



April 27th, 2016

Notice Of Meeting

You are invited to attend the Audit Committee Meeting to be held on **Thursday, 28th April 2016** at **2:00 pm** in the **Commedagh Room Downshire Estate Downpatrick.**

Councillor P Brown

Councillor C Casey

Councillor C Enright

Councillor T Hearty

Councillor D Hyland

Councillor C McGrath

Councillor M Murnin

Councillor P O'Gribin

Councillor G Sharvin

Councillor Tinnelly

Agenda

- 1) **Apologies and Chairman's remarks.**
- 2) **Declarations of Interest.**
- 3) **Action Sheet arising out of Minutes of Audit Committee Meeting held on Thursday 28 January 2016. (Copy enclosed)**

ACTION SHEET Jan 2016.pdf

Page 1

Policy on Landfill Site Closure Plan.pdf

Page 7

NIAO

- 4) **Annual Audit Strategy 2015/16. (Copy enclosed)**

NIAO Letter re NMDDC 2015 16 Audit Strategy.pdf

Page 9

NIAO re NMDDC Audit Strategy 2015-16 (final).pdf

Page 10

- 5) **Local Government Code of Audit Practice. (Copy enclosed)**

NIAO Code of Audit Practice 2016.pdf

Page 24

Internal Audit - ASM Limited

- 6) **Report re Corporate Governance. (Copy enclosed)**

This item is deemed to be restricted by virtue of Paragraph 3 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 - Information relating to the financial or business affairs of any particular person (including the Council holding that information) and the public, may, by resolution, be excluded during this item of business.

ASM Rpt on Corporate Governance.pdf

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- 7) **Report re Grants Management. (Copy enclosed)**

This item is deemed to be restricted by virtue of Paragraph 3 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 - Information relating to the financial or business affairs of any particular person (including the Council holding that information) and the public may, by resolution, be excluded during this item of business.

8) Summary Report. (Copy enclosed)

This item is deemed to be restricted by virtue of Paragraph 3 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 - information relating to the financial or business affairs of any particular person (including the Council holding that information) and the public may, by resolution, be excluded during this item of business.

ASM Summary report.pdf

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9) Draft Annual Assurance Report. (Copy enclosed)

This item is deemed to be restricted by virtue of Paragraph 3 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 - Information relating to the financial or business affairs of any particular person (including the Council holding that information) and the public may, by resolution, be excluded during this item of business.

201516 NMDDC Draft Annual Assurance Report to Audit Committee.pdf

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10) Internal Audit Plan 2016/2017. (Copy enclosed)

This item is deemed to be restricted by virtue of Paragraph 3 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 - Information relating to the financial or business affairs of any particular person (including the Council holding that information) and the public may, by resolution, be excluded during this item of business.

201617 NMDDC Proposed Internal Audit Plan.pdf

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11) Report re Follow up to Programme Management. (Copy to follow if available or verbal update will be given at meeting)

This item is deemed to be restricted by virtue of Paragraph 3 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 - Information relating to the financial or business affairs of any particular person (including the Council holding that information) and the public, may, by resolution, be excluded during this item of business.

12) Update re: Follow up on prior year recommendations. (Verbal update will be given at meeting)

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[Corporate Risk Register update.pdf](#)

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[Risk Management Policy.pdf](#)

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**14) Review of Implementation of Internal Audit Recommendations.
(Copy enclosed)**

This item is deemed to be restricted by virtue of Paragraph 3 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 - Information relating to the financial or business affairs of any particular person (including the Council holding that information) and the public may, by resolution, be excluded during this item of business.

[IA Recommendations pre 2015 for Audit Committee 28th April 2016.pdf](#)

Page 99

15) Update re Purchasing. (Copy enclosed)

[Update re Purchasing and Procurement.pdf](#)

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Additional Items

16) To discuss matters raised by Councillor Enright as follows:

(a) Concerns regarding interaction between Management and Councillors in the governance of the decision making process.

(b) To request that the Audit Committee to draw up a clear end to end policy for the decision making process with a clear distinction between the roles of Councillors and of Management and the manner in which Council decisions may be influenced or overturned by Management legitimately.

This item is deemed to be restricted by virtue of Paragraph 3 or Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 - Information relating to the financial or business affairs of any particular person (including the Council holding that information) and the public may, by resolution, be excluded during this item of business.

For Noting

17) Performance Improvement. (Copy enclosed)

[Performance Improvement Plan 2016-17.pdf](#)

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- 18) **Update re Green Tourism. (Copy enclosed)**
Report re Green Tourism.pdf Page 111
- 19) **DOE re Accounts Directions. (Copy enclosed)**
DOE Circular LG 04 2016 Cover Letter.pdf Page 116
- 20) **NIAO (Published 17 November 2015) "Managing Fraud Risk in a Changing Environment - Self Assessment Checklists". (Copy enclosed)**
NIAO Managing Fraud in Chaning Environment.pdf Page 132
- 21) **NIAO re; The Governance of Land & Property in the Northern Ireland Housing Executive. (Copy enclosed)**
NIAO Governance of Land and Prop in NIHE.pdf Page 140
NIAO Media Release - Governance of Land Prop in NIHE.pdf Page 216
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ACTION SHEET- AUDIT COMMITTEE – THURSDAY 28 JANUARY 2016

AGENDA ITEM	SUBJECT	DECISION	FOR COMPLETION BY DIRECTOR – including actions taken/date completed or progress to date if not yet completed
AC/04/2016	Update re: DARD Grant Ballyholland Comm Centre	To note that a review had been undertaken in relation to procurement issues concerning Ballyholland Community Centre and the ineligible expenditure which could not be reclaimed. Relevant action has been undertaken and all matters have now been closed off subject to SEUPB agreeing to funding provided by DARD. The Council's file on this matter has been completed unless any issues arise from SEUPB.	For noting
AC/05/2016	Update re: Green Tourism Programme	An item regarding the Green Tourism Programme will remain on the Agenda of the Audit Committee until such times as the Audit Committee have been advised on the response from Invest NI which the Council are currently awaiting.	See Agenda Item 18
AC/06/2016	Annual Audit Letter DDC 2014/15	To note the Annual Audit Letter for Down District Council 2014/15.	For noting
AC/07/2016	RTTCWG DDC 2014/15	(Closed session item) The Council to investigate policies which existed in the legacy Down District Council and the legacy Newry & Mourne District Council with the view to developing a single policy for the new Newry Mourne & Down District Council with regard to decommissioning of refuse landfill sites.	For noting See Agenda Item 3 - attached paper from Mr K Montgomery.

AGENDA ITEM	SUBJECT	DECISION	FOR COMPLETION BY DIRECTOR – including actions taken/date completed or progress to date if not yet completed
AC/08/2016	Annual Audit Letter N&MDC 2014/15	To note the Annual Audit Letter for Newry & Mourne District Council 2014/15.	For noting
AC/09/2016	RTTCWG N&MDC 2014/15	(Closed session item) To note the Report to Those Charged with Governance for Newry & Mourne District Council 2014/15.	For noting
AC/10/2016	Annual Audit Letter NM&DDC (Shadow form) 2014/15	To note Annual Audit Letter for Newry Mourne & Down District Council (operating in Shadow form) 2014-15.	For noting
AC/11/2016	RTTCWG NM&DDC (Shadow Form) 2014/15	(Closed session item) To note the Report to Those Charged with Governance for Newry Mourne & Down District Council (operating in Shadow form) 2014-15	For noting
AC/12/2016	Annual Audit Letter Peace III Southern Partnership Joint Committee 2014-15	To note the Annual Audit Letter for Peace III Southern Partnership Joint Committee 2014-15.	For noting

AGENDA ITEM	SUBJECT	DECISION	FOR COMPLETION BY DIRECTOR – including actions taken/date completed or progress to date if not yet completed
AC/13/2016	RTTCWG Southern Peace III Joint Committee 2014-15	(Closed session Item) To note the Report to Those Charged with Governance for Peace III Southern Partnership Joint Committee 2014-15.	For noting
AC/14/2016	Annual Audit Letter NM&D Statutory Transition Committee 2014-15	To note the Annual Audit Letter for Newry Mourne & Down Statutory Transition Committee 2014-15.	For noting
AC/15/2016	RTTCWG NM&D Statutory Transition Committee 2014-15	(Closed session Item) To note the Report to Those Charged with Governance for the Newry Mourne & Down Statutory Transition Committee 2014-15.	For noting
AC/16/2016	Guidance re Local Government (Accounts & Audit Regulation) Northern Ireland	To note the Guidance on the Local Government (Accounts and Audit Regulation) Northern Ireland 2015 – Circular LG302015) A meeting of the Audit Committee to be arranged mid September 2016 to meet new deadline for approval of Final Accounts.	Noted Completed.
AC/17/2016	Internal Audit Summary Report – ASM Limited	(Closed Session Item) (a) To approve Reports from ASM Limited (Internal Auditors) for the following areas, and Management proceed with the implementation of the recommendations contained therein: - Planning - Procurement Purchasing and Contract Management - Programme Management	See Agenda Item 8

AGENDA ITEM	SUBJECT	DECISION	FOR COMPLETION BY DIRECTOR – including actions taken/date completed or progress to date if not yet completed
		<p>- Off Street Car Parking - Leisure</p> <p>(b) ASM Limited to consider additional information which were circulated to the Committee which related to issues which were highlighted in the Audit carried out on Procurement Purchasing and Contract Management.</p> <p>(c) Management to examine the timeframe for the implementation of Internal Audit recommendations relating to Procurement in order that the implementation of these recommendations can be actioned sooner.</p> <p><u>Purchasing</u></p> <p>(a) Council Officers to carry out an urgent review of the Purchasing Policy relating to the use of Purchase Orders for Items under £250. The revised Policy to be tabled at a meeting of SMT for consideration.</p> <p>(b) Council Officers to examine the provision of a central storage system for the collection of information which will provide the evidence that 'competitive procurement' has taken place.</p>	<p>See Agenda item 15.</p> <p>See Agenda item 15.</p> <p>See Agenda item 15.</p>

AGENDA ITEM	SUBJECT	DECISION	FOR COMPLETION BY DIRECTOR – including actions taken/date completed or progress to date if not yet completed
		<p><u>Programmes Management</u></p> <p>ASM Limited (Internal Audit) take into consideration the Management responses which were immediately actioned with regard to Programme Management and carry out a further review of Programme Management before the end of the financial year.</p>	<p>See Agenda Item 11</p>
<p>AC/18/2016</p>	<p>Progress Report Re: Project Plan - Risk Management Framework</p>	<p>To note Report dated 22 January 2016 from Mr S Wright Risk/Investigations Manager (Temporary Position) regarding progress on a plan to establish a Risk Management Framework.</p>	<p>Noted</p>
<p>AC/19/2016</p>	<p>Risk Management Policy (Draft 0.1)</p>	<p>The Risk Management Policy (Draft 0.1) to be referred to a SMT Meeting for consideration with a final Draft being presented thereafter to a Council Meeting for approval.</p>	<p>See Agenda item 13.</p>

AGENDA ITEM	SUBJECT	DECISION	FOR COMPLETION BY DIRECTOR – including actions taken/date completed or progress to date if not yet completed
AC/20/2016	Corporate Risk Register	To note Council Offices would continue to work on the Corporate Risk Register. The Corporate Risk Register to be presented to the next meeting of the Audit Committee to be held on Thursday 28 April 2016.	See Agenda item 14.
AC/21/2016	Review re Implementation of Internal Audit recommendations	A progress report on the Review of Implementation of Internal Audit Recommendations (Ref: 2015/16) to be reported back to the next meeting of the Audit Committee to be held on Thursday 28 April 2016.	See Agenda item 14
AC/22/2016	Capital Spend And Management Accounts	To note that both the Capital Spend Report to 31 December 2015 and Management Accounts for 7 months to 31 October 2015 have both been tabled at Members Budget Workshops.	For noting
END			

Agenda Item:	Policy on Landfill Site Closure Plans
Report to:	Audit Committee 28th April 2016
Subject:	<i>Policy on Landfill Site Closure Plans</i>
Date:	25 th April 2016
Reporting Officer:	Joe Parkes
Contact Officer:	Canice O'Rourke

Decisions Required

- Note Report

1.0 **Purpose & Background**

- 1.1 At the Audit Committee 28th Jan 2016 (AC/07/2016) it was agreed to investigate policies which existed in the legacy Down District Council and the legacy Newry & Mourne District Council with the view to developing a single policy for the Newry Mourne & Down District Council with regard to the decommissioning of refuse landfill sites.
- 1.2 The Pollution Prevention and Control Regulations (NI) Order 2003 require landfill sites to produce a Closure Plan that details the activities that will be undertaken to avoid any pollution risk and return the site to a satisfactory state.
- 1.3 The Landfill Regulations (NI) 2003 and the Pollution Prevention & Control (Industrial Emissions) Regulations (NI) 2013 requires adequate funding is provided (Financial Provision) for as long as the waste activity presents a hazard at the landfill site.

2.0 **Key Issues/Constraints**

- 2.1 Both Aughnagun & Drumanakelly Landfill Sites need to adhere to the above legislation to ensure the Council is legally compliant. Both sites have agreed Financial Provisions with the NIEA. Aughnagun Landfill is now closed and implementing its Closure Plan, while Drumanakelly Landfill is in its final stage of closure and producing a Closure Plan.
- 2.2 The Council policy on landfill closure/decommissioning should be that landfill sites, that come under its control, need to meet the relevant waste legislation for closure and finance provision, as set out by the Northern Ireland Environment Agency.

3.0	<u>Resource Implications</u>
3.1	The finance required for the closure and required maintenance for the landfill sites have been provided for under the agreed Financial Provision with the Northern Ireland Environment Agency.
4.0	<u>Appendices</u>
4.1	None



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Mr Liam Hannaway
Chief Financial Officer
Newry, Mourne and Down District Council
Monaghan Row
Newry
BT35 8DJ

13th April 2016

Dear Liam

Newry, Mourne and Down District Council – 2015-16 Audit Strategy

I enclose a copy of the Audit Strategy in respect of our audit of the Council's financial statements for the year ended 31 March 2016.

The Audit Strategy document is intended to fulfil two functions:

- Inform the Council of our audit approach and underpinning assumptions to enable the Council to make use of this information, for example to ensure that our risk assessment is appropriate and complete; and
- Agree a plan for the production of the Statement of Accounts and carrying out the audit.

I am happy to respond to any queries you may have, whether on the Audit Strategy or the audit generally. I would be grateful if a copy of this letter could be forwarded to the Chair of the Audit Committee and also included on the agenda of the next Audit Committee meeting on 28 April where I will be happy to present it.

Yours sincerely

Colette Kane
Director



Northern Ireland Audit Office

Our purpose ...

Promoting better use of public money, through independent professional scrutiny, underpinned by our commitment to:

- Integrity
- Equality
- Openness
- Innovation

To make a difference for the people of Northern Ireland.

The Local Government (Northern Ireland) Order 2005 provides that the Department of the Environment may, with the consent of the Comptroller and Auditor General, designate persons who are members of staff of the Northern Ireland Audit Office as Local Government Auditors. Once designated, auditors carry out their statutory and other responsibilities, and exercise their professional judgement, independently of the Department of the Environment and the Comptroller and Auditor General.

Louise Mason, Assistant Auditor General is the designated Local Government Auditor.

For further information please contact:

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NEWRY, MOURNE AND DOWN DISTRICT COUNCIL

AUDIT OF THE STATEMENT OF ACCOUNTS FOR THE YEAR ENDED 31 MARCH 2016

AUDIT STRATEGY

Contents

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1 Introduction

- 1.1. The Local Government Auditor is the independent external auditor of the financial statements of the Newry, Mourne and Down District Council (the Council) under the Local Government (Northern Ireland) Order 2005 (the Order). Our audit is designed to allow the Local Government Auditor to give an opinion on whether:
- the financial statements are 'true and fair', in accordance with relevant legal and regulatory requirements and the Code of Practice on Local Authority Accounting (the Code);
 - the information given in certain sections of the Statement of Accounts is consistent with the financial statements; and
 - a number of further matters on which he reports by exception, including whether or not adequate accounting records have been maintained or if the Annual Governance Statement does not reflect Department of the Environment (DOE) guidance or compliance with the Code.
- 1.2. The purpose of this document is to highlight to the Chief Financial Officer and Audit Committee of the Council:
- how we, the Northern Ireland Audit Office (NIAO), plan to audit the financial statements for the year ending 31 March 2016, including how we will be addressing significant risks of material misstatement to transactions and balances;
 - matters of interest and developments in financial reporting and legislation;
 - the planned timetable, fees and audit team; and
 - matters which we are required to communicate to you under International Standards on Auditing (UK and Ireland) (ISAs), including the scope of the audit, our respective responsibilities, and how we maintain independence and objectivity (**Annex 1**).

Actions for those charged with governance

- 1.3. Those charged with governance are invited to consider and discuss:
- whether our assessment of the potential risks of material misstatement to the financial statements is complete;
 - whether management's responses to these risks are adequate;
 - our proposed audit plan to address these risks; and
 - whether the financial statements could be materially misstated due to fraud and communicate any areas of concern to management and the audit team.
- 1.4. Those charged with governance, in order to comply with best practice, should also review the accounting policies adopted by the organisation and consider whether they remain appropriate to the organisation's circumstances and comply with the Code and relevant guidance issued by DOE.

2 Our Audit approach

- 2.1. Our approach to the audit of financial statements uses a range of techniques to obtain audit evidence and assurance and is based on a thorough understanding of the business.
- 2.2. This understanding allows us to develop an audit strategy which focuses on addressing specific risks whilst providing an acceptable level of assurance across the financial statements as a whole.

Outline of our general audit approach

- 2.3. The NIAO audit approach is risk-based, informed by a good understanding of the operations of the Council and an assessment of the risks associated with the financial statements and the regularity of underlying transactions.
- 2.4. Our initial assessment of the Council's operations and control environment has identified an area of significant risk which requires a specific audit response. This is listed below in Section 3. On completion of our audit we will provide a further update on this risk in our Report to those charged with Governance.
- 2.5. For all significant audit areas, we will use a variety of audit techniques, including analytical procedures and sampling of transactions.
- 2.6. We will review other accounting systems and management controls operated by the Council only to the extent we consider necessary for the effective performance of the audit. As a result, our review may not detect all weaknesses that exist or all improvements that could be made. Where we do uncover any significant deficiency weaknesses we will report these to you, with our recommendations for improvements.

Reliance on others

- 2.7. We continue to liaise closely with Internal Audit and seek to take assurance from their work where their objectives cover areas of joint interest.
- 2.8. We will rely on the work of the Land and Property Services in respect of the valuations for land and buildings.
- 2.9. We will rely on the independent expert's report on landfill closure and aftercare costs.
- 2.10. We will rely on the work of Aon Hewitt in respect of the information disclosed concerning assets, liabilities, income and expenditure relating to the Northern Ireland Local Government Officers' Superannuation Committee Scheme.

Materiality

- 2.11. The concept of materiality recognises that financial statements are rarely absolutely correct, and that an audit is designed to provide reasonable, rather than absolute, assurance that the financial statements are free from material misstatement.
- 2.12. For the purposes of determining whether the financial statements are free from material misstatement or irregularity we consider whether:
 - the magnitude of misstatement; or
 - the nature and cause of misstatements (e.g. because of the sensitivity of specific disclosure or regularity requirements)would influence the users of the accounts.
- 2.13. Following our initial planning assessment, we have set our quantitative materiality threshold for the Council's 2015-16 financial statements at 1.5% of gross expenditure, which we currently estimate to be £1,010k, based on the prior year Councils and Shadow Council respective Statement of Accounts.

- 2.14. Other elements of the financial statements that we consider to be more sensitive to users of the accounts will be assessed using a lower qualitative materiality threshold. These elements include things such as the remuneration report disclosures; our audit fee; related party transactions etc.
- 2.15. We apply the concept of materiality in planning and performing our audit and in evaluating the effect of misstatements on our audit and on the financial statements. As the audit progresses our assessment of both quantitative and qualitative materiality may change.

Error Reporting Threshold

- 2.16. For reporting purposes, we will treat any misstatements below £20,000 as “trivial” and therefore not requiring consideration by the Audit Committee.
- 2.17. Please note that this is a separate threshold to our consideration of materiality as described above. It is materiality, not the error reporting threshold, which is used in forming our audit opinion.

3 Significant Risks

Risks of material misstatement in the financial statements

- 3.1. As part of our work to develop the audit plan, we have identified the following significant risk of material misstatement. A significant risk is an identified and assessed risk of material misstatement that, in the auditor's judgement, requires special audit consideration.

Significant Risk	Audit Response
<p>Local Government Reform</p> <p>Council has undergone organisational change during the year which impacts upon its financial results including opening balances and transferred functions.</p> <p>We note that during the year a number of staff posts remained vacant or were filled on a temporary basis, including a key post whose functions include the management of risk. This could increase the risk of loss for the Council.</p>	<p>We will consider how council has gained assurance over these changes and we will test accordingly.</p> <p>We will further consider any changes which may impact upon the financial accounts and the local government auditor's opinion.</p>

- 3.2. Under ISA 240, there is a presumed significant risk of material misstatement owing to fraud arising from management override of controls. We will address this risk through our testing of journals, estimates and through a review of any significant or unusual transactions in the year.
- 3.3. There is also a presumed risk of fraud in revenue recognition, albeit rebuttable. We will review areas where we consider there is potential risk of fraud in revenue recognition.

Other risk factors

- 3.4. In addition to the significant risk above, we have also identified a risk factor. We do not consider this represents a significant risk of material misstatement in the financial statements but we will continue to monitor and respond to as appropriate throughout the audit. The risk factor is;
- **Uncertainty over payment of grant:** In the prior year, there were issues noted in the respective Council's Governance Statements regarding grant income received / due to be received and the underpinning conditions for continuing eligibility. We will obtain an update on these cases and also, enquire whether there are any implications for other similar grant monies /consider if there are any lessons to be learned going forward.

4 Further matters of interest

- 4.1. The paragraphs below identify some areas impacted by new guidance and other issues for noting. Councils should be aware of these matters as they may affect the preparation of your financial statements and our audit plan.

Remuneration Report

- 4.2. The Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015 is effective for 2015-16 financial statements. A key change is the requirement for large local government bodies to produce a Remuneration Report. Guidance on the format of this report has been issued by the DOE.

Audit Certification Deadline

- 4.3 The Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015 also change the audit certification timetable. The audit deadline for certifying local government bodies' accounts is now 30 September. This should be taken into consideration when setting dates for meetings to approve the accounts as further audit procedures are required once the final signed accounts are received by the Local Government Auditor.
- 4.4 It should also be noted that the 2015 Regulations require approval of the financial statements by the committee to be on audited rather than unaudited financial statements.

Performance Improvement

- 4.5 The Local Government (Northern Ireland) Act 2014 prescribes new responsibilities for the Local Government Auditor regarding the audit and assessment of performance improvement arrangements in Councils. The scope of this work is communicated to Councils separately in line with the timetable set out in legislation.

Proper Arrangements

- 4.6 In addition to the audit of the financial statements, the Local Government Auditor has a duty under the 2005 Order to be satisfied that the Newry, Mourne and Down District Council have made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. The annual financial audit and improvement audit and assessment work will feed into the risk assessment and conclusions of arrangements in place. Some additional work will be performed to enable the Local Government Auditor to satisfy herself that such arrangements are in place. Conclusions regarding proper arrangements will be noted in the Annual Audit Letter and any recommendations for improvement will be included in the Report to those charged with Governance.

5 Audit timetable, staffing and fees

Timetable and fees

5.1 The Council is required to comply with the legislative timetable for producing and publishing audited accounts.

5.2 Key target dates are:

Event	Date Agreed/ (Target Date)
The Council provides an interim trial balance / general ledger for period 1 April 2015 to 31 December 2015.	1 February 2016
NIAO to commence interim audit testing.	1 February 2016
The Council's Audit Committee meets to consider the 2015-16 financial statements.	30 June 2016
2015-16 Statement of Accounts sent to DOE by the Council.	30 June 2016
The Council provides a copy of the 2015-16 financial statements to NIAO for audit, together with all necessary documentation to support the disclosures in these financial statements.	1 July 2016
NIAO to commence final audit testing.	4 July 2016
Appointed Date for exercise of rights under Article 17 and 18 of the Order	To be confirmed
Provisional Report to those charged with Governance (with draft audit opinion) issued for management responses.	21 September 2016
NIAO clearance on draft financial statements, subject to completion of post accounting period review.	21 September 2016
The Council's Audit Committee meets to approve the 2015-16 financial statements.	22 September 2016
The Council provides signed Financial Statements and Letter of Representation to the Local Government Auditor.	23 September 2016
Financial Statements certified by the Local Government Auditor.	30 September 2016
Final Report to those charged with Governance issued.	21 October 2016
Annual Audit Letter issued.	28 October 2016

5.3 The estimated audit fee for the Council's Statement of Accounts 2015-16 is £65,000.

5.4 Completion of our audit in line with the timetable and fee is dependent upon:

- The Council delivering, by 1 July 2016, a complete Statement of Accounts of sufficient quality that have been subject to appropriate internal review.
- The Council delivering good quality supporting documentation and evidence, within the agreed timetable; and
- Appropriate client staff being available during the audit.

Staffing

5.5 The following NIAO staff will be involved in the audit:

TITLE	NAME	RESPONSIBILITIES
Assignment Director	Colette Kane ☎ 028 90251064	Overall responsibility for the audit.
Assignment Manager	Stephen Knox ☎ 028 90254322	Day to day management of the audit and the audit team.
Lead Auditor	Anthony King ☎ 028 90254307	Detailed planning, conduct and supervision of the audit testing.
Auditors	Lynsey Forsythe ☎ 028 90251029 Nuala Higgins ☎ 028 90251066 John Heron ☎ 028 90254305 A N Other	Audit testing.

Annex 1: Scope of audit, respective responsibilities and other matters

Scope of the audit

1. Our audit of the financial statements will be carried out in accordance with International Standards on Auditing (UK & Ireland) (ISAs) issued by the Auditing Practices Board (APB), taking into account the UK Auditing Practice Board's Practice Note 10 (Revised): *Audit of Financial Statements in Public Sector Bodies in the United Kingdom (Revised)*. These standards represent best practice in auditing and aim to promote uniformity of practice throughout the world, thereby increasing public confidence in the audit process.
2. Our audit procedures are designed primarily to provide an opinion on whether the financial statements provide a true and fair view of the position at 31 March 2016 and the activities reported for the year then ended.
3. In addition we have a professional responsibility to report if the financial statements do not comply in any material respect with the Code and the Accounts Direction and other relevant guidance issued by the Department of the Environment. We therefore review the quality, effectiveness and transparency of the accounting practices and financial reporting. This includes consideration of the appropriateness of accounting policies, accounting estimates and judgements and the adequacy of disclosures affected by unusual or non-recurring transactions recognised during the period.
4. As part of our audit we will review the information contained in the Explanatory Forward. Certain information given in the Explanatory Forward and parts of the Remuneration Report are subject to our audit opinion. Other information in the Explanatory Forward is reviewed only to the extent that we confirm that it is consistent with the financial statements and our understanding of the business. We also review the overall balance and clarity of information contained in the Explanatory Forward.
5. Legislation requires the Council to give notice, by publication on its website, of the date from which the accounts and other documents are available for public inspection and the date from which the exercise of rights under Article 17 and 18 of the Order may be exercised. We will hear and carefully consider representations by, and objections from, interested parties concerning the Council's accounts. In conducting our audit, when appropriate, we will consider the lawfulness of items of account, the conduct of members and officers, instances where it appears a loss may have arisen and our other statutory duties as Local Government Auditor.
6. The Code of Audit Practice issued by the Local Government Auditor extends to not only the audit of financial statements but also to aspects of financial and corporate arrangements to secure the economic, efficient and effective use of resources. The Code can be viewed on the NIAO website (www.niauditoffice.gov.uk).
7. We will provide the Council with a Report to those Charged with Governance containing observations and recommendations on significant matters that have arisen in the course of the audit. After the completion of the audit we will issue an Annual Audit Letter to the Council.

Governance Statement

8. We will also review the Governance Statement to ensure it complies with the Code and Department of the Environment guidance and that the statement fairly reflects our understanding of the state of internal control systems within the entity during the year.

Respective Responsibilities

9. In line with Auditing Standards we are required to agree the respective responsibilities of the Local Government Auditor, the Council's Chief Financial Officer and the NIAO. These

Annex 1: Scope of audit, respective responsibilities and other matters

responsibilities are set out in the Statement of Responsibilities of Local Government Auditors and Local Government Bodies issued by the Local Government Auditor. The Statement of Responsibilities can be viewed on the NIAO website (www.niauditoffice.gov.uk).

10. The audit of the financial statements does not relieve management or those charged with governance of their responsibilities.

Preparation of the financial statements

11. In line with Auditing Standards we are required to agree the respective responsibilities of the Local Government Auditor, the Council's Chief Financial Officer and the NIAO. These responsibilities are set out in the Statement of Responsibilities of Local Government Auditors and Local Government Bodies issued by the Local Government Auditor.
12. The audit of the financial statements does not relieve management or those charged with governance of their responsibilities.

Legal requirements under Accounts and Audit Regulations

13. The main requirements under the Local Government (Accounts and Audit) Regulations (NI) 2015 are included in the Guidance on the Regulations issued by the Department of Environment in LG 30/15.

Supporting Records

16. All relevant general ledger transactions should be processed to allow trial balances to be made available for audit purposes with the draft financial statements. Any amendments made to the trial balances after the close of books should be discussed with NIAO staff and supported by an approved journal and any other underlying documentation. Further adjustments may be required as a result of our audit findings.
17. We will require access to schedules and documentation which support the figures and disclosures within the financial statements, and we would expect the draft account to have been subject to appropriate management review prior to submission for audit. A list summarising the key items of audit information required and the dates that we need them for will be agreed with the finance team prior to each audit visit.
18. We will verify that the submitted financial statements and their supporting schedules have been subject to a detailed management review.

