



**Northern Ireland
Assembly**

**COMMITTEE FOR
REGIONAL DEVELOPMENT**

**OFFICIAL REPORT
(Hansard)**

**Procurement Governance in
Northern Ireland Water**

1 September 2010

NORTHERN IRELAND ASSEMBLY

COMMITTEE FOR REGIONAL DEVELOPMENT

Procurement Governance in Northern Ireland Water

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Members present for all or part of the proceedings:

Miss Michelle McIlveen (Deputy Chairperson)

Mr Cathal Boylan

Mr Allan Bresland

Mr Willie Clarke

Mr Danny Kinahan

Mr Trevor Lunn

Mr Conall McDevitt

Mr George Robinson

Witnesses:

Mr Conor Murphy) Minister for Regional Development

Mr Gary Fair) Department for Regional Development

Dr Malcolm McKibbin)

The Deputy Chairperson (Miss McIlveen):

I remind members that this session is being covered by the Official Report. Members have a paper from the Assembly Research and Library Service on the guidelines, processes and potential timelines governing investigations in the Senior Civil Service; a memorandum from the Clerk of the Public Accounts Committee (PAC) in response to the Committee's request to share papers; a note of the meeting of the Chairpersons and Deputy Chairpersons of the two Committees on 23 August; correspondence from Mr Declan Gormley; a press statement from Padraic White, interim chairman of the board of Northern Ireland Water (NIW); an additional briefing note; and a

suggested line of questioning.

I also draw members' attention to the correspondence from the head of the Civil Service (HOCS), which came to the Committee office yesterday evening. HOCS is aware that that correspondence is being tabled at today's meeting.

At the meeting of 20 August, members decided to take steps to assure themselves that the production of the Independent Review Team's report was robust and transparent. Members agreed to invite the Minister to today's meeting to brief the Committee on developments since he last briefed it on that report on 15 March, and to set out any further action he proposes to take.

The Chairperson and I met the Chairperson and the Deputy Chairperson of the PAC last Monday. Members have a note of that meeting. During that meeting we formally requested that relevant papers received by the PAC be shared with the Committee. It was also agreed that the PAC will inform the Committee of the outcome of its planned meeting to discuss the next steps in its ongoing work on this matter. In addition, the Chairperson and I decided to continue to work together with the members of the PAC to identify how best to address the concerns of both Committees. If necessary, we will meet again to discuss that.

The PAC met on Tuesday 24 August in closed session. A memorandum setting out its decisions is included in members' packs. Investigations are ongoing in this area and the Committee should proceed with caution, particularly in relation to the Civil Service investigation.

I welcome the Minister, the permanent secretary Dr Malcolm McKibbin, and Gary Fair from the Department's shareholder unit. I apologise for the delay. The Committee has had a busy morning, with four presentations and questions that went on longer than anticipated. I thank all of you for appearing before the Committee this morning. Would you like to make some initial comments, Minister?

The Minister for Regional Development (Mr Murphy):

Thank you for the invitation. I am happy to be able to come along again and talk to the Committee on this issue. The last time we had an opportunity to discuss the issue was in March, at the end of the process where the non-executive directors had been dismissed, and we briefed the Committee and were grateful for the support of all the parties on the Committee for that

course of action. We were also grateful for the comments that came out of the Committee's meeting a couple of weeks ago. I have long argued that the key issue here was the governance of NIW and its wrongful procurement practices. Those were the issues that I wanted to focus on, get to the bottom of and take action on, and the Committee's focus has also always been on those issues.

I will just run back briefly, because some of the current Committee members were not on the Committee in March. The context, which most people will be very much aware of, is that some months after Laurence MacKenzie was appointed as the chief executive of NIW, he brought to the Department's attention his concerns at the way in which NIW was trying to extract itself from the Steria contract. He was asked by the Department to try to bring that to a conclusion and to examine whether other such contracts had been awarded by NIW. After some ongoing investigative work, he brought to our attention a further five or six contracts that gave cause for concern. He brought those contracts to the attention of the board at the same time. The board took issue with his informing the Department before it had had a chance to deal with the issue. Tension developed between Laurence MacKenzie and the board to such an extent that he offered to resign.

I took the view that the issues were very serious and that I wanted him to stay in NIW and continue investigating. I also wanted to put together a team to conduct a proper investigation into the awarding of contracts by NIW. I asked him to stay on and to ensure that proper investigations were conducted. I then appointed the Independent Review Team (IRT), which was given a clear remit to examine all of the evidence on the awarding of contracts. If wrongdoing was identified, I wanted clear evidence and clear recommendations and conclusions on where responsibility lay.

Before the IRT had reported back to me, the then chairman of NIW met me on a one-to-one basis and alleged that there was an improper relationship between Peter Dixon of the IRT and Laurence MacKenzie. He did not present any substantial evidence to back that up. I asked him whether that altered the fact that the Independent Review Team seemed to be uncovering a range of contracts that had been improperly awarded, either through single-tender awards or through split invoicing to bring contracts under the level at which scrutiny would have been applied. He did not challenge that fact, but he alleged that there was some kind of relationship between the two men.

I asked the members of the Independent Review Team to meet me on my own before I received its report. I told them that there were accusations that they had been less than independent. I asked them whether they were satisfied in relation to their own independence and the work that they had carried out, whether they were satisfied that they had got access to the evidence that they needed and whether they were satisfied that any recommendations or conclusions that they had drawn from their work were clear and could stand up on the basis of the evidence that they had accrued. They answered in the affirmative to all of those questions. That was the basis on which I received the report.

On the back of the report, I took action against the non-executive directors on the board that I had appointed. The report showed that there were clear failures of governance in NIW and that there were serious issues in relation to some 74 contracts that had been identified, which involved £28.4 million. That was clear evidence of a failure of governance at NIW, and I took action against the people whom I had appointed in confidence to run a public company in the public interest.

The Public Accounts Committee thanked Lawrence MacKenzie for serving the public interest by bringing the issues forward. As a Minister, my job was to protect the public interest, ensure that public money was being spent properly at NIW and ensure that the governance procedures were being correctly followed. Although the investigation into individuals involved in awarding contracts continued, the responsibility for ensuring proper governance at NIW lay with the board. As a result, I took action against four non-executive directors. As I said, at that time I briefed the Committee and made a statement to the Assembly, and I was grateful for the support that I received.

This is the first opportunity that I have had to speak to the Committee since then. Obviously, you then asked the PAC to conduct an investigation into the procurement issues and how they were handled. I welcome that, and I want to ensure that whatever co-operation is required by the PAC from the Department, NIW or the Independent Review Team is provided to allow it to conduct its work properly in that regard. I look forward to its report, in the autumn, on all of those matters.

There has been an ongoing challenge to the independence of the IRT. That challenge originated before action was taken against the directors, and it was first brought to my attention

by the then chairman, Chris Mellor, on behalf of the other directors. There has been an ongoing attempt to question the integrity of the people involved in the Independent Review Team and of Laurence MacKenzie. The issue for me was that contracts were being awarded improperly and that the tendering for and the awarding of a substantial amount of public money was done on a basis that could not be defended. The integrity of the report and of some of the individuals involved was being challenged. There has been an ongoing series of leaks, conversations with journalists and media statements with people challenging all that. However, I have seen nothing to cause me to question their integrity. In an open and frank conversation with them before I received the report, I was satisfied as to their independence and ability to stand over the evidence that they gathered.

I understand that the Independent Review Team has also communicated in recent times with the PAC to explain any variations between the drafts that it had put together, because there was an ongoing process of work as it was drafting the report. That is with the PAC now. Perhaps the Committee will satisfy itself of that explanation when it is discussing that with the PAC. I know that you, Deputy Chairperson, and the Chairperson met with the Chairperson and Deputy Chairperson of the PAC.

Since that, I have also been dealing with the appointment of the new non-executive directors in NIW. There was a requirement to appoint independent directors. The loss of the non-executive directors, plus the report that was issued and the issues of the company — the attempt to release the chief executive from the board — were very traumatic for the company. The chief executive had offered his resignation; he tried to withdraw that letter of offer; and the board members tried to activate the letter of resignation. There was a lot of trauma. Since its creation under direct rule, NIW has never been a very settled organisation, but that was a particularly traumatic period.

In discussion with the Commissioner for Public Appointments, we wanted to establish a process by which we could appoint interim directors, almost on an emergency basis. We discussed a process with her. It was adhered to, and a number of people were identified and spoken to, and their interest in serving as interim board members was identified. I think that “conversations with purpose” is how they are described; they were not quite formal interviews. From those, we have appointed a number of interim directors, plus an interim chairman, Padraic White.

