is not sufficient to declare them, they must be effectively dealt with or avoided altogether*". In addition, PAC emphasised that "*avoiding unmanageable conflicts not only provides reassurance to the public that decisions taken in public bodies are entirely based on what is in the public interest, but protects individuals from any suspicion of bias*".

- 3.28 In mid-April 2004, the Department advised the Chair of the Events Company, by letter, to ascertain the facts in this case (although no reply was received). It was not until June 2004 that the Department obtained legal advice on the matter. This confirmed that there was a conflict of interest. However, by this stage, the Events Company had decided that the former HANI Training Manager could retain the contract and remain on the Board, but resign from the Golf Sub-Committee and declare an interest at Board meetings. The Department acknowledges that there were deficiencies in how the issue was handled by the Board but told NIAO that it took the conflict of interest issue seriously and reacted speedily. NIAO notes the following points:

- as a Board member from June 2002, the former HANI Training Manager was privy to discussions and documentation concerning the negotiation and award of the financial assistance package to the company managing the event

12 Extract from Treasury Handbook on Irregularity (1996)

13 'Governance Issues in the Department of Enterprise, Trade and Investment's former Local Enterprise Development Unit', Forty-sixth Report of Session 2005-06 (HC 918).

## Part Three: The public appointments of the former HANI Training Manager

- although declaring her interest in the event, she remained present at seven Board Meetings, between June 2004 and August 2005, when the event was discussed
- although both the Chair of the Events Company and the former HANI Training Manager claim the Department was aware of how this issue was handled, the Department has said that, clearly, it had not approved of or acquiesced in this situation.

3.29 **Case E at Appendix 3** makes clear that there are a number of points of difference between the accounts of the parties involved. In cases of significant potential conflicts of interest, it is vital that the body concerned maintains an accurate and authoritative set of documents which evidences all actions and decisions taken.

### **Despite concerns about the former HANI Training Manager's conduct while on the Events Company Board and during her employment by HANI, DCAL extended her term of Board membership**

- 3.30 Due to uncertainty surrounding the future viability of the Events Company, DCAL, in May 2005, extended the term of Office of all existing Board members. This included the former HANI Training Manager, despite the concerns about her previous conduct, both on the Events Company Board and during her employment with HANI (which had, by now, been drawn to DCAL's attention) and DCAL's decision to withdraw her appointment as an Independent Panel Member in August 2003.
- 3.31 DCAL told us that its decision to extend had been taken following receipt of a letter in February 2005 from DEL, about the latter's concerns regarding the former Training Manager's conduct during her employment with HANI. In this letter, DEL had stated that it was not seeking her removal as a Governor of the Belfast Institute as this was thought to be a disproportionate response in the circumstances. DCAL also said that it had a report from the Events Company in May 2005 on the overall performance of the former Training Manager. This had rated her highly on a number of dimensions of the Board's work

and, while it also included the recommendation that she "*continues to avoid exposing herself to potential conflict of interest situations*", there was no subsequent adverse feedback in regard to her performance on the Events Company Board.

3.32 We note that the decision to extend her term of Board Membership post-dated the analysis of the Commissioner of Public Appointments (paragraph 3.23 above) that it was not appropriate to appoint her to public office. DCAL told us that it has no record to show that the Commissioner's decision was communicated to the Department and believes that this may have been for privacy and data protection reasons. It also said that, had DCAL been formally notified of the Commissioner's decision, action regarding further reappointments of the former HANI Training Manager would have been taken.

3.33 In April 2006, DCAL again offered the former HANI Training Manager an extension of her term of Board membership, this time for a period of two years. On this occasion, however, she declined and has now stood down from the Board.

### **DCAL failed to disclose concerns about the former HANI Training Manager's previous conduct, when providing a reference for her application to the pool of Independent Assessors**

- 3.34 When the former HANI Training Manager applied for appointment to the central pool of independent assessors, administered by the Office of the Commissioner for Public Appointments (paragraph 3.22), a reference was sought from DCAL, which had previously engaged her as an independent assessor. The reference consisted of a 'pro forma' set of seven questions, aimed at determining the quality of her previous performance.
- 3.35 In response to the final question, "*Are there any other issues relevant to the applicant's appointment as an Independent Assessor, which you consider should be drawn to the Commissioner's attention*", DCAL answered "No". In doing so, it failed to disclose the concerns about the former Training Manager's previous conduct in HANI and the Events Company. The reference was dated 27 May 2004 - after the



Events Company conflict of interest issue had come to light and after DCAL had been alerted to the issues surrounding the former Training Manager's conduct within HANI. DCAL told us that its reference was specifically about its assessment of her performance as an independent panel member for DCAL in one competition.

#### **The former Training Manager was appointed by the Events Company as a Human Resources consultant**

- 3.36 DCAL also drew to our attention that the former HANI Training Manager was appointed by the Events Company on 12 June 2006, as a Human Resources consultant.

### **The wider public sector response to this case**

- 3.37 In response to the public appointments issues raised by this case, a Working Group, chaired by the

Permanent Secretary of DEL was set up in May 2004. Their brief was to examine policy in relation to public appointments, with an emphasis on the issue of testing candidates on public sector values and probity.

- 3.38 In January 2005, the Working Group produced a paper entitled 'Probity and Public Appointments'. The paper made 12 recommendations (see **Appendix 4**) aimed at strengthening the appointments process, whereby issues such as probity are identified, examined and resolved at the appropriate time and in a satisfactory way.

### **The comments of the Commissioner for Public Appointments for Northern Ireland**

- 3.39 The Commissioner for Public Appointments for Northern Ireland has commented as follows:

*I am profoundly disappointed to find another case where the standards of behaviour surrounding public appointments have been so deficient. I am also disappointed that, despite being alerted to the issues, Departments failed to deal with the problems.*

*I see the key lessons to be learned as follows:*

- *Members of public bodies must understand the high level of probity expected of them. Any appointee is serving on a body on behalf of us all – to exercise his or her judgment for the greater good – not for any personal or corporate financial gain*
- *Those charged with selecting candidates must also understand this and ensure, at interview, that candidates are fully aware of the expectations and can meet them. A perfunctory box-ticking query about probity and conflicts of interest is not sufficient*
- *If a Board Member fails to act in a proper manner, it is the duty of the Chair to deal with this. It is vital that the Chair understands this role. Departments should support a Chair who wishes to take action on such problems*
- *Board members and Chairs must receive regular training on what is expected of them in regard to probity and conflicts of interest. However, lack of regular training is not an excuse for breaching the recognised standards of behaviour on a public body.*

*Meaningful appraisals of board performance are a key element within the re-appointments process for anyone wishing to continue into a second term on a board. For any organisation regulated by the OCPANI Code, it is a requirement. Given the evidence contained in this report, it is clear that this matter must be given more serious consideration. As well as an assessment of performance in public office over the previous year, the annual appraisal should also require confirmation that no other factors have come to light which would call into question the fitness of the individual remaining as a public appointee.*

## Part Three: The public appointments of the former HANI Training Manager

### **NIAO Conclusions and Recommendations**

- 3.40 It is clear that there were fundamental flaws in the appointments procedures applied in this case. Information on concerns about the conduct of the former HANI Training Manager was not acted upon by the Agency and DEL, nor was it shared with other public sector bodies at an early stage.
- 3.41 The testing of probity, prior to appointments being made, was also weak. Similarly, after appointment, questionable action was taken, both by DEL and DCAL. Indeed, on two occasions, her public appointments were extended. NIAO notes that these decisions stand in contrast to the assessment of the Commissioner for Public Appointments, who chose not to appoint her to public office.
- 3.42 The situation in the Events Company Board illustrates the reputational problems that can arise for a public body where a conflict of interest is not handled in accordance with best practice.
- 3.43 We welcome the recommendations put forward by the Working Group in its January 2005 paper on 'Probity and Public Appointments'. However, NIAO notes that subsequently, both DEL and DCAL extended the term of office of the former HANI Training Manager. One of the main lessons, therefore, is that it is not sufficient simply to have good procedures in place – they must be rigorously and consistently applied.
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# Appendices

## Appendix One: (Introduction, paragraph 4) Letter dated 18 February 2008 to NIAO from the former HANI Training Manager

**NOTE: This letter from the former HANI training manager is included in order to fully present her views. NIAO and a number of the other bodies referred to in the letter want to make it clear that its inclusion is not an agreement with its presentation of the facts or acceptance of the criticisms which it contains.**

NI Audit Office  
University Street  
Belfast

18th February 2008

### **NIAO- Draft Report- HANI**

Dear

Despite many attempts of my offering to assist your offices with this investigation last year (after I was informed by a local journalist that you were conducting an investigation) I was informed that I had to wait until you published your draft report in July 2007.