Fraud

19. The primary responsibility for the detection of fraud rests with management. Their role in the detection of fraud is an extension of their role in preventing fraudulent activity. The Chief Finance Officer is responsible for establishing a sound system of internal control designed to support the achievement of Council policies, aims and objectives and to manage the risks facing the organisation; this includes the risk of fraud.
20. Our audit is designed to provide reasonable assurance that the financial statements (as a whole) are free from material misstatement, whether caused by fraud or error. We are not responsible for preventing fraud or corruption, although our audit may serve to act as a deterrent.
21. We are required to make inquiries of those charged with governance in respect of their oversight responsibility for:
 - Management's assessment of the risk that the financial statements may be materially misstated owing to fraud, including the nature, extent and frequency of such assessments;

Annex 1: Scope of audit, respective responsibilities and other matters

- Management's process for identifying and responding to the risks of fraud, including any specific risks of fraud that management has identified or that has been brought to its attention;
- Management's communication to the Audit Committee (and others charged with governance) on its processes for identifying and responding to the risks of fraud;
- Management's communication, if any, to its employees on its views about business practices and ethical behaviour; and
- Whether management has any knowledge of any actual, suspected or alleged fraud.

Communication of audit matters

22. ISA 260: *Communication with those charged with governance* provides guidance for communication during the audit cycle.
23. The principles of this ISA are embodied in the NIAO audit approach. These include the provision of this strategy document, wash-up meetings, after audit visits to communicate findings, and the provision of a Report to those Charged with Governance at the completion of the audit setting out observations and recommendations on significant matters which have arisen during the course of the audit.
24. In addition, the ISA states that '*the auditor shall communicate with those charged with governance significant difficulties, if any, encountered during the audit*'. Significant difficulties would include delays in management providing required information, the unavailability of expected information and restrictions imposed on the auditor by management. We will consider if any issues we have in performing our audit represents significant difficulties. If we encounter significant difficulties we must report these to those charged with governance, documenting how they have been resolved.
25. ISA 265: *Communicating deficiencies in internal control to those charged with governance and management* places a responsibility on the auditor to communicate appropriately to those charged with governance and management deficiencies in internal control that the auditor has identified in an audit of financial statements. We will report significant deficiencies in writing to those charged with governance and management.

Whole of Government Accounts

26. Newry, Mourne and Down District Council has been designated for inclusion in the Whole of Government Accounts (WGA) by DFP under section 15(1) of the Government Resources and Accounts Act (Northern Ireland) 2001. As such, the Council is required to provide a WGA return to DFP as directed.
27. The Council is deemed by DFP to be a 'WGA Minor Body' and as such has limited reporting requirements and does not require an audit of the WGA returns. Minor Body status is subject to review each year.

Personal Data

28. The processing of personal data for audit purposes will be completed in accordance with the requirements of the Data Protection Act 1998. We have procedures in place to ensure that the security of personal data is safeguarded at all stages of the audit process. We will notify you in the Executive Summary of the Report to those charged with Governance of action taken to return, retain or destroy any personal data processed for audit purposes.

Assembly of certified audit files

Annex 1: Scope of audit, respective responsibilities and other matters

29. International Standard on Quality Control (UK and Ireland) 1 (ISQC1): *Quality control for firms that perform audits* provides guidance on the assembly of completed audit files. We are dedicated to achieving quality throughout our audit process. ISQC1 suggests that 60 days is sufficient time to assemble the files and also states that firms should have “policies and procedures designed to maintain the confidentiality, safe custody, integrity, accessibility and retrievability of engagement documentation”.
30. As part of our office procedures we operate a structured approach to storing the completed audit files within 60 days of certification thereby demonstrating compliance with ISQC1 requirements (which are echoed in ISA 230: *Audit documentation*). Therefore we will request that management responses to our Report to those charged with Governance are agreed within 60 days of certification.

Independence

31. The NIAO complies with relevant ethical requirements regarding independence and has developed important safeguards and procedures in order to ensure our independence and objectivity. These are set out in **Annex 2** below: *NIAO quality standards and independence*. We will reconfirm our independence and objectivity for the year ended 31 March 2016 in our Report to those charged with Governance.

Annex 2: NIAO quality standards and independence

Audit quality

1. Auditing Standards require that we communicate at least annually with each body we audit on how we maintain our audit quality and our independence.
2. Quality is strongly embedded in the NIAO culture and manifests itself through:
 - Continued Professional Development (CPD) – all professional staff are expected to maintain a level of CPD each year across the range of professional, management and personal effectiveness training and development; and
 - specialist skills – our audit team can call as necessary on the NIAO in-house Audit Policy Branch.
3. We have well established review procedures to ensure that appropriate audit work is undertaken efficiently and in accordance with International Standards on Auditing:
 - all planning decisions and fieldwork are reviewed by NIAO management and directorate;
 - all significant matters are dealt with promptly and will be raised with the Council management as necessary; and
 - progress on the audit is monitored on a continuous basis to ensure that the work is completed efficiently, effectively, to time and within budget. We have well established review procedures to ensure that appropriate audit work is undertaken efficiently and in accordance with International Standards on Auditing.
4. In addition, the NIAO has additional procedures for high risk audits, which include the review of key judgements by an NIAO Director who is fully independent of the audit team.
5. Each year the NIAO executes a programme of post-certification internal Quality Control Reviews. The objective of these reviews is to establish whether sufficient and appropriate evidence has been collected and evaluated and whether the NIAO's financial audits comply with professional standards and internal policies.
6. To seek an external view, the other UK public audit agencies conduct external Quality Control Reviews on a sample of our post-certified audit files. The results of the Quality Control Reviews are regularly brought to the attention of all staff.

Independence policies and safeguards

7. The NIAO is independent of government and differs from other professional audit bodies in that it has additional public service responsibilities.
8. All public sector bodies are required to observe high standards of probity in the management of their affairs, and the Committee on Standards in Public Life has identified seven key principles which should be followed: selflessness; integrity; objectivity; accountability; openness; honesty; and leadership. The combination of professional ethics and public sector principles therefore places the NIAO in a unique position.
9. These principles underpin the work of the NIAO, in particular:
 - Accountability - everything done by those who work in the NIAO must be able to stand the test of assembly scrutiny, public judgements on propriety, and professional codes of conduct;
 - Probity - there should be an absolute standard of honesty and integrity in handling NIAO work and resources; and

Annex 2: NIAO quality standards and independence

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- Objectivity and Impartiality - The C&AG's independence is secured in statute. This underlines the need for us to be objective and impartial in all our work, including accurate, fair and balanced reporting.
10. We need to apply these values to retain our credibility with the Assembly, audited bodies and other stakeholders in our work and therefore a code of conduct is issued annually for all staff to complete a return confirming that they have complied with its provisions.



Northern Ireland Audit Office

Code of Audit Practice 2016

In relation to the functions of the Local Government Auditor in the audit of Local Government Bodies in Northern Ireland – March 2016

Laid before the Northern Ireland Assembly under Article 5(7) of the Local Government (Northern Ireland) Order 2005 by the Department of the Environment
Date 14 March 2016





Northern Ireland Audit Office

Code of Audit Practice 2016

Published 31st March 2016

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Preface

The role of external audit in the local government sector

External audit is an essential part of the process of accountability for public money. It makes an important contribution to the stewardship of public resources and the corporate governance of public services. It involves the Local Government Auditor giving an independent opinion on local government bodies'¹ financial statements (referred to in legislation as 'statement of accounts') and includes a review and report on aspects of the arrangements put in place by them to ensure the proper conduct of their financial affairs and manage their performance and use of resources. Because of the special accountabilities attached to public money and the conduct of public business, external audit in the local government sector is characterised by three distinct features:

- The Local Government Auditor is appointed independently from the bodies being audited.
- The Local Government Auditor's work covers not only the audit of financial statements but also includes aspects of corporate governance, arrangements to secure the economic, efficient and effective use of resources, performance improvement, value for money studies and grant certification.
- The Local Government Auditor may report aspects of his/her work to the public and other key stakeholders.

These features are consistent with the 'principles of public audit' as defined by the Public Audit Forum which comprises all the national audit agencies in the United Kingdom (UK).

The roles of the department with regulatory responsibility and the Northern Ireland Audit Office

The department with regulatory responsibility (the Department)² is a central government department with statutory responsibilities to regulate the external audit of local government bodies in Northern Ireland.

The Local Government (Northern Ireland) Order 2005 (the Order) provides that the Department may, with the consent of the Comptroller and Auditor General³, designate a member of staff of the Northern Ireland Audit Office (the NIAO) as the Local Government Auditor and another as a Deputy Local Government Auditor.

While the designated Local Government Auditor has responsibility for the functions to which this Code relates, operationally much of the work carried out is delegated to others. The Local Government Auditor has made arrangements with the Comptroller and Auditor General and with private audit firms, for members of their staff to assist in conducting his/her functions.

Consequently, in this Code the use of the terms 'auditor' and 'auditors' apply collectively to:

- the Local Government Auditor;
- employees of the NIAO; and
- any person who provides audit services to the NIAO.

Auditors carry out the statutory responsibilities, and exercise their professional judgement, independently of the Department and the Comptroller and Auditor General.

1 Local government bodies include councils, joint committees and the Local Government Staff Commission.

2 Currently the Department of the Environment.

3 The Comptroller and Auditor General is an Officer of the Northern Ireland Assembly and is the head of the Northern Ireland Audit Office. The Northern Ireland Audit Office scrutinises public spending on behalf of the Northern Ireland Assembly.

The NIAO has established arrangements for the training and development of audit staff, the provision of advice and support on technical matters and regulating the quality of audit work, which assist the Local Government Auditor in the discharge of his/her audit work.

Statutory responsibilities and powers of the Local Government Auditor

The statutory responsibilities and powers of the designated Local Government Auditor relating to local government bodies are set out in the Order and the Local Government (Northern Ireland) Act 2014 (the Act). In discharging the Local Government Auditor's specific statutory responsibilities and powers, auditors are required to carry out their work in accordance with a Code of Audit Practice.

The Code of Audit Practice

Article 5 of the Order requires the Local Government Auditor to prepare, and keep under review, a Code of Audit Practice (the Code) which prescribes the way in which the functions under the Order are to be carried out and embodies *"what appears to the Local Government Auditor to be the best professional practice with respect to the standards, procedures and techniques to be adopted by the Local Government Auditor"*.

The Code must be read in conjunction with any regulations made under Article 24 of the Order as regards the accounts and audit of local government bodies.

Section 102 of the Act provides that performance improvement audit and assessment functions be included in the Code.

The Local Government Auditor is committed to keeping the Code up to date to reflect changes in the operating environment of audited bodies and statutory legislation, as well as auditing standards and practice. He/she may amend the Code where appropriate, in the light of practical experience.

The Code must be approved by a resolution of the Northern Ireland Assembly at intervals of not more than five years. In the intervening period, the Code may be amended by the Local Government Auditor in consultation with councils and other appropriate bodies and persons.

The Local Government Auditor's approach

The Code covers the audit of all different types of local government body, as the core statutory responsibilities placed on the Local Government Auditor are essentially the same. In line with other UK regions, a principles-based, rather than a rules-based approach has been adopted. As with the extant codes, this has allowed the Local Government Auditor to:

- prepare a concise, high level code applicable to the audit of all local government bodies within the local government audit model established by legislation;
- provide a clear framework for auditors to meet the statutory duties;

Preface

- ensure that the Code does not quickly become out of date as the regulatory environment continues to evolve; and
- adopt a flexible approach that is responsive to sector developments and to the specific risks identified.

As has been the case, it follows that the amount of work required to perform a good quality audit may increase or decrease in response to the individual circumstances of each local government body. This is something on which the audited body is likely to have a view and auditors should discuss the audit approach with the audited body. Ultimately, though, this must be a matter for the auditors' independent, professional judgement.

Chapter One

Status of the Code, scope and general principles

1.1 This chapter covers the status of the Code, provides details on its application and sets out principles which will underpin the conduct and work of the Local Government Auditor in discharging his/her statutory duties.

Status of the Code

1.2 The Local Government Auditor is required to prepare the Code under Article 5(3) of the Order and to lay it before the Northern Ireland Assembly for approval. The Code was laid before the Northern Ireland Assembly on 14 March 2016 and comes into effect from 1 April 2016. It replaces the Code that has been in effect from 1 April 2011.

1.3 The Code applies to the audit of all local government bodies in relation to their financial statements from the financial year 2015-16 onwards and until the Code is replaced.

1.4 The Code also applies to the audit and assessment of councils' performance improvement duties. These duties were to be phased in over three years and began in the financial year 2015-16.

Scope of the Code

1.5 The Code prescribes the way in which the Local Government Auditor, as outlined in Article 4⁴ of the Order, should carry out his/her functions under the

Order and the Act. As with any code that attempts to cover a wide variety of circumstances, the application of the Code in any particular case will depend on the specific circumstances, any relevant supplementary guidance and on the Local Government Auditor's assessment of what is reasonable and appropriate in those circumstances. All the provisions of the Code are to be read and applied with that necessary qualification.

Principles

Wider scope

1.6 Because of the special accountabilities attached to public money and the conduct of public business, the scope of external audit in local government is extended to cover not only the truth and fairness of the financial statements, but also:

- arrangements for securing economy, efficiency and effectiveness in the use of resources; and
- arrangements to secure continuous performance improvement in the exercise of council functions.

1.7 The Local Government Auditor does not act as a substitute for the audited body's own responsibility for putting in place proper arrangements to ensure that public business is conducted in

4 As amended by the Local Government Act (Northern Ireland) 2014.

Chapter One

accordance with the law and proper standards, and that public money is safeguarded, properly accounted for and used economically, efficiently and effectively.

Integrity, objectivity and independence

- 1.8 Auditors should carry out their work with integrity, objectivity and independence. This should be done in accordance with the ethical standards for auditors set by the Financial Reporting Council, and any additional requirements set out by the International Federation of Accountants and the International Organisation of Supreme Audit Institutions. Auditors are also subject to the ethical codes of their professional institutes - such as the Chartered Institute of Public Finance and Accountancy and Chartered Accountants Ireland.
- 1.9 Auditors exercise their professional judgement and act independently of both the Department and the audited body. Auditors should be, and should be seen to be, impartial and independent. Accordingly, they should not carry out any other work for an audited body, if that work would impair their independence in carrying out any of the Local Government Auditor's statutory duties, or might reasonably be perceived as doing so.

Transparency and public reporting

- 1.10 The Local Government Auditor has a range of means at his/her disposal, set out in the relevant legislation, by

which his/her findings may be reported publicly. The Local Government Auditor should report on a timely basis without fear or favour, using his/her professional judgement on the most appropriate and effective means of reporting.

Professionalism and proportionality

- 1.11 Auditors should carry out their work in compliance with the requirements of the Code which itself requires compliance, where applicable, with relevant professional standards issued by the Financial Reporting Council and relevant quality control standards. The work should be risk-based and proportionate. It should be designed to meet the Local Government Auditor's statutory responsibilities, with auditors applying their professional judgement to tailor their work to the circumstances in place at the audited body and the audit risks to which they give rise. Auditors should ensure that each audit is conducted economically, efficiently, effectively and in as timely a way as possible.
- 1.12 In carrying out their work, auditors should exercise professional scepticism. They should obtain and document such information and explanations as they consider necessary to provide sufficient, appropriate evidence in support of the Local Government Auditor's judgments. Auditors should meet the requirements of the legislation, the Code and, where applicable, professional standards.

- 1.13 There may be circumstances in which it appears to the auditor that aspects of the Code need to be applied in a certain way in order to meet the specific circumstances of certain bodies, for example smaller local government bodies because of the nature of their business or the relatively small amounts of public money that they control. In such circumstances auditors will apply their professional judgement.

Coordination and integration

- 1.14 Local government bodies can operate, commission and deliver services in a range of partnerships and other forms of joint working or contracts with other public, private or third sector bodies. In meeting his/her statutory duties the Local Government Auditor should consider how best to obtain assurance over such arrangements.
- 1.15 Auditors should establish effective co-ordination arrangements with internal audit and seek to place reliance on the work of internal audit whenever possible.
- 1.16 Auditors should adopt an integrated approach, where the knowledge gathered and work carried out in support of each of the Local Government Auditor's statutory and reporting obligations informs his/her judgments and conclusions as a whole.

Constructive approach

- 1.17 Auditors should adopt a constructive and positive approach to their work.

They should share and discuss the audit plan at an early stage with the audited body. Auditors, in their support and encouragement of worthwhile change, should consider carefully the practical and resource implications for the audited body when framing recommendations arising from the audit.

Data security and confidentiality

- 1.18 Auditors should familiarise themselves and comply with statutory and other relevant requirements relating to the security, transfer, holding, disclosure and disposal of data, particularly personal data received or obtained during the course of their audit work.

Chapter Two

Audit of the financial statements

- 2.1 This chapter sets out how the Local Government Auditor's statutory duties (see Schedule 1) in respect of the audit of the financial statements of local government bodies are addressed.
- 2.2 The auditor of a body that meets the qualifying conditions of a smaller body should apply any modified procedures as set out in Chapter Seven of the Code.

Responsibilities of the audited body

- 2.3 The specific responsibilities of audited bodies regarding the production and reporting of financial statements and other information depend on relevant legislation, regulations and any other requirements that may be placed upon them. All audited bodies are expected to have effective corporate governance arrangements to deliver their objectives. To this end, the publication of the financial statements, is an essential means by which an audited body accounts for its stewardship and use of public money at its disposal.
- 2.4 The precise form and content of the audited body's financial statements, and any additional schedules or returns for consolidation purposes, should reflect the requirements of the relevant accounting and reporting framework in place for that particular type of audited body and any additional guidance issued in support of the accounting and reporting framework.
- 2.5 The audited body may also be required to prepare a return to facilitate the

preparation of HM Treasury's Whole of Government Accounts.

Responsibilities of the Local Government Auditor

- 2.6 To meet the duties in respect of the audit of the financial statements, auditors should comply with current auditing standards, as amended from time to time, having regard to any other relevant guidance and advice issued by the Financial Reporting Council, including Ethical Standards.
- 2.7 Auditors should undertake work to support the provision of the Local Government Auditor's audit report to the audited body. In respect of the audit of the financial statements, the Local Government Auditor's report should include the following components:

Opinion on the audited body's financial statements

- whether the financial statements give a true and fair view of the financial position of the audited body and its expenditure and income for the year in question; and
- whether the financial statements have been prepared properly in accordance with the relevant accounting and reporting framework as set out in legislation, applicable accounting standards or other direction.

Chapter Two

Opinion on other matters

- whether other information published together with the audited financial statements is consistent with the financial statements; and
- where required, whether the part of the remuneration report to be audited has been properly prepared in accordance with the relevant accounting and reporting framework.

Opinion which can be reported by exception

- There is a wide range of matters, which can be reported by exception and these are outlined in Schedule 2 of the Code.

2.8 Other information published together with the audited financial statements covers material that the audited body chooses, or is required, to provide alongside its financial statements, for example the annual governance statement. In reading the information given with the financial statements, auditors should take into account the knowledge of the audited body, including that gained from carrying out audit work, in relation to the body's proper arrangements for securing economy, efficiency and effectiveness in its use of resources and performance improvement.

Chapter Three

The Local Government Auditor's work on economy, efficiency and effectiveness

3.1 This chapter addresses the Local Government Auditor's statutory duties in respect of the audited body's proper arrangements to secure economy, efficiency and effectiveness in the use of its resources. It also outlines the Local Government Auditor's statutory power in relation to the undertaking of comparative and other studies of local government bodies designed to lead to improvements in economy, efficiency and effectiveness in the provision of services. Details of these duties are set out in Schedule 1 of this Code.

3.4 In preparing its governance statement, the audited body will tailor the content to reflect its own individual circumstances, consistent with the requirements of the relevant accounting and reporting framework and having regard to any guidance issued in support of that framework. This should include a description of the arrangements for ensuring that its functions and services are delivered in a manner which represents the best use of resources, having regard to a combination of economy, efficiency and effectiveness.

Responsibilities of the audited body

3.2 Local government bodies are required to maintain an effective system of internal control that supports the achievement of their policies, aims and objectives, while safeguarding and securing value for money from the public funds and other resources at their disposal. It is their responsibility to put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources and to ensure proper stewardship and governance. The adequacy and effectiveness of the system of internal control should be regularly reviewed.

3.3 As part of the material published in the governance statement within its financial statements, the audited body is required to bring together commentary on its governance framework and how this has operated during the period.

Responsibilities of the Local Government Auditor

3.5 The Local Government Auditor has a statutory responsibility to satisfy himself/herself that the audited body has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

3.6 In meeting this responsibility, auditors should ensure that sufficient work is undertaken to be able to satisfy themselves as to whether, in their view, the audited body has put proper arrangements in place that support the achievement of value for money. In carrying out this work, the auditors are not required to satisfy themselves that the audited body has achieved value for money during the reporting period. However, should evidence of poor value for money come to auditors attention

Chapter Three

during the course of an audit, they should consider the implications of this for their work.

3.7 The auditors' work should be underpinned by consideration of the proper arrangements the audited body is expected to have in place. This should be based on any relevant requirements, guidance and good practice in the areas that they decide to review.

3.8 Auditors should take into account their knowledge of the local government sector as a whole, and the audited body specifically, to identify any risks that, in their judgement, have the potential to cause the Local Government Auditor to reach an inappropriate conclusion on the audited body's proper arrangements. An understanding of the sector includes the relevant regulatory framework, which may influence the auditors' assessment of the risk.

3.9 The auditors' work should be designed to enable the Local Government Auditor to form a view of the arrangements management has made and report his/her conclusion to those charged with governance that the audited body has (or has not) put in place proper arrangements to secure value for money through economic, efficient and effective use of its resources for the relevant financial year.

3.10 In addition, the Local Government Auditor may and, if required by the Department, undertake comparative

and other studies designed to enable him/her to make recommendations for improving economy, efficiency and effectiveness in the provision of services by local government bodies.

Chapter Four

The Local Government Auditor's work on performance improvement

4.1 This chapter describes how the Local Government Auditor will exercise his/her functions relating to the performance improvement duties of councils (see Schedule 1 of this Code).

Responsibilities of the audited body

4.2 Councils have a general duty to make arrangements to secure continuous improvement in the exercise of their functions and to set improvement objectives for each financial year. Councils will be required to gather information to assess improvements in their services and to issue a report annually on their performance against indicators which they have either set themselves or that have been set by departments. Councils' performance improvement plans, and the arrangements made to deliver on those plans, will be audited by the Local Government Auditor.

Responsibilities of the Local Government Auditor

4.3 As directed by the Department, the Local Government Auditor has a statutory responsibility for each financial year to determine and report on whether:

- a council has discharged its duties in relation to improvement planning, published the required improvement information and the extent to which

the council has acted in accordance with any guidance issued with the Department in relation to those duties; and

- a council is likely to comply with its statutory requirements to make arrangements to secure continuous improvement in the exercise of its functions.

4.4 To discharge his/her functions, the Local Government Auditor will:

- undertake improvement information and planning audits, to ascertain whether a council has discharged its duties for publishing improvement planning and performance information;
- carry out improvement assessments, to determine whether a council is likely to comply with its statutory requirements to make arrangements to secure continuous improvement in the exercise of its functions; and
- report on improvement audit and assessment work.

4.5 The Local Government Auditor will exercise his/her improvement audit and assessment functions:

- consistently between councils;
- proportionately so as not to impose an unreasonable burden on councils; and

Chapter Four

- with a view to assisting councils to comply with their duties in relation to securing continuous improvement.

- 4.6 In certain circumstances, the Local Government Auditor may decide, or be requested by the Department, to carry out a special inspection of a council's compliance with its duties in relation to securing continuous improvement.
- 4.7 Each year when carrying out performance improvement assessments, auditors will assess whether councils have given due regard to sustainability and other aspects of improvement in their arrangements to secure continuous improvement.
- 4.8 If the Local Government Auditor thinks it appropriate in the light of a performance improvement audit, assessment or special inspection, he/she may make recommendations to the Department to provide assistance to a council or give it a direction. The Local Government Auditor will clearly outline the rationale for making such recommendations, based on improvement audit, assessment or inspection findings.

Chapter Five

Reporting the results of the Local Government Auditor's work

5.1 This chapter addresses the Local Government Auditor's statutory duties for reporting the results of the audit, as summarised within Schedule 1 of this Code.

5.2 The Local Government Auditor should report the results of his/her work using a range of outputs at the appropriate point in the audit process, as set out below.

Planning the audit

- An audit planning document sets out how the Local Government Auditor intends to carry out his/her duties in respect of the annual accounts in accordance with auditing standards. In addition to planned work on the audit of the annual accounts, the audit planning document should encompass the auditors planned work to meet their duties in respect of:
 - the audited body's arrangements to secure value for money through the economic, efficient and effective use of its resources; and
 - securing continuous improvement in the exercise of their functions.

Auditors should discuss their risk assessment and planned approach, as set out in the audit planning report,

with management and those charged with governance.

Completion of audit fieldwork

- A report to those charged with governance which should communicate to the audited body more detailed matters arising from all audit work performed in the year. The report will include those additional points which the auditor views as offering the Chief Financial Officer the opportunity to improve the management of the audited body.

Conclusion of the audit

- An audit report which should cover the results of the auditors work on the annual accounts as set out at paragraphs 2.6 to 2.8 of the Code. The audit report should also include, by exception, any report by the Local Government on a range of additional matters as appropriate.
- An audit completion certificate – the Local Government Auditor should certify the completion of the audit. This usually forms part of the audit report. The effect of the certificate is to close the audit. This marks the point when the Local Government Auditor's responsibilities in respect of the audit of the period covered by the certificate have been discharged. There may be occasions when

Chapter Five

the Local Government Auditor is able to issue the audit report but cannot certify completion of the audit because certain, non-material issues remain outstanding. In such circumstances, the Local Government Auditor should consider whether to issue his/her audit report ahead of certifying closure of the audit.

- An annual audit letter which should provide a clear, readily understandable commentary on the results of both the financial statement audit and the work on proper arrangements. It should also highlight any issues that the Local Government Auditor wishes to draw to the attention of the public. The Local Government Auditor should issue the annual audit letter as soon as possible after he/she has certified that the audit is complete.⁵ Whilst it is the responsibility of the council to publish the annual audit letter, the Local Government Auditor may publish each annual audit letter on the NIAO website to enhance the transparency of public reporting.
- An audit and assessment report will be issued to the Chief Executive of each council and the Department. The report will state whether the Local Government Auditor believes that the council is likely to comply with the statutory duty to make arrangements to secure continuous improvement during the current financial year; he/she may also

comment on whether the authority is likely to comply in subsequent years.

- Annual improvement reports - the Local Government Auditor will publish an annual improvement report on each council which summarises all of the work done in relation to the performance and improvement duties. These will be also be published on the NIAO website.
- The Local Government Auditor's annual report will be issued to the Chief Executive of each council and the Department after all audits have been completed. The main objective is to provide an overview of the Local Government Auditor's functions in that year and share key messages from all audits performed during the year. This may also be published on the NIAO website.

Any stage during the audit

5.3 Auditors may progress the actions and outputs identified below at any stage during their work:

- communication on specific elements of their work – auditors should maintain regular communication with the audited body to ensure that emerging findings are raised on a timely basis, in the form and at the level within the audited body, they judge appropriate.

⁵ Publication of the annual audit letter by a local government body is a statutory requirement under the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015, Part 5, section 17.

- reports in the public interest – the Local Government Auditor should consider whether, in the public interest, he/she should report on any matter that comes to his/her notice so that it is brought to the attention of the audited body and the public:
 - When preparing and issuing reports in the public interest, the Local Government Auditor should tailor his/her approach to the urgency and significance of his/her concerns. The Local Government Auditor should make a report during the audit if he/she considers the matter is sufficiently important to be brought to the attention of the audited body or the public as a matter of urgency.
 - If the Local Government Auditor issues a report in the public interest, this should be referred to in the audit report and the annual audit letter.
- written recommendations – the Local Government Auditor should consider whether to use the powers the Order provides to make written recommendations to the audited body which need to be considered by the body and responded to publicly. Where the Local Government Auditor considers it necessary to make such recommendations, these can be made during or at the end of the audit and can be included, where relevant, within other written outputs from the audit (including the audit report), or they may be the subject of a specific report to the audited body.
- special investigations - if the Local Government Auditor is of the opinion that a council may fail to comply with its performance improvement duties, or if the Department directs the Local Government Auditor to carry out an inspection, then the Local Government Auditor may carry out a special inspection of the council. Such inspections may relate to some or all of a council's functions. Before deciding whether to inspect, the Local Government Auditor must consult the Department.

Chapter Six

The Local Government Auditor's additional powers and duties

- 6.1 This chapter addresses the Local Government Auditor's use of certain additional powers and duties, as summarised in Schedule 1.
- 6.2 In exercising any of the additional powers and duties, the Local Government Auditor should tailor his/her approach to the particular circumstances of the matters under consideration.
- 6.3 Where any representations are made to the Local Government Auditor, or relevant matters otherwise come to his/her attention, the Local Government Auditor should consider whether the matter needs investigation and action under these additional powers and duties or whether it can be considered more effectively within planned work programmes and reporting arrangements under the Local Government Auditor's other audit engagement responsibilities.
- 6.4 In considering whether to exercise any of his/her additional powers and duties, and in determining the time and resource to be spent on dealing with such matters the Local Government Auditor should consider the relevant requirements of the Order and:
- the significance of the subject matter;
 - whether there is wider public interest in the issues raised;
 - whether the substance of the matter has been considered previously by the Local Government Auditor;
 - the costs of dealing with the matter, bearing in mind that these are borne by the taxpayer; and
 - in the case of objections, the rights of both those subject to objection and of the objector.
- 6.5 The Local Government Auditor is a prescribed person under the Public Interest (Prescribed Persons) (Amendment) Order (Northern Ireland) 2014 and can consider any relevant concerns from whistleblowers and may investigate further.