My priority in doing that was to steady the operation. As the Committee will know, NIW is still carrying out a substantial amount of work. There is huge investment going into our water and sewerage infrastructure; it is absolutely necessary to bring that infrastructure up to scratch. There is an ongoing issue of dealing with the public and providing those vital services. It was, therefore, a necessity to get board members in, to appoint an interim chairman and to ensure that the company kept providing the service that we, the taxpayers, pay it to provide. It is also imperative that I, the Department and your Committee are able to continue to scrutinise that and to assure ourselves that that is being carried on in a proper fashion.

The IRT report brought other issues to our attention, such as ongoing investigations, potential disciplinary action with individuals in the company who had been involved in awarding contracts, and recommendations in relation to the tightening up and improvement of governance. We want to ensure that they are being carried forward by the board, and I believe that they are being carried forward by the incoming board and the chief executive.

The other issue that came to light was about the Department's permanent secretary. Information was brought to my attention by the then permanent secretary on 17 August. It involved exchanges with the PAC. I considered it to be very serious, so I spoke to the head of the Civil Service and informed him of my view. I made clear my view about the permanent secretary's position in the Department: the issue was of such a serious nature that his position was no longer tenable.

The head of the Civil Service has undertaken to investigate the issues arising from that. There was an announcement yesterday about the person appointed to investigate the matter, their remit and the timeframe certainly for the start of the investigation and whatever about its conclusion. That work lies in the hands of the head of the Civil Service and the person whom he has tasked with conducting the investigation.

I am glad to say that Malcolm McKibbin has taken on the role and work of the permanent secretary in the Department. Last week, I met Malcolm, the head of the Civil Service and the top team in the Department to ensure that we are getting on with providing the public service that the Department has been tasked with doing and that that is being carried out properly.

The final issue is about NIW as a Go-co. The Committee will know that that issue has been debated for some time. The whole issue of awarding contracts and the issues identified by the Independent Review Team reaffirm ongoing concerns about governance at NIW and its performance as a Go-co. The Committee will be aware that NIW is treated as a Go-co but, for public expenditure purposes, it is treated as a non-departmental public body. I do not think that that is a satisfactory arrangement. I have been discussing that and the issue of NIW's future with officials, bearing in mind that there is now a restricted period to activate or bring forward any legislation in respect of the company. I think that we will want to do that, and I hope to be able to make some reference to that on 13 September, when I will be making a statement to the Assembly. I intend to keep the Committee briefed on any ideas that I develop about that. I do not think that this is a satisfactory situation for NIW, the Department or indeed the Assembly. Essentially, that is what has been happening.

In conclusion, Deputy Chairperson, we want to continue to ensure that there is public confidence in the operation of the Department and, in particular, of NIW. There is no doubt that that has been dented. There has been an ongoing difficulty with NIW. It was created in very unfavourable political circumstances under direct rule, and there have been ongoing issues with it since then. NIW still provides a valuable and important service, and it has done its infrastructure work very well by spending the money allocated so that it can provide a first-class sewerage and water infrastructure. It is important that it continues to do that and to provide services for customers.

I am quite happy to answer any questions about issues with NIW in order to assure the Committee. My focus in all of this has been to ensure that issues that involved indefensible actions were brought to my attention, were investigated properly and were dealt with in an up front and transparent manner and that evidence was gathered. That is what I intended to do and what I believe I did do. We intend to ensure that NIW has the support and the people involved to allow it to continue to do the job that the public have tasked it with doing.

The Deputy Chairperson:

Thank you, Minister, for your comments. In light of what has transpired over the past number of weeks, is it the case that you have no control over the actions of civil servants in your Department?

The Minister for Regional Development:

Am I in control of their actions?

The Deputy Chairperson:

Is it the case that you have no control over the actions of civil servants in your Department?

The Minister for Regional Development:

No, I do not accept that at all. I am sure that the Committee does not think that it would be a useful use of my time to scrutinise every piece of correspondence that comes in and out of the Department. In all of this, people in the Department, the Independent Review Team and I took action to get to the bottom of what was going on in NIW. We gathered evidence to see what conclusions could be drawn, to take whatever action was necessary and to ensure that further action was taken following any recommendations made by the IRT about individuals within the company.

The other matter, which has resulted in the suspension of the permanent secretary, was directly between him and the Public Accounts Committee. I do not want to go into the detail of what he told me, because that is the subject of another investigation. I considered it to be very serious, and I made it clear that my views on it were known to the head of the Civil Service as soon as I became aware of the information. Indeed, the head of the Civil Service acted on that; we now have a permanent secretary in place and the work of the Department goes on.

The Deputy Chairperson:

Clearly, there are concerns about the input that the permanent secretary had into the final report from the Independent Review Team. At what point did you have knowledge that the report had been tampered with?

The Minister for Regional Development:

I do not know how you can substantiate the claim that the report had been tampered with. That almost sounds as though there was some sort of illegal action. A draft report was produced. The inquiry was ongoing, and issues and contracts were being turned up as it developed. I received only one report, which was the team's final report.

Before I met the team, I had discussed with the chairperson of NIW his allegation, which, as I

said, was not substantiated. He did not offer any substantial evidence to back it up, other than a sense that he and other board members had that there was some kind of improper relationship between Laurence MacKenzie and Peter Dixon. He had not offered any substantial evidence to say that wrongdoing had been going on. At my meeting with him, I asked him whether that altered the fact that millions of pounds worth of contracts were being turned up that had not been properly awarded and whether that pointed to governance failures in NIW. He did not challenge that, nor did any of the board members challenge it when I met them before I dismissed them.

I met the IRT and asked straight questions on the back of my conversation with the chairperson of NIW. I asked the team whether they were satisfied as to their independence, whether they had got all of the evidence that they required and whether they were satisfied that they could stand over any recommendations that were made in their report. They answered in the affirmative to all of those questions.

The Deputy Chairperson:

So you had no input into the draft stage of the report at all?

The Minister for Regional Development:

No, nor would I have been expected to have had any input into the draft stage. I set a clear remit, and I wanted a clear report. If it was identified that that there had been wrongdoing, I wanted evidence to support that and I wanted clear recommendations. That was the remit that I set the group. When someone alleged that something untoward was going on, I satisfied myself by meeting the IRT members and asking them for assurance that they were content that what they were doing was independent and could stack up. They assured me that that was the case.

The Deputy Chairperson:

Did you have knowledge that civil servants in your Department had a copy of the draft report?

The Minister for Regional Development:

No, not necessarily. However, I am not surprised that there was an ongoing exchange among civil servants in the Department, NIW and the people who were drafting the report. I was aware that, at various times, the IRT members had expressed frustration that they were being denied information by the board of NIW. They felt that they were meeting resistance and that they were not able to get their job done properly. At times, the Department had to intervene to ensure that

the IRT got access to all of the information that it required. Therefore, I am not surprised that there was an ongoing exchange between people in the Department, NIW and the IRT.

Dr Malcolm McKibbin (Department for Regional Development):

The Committee may find it useful to have sight of the IRT's submission to the PAC. It addressed specifically the issue of the changes to the report, from the first draft to the second draft to the final format. It explains why the IRT made those changes and outlines why it rejected some of the comments made and improvements suggested by Department for Regional Development (DRD) officials. To quote from the closing paragraph:

"The IRT considers that it has approached this review with professionalism, integrity and thoroughness in establishing and testing its evidence base".

It does stress that the IRT tested the evidence base against any comments that relate to it and is:

"presenting its analysis and findings without fear or favour. We trust that the PAC will find this submission of assistance in completing its consideration".

If the Committee were to have access to that document, it might have reduced your levels of concern about many of the issues that it has raised.

The Deputy Chairperson:

Do you agree that there is a public perception that the independence of the report has now been compromised?

The Minister for Regional Development:

Yes, and I do not doubt that the origin of that is an attempt to attack the integrity of the messenger, Laurence MacKenzie, who the Public Accounts Committee thanked for his public service in bringing information forward, and of the IRT. That originated even before I took action against the directors, and, from my conversations with the chairperson, I know that it originated from people who were directors of NIW. That has continued, and there has been a drip feed of what have been billed as sensational leaks to various media agencies and Internet blogging sites to try to attack that integrity.

As I said, I have not seen anything to make me change my opinion on the information that was presented to me by the IRT members. Dr McKibbin referred to that, and it has now been presented to the PAC. I do not doubt that there were many exchanges. This was an ongoing process of investigation. At times, it met resistance and, at times, the Department was required to

intervene to ensure that the IRT had access to the evidence that it required. Therefore, I do not doubt that there were many exchanges. However, since the process developed, people have continually attacked the integrity of those who provided the report rather than attacking the findings or trying to deny that millions of pounds of contracts were improperly awarded. In my view, that does not stack up, and I have not seen anything to date to cause me to question the IRT's integrity or the independence of the report.