This was despite others being afforded the opportunity to contribute and respond both verbally and in writing before your draft report was produced.

I have since now become one of the main subjects of your investigation which has led to a biased report and one that I am continuing to challenge both in its **content** (Large Lever Arch File of factual Evidence) and in the investigative **process** undertaken by your offices.

Having met with you at my request to attempt to establish the background leading to many of the inaccurate statements in your report, you neglected to explain them to me, only referring me back to the draft report.

You then directed me to make a FOI request to access this information, yet when I did, this request was refused (September 2007). I appealed this decision to your Complaints Officer in September 2007 and still await a response to this day.

I have been treated most unfairly in this case. While your offices did not provide me with any relevant papers to assist with my responses to this report, your offices did in fact provide such documentation to other parties. How can any reader of this report ensure that it has not come from a biased and unfair viewpoint?

This case is now 10 years old.

Here are the facts and the responses to the changes in this 2nd draft report you have sent me;

1. HANI has been closed now for almost 10 years.
2. A number of investigations have taken place since 1998 from teams such as Proteus, T&EA internal Audit, FAST team, a forensic auditor on behalf of the NI certification Office and now the NI Audit office. The cost to the public purse has exceeded £250,000 over the past 4 years alone. I note that DEL was unable to confirm the exact amount of money spent before this as this was not accounted for in their records.

These reports contained many damaging factual inaccuracies and despite all of the investigations and inaccurate reports, the former HANI Training Manager was never afforded the opportunity to contribute to any of the investigations until **AFTER** their reports were published. Other individuals and organisations were afforded this opportunity during their "Live" investigations.

The former Training Manager disputed (as have many others implicated by the report) the findings in the NI Certification Officers report, however, their replies to the content of the report **were disregarded, not investigated or given fair consideration**. The NI Certification Officers report, in relying on the NI Certification Officers report, contains several **factual inaccuracies** and the NI Audit Office are aware of these however, it does not make reference to this important fact anywhere in its 3 draft reports. The credibility of the NICO report therefore is completely in question.

The NI Audit Office commenced investigating HANI in 2003. Despite numerous requests by the former HANI Training Manager to assist in their investigation, she was denied the opportunity until after it produced its 2nd draft report in July 2007. After numerous letters to NIAO of her complaint in having to "defend" inaccurate statements in the NIAO report, the NIAO only then allowed her input to the report in which her energy had to concentrate on collecting evidence to meet NIAO deadlines while addressing their "pre-conceived" ideas to factual evidence.

3. The matters that relate to the former HANI Training Manager that the NI Certification Office and now the NIAO use to criticise her activities refer to;
  - Alleged fraud amounting to £729 of invoices that were never used to claim funding by her, and also were never concealed and were discussed upfront with the relevant intermediary funding body at the time.
  - Use of a HANI company credit card; which was used to purchase items for training courses after her departure as authorised by the President and Chair of HANI. (see letter from Chair of Training Committee submitted to NI Audit office)
  - Gift of a car and insurance payments; was approved by HANI President and Council and this type of gift had been granted before to a former employee. The payments came from HANI general account and **NOT** paid for with public funds and so has no relevance to the investigations. HANIs constitution allowed for such disposals (Section 40 HANI Constitution). This was also not the responsibility of the former HANI Training Manager.

## Appendix One (continued)

- Irregularity reports undertaken by the T&EA in 1998 & 1999 which reported the former HANI Training Manager as the one responsible for over-claiming grant aid on the SELECT programme and the claiming of the invoices on the Multi-skilling initiative, even though she was no longer working for the organisation, did not make the claims (as evidenced in the claims themselves as exposed under FOI) and this was never questioned by any of the investigation teams.

4 The NI Audit Office report concentrates on two aspects, namely;

### (A) Shortcomings & Financial Management & Control of HANI.

The real issue here is - **the failure of intermediary funding bodies to adequately ensure the administration of the Peace fund in 3rd party organisations.**

In HANI's case this was THTC and Proteus. These bodies distributed millions of pounds of funding to numerous 3rd party organisations over the same period with the same advice and lack of guidance. This report has concentrated on one of them.

Note; THTC was wound up by the T&EA in August 1997 because of poor financial management. Proteus failed to support HANI who was involved in starting a new initiative "Select" (one of the biggest PEACE initiatives of that time) which it was running in conjunction with BIFHE, until the programme was nearing completion. It is apparent from the evidence that Proteus only started to become heavily involved in this initiative when it was near its conclusion when it began to highlight claims that were not eligible. This was also the case for BIFHE, although not highlighted in this report. It is worth noting that HANI's claim for training of £150 per NVQ unit (of which £50 was disallowed by Proteus) falls somewhat short of that paid to the publicly funded colleges (i.e. circa £224 per unit). How can it be that organisations dedicated to the provision of training and education are less cost effective than the private sector?

If proper support was given to HANI and BIFHE in the first place this would not have happened. This programme ran after the former Training Manager left the organisation and so it was evident that the structure was weak in HANI. It is also worth noting that this former Training Manager from evidence gained through FOI did not submit claims for this initiative contrary to the incorrect reference to her name in the "Irregularity Report" reference SELECT in 1998. This is one of the many factual inaccuracies that were to come in the reports that followed.

The report also fails to mention that the SELECT initiative was set up incorrectly from the start because of the hurry to allocate money by the Intermediary funding body, THTC. The letter of offer was made by THTC in June 1997 however the THTC was closed just over 2 months later for inappropriate financial management. Despite this important fact, there was considerable delay by Proteus who took over THTC's responsibility for the project until the £1.4 million project was near completion.

All in all, there was NO loss to the public purse. Claims that were made by staff would not have been made if the advice and guidance had been offered to both BIFHE and HANI from the start. NO fraudulent behaviour took place – no criminal proceedings issued and no personal or company gain.

**(B) The NI Audit office chose to change its initial 2nd part of this report from “the transfer of HANI’s assets to the NI Hotel Federation to “the Public Appointments of the former HANI Training Manager”.**

The decision to focus on this is questionable and helps only the rationale that over zealous civil servants carried away in attempting to establish improprieties against an individual where they did not exist.

It has highlighted that the Commissioner for public appointments at the time of these appointments did not communicate with government departments or vice versa. The public appointments process to this day, although dictating the principles of public life, provides no parameters, criteria, interpretation or explanations of these to allow Interview panels, Ministers and the Northern Ireland public to understand what is acceptable and what is not. In today’s society of good employment practice the absence of clear criteria and guidelines to test a candidate’s history of the 7 principles and furthermore their future commitment to the principles simply does not exist.

All that exists today and following the NI Audit report is “gut” feeling that after going through a recruitment process, its falls to civil servants to determine whether a person is “appointment material” or not.

It attempts to criticise a Board appointment because of the alleged “conduct” of an appointee because of issues that were not her responsibility & control and also of grant claims that were not submitted by her. These are the facts. Therefore it is inappropriate for this report to refer to this issue at all.

In an attempt to strengthen a point, it also criticises the former Training Manager for undertaking work that related to one of the Boards that she was a member-NIEC.

Despite her seeking advice and direction which she dutifully fulfilled (particularly before the tendering stage of the work in question) from both the NIEC Accounting Officer, Chair and DCAL, she took undertook the work whilst following the appropriate advice as directed and yet has still has been criticised. (The Booklet provided by the Commissioner for Public Appointments at the time of her appointment directs candidates to seek “advice”. Although she did this, and obtained guidance which was dutifully followed, she was still criticised).