Chapter Seven

Smaller local government bodies

7.1 This Chapter sets out the approach to be adopted for the audit of smaller local government bodies. Smaller local government bodies are defined in the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015 (the Regulations) as:

- a committee of a council for which accounts are separately kept;
- a joint committee of two or more councils; or
- a local government body which-
 - is an established body, which meets the qualifying condition for the year concerned and for either of the two preceding years⁶;
 - is a newly established body, which meets the qualifying condition for its first year.

Responsibilities of the local government auditor (smaller local government bodies)

7.3 The Local Government Auditor's approach for the audit of smaller government bodies will be determined taking due consideration of the principles within this Code and particularly consideration of proportionality

Responsibilities of the smaller local government body

7.2 A smaller local government body should prepare a statement of accounts each year in accordance with proper accounting practices, the Regulations and in the form directed by the Department. The form of the statement of accounts is determined by the Department.

⁶ The current qualifying condition set by the Department for a smaller local government body is £2.5 million.

Chapter Eight

The Local Government Auditor's rights of access to third parties

- 8.1 This section sets out how the Local Government Auditor fulfils the statutory function which relates to access to third parties, as summarised in Schedule 1.
- 8.2 The Code aims to ensure that the statutory access rights provided to the auditors, to documents which are held by third parties and relate to local government bodies, are exercised in the same professional manner as access rights provided to documents held by local government bodies. This is to ensure that sufficient information is obtained for the purposes of the examination being undertaken, without placing unnecessary burden on those subject to access.
- 8.3 The Code concerns the relations between the auditors, third parties that are subject to their right of access, and local government bodies.

Notification

- 8.4 Auditors will normally consult local government bodies on their intention to exercise statutory access rights to documents held by third parties. The need for consultation may not apply in exceptional circumstances (see under Exceptional circumstances below).

Explanation of work

- 8.5 Auditors will explain the basis of the decision to exercise their right of access to documents held by third parties,

set out the purpose and scope of the intended examination, and consider comments from the third party and the local government body. This will include cases where the Department or the Local Government Auditor has statutory powers to undertake comparative and other studies to enable him/her to make recommendations for improving economy, efficiency and effectiveness in the provision of services by local government bodies.

Purpose of Access

- 8.6 This Code makes clear that:
- statutory access to third party documents is needed to enable the Local Government Auditor to carry out any of his/her statutory duties, including comparative and other studies when required by the Department or the Local Government Auditor to undertake this work;
 - auditors access will be limited to papers and records which relate to the local government body, not to the business of the third party; and
 - the Local Government Auditor will not be seeking to conduct a study of the business of the third party.

Extent of work

- 8.7 Auditors apply professional auditing standards and professional judgement

Chapter Eight

when determining the level of work necessary to complete an investigation. In doing so, the auditors seek to use the most efficient techniques to obtain the evidence required and minimise the impact on the body concerned. Where possible, the auditor will place reliance on relevant work completed by other parties – for example, by working with or making use of the work of internal audit or other auditors.

- 8.8 The Local Government Auditor anticipates no significant increase in the overall volume of existing local government audit work from the exercise of such rights.

Facilitation of access

- 8.9 Third parties will provide auditors, with access to all such documents as they may reasonably require, at all reasonable times.

Reporting back

- 8.10 Auditors will inform the third party and the local government body of the results of their work within a reasonable period after completion and take into account comments on factual accuracy and fair presentation.

Resolution of issues

- 8.11 Local government bodies that have issues with the exercise of the statutory

access rights to documents held by third parties should seek to resolve them with their auditor. Where a third party which has been subject to access has concerns about the approach taken, it will similarly be able to discuss such concerns with the auditor.

Exceptional circumstances

- 8.12 There may be exceptional circumstances that will override the arrangements set out above, such as alleged fraud or impropriety.

Restrictions on disclosure of information by the Local Government Auditor

- 8.13 Article 27 of the Order places restrictions on the Local Government Auditor regarding the disclosure of information obtained during the course of his/her statutory work, relating to third parties.

Schedule 1

The Local Government Auditor's statutory responsibilities in relation to local government bodies

Schedule 1 aims to provide an accessible view of the Local Government Auditor's responsibilities. To achieve this, the schedule summarises (rather than reproduces) relevant sections of both the Order and the Act. The schedule is not intended to be a substitute for consideration of the detailed requirements of either.

Schedule 1	
The Local Government Auditor's statutory responsibilities	
Local government bodies	Statute
Audit scope	
To be satisfied that the accounts comply with statutory requirements.	Article 6(1)(a)(b) Local Government (Northern Ireland) Order 2005
To be satisfied that proper practices have been observed in compiling the accounts.	Article 6(1)(c) Local Government (Northern Ireland) Order 2005
To be satisfied that proper arrangements have been made for securing economy, efficiency and effectiveness in the use of resources.	Article 6(1)(d) Local Government (Northern Ireland) Order 2005
To be satisfied that a council has discharged its performance improvement duties and acted in accordance with any guidance.	Section 93 Local Government (Northern Ireland) Act 2014
To determine whether a council is likely to comply with its performance improvement duties in the financial year and in subsequent financial years.	Section 94 Local Government (Northern Ireland) Act 2014

Schedule 1

Schedule 1	
The Local Government Auditor's statutory responsibilities	
Local government bodies	Statute
Reporting	
To comply with the Code of Audit Practice prepared by the Local Government Auditor and approved by the Northern Ireland Assembly.	Article 6(2) Local Government (Northern Ireland) Order 2005
To consider whether, in the public interest, to report on any matter that comes to the attention of the auditor so that it may be considered by the body concerned or brought to the attention of the public.	Article 9 Local Government (Northern Ireland) Order 2005
To certify the completion of the audit.	Article 10(1)(a) Local Government (Northern Ireland) Order 2005
To express an opinion on the accounts.	Article 10(1)(b) Local Government (Northern Ireland) Order 2005
To consider whether a written recommendation should be made to the audited body requiring it to be considered and responded to publicly.	Article 12(2) Local Government (Northern Ireland) Order 2005
To issue an 'audit and assessment report' each financial year in respect of each council certifying whether a council has discharged its performance improvement duties and acted in accordance with any guidance. In addition, the report will include a statement from the Local Government Auditor stating whether or not he/she believes that the council is likely to comply with its performance duties.	Section 95 Local Government (Northern Ireland) 2015 Act
To publish an 'annual improvement report' in relation to each council which summarises or reproduces the Section 95 report and the results of any special inspection work	Section 97 Local Government (Northern Ireland) 2015 Act
For each financial year, prepare a report on the exercise of the Local Government Auditor's functions in that year and send a copy of the report to each council and the Department.	Article 4(5) Local Government (Northern Ireland) Order 2005

Schedule 1	
The Local Government Auditor's statutory responsibilities	
Local government bodies	Statute
Additional powers and duties	
Each year, prepare a report as to the exercise of the Local Government Auditor's functions and send a copy of the report to each council and the Department.	Article 4 Local Government (Northern Ireland) Order 2005
To give interested persons the opportunity to raise questions with the Local Government Auditor about the accounts and for the Local Government Auditor to consider and decide upon objections received in relation to the accounts.	Articles 17 and 18 Local Government (Northern Ireland) Order 2005
To consider whether to apply to the court for a declaration that an item of account is contrary to law.	Article 19 Local Government (Northern Ireland) Order 2005
To consider whether there has been a loss or deficiency caused by a failure to account or wilful misconduct.	Article 20 Local Government (Northern Ireland) Order 2005
To consider whether to make an application for judicial review.	Article 21 Local Government (Northern Ireland) Order 2005
To perform an extraordinary audit of the accounts of any local government body if, at any time, it is directed by the Department.	Article 22 Local Government (Northern Ireland) Order 2005
To audit the accounts of a local government officer where that officer is in receipt of money or other property on behalf of a local government body or for which he/she ought to account to that body.	Article 23 Local Government (Northern Ireland) Order 2005
To make arrangements, if so required by a local government body, for certifying claims, returns or accounts in respect of certain grants or subsidies.	Article 25 Local Government (Northern Ireland) Order 2005
To undertake comparative and other studies designed to enable him/her to make recommendations for improving economy, efficiency and effectiveness in the provision of services by local government bodies and to publish the results and recommendations.	Article 26 Local Government (Northern Ireland) Order 2005
Access rights	
To have access at all reasonable times to every document relating to a local government body	Article 7 Local Government (Northern Ireland) Order 2005
To restrict disclosure by the Local Government Auditor of information obtained during the course of their work to third parties.	Article 27 Local Government (Northern Ireland) Order 2005

Schedule 2

Audit report: Inclusion of additional matters by exception

Schedule 2 aims to provide an accessible view of the Local Government Auditor's responsibilities in relation to a wide range of matters which can be reported by exception. To achieve this, the schedule summarises (rather than reproduces) relevant sections of the Act and Departmental guidance. The schedule is not intended to be a substitute for consideration of the detailed requirements of either.

Schedule 2

Audit report: Inclusion of additional matters by exception

If the Annual Governance Statement does not reflect compliance with proper practices, as required by the Department.

Matters reported in the public interest under Article 9 of the Local Government (Northern Ireland) Order 2005.

Any recommendations made to the audited body under Article 12 of the Local Government (Northern Ireland) Order 2005.

Application to the High Court for a declaration that an item of account is contrary to law under Article 19 of the Local Government (Northern Ireland) Order 2005.

Certification of a loss caused by a failure to account or wilful misconduct under Article 20 of the Local Government (Northern Ireland) Order 2005.

Application for judicial review under Article 21 of the Local Government (Northern Ireland) Order 2005.

Glossary

Term	Definition
Accounting standards	Accounting standards are authoritative statements of how transactions and balances are to be recognised, measured, presented and disclosed in financial statements.
Act 'the'	The Local Government (Northern Ireland) Act 2014
Annual audit letter	Report issued by the Local Government Auditor to an audited body, which summarises the audit work carried out in the period, the Local Government Auditor's opinions or conclusions (where appropriate) and significant issues arising from his/her work.
Annual governance statement	The Order requires local government bodies to ensure that their financial management is adequate and effective and that it has a sound system of internal control. It provides that a local government body shall conduct a review each financial year on the effectiveness of its system of internal control and that a statement shall be prepared in accordance with proper practices. The Department of Environment in Circular LG/04/08 has defined proper practices for a statement of internal control as the Annual Governance Statement prepared in accordance with CIPFA's Delivering Good Governance in Local Government: Framework (2007) and Addendum (2012).
Annual report	The annual report describes the aims and achievements of an audited body during a particular year. While not required to do so, local government bodies may provide an annual report alongside their financial statements.
Audited body	A body to which the Department of the Environment is responsible for assigning the local government auditor, comprising both the members of the body and its management (the senior officers of the body). Those charged with governance are the members of the audited body. (See also 'members' and 'those charged with governance').
Auditor(s)	This term includes the terms 'auditor' and 'auditors' collectively to: <ul style="list-style-type: none"> - the Local Government Auditor; - employees of the Northern Ireland Audit Office; and - any person who provides audit services to the NIAO.
Auditing standards	Standards issued by the Financial Reporting Council which the Local Government Auditor is required to comply with when conducting an audit of the financial statements.
Code (the)	The Code of Audit Practice issued by the Local Government Auditor and approved by the Northern Ireland Assembly.

Glossary

Term	Definition
Consolidated accounts	Financial statements of a group in which the assets, liabilities, reserves, income, expenses and cash flows of the parent and its subsidiaries are presented as those of a single economic entity.
Corporate governance	The system of structures, rights, duties and obligations by which organisations are directed and controlled.
The Department	The central government Department with statutory responsibilities to regulate the external audit of local government bodies in Northern Ireland and to promote improvement in the provision of services by local government bodies.
Ethical Standards	Standards issued by the Financial Reporting Council which contain basic principles that apply to the conduct of audits and with which external auditors are required to comply, except where otherwise stated in the standard concerned.
External audit	The audit of the accounts of an audited body, which comprises the audit of the financial statements and other work to meet the Local Government Audit's statutory responsibilities under the Local Government (Northern Ireland) Order 2005. In addition, it includes performance improvement audits and assessments under Part 12 of the Local Government (Northern Ireland) Act 2014.
Financial Reporting Council (FRC)	The body responsible in the UK for issuing auditing standards, ethical standards and other guidance to auditors. Its objectives are to establish high standards of auditing that meet the developing needs of users of financial information and to ensure public confidence in the auditing process.
Financial statements (also see Statement of Accounts)	The financial statements or Statement of Accounts in the prescribed form.
Internal audit	Internal audit is an assurance function that primarily provides an independent and objective opinion to the organisation on the control environment comprising risk management, control and governance by evaluating its effectiveness in achieving the organisations objectives. Local government bodies are required to have an internal audit function.
Local government bodies	A council or a committee of a council for which accounts are separately kept, or a joint committee of two or more councils (as defined in Article 3(2) of the Order).

Term	Definition
Members	The elected or appointed members of local government bodies who are responsible for the overall direction and control of the audited body. (See also 'those charged with governance' and 'audited body').
NIAO	Northern Ireland Audit Office.
Order (the)	The Local Government (Northern Ireland) Order 2005
Professional standards	In the context of the Code, professional standards comprise auditing standards, ethical standards and quality standards – these are defined in this glossary.
Quality control standards	International Standard on Quality Control 1 issued by the International Auditing and Assurance Standards Board (IAASB) or any other relevant standards with which the Local Government Auditor is required to comply.
Regulations	Secondary legislation made by the Department of the Environment using powers conferred by the Northern Ireland Assembly.
Report by exception	Reporting only when information or the results of the Local Government Auditor's work is materially inconsistent with his/her understanding of the body or the requirements placed on the body.
Should	The Code of Audit Practice has been approved by the Northern Ireland Assembly. It has the status of secondary legislation and the Local Government Auditor's compliance with the Code is mandatory. The use of 'should' highlights a specific requirement placed on the Local Government Auditor within the Code.
Studies for improving economy, efficiency and effectiveness	Under Article 26 of the Order, the Local Government Auditor may, and if required by the Department, shall, carry out 'value for money' studies in local government, to enable him/her to make recommendations for improving economy, efficiency and effectiveness in the provision of services by local government bodies.
Statement of accounts (also see Financial Statements)	The annual statement of accounts or financial statements in the prescribed form.
Third Sector	The third sector includes voluntary and community organisations, social enterprises and cooperative and mutual organisations.
Those charged with governance	The persons with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing the financial reporting process.

Glossary

Term	Definition
Value for money	<p>Making the best use of resources through:</p> <ul style="list-style-type: none">• economy – minimising the cost of resources used or required;• efficiency – obtaining an optimal relationship between the resources used and the outputs/impacts achieved; and• effectiveness – achieving alignment between intended and actual outcomes.
Whole of Government Accounts	<p>The Whole of Government Accounts (WGA) are the consolidated financial statements for the whole of the United Kingdom public sector, showing what the United Kingdom government spends and receives and what it owns and owes.</p>



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Version 1.0

For Council 7th March 2016

Risk Management Policy

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Agenda Item:	TBD
Report to:	Audit Committee 28th April 2016
Subject:	<i>Review of Internal Audit recommendations from recent Internal Audit on Purchasing and Procurement.</i>
Date:	25 th April 2016
Reporting Officer:	Ken Montgomery
Contact Officer:	Dorinnia Carville
<u>Decisions Required</u>	
<ul style="list-style-type: none"> • NOTE report. 	
1.0	<u>Purpose & Background</u>
1.1	At the Audit Committee of the 28 th Jan 2016, Management were actioned to examine the timeframe for the implementation of Internal Audit recommendations relating to Purchasing and Procurement in order that the implementation of those recommendations was actioned sooner.
1.2	During March a review was carried out by relevant Officers and facilitated by NEREO on the entire purchase to payment (P2P) process from order requisition through to invoice authorisation and payment.
1.3	A Purchase to Payment improvement plan has been developed (see attached Appendix) with actions required dealing with Regulations, Coding, Authorisations, Policy, Procedures and Processes.
1.4	The review of the Purchasing Policy will include the process of purchasing items of value less than £250 and the collection of data required to ensure competitive procurement has taken place.
1.5	The final action of the improvement plan is to rollout training to all Budget Holders and Requisitioners by Aug-16.
2.0	<u>Key Issues/Constraints</u>
2.1	Newry, Mourne and Down District Council's Purchasing Policy
3.0	<u>Resource Implications</u>
3.1	Not quantified.
4.0	<u>Appendices</u>
5.1	Purchase to Payment (P2P) Improvement Plan

Purchase to Payment (P2P) Improvement Plan

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Ref	Task	Responsible	Start	Finish	Comments	Status
Regulations, Coding & Authorisations						
1.1	Review & update current Corporate Financial Regulations	Ken Montgomery	Apr-16	Apr-16	Update Officers' Scheme of Delegation accordingly (refer to J McBride)	
1.2	Approval of Corporate Financial Regulations	Ken Montgomery	May-16	May-16	Table at SMT Meeting (5 May) & SP&R Committee (12 May)	
1.3	Finance to confirm roles and responsibilities around financial payments structure	Ken Montgomery	Apr-16	Apr-16	Workshop with Finance required to develop the preferred model	
1.4	Confirmation with SMT to treat interim structure	Ken Montgomery to manage	May-16	May-16	Table at SMT Meeting (5 May). To be reviewed every quarter to ensure coding remains robust and correct.	
1.5	Implement correct coding to role, permission levels and locations	Alice McCann & David Barter	May-16	May-16	Subject to SMT agreement. Joanne Johnston to support the process	
1.6	Update all purchasing systems accordingly to ensure that the right permission levels and authorisation of use are in place and can't be bypassed or misused	Ken Montgomery to manage	Jun-16	Jun-16	Joanne Johnston & Liamus McGeoghegan to support the process	
1.7	Data cleanse the purchasing system and any other systems identified as the cleanse progresses	Alice McCann & David Barter	Jun-16	Jun-16	E.g. SUN, General Ledger, etc.	
Policy, Procedures & Processes						
1.8	Review and update Corporate Purchasing Policy (including procedures and guidance)	David Barter	Apr-16	May-16		
1.9	Approval of Corporate Purchasing Policy	Ken Montgomery	Jun-16	Jun-16	Table at SMT Meeting (7 June) & SP&R Committee (16 June)	
2.0	Communicate the release of the revised policies/procedures and guidance for both external and internal customers	David Barter	Jul-16	Jul-16	Subject to Council ratification in July-16.	
2.1	Design training needs assessment/document/survey. Capture feedback	David Barter	Jun-16	Jul-16		
2.2	Develop a training plan to address non-compliance and reinforce corporate procedures	David Barter	Jul-16	Jul-16		
2.3	Rollout training to specific individuals/teams	HR and Finance	Aug-16	Oct-16		

Completed
On Track For Completion
Progress Less Than Planned
Timetable Not Achievable

Item:	
Report to:	Strategy, Policy & Resources Committee
Subject:	Performance Improvement Plan (2016/17)
Date:	14 April 2016
Reporting Officer:	Johnny McBride, Change Manager
Contact Officer:	Johnny McBride, Change Manager

Decisions Required

Members are asked to note the contents of the report, consider and agree to:

- **The recommended approach and timetable for the publication of a Performance Improvement Plan for 2016-17; and**
- **The selection of the performance improvement objectives (listed at para 2.2) as the Council's in-scope performance improvement areas for 2016-17.**

1.0 **Purpose & Background**

- 1.1 The purpose of this report is to recommend an overall approach and timetable, as well as the performance improvement objectives, which together will form part of a Performance Improvement Plan for the Council for 2016-17. This is to ensure the Council meets its statutory requirements and complies with its Duty of Performance Improvement, as set-out in The Local Government (NI) Act (2015).

2.0 **Key Issues**

Overall Approach & Timetable

- 2.1 The recommended approach & timetable is provided at **Appendix I**.

Performance Improvement Objectives for 2016-17

- 2.2 Based on an assessment of the baseline evidence already collated in respect of the Community Plan, Corporate Plan and other priority areas of the Council, it is recommended Members agree the following objectives as in-scope areas for the purposes of the Performance Improvement Plan for 2016-17:
- i. **Improved the provision of leisure and recreation facilities across the District.** (It is anticipated this objective will be achieved via the capital build of two new Leisure Centres and other facilities as a means of supporting improved health & well-being outcomes across the District); and
 - ii. **Improved the performance of the Council's Development Management (Planning)**

	<p>service. (It is anticipated this objective will be achieved via the implementation of various improvements arising from the recent J MacKinnon Review. Planning was used for the purposes of the 2015-16 Performance Improvement Plan and therefore provides a baseline); and</p> <p>iii. Established local structures in support of the development and implementation of the District’s Community Plan. (It is anticipated this objective will be achieved via the establishment and operation of key fora such as DEA structures, the Community Planning Partnership & Thematic Working Groups, as well as the Health Forum).</p>
2.3	Appendix II provides a “read-across” illustrating how these performance improvement objectives align with Members’ agreed priorities (Corporate Objectives) in the Corporate Plan (2015-19), as well as demonstrating the specific criteria used for their selection.
2.4	Members are asked to also note that the statutory performance indicators the Council is required to report on in respect of Planning, Economic Development and Waste Management will also form part of the Performance Improvement Plan for 2016-17.
	Consultation Requirements
2.5	In accordance with Section 87 of the Act, the Council is required to consult on its performance improvement objectives for that given year. Proposed consultation arrangements in respect of Newry, Mourne & Down DC are also outlined in Appendix I .
	Audit & Assessment Arrangements
2.6	As with the audit and assessment arrangements for 2015-16 the NIAO will ascertain the following in 2016-17: <ul style="list-style-type: none"> • Whether the Council has published its performance improvement objective(s) within its Corporate Plan; • That each objective meets at least one of the seven relevant criteria in the Act; • That a consultation process has been conducted; and • Whether a satisfactory timetable and plan is in place to develop and progress the specified performance improvement objective(s).
2.7	Subject to the above being demonstrated, the NIAO will issue a Letter of Assurance (to both Council and the DoE) which will provide an assessment of the Council improvement activity outlined above for 2016-17. This is expected in October 2016. The audit and assessment arrangements for 2016-17 will not be a desktop exercise; this represents a major departure from the arrangements for 2015-16.
	Critical Success Factors
2.8	Based on the experiences of the Council in 2015-16 and recent NIAO feedback, there are a number of critical success factors which are considered essential for securing legislative compliance. These are summarised as follows:

	<ul style="list-style-type: none"> i. The number and the quality of the performance improvement objectives selected¹; ii. Obvious and clear links to desired outcomes, which must have an external focus; iii. Evidence of service and project planning; iv. Evidence of consultation on the specific performance improvement objectives²; v. Evidence of an audit trail of supporting documentation; and vi. Evidence of senior management and political buy-in.
3.0	<u>Resource Implications</u>
	There are no resource implications contained within this report, however the NIAO has confirmed that the audit and assessment arrangements for 2016-17 will incur an audit fee of approximately £37,000.
4.0	<u>Appendices</u>
	<ul style="list-style-type: none"> ▪ Appendix I – recommended approach & timetable ▪ Appendix II – read-across for Newry, Mourne & Down DC

¹ The Council is required to select a minimum of one performance improvement objective each financial year. Each performance improvement objective selected will require significant architecture behind it in terms of the documentary evidence requirements. Corporate Plan objectives can also be used for this purpose.

APPENDIX I**Overall Approach & Timetable - Performance Improvement Requirements for 2016-17**

ID	Performance Improvement Task	Timetable	Commentary
1	Review baseline evidence to identify potential in-scope performance improvement areas	February / March 2016	<ul style="list-style-type: none"> References include: (1) Community Planning engagement feedback report – May 2015 (2) Community Planning baseline evidence report – August 2015 (3) DEA emerging issues report – March 2016 (4) other sources such as Corporate Plan consultation, Agent feedback on Planning performance etc.
2	Agree overall approach, timetable & in-scope performance improvement areas with SMT	14 March 2016	<ul style="list-style-type: none"> Agreed at SMT Meeting, 14 March 2015
3	Draft performance improvement objective(s) & agree with SMT	By 25 March 2016	<ul style="list-style-type: none"> Agreed at SMT Meeting, 24 March 2015 Objectives will need to be drafted based on the seven relevant criteria in the Guidance
4	Equality screen performance improvement objective(s)	W/C 11 April 2016	
5	Stakeholder Consultation 1 – confirm stakeholder consultation undertaken concerning identification & prioritisation of in-scope performance improvement areas	By 8 April 2016	<ul style="list-style-type: none"> Previous stakeholder consultation will be collated for this purpose e.g. Agent workshop as part of J MacKinnon Review of Development Management (Planning).
6	Table performance improvement objectives & supporting information at SP&R Committee	14 April 2016	<ul style="list-style-type: none"> Full Council approval anticipated on 3 May 16
7	Stakeholder Consultation 2 – undertake stakeholder consultation on agreed performance improvement objective(s)	April / May 2016	<ul style="list-style-type: none"> Undertake as part of Corporate Plan Update events e.g. Older Peoples', Youth, PCSP, employees, statutory partners, ratepayers & LC&NF. Corporate Plan Update will be linked to

			emerging Community Plan priorities.
8	Publish performance improvement objective(s).	By 30 June 2016	<ul style="list-style-type: none"> “Performance Improvement” section to be included in Corporate Plan (2015-19) Update outlining Duty requirement, performance improvement objective(s), statutory PIs & prioritised projects as part of emerging transformation programme. Make available for download from the Council website.
9	Council must put in place a timetable and plan to develop and progress the specified performance improvement objective(s).	By 30 June 2016	<ul style="list-style-type: none"> Use respective project plans including Minutes etc as supporting evidence of timetabled plan. Need to compile audit trail.

Section 85, LG Act (2014) – Criteria for Performance Improvement Objectives

Newry, Mourne & Down DC – Strategic Read-Across

		Seven Criteria – Guidance on LG Performance Improvement (2016-17)							
Corporate Objective	Supporting Performance Improvement Objectives	Strategic Effectiveness ³	Service Quality ⁴	Service Availability	Fairness	Sustainability ⁵	Efficiency ⁶	Innovation ⁷	Supporting Project(s)
By 2019, supported improved health and wellbeing outcomes	<i>Improved the provision of leisure and recreation facilities across the District</i>		X	X	X	X			<ul style="list-style-type: none"> Capital build of the Newry Leisure Centre (Phase II) Capital build of Down Leisure Centre Downpatrick FC & Ballyhornan 3G Pitches Great Eastern Greenway
By 2019, transformed and modernised the Council, providing accessible and value for money services	<i>Improved the performance of the Council's Development Management (Planning) service</i>	X	X			X	X	X	<ul style="list-style-type: none"> Review of Development Management (Planning) & subsequent improvement plan
By 2016, empowered and improved the capacity of our communities	<i>Established local structures in support of the development and implementation of the District's Community Plan.</i>	X			X	X		X	<ul style="list-style-type: none"> Establishment & operation of DEA fora Establishment & operation of the Community Planning Partnership & Thematic Working Groups Establishment & operation of a Health Forum

³ Linking the Corporate Plan and the on-going processes that underpin it, with the Council's improvement processes. During 2015-16 & 2016-17 a Council may select its strategic (Corporate Plan) objectives as performance objectives.

⁴ Service quality, availability & fairness all relate to service provision by aiming to meet the needs of citizens and ensuring fair ease of access to the most suitable services that meet their needs.

⁵ When carrying out its functions or providing services, a Council may demonstrate improvement when it operates in a way that contributes towards the sustainability of its area.

⁶ Efficiency may be shown if fewer resources are utilised while maintaining provision of substantially similar or better services.

⁷ Covers any changes to service design and delivery methods that are intended to yield improvement under any other aspect.

Agenda Item:	Insert Agenda Item
Report to:	Audit Committee
Subject:	Green Tourism Project
Date:	28th April 2016
Reporting Officer:	Marie Ward
Contact Officer:	Marie Ward

Decisions Required

Members are asked to note the contents of the report.

1.0 Purpose & Background

1.1 Down District Council was the lead partner on a Green Tourism Project 50% funded by the EU Competitiveness Programme through Invest NI. The aim of the project was to provide tourism and service enterprises across the tourism destinations of Mourne Mountains & Ring of Gullion & Strangford Lough with the means to enhance competitiveness, performance and sustainability of their businesses, and to develop the destinations of Mourne Mountains & Ring of Gullion and Strangford Lough as 'Green' tourism destinations, a first in NI.

The project was delivered in a partnering arrangement with the legacy Newry & Mourne DC, Banbridge DC and Ards BC

The project value was £276,150, with 50% funded (£138,075) and the match funding (50%) was provided by the partner Council's based on their industry buy-in and was paid annually across 2 financial years 2014/15 & 2015/16.

Tenders were issued in September 2014 in Belfast Telegraph, Council website, and on tender websites including Tenders Direct and supply contracts. There were 13 expressions of Interest and 2 submissions. The Programme commenced in January 2015

A claim was submitted in April 2015 made for the period ending 31 March 2015 for £135,150. A verification check by Invest NI on 15th June identified a perceived non compliance with the procurement process as set out in the Letter of Offer. The key issue being the advertisement of the tender.

Legal advice has been sought from Belfast City Council and a response provided to Invest NI in relation to the perceived procurement issues.

2.0 Key Issues

2.1 Invest NI have now advised a 25% penalty to project funding this amounts to £33,787.50.

Partner Councils have been asked if they will contribute to the costs at a percentage proportionate to their previous contributions:

	<p>Armagh, Banbridge and Craigavon (formerly Banbridge DC) – 16% (£5,406) Ards and North Down Borough Council (formerly Ards BC) - 24% (£8,109)</p> <p>This matter is also under investigation by HR for breach of procurement regulations.</p>
3.0	<u>Recommendation</u>
3.1	To note the contents of the report.
4.0	<u>Resource Implications</u>
	Maximum £33,787.50
5.0	<i>Appendix – Letter INI</i>



Building Locally
Competing Globally



Mark Mohan
Senior Tourism Initiatives Manager
Newry, Mourne & Down District Council
Downshire Civic Centre, Downshire Estate
Ardglass Road
Downpatrick
BT30 6RA

29th February 2016

Dear Mark

Findings of Article 13 Verification Visit and Invest NI Review of Project

Thank you for your time and co-operation in providing supporting evidence to Invest NI to allow Article 13 Check to be undertaken and review of procurement. The purpose of the Article 13 was to verify compliance with European Regional Development Fund (ERDF) regulations for the Councils Green Tourism project.