The Deputy Chairperson:

You mentioned the appointment of the temporary non-executive directors. It could be perceived that those are political appointments. You will be mindful that public confidence in the Department and in Northern Ireland Water is quite low. Has the process to appoint permanent non-executive members begun?

The Minister for Regional Development:

The process to appoint permanent members will begin very soon. It depends partly on our conclusions on how NIW will be constituted in the future. If we were to start the process tomorrow, it would be to appoint people to the NIW Go-co. We might conclude that that is not the best way forward. Therefore, we are trying to come to some conclusions fairly soon on the way forward for the company, after which we will, I anticipate, begin the process for permanent appointments within the next number of weeks.

It is unfair to the people who were involved to throw out a suggestion that the board members are political appointees. There are very few people in the North who do not have some sort of political affiliation. If we were to scratch the surface far enough and go through every list of boards and appointments, we would find people who have political affiliations or political views. However, I made the appointments on the basis of merit, and the appointees will do a very good job for NIW. The appointment process was done in consultation with the Commissioner for Public Appointments to ensure that she was satisfied that the interim process was carried out rigorously. It is unfair to her to suggest that they are political appointees.

Those who have tried to undermine the integrity of the report have tried to link these things together to suggest that there was a conspiracy to get rid of one board and replace it with another. The fact of the matter is that nobody can deny that millions of pounds of contracts have been wrongly procured. It was never my intention not to take action if evidence was presented to me,

but if I had not taken action, I would be having a very different conversation with the Committee.

The Deputy Chairperson:

Those who have been appointed have not hidden their political affiliations in the past.

The Minister for Regional Development:

That is fair enough. As long as they have no conflict of interest in relation to NIW, their political viewpoint should have no impact. Nobody suggests that the PAC, which is staffed with MLAs from every political party, is less than honest and robust in its attempts to get to the bottom of issues that involve public finances. It does not pull any punches when reporting on those. Therefore, the fact that someone had a political affiliation in the past should not prevent them from serving on a board here. My only interest is whether a person can do the job that they have been asked to do in the period of time in which they have been asked to do it.

The Deputy Chairperson:

To be fair, MLAs have a mandate to be here and to challenge.

The Minister for Regional Development:

OK.

Mr McDevitt:

Thank you all for your time this morning. I have not heard a single Member of the Assembly question the very serious governance issues that existed in Northern Ireland Water, nor do I think that anyone has any doubt about the need to inquire into them properly. We all have an absolute duty to ensure that those governance issues extend through all the processes of inquiry and that there is no failure — intentional or accidental — of governance at any point along the way.

On 18 January, Laurence MacKenzie offered to resign as chief executive. You said that you were made aware of that on that day.

The Minister for Regional Development:

I am not sure whether I was made aware on that day, but I was made aware at the time.

Mr McDevitt:

Were you made aware that he had basically put it up to the Department that either they went or he went?

The Minister for Regional Development:

No, I was not. The vast majority of people, both in the Assembly and outside — including people I have spoken to in public — agree that that is the core issue and that it needs to be investigated. That is challenged by some people, including some members of your political party.

Mr McDevitt:

As a matter of fact, Minister, that is not so. Anyway, the question is —

The Minister for Regional Development:

Well, I will answer your question —

Mr McDevitt:

Were you aware that Mr MacKenzie put an ultimatum to the Department?

The Minister for Regional Development:

I have seen the statement from a member of your party challenging the extent of the contracts awarded. The challenge, which was originally around the integrity —

Mr McDevitt:

Will you just answer the question of whether you were aware that Mr MacKenzie put it up to the Department on a “he goes or they go” basis?

The Minister for Regional Development:

No, that has never been expressed to me. I am not sure how you are aware of it, or whether you can substantiate that or not. Bear in mind that a lot of accusations have been made during the last number of months which have been thrown out to the media, but never substantiated. I was aware that Laurence MacKenzie brought to our attention in the beginning one contract that he had concerns about. It involved the attempt to negotiate NIW’s way out of the Steria contract, and a very substantial reward to the person who was tasked with doing that. I think that, on the face of it, most people found that quite extraordinary.

He was then asked to try to bring that to a conclusion and ensure that it would no longer be the case, and that no other similar types of contracts existed in NIW. He then discovered a further four or five such contracts. When he brought those to our attention he was then chastised by his own board, which said that he should not have brought those issues to the Department's attention until such time as it had had an opportunity to consider them and decide how it would inform the Department. There then developed an issue between him and the board members, and he offered his resignation. When that was brought to my attention I expressed the view that I did not think he should resign and that I wanted to get to the bottom of the issues that were developing in the board. I said that he should stay on to continue his work there, and that we would appoint an independent team to conduct the investigation into that.

Mr McDevitt:

The reason I asked the question is because it was asked by Jamie Delargy on UTV. I will ask the question in another way: has the Department formally complained, or is it taking action against UTV for anything relating to that specific question that was raised in that documentary?

The Minister for Regional Development:

I do not recall that question being raised during the interview — of whether Laurence MacKenzie had said “back me or back the board”.

Mr McDevitt:

It was broadcast, and you can review the tape, Minister.

The Minister for Regional Development:

It may have been broadcast, but I was out of the country at the time.

Mr McDevitt:

Is the Department taking any action against UTV as a result of that broadcast? Are there parts of that broadcast that the Department fundamentally challenges the accuracy of?

The Minister for Regional Development:

I am not aware that the Department intends to take action in relation to that. I gave an interview for that broadcast; I was out of the country when the programme was screened. It is quite

difficult if someone says that the Department was told that by Laurence MacKenzie. Who at the Department was told that? Who has had the opportunity to answer that question? Throughout the course of this, one of the features has been the accusations that have been bandied about in media circles and sometimes in cyberspace circles, which almost cannot be answered because nothing specific is put to anyone and no specific allegation is made about anyone. Those questions are left hanging. The phrase is that people have questions to answer, but those questions are never specified.

If there is an accusation that Laurence MacKenzie somehow blackmailed the Department into taking a course of action, that question will need to be put to Laurence MacKenzie and the specific person in the Department that he is supposed to have spoken to. It was never brought to my attention. What was brought to my attention was that he had got into a conflict with his board because it had disagreed with his informing the Department of the matters that he had found. As part of that conflict he offered to resign, and I made clear my view that I did not think he should resign. When he attempted to withdraw his offer of resignation, the board attempted to accept it.

Mr McDevitt:

The programme is available on the Internet; I watched it this morning, and you might want to do the same, Minister. The basic question concerns the context in which you sought to appoint and establish the terms of reference of the Independent Review Team. Establishing what was known corporately in the Department at that stage is a critical point, because it is the issue on which the governance credibility lies.

UTV was able to produce a series of e-mails which, it suggested, gave the direct impression that Laurence MacKenzie posed a series of options to a senior official in the Department, one of which was that, in order for him to remain, there would have to be changes at board level. That is fine; he is perfectly entitled to do that, I guess. However, if an Independent Review Team is then appointed, and the outcome of that review is — very hastily, in some people's opinion — to move to a series of changes at board level, one has to wonder about whether the context in which all of that took place was not somehow polluted by the events of Monday 18 January.

The Minister for Regional Development:

Then I suppose what you are getting into is the integrity of the people who were appointed.

Mr McDevitt:

No, I am not.

The Minister for Regional Development:

If the —

Mr McDevitt:

This is not about personalities, Minister. Really, it is not. It is about the process that was gone through.

The Minister for Regional Development:

Let me explain. As I said, these matters were brought to our attention, we asked for a further examination, and further contracts were brought to our attention. That, for me, as the Minister responsible for NIW, was a very serious issue. There was also the matter of the board's dealing with the issues as they were brought to its attention, and the conflict that it then got into with the chief executive.

That is why we appointed an independent team: to take this out of that conflict, and to give people a clear remit, which was to gather evidence, and, if wrongdoing was identified, to ensure that clear recommendations came on the back of that. I asked the team, before they presented me with the report, whether they were satisfied with their own independence, had been able to conduct the inquiry properly and had sufficient evidence on which to base conclusions, and whether their conclusions would stack up on the basis of that evidence. They answered yes to all of that.

I could go into the matter of the trawl of e-mails and exchanges over that time, as people have obviously done, and try to come to a different set of conclusions. However, I operated on the basis of giving the Independent Review Team a clear remit, and I satisfied myself that they had followed that remit before presenting the report.