This criticism gives little faith in public appointees who require clarification and advice from Accounting officers and Government departments.

Again, I refer to the **poor information and guidance that was available from the Commissioner of Public Appointments** at that time which is still poor and inadequate to this day.

**No training was given for Board members** at this time and the working recommendations as indicated in Appendix 3 still fails to explain the parameters, criteria and indicators for conflict of interest issues. As noted, “Northern Ireland is a relatively small place” and new appointees are recruited because of their experience in the sector they are appointed in and the skills they

## Appendix One (continued)

possess. It is understandable then that possible conflicts of interest may arise and there still does not exist criteria for establishing factually whether this is the case.

This contradictory evidence indicates that the Northern Ireland public should have no faith in the entire public appointment process as there is no duty of care for appointees, no transparent criteria for selection or de-selection.

The entire number of investigations have reflected one common thread –the neglect of human rights and the right of the opportunity to respond. The former HANI Training Manager was never afforded this opportunity during any investigation, thereby by putting her at a distinct disadvantage in attempting to challenge any factual inaccuracies in this report.

**Lack of a transparent and balanced approach to any audits/investigations conducted.**

I have become the central figure in all of these investigations, yet at no time was I offered to opportunity to ‘have my say’ during the evidence gathering process or prior to the preparation of any report where numerous allegations have been made against me. Furthermore, despite my request for open and frank discussion with the NIAO and for access to the information that you have on me (and on which the inaccurate statements about me are based) I have been denied these requests. Other parties, however, have been afforded this facility. This has not been fair.

Despite incorrect factual statements in the NICO report, the responses I made after its publication and release to the press were disregarded (as were the responses of others).

With no course of appeal available to me, NIAO also have the right to print what it chooses, despite any evidence presented. Surely any system of probity in Northern Ireland should be governed by a watchdog to ensure compliance by all organisations and offer the opportunity for any individual named in any report the right to balanced and fair treatment.

I would point out to you that the approach that you have taken in preparing your report is likely to result in the report unfairly damaging my reputation and this will cause me financial loss.

Your changes to the report simply repeat the points that I have made in my defence without in anyway seeking to balance or weigh up the evidence. It cannot be appropriate for you to conduct a £200k+ investigation by collecting a range of accusations against me, then send me a draft of the report asking me to comment within a ridiculously short deadline (this has now been effectively conceded by you) and then when I give you my comments you simply note what I have said. This is contrary to natural justice.

Yours sincerely,

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[Former HANI Training Manager]



## Response to the NIAO 3rd Draft report

### Part One

Page 3	1.3	Correction; HANI received funding from Public funds, member's subscriptions, Sponsors and Members contributions to HANI training programmes and marketing programmes.
Page 4	1.6	Reference to NI Certification Officers report – "evidence of fraud". This allegation in the NI Certification Officers Report was unfounded and did not contain any evidence to quantify this allegation; this is a fact. No evidence of any false claims were contained in this report and no criminal activity took place;(ref RUC report 1999).

### Part Two

Page 6	2.1	Having obtained though FOI, I am in the possession of factual evidence as are your offices, that contradicts all of the statements that refer to me, which the NIAO has failed to establish in its report.
Page 7	2.3	Proteus was appointed in October 1997. Note the NIAO does not make ANY comment on the fact that although Proteus was appointed at the start of the £1.4m Select training programme, it failed to take any interest in this initiative until it was in its final stages. All of this at a time when the previous body THTC who approved this project was closed due to financial mis-management- hence Proteus' appointment.
	2.5	Correction-the "THTC or the Agency" never picked up any of this at that time.
	2.11	<p>HANI's delivery of its NVQs was from the start to be delivered by HOW systems and formed part of the tender.</p> <p>NIAO also fails to note that the HANI/Colleges SELECT programmes funding was based on a Business Plan commissioned by THTC and conducted by [Consultants] which was to be used by the training providers. This is where all of the problems arose from, as a lot of the costs were ineligible for funding. Both BUFHE and HANI used this plan to run SELECT.</p> <p>BIFHE was appointed to co-ordinate and administer all of the funding for this project.</p>
	2.12	<p>Again the NIAO fails to note that although Proteus was appointed by the Agency in October 1997, it only took a proper interest with HANI and its programmes SELECT programme from April 1998.</p> <p>The administration costs were to cover input from the Training Manager, Development Officer and CEO who were to have an active role in this project.</p>

## Appendix One (continued)

		<p>However the Training Manager resigned in November 1997 as did the Development Officer and the CEO shortly after that. HANI has few staff left to deliver any of the programmes, let alone SELECT. They were still following the original costs in the Business Plan.</p> <p>The SELECT programme was unable to recruit a full time co-ordinator and so was asked to offer one of its staff on a part-time basis. Any incorrect claims made by HANI staff were made in ignorance of the EU guidelines which were never issued by the intermediary funding body and no training was given to staff on its application. I did not make the claim submissions</p>
Page 12	2.19	<p>HANI knew that equipment could be hired for an indefinite sum and could have hired equipment for £1230 i.e. (TV and video for 13 week period). This was in the budget. However the former Training Manager tried to save on hire costs and the electrical store agreed to hire the equipment in the end and it was to be returned(hence the boxed equipment in the offices at the time of the investigation). No fraud took place. No claim was made by the former Training Manager and it was the electrical store who agreed to hire it to HANI.</p>
	2.25	<p>The Training Manager could easily have claimed for these items and hired them for the £1230 as was quoted by a local electrical hire shop. The cost of doing this twice (2 programmes) would have been £2460, all of which could have been claimed back in full. The only rationale for approaching the electrical store was to reduce the cost to the programme and public purse. The retailer upon accepting the equipment back was to re-sell them as it chose fit. The purchase invoice was taken as a copy as the supplier had no way of putting the payment through his till. There was no personal or company gain. Both invoices were kept openly in the office.</p>
	2.30	<p>The NIAO refers to the fact that the former training Manager being reported to the European commission for over claiming of staff time and training fees. Upon obtaining a copy of these "irregularity" reports and accompanying claims, they were not claimed by the Former Training Manager and also the claims were submitted for funding in a period after the former Training Manager had left HANI. This is a fact. Also the audit team referred to her under two different names.</p> <p>Therefore both of these irregularity reports are factually incorrect and have been incorrectly relied on as evidence by both the Certification Office and now the NIAO.</p>
	2.31	<p>The former training Manager did NOT admit obtaining false invoices. It was indicated that with the agreement of the electrical store that it would hire this equipment to HANI. Both invoices were kept as there was no intent to deceive these actions. The equipment was replaced in the boxes after its use and was to be returned on completion of the programme.</p>

PART 3		
Page 17	3.1	<p>The former Training Manager was never given the opportunity to respond to any of the queries by any of the teams investigating HANI. Her only opportunity to respond was after the draft report was issued by the NI Certification Office, when the former Training Manager pointed out several factual inaccuracies and disputed many issues. The response gained was identical to the response given to every other respondent-that the report was not to be changed.</p> <p>Despite the NIAO knowing that the NI Certification Officers report did in fact contain inaccuracies; it has chosen not to confirm this fact in its report. Therefore NIAO is not giving a balanced factual report.</p>
	3.11	<p>Note that the former Training Manager was encouraged to apply for the public appointments as noted in this paragraph by two senior civil servants, the Director of BIFHE and several Governors of BIFHE because of her expertise and experience in employment and training.</p>
	3.17	<p>The reference to the appointment of a retired civil servant –where reference is made to several issues –i.e. credit card use, gift of a car, financial management of HANI has been attributed to the former HANI Training Manager incorrectly. The use of the credit card was vouched and authorised as noted in previous evidence already submitted to the NIAO. The gift of the car and insurance was also vouched and approved and was at the discretion of the HANI Council and was not using public funds and there is no evidence to support that this was not the case.</p> <p>As set out in my previous correspondence to you, this was not the first occasion when a former employee provided with the gift of a car by HANI, yet you fail to make this important balancing statement within your report. The NIAO comment that it was a “generous gesture” is not relevant and entirely personal.</p>
	3.18	<p>The fact that it has been reported that “she was prepared to use” the invoices has been reported as a crime in itself regardless of they having been used or not.</p> <p>A factual statement which is both unfair and unjust.</p>
	3.20	<p>The training offered by DEL to the former Training Manager was offered to all of the Governors of BIFHE.</p> <p>Note that this was the first training offered by ANY of the departments she was a Board member of and she did not receive ANY correspondence or training from the Commissioner of Public Appointments.</p>