Based on the sample of expenditure and documents reviewed, I can confirm that the project expenditure has been deemed eligible with exception of the financial corrections on procurement that have previously been communicated to Council.

In order to improve audit processes, and to also deliver best practice outcomes, Invest NI would make the following recommendations which, if implemented, will assist in any further verification checks being carried out in a straightforward manner.

Procurement Procedures

The Council provided Invest NI with evidence outlining the contract was procured through the part B Service as the majority of the contract value related to Part B services and therefore the contract as a whole did not need to be published via OJEU. After internal review and having sought independent legal advice to establish if the contract could be largely classified as Part B service, Invest NI has concluded that the evidence provided by Council was not sufficient to demonstrate that the majority of the tender fell within Part B services. An irregularity was therefore deemed to have taken place whereby the contract notice was not published on OJEU in accordance with the relevant Public Contract Regulations 2006. In accordance with EC guidance on the application of penalties related to procurement issues identified in projects supported through EC Structural Funds, this would result in a financial correction of 100% with the potential of a reduction

to 25% should the tender have been advertised in such a way as to ensure that providers in other Member States had access to the appropriate information. Council subsequently provided information to Invest NI's satisfaction that demonstrated the tender would have been accessible to providers in other Member States through a range of media sources that were used to advertise the contract, in particular the tenders direct website that is referenced on the OJEU website. Invest NI is satisfied that only a 25% penalty should therefore be applied as it is clear that although the Contract Notice was not published in the OJEU, it was published in a way that ensured other providers located in other Member States had access to the appropriate information regarding the public procurement before it was awarded.

The new Public Contract Regulations 2015 revoke and replace the 2006 Regulations. Invest NI would request that Council review the Public Contract Regulations 2015 and ensure its processes are compliant with these and that they are adhered to for all future procurement supported through ERDF. During the procurement process Council should also ensure the Instruction to Tender (ITT) clearly outlines how the criteria will be assessed/scored and that this is brought forward to the award stage.

The relevant paragraph in your Letter of Offer is grant paragraph A7 in the Terms and Conditions Annex titled "**Tendering Procedures**": "the client shall at all times comply with the EU Treaty on the Functioning of the European Union and Northern Ireland Public Procurement Policy in relation to the Project. For further information on best practice on procurement please refer to the Central Procurement Directorate website as part of DFP: <http://www.dfpni.gov.uk/index/procurement-2/cpd.htm>"

Codification of costs identified

In accordance with paragraph A1.1 in the Terms and Conditions Annex titled "Accountancy System" of the Letter of Offer, Council is required to implement an **adequate codification of all income and expenditure associated with this Project** within your accounting system. The full application of this requirement will assist in ensuring future inspections that may take place will run more smoothly, and that compliance on this specific requirement can be more easily demonstrated.

Document Retention

Paragraph I of your Letter of Offer entitled "**Documentation**" requires Council to retain all records concerning the Project and make such records available for inspection **until at least 31 December 2022** and that Council shall not, without the prior written consent of Invest NI, dispose of or destroy any documentation associated with the Project. Invest NI recommends that a written Document Retention Policy is put in place by Council and that all original documentation is held accessible for audit purposes until the date noted above.

If Council terminates this letter or the letter is closed for any reason the full documentation must be returned to Invest NI or placed in storage meeting the requirements of Invest NI.

Organisations with more than one ERDF supported project

Please note that this letter refers only to the above mentioned project. You may receive further correspondence in relation to other ERDF co-funded projects.

For further help and assistance on ERDF regulations and compliance please refer to the Invest NI Guidance Booklet available at the following link:

www.investni.com/euscp

If you have any further queries regarding these matters, please do not hesitate to contact me at paul.gunn@investni.com or on my direct line 028 9069 8240

Yours sincerely,

Paul Gunn
EU Programmes Manager

Cc , Mary Young, Client Executive



Department of the
Environment

www.doeni.gov.uk

Local Government Policy Division

Clerk and Chief Executive of each District
Council

Level 4
Causeway Exchange
1-7 Bedford Street
Town Parks
BELFAST
BT2 7EG
Telephone: (028) 9082 3375

Circular LG 04/2016

Email: Jeff.glass@doeni.gov.uk

Your reference:
Our reference:
Date: 4 April 2016

Dear Chief Executive

ACCOUNTS DIRECTION 2015/2016: NORTHERN IRELAND DISTRICT COUNCILS

Following consultation with the Technical Accounting Support Service (TASS) Working and Steering Groups, and the Association of Local Government Finance Officers (ALGFO), the Department has prepared a Direction for the appropriate form and content of the accounts of the district councils in Northern Ireland. I have enclosed the following documents that will help you to prepare the accounts for 2015/16:

Cover letter – as per this document;

Annex A - Circular No LG 04/2016 Accounts Direction to Councils 2015/16;

Annex B - Accounts Direction for 2015/16;

Annex C - Pro forma Accounts for District Councils including Pro forma No. 1 Rates Support Grant Pro Forma;

Annex D - Accounts Direction Schedules;

Annex E - Guidance Notes for Rates Support Grant Pro forma

Yours faithfully

Jeff Glass
Head of Finance
Local Government Policy Division

cc. Louise Mason, Local Government Auditor
Colette Kane, NIAO Director
Finance Officers, District Councils
Kieran McMahon, DOE
Conor McGinn, DOE
Alan Bermingham, CIPFA (NI)
Nicola McAlinden, CIPFA (NI)

Encs.



Department of the
Environment

www.doeni.gov.uk

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ANNEX A

Local Government Policy Division

Clerk and Chief Executive of each New District Council

Finance Branch
Level 4
Causeway Exchange
1-7 Bedford Street
BELFAST
BT2 7EG
Telephone: (028) 9082 3375

Circular LG 04/2016

Email: Jeff.glass@doeni.gov.uk

Your reference:
Our reference:
Date: 4 April 2016

Dear Chief Executive

ACCOUNTS DIRECTION 2015/16: NORTHERN IRELAND DISTRICT COUNCILS

1. Following discussion with the Technical Accounting Support Service (TASS) Working and Steering Groups, and the Association of Local Government Finance Officers (ALGFO), the Department has prepared a Direction for the appropriate form and content of the accounts of the district councils in Northern Ireland. The pro forma was tested by just one council within the TASS process therefore is not as robust as the Department would ideally require. For going forward additional assurance may have to be formally built into the contract.
2. In exercise of its powers under Article 24(2) of the Local Government (Northern Ireland) Order 2005 and Regulation 7 of the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015, the Department hereby directs that the accounts for the year ended 31 March 2016 should comply with the attached Direction. The Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015 came into operation on 1 April 2015. Circular LG 30/15, issued on 19 November 2015, provides guidance on the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015 and supersedes the previous guidance for the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2006 – Circular LG 04/08.
3. In relation to the statement of accounts there are two significant changes set out in Regulation 8 of the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015. Firstly, the unaudited statement of accounts do not need to be approved by a committee, as the Chief Financial Officer only needs to certify the unaudited statement of accounts before the 30 June. Secondly, the date by which the statement of accounts must be approved by a committee of that body or by members of the body meeting as a whole is 30 September following the end of the financial year to which the statement relates. It is also the date the audit is to be certified therefore please arrange in advance a suitable timetable for the audit process of the

accounts with the Local Government Auditor. As a guide, Councils should arrange these Committee meetings for one to two weeks prior to the 30 September to allow audit certification by 30 September 2016. This is set out in paragraph 17 of LG 30/2015.

4. In 2015/16 district councils will have to include a remuneration report within the statement of accounts. Details on the format of the remuneration report are set out in Circular LG 30/15. A template of the Remuneration Report has been included in the Pro forma accounts model.
5. The CIPFA/LASAAC Code Board has developed a Code of Practice on Local Authority Accounting in the United Kingdom 2015/16 (the Code) which is based on International Financial Reporting Standards. This document is recognised by the Department as a comprehensive statement of accounting practice to be followed in preparing a local authority's annual statement of accounts.
6. The key accounting changes in the Code and update to 2015/16 relevant to Northern Ireland include:
 - a) Amendments to Chapter One to underline CIPFA/LASAAC's view of the importance of the consideration of materiality when preparing disclosures for local authority financial statements.
 - b) The introduction of a new section on fair value measurement in Chapter Two (Concepts and Principles) to reflect the adoption of IFRS 13 Fair Value Measurement. The 2015/16 Code also includes a number of consequential amendments following the adoption of the standard. The most substantial of these are the amendments to:
 - i) Section 2.1 (Concepts) – the table in this section has been updated to summarise the application of the measurement of fair value or current value measurement bases to the transactions of local authorities.
 - ii) Section 4.1 (Property, Plant and Equipment) introduces the new definition and disclosure requirements for fair value measurement to surplus assets (see (f) below for consequential amendments to section 4.1 of the Code to property, plant and equipment).
 - iii) The definitions of fair value in sections 2.7 (Revenue Recognition), 4.4 (Investment Property), 4.9 (Non-current Assets held for Sale and Discontinued Operations), 5.1 (Inventories), 5.3 (Debtors), 6.1 (Employee Benefits – Definitions) and 8.1 (Creditors) of the Code.
 - iv) A number of the definitions and disclosure requirements in section 4.7 (Impairment of Assets)
 - v) The definitions of fair value and the disclosure requirements of chapter seven (Financial Instruments).

- c) Clarification in section 3.4 (Presentation of Financial Statements) of the reporting requirements for disclosures that support the Movement in Reserves Statement.
 - d) Clarification in section 4.1 (Property, Plant and Equipment) of the current adaptation of the measurement requirements for property, plant and equipment following the adoption of IFRS 13 and the introduction of the concept of current value. Current value in section 4.1 includes four measurement bases. Note that the new definition of current value means that the measurement requirements for assets classified as surplus assets. These assets are now to be measured at fair value in accordance with the definition in IFRS 13 and without any adaptations to that definition.
 - e) Introduction in section 4.1 of an interpretation to clarify what a short period means for the measurement of a class of assets for local authorities.
 - f) Confirmation in section 4.10 (Heritage Assets) that the measurement of heritage assets shall continue to be made by any method that is appropriate and relevant and rationalises the disclosures of heritage assets following the introduction of FRS 102 *The Financial Reporting Standard* applicable in the UK and Republic of Ireland.
 - g) Amendments as an Update to the 2015/16 Code to chapter one (Introduction), chapter three (Financial Statements), chapter four (Non-Current Assets) and Appendix B (Sources and Legislation) as a result of the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015.
7. As in previous years, the Department has reviewed the requirements of the Accounts Direction having regard to suggestions from councils and local government auditors. I would like to draw your attention to the following advice;
- Narrative Report - Councils should consider recommended topics by the CIPFA/LASAAC's Code for inclusion in the Narrative Report. This is especially important in 2015/16 in the first year of the "new" councils.
 - Indices are used to adjust balances, the relevant indices are those prepared by the DFP Land and Property Services. The indices for 2015/16, prepared by DFP Land and Property Services, will be sent to you when received by the Department in late March 2016.
 - Councils choosing to have a new valuation will need to instruct LPS (or other appointed agent) to carry out another in-year revaluation exercise. Councils requesting a full valuation should also ensure that LPS provide valuations that reflect asset componentisation. LPS should also be advised of any significant changes to asset portfolios, and you should be sure that information passed to/obtained from external experts, prior to using that information in compilation of the financial statements, is appropriate.

While a revaluation exercise may have a material impact on the carrying value of assets, CIPFA have clarified that, having considered IAS 8 *Accounting Policies, changes in the accounting estimates and errors*, the use of a full valuation does not indicate a change in accounting policy but a change in accounting estimate and, as such, there is no requirement for a prior period adjustment. You should refer to the guidance in respect of Accounting for Revaluations that will be issued by CIPFA in April 2016.

- Actuarial valuations – You should be sure that information passed to/obtained from external experts, prior to using that information in compilation of the financial statements, is appropriate. Where councils have had a significant change in structure (impacting pensions) management should consider these implications with the appropriate authorities such as NILGOSC and the Actuary Aon Hewitt.
- Pension accounting - Councils should account for the estimated contribution as contained in the actuaries report. This will result in a difference to your actual contributions paid to the scheme. The difference should be tracked and recorded for audit purposes.
- Discount rate for provisions – as advised in previous years, where you are discounting provisions, you should ensure that you are complying with the requirements of the Code.
- Group accounts – the rationale should be documented for consolidating or not consolidating any subsidiaries/associate/joint ventures (including smaller local government bodies) into Group accounts. You should utilise the updated Group Accounting checklist produced by CIPFA.
- Local Government Reform – You should consider the impact of reform and the need for provisions at the balance sheet date for matters such as severance costs, restructuring or redundancy costs, etc. Councils should pay due consideration to the changes in IAS 19 regarding termination benefits. You should also ensure expenditure allocated to reform for which matched income has been obtained is accounted for correctly, including the capitalisation of any expenditure not normally capitalised.
- As the New Councils are created under a transfer by absorption of the functions of predecessor councils, functions between New Councils as a result of boundary changes and transfers of functions from Central Government, the Code states that the notes to the accounts of the New Council shall include an opening Balance Sheet which should be clearly identified as the opening balance on the creation of the New Council, not the previous year's Balance Sheet.
- The Financial Statements for 2015/16 will have limited comparative figures as the code states that for New Councils created under a transfer by absorption at the beginning of the financial year, no corresponding amounts for the

previous year will be required in the financial year. As such only Shadow Council balances will be required for 2014/15 comparative figures. For the Comprehensive Income and Expenditure Statement, these balances will be disclosed under DRM and Corporate Management.

- CIPFA issued guidance in November 2015 regarding the Opening Balance Sheet position as of 1 April 2015. The purpose of the guidance was to help Finance Officers in New Councils interpret and apply the Code in order to derive the opening balances of the New Councils following Local Government Reform on 1st April 2015.
- Capitalisation of any expenditure not normally capitalised should be accounted for correctly and should either be compliant with a Departmental Capitalisation Direction or substantiated as Revenue Expenditure Funded From Capital Under Statute (REFCUS). Guidance on Accounting for Capitalisation Directions was issued in April 2015 by CIPFA. I would remind you that Councils are also required to advise the Department of how much of their allocation was used in the previous financial year and in tandem with the Accounts Direction should be provided no later than 30 June 2016. Please note that estimates are not acceptable when councils advise the Department how much of their allocation was used in the previous financial year. Detailed supporting information/ calculations must also be provided at this time to substantiate that figures are final and not estimates. An email or hard copy return will suffice.
- Principal and agent transactions – You should be able to provide the auditors with appropriate evidence in support of principal and agent accounting. This is normally most relevant in the case of accounting for public realm transactions. Practitioners will need to determine whether they are acting as agents or principals as this determines whether transactions are fully reflected in the authority's financial statements. Practitioners should refer to section 2.6 of the Code.
- Local Government Finance Act (NI) 2011 and the Prudential Code – you should ensure that the council is compliant with these, and that this is reflected where appropriate in the financial statements. As in the previous year the auditors will look closely at the impact of these on the financial statements, including the Minimum Revenue Provision (MRP) charged to the General Fund and the note on financing capital expenditure. You should pay close attention to ensuring that Note 11 within the pro forma accounts is reconciled to the CFR calculation, and also ensure MRP charges reflect the policy agreed by the Council and that there is evidence of the appropriate submissions to council by the CFO as required under the Prudential Code arrangements. Note that Schedule 2 of the Local Government (Transitional, Supplementary and Incidental Provisions and Modification) Regulations (Northern Ireland) 2014 (the 2014 Regulations) disapplies Sections 3(1), 3(2) and 4 of the Local Government Finance Act (Northern Ireland) 2011 relating to the Annual Budget and the report by the chief financial officer on estimates.

8. We would also draw your attention to the following points raised within the Local Government Auditor's Report – 2014:
- Governance statements - The Local Government Auditor recommended that guidance should not be seen as a template but rather that governance statements should accurately reflect local priorities and circumstances of individual councils. As noted in the previous year, the completed governance statement should reflect the council's governance arrangements and issues in a faithful, open and honest, and transparent manner. You should therefore be open and transparent in disclosing significant governance issues. Governance statements, including those where no significant issues have been highlighted, should be based on a rigorous and robust review of performance. Where significant issues are highlighted, sufficient detail should be provided to illustrate how you are going to tackle any significant issues highlighted. In respect of governance statements, councils should reflect their compliance with relevant legislative requirements and good practice, including the Code, or highlight / explain incidences of non compliance. In particular we would draw your attention to the provisions of the Local Government Act (Northern Ireland) 2014 that became effective during the 2014/15 year, such as those relating to the new ethical framework, a key element of which is the mandatory code of conduct for councillors.
 - Publication of Annual Audit Letters - A council is required by the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015 to publish the annual audit letter "as soon as reasonably possible after receipt of the annual audit letter from the local government auditor." Whilst councils normally satisfy this legislative requirement by making the document available on their websites, you are reminded of the need to ensure this is completed in a timely manner.
9. Key changes from last year's Accounts Pro forma, and other points to note, are as follows:
- The Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015 require that Councils include a Remuneration Report in the Financial Statements. As a result, a Remuneration Report template has been included within the Text section of the Accounts Pro forma.
 - The Service Expenditure Analysis in the Service Reporting Code of Practice 2015/16 has been updated to reflect the additional services transferred to Councils as a result of Local Government Reform. The Service Expenditure disclosed in Comprehensive Income and Expenditure Statement and Note 2 Segmental Reporting Analysis have been updated to reflect the new Services; Planning and Development Services and Highways and Transport Services and the new sub divisions of service.
 - An opening balance sheet note has been included in the Accounts Pro forma to detail how the opening balances of the New Council have been derived.

- The Pro forma accounts model includes adaptations which may be required as a result of Group Accounting. Councils should be aware of the adoption of the Group Accounting standards, IFRS 10, 11 and 12, within the Code and ensure they have made the appropriate assessments of the impact of these standards for audit purposes.
- Reform Disclosure Notes - The Accounts Pro forma contains disclosures related to reform that have been agreed by the TASS Working Group. Please ensure that your final set of financial statements reflect these disclosures.
- In some cases, the transfer of functions from Central Government has resulted in staff associated with these functions to transfer as well under their current terms and conditions including pension arrangements. The implications of this on the accounts Pro forma are that the Accounting Policy and disclosure note relating to Pensions has been expanded to refer to the unfunded multi-employer defined benefit schemes which these staff will be members.
- As a result of the implementation of IFRS 13 Fair Value Measurement, the Accounts Pro forma includes a new accounting policy to set how the Council have applied the standard. In addition, the disclosures within Note 10 detail the implication of Fair Value Measurement on Surplus Operational assets and liabilities and Non-Operational assets.

10. CIPFA issued guidance on various accounting policies over the period of Local Government Reform, please note the following:

- **Prudential Indicators** – The reform of local government in Northern Ireland required new councils to review their full range of indicators taking account of the make-up of the new body from 1 April 2015. Assets that transferred into a new council as a result of boundary changes (for example, assets transferring from Castlereagh Council to the New Belfast Council) required assessment of the impact on the prudential indicators of the new body. In this case, as well as the assets transferring, any associated outstanding loans also transferred. This impacted on the level of the CFR, and an assessment of the level of MRP required to finance the remaining unfinanced balance for those assets would need to be made.
- **Severance guidance** was issued to aid Local Government Finance Officers' understanding of the accounting treatment of Reform related severance payments, to both employees and councillors, in line with departmental guidance and relevant legislation.
- **Accounting treatment for transfers of functions, assets and liabilities resulting from Local Government Reform** was issued in July 2015 to offer guidance to Local Government Finance Officers' in Code requirements when accounting for the combining and other transfers of functions. The guidance dealt mainly with the combinations of two or more Councils, transfers of functions from

predecessor Councils to New Councils as a result of boundary changes and transfers of functions from Central Government to New Council.

- **Opening Balance Sheet** guidance was issued in November 2015 to support Local Government Finance Officers' to derive the opening balances of the New Council as at 1 April 2015 and to produce an Opening Balance Sheet note. This guidance sets out the Code requirements when accounting for combinations of functions by absorption accounting. It aids the production of the opening balance Sheet note by setting out the information required to arrive at the opening balances and necessary evidence to support these balances.
11. I should like to remind you that, in accordance with regulation 13 of the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015, "except with the consent of the local government auditor, accountsmust not be altered after the date on which they are first made available for inspection in pursuance of regulation 12", which relates to public inspection of accounts.
 12. Please note that the Department is no longer requesting a separate detailed analysis – Service Income and Expenditure Analysis (Pro forma No.1). Since the Department does not need this information to carry out its statutory functions as such requests for information are now infrequent it is not required as part of this Accounts Direction. Of course these figures are still reported within Segmental Reporting Analysis under Continuing Operations in the main financial statements of the Accounts.
 13. Under Article 27 of the Local Government Finance Act (Northern Ireland) 2011, you are required to complete the Rates Support Grant – Expenditure on key services Pro forma. As per last couple of years, the Rates Support Grant Pro forma has been embedded within the Accounts Pro forma. This is to ensure the Pro forma is completed by Councils on a consistent basis. As per prior year and agreed by the Finance Working Group, this pro forma was further simplified for the 2014/15 year. You should refer to the guidance notes at Annex E for more information on the completion of the Pro forma and submission to the Department. Depreciation will remain part of the pro forma for Rates Support Grant calculations. As depreciation figures for the 5 key services cannot be extracted automatically from councils' accounts, this means that councils are obliged to provide the figures and supporting documentation to the Department. Please note the Rates Support Grant Pro forma does not form part of the council's accounts and will not be subject to audit by the Local Government Auditor.
 14. The Accounts Pro forma asks that the Chief Financial Officer certify that "the statement of accounts presents a true and fair view of financial position of the local government body at the end of the year to which it relates and of that local government body's income and expenditure for the year". Since last year this has now been incorporated into The Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015 under Regulation 8.

15. As in previous years separate Accounts Directions will be issued by the Department in respect of Smaller Local Government Bodies. In September 2015, the Department engaged with the Financial Officers' of the councils on an updated position on current, new and terminated Smaller Local Government Bodies. the sector was asked to provide details of any new Smaller Local Government Bodies/Joint Committees which came into existence or ceased to exist during 2015/16. If you require the Department to issue an Accounts Direction for any new Joint Committees that have been established during the year you should notify the Department. Please inform the Department of any Joint Committees requiring an Accounts Direction which have ceased to exist during the year. I would refer you to Circular LG 21/2014 Financial Reporting for Joint Committees which provides guidance in respect of the preparation of accounts for Joint Committees.
16. Rural Development Joint Committees ceased to exist on 30 September 2015, you should ensure appropriate post balance sheet event disclosures are made in the District Council accounts to reflect this. For those that ceased to exist on 31 March 2015 and had no further income and expenditure in the 2015/16 financial year do not have to produce a separate set of accounts. Any transactions will be recorded in the main District Council accounts.
17. I would remind you that there is a web blog on the CIPFA website <http://www.cipfa.org/regions/northern-ireland/northern-ireland-local-government-network> which provides a forum for queries associated with the financial accounts process. It is a useful reference point for all those involved in formulating the accounts.
18. Please ensure that your Accounts Pro forma (including the embedded Rates Support Grant Pro forma 2) is with the Department by 30 June 2016.
19. Should you need clarification about any of the above matters, please contact me on 028 90 823375.

Yours faithfully



Jeff Glass
Head of Finance
Local Government Policy Division

cc. Louise Mason, Local Government Auditor
Colette Kane, NIAO Director
Finance Officers, New District Councils
Kieran McMahon, DOE
Conor McGinn, DOE
Alan Bermingham, CIPFA (NI)

Encs.



Annex B

ACCOUNTS DIRECTION: DISTRICT COUNCILS

ACCOUNTS DIRECTION GIVEN BY THE DEPARTMENT OF THE ENVIRONMENT, IN ACCORDANCE WITH ARTICLE 24(2) OF THE LOCAL GOVERNMENT (NORTHERN IRELAND) ORDER 2005 AND REGULATION 7 OF THE LOCAL GOVERNMENT (ACCOUNTS AND AUDIT) REGULATIONS (NORTHERN IRELAND) 2015 FOR THE YEAR ENDED 31 MARCH 2016.

1. The accounts shall give a true and fair view of the income and expenditure and cash flows for the financial year and the financial position as at the end of the financial year.
2. Subject to the requirements of the Local Government (Northern Ireland) Order 2005 and the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015, this Accounts Direction and other statutory provisions, the council shall observe all relevant accounting and disclosure requirements given in the applicable Code of Practice on Local Authority Accounting in the United Kingdom 2015/16 (the Code), as amended or augmented from time to time, except where stated at 3 below.
3. In addition to the requirements of the above-mentioned Code the statement of accounts, which it is the duty of the chief financial officer of every council to prepare in respect of the financial year ended 1 April 2016, shall include –
 - Narrative Report
 - Legislative Context for Preparation and Audit of the Financial Statements
 - Statement of the Council's and Chief Financial Officer's Responsibilities for the Statement of Accounts (Schedule 5 & 6)
 - Governance Statement
 - Remuneration Report (Schedule 7)
 - Certificate of the Chief Financial Officer and Council's approval of the Statement of Accounts (Schedule 8)
 - Movement in Reserves Statement (Schedule 1)
 - Comprehensive Income and Expenditure Statement (Schedule 2)
 - Balance Sheet (Schedule 3)
 - Cash Flow Statement (Schedule 4)

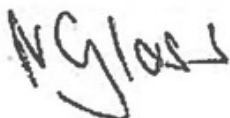
and in each case, such notes as may be necessary for the purposes referred to in the following paragraphs.

4. The statement of accounts should also include such notes as may be necessary for the purposes of the additional disclosure requirements, as set out in Schedule 8 of this Direction. The regulation 4 of Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015 requires the body or committee must approve an "Annual Governance Statement" prepared in accordance with proper practices on internal control. Circular LG 30/2015 states that "Proper practices are those set out in Delivering Good Governance in Local Government: Framework, published by the Chartered Institute of Finance and Accountancy (CIPFA) in 2007. In 2012 CIPFA issued an Addendum to the Delivering Good Governance in Local Government: Framework which includes an example of a Governance Statement".
5. The Department issued Circular LG 17/13 guidance on prompt payments and recording of invoice payments in October 2013. It provided guidance on the calculation and measurement of Prompt Payment performance to assist with comparability of recording of invoices for both 10 working days and 30 calendar days. Schedule 8 provides details of the format Councils should use for the provision of quarterly prompt payment information.
6. Circular LG 16/12 advised on the financial arrangements for specific landfill sites. Those councils that sought and obtained Departmental agreement to spread costs for affected landfill sites, creating a negative Landfill Regulations Reserve, should continue to account for these costs as agreed with the Department. Other councils that want to mitigate these costs must obtain agreement from the Department. Please refer to Schedule 9 of this Direction for details on accounting for these costs.
7. Circular LG 28/13 advised of financial arrangements for discounting provisions. Those Councils that sought and obtained Departmental agreement to mitigate costs associated with changes in discount rates should continue to account for these costs as agreed with the Department. Other Councils that want to mitigate the impact of changes in discount rates by creating a negative reserve within the financial statements should obtain agreement from the Department. Please refer to Schedule 10 of this Direction for details on accounting for these costs.
8. Circular LG16/13 advised on the Department's procedure for providing Asset Indices to councils. Asset Indices as prescribed by DFP Land and Property Services will be issued to you in April 2016.
9. Circular LG21/14 sets out the criteria for capitalisation directions. If applicable, you should refer to guidance issued by CIPFA regarding the Accounting for Capitalisation Directions.
10. Circular LG 27/15 referred to the qualifying condition for a smaller local government body.
11. Please note within the 2015/16 Accounts, a Remuneration Report should be completed under Schedule 6. The format of the Remuneration Report was agreed in conjunction with the Finance Working Group and TASS Working Group members (including Sub Working Group) and broadly follows the Remuneration Report as incorporated within the accounts of Scottish and Welsh Public Sector bodies. LG 30/15 Part 6 – Format of the Remuneration Report for Councils in 2015/16 provide a template of the Report.

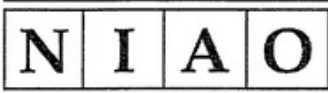
12. District Councils shall account for short-term accumulating compensated absences within their Comprehensive Income and Expenditure Account. The accrued element of short-term accumulating compensated absences are to be held within the Accumulated Absences Reserve until the liability is discharged.
13. For the purposes of reporting Operating Segments, District Councils shall incorporate a disclosure note in their financial statements based on the Service Expenditure Analysis provided to the Department rather than the requirements of the Code.
14. The accounts should be prepared in the form directed by the Department. **Two copies**, signed by the Chief Financial Officer of the Council, should be submitted to the Department on or before **30 June** following the financial year to which they relate. As outlined in Annex A paragraph 3, the earlier closing date of 30 September 2016 will mean councils should arrange in advance a suitable timetable for the audit process of the accounts with Audit Office.

Dated 4 April 2016

Signed by authority of the Department of the Environment

A handwritten signature in black ink that reads "J Glass". The signature is written in a cursive style with a long horizontal stroke at the end.