Mr McDevitt:

Do you think it was strange that on January 25, or some time around then, that Laurence MacKenzie was able to e-mail Peter Dixon to tell him to expect a call about being appointed to the review team?

The Minister for Regional Development:

I am not aware of that e-mail.

Mr McDevitt:

Again, that was in the UTV programme. The e-mail was produced and is in the possession of UTV.

The Minister for Regional Development:

I am not in a —

Mr McDevitt:

Do you not think that you may want to watch the programme?

The Minister for Regional Development:

The UTV programme is not the only piece of work that has been done on this. There has been a substantial amount of media coverage in relation to —

Mr McDevitt:

It is in the public domain, and is a significant piece of journalism, do you not think?

The Minister for Regional Development:

I do not know. That is a question that you will have to ask of Laurence MacKenzie.

Mr McDevitt:

I am asking you whether you want to watch the programme.

The Minister for Regional Development:

There has been a substantial amount of media coverage, and I have been kept informed of it all. I did an interview for the programme, and I had an opportunity to speak to the presenter and talked to them about what material they had. I repeat that I have neither seen nor heard anything in the media, with all of these sensational e-mail releases, that has challenged the independence of the review.

I also have to say, and I said this off the record to some journalists, that the person who brought this matter to all our attention is the person whose castigation you seem to be supporting through your line of questioning. That person was thanked by the Public Accounts Committee for performing a public service in bringing out issues in NIW that were wrong and had to be challenged and dealt with and an end put to them. Yet there has been an ongoing campaign in the media, by others who supply information to various websites, and, indeed, by some political representatives, to challenge the integrity of the person who brought that information forward in the first place. If there is something that makes that stack up, by all means do that. However, what I have seen to date is a lot of sensationalising about exchanges between people.

It does not surprise me that there were exchanges throughout the course of this matter. The chief executive brought this to our attention. He got into conflict with his own board as a result of that. The people whom we appointed to investigate this had, at times, to come to us because they were not getting the proper co-operation from within NIW that they required to gather their evidence. Therefore, I am not surprised that there were ongoing exchanges of e-mails between the Department, NIW and the Independent Review Team.

Mr McDevitt:

May I remind you that this is not personal for me? The purpose of my questioning is not about the character of individuals, but to try to establish the governance that led to the appointment of the IRT.

The Minister for Regional Development:

That is fair enough, but —

Mr McDevitt:

No, Minister; you can continue to try to make it personal, but I am rejecting that.

The Minister for Regional Development:

That is fair enough. You can reject it if you want. I am saying only that your line of questioning seems to be on the same theme as that developed by various people, including some in the media, which is not about the core issue but attacking the integrity of the people who brought the information to our attention in the first place, to such an extent that some of your colleagues have called for the reinstatement of the directors and the dismissal of Laurence MacKenzie. I am

saying only that you are on a remarkably similar theme. If you are saying that it is not personal, that is fine. Maybe it is just political.

Mr McDevitt:

Minister, can I take you to your comments about the private meeting that you had with the IRT?

The Minister for Regional Development:

Yes.

Mr McDevitt:

Who was present at that meeting?

The Minister for Regional Development:

Two of the three members of the IRT were present: Peter Dixon and Jackie Henry.

Mr McDevitt:

Was anyone on your side present — anyone else from the Department?

The Minister for Regional Development:

No.

Mr McDevitt:

Was your special adviser present?

The Minister for Regional Development:

No.

Mr McDevitt:

When did that take place?

The Minister for Regional Development:

It was prior to my receiving the report. I am looking at the chronology of events.

Mr Gary Fair (Department for Regional Development):

I think that it was on 25 February.

The Minister for Regional Development:

Yes, it was on 25 February.

Mr McDevitt:

That was the day you received the report?

The Minister for Regional Development:

No, that was the date when I met the IRT.

Mr McDevitt:

On what date did you receive the report?

The Minister for Regional Development:

I received the report after that. The report was sent to the Department and I received it, I think, within a day or two after that.

Mr McDevitt:

In your statement to the Assembly on Monday 15 March, you said:

“The independent review team commenced work on 25 January and submitted its final report on 25 February 2010.” —
[*Official Report, Vol 49, No 5, p315, col 2*].

The Minister for Regional Development:

Yes, it was submitted to the Department.

Mr McDevitt:

So when did you receive it?

The Minister for Regional Development:

I received it within a couple of days of its being submitted to the Department.

Mr McDevitt:

OK. So, that was the day the IRT submitted its report to the Department?

The Minister for Regional Development:

Yes.

Mr McDevitt:

So the report was written?

The Minister for Regional Development:

Yes.

Mr McDevitt:

OK. To go back to the question of draft reports —

The Minister for Regional Development:

At that stage, if the IRT felt that it was being pressurised in some way into writing a certain type of report or if it felt that its independence or integrity was compromised, it had an opportunity, before the report was formally handed over to the Department, to raise those issues with me in private. It assured me of its independence and that of the evidence it gathered and the conclusions that it drew.

Mr McDevitt:

Thank you for that.

Coming back to the question of the draft reports, which, again, is something that was discussed quite openly in the UTV programme, the fact is that a draft was produced for the Department and that six changes were made to the draft, five of which appeared to be contextual, and one of which was a substantial change that arose out of new information. Perhaps we could deal with the five changes that appear to be contextual, one of which related to whether the focus of the final report should be solely on Northern Ireland Water or whether some of the legacy issues from the departmental days should also be on the table. You say that you never saw any of those draft reports.

The Minister for Regional Development:

No.

Mr McDevitt:

Did your special adviser have sight of them?

The Minister for Regional Development:

No.

Mr McDevitt:

So no one on the political side of the Department was being consulted or kept in touch with by senior officials on this most sensitive of matters during that period?

The Minister for Regional Development:

I was aware of the difficulty of accessing information. Any time that the Department gets into producing reports or other people produce reports for the Department, it is probably common practice for a number of drafts to be done before a final report is received. However, I have to say that I had no sight of the draft reports nor did I have any influencing or drafting responsibilities for any of the draft reports.

I understand that the IRT members have communicated with the PAC, which is conducting an inquiry into this, about the changes that you referred to, in order to explain how those changes came about. It should be borne in mind that it was a fluid situation as they were conducting their inquiry and drafting their report. Ongoing evidence was being turned up —

Mr McDevitt:

One of the six changes absolutely relates to ongoing evidence. That leaves five changes that were not related to ongoing evidence. They are subjective changes. They are issues of subjectivity. As I understand it, one of them relates, for example, to whether the final report would refer to the shareholder unit and to issues that existed prior to the establishment of the Go-co or whether it should just focus on the Northern Ireland Water issue. Given that those single tender issues go back to 1999 — according to a senior official in Northern Ireland Water who was previously a senior official in your Department — do you not think that the report itself was incomplete because it did not consider whether there were issues that pre-dated the establishment of the Go-

co that also needed to be investigated? Indeed, they were serious potential issues.

The Minister for Regional Development:

The remit of the Independent Review Team was to investigate the issues that had been brought to light by Laurence MacKenzie. We could back to the year dot in relation to the Water Board to see what had gone on. However, we had a system in which there were people in a Go-co and there were directors who were appointed by me to run that in the public interest and to ensure that the public interest was being protected at all times. That was the focus of my inquiry into actions that were happening on my watch and that I had ultimate responsibility for in terms of the operation of the Go-co. That is what I wanted to get to the bottom of.

As I said, the review team has sent the Public Accounts Committee some opinions and explanations as to what happened between the various drafts of parts of the report. I am sure that the Public Accounts Committee can satisfy itself as to whether it thinks that that was appropriate.

Dr McKibbin:

The report has a section with an analysis of the changes made between its draft and final stages. It is also wrong to think that the Department was the only organisation asked to comment on the drafts. The sub-accounting officer, the chief executive of NI Water, and the NI Water board were all asked to comment and did so. The Department commented twice, but the Independent Review Team felt that it was not appropriate to adopt a number of those suggestions, primarily because they were not felt to be appropriate when tested against the team's evidence base. Further changes were made as a result of the deep dive audit becoming available between drafts and after the preparation of the first draft. We will try to get a copy of the letter to you, as it addresses many of the concerns expressed today.

Mr McDevitt:

Dr McKibbin has raised the issue of the comments made on the draft report. Is it possible for the Committee to see a copy of that report and all of the comments made on it? That would allow us to understand the full context.

Dr McKibbin:

You will be able to see the trail.