## Appendix One (continued)

3.22		<p>The NIAO questionably declines to note in this report based on the evidence submitted, that the Commissioner for Public Appointments wrote to her stating:</p> <p><i>"I would like to thank you for the personal contribution you have made to the appointments process in the past. I greatly appreciate the work that assessors do to act as guardians of the process...I hope that you will take the opportunity to continue to be involved in what I believe is a very worthwhile part of public service"</i> April 2004.</p> <p>Note that the former training Manager was congratulated on every Panel she sat on for her invaluable contribution to ensuring that the recruitment process was fair and within legal guidelines.</p> <p>Therefore upon receipt of this letter, the former training Manager applied for her appointment to be continued.</p>
3.25		Reference to "conduct" is unfair as it has been unsubstantiated.
3.26		The NI Events company entered into negotiations for this sporting tournament before the Former Training Manager's appointment to the Board. Fact as provided as evidence to the NIAO. (Letter November 2001)
3.27		<p>The NIAO quotes articles of discussions re conflicts of interest in the PAC 1996 and 2006.</p> <p>This has been of little help to those public appointees, who, as in the case of the former Training Manager, when found herself in a deliberation, sought advice from the Accounting Officer, Chairman and government Department, BEFORE she undertook the work as identified. Evidence to support this was given by 3 key witnesses, including the CEO and Chairman. This has been ignored by the NIAO.</p>
3.28		<p>DCAL was aware of the advice that was sought by the former Training Manager as it gave the direction for her to go ahead with the work. The letter in April 2004 from DCAL to the NI. Events company was I understand, only in reaction to a local journalist who contacted them to enquire if the work undertaken was known to DCAL. The journalist was told that they understood that this was to be correct.</p> <p>The NI Events company entered into negotiations of this sporting tournament before the former Training Manager's appointment to the Board. Fact as provided as evidence to the NIAO. (Letter November 2001).</p> <p>The NIAO refers in its report that the former Training Manager was "present for 7 meetings from June 2004 and august 2005. This was after the actual event took place and her contract was complete.</p>

		<p>The NIAO fails to note that she did declare her interest at one of the meetings and did not take part in any of the discussion as it was only a matter arising, not an item on the agenda.</p> <p>The NIAO fails to note the evidence of both the Chair <b>and the CEO</b> of the NI Events company that DCAL was well aware of the fact the former Training Manager had asked advice on whether to tender and eventually accept the contract for providing pre support to the sports event.</p>
3.30	<p>The NIAO fails to note that if the former Training Manager had failed to consult and take the advice of the CEO, Chair and DCAL, then, DCAL would not have extended her term of appointment. This conflicts with whatever DCAL have stated to the contrary.</p> <p>It is also of interest to note to the reader that the Commissioner of Public Appointments as noted by the NIAO indicated that she said she was “not appropriate to appoint her to public office” yet she personally invited her to apply for such a public appointment as noted in the Commissioners letter to her. (See evidence already submitted-April 2004). Again contradicting evidence.</p>	
3.34	<p>DCAL was not in the position to disclose anything but the exceptional quality of performance of the former training Manager on the NIEC Board (as seen in the hard evidence of her Appraisal of her Board Appointment) already submitted as evidence to NIAO.</p> <p>If there had ever been a conflict of interest of concern by DCAL then DCAL would have highlighted this in the reference as indicated.</p>	
3.35	<p>The NIAO fails to note that this appointment was made after an open tender process and after she left the Board of the NIEC and is irrelevant to this investigation.</p>	
3.37	<p>The NIAO fails to note that the paper referred to is of no practical use to those appointing candidates to public appointments to this day. It fails to establish criteria or parameters to measure the 7 values. In doing so would put into question every public appointment made in Northern Ireland today.</p> <p>The recommendations from DEL in 2005, despite the NIAO comments that this report, also fail to establish any criteria to measure the 7 values.</p>	
3.38	<p>The comments made by the Commissioner are ignorant of the factual evidence;</p> <p>a) The Commissioner herself in 2004 encouraged the former Training Manager to apply for a public position –Factual evidence. So her comments that “Departments failed” is a complete contradiction to say the least.</p>	

## Appendix One (continued)

		<p>b) The Commissioner quotes that those charged with selecting candidates must be sure that “candidates are fully aware of the expectations and can meet them”. She has NO evidence that this was not the case in the appointments made in the case of the former training Manager, in fact she has been told of the “invaluable” contribution made in these appointments.</p> <p>c) The Commissioner incorrectly alludes that the Chair failed to take appropriate action in this alleged “conflict” situation insinuating that the Appointee acted in an “a proper manner”. She fails to note that both the CEO, Chair and DCAL were involved in assisting the Appointee in dealing with this and giving approval for her to go ahead.</p> <p>c) It is interesting to note that Board Appraisals took place, and the Appointee was given an exceptional one. All of the values of Public appointments refer to the future conduct of public appointees and NOT to the past. She is therefore unfairly applying criteria of appointment and extension that does not exist.</p> <p>It is very disappointing to note the response from the Commissioner of Public Appointments, that despite the former Training Manager’s exceptional conduct on all of the Boards, her time (in the main unpaid), the contribution made to both Boards and sub-committees she joined, the input she contributed has been ignored. There has been a total disregard for ANY duty of care for public appointees in the case.</p>
	3.39	The NIAO questionably does NOT indicate any flaws with the actions of the Commissioner for Public Appointments, but seeks to identify her as a witness in this weak part of this report. If there were indeed concerns, then the Commissioner would not have invited the former training manager to apply for a public appointment in 2004. (See evidence).
	3.40	There are to this day no open and transparent criteria for testing probity and the Commissioner has unfairly made criticism in this regard.
	3.41	The NIAO refers to “best practice” where it does not exist, no parameters or criteria are in place, only, “gut” reactions to a very loose and un-transparent system.
	<b>Appendix E</b>	<b>Conflict of interest – NI Events Company</b>
		There is no evidence to suggest that the former Training Manager was either asked to “stand down from the Board or to relinquish the PR Contract). This is a complete fabrication of the facts and is confirmed by both the CEO and Chair of the Board.

		The presence at the meeting post June 2004 was because the contract with the company was completed. She declared her interest at the commencement of discussion with the Chair of the Board.
		It is clear the DCAL is now "backtracking" on its original advice given to the former Training Manager, after the call from a local journalist. However, the key witnesses concerned, i.e. the Chair, CEO and the Board Appointee deny that this fabrication of the facts are correct.
		The reference to the options considered by the NI Events Company was NEVER discussed with the Appointee and is a fabrication of the facts. (See evidence already submitted).
		The date on the NI Events company letter to the Appointee was incorrect and was an administrative error.
		The reference to using the NI Events company folders were discussed in full with the NI Events company and DCAL who were well aware of what was to be given to Media on the launch of the event. Therefore it is surprising that this comment ended up in a "file" and not directly with the NI Events company or the Appointee at the time. (See also evidence from the CEO).

## Appendix Two: (paragraph 2.32)

# The winding-up of HANI: 1998 - 2004

1. The projects funded by the Agency ended in 1998 and HANI appears to have ceased operational activity towards the end of that year. Thereafter, its actions seem to have focused primarily on the investigation by the Northern Ireland Certification Officer (which resulted in the successful criminal prosecution in December 2002) and the winding-up of its affairs, which culminated in the eventual dissolution of HANI, following a Members' resolution in March 2004.
2. Based on our review, we have a number of concerns surrounding the winding-up process. When HANI ceased its operations, it failed to clear a substantial level of debt to HOW, its training provider on the SELECT programme. There were also issues surrounding the disposal of HANI's assets and handling of Members' subscriptions. Because HANI had not operated separate bank accounts to differentiate between public and non-public funds, those assets may have been funded wholly or in part by public monies. Also, better handling of its assets disposal and Members' subscriptions by HANI may have enabled it to clear its debt on the SELECT programme. The Department told us that the Agency's interest in HANI ended when the last project finished in September 1998. It said that HANI was an unincorporated employers' association, the assets were owned by the members of the association and that the Agency had no claim to the assets when HANI ceased trading.
 