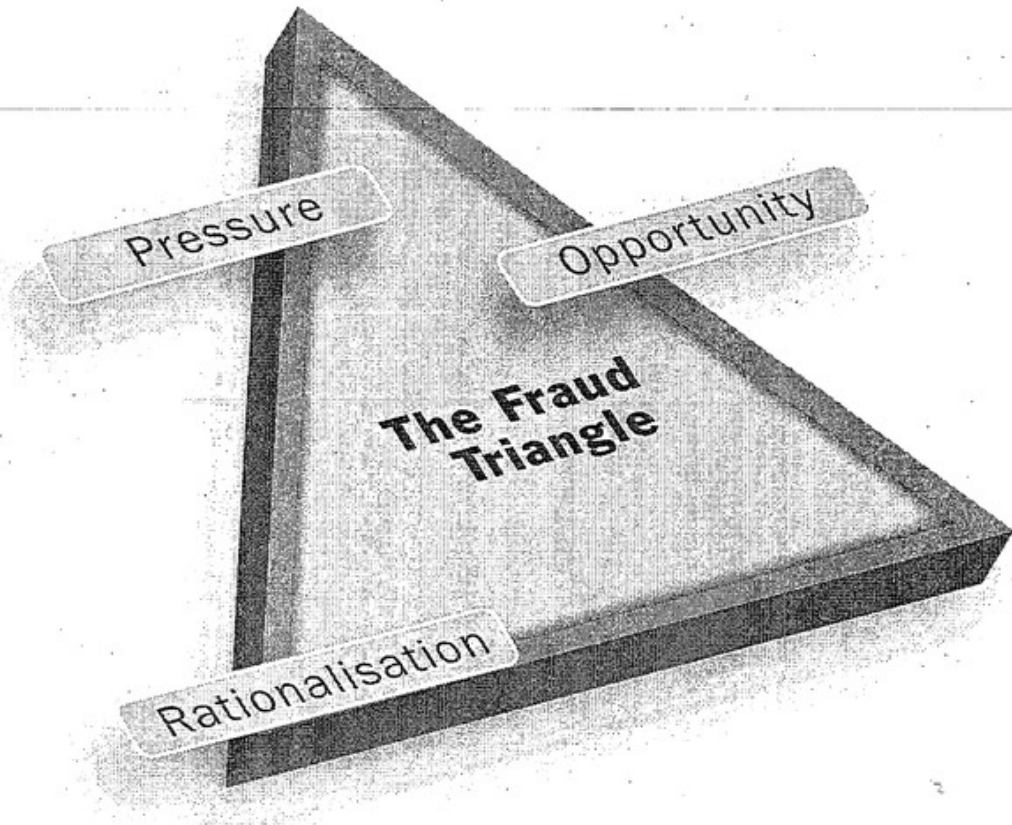
JEFF GLASS



Northern Ireland Audit Office

Managing Fraud Risk in a Changing Environment

Self-assessment Checklists



Fraud risk in a new or merged organisation – aide memoire

The aide memoire and self-assessment checklists in this document are reproduced from *Managing Fraud Risk in a Changing Environment: A Good Practice Guide*, which is available on the NIAO website. The Guide and Checklists should be used in conjunction.

Yes No

- Has our organisation included counter fraud arrangements in the change management process, so they are not overlooked?
- Have we allocated clear responsibility to a designated senior manager for overseeing the establishment of a counter fraud strategy in the new/merged organisation?
- Does that designated manager have access to, and the full support of, the Audit Committee?
- Have we secured counter fraud expertise to provide guidance on fraud-proofing any new systems and processes?
- Have we fully considered the impact of significant staff reductions on our internal control environment? Controls may need to be reprioritised to ensure that key fraud risks continue to be addressed.
- Have we considered, as a priority, the fraud risks associated with a period of change and the mitigating controls highlighted in Figure 8 of *Managing Fraud Risk in a Changing Environment: A Good Practice Guide*?
- Have clear channels been established for staff to raise concerns during the transition period?
- Have any changes to established whistleblowing arrangements and points of contact been made clear and communicated to all staff?

Preventing fraud – Self-assessment checklist

Consider each statement and determine whether it should be assessed as:

Red: The area needs significant strengthening and improvement to reduce fraud risk.

Amber: The area needs some strengthening and improvement to reduce fraud risk.

Green: The area is strong and fraud risk has been reduced to an acceptable level.

Red	Amber	Green	
Organisational Culture:			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our organisation has a zero tolerance approach to fraud and corruption that is communicated to all staff in a policy. All staff are aware of their role in relation to fraud prevention.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	There is clear commitment from senior management and the Board that fraud will not be tolerated.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	We have communicated our zero tolerance of fraud to all staff, contractors and other third parties with whom we do business. They know what to do if they become aware of possible fraud.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	A designated senior manager has responsibility for counter fraud work, sufficient resources for this work and direct access to the Audit Committee.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	There is a code of conduct which sets out clearly for employees which behaviour is acceptable or unacceptable. All staff are required to sign up to this annually. The code highlights that unethical behaviour will lead to disciplinary proceedings.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	There are arrangements in place for reporting and addressing conflicts of interest, including a register of interests. Staff are made aware of the need to declare potential conflicts of interest.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our organisation maintains a register of gifts and hospitality. Staff are aware of the need to register any gifts and hospitality received.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	All staff attend regular fraud and ethics awareness training. The effectiveness of the training is confirmed through testing. New staff receive fraud and ethics awareness training at induction.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our organisation undertakes pre-employment screening by risk assessing posts and undertaking checks to minimise the risk of employing dishonest and unethical staff.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Leavers and retirees are subject to an exit interview which is designed to identify any vulnerability to fraud. The Audit Committee is notified of any relevant concerns.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our organisation has a counter fraud strategy in place, which applies to all aspects of the business, is communicated across the organisation and is overseen by those charged with governance.

Red	Amber	Green	
			Fraud Risk Assessment:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our organisation considers fraud risk as part of the overall risk management process.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our organisation has carried out a rigorous fraud risk assessment in the last two years (more recently if a new or merged organisation).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our assessment of fraud risk is based on known fraud risks, benchmarking with similar organisations and internal brainstorming with frontline staff.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our fraud risk assessment has been reviewed and agreed by the Audit Committee and/or Board.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Counter fraud staff and/or internal audit have a role in fraud-proofing new policies, strategies and initiatives across our organisation to minimise fraud risks.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our fraud-risk assessment is reviewed at regular intervals, and particularly when our organisation changes, to ensure that any new fraud risks are identified and addressed.
			Audit Committee:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our Audit Committee takes a proactive role with respect to fraud prevention.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our Audit Committee is totally independent of management and includes members with financial expertise.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our Audit Committee meets at least quarterly and devotes sufficient time to providing assurance on our counter fraud strategy.
Sources: Adapted from 'Fighting Fraud Locally' voluntary checklist for local authorities, April 2011, <i>Fraud Control Frameworks: Best Practice Guide</i> , UAE State Audit Institution, January 2011 and <i>Managing the Business Risk of Fraud: A Practical Guide</i> , ACFE and IIA, June 2008			

Detecting fraud – Self-assessment checklist

Consider each statement and determine whether it should be assessed as:

- Red:** The area needs significant strengthening and improvement to reduce fraud risk.
- Amber:** The area needs some strengthening and improvement to reduce fraud risk.
- Green:** The area is strong and fraud risk has been reduced to an acceptable level.

Red	Amber	Green	
			Internal Control Environment:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our internal controls have been designed to address identified fraud risks and help prevent fraud occurring. The controls are proportionate to the identified fraud risks.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our internal control environment includes a range of complementary controls (directive, preventive, detective and corrective).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	All staff, contractors and other stakeholders are made aware that there are controls in place to prevent and detect fraud, as a deterrent.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our fraud risk controls have been reviewed by internal audit and the Audit Committee.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Internal audit has a direct role in reviewing any new or amended policies and programmes to ensure that fraud risk is minimised at the outset.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Internal audit tests controls to mitigate fraud risks as part of its annual programme of work.
			Data Mining and Data Matching:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	We regularly use data analysis to detect potentially fraudulent activity.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our IT and information systems include controls (such as reconciliations, physical counts and analyses) designed to detect potentially fraudulent activity.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our data analysis controls include review of journal entries, unusual transactions and period-end transactions, where fraud may be concealed by management override.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	We share data and participate in data matching exercises (e.g. the National Fraud Initiative) to help in the prevention and detection of fraud.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	We act promptly on any issues of concern identified through data mining and data matching.

Red	Amber	Green	
			Whistleblowing Arrangements:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our organisation has an internal whistleblowing policy and procedures in place which are known to all staff. Staff are regularly reminded of the policy and procedures.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our whistleblowing arrangements are endorsed by senior management and the Board, and include an assurance that all concerns raised will be welcomed and treated seriously.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The policy and procedures make clear how, and with whom, staff should raise concerns about possible fraud. A range of internal and external reporting options is given.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The policy and procedures make clear how we will handle any concerns raised.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our whistleblowing policy provides reassurance that employees will not be victimised or suffer detriment for raising concerns. We monitor to ensure this commitment is borne out in practice.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our whistleblowing policy provides assurance about confidentiality. Confidentiality is respected as far as possible in practice.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our whistleblowing policy allows for anonymous disclosures, which will be treated seriously, but points out the disadvantages of anonymous disclosures.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	There is a clear process by which contractors, third parties and members of the public can raise concerns about possible fraud in our organisation, for example a fraud hotline. Details are easily accessible on our website.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	We review our whistleblowing arrangements periodically to ensure their continued effectiveness. We seek views from employees as to their level of trust and confidence in the arrangements.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	We maintain confidential case files on all concerns raised and analyse the caseload for indications of systemic control weaknesses.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	We report on whistleblowing caseload to the Audit Committee.
Sources: Adapted from 'Fighting Fraud Locally' voluntary checklist for local authorities, April 2011, <i>Fraud Control Frameworks: Best Practice Guide</i> , UAE State Audit Institution, January 2011 and <i>Managing the Business Risk of Fraud: A Practical Guide</i> , ACFE and IIA, June 2008			

Responding to fraud – Self-assessment checklist

Consider each statement and determine whether it should be assessed as:

Red: The area needs significant strengthening and improvement to reduce fraud risk.

Amber: The area needs some strengthening and improvement to reduce fraud risk.

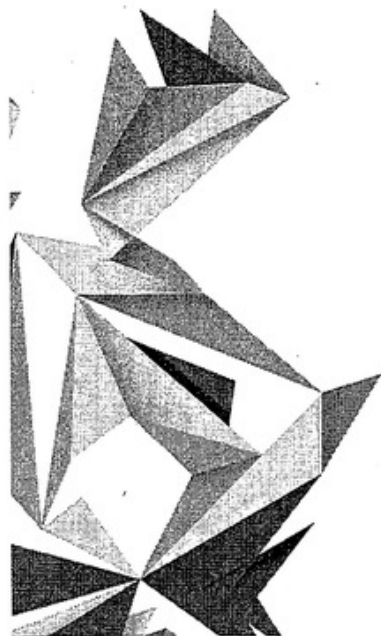
Green: The area is strong and fraud risk has been reduced to an acceptable level.

Red	Amber	Green	
			Fraud Response Plan
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Our organisation has a comprehensive fraud response plan in place. The plan is approved by the Audit Committee and Board.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The fraud response plan makes clear that all allegations of fraud will be investigated and appropriate action taken.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	All allegations of fraud, including anonymous allegations, are assessed in line with the fraud response plan.
			Fraud Investigations
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The fraud response plan clearly documents the procedures for fraud investigations.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	All fraud investigations are carried out in accordance with the fraud response plan.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	There are arrangements in place for securing fraud investigation expertise from outside the organisation, if required.
			Sanctions and Redress
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	In responding to proven fraud, we consider the full range of possible sanctions – disciplinary, regulatory, civil and criminal. Where appropriate we consider parallel sanctions.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The fraud response plan makes clear that we will seek to recover any losses incurred due to fraud.



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Northern Ireland Audit Office

The Governance of Land and Property in the Northern Ireland Housing Executive





Northern Ireland Audit Office

The Governance of Land and Property in the Northern Ireland Housing Executive

Published 7 January 2016

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 the Order.

K.J Donnelly

Comptroller and Auditor General

Northern Ireland Audit Office

7 January 2016

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

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Abbreviations

C&AG	Comptroller and Auditor General
DFP	Department of Finance and Personnel
DoE	Department of the Environment
LPS	Land and Property Services
NIHE	Northern Ireland Housing Executive
NIAO	Northern Ireland Audit Office
PAC	Public Accounts Committee
PPS	Public Prosecution Service for Northern Ireland
PSNI	Police Service of Northern Ireland
ULS	Undeveloped Land Schedule

Executive Summary



©Millmount House and Lands, Dundonald (see Case Example 6)

Executive Summary

Introduction

1. The Northern Ireland Housing Executive (NIHE) is an executive non departmental public body of the Department for Social Development (the Department), originally established in 1971 with responsibility for social housing in Northern Ireland. It is the largest landlord in Northern Ireland and is responsible for the management and maintenance of around 87,200 homes.
2. NIHE is one of Northern Ireland's largest landowners, with significant land and property holdings across Northern Ireland. A proportion of this land is considered as undeveloped land and is either used to support the building of new social homes, retained for potential future use, or declared surplus to requirements and offered for sale on the open market. Since 2005 there have been 1,374 land disposals including 161 to registered housing associations for new build schemes.
3. During the early part of the period covered by this report (2004 to 2010), there was an extremely buoyant property market in Northern Ireland. This led to developers proactively seeking to acquire land owned by NIHE. The property market collapsed in 2007-08.
4. In 2009 significant concerns were raised by whistleblowers, MLAs and the media. These focused on NIHE's procurement processes, in particular the management of response maintenance contracts. In 2010 further concerns were raised by three NIHE Directors and the Northern Ireland Commissioner for Complaints involving NIHE's role in two land transactions at Nelson Street and Hardcastle Street in Belfast. NIHE and the Department carried out a number of reviews to investigate land deals and NIHE governance (see paragraphs 1.15 to 1.23 and 3.8 to 3.9). These reviews highlighted a number of weaknesses and failings in the governance of NIHE.
5. In 2012 the Comptroller and Auditor General (C&AG) issued a report to the Northern Ireland Assembly highlighting serious weaknesses in NIHE's management of response maintenance contracts¹. Following this, in 2013, the Public Accounts Committee concluded² that the weaknesses and failings apparent in the management of NIHE response maintenance contracts also extended into other areas of NIHE activity, such as land deals, which largely fell within the remit of NIHE's Housing and Regeneration Division.
6. In 2011³ the C&AG undertook to provide a detailed report on NIHE's management of land disposals to the NI Assembly, pending the outcome of ongoing Police Service of Northern Ireland (PSNI) investigations. The PSNI passed a file to the Public Prosecution Service for Northern Ireland (PPS) and in 2013 the PPS concluded that the

Background

4. In 2009 significant concerns were raised by whistleblowers, MLAs and

¹ NIHE Management of Response Maintenance Contracts, Report by the Comptroller and Auditor General, 4 September 2012.

² Report on the Northern Ireland Housing Executive: Management of Response Maintenance Contracts, 20 February 2013 Public Accounts Committee, NIA 99/11-15.

³ Northern Ireland Housing Executive; Report by the Comptroller and Auditor General on the 2010-11 Accounts, 30 June 2011.

test for prosecution was not met as insufficient evidence existed to provide a reasonable prospect of obtaining a conviction.

Scope and methodology of this report

7. The C&AG is the head of the Northern Ireland Audit Office (NIAO). He, and the NIAO are totally independent of Government. He has statutory authority⁴ to report to the Assembly on the economy, efficiency and effectiveness with which departments and their bodies have used their resources.
8. This report provides a review of work undertaken by NIHE to investigate a number of land deals and the interaction of some senior NIHE officials with private sector developers. In addition, to inform our report we:
 - examined evidence provided by the NIHE land disposals investigation team and other relevant documentation held by the Department and NIHE;
 - considered whistleblowing concerns relating to the management of land and property within NIHE; and
 - held meetings with officials from the Department and NIHE.
9. NIAO consulted with third parties referred to in this report. However, during the course of our audit work, some third parties told us that, in their view, they were not given the opportunity to participate fully in the NIHE reviews referred to in this report (paragraph 1.23).
10. **Part One** of our report provides an overview of the findings from reviews and investigations within NIHE since 2010.
11. At **Part Two** we highlight a number of specific NIHE land dealings with or disposals to private developers which were not compliant with NIHE's basic internal controls.
12. **Part Three** covers the weaknesses in the Department's oversight of NIHE which meant that opportunities to tackle failings in internal controls and governance were not fully exploited. **Part Four** outlines improvements in oversight, NIHE governance arrangements and land and property management processes in NIHE. We also highlight further improvements that could be made.

Overall conclusion

13. Our review of a number of NIHE land dealings revealed recurring weaknesses across a number of disposals and transactions in the period between 2004 and 2010. These weaknesses led to a breakdown in NIHE's internal controls. As a result, NIHE could not always demonstrate value for money and probity, particularly when disposing of land to private developers.

⁴ 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 the Order.

Executive Summary

14. The management of land and property is an area that is inherently vulnerable and it is concerning that a number of well established safeguards to ensure probity and value for money were not in place. However, weaknesses in NIHE's governance and an inadequate internal control environment prevented NIHE from protecting its own interests when dealing with private sector developers.
15. The cumulative effect of the weaknesses in governance and control was to allow the Housing and Regeneration Division to operate with a minimum of oversight and challenge. NIHE investigators concluded that it appeared that in several land disposals the interests of NIHE were not paramount. We concur with this view. The Public Accounts Committee concluded in 2013 that "the Housing Executive's Housing and Regeneration Division had been, for many years, out of control."⁵ Our examination of the Housing and Regeneration Division's management of land transactions from 2004 up to 2010 clearly supports the Committee's conclusion.
16. In our opinion, the Department and NIHE did not fully exploit opportunities to tackle serious governance and control weaknesses relating to land disposals. In 2004, the Local Government Auditor highlighted control weaknesses to the Department. In 2007, both NIHE and the Department's own Internal Audit found significant inadequacies in the governance and controls over land disposals. Despite follow-up action to these reports, governance weaknesses in NIHE land disposals continued to occur. In 2010, the Department commissioned a full-scale investigation into governance weaknesses in NIHE.
17. Since 2010 both the Department and NIHE have taken action to strengthen their controls surrounding land and property disposals. NIHE leadership has changed. New systems of control and governance have been introduced and the NIHE Board exercises much better oversight of the organisation.
18. It is important that the wider public service learns from the experience of the NIHE over the last 10 years (see **Figure 1**). This report illustrates the risks that public bodies face if their systems of governance are ineffective; conflicts of interest are not properly managed; delegated authority limits are bypassed; and the normal checks and balances essential for good decision-making are not in place. Governance regimes require a culture of compliance if they are to be effective and those entrusted with the leadership of the organisation must give the lead on this.

5 Report on the Northern Ireland Housing Executive: Management of Response Maintenance Contracts, 20 February 2013. Public Accounts Committee, NIA 99/11-15.

Figure 1: Lessons for the Wider Public Sector

1. Boards should instil a governance compliance culture throughout their organisations and look to senior officers to safeguard and nurture that culture and provide regular assurance on its application.
2. Staff should only take decisions to the extent that their authority to do so is delegated by the Board. Boards should ensure compliance with their scheme of delegation.
3. Governance systems consist of a range of checks and balances. Those charged with governance have a responsibility to ensure that these are working effectively and are not overridden or circumvented by others in authority. Staff have a responsibility to ensure that they fully comply with these checks.
4. Public bodies should ensure that the conclusions and recommendations of governance and internal audit reviews in specific business areas are read across to all other relevant business activities.
5. Departments' sponsorship arrangements should include a regular assessment of Arms Length Bodies compliance with their governance framework.

Key findings

Events in 2010 focused attention on governance in the Northern Ireland Housing Executive

19. In January 2010, alleged irregularities were raised by internal complainants in respect of the NIHE's dealings with a site (owned by a third party) at Nelson Street in Belfast. Following an internal NIHE investigation, the Nelson Street case was referred to the PSNI for their consideration of a criminal investigation. The PSNI submitted a file to the PPS in July 2011. The PPS concluded, on 10 July 2013, that "following very careful consideration of all the available evidence and circumstances surrounding the case, the test for prosecution was not met as insufficient evidence existed to provide a reasonable prospect of obtaining a conviction of any individual of any offence" (paragraphs 1.8 to 1.10).
20. The Northern Ireland Commissioner for Complaints issued a report in September 2010 on the disposal of NIHE land at Hardcastle Street in Belfast. The Commissioner found in favour of a complainant who had been denied the opportunity to bid for the land on the open market and recommended that he should receive a payment of £20,000 and a letter of apology from the Chief Executive of NIHE. The complainant did not accept this award and initiated legal action which resulted in an out of court settlement of £75,200 against NIHE (paragraphs 1.11 to 1.12).

Executive Summary

21. In response to concerns arising from the Nelson Street and Hardcastle Street sites, NIHE launched the Land Disposals Review Project in January 2011. After lengthy internal investigations, evidential packs relating to four NIHE land disposals at three locations (Hardcastle Street, Skegoneill Avenue and two land disposals at Glenalpin Street) were referred to the PSNI during 2012 for further investigation (paragraphs 1.15 to 1.24).
22. A timeline of key events is at **Figure 2**.

Figure 2: The key events timeline for NIHE land disposals issues

Date	Key Event
September 2001	The Department commissioned the Local Government Auditor to undertake a review of NIHE Houses for Land schemes.
February 2004	The Local Government Auditor issued a report to the Department and NIHE on the Houses for Land schemes.
November 2006	Media coverage of the Hardcastle Street land disposal, including a current affairs TV programme feature.
February 2008	The Department requested its Internal Audit to review the Department's arrangements for monitoring NIHE land disposals.
February 2008 to February 2010	The Department, with NIHE, took forward the recommendations in its Internal Audit report. These included amending its Control Documents, considering NIHE land disposals at Monthly Performance meetings and the provision of quarterly disposal schedules.
February 2010	NIHE commenced a formal investigation into the Nelson Street case, in response to concerns raised by members of Senior Management.
March 2010	NIHE reported on concerns over the Nelson Street site. Case referred to PSNI.
March 2010	The Director of Housing and Regeneration Division (Colm McCaughley) went on sick leave.
April 2010	NIHE's Land and Commercial Property department transferred from Housing and Regeneration Division to Corporate Services Division, as an interim measure pending a review.
September 2010	The Northern Ireland Commissioner for Complaints issued a report on NIHE's maladministration over the Hardcastle Street sale.
September 2010	The Director of Housing and Regeneration Division (Colm McCaughley) was suspended by NIHE following the Nelson Street investigation.

October 2010	The Department commenced a review of the governance arrangements within NIHE.
December 2010	NIHE Chief Executive (Paddy McIntyre) retired.
December 2010	The Department's review of the governance arrangements in NIHE is published.
January 2011	NIHE Land Disposals Review Project established to investigate allegations concerning land acquisition and disposal.
February 2011	Review into the role of the Chief Executive in light of recent governance failings in NIHE.
July 2011	PSNI passed file to PPS following an investigation into alleged criminal conduct in connection with land at Nelson Street, Belfast.
October 2011 onwards	NIHE Land Disposals Review Project referred four suspect land disposals to PSNI for further investigation.
November 2011	The Director of Housing and Regeneration Division (Colm McCaughley) retired.
March 2012	NIHE Land Disposals Review Project report finalised.
July 2013	<p>The PSNI concluded that there was no likelihood or prospect that it could prove fraud to a criminal standard on three of the referred land disposal cases.</p> <p>In the cases referred to it the PPS concluded that the test for prosecution was not met as insufficient evidence existed to provide a reasonable prospect of obtaining a conviction of any individual for any offence.</p>

There was a breakdown in the controls surrounding land dealings

23. Between 2007 and 2010, NIHE's Director of Housing and Regeneration, Colm McCaughley, had declared in NIHE's Register of Interests that a close family member was an employee of a property development company which invested in Northern Ireland. Despite

these declarations the Director assisted connected property development companies in land transactions with NIHE. This situation represented a conflict of interest and NIHE's internal procedures were disregarded by Colm McCaughley. The NIHE investigation team could not find evidence of any challenge to this situation from other senior NIHE officials (paragraphs

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- 2.2 to 2.5).
24. The private development companies told us they did not benefit to any extent from the relationship between Colm McCaughley and his close family member. Colm McCaughley does not accept that he deliberately disregarded internal procedures in relation to land disposals.
25. In the period between 2004 and 2010, the NIHE investigation team found a number of cases in which NIHE sold land without open market competition. Disposing of land to a preferred private developer without competition inevitably leads to suspicions as to the motives behind the disposal method, the transparency of the transaction and whether best consideration was achieved (paragraphs 2.6 to 2.9).
26. An undocumented and unapproved policy, known as enabling⁶ was used by Colm McCaughley to retrospectively justify the Hardcastle Street disposal which did not comply with established NIHE policy and procedures. In the course of this review we have encountered divergent views on enabling. Through the Department, NIHE told us that enabling did not exist in the terms presented by Colm McCaughley to the NIHE Board in February 2007. Colm McCaughley, however, told us that the policy of enabling was incorporated across a range of roles in NIHE,
- including planning, needs assessments, regeneration and land management.
27. In our opinion, reliance on something less than a documented policy to facilitate land sales that could be detrimental to NIHE's interests gives rise to major concerns around the governance, leadership and ethical standards in NIHE at the time. The lack of documentary evidence makes it difficult for those staff working in this area to protect themselves from accusations of misconduct (paragraphs 2.10 to 2.23).
28. The delegated approval limits which set out who should approve a land disposal in NIHE were in some instances disregarded by Colm McCaughley. In part, this was because controls were not operating effectively – with no independent valuations obtained until after approval to sell was granted, it was often unclear at what level approval was required. Colm McCaughley told us that in his opinion, overall the system worked satisfactorily, bearing in mind the large number of transactions (paragraphs 2.27 to 2.29).
29. Poor planning and contract management by NIHE in land disposals had the cumulative effect of weakening the position of NIHE and ensured that in a small number of disposals, the balance of risk and reward appeared to lie with private developers. These rewards included contractual delays, extended payment periods and lack of overage (clawback) clauses at a time

⁶ Enabling was defined in a February 2007 NIHE Board paper as "assisting the private sector with land assembly where access or title problems are preventing or constraining development"

when the property market was booming in Northern Ireland. There were also instances where NIHE conducted land sales without legal representation (paragraphs 2.32 to 2.40).

30. The failure to adhere to the existing control framework in land transaction processes should have been identified by the NIHE Board and improvements sought. However, we have seen no evidence that the Board, prior to 2010, was aware of, or took any actions to address, the significant control issues in the Housing and Regeneration Division. In our view, part of the reason for this failure was caused by deficiencies in the information that the Board was receiving from NIHE senior management (paragraphs 2.41 to 2.43).

Opportunities to tackle governance and control weaknesses relating to land disposals were not fully exploited by NIHE and the Department

31. In a report to the Department and NIHE in February 2004, the Local Government Auditor⁷ highlighted a series of concerns with the Houses for Land schemes. Concerns included lack of documented procedures, no economic appraisals and lack of independent land valuations at contract award stage. Although economic appraisals and departmental

approvals for community and Housing Association transfers were part of NIHE's governance framework, the report's recommendations were not read across to other land disposals to private developers (paragraphs 3.1 to 3.3).

32. In 2007 the Department asked its Internal Audit unit to carry out a review of its monitoring arrangements for land disposals by NIHE. Internal Audit found that weaknesses in the Department's monitoring arrangements meant that they had insufficient information to effectively monitor NIHE's land disposal programme. Information that should have been supplied by NIHE to the Department⁸ was not sent and no follow up action had been taken by the Department (paragraphs 3.4 to 3.7).

33. In response to emerging land disposal issues and serious concerns over other aspects of NIHE's operations, for example response maintenance, the Department, in 2010, conducted a fundamental review of governance in NIHE. The review included an assessment of "the adequacy of controls over asset disposal and in particular, land and property". The review team reported in December 2010, making 75 recommendations, nine of which related to land and property matters (paragraphs 3.8 to 3.9).

⁷ NIHE's external audit arrangements are set out in Article 21 of the Housing (Northern Ireland) Order 1981. Up to, and including 2003-04, the Order recorded that NIHE would be audited by a local government auditor designated by the Department. From 2004-05 the Comptroller and Auditor General was given responsibility for the audit of NIHE as part of a re-organisation of Northern Ireland public sector audit responsibilities and the Housing (Northern Ireland) Order was amended.

⁸ Under the arrangements in place at that time NIHE should have supplied six monthly returns of its holding of undeveloped land to the Department. This was not done.

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There have been improvements in land and property management and governance arrangements in NIHE

34. NIHE has strengthened its controls over land and property transactions. As a result of revised policy, all disposals should now be supported by an economic appraisal. Independent valuations are obtained from Land and Property Services (LPS)⁹ prior to disposal, followed by a recommendation from LPS on acceptability in cases where the selling price is below this valuation. The approval papers presented to NIHE Committees and its Board are more detailed, allowing land disposal decisions to be based on meaningful information. NIHE introduced a new digital Land Terrier Management System in November 2011 which provides a digital record of all maps and deeds for all land acquired and disposed of by NIHE (paragraphs 4.1 to 4.11).
35. NIHE are currently relying on a range of manual and electronic systems and databases, which are not linked, to monitor land disposals. In our view, these systems do not produce management information that is as complete, timely and accurate as it could be (paragraph 4.12 to 4.14).
36. Departmental oversight and monitoring has increased in response to previous NIHE internal control failings and the Department told us that it continues to review its level of monitoring and oversight to ensure that its oversight arrangements are pitched at the

appropriate level (see **Appendix 1**). The Department's Housing and Finance Divisions now receive regular reports from NIHE, detailing disposals of land and property from the Undeveloped Land Schedule (ULS). However, the current ULS may not accurately reflect the amount of land held by NIHE which may have development potential. NIHE are proposing to undertake a review of around 900 hectares of NIHE amenity land, to identify land with development potential for the Social Housing Development Programme (paragraphs 4.4, 4.17 to 4.19).

Recommendations

Recommendation 1

Maintaining a series of local databases is not only a duplication of effort but also has the potential to create differences between locally and centrally held records. In our view, this should be stopped and a central system used to record all land disposals.