Mr McDevitt:

No, what I am saying is can we see the draft report and all the proposed changes?

Mr Gary Fair (Department for Regional Development):

That is presumably something that you would need to approach the IRT about. It was its report.

Mr McDevitt:

No; the draft report is with the Department. It is not with the independent review team.

The Minister for Regional Development:

No, the final report is with the Department.

Mr McDevitt:

The draft report was submitted by the IRT to the Department. It has a status; it is a draft report.

Dr McKibbin:

The PAC Committee asked the Department's accounting officer for a copy of the changes that he had suggested would be appropriate. The Department can certainly provide you with those, and I am sure that the PAC will be content to release that information.

Mr McDevitt:

That is quite an important piece of information, because it points out that three or four bodies — some internal and some extraneous to the Department — had commented on a draft report. Is there a paper trail around all of that?

Dr McKibbin:

There were not three or four bodies. The IRT sought specific comments on the draft report from the accounting officer, the sub-accounting officer Laurence MacKenzie and the board of Northern Ireland Water.

Mr Fair:

The board may have had input, but the comments were specifically requested from Chris Mellor.

The Deputy Chairperson:

Given the enormity of the report and its potential consequences, I find it incredible that you had no knowledge or sight of it in advance of its coming to you in final form.

The Minister for Regional Development:

That is not necessarily abnormal. I had set the team a very clear remit of what I wanted it to do. Members of that team obviously had to communicate with the Department and the board of NIW, as some of the recommendations could have affected them. The team obviously made recommendations on governance and the shareholder unit and how it wanted to see things going forward and procedures being tightened up, and I am sure that the Committee would agree that that was very necessary. The fact that I did not have sight of every version of the report is not unusual in itself. I set a clear remit: I wanted a clear report presented to me at the end of the review process and that is what I got.

Mr Fair:

If an external consultant or an independent team is used to produce a report, it is not unusual for relevant parties to be sent copies of that report for validation purposes. That is a fairly standard practice and essentially what happened in this instance.

Mr W Clarke:

I thank the witnesses for their presence and contributions. You are very welcome, and I am sure that you are happy to get a break from the soft world of agriculture.

As the Minister said, it is about public confidence. There have been ongoing issues with NIW. Representatives of that company were before the Committee — some members will remember that — and were asked if there were any issues that could cause embarrassment that they should make us aware of. Chris Mellor was present at that meeting and had the opportunity to come out and say that he had concerns over governance issues and how contracts were awarded, but neither he nor any other board members took that opportunity.

There has been a lot of talk about the media and about trial by media. The PAC is the body that should be dealing with this issue, and it should be allowed to do so in a fair and impartial manner. The Committee supported the approach that you took. The fundamental question is whether you can stand over the independence of the report. Nothing has changed in our

Committee; we supported that. So, if there is no change from that point of view, the Committee will continue to support it.

The Deputy Chairperson asked whether you have lost control of your Department's civil servants. The same question could be put to us, because we are the scrutiny committee and have a responsibility to scrutinise the affairs of you and the Department. So, the same question could be asked of the Committee.

What opportunities did the non-executive directors have to bring the problem to the attention of you or your Department? What opportunities did they have to report those problems before Laurence MacKenzie conducted his investigation and raised major concerns? I agree that he did a lot of heavy lifting on the issue. He was in a very uncomfortable position; he put it up to NIW and said that it had to back him on the issue. There has been an attack on his credibility and professionalism, mainly from media quarters, which has come from people feeding information to the media. I have never seen any of the e-mails that have been mentioned either. The criticism of Laurence MacKenzie has been like a character assassination.

A lot of this is about creating smokescreens. Although people are leaking information to the media now, they should probably have been leaking information a lot sooner about how NIW was being governed and how the contracts were being awarded. That would have been the opportune time to go to Jamie Delargy and outline major concerns about the governance of NIW.

I would like to get some idea of what opportunities the non-executive directors had to raise concerns before Laurence MacKenzie began investigating. Did anyone raise concerns about the way in which contracts were being awarded? I would like clarification on that. Can we do things differently? I have major concerns. Even after Laurence MacKenzie began investigating, when did they have the opportunity to come forward and voice major concerns?

What is the long-term future of NIW? Will it be taken back under the control of the Department? You touched on that briefly, Minister. There seems to have been a series of breaches of public confidence. You talked about that earlier. The people who I talk to are saying that the Minister, the Department and the chief executive did the right thing. That was an example of good governance, because people like to see action where there is wrongdoing. We are continually going to have problems with NIW in its current form. It should be taken back

under the control of the Department. Obviously, there are financial implications, with Treasury and stuff, and the VAT element of that. I would like some idea of where the Minister and the Department sit with regard to that suggestion.

That is my point of view. What I want from this briefing is to hear the Minister standing over the report and its independence, because the Committee took a position on the independence of that report, coming from you as the Minister, and was very comfortable with pursuing an end to this issue.

I want to put on record again that I admire Laurence MacKenzie for the position that he took and for bringing the information to the public to clarify the issues. Other people in the same position had the opportunity to do that but did not. I also put on record my support for the Minister's taking the position that he did.

The Minister for Regional Development:

With regard to independence, as I said, I met members of the IRT before the report was submitted. I asked them very straightforward questions and was satisfied with the answers that they gave me. I have not seen or heard anything since to challenge that opinion.

There is a slight conflict in the Committee's questioning. On one hand, Mr McDevitt wants to assure himself that neither I nor my special adviser had any input into the various drafts of the report, while on the other hand the Deputy Chairperson thinks that it is unusual or reprehensible that I did not have sight of or input into the drafts of the report. I think that the correct decision was to set a clear remit and to accept the report when it was ready to be given to the Department.

In relation to the non-executive directors, one must bear in mind that the chairperson at that time, Chris Mellor, had been acting chief executive for a substantial period. The chief executive was there for only a few months before these issues were highlighted and brought to our attention. I think that there certainly should have been an opportunity for the previous chairperson/chief executive to discover the issues.

The extent of the issues pointed to a failure of governance and a failure by people to carry out the responsibilities for which they were being paid. Those people were not in voluntary positions; they were being paid for being on the board of NIW. They were appointed by me, on

behalf of the public, to protect the public interests in NIW. Where there is an ongoing practice of very serious issues, I think that ultimately the buck stops with the people who are appointed to run the company. There is an ongoing investigation into other individuals involved — employees of the company — and their role in the awarding of those contracts. I hope that that will be brought to a conclusion soon. That is why I think that the responsibility lay with the directors. They were the people whom I appointed. Other people who were employees of the company had been employed by the company itself.

Before I took any action, I met the four directors involved and gave them an opportunity to present to me any issues around the report, how they felt it should be brought forward and what they felt their responsibilities were in relation to it. I gave them an opportunity, in writing and face to face, to present me with their opinions on what should be done.

As to the future, there are questions to be asked. In the immediate term, governance issues that were identified by the IRT report are being addressed to ensure that there is a closer relationship between the Department and NIW to make sure that some of the failures that were identified do not happen again. The interim appointments have gone ahead with the interim directors.

You are right that there will be financial implications for whatever decision is made. Executive colleagues will want to have a say in relation to how that might impact on the Executive, but it is clear that the Go-co idea has not served us well. It has left us in a hybrid situation, which I do not think is acceptable going forward. I have been discussing with officials in the Department some options for going forward, bearing in mind that we are into the last term of this Assembly's mandate, and that has an impact on the legislation that can be brought forward. However, we will want to look at the options, and I hope to be able to say something about that on 13 September. I will be happy to come back to the Committee and talk to you in relation to that and to hear your views on options going forward.

Mr Lunn:

Thank you for your presentation, Minister. It is useful for those of us who were not on the Committee during all this to get your perspective. A while ago, you confirmed that you saw the report at its final stage only; you did not see any of the drafts. Have you seen any of the drafts subsequently?

The Minister for Regional Development:

No. I have not asked to see any of the drafts. The report took a number of weeks, if not months, to compile and to draft. There were ongoing exchanges between the Department, the board of NIW, NIW as an organisation and the people who were charged with compiling the report to make sure that they had access to all the information that they required. They had to ensure that any conclusions that they made could be tested and proofed against the evidence that they had gathered and that any recommendations that they were minded to make were actionable in the Department. There was an ongoing exchange. I was satisfied that they were going through a process of gathering evidence and producing a report and recommendations that were doable in the Department and in NIW. At the end, they concluded their report and it was presented to me.

Mr Lunn:

I know that the practice of allowing people who are involved or named in a particular investigation to have sight of the draft report in advance has been tried and tested. However, I have some reservations about how far it goes. Are you satisfied that the differences between the original draft report, which was completely independent, and the final report, in which — I do not use the words “tampered with” — suggested changes had been implemented, are reasonably acceptable?