**When HANI ceased operations, it failed to clear a substantial level of its debt**
3. HANI's 1998 accounts showed that, when it ceased trading, it owed its creditors sums totalling almost £75,600. Of this, £60,800 was due to HOW Systems, its training provider on the Agency-funded SELECT programme (paragraph 2.12). Under the agreement with HANI, HOW received £100 for each successfully completed NVQ certificate awarded. This arrangement operated satisfactorily until Proteus suspended payments to HANI under the programme – as explained at paragraph 2.14 above, this followed the discovery that HANI had been improperly claiming an additional £55 per completed NVQ, resulting in an overpayment to HANI of over £43,000. As a result, HANI, in turn, stopped paying HOW. Proteus confirmed to us that sufficient funds had been paid to HANI to cover all completed NVQ certificates issued by HOW, at the agreed rate of £100. HOW should have been paid in full by HANI. It appears, however, that HANI had already substantially spent the additional income received from SELECT and so did not have sufficient funds available to meet HOW's outstanding claims.
4. HOW (which changed its name to 'Appello Limited' during 1999) ceased trading in January 2000. We met with a former Principal of the company who said that the mismanagement by HANI of the SELECT contract led to the redundancy of three staff and was a major reason for the company's closure. She explained that, in 1999, HANI asked HOW if it would consider accepting a reduced amount in respect of the £60,800 outstanding debt. HOW took legal advice but, due to insufficient financial resources to pursue the matter further, reluctantly agreed to accept a sum of £30,000 (£28,465 after costs) in full settlement. We confirmed, from HANI's 1999 accounts, that an amount of £30,800 (being the unpaid balance of monies due to HOW), was included as 'Training Fees Written Off'.
5. As regards the remaining amount of around £14,800 owed to other creditors at 31 December 1998, we were unable to identify, due to insufficient documentation held by HANI, the names of the persons or businesses involved, or whether they had any connection with the SELECT programme.
 

**We have concerns about the way in which HANI disposed of its assets and have not been able to satisfy ourselves that all items were properly accounted for**

*The sale of HANI's assets*
6. Against the background of unpaid creditors, we sought to examine the handling of HANI's sale of its assets. We found that records were incomplete. Nevertheless, based on our examination of the available documents and interviews with two former



Members of HANI's Council and the HANI auditor, a number of issues arose which gave cause for concern.

7. In May 1999, HANI's assets were sold to 'Kiang Ltd', one of its trade members. HANI's lease on its premises was also transferred to Kiang. The NICO Inspector stated in her report that she was:

*'unable to rule out the possibility of alleged fraud in the sale of HANI assets as questions remain unsolved as to which assets the [HANI] auditor arranged to be sold and which were retained by HANI'.*

Both HANI's former President and Honorary Treasurer told the Inspector that their (private sector) auditor had dealt with the sale of the assets to Kiang, as HANI's Council wanted no personal involvement in the sale.

8. The Inspector's report noted that the working papers of HANI's auditor recorded the value of assets sold to Kiang Ltd as £47,000. However, the invoice raised against Kiang, on the instructions of the auditor following completion of the negotiations for sale, was for £15,000. In an interview, HANI's auditor told the Inspector that:

- the figure of £15,000 was arrived at after discussions with Kiang and it was his view that this figure was higher than could have been obtained at auction
- he had no expertise or qualifications in valuation
- the valuation was arrived at *'purely from practical knowledge.'*

The Inspector's report also noted that two computers had not been included in the sale, but was unable to confirm if they had been sold at a later date.

9. We found no evidence that HANI had ever held an assets register and we noted that HANI's Council had not exercised their right, under the organisation's Constitution and Rules, to appoint trustees to manage the assets. In an exchange of correspondence in 2005 with HANI's auditor, he told us that he had not

been involved in the sale of fixed assets to Kiang, but that he had 'assisted' HANI with the book-keeping entries of the sale. However, this contradicts his statement to the NICO Inspector and also the evidence of the former President and Honorary Treasurer of HANI. By agreeing to handle the sale of assets and not seeking an independent expert valuation, he compromised his audit independence.

10. In view of the concerns expressed by the NICO Inspector about the sale of assets to Kiang, we sought to look further into that company's transactions with HANI. However, we found that Kiang had ceased trading. The final set of company accounts lodged with Companies Registry was for the 12 months ending December 1999, the year it purchased the HANI assets.<sup>14</sup>

#### ***The gift of a car to the former HANI Training Manager***

11. When the former HANI Training Manager resigned in October 1997, HANI's Council gifted - as a gesture of 'goodwill' - the car belonging to HANI which she had been using. The car had been purchased in September 1995, when six months old, for a total sum of £11,695. The net book value of the car when gifted, according to HANI's 1997 accounts, was £3,179. HANI also paid the insurance premium (some £502), 10 months of which related to the period after she left HANI, to cover part-time services which she was to provide on a voluntary basis.
12. The former Training Manager told us that she had asked to purchase the car but HANI's Council had decided to gift it to her. She also said that the Council had previously made a similar gesture to a former employee. In our view, these were generous gestures, especially given the lack of clearly defined services these gifts were supposed to cover. Our work shows that the net book value of the car was likely to have been substantially understated - the level of depreciation charged to HANI's accounts over the two-year period was unusually high, amounting to 73% of the purchase cost. We also noted that, contrary to accounting standards, the gift was not reported in the accounts as a 'related party transaction'.

<sup>14</sup> Kiang was first registered in October 1996, as a training consultancy. The purchase of the HANI assets by Kiang and the transfer to it of the HANI premises lease took place in mid-1999. The company ceased trading shortly afterwards, having posted accumulated trading deficits of some £377,000, £505,000 and £436,000 in 1997, 1998 and 1999 respectively. At 31 December 1999, it had creditors of £261,000. Kiang was formally dissolved in May 2002.

## Appendix Two (continued)

**Despite owing very substantial sums to creditors, it appears that HANI decided in late 1998 to cease operations and not collect Members' annual subscriptions for 1999**

13. HANI decided in Autumn 1998 to cease operations. We are given to understand that, as a result, HANI did not collect Members' 1999 subscriptions, which might otherwise have eased its difficulties in settling with creditors.
14. HANI Council minutes of meetings in September and October 1998 refer to the financial position of the organisation, stating that it had no money to continue to trade, due to the difficulties with the SELECT programme. Notwithstanding these difficulties, the view was that the industry had to be represented and that, consequently, there was a need to 'park' the present Association but *"not bring forward its difficulties into any new body"*. HANI's auditor was recorded as having advised that, *"the current organisation and its liabilities must be 'parked or frozen' and a new HANI in the form of a Limited Company set up as quickly as possible. The liabilities could then be reduced as far as possible by argument and agreement then dealt with as speedily as possible."*
15. The new body that was set up, following a meeting held in January 1999, was the 'Northern Ireland Hotels Federation'<sup>15</sup>. Incorporated as a limited company on 26 March 1999, it is located within the same building that HANI occupied. The first banking entry (dated 1 April 1999), to the Federation's account was a lodgement of £20,450. We were told that this sum represented Federation Members' subscriptions, raised under a series of invoices dated 23 January 1999<sup>16</sup>. However, these invoices pre-date, by some two months, the date of incorporation of the Federation – a period during which HANI was still in existence.
16. While pre-incorporation activity is not unknown, we noted that there was no reference to this activity in the Federation's first set of accounts, which covered the 16-month period from 1 April 1999. However, in correspondence with the Federation's solicitors, we were assured that the sum of £20,450 was Federation, not HANI, income.
17. In reviewing this information NIAO consider that:
  - even though sufficient funding was provided to HANI to cover all the costs of training provided under SELECT, its mismanagement of the scheme resulted in it being unable to pay some £30,000 of the fees owed to HOW Systems Ltd
  - it is not acceptable that the provider of a publicly-funded training programme should be forced to incur substantial financial losses. The HOW case serves to emphasise the importance of Departments and Agencies ensuring that financial controls are being properly applied within intermediary funding bodies
  - the NICO Inspector's conclusion that she was unable to rule out the possibility of fraud in the sale of HANI's assets is worrying, particularly against the background of unpaid monies to HOW and the possibility that the assets were bought wholly, or largely, with public monies. Similarly, HANI's gift of the car and insurance premium to a former employee also gives cause for concern about the financial control environment. The Department told us that the suggestion that assets were bought with public money is speculative, and that even if true, it raises the difficult question as to what a Department can do to stop an organisation from using income properly earned from Government contracts to purchase assets and later dispose of those assets as it wishes. The Department also believed that the report should recognise the limitations on the Agency once its contractual relationships with HANI had ended
  - it was wholly inappropriate for HANI's auditor to handle the sale of its assets. Not only did he lack the necessary expertise but, by agreeing to do so and not seeking an independent expert valuation, he compromised his audit independence.