Recommendation 2

The current NIHE land and property systems are not linked and we have concerns over whether NIHE can successfully obtain management information that is complete and accurate. We strongly recommend that NIHE consider developing a single end to end land sales system linking the Land Terrier Management System to other aspects of NIHE's land and property activities.

⁹ Land and Property Services (LPS) were known as the Valuation and Lands Agency, prior to 1 April 2007.

Recommendation 3

Given that the Undeveloped Land Schedule may not accurately reflect the amount of land with development potential that is held by NIHE and that NIHE's land and property management systems are not fully linked we recommend that the Department and NIHE's Board should consider requesting at least an annual schedule of all land disposals. This schedule could include for each disposal a brief description, LPS valuation and date of valuation, sale date, purchaser and proceeds received and ULS or non ULS classification.

Recommendation 4

NIHE's Asset Management Strategy (2009-2012) is now out of date and although the Action Plan included in this strategy was updated for 2013-15, we would recommend that NIHE update this key strategic document.

Part One:

Events in 2010 focused attention on governance in the Northern Ireland Housing Executive



©Hardcastle Street, Belfast (see Case Example 3)

Part One:

Events in 2010 focused attention on governance in the Northern Ireland Housing Executive

Introduction

1.1 The Northern Ireland Housing Executive (NIHE) is an executive non departmental public body of the Department for Social Development (the Department), originally established in 1971 with responsibility for social housing in Northern Ireland. It is the largest landlord in Northern Ireland and is responsible for the management and maintenance of around 87,200 homes.

1.2 The Department is responsible for the oversight, regulation and monitoring of NIHE activities, including the disposal of NIHE land. Responsibility for general policy, management and operation of NIHE is vested in a 10-person Board. The day to day operations and management of NIHE are delegated by the Board to the Chief Executive. Currently the organisational structure is based on the following Divisions, each headed by a Director: Landlord Services; Asset Management; Finance; Regional Services; Corporate Services, and Transformation. This structure was introduced in 2014, replacing the former arrangements based on Housing and Regeneration; Design and Property Services; Personnel and Management; Services; Corporate Services; and Finance.

1.3 When NIHE disposes of land which has been identified as surplus to its requirements, it is obliged by legislation¹⁰ to sell the land at the best consideration which can reasonably be obtained. If land is to be disposed of at less than best price, NIHE must obtain

prior consent from the Department. Under the provisions of the Housing (NI) Order 1981 NIHE may compulsorily acquire (vest) land for improvement, refurbishment or redevelopment.

1.4 NIHE owns significant land holdings across Northern Ireland which were inherited on formation in 1971 from predecessor housing authorities or subsequently acquired, for example, through urban renewal schemes. **Figure 3** shows that the value of land with development potential held by NIHE has declined from £409 million to £31 million since 2005-06. A proportion of this land is considered as undeveloped land and is either used to support the building of new social homes, retained for potential future use, or declared surplus to requirements.

Figure 3: The value and extent of lands with development potential held by NIHE between 2006-2014

Year Ending ¹¹	Value of land as at 31 March £m	Hectares of undeveloped land as at 31 March
2006	409	422
2007	636	390
2008	304	377
2009	144	364
2010	100	346
2011	67	303
2012	45	250
2013	33	237
2014	31	227

Source: NIHE

¹⁰ The Housing (NI) Order 1981 and the subsequent Housing Orders that amend this Order.

- 1.5 Since 2005 there have been 1,374 land disposals in total including 161 to registered housing associations for new build schemes (see **Figure 4**).

Figure 4: The number of land disposals made by NIHE 2006-2014

Year Ending ¹¹	Number of land disposals to Housing Associations	Proceeds £'000 ¹²	Number of other land disposals	Proceeds £'000	Total Disposals	Total Proceeds £'000
2006	15	4,881	181	3,638	196	8,519
2007	10	4,375	203	55,537	213	59,912
2008	22	18,950	199	17,420	221	36,370
2009	4	3,726	180	4,270	184	7,996
2010	16	5,777	153	3,094	169	8,871
2011	41	9,071	109	7,789	150	16,860
2012	24	3,540	49	1,309	73	4,849
2013	12	2,789	64	654	76	3,443
2014	17	1,641	75	689	92	2,330
Total	161	54,750	1,213	94,400	1,374	149,150

Source: NIHE

- 1.6 Throughout the period under scrutiny in this report (2004 -2010), responsibility for the management of land disposal fell within the remit of NIHE's Housing and Regeneration Division. The Division's Land and Property Department provided day to day administration of house sales, asset management, urban renewal/regeneration programmes and land disposals.

In 2010 concerns were raised about NIHE governance

- 1.7 In 2010, two cases involving land raised serious concerns about NIHE's corporate governance. These were:
- NIHE's involvement in a **planning application relating to land owned by a private developer** at Nelson Street, Belfast; and
 - the sale of NIHE land at Hardcastle Street, Belfast.

11 NIHE told us the figures for 2004-05 are not available.

12 The NIHE does not actually receive proceeds for the transfer of land to housing associations. Instead, the relevant amount is accounted for in the calculation of Housing Association Grant.

Part One:

Events in 2010 focused attention on governance in the Northern Ireland Housing Executive

A site at Nelson Street in Belfast owned by a private developer

1.8 In January 2010, an internal complaint within NIHE brought alleged irregularities to the attention of the Deputy Chief Executive (Stewart Cuddy). These allegations concerned NIHE involvement in a planning application relating to land at Nelson Street, Belfast (see **Case Example 1**). Amongst the concerns highlighted were:

- a letter dated 4 January 2010, from an NIHE official to Department of the Environment (DoE) Planning Service which rescinded NIHE's request for social housing to be provided on the site, which was in an area of high need; and
- the attempted alteration of a response to an Assembly Question.

1.9 These actions were in direct contradiction to the stated positions of both NIHE and the Department, which were to ensure an element of social housing was to be built on the site (in September 2008, in response to a planning consultation, NIHE had objected to the site being developed for private use). The actions were, however, potentially to the commercial and financial benefit of a private sector developer. NIHE's initial investigation concluded there were serious grounds for concern and requested that the PSNI commence an investigation into the matter.

1.10 The PSNI submitted a file to the PPS on 6 July 2011 relating to suspected criminal conduct regarding NIHE's involvement in a planning application at Nelson Street, Belfast. The Public Prosecution Service concluded on the 10 July 2013, that "following very careful consideration of all the available evidence and circumstances surrounding the case, the test for prosecution was not met as insufficient evidence existed to provide a reasonable prospect of obtaining a conviction of any individual of any offence".

The sale of NIHE land at Hardcastle Street in Belfast

1.11 In September 2010, concerns with NIHE's management of a March 2005 land disposal at Hardcastle Street in Belfast, were highlighted in a report¹³ issued by the Northern Ireland Commissioner for Complaints (see **Case Example 3**).

1.12 The Commissioner found in favour of a complainant who had been denied the opportunity to bid for the land on the open market and recommended that he should receive a payment of £20,000 and a letter of apology from NIHE Chief Executive. The complainant did not accept this award and initiated legal action which resulted in an out of court settlement of £75,200 against NIHE.

¹³ Northern Ireland Housing Executive: Sale of Land (Case Number 200701162), Northern Ireland Commissioner for Complaints 2010-2011 Annual Report.

The NIHE Chairman commissioned an independent review to scrutinise the performance of the NIHE Chief Executive

- 1.13. An external review commissioned by the NIHE Chairman in December 2010 and completed in February 2011, focused on the role of the then NIHE Chief Executive (Paddy McIntyre) in light of governance failings that had emerged in NIHE, including the Nelson Street and Hardcastle Street cases and the investigation of Red Sky, a response maintenance contractor¹⁴.
- 1.14. In January 2011, shortly after his retirement, Paddy McIntyre met with the consultants who carried out the review. His response to the issues raised in the review was recorded in an appendix to their report. He told us that he was never informed about the issues raised in the report and the report was finalised without allowing him to challenge it. NIHE told us that the completed report was treated as a highly restricted and confidential document used to brief the then Chairman and presented orally to the Audit Committee. Mr McIntyre told us that the draft report was not circulated within Senior Management of the NIHE, which he would have welcomed as, in his view, its conclusions would have been different from those arrived at.

The Land Disposals Review Project was initiated by NIHE to scrutinise suspect land disposals

- 1.15. As a result of concerns arising from the Nelson and Hardcastle Street cases, NIHE launched the Land Disposals Review Project in January 2011. The first phase of the investigation was led by an NIHE Internal Auditor and reviewed a number of land disposals to determine whether they had been managed in line with agreed organisational policies and procedures and to highlight any cases of suspected fraud. The Phase 1 review team reported directly to the Acting Chief Executive¹⁵ (Stewart Cuddy).
- 1.16. The Phase 1 investigation team were presented with files on 12¹⁶ sites which had been sold off-market and had come to management's attention during the previous year. NIHE told us that the land involved in the 12 cases had been disposed of without the application of the relevant controls and where there was a risk that the best consideration had not been achieved. The 12 sites were chosen as off-market sales that shared characteristics with the Nelson Street case.
- 1.17. The Phase 1 team also examined NIHE's Undeveloped Land Schedule (ULS), which recorded surplus and sold sites back to 2004. NIHE told us that it used the ULS to select further sites for review as the Land Terrier was incomplete. We also note that the decision on whether to place land on the ULS would have been

14 Serious governance failures and controls weaknesses in the management of response maintenance contracts feature in the C&AG's report "NIHE Management of Response Maintenance Contracts" (4 September 2012) and the subsequent Public Accounts Committee report (13 March 2013).

15 The former Chief Executive (Paddy McIntyre) retired in December 2010.

16 Nelson Street was not included in the 12 cases passed to the investigation team. Nelson Street was subject to a separate investigation and was referred to PSNI in March 2010.

Part One:

Events in 2010 focused attention on governance in the Northern Ireland Housing Executive

taken by officials within the Housing and Regeneration Division. The investigation team acknowledged that disposals could be made from the Terrier without the sites showing on the ULS but, as the software needed to interrogate the Terrier was not yet available, cases of interest would have been difficult to identify. Given this approach, it is possible that other off-market land disposals existed but were not identified by NIHE.

- 1.18 NIHE told us that only land that has been identified by NIHE as developable is placed on the ULS. Other pieces of land can legitimately be disposed of without appearing on the ULS. In order to try to identify other cases of note that were not on the ULS, the Phase 1 team scrutinised Chief Executive Business Committee and NIHE Board papers over the relevant time period, to try to establish whether or not other land disposals were made that were conspicuous by their size or if they involved a large number of disposals to a single developer over a period of time. In order to ensure that this investigative work captured all disposals that were potentially concerning, the Department and NIHE are currently working with LPS to ensure that all land sales during the time period have been accurately recorded on the digitised Land Terrier.
- 1.19 The ULS detailed 71 land disposals between 2004 and 2010, valued at £84 million. A number of these were recorded as having been sold off-market. NIHE selected for investigation 11 of these disposals. This selection was made by an assessment that these
- cases presented the greater risk of fraud. This assessment was carried out by independent investigators and was agreed by the NIHE Chair and Deputy Chief Executive. In addition to the 12 disposals that were initially selected for investigation, these 11 further cases selected from the ULS brought the total identified for investigation to 23. The team considered whether these 23 disposals (representing £70 million in terms of value) had been managed in line with agreed organisational policies and procedures.
- 1.20 NIHE in collaboration with the PSNI presented a dossier of concerns to the Serious Fraud Office in London in June 2011. The dossier set out serious concerns of suspected criminality in aspects of NIHE business, particularly land disposals and response maintenance. In late June the Serious Fraud Office concluded that whilst it appeared that internal NIHE rules were not followed in the land disposals highlighted, there was little evidence presented to support claims of criminality, including that of fraud. As a result the Serious Fraud Office decided not to investigate the matters.
- 1.21 As a result of the findings of the Phase 1 review, a second phase of investigation was initiated by NIHE's Counter Fraud and Security Unit in September 2011. The Counter Fraud Unit focused on whether or not there was any evidence of suspected criminality in 11 (out of the 23) land disposal transactions. From October 2011 the Director of Finance

had overall responsibility for the Phase 2 investigation and reported directly to the Chief Executive, providing monthly updates to the NIHE Chairman and the Department's Permanent Secretary.

1.22 In addition to the NIHE's referral of the Nelson Street case, its Phase 2 team prepared evidential packs relating to four land disposals (Hardcastle Street, two land disposals at Glenalpin Street and Skegoneill Avenue) which were referred to the PSNI for further investigation. These referrals took place in 2011 and 2012. The case papers were prepared in accordance with the memorandum of understanding between the PSNI and the Northern Ireland Public Sector. The outcomes were:

- One of the two Glenalpin disposals referred to the PSNI was then referred by the PSNI to the PPS (see Case Example 2, Paragraph 7). The PPS directed no prosecution;
- The other Glenalpin disposal was not referred by the PSNI to the PPS. As Case Example 4, Para 6 details, the PSNI considered this case did not actually include a land sale and so could not present a complete case of fraud;
- The Hardcastle Street disposal was not taken forward. As Paragraph 2.16 shows, the PSNI considered that evidence provided to them about an "enabling policy" within the NIHE provided for "no likelihood

of proving fraud to the criminal standard"; and

- The Skegoneill Avenue disposal was not referred by the PSNI to the PPS. It should be noted that the NIHE referred this disposal to the PSNI for it to investigate fraud outside of the NIHE. The NIHE's investigation had concluded that "the reviewed material would not give rise for concern of offences of a criminal or fraudulent nature on the part of any NIHE employee".

1.23 Mr McCaughley (NIHE's Director of Housing and Regeneration until November 2011) told us that he was not given the opportunity to participate fully in the internal NIHE investigative processes and was not given the opportunity to comment on the allegations. NIHE told us that Mr McCaughley remained under criminal investigation for his role in the Nelson Street case during the lifespan of the Land Disposals review. Until the criminal investigation had ended either by conviction in court or by a decision not to prosecute then good practice did not permit NIHE to interview Mr McCaughley for any internal investigation. When the decision was made by the PPS in the summer of 2013, Mr McCaughley was no longer an employee of NIHE and therefore no disciplinary investigation was undertaken.

Part One:

Events in 2010 focused attention on governance in the Northern Ireland Housing Executive

1.24 The PSNI explained to us that the reason it was unable to take forward investigations based on NIHE referrals was due to failings in NIHE's management of land disposals including:

- the procedures used by NIHE were not sufficient;
- a lack of information was provided to the NIHE Board about land sales;
- not having two NIHE departments sign off on land disposals; and
- the practice of cellotaping signatures to disposal schedules approving land sales.

In the circumstances, the PSNI told us that there was no likelihood or prospect that it could prove fraud to a criminal standard.

Part Two:

There was a breakdown in the controls surrounding land dealings



©Nelson Street, Belfast (see Case Example 1)

Part Two:

There was a breakdown in the controls surrounding land dealings

Introduction

2.1 Consistent with the requirements of Managing Public Money Northern Ireland, NIHE had a system of controls in place to ensure that land was disposed of in the best interests of the organisation and for the best price. Our review of NIHE land sales revealed weaknesses across a number of disposals including:

- conflicts of interest which were not properly handled;
- land not being advertised on the open market;
- the use of an undocumented and unapproved policy known as 'enabling' to justify dealings with developers;
- a failure to obtain valuations for land being disposed of prior to sale or instances whereby outdated valuations were used;
- breaches of delegated approval limits for land disposals;
- a lack of business cases to justify disposal decisions;
- poor planning and contract management; and
- misleading or limited information being presented to the NIHE Board.

Conflicts of interest were not properly handled

2.2 Since January 2007, Mr Colm McCaughley had declared in NIHE's Register of Interests that a close family member was a Director of a property company, based in Dublin, which invested in Northern Ireland through Big Picture Developments Limited. In January 2010 he further declared that this close family member was now a Director of Big Picture Developments.

2.3 Despite this declaration:

- a. In 2007, Mr McCaughley was involved in an aborted disposal of NIHE land at Glenalpin Street, Belfast involving Big Picture Developments (see **Case Example 4**). Big Picture Developments told us that the aborted disposal involved unused NIHE land contiguous to that owned by them and that the decision to sell was not made by Mr McCaughley without endorsement from other NIHE departments and individuals within NIHE. They also added that the disposal was only aborted because they were unwilling to pay the sums being suggested by NIHE. In addition, Barry Gilligan, a Director of Big Picture Developments Limited, told us that no improper contacts were made by him with any NIHE official, including Colm McCaughley;

- b. In 2008 Mr McCaughley had direct correspondence with the close family member, in securing, at nil cost, the necessary wayleave and lease associated with a balcony in the Victoria Place apartment complex at Glenalpin Street in Belfast. This apartment complex was built by Ravella Properties Limited (see **Case Example 2**). The close family member was assisting Ravella Properties Limited, a company of which Barry Gilligan was also a director; and
- c. in 2009, Mr McCaughley became involved in NIHE's objection to Big Picture Developments planning application in respect of a site at Nelson Street in Belfast (see **Case Example 1**).

2.4 In our view, these conflicts were so fundamental that Mr McCaughley should not have been involved in any land transactions with these companies. Mr McCaughley told us that, in his view, this report does not present potential conflicts of interest within common sense and appropriate boundaries.

2.5 We expect all public sector organisations to have robust procedures in place to deal with conflicts of interest. NIHE had procedures but they were able to be circumvented by a senior member of staff without challenge.

Part Two:

There was a breakdown in the controls surrounding land dealings

Case Example 1: A privately owned site at Nelson Street, Belfast

Background

1. From September 2004 privately owned land at Nelson Street, Belfast (0.8 acres) had two conflicting zonings both as a development opportunity site and for social housing. In January 2006, the Department for Social Development approved a plan, submitted by a Housing Association (in partnership with local community groups), to develop 66 social housing units on the site. At this time, the Housing Association was at an advanced stage in negotiations to purchase the site from the owners for £2.9 million. We note that at that time around 1,500 families on the social housing waiting list in North Belfast were classified as being in housing stress.
2. In June 2006, a property developer, Barry Gilligan (Director of Big Picture Developments Limited), was asked by the community groups to provide advice on the social housing development. In July 2006 the site was sold to Big Picture Developments Limited for £3.5 million. Mr Gilligan told us that the purchase of this site by Big Picture Developments was wholly unrelated to the limited assistance provided to a community group.
3. In March 2008, Big Picture Developments submitted a planning application for a mixed use development on the Nelson Street site including office and commercial space and 238 apartments that would be sold on the open market. The application made no provision for social housing. In September 2008, NIHE responded to a DOE Planning Service consultation, objecting to the proposed private use as part of the site was zoned for social housing.
4. On 12 February 2009, Colm McCaughley, NIHE's Director of Housing and Regeneration Division, emailed NIHE's Belfast Area office raising the issue of NIHE's objection in September 2008 and making a number of arguments as to why NIHE's objection to private housing was unreasonable. The Belfast Area office responded, on 20 February 2009, defending the NIHE objection. Colm McCaughley replied to the Belfast Area office, again questioning the NIHE position.
5. Colm McCaughley had a clear conflict of interest in the Nelson Street case. Since 2007, he had declared in NIHE's Register of Interests that a close family member was a director of a property company, based in Dublin, which invested in Northern Ireland through Big Picture Developments. By January 2010 he further declared that this close family member was a Director of Big Picture Developments Limited. It appears Colm McCaughley was aware of the conflict, as reflected in comments in emails to other NIHE staff, "I had best stand aside from the review" and "I am struggling to stay away from this". Colm McCaughley told us that he was fully aware that his advice to NIHE staff could be seen as a potential conflict of interest but he had limited options. In our view this was not a potential conflict but a real one and we have seen no evidence that he sought advice to clarify his position.

Case Example 1: A privately owned site at Nelson Street, Belfast

6. In April 2009, a Housing and Regeneration Division official wrote to NIHE legal department asking them to consider "the reasonableness of our decision to sustain our objection to the proposals". In our view, the letter sets out the issues from the developer's perspective. The legal department indicated that the issue was a matter for DoE Planning Service.
7. Big Picture Developments submitted a revised planning application in September 2009, with the proposal for 238 private apartments unchanged. In response to a request for comment from the media, the NIHE Information Department confirmed that the Housing Executive's objection to the planning application still stood.
8. Colm McCaughley emailed a NIHE official in the Housing and Regeneration Division (of which he was Director) on 4 December 2009 explaining that due to changes in European Union procurement rules, the private developer would not be in a position to comply with the zoning of the Nelson Street site for social housing. Colm McCaughley told us that his advice was not site specific. On 4 January 2010 this official wrote to DoE Planning Service indicating that although there was a need for social housing in the area, the developer would not be in a position to provide such housing due to changes in European Union procurement rules and that NIHE was therefore withdrawing its request for social housing within the scheme. A subsequent internal NIHE review concluded that the letter was "premature, was inaccurate and may, as NIHE Corporate Procurement Unit has indicated, have helped the developer but (did) not assist the Social Housing Development Programme". NIHE told us that responsibility for issuing letters to Planning Service, withdrawing NIHE interest in sites zoned for social housing, was the responsibility of Corporate Services Division, headed by the Deputy Chief Executive (Stewart Cuddy), and not the Housing and Regeneration Division.

Alteration of responses to written Northern Ireland Assembly Questions

9. On 13 January 2010, the Department forwarded three Assembly Questions to NIHE's Information Department. The questions were:
 - to ask the Minister for Social Development if the Department had been involved in proposals to rezone the Nelson Street site from social to private housing;
 - to ask the Minister for Social Development to outline any contact her Department has had with developers or agencies/representatives of developers in relation to the Nelson Street site in North Belfast; and
 - to ask the Minister for Social Development if she can confirm that her intention for the Nelson Street site in North Belfast is to develop social housing for people on the North Belfast housing list.

Part Two:

There was a breakdown in the controls surrounding land dealings

Case Example 1: A privately owned site at Nelson Street, Belfast

10. A three paragraph draft response was prepared by an NIHE official following consultation with other relevant NIHE staff/Directors and copied to Colm McCaughley and the Deputy Chief Executive (Stewart Cuddy) as joint lead Directors. After the three paragraph response was approved by the Deputy Chief Executive (Stewart Cuddy), an additional paragraph was added by an Assistant Director who reported to Colm McCaughley. NIAO have seen no evidence to suggest that Mr McCaughley saw this additional paragraph. Mr McCaughley told us that while he was aware of the initial draft response to the Assembly Question, which was prepared by another division and sent to him, he had no knowledge of the amended response and it was not approved by him.
11. This additional paragraph, withdrawing NIHE's request for social housing on the site, was an almost direct replication of the Housing and Regeneration Division's letter of 4 January to DoE Planning Service and contradicted responses included in the preceding three paragraphs of the draft response. NIHE told us that, whilst the response did not reflect its stated policy, it was factually correct at the time of its submission, given the letter to Planning Service on 4 January 2010.
12. The additional paragraph was not referred back to the Deputy Chief Executive (Stewart Cuddy) but rather was passed to the NIHE Chief Executive (Paddy McIntyre) who, on the 18 January, approved all four paragraphs and forwarded them to the Department. Paddy McIntyre told us that he had no knowledge that the response to the Assembly Question had not been cleared in the normal way with the relevant officers. A Departmental official realised that the additional paragraph contradicted the previous three paragraphs of the draft response and that the Department would not have approved any attempt to "withdraw a request for an element of social housing within the scheme" at Nelson Street. The Department's official removed the additional paragraph. The Social Development Minister responded formally to the Assembly Question's in line with the response approved by the NIHE Deputy Chief Executive (Stewart Cuddy).
13. We also note that the response to the second Assembly Question was inaccurate. The response stated that "the Housing Executive is not aware of its staff meeting with developers or agencies/representatives of developers specifically in relation to the Nelson Street site". However, during our examination of papers related to the Nelson Street site we noted a meeting on 27 January 2007 between the NIHE Assistant Director (see paragraph 10), an NIHE Area Planning Officer, Barry Gilligan and other Big Picture Developments associates. The issue under discussion was the development of the Nelson Street site.
14. NIHE Internal Audit had also noted this meeting and in their March 2010 report they concluded that, "information surrounding a meeting between NIHE officers and the Developer has been omitted from the Assembly Question response. Details of this meeting and its impact on NIHE's relationship with the Developer need to be explored, together with an examination of the rationale for the omission of relevant details".

Case Example 1: A privately owned site at Nelson Street, Belfast

15. An independent disciplinary investigation was carried out in July 2011 with terms of reference that included a review of all documentation held in relation to the handling of the Nelson Street site and meetings with appropriate officers of the NIHE to clarify the issues arising. NIHE told us that the disciplinary team were not asked to consider the inaccuracy of the response to the second Assembly Question, regarding the meeting with Barry Gilligan. The disciplinary investigation focused primarily on the planning issue in the third question. Given that the NIHE Assistant Director and the Area Planning Officer had been involved in drafting responses to the Assembly Questions, we are surprised that the January 2007 meeting was disregarded from the investigation.

Investigations and Reviews

16. In late January 2010, the Deputy Chief Executive (Stewart Cuddy) was made aware of the existence and contents of the Housing and Regeneration Division's letter of 4 January (see paragraph 8). The Deputy Chief Executive immediately wrote to DoE Planning Service rescinding this letter and stating that "the Housing Executive continues to seek and support the development of social housing at the Nelson Street site in line with the zoning for social housing detailed within the Belfast Metropolitan Area Plan 2015". Three NIHE Directors (Deputy Chief Executive, Director of Finance and Director of Design and Property Services) met with the Chief Executive (Paddy McIntyre) on 2 February 2010 and expressed their concern at the letter of 4 January and NIHE's response to the related Assembly Questions. It was agreed that the Head of Internal Audit would conduct an enquiry.
17. The Head of Internal Audit reported on 15 February 2010, recommending that the enquiry be upgraded to an investigation. By 1 March 2010 the internal investigation team recommended that the current internal investigation should be halted and the matter formally referred to the PSNI for their consideration of a criminal investigation.
18. Colm McCaughley was suspended on 30 September 2010 having been on sick leave since 23 March 2010. The NIHE Chairman, following advice from Senior Queens Counsel, wrote to the PSNI Chief Constable outlining his serious concerns with the "actions and behaviour of certain senior NIHE staff" and their connection with Big Picture Developments Limited. The PSNI conducted a criminal investigation and a file was submitted to the PPS in July 2011 for its consideration.
19. In July 2010, NIHE engaged consultants to assess whether the NIHE Code of Conduct for Housing Executive officers, and other NIHE policies in relation to conflicts of interest, had been complied with in relation to the Nelson Street situation. The report concluded that there was evidence that Colm McCaughley had breached the NIHE Code of Conduct as regards conflicts of interest, and recommended that NIHE should consider disciplinary action against specific NIHE officers involved in the Nelson Street case.

Part Two:

There was a breakdown in the controls surrounding land dealings

Case Example 1: A privately owned site at Nelson Street, Belfast

20. NIHE engaged a consultant in July 2011 to undertake an independent disciplinary investigation. The investigation focused on two NIHE officials (an Assistant Director and the official who wrote to Planning Service in January 2010 – see paragraphs 8 and 10). Colm McCaughley was excluded from the investigation as he was suspended pending a decision from the PPS on a criminal prosecution. In August 2011 the disciplinary investigation concluded that neither officer had infringed any requirements of their Contract of Employment or NIHE's Code of Conduct and recommended that no further disciplinary action should be pursued. Colm McCaughley retired in November 2011.
21. In May 2013 the Planning Appeals Commission upheld an appeal, granting outline planning permission, subject to conditions, for 217 apartments on the Nelson Street site. The planning application was made by a private developer, the Nelson Street Partnership (a joint venture involving Barry Gilligan). The Planning Appeals Commission's reasoning and conclusions on the zoning issue are set out in Appendix 2. Colm McCaughley told us that in his view events have proven him correct in every aspect of his advice to NIHE staff. Nevertheless, we consider that he failed to deal appropriately with the conflict of interest issue which arose.
22. On the 10 July 2013 the PPS concluded that, following careful consideration of all the evidence and circumstances surrounding the Nelson Street case, that the test for prosecution was not met as insufficient evidence existed to provide a reasonable prospect of obtaining a conviction of any individual of any offence.

Source: NIAO based on NIHE documents.

Case Example 2: Victoria Place apartments, Glenalpin Street, Belfast

The NIHE Director of Housing and Regeneration Division had a conflict of interest and the transaction completed before a valuation was obtained

1. Ravella Properties Limited developed a block of apartments, known as Victoria Place on land at Glenalpin Street, Belfast. Each apartment had a small balcony. An individual who had entered into a contract to purchase an apartment questioned the legality of the balcony forming part of the apartment and its overhang into Glenalpin Street at a time when the property market had entered severe decline. It was found that the balconies in the apartment block required "wayleave"¹⁷ permission from the owner of the land over which the balconies extended. This land was owned by NIHE.
2. NIHE investigators uncovered email evidence indicating that Colm McCaughley in his capacity as NIHE Director of Housing and Regeneration, had assisted a close family member, who acted for Ravella Properties Ltd (see paragraph 2.3), in obtaining the required permissions from NIHE for the wayleave. With Ravella now having dealt with the wayleave issue the individual buying the apartment now requested a lease on the pavement bed-rock of the apartment. Colm McCaughley also assisted Ravella Properties Limited in this transaction.
3. Ravella Properties Limited obtained the wayleave and the lease for the balconies in July and November 2008 at no cost. It is concerning that NIHE did not appoint a solicitor to act on their behalf for either transaction. An independent valuation at nil value, relating to the wayleave, was only received from DFP's Land and Property Services in December 2008, some five months after the disposal.
4. The granting of the wayleave and the lease helped Ravella Properties Limited complete contracted sales of private apartments at a time when the property market had gone into severe decline and some buyers were attempting to back out of agreements to buy apartments. The benefit which NIHE derived from the sale is not apparent.
5. Ravella Properties Limited told us that this was a normal and commonplace transaction whereby NIHE was willing to dispose of valueless land contiguous to a development in the interests of that development. There was nothing sinister or unlawful in the contact, by a close family member, with Colm McCaughley, to assist in cutting through the bureaucracy more quickly. No promise or reward was made for his assistance.
6. Colm McCaughley told us:
 - that attempts by third parties (see paragraphs 1 and 2) to adopt spurious contract tactics were totally irrelevant and that there was no reason to refuse a legitimate request to establish good title. This was a standard, no cost, business practice designed to assist development – it was not a legal contest;

17 A right of way (but not an interest in land) granted by a landowner, generally in exchange for payment and typically for purposes such as the erection of telegraph wires or laying of pipes.