The Minister for Regional Development:

The suggestion that there was no contact between the Department and the IRT before it produced even its first draft, if people want to trawl back through the records, would not be true, because the Department, through me, gave the IRT its remit, and the IRT came back to the Department about any difficulties that it encountered when it was trying to conduct its investigations. Therefore, there was an ongoing discussion between the Department and the IRT before the first draft was received. As I said, at the end of the process I am satisfied, because the process was about producing a final report.

I satisfied myself by meeting the IRT that, over the course of its work in producing various drafts, gathering evidence and testing whatever recommendations it wanted to make against the evidence, it was satisfied that there had been an independent exercise, that it had been able to draw its conclusions and that it had been able to gather the evidence needed to back them up. That was very clear from its recommendations.

Dr McKibbin:

It is probably useful to again go back to the IRT's letter to the PAC, in which it talks about how it defined its approach to the review by ensuring that the summary and analysis were evidence-based. It stresses time and time again that all its conclusions and recommendations had to have an evidence base:

“The key to this was the validation process where the IRT offered the Accounting Officers of NIW and DRD and the NIW Board the opportunity to validate and comment on the draft ‘evidence based’ analysis of findings before the IRT determined its conclusions and recommendations.”

The IRT saw that exchange with the accounting officer, the sub-accounting officer and the chairman of the board as absolutely key to validating its evidence and ensuring that the findings that it reached, as it said all the way through, were evidence-based and without fear or favour.

The Minister for Regional Development:

Bear in mind that throughout the course of all that has happened since, nobody has actually challenged the evidence. What they have challenged is the paper alleging that the process was interfered with — contaminated — or somehow not as independent as it should have been. Nobody has ever challenged the evidence that was produced.

Mr Lunn:

The IRT signed off on the final report and confirmed that it was an independent report that had been dealt with in a normal way; I am not suggesting otherwise. However, I am also a member of the Public Accounts Committee — that is a declaration of interest — and I have seen the analysis of the changes. The question of the report's independence almost goes back to the appointment of the members of the IRT. I know that you put the team together fairly quickly and that you asked for a quick report. However, with the benefit of hindsight, are you satisfied that the system for appointing people to that sort of report team or board is sufficiently robust and that you conducted those appointments satisfactorily?

The Minister for Regional Development:

I am satisfied. People may have known one another, but this is a small place, and everybody knows everybody. We were looking for a balance. We had a person who was involved in a public utility company, and there are not that many of those in the North — there are eight or 10 utility companies here, or whatever number there are. That was needed because, if the team was going to assess the procurement practices of NIW properly, it was essential that it had someone

who had experience in procurement for a utility company. We had somebody with a consultancy and financial background: Jackie Henry. We also had somebody with a background in public sector and governance issues. I think that that was the right balance.

You are correct to say that the team was put together quickly. However, by the same token, it had the correct balance. The investigation needed to be put together and to get to the root of the problem. Bear in mind that at that stage it was public knowledge that there were procurement issues at NIW. Therefore, it was important to put together a team and to ensure that it was able to carry out the work.

The team's membership was put together and announced, and the process of the report and the investigation continued. It was late in the IRT's lifetime before people started to challenge me, particularly in relation to Peter Dixon. At the start, when the appointments were made public, no challenge was made to allege that there was a conflict of interest or that there was anything untoward in the relationships of any of the people involved. As the conclusions of the report were coming together in the short period before I received it, those issues were brought to my attention.

Mr Lunn:

Did Laurence MacKenzie have an input into the appointment of those three people?

The Minister for Regional Development:

The names were brought to my attention by the Department, which did not suggest that anyone else had any input into the appointment.

Mr Lunn:

So Laurence MacKenzie was not consulted at that stage — he was just told who the three IRT members would be?

The Minister for Regional Development:

The names were brought to me by the permanent secretary in the Department, as suggested by the background. We talked about the balance in skill and interest levels that we needed. We needed to put a team together quickly to restore public confidence by getting to the bottom of the issue quickly. The Department and I were determined to get to the bottom of the issue, and both senior

and less senior civil servants were determined not to try to handle the matter in a way that would offset or mitigate the impact of the investigation. From day one, there was a determination to get to the bottom of this and to deal with it correctly, whatever the consequences, including criticism of the Department. That was done to try to restore some degree of public confidence in NIW.

Mr Lunn:

At times, the Public Accounts Committee has commented on the appointments process generally. When you came to appoint the interim directors to replace those who had been fired, you involved the Commissioner for Public Appointments and, presumably, a proper selection process took place. I do not know whether the posts were advertised publicly or whether people were recommended for the posts. That process seems satisfactory, but how does that contrast with the original appointment of the non-executive directors who were eventually asked to leave? Was the process just as robust then?

The Minister for Regional Development:

They were appointed through the normal process. The interim appointments were made through a process that was agreed with the Commissioner for Public Appointments, but it was not a normal process with advertisements in the paper inviting expressions of interest, sifting through CVs, shortlisting people to be interviewed and considering people for recommendation for appointment. It was a different process because it was for interim appointments; it was about getting people in quickly for a short period.

The appointment of the non-executive directors before that was for four years, and there is a substantial financial reward for appointment over four years. The process for appointing the interim directors was necessarily more truncated. It is for a shorter period of time — we envisage in and around nine months. I hope that, before this month is out, we will embark on a permanent appointment process, which will involve advertising and expressions of interest.

Mr Lunn:

When the original non-executive directors were appointed, was a due process followed that is equivalent to the process that has taken place to appoint their temporary replacements?

Mr Fair:

A due process followed the full appointments process. The guidelines were adhered to.

Dr McKibbin:

It is important to point out, in fairness to Felicity Huston, that, although she supported the arrangements that were being undertaken to appoint the interim non-executive directors, she regarded them as an exception to the code. She asked us to ensure that appropriate independent validation took place and that the appointments did not last for an undue period of time. Those arrangements were used because of the need to get people in posts rapidly. As Mr Fair indicated, the original non-executive directors went through the full appointments process, while the interim appointments were made through a more truncated process.

Mr Lunn:

I know that we cannot talk about your predecessor in any detail, Mr McKibbin, because of the ongoing investigation. Minister, are you happy enough that, when you announced his suspension, you used the words “no longer tenable”? In retrospect, would you have put it that way again? The head of the Civil Service was at great pains to emphasise that it is not a disciplinary matter and that Mr Priestly has been suspended to allow an investigation to proceed. That is fair enough, but I cannot help think that it is a career-ending statement when a Minister says that an individual’s position is untenable.

The Minister for Regional Development:

To correct you, I did not suspend him. That was a matter for the head of the Civil Service.

Mr Lunn:

You asked that he be suspended.

The Minister for Regional Development:

I did not announce his suspension. Information that I considered to be very serious was brought to my attention for the first time on Tuesday 17 August. I am a former Deputy Chairperson of the Public Accounts Committee, and I consider its work to be some of the most serious in this institution. Furthermore, I found the issue to be damaging to the Department, and, as I said, there will be an investigation into it. That is why I made my views clear to the head of the Civil Service.

The Department has been through a challenging process. I would much prefer that the

problems in NIW had not happened and that we could get on with the work that NIW is tasked with. However, when I am confronted with issues, I am obliged, as a Minister, to tackle them head on and not to sit back or damage-limit the exercise in any way. I very much regret that we had to deal with those issues, but deal with them we had to. The information that was brought to my attention potentially damaged the Department's ability to deal with that, follow it through and ensure that we co-operated properly with the Public Accounts Committee to investigate that properly. That is why I made the statement that I did.

Mr Lunn:

I am querying your choice of words, not the action.

The Minister for Regional Development:

I considered his position in the Department to be untenable, and I made that clear.

Mr Lunn:

Do you not think that it would have been kinder to say that you had asked for him to be removed from his position temporarily during the investigation?

The Minister for Regional Development:

I did not ask the head of the Civil Service to take a particular course of action. I expressed my view that I considered it to be a very serious issue.

Mr Lunn:

You said that his position was "no longer tenable".

The Minister for Regional Development:

That was my public view in the Department. As I said, the Department has had to embark on a very challenging course of action. We have been presented with some very challenging issues, and we have had to deal with them and defend dealing with them. We will, quite rightly, go in front of the Public Accounts Committee to explain the Department's course of action. I felt that anything that interfered with that damaged the Department's ability to do its work.