<sup>15</sup> Focused primarily on hotels and guesthouses, the Federation's membership excludes those restaurateurs and caterers who had been members of HANI. Since its inception, the Federation has also received public funding.

<sup>16</sup> Five of the 46 invoices were actually dated 3 February. Interestingly, all of the invoices were headed 'Northern Ireland Hospitality Federation' rather than '...Hotels Federation.'

## The performance of HANI's Auditor

18. Auditors are guided by a set of fundamental principles issued by the Auditing Practices Board. These principles underpin the ethical standards of professional bodies whose members undertake the role of independent auditors. An independent audit function is a vital aspect of good governance – it provides reasonable assurance that audited accounts are free from material misstatement and are in accordance with relevant legislation and accounting standards. Auditors' reports should include observations on issues of importance uncovered during the audit.

### HANI's auditor submitted misleading and incomplete audit reports

19. In her report, the NICO Inspector raised concerns over the performance of HANI's auditor. The auditor confirmed that he had not read the 1992 Order (the primary employers legislation - paragraph 1.5) before completing his audit and accepted that it had been breached in a number of ways, in that he:

- prepared and signed-off misleading and incomplete audit reports: for example, HANI's internal control systems could not support a true and fair view audit opinion and there was a failure to record related party transactions
- failed to qualify the 1998 audit report - the report lacked a 'going concern'<sup>17</sup> qualification and made no mention of the need for improved financial control or the inadequacy of the underlying accounting records
- failed to inform the Certification Officer that HANI's Council did not appoint trustees
- compromised his independence by arranging for the valuation and sale of HANI's assets to a related third party.

20. On the recommendation of the NICO Inspector, the Certification Officer referred the case to the auditor's

professional regulatory body, the Institute of Chartered Accountants of Ireland. An investigation was undertaken, with the Institute reporting in early 2005 that an unqualified opinion had been given on HANI's accounts for 1998, when that opinion ought to have been qualified, because the accounts did not adequately disclose that:

- a bad debt provision of some £100,000 was the disallowance of a grant claim due to HANI
- there was a significant level of concern about HANI's ability to continue as a 'going concern'
- there were material related-party transactions, in particular the professional fees paid by HANI to its Honorary Treasurer.

Its overall conclusion was that *"the [auditor's] close involvement with [HANI] together with preparation of HANI's accounts resulted in an insufficiently challenging approach to audit work and the disclosures in the accounts"*.

21. The Institute's Complaints Committee upheld the findings in October 2005. HANI's auditor was reprimanded, fined €2,500 and ordered to pay costs of €1,500. The findings of the case were published in the Institute's journal.

22. In NIAO's view, the range of shortcomings displayed by the HANI auditor is a matter of particular concern. His failure to apply the required professional standards undermined the audit assurance process and contributed to the problems which emerged in relation to the use of SELECT and other public funds. While we would regard this case as an exception, it does serve to highlight to Departments that audit can never be regarded as a substitute for their own monitoring and control.

23. We note that, in line with good practice, the HANI auditor's professional body published its findings on the case in its journal.

<sup>17</sup> The underlying assumption that an organisation will remain in existence for the foreseeable future. In HANI's case, the auditor was aware of the difficult financial position and risk of insolvency.

## Appendix Three: (paragraph 3.10) Case Studies on the former HANI Training Manager's Public Appointments

### **CASE A: Appointment to the Training & Employment Agency Board, July 2000**

Seven posts on the Agency Board had to be filled. Following advertisements in the local press in November 1999, there were 61 applicants, 15 of whom were shortlisted for interview, including the former HANI Training Manager. The interview panel consisted of an independent assessor who chaired the panel, the Chairman of the Agency Board and the Department's Director of Personnel.

A pre-interview meeting of the panel agreed the interview criteria and assigned interview questions to panel members. This meeting was attended by the Agency Chief Executive, who was aware of the concerns about the conduct of the former HANI Training Manager. However, there is no record of this issue having been raised by, or with, the panel.

At interview, the former HANI Training Manager was assessed as being a *"highly qualified candidate"* and the Chair commented on her *"excellent overall knowledge of the work of the Agency"*. Eight successful candidates were passed to the Minister for approval, including the former HANI Training Manager. Although the Minister was informed that the process had been carried out in accordance with the 'Peach Guidelines', we saw no evidence of the concerns about her previous conduct being drawn to the Minister's attention.

### **CASE B: Appointment to the New Deal Task Force, June 2000**

Following a review of its work, the Task Force agreed that its membership should be increased to reflect a growing workload. The minutes of the March 2000 meeting record that *"Membership should also include representatives from ... growth areas such as the IT Sector, Call Centres and the Biotech Industry"*. By contrast, in June 2000, the Departmental submission (prepared by the former Chief Executive of the Agency) seeking Ministerial approval to the appointment of three new Taskforce members referred to *"growth sectors such as IT, biotechnology and hospitality..."* (ie 'hospitality' had replaced 'call centres'). The proposed appointee to represent the hospitality sector was the former HANI Training Manager. None of the papers which we saw referred to the concerns about the former HANI Training Manager's previous conduct having been considered. As regards the need for a hospitality sector representative, we noted that the existing membership of the Task Force members already included a leading hotelier.

We noted that, in an internal Departmental submission two months later, following a resignation from the Taskforce membership, reference was again made to a desire to draw future membership from the *Call Centre* sector.

### CASE C: Appointment to the Learning and Skills Advisory Board, July 2002

In April 2001, the Agency ceased to exist, its responsibilities being fully subsumed within the Department. The Agency Board continued to operate, providing advice to the Department. In January 2002, the Board was amalgamated with the Further Education and Consultative Committee to form the 'Learning and Skills Advisory Board'. The term of office of four Board members – including that of the former HANI Training Manager – was due to expire in mid-2002. Under the guidelines, the Department had the authority to re-appoint members, subject to satisfactory previous service.

The Department's papers note that, on 31 May 2002, it was content to reappoint the four members "except that there is a possibility that one of these candidates may attract some adverse publicity in the press in the next week or 2. ... would be inclined to wait a little if possible." The response, however, was that, "Since the appointments are from 1/7 we have no choice but to go ahead." While, there was no indication on file as to which candidate this referred to, we understand that it was the former HANI Training Manager.

The re-appointments were approved by the Minister in June 2002. As with the earlier appointment to the Agency Board, we saw no evidence of the matter of the concerns about the former HANI Training Manager's previous conduct being drawn to the attention of the Minister.

### CASE D: Appointment to the Board of Governors of the Belfast Institute of Further and Higher Education, April 2002

The governing bodies of all further education colleges were due to be reconstituted on 1 April 2002, with the largest number of appointments to be made by the Department. New candidates and existing Board members were invited, through public advertisement, to put their names forward. An application was received from the former HANI Training Manager. A Departmental panel, which included an independent assessor, marked each written application against agreed criteria and drew up a list of suitable candidates. No interviews were held. We saw no evidence that the panel was made aware of the concerns about the former HANI Training Manager's previous conduct.