Part Two:

There was a breakdown in the controls surrounding land dealings

Case Example 2: Victoria Place apartments, Glenalpin Street, Belfast

- that there were thousands of similar transactions; and
- that since the transaction had already been agreed in principle, his involvement was peripheral and arose because of undue delay.

NIHE told us that there is only one instance of this (granting of a wayleave and lease) occurring – in this case study.

7. NIHE investigators referred this disposal to the PSNI for further investigation. The PSNI referred the disposal to the PPS. The PPS directed no prosecution.

Source: NIHE Land Disposals Investigations Team

Sites were not advertised on the open market

2.6 A key principle of public sector guidance, when disposing of a public sector asset, is that organisations achieve the best consideration that can be reasonably obtained. This is further recognised in the Housing (Northern Ireland) Order 1981 which states that the NIHE must achieve “best consideration” for any land disposed of. In circumstances where this is likely not to be achieved, the prior consent of the Department must be sought.

2.7 An important control to ensure that the best price is achieved is to ensure land is sold on the open market. NIHE’s own land and property manual states that obtaining the best price available for land “means selling it on the open market”. LPS currently recommends that “departure from open marketing should only be considered” for small, inconsequential and unmarketable sites “and on professional advice”.¹⁸

2.8 In our view, disposing of an asset outside of the open market carries with it significant risks. An open market competitive bidding process provides strong evidence that a disposal has proceeded in a transparent and fair manner and that the best market price has been achieved. Disposal of land “off-market” inevitably leads to a lack of transparency, particularly if the process is not fully documented. This in turn can lead to suspicions that particular developers are being favoured in the disposal process. It also leaves the motives of public sector officials involved in such disposals open to question.

2.9 Despite this the NIHE investigation teams found instances in which NIHE had disposed of land without open market competition. At Hardcastle Street (see **Case Example 3**) land was sold to one preferred developer without open market competition, despite the stated interest of another private developer. Other examples of off-market disposals include sales of land at Ligoniel Bridge and Skegoneill Avenue. NIHE investigators

18 Central Advisory Unit, Disposal of Surplus Public Sector Property in Northern Ireland, March 2013, p. 45.

concluded that giving preferential treatment to individual developers at the expense of other potential purchasers

is likely to lead to a situation where NIHE cannot demonstrate that the best outcome for NIHE was achieved.

Case Example 3: Hardcastle Street, Belfast

Background

1. In March 1999, NIHE acquired land ("the site") at Hardcastle Street, Belfast under a Vesting Order. In May 1999, the NIHE Chief Executive's Business Committee approved a Land and Property Department Report that stated the site would be transferred to the "adjacent landowner (the Developer) to provide secure car-parking for private apartments (Somerset Studios)." Prior to the sale of the site being completed, in early 2000 the Developer obtained planning permission to build four apartments on the site (in addition to Somerset Studios which occupied adjacent land). In March 2000, a second developer expressed an interest in purchasing the site from NIHE.

The land was not advertised on the open market

2. The Chief Executive's Business Committee twice gave approval for the site to be offered for sale on the open market - in July 2000 and again in April 2004. Despite these approvals, however, the site remained in NIHE ownership until March 2005 when it was sold "off-market" to the Developer for £98,000. We note that the site had been valued in March 2004 at £98,000, by Land and Property Services for inclusion in NIHE's Annual Accounts. NIHE agreed also to pay the Developer's planning costs (for the four apartments) amounting to £16,500. Net of this, therefore, the proceeds from the sale were £81,500. The Developer immediately sold the site to another company.
3. The second developer, who had expressed an interest in buying the site in 2000, submitted a complaint to the Northern Ireland Commissioner for Complaints¹⁹. In September 2010, the Northern Ireland Commissioner for Complaints issued a report on NIHE's handling of the sale of the site. The Northern Ireland Commissioner for Complaints found maladministration and concluded that the complainant had been denied the opportunity to bid for the site on the open market. The Commissioner recommended that the complainant should receive a payment of £20,000 and a letter of apology from the NIHE Chief Executive. The complainant did not accept this award and initiated legal action against NIHE. The resulting out of court settlement cost NIHE £75,200.
4. Four private townhouses were eventually constructed on the site.

¹⁹ The Northern Ireland Commissioner for Complaints considers complaints from people who claim to have suffered injustice because of maladministration by government or public bodies in Northern Ireland. Where he finds maladministration he seeks to provide a remedy for any injustice caused to the citizen.

Part Two:

There was a breakdown in the controls surrounding land dealings

Case Example 3: Hardcastle Street, Belfast

5. NIHE Counter Fraud investigators concluded that:
 - there were no documentary records supporting the rationale behind NIHE's decision to use compulsory acquisition powers for the site and no documentary evidence of the Developer approaching NIHE requesting vesting;
 - some senior NIHE officials were aware of the June 1999 planning application, by the Developer, for four apartments but did not intervene despite the planning application being contrary to NIHE's reason for vesting the site in the first place i.e. to provide car parking for the existing private apartments on adjacent land;
 - the site was sold to the Developer at a value provided by LPS for accounting purposes despite (at the time of the sale) having planning permission for four apartments. As the site had full planning permission for four apartments, it is likely that the market value of the land was considerably more than it was sold for;
 - there is no evidence of consultation with private residents at Somerset Studios prior to vesting;
 - the NIHE Chief Executive's Business Committee's approval to a sale on the open market was disregarded and the site was sold off-market to a preferred developer;
 - there was a lack of competition for the sale, minimising cost to purchase for the developer; and
 - NIHE paid the developers planning fees which reduced the developers' costs and the amount received by the public sector.
6. NIHE investigators concluded that the sale of the site based on a LPS valuation for accounting purposes, combined with NIHE's payment of the developer's planning fees, meant that best consideration was not obtained on this disposal. As a result, the disposal is likely to have been inconsistent with NIHE's statutory requirement to obtain best value.
7. NIHE investigators referred this disposal to the PSNI for further investigation.

Source: NIHE Land Disposals Investigations Team and the Northern Ireland Commissioner for Complaints

An undocumented policy was used to justify the Hardcastle Street disposal

2.10 NIHE's Counter Fraud and Security Unit investigation of suspect land transactions noted that the concept of "enabling" was used to justify the manner of

the Hardcastle Street disposal. The investigators found no policy papers and no statutory definition for the concept.

2.11 In November 2006, after a critical current affairs programme, Colm McCaughley presented a paper to the NIHE Board explaining the rationale

- behind the Hardcastle Street disposal. He explained that the decision to sell the Hardcastle Street site off-market to the Developer (despite the NIHE Chief Executive's Business Committee previously recommending an open market sale) was because the "planning consent (held by [the Developer]) was due to expire and there was sufficient risk to the consent not being renewed to warrant direct sale". The Board noted this preliminary report and requested a further review of the disposal process.
- 2.12 At the February 2007 NIHE Board meeting Colm McCaughley presented a paper²⁰, prepared by a LPS official, explaining that the disposal was "based upon sound commercial reasoning to achieve the best return". Colm McCaughley argued that NIHE should adopt and implement a policy of enabling which the LPS paper had quoted as "assisting the private sector with land assembly where access or title problems are preventing or constraining development"²¹. The Board agreed that a formal written enabling policy should be put in place, along with an operational manual.
- 2.13 A further paper entitled "Enabling role: Use of Land and Acquisition Powers" was tabled at the April 2007 Board meeting, explaining that NIHE through its enabling role supported the development of social and private housing.
- 2.14 A formal written policy supported by procedures was never produced. The NIHE investigation team noted that,
- this undocumented and unapproved enabling policy appeared to have been used to retrospectively justify the Hardcastle Street land disposal, which did not comply with established NIHE policy and procedures. In NIAO's opinion, this disposal was not, therefore, in the public interest.
- 2.15 The NIHE Counter Fraud and Security Unit, in the course of its investigations, had serious concerns about the application of the term enabling in order to justify the Hardcastle Street disposal outside of the established policy and procedures. In March 2012 the NIHE Counter Fraud Unit forwarded an evidential pack to the PSNI for further investigation.
- 2.16 In the course of their inquiry into enabling, the PSNI requested further clarification from the recently retired NIHE Chief Executive (John McPeake). In a written statement John McPeake explained that there was never a clear policy statement or guidance on what constituted the Housing Executive's enabling role. He also explained that enabling in the Housing Executive was a generic term that seemed to have gradually evolved over many years, was endorsed at NIHE Board and Chair level, and used within various NIHE Divisions to describe a wide range of activities. The PSNI told us that due to the information provided by John McPeake in his statement it could not take forward a criminal investigation of enabling as there was no likelihood of proving fraud to the criminal standard.

20 The terms of reference were for LPS to carry out "... an analysis of the disposal procedures adopted in the sale of lands at Hardcastle Street and which utilized the principles of "Enabling."

21 The Board paper stated that the concept originated in a 1990s Department of the Environment working group which had considered ways of promoting private sector housing development within Belfast. However, all files relating to this working group had been destroyed under NIHE's document retention policy.

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There was a breakdown in the controls surrounding land dealings:

- 2.17 Colm McCaughley told us, "the conclusions that the enabling policy was unapproved, retrospectively contrived, outside normal policy and detrimental to NIHE interests were fundamentally incorrect and show a total lack of understanding of the roles undertaken by NIHE and the ways in which they were and continue to be operated". He also explained that, "similar transactions to those highlighted in this report were common place and policy driven and in no case is there any evidence of the enabling policy being detrimental to the interests of NIHE".
- 2.18 Mr McCaughley told us that there were monthly schedules of enabling/facilitating schemes discussed at Area Managers meetings. NIHE told us that the meetings to which he refers were in fact meetings between Housing Associations and NIHE design group staff to enable delivery of the social housing new build programme and that there was no possible link between this and the term "enabling" as used in the Hardcastle Street case study. The acquisition of land formed no part of these enabling meetings.
- 2.19 Mr McCaughley also told us management information (incorporating the operation of enabling policy) was regularly produced and advised to the Board. NIHE told us that the Board never substantially engaged with enabling as a policy until 27 February 2007 – and this was in relation to Hardcastle Street. This was the first occasion enabling policy was discussed by the Board.
- 2.20 It is clear that NIHE never had a formally adopted policy of enabling. However, it does appear that a concept of enabling did exist; for example, two disposal-related Board papers prior to 2006 (and prior to Hardcastle Street) make broad but passing references to NIHE's enabling role. We are surprised that a concept which had the capacity to permit NIHE staff to act in a manner that would appear to be contrary to NIHE interests could exist without being formally documented or approved by its Board. There is also no evidence that the application of enabling was ever challenged or scrutinised internally by Finance, Corporate Services or Internal Audit. In addition, there is no evidence that the Department was aware of, or had approved, anything approaching a policy. In our opinion relying on something less than a documented policy, which could facilitate land sales that could be detrimental to the interests of NIHE gives rise to major concerns around the governance, leadership and ethical standards that were prevailing in parts of NIHE at that time.
- 2.21 The lack of documentary evidence makes it difficult for those staff working in this area to protect themselves from accusations of misconduct. Enabling, as it was apparently outlined, also appears to be in direct contravention of the requirement for NIHE to obtain "best consideration" in all its land disposals (see paragraph 2.6).
- 2.22 NIHE told us that since the initiation of the NIHE review into land disposals in

2011, there has been no further internal discussion around this policy nor has it been developed further. In addition, NIHE told us that whilst a function of NIHE is to enable the development of land for housing, "enabling" as a defined policy never existed and its use to justify the off-market sale of Hardcastle Street was clearly of such concern to the investigation team they felt it merited referral to the PSNI.

- 2.23 Through the Department, NIHE told us that the policy of enabling did not exist in the terms presented by Colm McCaughley at the February and April 2007 NIHE Board meetings.

Valuations were not always obtained prior to approval to sell

- 2.24 A basic control designed to ensure that the interests of a landowner are being protected during a sales process is to obtain a valuation from experts. Throughout this period, NIHE's guidance stated that independent valuations should be obtained from LPS for any property which was being disposed of. Despite this, on occasions, such as the proposed sales of land at Glenalpin Street (see **Case Example 4**), Florence Place and Shore Road, valuations were obtained but only after approval to sell was granted. Mr McCaughley told us that approvals did not routinely take place without independent valuations.

- 2.25 We accept that valuations will often provide a starting point for negotiations

and are not a fixed price that must be achieved. However, we have concerns about the negotiations which occurred during a disposal of land at Skegoneill Avenue in October 2007. The purchaser was able to negotiate the price down with LPS from its initial valuation in September 2007 of £750,000 to an agreed sale price of £600,000 in October 2007. No documentation was retained on the NIHE file to justify this significant reduction of 20 per cent. The Board approved the sale in October 2007 but was unaware of the negotiated reduction in value. A subsequent valuation commissioned by the Phase 1 Review team in June 2012 indicated that the estimated value of the site at that time was around £365,000.

- 2.26 In our view, it is difficult to see how well informed decisions could have been taken on NIHE's strategic use of land if they were not supported by an independent valuation prior to approval being sought to dispose of land. In April 2008, NIHE strengthened their internal controls to require a valuation to be obtained before Board approval was sought.

Breaches of delegated approval limits for land disposals

- 2.27 NIHE had a range of delegated limits in place allowing either the Director or the Chief Executive's Business Committee to approve disposals of land that had lower valuations and therefore were less likely to be of strategic importance

Part Two:

There was a breakdown in the controls surrounding land dealings:

to NIHE. Similar policies exist in all large scale public sector bodies and help ensure that the Board's and Chief Executive's attention are directed towards the most strategic matters. The delegated limits laid down in the NIHE Land and Property Manual (2005) were as follows:

- disposal of land up to a value of £50,000 could be approved by a Director;
- disposal of land up to a value of £100,000 could be approved by the Chief Executive's Business Committee; and
- disposal of land valued at more than £100,000 had to be approved by the NIHE Board.

2.28 Whilst this system of delegation was in place the NIHE investigation team noted that the limits were disregarded in a number of cases. As valuations were not obtained until after approval had been granted to dispose of the land, it was often unclear at what level approval was required. The sale of land at Glenalpin Street was approved by the Director of Housing and Regeneration prior to the LPS valuation of £8 million²². Despite this valuation vastly exceeding the Director's approval limit, NIHE Board approval for the sale of the land was never sought. The proposed sale, however, never completed (see **Case Example 4**).

2.29 Although Colm McCaughley told us that there were other supplementary checks in the disposal approval system and that in his view there was a comprehensive and effective decision-making system for undeveloped land holdings, we do not believe that NIHE controls were operating effectively. The PSNI told us that the reason it could not progress investigations into disposals was due to control failings related to NIHE's management of land disposals (see paragraph 1.24). We have highlighted concerns over the completeness of the Undeveloped Land Schedule and note that the decision to place land on the schedule would have been taken by officials within the Housing and Regeneration Division.

²² LPS told us that the £8 million valuation was based on the assumption that the existing adopted roadbed could be abandoned.

Case Example 4: Land at Glenalpin Street, Belfast

The Director of Housing and Regeneration Division exceeded his delegated limits when approving this disposal and the approval was given prior to obtaining an LPS valuation

1. In February 2007, solicitors acting on behalf of Barry Gilligan approached NIHE, seeking to purchase land owned by NIHE at Glenalpin Street, comprising the roadway and footpath adjacent to the Victoria Place apartments (see **Case Example 2**) which would be used to provide additional car parking and garden decking. The off-market sale to Mr Gilligan was approved by Colm McCaughley in October 2007, prior to seeking an independent valuation from LPS, as it was deemed by NIHE staff to be nil cost.
2. LPS replied to the request for valuation in December 2007 explaining that the land at Glenalpin Street was an adopted road and as a consequence would have no development value. However, if NIHE was able to have this road abandoned, making it suitable for development, then a site of this size could achieve a price in excess of £8 million. The site would have a "marriage value" with the adjoining car park site which was not owned by NIHE. LPS had contact with Barry Gilligan who indicated interest in acquiring the car park (subject to NIHE altering the restrictions of the leases which restricted use to car parking) next to Victoria Place. LPS explained that "without knowing what Mr Gilligan's plans are for the proposed extension to Victoria Place it is not possible to assess a premium that would reflect the value of your Glenalpin Street land". LPS concluded that Barry Gilligan should, "put in an offer for consideration and also include as much information as possible on his proposals for the extended Victoria Place".
3. If the preliminary site valuation of £8 million was accurate then Colm McCaughley exceeded his delegated approval authority of £50,000 by a huge margin; the disposal would have required NIHE Board approval.
4. However, Colm McCaughley told us that the original transaction was deemed by NIHE staff to be nil cost and on that basis was forwarded through the system for approval. In his opinion this transaction was nothing other than a normal case involving an adopted road. He explained that the subsequent LPS valuation set out a totally different disposal strategy designed to add £8 million of value which additionally required NIHE to take abandonment action in respect of the public road. If that approach were to be adopted, any approval he had given through the Director/Committee system became irrelevant, and NIHE Board approval would have been required.
5. In our view, approving land disposals prior to obtaining independent valuations increases the risk of bypassing internal controls. We note that in April 2008, in response to an Internal Audit recommendation, NIHE required valuations to be obtained prior to seeking approval for disposal.
6. The disposal did not take place and the Glenalpin Street land is still in the ownership of NIHE. NIHE investigators referred this disposal to the PSNI for further investigation. The PSNI told us that there was no sale of this land therefore it "believed that the offence of fraud was not complete".

Part Two:

There was a breakdown in the controls surrounding land dealings

A lack of business cases to justify disposal decisions

2.30 Business cases are a fundamental control that should be used to justify expenditure or the disposal of an asset. The preparation of a proportionate business case demonstrates that adequate consideration has been given to alternative uses for land before disposing of it. These include:

- making the land available for the construction of social housing;
- inviting expressions of interest from other government departments;
- open space or amenity use;
- development in accordance with a redevelopment scheme; or
- private sector use (including private sector housing).

2.31 In his response to an Internal Audit Report (2007), the Director of Housing and Regeneration Division, Colm McCaughley, expressed the view that the DFP requirement²³ to prepare a business case to support land disposal decisions did not apply to NIHE. This view was not challenged by other senior NIHE officials or the NIHE Board. As a result, in land deals at Glenalpin Street, Florence Place and Shore Road, there is no evidence that any options other than off-market disposal to a private developer were considered.

Mr McCaughley told us that, in his view, procedures in place amounted to a business case in all but name, namely:

- a "need test" to establish whether land was surplus to requirements such that it should be sold;
- consideration of whether there was the possibility of an acceptable sale to a contiguous developer; and
- if there was not, then the land was placed for sale on the open market.

NIHE told us they have not found evidence of this in the case files investigated as part of the Land Disposals Review project. NIHE also told us that business cases are now subject to new systems and processes of control and governance, and are now subject to continuous improvement and much better oversight is now exercised by the NIHE Board.

Poor planning and contract management

2.32 A range of other weaknesses were evident in the disposals we examined. These had the cumulative effect of weakening the position of NIHE and ensuring that in several instances, the balance of risk and reward appeared to lie with private developers. Examples of these weaknesses include:

23 The Northern Ireland Practical Guide to the Green Book, 2003 (known as the Green Book).

Contractual delays and extended payment periods

2.33 During a sale of land at Annadale (see **Case Example 5**), the contract was extended on three occasions by NIHE to facilitate the developer obtaining planning permission, with the balance of the payment only being received some four years after signing the contract. NIHE told us the delay in planning was as a result of a long process involving public hearings and objections from the community over the perceived lack of social housing. In another case, the sale of Granton Heights, final payment was only received seven years after the NIHE Board had first approved the sale.

enhancing pre-existing planning permission. We also note that the guidance included a scenario of property being later resold for a higher price *"can usually be avoided by good advice and, possibly, use of one of the clawback schemes."*

2.36 In the Public Accounts Committee's report on the Transfer of Surplus Land in the PFI Education Pathfinder Projects²⁵, a key recommendation was that overage (clawback) provisions should address the public sector's long term interests. The Committee emphasised the importance of preserving public sector rights to share in future development gains or profits arising following the sale or transfer of assets to connected parties.

Overage (clawback)

2.34 Overage (clawback) clauses in a land disposal contract provide for additional sums to be paid to the seller, over and above the original purchase price, if and when certain trigger events occur, for example obtaining planning consent.

2.37 Land at Annadale in Belfast was sold by NIHE for £3.4 million. The land had been valued in 2002 by LPS, based on the land being developed for 60 terraced houses. By 2008 the developer had received planning consent for 216 apartments and the land had significantly increased in value. NIHE failed to consider including an overage (clawback) clause in the contract which could have allowed the public sector to share in the significant development gains made by the developer (see **Case Example 5**).

2.35 Guidance²⁴ available to public sector bodies at the time of these land disposals dealt with the disposal of sites with development potential and the inclusion of clawback. The guidance stated that public bodies should carefully consider a number of options in order to seek to secure part of any future increase in value, either as a result of receiving planning permission or as a result of

2.38 LPS has recently updated its guidance²⁶ relating to overage and clawback. Public bodies and their professional advisors are now required,

24 Disposal of Surplus Land and Buildings by Public Sector Bodies, September 2001, LPS. This guidance was updated in July 2005.

25 Public Accounts Committee: Report on the Transfer of Surplus Land in the PFI Education Pathfinder Projects (Report: 11/07/08R) 22 November 2007.

26 Land and Property Services, Central Advisory Unit, Disposal of Surplus Public Sector Property in Northern Ireland, March 2013.

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for audit purposes, to fully document the considerations made, advices taken and decisions reached on average (clawback) clauses.

Poor Planning

- 2.39 NIHE decided to sell Millmount House in advance of the open market sale of the extensive development lands surrounding the House. This decision led to the new owners of the House effectively holding a ransom strip which resulted in NIHE accepting their offer of £36.1 million for the surrounding lands. The situation severely weakened NIHE's negotiating position, effectively restricting the market to one bidder (the Developer) (see **Case Example 6**). The lands that were sold by NIHE for £36.1 million were resold 15 months later for £93 million.

A lack of legal representation

- 2.40 Two land transactions at Glenalpin and Ligoniel were carried out without legal representation. In our view, we can see no justification for dispensing with legal advice when dealing with complex transactions involving thousands of pounds of public money.

Case Example 5: Land at Annadale, Belfast

NIHE's contract management arrangements were poor

1. Land owned by NIHE at Annadale in Belfast was sold on the open market to a property developer in February 2003, for £3.4 million. The site had been valued by LPS in April 2002 based on the development of 60 terraced social houses. The conditional contract of sale allowed for an initial payment of £50,000 by the developer, with NIHE agreeing that:
 - a second payment of 50 per cent would be paid when the developer received planning permission or 15 months after the contract date; and
 - the balance would be paid 12 months after the second stage payment.
2. The contract was extended on three occasions by NIHE, with the full balance of £3.35 million finally being received in August 2007, some four years after contract signature.

NIHE failed to consider including an overage (clawback) clause in the contract

3. In February 2008 the developer received planning permission for 216 apartments on condition that 50 units would be allocated for social housing. In 2010, a housing association purchased 50 apartments at a total cost of £9.2 million (representing £184,000 per unit). The remaining 166 apartments were sold as private housing. In our opinion, NIHE appears to have taken on most of the risk in this contractual arrangement, with the developer making significant development gains from enhanced planning consent and the increase in land values prevalent in Belfast between 2003 and 2007. NIHE did not consider the possibility of including overage (clawback) clauses in the contract to reflect possible enhancements to the planning permission and to share in any increase in the value of the site. NIHE also extended the contract on several occasions at a time when the property market was extremely buoyant. In our view, the absence of an overage clause, combined with contract extensions, resulted in the public sector losing out on significant additional revenue.

The NIHE Board made decisions based on limited information

4. NIHE investigators recorded concerns about the poor quality of the information provided to NIHE's Board to allow it to make the decision to approve the sale. We share these concerns. The paper provided to the Board did not explain the conditions of the contract of sale i.e. that the valuation was based on the provision of 60 terraced houses, and did not outline how it might be possible for NIHE to protect its interest through an overage clause. Furthermore, the NIHE Board was not kept informed of the subsequent time extensions to the contract.
5. NIHE investigators found no evidence of criminal conduct in the Annadale land disposal.

Part Two:

There was a breakdown in the controls surrounding land dealings

Case Example 6: Millmount House and Lands

NIHE's decision to sell Millmount House in advance of the surrounding lands resulted in a significant loss of revenue to the public purse

1. In 1961 the NI Housing Trust (now NIHE) purchased a listed farmhouse known as Millmount House and the surrounding 156 acres of agricultural land. NIHE sold the house and around two acres of land in 1996 to a private purchaser but in August 2000 repurchased the house under the Special Purchase of Evacuated Dwellings scheme²⁷. NIHE was granted Outline Planning Permission for 510 homes on the surrounding lands in 2002.
2. In May 2003, NIHE sold Millmount House on the open market for £500,000 to "the Developer". In February 2004 the NIHE Board approved the sale of the surrounding lands on the open market and by December 2004 the Board had approved a sale to the highest of the seven bidders, for £35.2 million.
3. During the sale process, however, it became apparent that the existence of a Right of Way to Millmount House would prevent the highest bidder from obtaining the funding necessary to complete the purchase. We note that NIHE had been aware of the existence of this Right of Way prior to the sale of Millmount House in 2003 but we have found no documentary evidence which indicates that NIHE recognised the significance of this issue. The Developer retained control over a key access point to Millmount lands which would enable the Developer to prevent development on the surrounding lands and this was in effect a ransom strip. In May 2005 the Developer offered to buy the surrounding lands for £36.1 million. We note that advice received from Senior Counsel to the NIHE Board in August 2005 on the sale of the surrounding land concluded that "this is not an open or even market. [The Developer] has an advantage, and other interested parties are at a considerable – indeed, insurmountable – disadvantage".
4. The NIHE Board in December 2005 agreed to proceed to sell the surrounding lands to the Developer, based on staged payments and the Developer's proposal to apply for full planning approval for at least 510 houses. A contract signed by the Developer and another company, together with a £1 million deposit, was forwarded to NIHE in March 2006. In August 2006 the contract was closed through a novation agreement²⁸ whereby an off-shore Isle of Man consortium effectively replaced the Developer as the purchaser under the contract. At this point a stage payment of £26 million was received by NIHE.
5. The final stage payment of £9.1 million was not paid to NIHE until 18 June 2007. This was three days after the off-shore consortium had sold both Millmount House and the surrounding lands for £96 million.

27 The SPED scheme makes provision for NIHE to acquire by agreement houses owned by persons who, in consequence of acts of violence, threats to commit such acts or other intimidation, are unable or unwilling to occupy those houses.

28 Novation Agreements are used to transfer the rights and obligations of one party under a contract to another party, whilst the other contracting party remains the same. All three parties - the transferor, the transferee, and the counterparty (i.e. the other contracting party) - need to sign the novation agreement.

Case Example 6: Millmount House and Lands

6. NIHE's failure to recognise the significance of the Right of Way, combined with its decision to sell Millmount House as a separate transaction in advance of the surrounding land disposal, in our opinion was a significant error of judgement which distorted the market and resulted in NIHE not securing the best possible deal from a full open market competition. Our opinion is supported by the advice that NIHE received from LPS in July 2007. LPS stated that the Developer's increased bid of £36.1 million in May 2005, when compared to the £35.2 million the open market sale had generated in December 2004, represented "market value at that date...on the basis that the limited increase in value was accounted for by the increased bid, coupled with the depreciation in the value of the site caused by the right of way".

No consideration was given to including an overage clause

7. NIHE did not consider including an overage clause in this contract (see paragraphs 2.34 to 2.38). Given the scale of the lands, the buoyancy of the property market at that time and the possibility that developers could seek to enhance planning consents, an overage clause may have been a means of offsetting the risk to value for money from the sale to the Developer. The contract did, however, include a clause proposed by the Developer which stated that if planning permission was granted below a stated density, the sale price would be reduced by £55,000 per dwelling.
8. NIHE told us that whilst overage was not considered, as required by LPS guidance at the time (see paragraph 2.35), an alternative approach was adopted to protect its interests. The land was marketed according to the value of its full development potential of between 800 and 1200 units, as assessed by independent planning consultants. As a result, NIHE told us that, in their opinion, the open market bidders would have been aware of the potential for increased density of housing and would have bid accordingly. NIHE believe that due to this approach, overage was not necessary.
9. NIHE investigators found no evidence of criminal conduct in the Millmount land disposal.

Source: NIHE Land Disposals Investigations Team

Information provided to the NIHE Board was inadequate

- 2.41 The failure to adhere to the existing control framework in land transaction processes should have been identified

by the NIHE Board and improvements sought. In our view, part of the reason for this failure was deficiencies in the information that the Board received from NIHE senior management. For example, the NIHE Board in 2007

Part Two:

There was a breakdown in the controls surrounding land dealings

was made aware of the issues in the Hardcastle Street disposal however the Director of Housing and Regeneration provided information that erroneously led the Board to believe that the disposal had achieved the best consideration reasonably obtained in the circumstances (see paragraph 2.11). This was not the case. In addition, NIHE did not inform its Board that the Commissioner for Complaints was investigating the sale of NIHE land at Hardcastle Street until after the Commissioner's draft report had been received. During the approval process for the Annadale land disposal, the Board was not made aware of the conditions attached to the sale.