Dr McKibbin:

The responsibility for investigatory or disciplinary steps against permanent secretaries quite

clearly lies with the head of the Civil Service. If it would help, I could give the Committee an overview of the process. However, if members believe that they already have sufficient awareness of that from the correspondence, I will leave it. The Deputy Chairperson can decide whether she wishes to hear an update on the process.

The Deputy Chairperson:

Do members wish to avail themselves of that opportunity?

Mr McDevitt:

We have a paper on that here. I have read it.

The Deputy Chairperson:

It might not do any harm for members to get that information.

Dr McKibbin:

All matters relating to Paul Priestly are being taken forward within the framework of the employment policy set out in what is known as the NICS HR handbook, which contains a range of policies associated with conduct and discipline. As I said, it is up to the head of the Civil Service, Bruce Robinson, to initiate action against permanent secretaries if he believes it appropriate. In light of information that emerged on 17 August, he suspended Paul Priestly on that date. That followed the Public Accounts Committee meeting of 1 July. At the time, Mr Robinson stressed that that suspension was not a disciplinary penalty but was simply to facilitate the investigation that was about to commence. Given the nature of the issues and the seniority of the person involved, he felt that it was important to appoint someone to carry out the investigation who had considerable experience of the upper levels of the public sector, particularly a thorough understanding of public accountability issues, and who had no direct involvement with the Northern Ireland Civil Service.

As you will have noticed from today's press release, that person is Sir John Shortridge KCB, who was previously a permanent secretary of the Welsh Assembly Government. He has agreed to carry out the investigation, which will commence at the beginning of October, because he has ongoing commitments until that time. It is hoped that that part of the investigation will conclude by the end of October. As you know, the terms of reference have also been put into the public domain and, indeed, were copied to this Committee and the PAC yesterday afternoon. Sir John

will also have the scope to investigate any other civil servant who he believes has been involved in those issues.

On receipt of the investigation report from Sir John, Bruce Robinson will determine what the next steps should be. Procedurally, that is in compliance with what is in the handbook. At this stage it would clearly be wrong to speculate on what the outcome of any such investigation might be. In accordance with the obligations placed on employers by data protection legislation, the contents of an investigation into a member or members of staff cannot be put into the public domain. Consequently, that investigation report will not be made public.

It is, however, recognised that there is public interest in this particular case, but the head of the Civil Service cannot comment until he has received and considered the outcome of that investigation. At that stage he will then determine the next steps. That is where we are. There will not be a running public commentary or Civil Service commentary on the process of the investigation as it is ongoing.

The Deputy Chairperson:

Thank you for that. Mr Lunn, are you content?

Mr Lunn:

I am; thank you.

Mr G Robinson:

Minister, the first point that I would like to raise concerns the appointment of the chairman and the non-executive board. Did you make those appointments yourself?

The Minister for Regional Development:

Yes. Any appointments to any of the boards attached to the Department are made by me.

Mr G Robinson:

You mentioned political appointments earlier to the Deputy Chairperson — or maybe she mentioned them to you. Because of the nature of what we are trying to achieve, should they not have been completely independent appointees with no political connections whatsoever?

The Minister for Regional Development:

It was a suggestion of the Deputy Chairperson.

Mr G Robinson:

There are suggestions that perhaps one or two of them may have Sinn Féin connections. I am just being open and honest about it. I am not trying to compromise or question the integrity of the people that you have appointed, but so that it is completely fair and open, and in view of what you are trying to achieve with Northern Ireland Water, we have to try to be as open as we possibly can from now on.

The Minister for Regional Development:

I am only aware of one of the appointees having any connection with Sinn Féin at any stage; I am not aware of any of the rest. What you try to do, as we did with the Independent Review Team, is try to get a balance of people with different facets that they can bring into position. They must be people who can inspire some degree of public confidence, who are well regarded and have carried out roles in the past that inspire us and, I hope, inspire the public to have confidence in them going forward.

I remind you that this is a very tricky period for NIW, and we need people who will, if you like, steady the ship. I have no reservations. I think that you would go a very long way to find people who do not have political views, affiliations or backgrounds in relation to quite a lot of appointments. I do not think that necessarily means that people are not independent. I fully anticipate that the people who are appointed to NIW, if they feel that there is some issue that they need to take up with me or the Department, will do so without any fear or favour at all. In the same way, I expect the PAC, regardless of who is on the Committee or who chairs it, to pull no punches when it comes to calling things as it sees them, and they are all political people. It is not incompatible to have a political background or political past and serve as an independent member of a board.

Mr G Robinson:

In this case, we are trying to expose and have as much openness as we possibly can. That is where I am coming from.

The Minister for Regional Development:

The openness comes from the fact that the Commissioner for Public Appointments wanted to ensure that an independence was attached to this. It is recognised that these are interim, emergency appointments for a short period. I certainly expect that those appointed will do a good job.

If we looked at the political pasts of individuals appointed to all boards, we could unearth quite a few. However, the question about NIW is whether those people have the ability to do the job, ensure that NIW continues to provide the service for which the public pay, and support senior NIW staff to get on and focus on the job in hand. That is what we want to happen.

Mr G Robinson:

I am not questioning their integrity.

The Minister for Regional Development:

I appreciate that.

Dr McKibbin:

One thing that has come out of this unfortunate series of events is that people are much more aware of their responsibilities when they take up a position as a non-executive director, and that there will be tremendous scrutiny of many non-executive directors, none more so than those at Northern Ireland Water.

Mr G Robinson:

What was your rationale for the action that you took arising from the IRT report?

The Minister for Regional Development:

There were serious issues about awarding contracts. Single-tender actions are not defensible. You, as much as I, will know that in this economic climate, people struggling to get work in whatever field will want to be assured that there is an open and fair system in awarding public contracts, and a level playing field for everyone. Quite clearly, that was not the case at NIW. The splitting of invoices to make sure that certain awards of contracts stayed below the radar was also a serious issue of governance.

I appointed in trust and confidence a number of people to the board to run NIW. Those issues were of such seriousness that I did not have confidence that people were on top of the situation. In addition, the IRT recommended a course of action that needed everyone to be on board and to recognise the seriousness of the issues with which they were dealing, and to be determined to deal with them, put them to bed, put things right and get NIW operating on a proper footing. That is the confidence that I have to have in the people who I appoint to the board of NIW, and I did not have that confidence in the four directors who I dismissed.

Mr G Robinson:

Did you seek any other options or other advice?

The Minister for Regional Development:

The advice that I got was in the reading of the report and discussing matters with my senior officials. At the end of the day, however, the buck stops with me, and I have to take the decisions. I appoint people in confidence, because I represent the public interest with regard to what goes on at NIW. I am an elected representative, and I represent the public interest. I appoint people to act in the public interest, and I have to have confidence in them with regard to the issues with which they deal, and also with regard to the report's recommendations, and I did not have that confidence.

Mr Bresland:

Why was an independent review needed, and what was your role in that process?

The Minister for Regional Development:

The first instance of a contract drawn to our attention by the chief executive involved NIW's attempt to negotiate its way out of the Steria contract. That flagged up serious concerns for me, as it did for the chief executive. The instruction was then to try to bring that to a conclusion. Obviously, it was a contractual arrangement, so it had to be brought to an end in a certain orderly fashion. However, it was also necessary to find out whether NIW had awarded any similar types of contracts. In a very short period, the chief executive brought to our attention a further five or six contracts that had been awarded in a similar fashion.

We then became aware of a conflict between the chief executive and the board, which wanted to be in control of what information was given to the Department, or wanted to have a handle on

that before the Department had a handle on it. With regard to the fractured relationship between the chief executive and the board, I felt the need to appoint people who were independent, could go in there and do a job of work for the Department in investigating what was going on, gather evidence to support whatever findings they had, and reach clear conclusions.

The Deputy Chairperson:

Just on that point, Minister, in hindsight, do you have any views on whether an independent report would be perceived as being independent when the client and the subject are the same body? Would it not have been wise at the time of commissioning the report for it to be handed over to the likes of the Department of Finance and Personnel?

The Minister for Regional Development:

I suppose that that could have been considered. The bottom line is that ultimately the decisions based on the report have to be taken by me. I am the Minister who is responsible for the Department. I do not think that there is any issue with inviting people in to do a job of work for the Department and carry out an investigation. Bear in mind that the issues were coming into the public domain. There was a need to act quickly, to get to the bottom of it quickly and to take whatever course of action was necessary as a result of the report. Therefore, if we had handed it over to another Department, we would have had to brief it and, ultimately, any report that came back would have had to come to me for action. Therefore, it could be argued that that would have been an unnecessary duplication of work or an unnecessary passing of the buck to another Department to actually bring something forward. As I have said throughout the course of this, I satisfied myself that the people who were tasked with conducting that inquiry considered that they did so without any interference and were content with the evidence that they had gathered and the recommendations that they had made.