In late March 2002, two of the panel members met with a senior Departmental official to discuss the panel's recommendations. The panel was asked to reconsider two re-appointment candidates (neither of which was the former HANI Training Manager) who the panel had approved but who the Department judged had not performed satisfactorily over the previous four years. In light of the additional information provided by the Department, the panel agreed that these appointments should not proceed and the next two names on the reserve list were taken. This clearly shows that the Department was prepared to intervene and take action to ensure that unsuitable candidates would not be appointed, even after they had been approved by the selection panel. No intervention was made, however, in respect of the former HANI Training Manager.

The Department told the Minister that appointments were being made in accordance with the "Peach Principles". This was not entirely correct. The Peach Code of Practice (1996) stated that 'Candidates should not normally be appointed without having been interviewed either by the advisory panel or by senior officials or in the case of the most senior appointments, by Ministers' and that "No individual should be appointed ..... on the basis of written evidence alone." The Code also states that 'Significant departures from the procedures described in this guidance must be recorded and will be subject to audit.' There was no record on file that the Department consulted the Commissioner or her Office on its decision not to hold interviews. We are not aware, however, that this breach of the Code assisted the former HANI Training Manager more than any other successful candidate.

## Appendix Three (continued)

### CASE E: Appointment to the Board of the Northern Ireland Events Company, June 2002

Six posts on the Events Company Board (sponsored by the Department of Culture, Arts and Leisure - DCAL) were to be filled by Ministerial appointments. The period of office was 3 years, to June 2005. At interview, the former HANI Training Manager was ranked in 8th position, out of 23 candidates. It was decided that she would be offered one of the six posts, ahead of the 4th and 7th placed candidates, on the basis that, through her experience in running her own human resources company and work with a major hotel group, she combined organisational and business skills which would be of particular value to the Board. She was also noted as the only female candidate among those recommended by the panel. We saw no reference in the DCAL papers to the concerns about her conduct while working for HANI.

#### Conflict of Interest

In March 2004, a conflict of interest situation arose, involving the former HANI Training Manager. The Events Company had agreed in principle, in 2001, to provide financial support to the Senior British Open Golf Championships of 2004, 2006 and 2008. Negotiations, beginning in February 2003, led to a funding agreement for £0.5 million in June 2004 for the 2004 tournament. This was an exceptionally large commitment for NIEC, whose total annual budget was £1.9 million. In mid-March 2004, however, the Events Company was contacted by a member of the local press who sought confirmation that the former HANI Training Manager – a member of the Events Company Board – had been appointed by the company which was managing the tournament, to carry out the PR function. The Events Company wrote to her on 19 March 2004 to clarify the situation. In her response, dated 19 April, she stated that, following a tender process, she had been appointed on 6 April 2004 to handle the public relations for the tournament. She also stated that she had only been approached to tender for the event during the week beginning 29 March, noting that this was *“long after the Board decided to support [the event]”*.

DCAL's papers also record its understanding that, in June 2004, following discussions between the Events Company and DCAL, she was asked by the Events Company to either stand down from the Board or to relinquish the PR contract (the former HANI Training Manager and the Chairman of the Events Company dispute this - see below). On the basis of information provided by the Events Company, DCAL's record notes that she declined to stand down from the Board, instead offering to give up the contract. It is also recorded that the Events Company decided that, because she had apparently taken on the contract after it had decided to support the tournament, there was no conflict of interest and it was sufficient for her to resign from the Board's Golf Sub-Committee and not participate in future Board discussions of the event. We noted, however, that when the tournament had subsequently been discussed at a Board meeting in June 2004, although declaring her interest, she remained in the meeting during the discussions. She also remained present during a further six Board meetings between August 2004 and August 2005, when the tournament was discussed. In these cases, the Board minutes do not record any declaration of interest.

In correspondence with NIAO, the former HANI Training Manager said that it was she who had initiated contact with the Events Company on the conflict of interest issue. She said that she had done so after having been invited in *“March 2004”*, by the company managing the golf tournament, to tender for the PR function. As she was unsure whether it was appropriate to tender for this work - she was concerned that there may be a conflict of interest because she was on the Events Company Board – she sought advice from the Events Company *“within a few minutes of receiving the call”* from the tournament managing company. She said that it was on the basis of her discussion with the Events Company that she submitted a tender. When she was subsequently informed by the tournament managing company that her tender was successful, she said that she immediately informed the Events Company, again asking for guidance on the possibility of a conflict of interest should she accept the contract. Her understanding is that advice was sought from the Chairman and from

DCAL and that *"there was no issue or conflict"*, but that she should declare an interest at any subsequent Board meetings and not participate in any related discussions, unless specifically requested to do so. She also told us that, as the Events Company wished to have *"something in writing"* for the record, she asked what she should write as *"several telephone conversations and meetings had taken place with no formal minutes being taken."*

The former Training Manager also told us that it was untrue that she had been asked to stand down from, or relinquish, the PR contract in June 2004 - she said that this was not discussed, nor was it ever an issue with the Events Company or the Chairman. In support of her comments, she gave NIAO a copy of a letter to her from the Chairman of the Events Company, dated 21 August 2007, in which he stated:

1. *That you notified the Northern Ireland Events Company of the invitation you received from [the tournament managing company] to tender for the PR activity as part of their services to the European Tour. You asked for guidance as to whether or not you would be able to tender for this work and if successful do the work without causing any conflict to your role as Board Member of the NIEC.*
2. *It was the NI Events Company view as was DCAL's that the funding for this tournament was already granted prior to 2004 and therefore there would be neither financial obligation nor conflict of interest and your action to request guidance was noted.*
3. *That you were informed by the CEO having checked with the relevant authorities, you were told you could tender for the event and if successful, withdraw from golf committee meetings and declare an interest if you attended any Board Meetings where the golf was discussed which you subsequently did where appropriate. You were subsequently not copied in on any Board papers relating to the event.*
4. *Therefore at no time did we have to challenge you on this issue.*
5. *That at no time were you ever asked to resign from the board or relinquish this contract as we were well aware of this issue from the start."*

In NIAO's view, this case raises a number of concerns:

- there are a number of points of difference between the accounts set out above by the former Training Manager and Chairman, compared with the documentary evidence held by DCAL
- although the DCAL had recorded its understanding of the way this conflict of interest developed, there was a lack of proper records in the Events Company, in relation to the handling of this issue at the time
- although the former Training Manager has said that it was she who had initiated contact with the Events Company on the conflict of interest issue, NIAO notes that the Events Company letter of 19 March 2004, to the former HANI Training Manager, seeking clarification of the position, pre-dated by at least 10 days the point at which she said she was first contacted by the tournament managing company.
- while the Chairman has said in his letter of August 2007 (see above) that there was no challenge on the conflict of interest issue – DCAL's files clearly record (second and third paragraphs of this case study) that there was a challenge:

## Appendix Three (continued)

- in a letter dated 16 April 2004 to the Events Company, DCAL acknowledged having been recently alerted to the fact that one of the Events Company's Board Members - the former HANI Training Manager - had been appointed to handle the PR for the golf tournament. The letter noted that it would be important to establish whether there had been any conflict of interest to date and that she should be asked about the nature of her role, the timing of her tender and what she intends to do to avoid the perception of a personal conflict of interest and the consequent loss of the Board's integrity. There was no written reply to this letter
- DCAL obtained legal advice in June 2004 which advised that there was 'a clear conflict of interest' and that 'holders of office shall not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties. "Might influence" is an important phrase: the potential for influence is as much a breach of the principle as its occurrence'
- the Events Company, in June 2004, told DCAL that the former HANI Training Manager had accepted there was a conflict of interest between the two roles and that she offered to relinquish the PR contract rather than step down from the Board. It said there had been a meeting with her to discuss the options; to stand down from the Board, relinquish the PR contract, or not to participate in further discussions on the event. The Events Company settled on the final option as sufficient
- DCAL, in a recent review of this case, was clear that it had taken the view, in 2004, that the situation did constitute a conflict of interest and that it had neither approved or acquiesced in the situation that had developed
- as a Board member from June 2002, the former HANI Training Manager was privy to discussions and documentation concerning the negotiation and award of a major package of financial assistance to the company managing the Senior British Open Golf Championships. There was, therefore, a conflict of interest when she entered into a contractual relationship with that company – irrespective of the timing of that arrangement in relation to the Event Company's offer of financial support. The Nolan report highlighted the need for '**Integrity**', whereby "holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties." That she entered into an arrangement which clearly constituted a conflict of interest, points to a lack of understanding of the principles involved.
- even after having declared her interest in the tournament, she was present during Board discussions on the event at seven Board Meetings between June 2004 and August 2005. The Nolan report advised that, "Board members should be required ... to declare any interests which arise during the course of business and to withdraw where appropriate from discussions or decisions. In cases of doubt the presumption should be in favour of declaring and withdrawing."