- 2.42 The Public Accounts Committee, in its consideration of NIHE's management of response maintenance contracts, has already concluded that during this period, "information provided by senior management within the NIHE to the Board on important issues was sometimes inadequate" and that "in some instances key information that should have gone to the Board was deliberately held back by senior management or presented in a superficial way."²⁹
- 2.43 NIAO's 2012 report "NIHE Management of Response Maintenance Contracts" noted that an NIHE Internal Audit report on Land Disposals had never been finalised.³⁰

²⁹ Report on the Northern Ireland Housing Executive: Management of Response Maintenance Contracts, 20 February 2013, Public Accounts Committee, NIA 99/11-15.

³⁰ NIHE Management of Response Maintenance Contracts, Report by the Comptroller and Auditor General, 4 September 2012, p. 52.

Part Three:

Opportunities to tackle governance and control weaknesses relating to land disposals were not fully exploited by NIHE and the Department



©Glenalpin Street, Belfast (see Case Examples 2 and 4)

Part Three:

Opportunities to tackle governance and control weaknesses relating to land disposals were not fully exploited by NIHE and the Department

The Department had concerns in 2001 and asked the Local Government Auditor to examine the Houses for Land schemes

3.1 In 2001, the Department asked the Local Government Auditor³¹ to examine NIHE's Houses for Land schemes. These schemes were intended to attract private sector finance into NIHE's social housing programme by providing land to developers in exchange for the construction of social housing on part of the site. The Department at that time stated "we know very little about the details and procedures adopted by NIHE and are concerned about value for money and probity in these schemes to safeguard public funds". The main issues raised by the Department included the completion of economic appraisals, the form of tendering, the currency of valuations, whether written procedures were available and whether clawback should have been provided for in the arrangements.

3.2 The Local Government Auditor reported to the Department and NIHE in February 2004, highlighting a series of concerns including:

- poor project management arrangements including a lack of documented procedures, processes and progress reporting;
- no economic appraisals for individual schemes;

- no independent land valuations at award of contract and reliance upon outdated valuations;
- the need to develop a proactive approach to handling delays; and
- the need for closer liaison between the Housing and Regeneration Division and other divisions within NIHE.

In presenting his report to the Department the Local Government Auditor confirmed that NIHE recognised weaknesses in their processes and formally adopted revised evaluation arrangements.

3.3 Following the Local Government Auditor's report, no further Houses for Land schemes were pursued by NIHE beyond the four which were subject to the Auditor's review. The Houses for Land matters referred to the Department were followed up to the satisfaction of the Local Government Auditor and he formally closed his review. The Department's acceptance of the report's findings and recommendations provided an opportunity to tackle some of the control weaknesses relating to NIHE land disposals. However, although economic appraisals and departmental approvals for community and Housing Association transfers were part of NIHE's governance framework, the report's recommendations were not read across to other land disposals to private developers.

31 NIHE's external audit arrangements are set out in Article 21 of the Housing (Northern Ireland) Order 1981. Up to, and including 2003-04, the Order recorded that NIHE would be audited by a local government auditor designated by the Department. From 2004-05 the Comptroller and Auditor General was given responsibility for the audit of NIHE as part of a re-organisation of Northern Ireland public sector audit responsibilities and the Housing (Northern Ireland) Order was amended.

A DSD Internal Audit report in 2007-08 was critical of the Department's oversight arrangements for NIHE land disposals

- 3.4 In 2007, the Department asked its Internal Audit unit to carry out a review of its monitoring arrangements for land disposals by NIHE. No overall audit opinion was given, as the work was undertaken by Internal Audit in its consultancy service role. Internal Audit concluded that:
- the Department's monitoring arrangements were not fit for purpose;
 - there were no information systems in place to facilitate the monitoring arrangements; and
 - controls had been weakened in direct contravention of the applicable legislation.
- 3.5 Internal Audit stated that weaknesses in the Department's monitoring arrangements meant that they had insufficient information to effectively monitor NIHE's land disposal programme. Information that should have been supplied by NIHE to the Department³² was not sent and no follow up action had been taken by the Department. Internal Audit concluded that the Department could have no assurance that public owned assets were being fully utilised or their maximum capital value was being obtained through disposal.

3.6 Internal Audit's examination found that the statutory requirement for NIHE to seek approval from the Department when disposing of land at less than best consideration (see paragraph 2.6) had been removed from written guidance³³. They concluded that "no audit trail existed to show who had made this decision". This deletion of a key oversight control took place in October 2005, just eight months after the Local Government Auditor had recommended in his Houses for Land report that controls should be strengthened.

3.7 NIHE told us that whilst their guidance had been amended the statutory requirement had not changed and they continued to seek the Department's approval in relevant cases. NIHE's guidance was amended in May 2008 to include the previously omitted requirement.

In response to serious concerns over aspects of NIHE's operations the Department initiated a review of governance in NIHE

3.8 In response to emerging land disposal issues and serious concerns over other aspects of NIHE's operations, for example response maintenance, the Department in 2010 engaged a team with skills in governance, internal audit, investigation, procurement and human resources to carry out a fundamental review of governance in NIHE. The review included an assessment of "the adequacy of controls over asset disposal

32 Under the arrangements in place at that time NIHE should have supplied six monthly returns of its holding of undeveloped land to the Department. This was not done.

33 The Management Statement: Financial Memorandum and Dossier of Controls sets out the control to be exercised over NIHE activities and represents a formal statement of the standards the Department requires the NIHE to achieve.

Part Three:

Opportunities to tackle governance and control weaknesses relating to land disposals were not fully exploited by NIHE and the Department

and in particular, land and property". The team reported in December 2010, making 75 recommendations, nine of which related to land and property matters. The review's findings relating to land and property included:

- not all land sales were being presented for appropriate Board or Chief Executive's Business Committee approval. Six out of the ten sales examined by the review team had not been approved;
- insufficient information relating to land disposals, including independent valuations, was provided to the Board and Chief Executive's Business Committee to allow them to make informed decisions based on the facts;
- there was no evidence of any post-completion monitoring of land disposals which could have provided management with assurance that disposals had been completed in line with guidance; and
- NIHE Internal Audit had carried out reviews leading to limited and unacceptable audit opinions³⁴. A recurring weakness was the lack of a full Economic Appraisal supporting the decision to dispose of land (see paragraph 2.30 to 2.31).

3.9 The Governance Review concluded that NIHE had developed comprehensive procedures and guidelines for staff when managing the disposal of surplus assets within the organisation. The Review

Team noted there had previously been issues with seeking Board approval for individual land disposals due to an assumption that the Board's approval of the annual Undeveloped Land Schedule provided sufficient approval to proceed. The Review Team did however recognise this policy had now changed. The Review Team also noted that there was currently a lack of monitoring or inspection of completed sales of land and houses to provide management with the necessary level of assurance that these procedures were being adhered to. A number of key recommendations were also made in relation to the level of information provided to both the Board and Chief Executive's Business Committee when being asked to approve a sale so that a fully informed decision could be made.

The Department's oversight was not sufficient to prevent the land and property issues highlighted in this report

3.10 In 2013, the Public Accounts Committee³⁵ concluded that "there were clear failings in the Department's oversight of the Housing Executive" and that they were "not alert to problems in the Housing Executive, which were evident over many years". In particular the Committee concluded that for many years before 2010, the Department did not do enough to adequately test the assurances it received from NIHE. The land disposal issues highlighted in this report provide further evidence

34 NIHE Internal Audit Land Disposal reports from 2007 and 2009.

35 Report on the Northern Ireland Housing Executive: Management of Response Maintenance Contracts, Public Accounts Committee, 20 February 2013, NIA 99/11-15.

of this. The Department told us that the weaknesses identified in this report occurred despite the Department having in place NIHE governance arrangements acknowledged as good practice, and the Department taking action to address weaknesses in land disposals which it identified.

- 3.11 The Department told us that it identified concerns and took action by commissioning the Local Government Auditor review in 2001 and also commissioning its own Internal Audit review of its monitoring arrangements in 2007. Despite this and NIHE's own Internal Audit report into land disposal matters in 2007, governance weaknesses continued to occur in NIHE. In our opinion these various reports represented opportunities to tackle governance and control weaknesses relating to land disposals which were not fully exploited by the NIHE and the Department at the time. A full scale investigation into governance weaknesses was commissioned by the Department in 2010.

Part Four:

There have been improvements in land and property management and governance arrangements in NIHE



©Annadale, Belfast (see Case Example 5)

Part Four:

There have been improvements in land and property management and governance arrangements in NIHE

NIHE have improved many of their systems and processes surrounding land and property disposals

4.1 NIHE have strengthened the controls surrounding land and property disposals to address many of the issues raised in our review of historic cases. NIHE detected and investigated issues in land disposals and instigated significant internal change, beginning in 2010. One key addition is the presentation of all proposed surplus land disposals to an NIHE Regional Services Clearing House Committee. This committee comprising representatives from Regional Services, Landlord Services and Finance, considers papers prior to submission for approval to either the Chief Executive's Business Committee or the Board, in accordance with Standing Orders.

Information sent to the NIHE Board on land disposals has been improved

4.2 Following approval by the Central Clearing House Committee, papers are sent to either the NIHE Board or the Chief Executive's Business Committee, depending on the disposal value. The approval papers presented to committees now contain detailed information including site valuations, the outcome of internal NIHE consultations, option appraisal results, offer history and any other relevant issues. These enhanced measures ensure that the Board and NIHE committees take informed land sales decisions based on meaningful evidence.

4.3 To review NIHE land which has development potential, the NIHE Board also considers and annually approves the Undeveloped Land Schedule (ULS). Recorded against each site listed on the ULS is:

- a location description;
- a classification, such as surplus, retain for future use, for transfer to housing association;
- a valuation and the date of valuation;
- an annual update on housing need, if relevant, from NIHE Corporate Planning Services; and
- any other relevant information.

4.4 The ULS, taken in conjunction with amenity lands and lands designated as existing open spaces, forms the entire holding of NIHE undeveloped lands. NIHE told us that the ULS was originally created around a decade ago, using local office knowledge. Whilst some additional undeveloped lands have been identified each year and added to the ULS, in our opinion, there is a risk that the current ULS does not accurately reflect the total amount of land with development potential held by NIHE. We therefore welcome NIHE's proposal to undertake a major review of around 900 hectares of NIHE land to identify development potential which could support the Social Housing Development Programme. This exercise aims to ensure

the accuracy and completeness of the land database and could potentially significantly increase the value of lands recorded on the ULS.

Valuations are now obtained for property prior to disposal

4.5 Independent valuations are now obtained from LPS prior to disposal, followed by a recommendation from it on acceptability in cases where the selling price is below this valuation. The value and the date of valuation are part of the information presented to the Board for approval to sell a site. NIHE's Internal Audit examined all sites disposed of from the ULS during 2012-13 and found that valuations had been obtained for all sites and all were approved by the correct committee in line with NIHE's delegated authorities.

4.6 To strengthen the controls around valuation, NIHE put in place a Service Level Agreement with LPS in 2012. The Department, in its 2012 review of governance, concluded that this Service Level Agreement has established clearly defined roles and responsibilities for each body in the disposal and valuation process.

Business cases are now produced to justify decisions

4.7 As a result of revised policy, all disposals should now be supported by an economic appraisal. Sites recorded on the ULS are classified as surplus or as sites to be retained for future use. The completion of an appraisal ensures that the classification process is robust and justifies any decision taken to either dispose of or retain a site. Appraisals include explanations from NIHE Area Planners for lands which are designated as surplus but are situated in areas of high housing need.

4.8 There are currently 207 sites on the ULS. The process of producing and approving economic appraisals for these sites is now underway. To date, NIHE has classified 26 sites as surplus for disposal by way of economic appraisal.

NIHE's policy governing off-market sales has been revised

4.9 NIHE has revised its policy concerning off-market sales. The policy now states that land can only be sold to adjoining owners and only in circumstances where the land has no marketing potential. Where more than one party owns bordering lands, the land will be split between the interested parties. All sales are now subject to approved economic appraisals.

Part Four:

There have been improvements in land and property management and governance arrangements in NIHE

Management information has been improved but further work is required

4.10 The Management Statement and Financial Memorandum³⁶ requires NIHE to have and maintain a Land Terrier database of land in its ownership consisting of a series of maps cross-referenced to records of acquisitions and disposals. NIHE introduced a new digital Land Terrier Management System in November 2011 which provides a digital record of all maps and deeds for all land acquired and disposed of by NIHE. The digital system aims to:

- enhance the security of land and property records;
- introduce standard processes for the management of NIHE land and property records;
- introduce a more efficient system for the recording and updating of land and property records;
- improve management information; and
- ensure effective processes are in place to maintain the accuracy of land and property information.

4.11 NIHE currently maintains a Land Sales System which is used to register any application received for a land disposal. The Land Sales System is not currently linked to the Land Terrier Management system and is a database to record and

give a unique reference number to any application to purchase NIHE land. We note that in addition to the Land Sales System the three regional land and property units each maintain a manual database and the NIHE Land and Property Central unit maintains an economic appraisal monitor. These various systems are not electronically linked.

Recommendation 1

Maintaining a series of local databases is not only a duplication of effort but also has the potential to create differences between locally and centrally held records. In our view, this should be stopped and a central system be used to record all land disposals.

4.12 NIHE told us that since the fieldwork for this report commenced a centralised land sales system was developed and rolled out across NIHE.

4.13 To monitor details of land disposals and for accounting purposes NIHE at present places reliance on a Finance Division report which records capital receipts received for land disposals, which is not connected to the Land Sales System. In our view, NIHE are currently relying on a range of systems that are not linked to monitor land disposals (Finance records of receipts for land sales, the Land Sales System and local databases). None of these systems currently produce management information that, in our view, is as timely, accurate and complete as it could be.

³⁶ The Management Statement: Financial Memorandum and Dossier of Controls sets out the control to be exercised over NIHE activities and represents a formal statement of the standards the Department requires the NIHE to achieve.

Recommendation 2

The current land and property systems are not linked and we have concerns over whether NIHE can successfully obtain management information that is complete and accurate. We strongly recommend that NIHE consider developing a single end to end land sales system linking the Land Terrier Management System to other aspects of NIHE's land and property activities.

- 4.14 NIHE told us that a project manager has been appointed to oversee a review into the possibility of linking of the Land Terrier Management system and the Land Sales data.

Recommendation 3

Given that the Undeveloped Land Schedule (ULS) may not accurately reflect the amount of land with development potential that is held by NIHE and that NIHE's land and property management systems are not fully linked we recommend that the Department and NIHE's Board should consider requesting at least an annual schedule of all land disposals. This schedule could include for each disposal a brief description, LPS valuation, date of valuation, sale date, purchaser, proceeds received and ULS or non ULS classification.

- 4.15 NIHE told us they now intend to provide the NIHE Board with a quarterly update of all land disposals.

- 4.16 NIHE has recently reviewed its Land Disposal Policy to take into account revised guidance from LPS³⁷ and the revised internal policy on the need for economic appraisals. We note however, that NIHE's overarching Asset Management Strategy is out of date. NIHE informed us that once the information from the latest stock condition survey has been processed, the responsibility for asset management in the organisation will be split between the Landlord and Regional Services functions. It is anticipated that this will take place in 2015-16 at which point the asset management strategy for each function will be updated and implemented.

Recommendation 4

NIHE's Asset Management Strategy (2009-12) is now out of date and although the Action Plan included in this strategy was updated for 2013-15, we would recommend that NIHE update this key strategic document.

The Department has enhanced its arrangements for oversight of NIHE

- 4.17 The Department told us that since it commissioned the governance review in 2010 it has continually reviewed and enhanced its oversight arrangements in response to previous NIHE internal control failings. **Appendix 1** provides further detail of the governance and oversight improvements that have been implemented.

³⁷ Disposal of Surplus Public Sector Property in Northern Ireland, Central Advisory Unit, Land and Property Services, DFP, March 2013.

Part Four:

There have been improvements in land and property management and governance arrangements in NIHE

- 4.18 The Department's Housing and Finance Divisions now receive regular reports from NIHE, detailing disposals of land and property. These include:
- a monthly return which is provided to Finance Division, highlighting land recorded on the ULS which is currently for sale or recently sold;
 - a quarterly return provided to Housing Division, highlighting land recorded on the ULS that has recently been sold or transferred to Housing Associations; and
 - a copy of NIHE's ULS, which is forwarded annually to Housing Division.
- 4.19 The Department told us that it continues to review its level of monitoring and oversight of NIHE to ensure best practice and in order to ensure departmental oversight arrangements are pitched at the appropriate level.

Appendices

Appendix 1: Governance and oversight improvements implemented by the Department and NIHE

The Department told us that the normal cycle of the accountability and sponsorship arrangements now include:

- bi-annual performance review meetings between the Minister and Chairman of the NIHE Board to examine performance against its business plan, budgets and targets;
- Quarterly Assurance and Risk Meetings between NIHE Chair and DSD Deputy Secretary to discuss any issues relating to assurances and risks to the NIHE Board and DSD;
- quarterly accountability meetings to discuss strategic performance, current and future financial position and governance issues, including land disposals;
- monthly performance meetings; and
- monthly Finance meetings.

The Department also explained that in addition it:

- strengthened the NIHE Board through the appointment of new a Chairman, Vice Chairman and other Board members;
- initiated the 2010 DSD Governance review and a follow-up review in 2013 to ensure that appropriate action had been taken on recommendations from the 2010 review;
- is now provided with draft Internal Audit and Corporate Assurance Unit reports;
- worked with NIHE to restructure the NIHE Senior Management Team;
- worked with NIHE to introduce a NIHE transformation programme; and
- continually reviews NIHE's Management Statement Financial Memorandum and Dossier of Controls.

The Department also commented that further actions taken in relation to oversight include:

- representation at NIHE quarterly Audit Committee and review of minutes and escalation to a departmental issues log where appropriate;
 - review of NIHE monthly Board minutes to identify issues for follow up and escalation through the issues log process;
-

- detailed review of NIHE Internal Audit and Corporate Assurance Unit reports;
 - review of NIAO reports including formal monitoring of PAC recommendations; and
 - review of NIHE's annual Governance Statement.
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Appendix 2:

Extract from the Planning Appeals Commission's decision on the zoning issue at Nelson Street, 22 May 2013 (Appeal Reference: 2012/A0079)

Procurement Rules

54. EU Directive 2004/18 on the co-ordination of procedures for the award of public contracts imposes various procedural requirements whenever a contracting authority, either by itself or through a third party, seeks offers in relation to a proposed public works contract, the value of which exceeds €6,242,000. A key purpose of the Directive is to guarantee the opening up of public procurement to competition across the EU. It requires contracts to be tendered for and awarded to persons offering the lowest price or the most economically advantageous terms.

55. The Public Contracts Regulations 2006 transpose the Directive into UK law. Regulation 3 and Schedule 1 identify DOE as a contracting authority. However, in *Helmut Müller GmbH v Bundesanstalt für Immobilienaufgaben* (C-451/08), the European Court of Justice held that the mere fact that a public authority, in the exercise of its urban planning powers, examines building plans presented to it or takes a decision applying its powers in that sphere, does not amount to the award of a public works contract within the meaning of the Directive.

56. NIHE argued that the procurement rules do not prevent DOE from entering into an Article 40 planning agreement with a private developer to secure social housing. In *R (Midlands Co-operative Society) v Birmingham City Council* [2012] EWHC 620, it was held in order for there to be a public works contract a required element is a commitment by the contractor, legally enforceable by the contracting authority, to perform relevant works. It is insufficient if, legally, the contractor has a choice and is entitled not to perform the works. The annex to Policy Procurement Note 12/10, issued by the Office of Government Commerce, makes the point that a planning obligation is normally conditional upon some voluntary act connected with the implementation of a planning permission.

57. I accept that a planning agreement could in theory be tied to a grant of planning permission for the proposed apartment development in such a way that if the appellants did not implement the permission they would be under no obligation to carry out any works specified in it. Such an agreement would not, of itself, amount to the award of a public works contract within the meaning of the Directive.

58. While the case law establishes that a planning condition or a carefully drafted planning agreement would not, of itself, engage the Directive, that is not the end of the procurement question. In this instance, the effect of such a condition or agreement would be to oblige the appellants, if they wished to implement their planning permission, to agree terms for the transfer of housing units to a registered social landlord. The appellants' bargaining position would be very weak. NIHE has a pivotal co-ordinating role in the provision of social housing. NIHE would be able to dictate the design of the development and the financial terms upon which transfer of the relevant units would take place. In the absence of an agreement with NIHE, the appellants would be unable to develop the site.

59. NIHE is not listed as a contracting authority in the 2006 Regulations but it falls within the definition of a contracting authority in Article 1(6) of the Directive. Any legal agreement between the appellants and NIHE would have as its object the execution of building works to NIHE's requirements. No one sought

to argue that the value of the works would be below the specified threshold. For these reasons, any such legal agreement would be caught by the Directive.

60. In its supplementary evidence, NIHE referred to the ruling of the European Court of Justice in *Jean Auroux v Commune de Roanne* (C-220/05), which says that development agreements or negotiated design-and-build contracts obliging a contractor to carry out works specified by the contracting authority and in which the authority has a pecuniary interest are not compliant with the Directive. NIHE accepted that a legal agreement between the appellants and either itself or a registered social landlord would not comply with the EU procurement regime.

61. NIHE put forward three options by which social housing could be delivered without breaching the Directive. Option 1 was for the developer to sell the land in question to NIHE or a housing association. Option 2 was for a housing association or NIHE to tender for land and/or social housing dwellings within a defined area. Option 3, described as "Off the Shelf", was for the developer to take a decision to build social housing on his land to the required specifications in the expectation that when completed a housing association would buy the dwellings. NIHE stated that these options were compliant with public procurement rules, as the purchase of land and existing buildings is exempt under the Regulations.

62. Option 1 and Option 2, in so far as it relates to vacant land, envisage the appellants voluntarily selling up and abandoning their current development proposals for apartments on the appeal site. The appellants showed no interest in these options. The theoretical availability of these options does not assist in the determination of the present appeal.

63. Option 3 and Option 2, in so far as it relates to completed dwellings designed to be social housing units, would be extremely risky for any developer. These options seem wholly unrealistic, unless it is anticipated that prior to construction the appellants would come to an informal understanding with NIHE and/or a housing association for the transfer of the dwellings. Such an understanding could be viewed as highly irregular, as it would enable the parties concerned to circumvent the requirements of the Directive and the Regulations. It would be wrong to decide this appeal on the assumption that the appellants would build social housing units without a legally binding agreement with NIHE or a housing association.

64. In practice, a condition or planning agreement directed at securing an element of social housing as part of an approved apartment development at the appeal site would require the appellants to enter into a contract with a social housing provider, but such a contract would not be compliant with current procurement rules. The appellants would be required to do something which they would not be able to do. Any such condition or planning agreement would be manifestly unreasonable and take away the benefit of the permission in its entirety.

Conclusions on Tenure

65. My findings on the tenure issue can be summarised as follows. The imposition of a social housing requirement on the appeal development would not be consistent with previous Departmental practice

Appendix 2:

Extract from the Planning Appeals Commission's decision on the zoning issue at Nelson Street, 22 May 2013 (Appeal Reference: 2012/A0079)

in regard to the appeal site itself and other sites proposed for social housing in Draft BMAP. It is highly unlikely that NIHE would enter into or sanction any arrangement involving the transfer of housing units to a registered social landlord within a mixed-tenure apartment development at the site. And in any case, having regard to current procurement rules, the imposition of a social housing requirement would be manifestly unreasonable. In these circumstances, it must be concluded that there is no effective mechanism to secure social housing at the site through the planning control process.

66. DOE's position shifted several times in the course of the appeal process but its final view was that the application should be refused on a "precautionary" basis. However, refusal of planning permission for private housing development on the site would fly in the face of the statutory BUAP and the DOS zoning likely to be included in BMAP, when adopted. The foregoing analysis leads inexorably to the conclusion that housing development unrestricted as to tenure is acceptable in principle on the appeal site in the prevailing legal and planning policy context.

67. I appreciate that my analysis could have implications for other sites zoned or proposed to be zoned for social housing. However, it does not represent a setting aside by the Planning Appeals Commission of the State's international obligations relating to social or low-cost housing. Planning policy for social housing in PPS 12 needs to be reviewed to take account of the Public Contracts Directive. But the planning system is not the only means by which social housing can be provided.

68. As its witness confirmed, NIHE has vesting powers and the necessary money and could arrange for the appeal site to be brought into public ownership. That was what was envisaged when NIHE prepared its HNA in 2004. While NIHE prefers to assemble land by agreement, it could if necessary deploy its more recent data on housing need in any vesting inquiry. Regardless of the outcome of this appeal, there is a reasonable prospect of social housing being built on the Nelson Street site if NIHE buys the land.

Source: Planning Appeals Commission

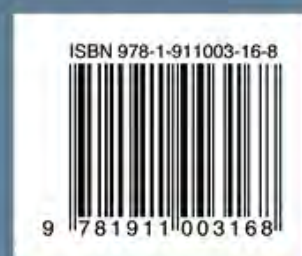
NIAO Reports 2014-2015

Title	Date Published
2014	
The Future Impact of Borrowing and Private Finance Initiative Commitments	14 January 2014
Improving Pupil Attendance: Follow-Up Report	25 February 2014
Belfast Metropolitan College's Titanic Quarter PPP Project	25 March 2014
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Primary Care Prescribing	27 November 2014
Financial Auditing and Reporting: General Report by the Comptroller and Auditor General for Northern Ireland – 2014	9 December 2014
2015	
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Local Government Auditor's Report – 2015	23 June 2015
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The Northern Ireland Events Company	29 September 2015
Financial Auditing and Reporting: General Report by the Comptroller and Auditor General for Northern Ireland – 2015	24 November 2015



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The Governance of Land and Property in the Northern Ireland Housing Executive

A report published today by Kieran Donnelly, the Comptroller and Auditor General, reveals that there was a breakdown in internal controls in the Northern Ireland Housing Executive (NIHE) relating to a number of land dealings in the period between 2004 and 2010.

Mr Donnelly concludes that weaknesses in NIHE's governance and an inadequate internal control environment prevented it from protecting its own interests and demonstrating value for money and probity in some of its land deals with private developers.

Mr Donnelly added that ***this report illustrates the risks that public bodies face if their systems of governance are ineffective; if conflicts of interest are not properly managed; when delegated authority limits are by passed; and the normal checks and balances essential for good decision-making are not in place. Governance regimes require a culture of compliance if they are to be effective and those entrusted with the leadership must give the lead on this.***

Since 2010 both the Department and NIHE have taken action to strengthen controls surrounding land and property. New systems of control and governance have been introduced.

Key Findings

Events in 2010 focused attention on governance in the Northern Ireland Housing Executive

In January 2010, alleged irregularities were raised in respect of NIHE's dealings with a privately owned site at Nelson Street in Belfast. Following an NIHE investigation, the case was formally referred to PSNI. PSNI passed a file to PPS in July 2011. PPS concluded in July 2013 that the test for prosecution had not been met.

In September 2010 the Northern Ireland Commissioner for Complaints issued a report which found maladministration in relation to the disposal of NIHE land at Hardcastle Street in Belfast.

In response to concerns arising from the Nelson Street and Hardcastle Street sites, NIHE launched the Land Disposals Review Project in January 2011. This project reviewed a number of land disposals and in 2012 referred four land disposals to the PSNI for further investigation. One of these cases was referred by PSNI to PPS. PPS concluded that the test for prosecution had not been met.

There was a breakdown in the controls surrounding land dealings and disposals

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The review of land sales in NIHE found weaknesses across a number of disposals:

- a conflict of interest that was not properly handled;
- land had not been advertised on the open market;
- the use of an undocumented and unapproved policy known as enabling to justify dealings with developers;
- a failure to obtain valuations for land being disposed of prior to sale or instances whereby outdated valuations were used;
- breaches of delegated approval limits to justify disposal decisions;
- poor planning and contract management; and
- misleading or limited information being presented to the NIHE Board.

Opportunities to tackle governance and control weaknesses relating to land disposals were not fully exploited by NIHE and the Department

The Department for Social Development raised concerns about a NIHE land and property initiative and in 2001 commissioned the Local Government Auditor to undertake a review. The Department also commissioned an internal audit review of its monitoring arrangements in 2007. Despite this, and NIHE's own internal audit report into land disposal matters in 2007, governance weaknesses continued to occur in NIHE. In our opinion these various reviews represented opportunities to tackle governance and control weaknesses relating to land disposals which were not, at the time, fully exploited by NIHE and the Department. A full scale investigation into governance weaknesses was commissioned by the Department in 2010.

There have been improvements in land and property management and governance arrangements in NIHE

All land and property disposals are now supported by an economic appraisal. Independent valuations are obtained from Land and Property Services (LPS) prior to disposal, followed by a recommendation from LPS on acceptability in cases where the selling price is below this valuation. The approval papers presented to NIHE Committees and its Board are more detailed, allowing land disposal decisions to be based on more meaningful information.

The Departmental has enhanced its arrangements for oversight of NIHE and continues to review its level of monitoring and oversight to ensure that its oversight arrangements are pitched at the appropriate level.

Notes for Editors

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1. The Comptroller and Auditor General is Head of the Northern Ireland Audit Office (the Audit Office). He, and the NIAO, are totally independent of Government. He certifies the accounts of Government Departments and a range of other public sector bodies. He has statutory authority to report to the Assembly on the economy, efficiency and effectiveness with which departments and public bodies use their resources. His reports are published as Assembly papers.
2. The Northern Ireland Housing Executive (NIHE) is an executive non departmental public body of the Department for Social Development (the Department), originally established in 1971 with responsibility for social housing in Northern Ireland. NIHE has significant land and property holdings and is one of Northern Ireland's largest landowners. During the early part of the period covered by this report (2004 to 2010), there was an extremely buoyant property market in Northern Ireland. This led to developers proactively seeking to acquire land owned by NIHE. The property market collapsed in 2007-08.
3. This report is available on the Audit Office website at www.niauditoffice.gov.uk. The report is embargoed until 00.01 hrs on Thursday 7 January 2016.
4. Background briefing can be obtained from the Audit Office by contacting **Denver Lynn (028 9025 1063)** or **Roger McCance (028 9025 4312)**.