We also noted that, in late May 2004, in her capacity as the event public relations promoter, the former HANI Training Manager held a media launch for the tournament. However, DCAL's file records concerns that she used Events Company folders to package the information and included personal business cards in the packs. DCAL's view at the time was that this not only represented the perception of a conflict of interest which would harm the Events Company but, more importantly, a serious error of judgement which called into question her suitability for service on a public body.



The former HANI Training Manager told NIAO that she prepared press releases with personal contact details attached so that subsequent queries could be handled directly and promptly by her. As the PR officer for this event, her view was that it was logical for a business card to be attached/contact details given for press follow-up. She stated that DCAL was made aware in advance of the media launch and was given copies of the literature that was to be distributed. The former HANI Training Manager claims that there was never any issue raised or brought to the attention of either the Events Company, or her, of any concerns that DCAL had regarding a perceived conflict of interest.

Overall, it is NIAO's view that the recording and handling of this conflict of interest case fell far short of the standards required.

### **Extension of Board Membership**

We further noted that some 12 months prior to the conflict of interest situation coming to light, DCAL had been informed by the Commissioner for Public Appointments of the concerns which had been raised in connection with the former Training Manager's employment with HANI. Under the Events Company's Articles of Association, DCAL had the power to remove her from the Board (as she was their nominee) and replace her with another individual. However, this option was not exercised.

In 2005, due to uncertainty surrounding the future viability of the Events Company, the term of Office of all existing Board members – including the former HANI Training Manager – was extended for one year, to June 2006.

In April 2006, in the wake of the Review of Public Administration and the possibility that the Events Company functions may transfer to the Northern Ireland Tourist Board, DCAL asked existing Board members – including the former HANI Training Manager – to remain in office for an additional two years, to June 2008. The former HANI Training Manager declined and has now left the Board.

## **CASE F: Appointment as an Independent Interview Panel Member by DHSSPS, December 2001**

On the basis of her other public appointments, the former HANI Training Manager was registered with the Central Appointments Unit (paragraph 3.6). DHSSPS required an independent interview panel member and, following receipt of several names from the Unit, wrote to the former HANI Training Manager, in June 2001. She was appointed as an independent interview panel member, from December 2001 and sat on a selection panel on two occasions, in October 2002 and September 2003. DHSSPS told us that, because it had drawn her name from the Central Appointments Unit list, it did not carry out any checks into the former Training Manager's previous conduct and performance.

Following publication of the Certification Officer's Report (the first indication that DHSSPS had of concerns about the integrity of the former HANI Training Manager) in September 2003, DHSSPS sought legal advice on whether it should continue to use her as an independent assessor. The Departmental Solicitor's Office advised, in November 2003, that while no prosecution was brought against HANI's Training Manager, *"an Independent Assessor should have absolute credibility and should in effect be whiter than white"*, adding that *"public perception is important in this area"*.

The advice went on to say that the Department would be entitled to remove HANI's Training Manager from her position (subject to first informing her and giving her an opportunity to respond) but, as the panel was due for replacement in April 2004, it would seem more appropriate to wait until then. DHSSPS did not use the former HANI Training Manager again during the lifetime of the panel.

## Appendix Three (continued)

### **CASE G: Appointment as an Independent Interview Panel Member by DCAL, 2002**

The former HANI Training Manager was appointed as an Independent Interview Panel Member by DCAL in 2002. Due to incomplete records in DCAL, we are unable to determine how she had been identified and selected. She acted as a Panel Member for DCAL in the appointment process of a new Chair of the Fisheries Conservancy Board in November 2002. We saw evidence that the former Training Manager was registered on the DCAL list of Independent Panel Members.

The following year, DCAL again approached the former HANI Training Manager, asking her to act as a Panel Member in the public appointment of two independent anglers to the Fisheries Conservancy Board. Her appointment was confirmed by DCAL in a letter dated 8 August 2003. However, it appears that within the following three days, a decision was made to replace her with another Panel Member. We were unable to determine the reason for doing so – the relevant DCAL file was missing. However, DCAL did have an electronic copy of the contents list of the file. This indicated a “*conversation*” on 11 August between a senior DCAL official and another unidentified individual regarding the change of Panel Member. The contents list also shows that there was a telephone call to the former HANI Training Manager the following day to cancel her appointment as a Panel Member.

## Appendix Four: (paragraph 3.38)

# Working Group Recommendations on Probity and Public Appointments

Recommendations	
1	Departments can seek confirmation of a candidate's current or previous public appointments role from the Central Appointment Unit database and consider how they wish to deal with the issue of references for candidates who have not previously held a public appointment.
2	Departments must ensure that performance appraisal procedures are in place for all Board members or holders of other public appointments.
3	The Central Appointments Unit will, on request, check to see if those named have previously held, or are currently holding a public appointment.
4	Departments should consider including in role descriptions for Board Chair appointments the requirement to carry out performance appraisals on Board members.
5	Departments should also consider encouraging Board Chairs to remind Board members on a regular basis about the importance of declaring any probity and conflicts of interest.
6	The Central Appointments Unit will consider amending the probity and conflicts of interest section of the specimen application form, to include a more comprehensive declaration.
7	Departments should consider asking candidates to sign a declaration indicating their commitment to seven principles of public life.
8	Departments may wish to use the Independent Assessor to test probity and conflicts of interest issues at interview.
9	Departments should consider including appropriate powers in legislation, allowing Ministers to appoint and remove Board members or holders of other public offices.
10	The Central Appointments Unit will develop specimen terms and conditions of appointment and incorporate these into the Best Practice Guide.
11	Where it is appropriate, Departments should consider using small appointment review panels to investigate specific probity or conflict or interest issues that may arise during an appointee's term of office.
12	The induction training for Board members provided by the Chief Executives' Forum/CIPFA should include probity and conflicts of interest.

## NIAO Reports

Title	HC/NIA No.	Date Published
<b>2007</b>		
Internal Fraud in Ordnance Survey of Northern Ireland	HC 187	15 March 2007
The Upgrade of the Belfast to Bangor Railway Line	HC 343	22 March 2007
Outpatients: Missed Appointments and Cancelled Clinics	HC 404	19 April 2007
Absenteeism in Northern Ireland Councils 2005-06	-	30 March 2007
Good Governance – Effective Relationships between Departments and their Arms Length Bodies	HC 469	4 May 2007
Job Evaluation in the Education and Library Boards	NIA 60	29 June 2007
The Exercise by Local Government Auditors of their Functions	-	29 June 2007
Financial Auditing and Reporting: 2003-04 and 2004-05	NIA 66	6 July 2007
Financial Auditing and Reporting: 2005-06	NIA 65	6 July 2007
Northern Ireland's Road Safety Strategy	NIA 1	4 September 2007
Transfer of Surplus Land in the PFI Education Pathfinder Projects	NIA 21/07-08	11 September 2007
Older People and Domiciliary Care	NIA 45/07-08	31 October 2007
<b>2008</b>		
Social Security Benefit Fraud and Error	NIA 73/07-08	23 January 2008
Absenteeism in Northern Ireland Councils 2006-07		30 January 2008
Electronic Service Delivery within NI Government Departments	NIA 97/07-08	5 March 2008
Northern Ireland Tourist Board – Contract to Manage the Trading Activities of Rural Cottage Holidays Limited	NIA 113/07-08	28 March 2008









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