The Deputy Chairperson:

I am looking at it with hindsight in that today we would not be questioning the independence of the report, that is all.

The Minister for Regional Development:

That is fair enough. As I said, in hindsight, the course of attack on this piece of action has been about the independence of the report. These people were publicly appointed to carry out their work, and no one came forward to say that there was any conflict of interests. It was only as the

team started to gather its evidence and started to come towards conclusions that there came an attack on the integrity of the people involved. Over the past number of months, that has sustained itself through various individuals, some elements of the media or some people in political life. For me, while it has amounted to a daily or weekly drip feed of stuff into the media, it has not amounted to anything that challenges my view of the independence and the propriety of the report that I got.

Dr McKibbin:

With respect, the modus operandi adopted by the Independent Review Team was of its choice. It would still have interviewed the 27 or 28 people that it did; it would still have asked for the Department, the accounting officers and the board chairman to validate its findings and make comments. Therefore, it would still have been open to the same potential allegation that the report was not independent. The fact that it was so quickly put into the public domain, along with the findings of the deep dive audits, helps with the attempt to improve public confidence in the process.

The Deputy Chairperson:

I apologise for cutting across you there, Mr Bresland.

Mr Bresland:

Did you consider any other options or models?

The Minister for Regional Development:

For the review team?

Mr Bresland:

Yes.

The Minister for Regional Development:

No. We considered that we needed people to go in to NIW who had experience. As I said, there was a balance in the experience and the areas of expertise that they had. One had experience in utilities, one in public sector governance issues, if you like, and one in financial issues. We put together that balance of three people to go in to do a job of work for the Department.

Mr Bresland:

Thank you.

Mr Boylan:

I thank the Minister for coming today to answer questions.

Obviously, our role is to scrutinise you and the Department. On a number of occasions, we — particularly Mr Clarke and I — asked members of NIW whether there were any more skeletons in the cupboard, because we were very concerned about how things were running at that time. I think it was about 18 months ago that we got assurances. However, subsequently, we have seen what has happened.

I want to talk about the contracts themselves. People are forgetting about what exactly sparked this off. I know that you answered the question about the report, and I will not go down that road. We had the Construction Employers Federation in this morning talking about job losses and everything else and about people out of contracts not being given opportunities. Clearly, people out there never got opportunities with these contracts. That has been clearly exposed. People are lambasting Laurence MacKenzie, but he is the man who exposed all this in the first place. People are trying to undermine exactly what happened there. I commend him on that.

We supported the report and we supported you, Minister, at the time. We also supported all the investigations into NIW and asked all the relevant questions at that time. From the point of view of public confidence and the ongoing investigations into the contracts, where are you with that? Are investigations into those contracts ongoing? How do you propose to go forward? The Go-co has, obviously, been problematic. We have to get to a point where we restore confidence in all of that.

The Minister for Regional Development:

In relation to the ongoing work, I met the board members last week. I also spoke to the chairperson, who was out of the country, by telephone. The board met last Friday, and they made it clear that their focus was on bringing to a conclusion the ongoing investigatory work into individuals in NIW who may have had some responsibility for awarding those contracts, and on ensuring that the focus of NIW as an organisation was on the service that it is paid to provide, and

getting on with that in a first-class way.

Those issues aside, NIW has had a troubled history. However, no one can deny that it has invested a substantial amount of public money in essential infrastructure projects across the whole region, and has done that very well.

The interim board is keen that that investigatory process be drawn to a speedy conclusion. I do not know its exact time frame, but if people in NIW face disciplinary action as a consequence of the investigation, they will, obviously, be entitled to defend themselves, even if that involves legal defence.

That work will go on, and I hope that it reaches a speedy conclusion, because we want to ensure that we get back to complete focus on the services that NIW provides. Obviously, the work of the PAC continues. It will, I presume, report its findings some time in the autumn, and I look forward to seeing those.

I am considering the issue of the Go-co and its status. I am examining a number of options, and I hope to make a decision in the near future. We want to make permanent appointments to the board, and people are entitled to know the future of the board and under what conditions they would be applying to become members. I want to reach conclusions on that fairly quickly. If that has financial implications, I will need to discuss that with Executive colleagues.

Mr McDevitt:

The head of the Civil Service, in his statement today, tells us why Mr Priestly was suspended. He says that it relates to his role in the correspondence that a member of the Independent Review Team sent to the Public Accounts Committee. I presume, therefore, that it was information with regard to that correspondence that led you to lose faith in Mr Priestly on 17 August.

The Minister for Regional Development:

Yes.

Mr McDevitt:

Did you speak to Mr Priestly, or did he speak to you? Who initiated that contact?

The Minister for Regional Development:

He contacted me.

Mr McDevitt:

OK. Mr Priestly was the man in the Department who designed the Independent Review Team process, and the Independent Review Team reported to Mr Priestly.

The Minister for Regional Development:

Yes, through him to me.

Mr McDevitt:

Yes, and you suspended him because of — and this is in the public domain —

The Minister for Regional Development:

I did not suspend him.

Mr McDevitt:

Sorry, you lost confidence in him, and spoke to the head of the Civil Service, who subsequently suspended him, as a result of correspondence — e-mailing — in which he had engaged with a member of the Independent Review Team about the events that had taken place at the Public Accounts Committee.

That is fine, but you have come here today and you have not questioned a single one of his actions between 18 January and 25 February around any of the Independent Review Team stuff. You said you were not concerned that Mr MacKenzie was able to tell Peter Dixon that he was going to be getting the call.

The Minister for Regional Development:

I did not say that I was not concerned; I said that I was not aware of it, which is different.

Mr McDevitt:

I suppose that my question is this, and it is a serious question: how can you have no questions about the Independent Review Team process when there is so much information now in the public domain about correspondence, formal and informal, and contacts, formal and informal,

that took place between Mr Priestly and members of the Independent Review Team?

For example, Mr Priestly, after receiving what I presume was draft 1, wrote back to Jackie Henry, who was a member of the Independent Review Team, and said:

“An independent commentator might decide DRD was at fault for failures in the governance at NIW. Such a finding would be perverse in its travesty.”

Therefore, at that time, he was engaged in correspondence with members of the Independent Review Team. With the greatest respect to Mr Fair and Dr McKibbin, I have to say that those are not comments of fact — they are subjective comments of opinion, which is OK. However, it would appear that they are comments of opinion about changing the nature of the report to reflect his opinion. I do not understand how you, Minister, still have total confidence in all his actions during that period when, very improperly, he did something following that Public Accounts Committee hearing, which, rightly, led you to have serious doubts about his ability to remain at the helm of your Department.

The Minister for Regional Development:

You should perhaps correct yourself as to what I have said throughout the course of this engagement. I did not say that I had disregarded any of the questions that were raised. I said that I had actually been across a lot of the accusations that had been made and that I had satisfied myself in relation to them. I have not disregarded them, but I have heard nothing which leads me to question the independence of the report presented to me.

Mr McDevitt:

But you said earlier that you were unaware of a lot of the internal correspondence that was made available to UTV, and that raises questions about official involvement in the finalisation of the report.

The Minister for Regional Development:

Well, that is what UTV says. If it is —

Mr McDevitt:

Well, I know, I mean it is —

The Minister for Regional Development:

As I said at the very start of this — and I think that the Minister of Finance concurs with my view

— if a Minister were to spend his time examining all the correspondence coming in and going out of his Department it would not be a very useful use of his time. Therefore, I quite readily say that I am not aware of all the correspondence that was exchanged. The question is then a different one, on which I think that you have taken a different view: was I not concerned or had I not raised any questions in relation to the ongoing issue of correspondence? Of course I have raised that, but I have heard and seen nothing throughout the course of that which leads me to question the independence of the review team. Nothing leads me to a conclusion other than satisfaction with the report that I received. To date, I have not heard anything to change that.

Of course I have been aware of all of the things that were argued, and I have had many discussions with departmental officials in relation to that, but I have not heard anything which has caused me to reconsider the independence of the report. Nothing has stacked up or even been suggested to challenge the report's evidence of very serious issues of procurement and governance in NIW not being conducted properly.

Mr McDevitt:

No, but there are significant questions about the context in which the report was commissioned, which was a deadline from the chief executive of Northern Ireland Water.

The Minister for Regional Development:

That is your view.

Mr Mc Devitt:

Well, that is now a matter of public record.

The Minister for Regional Development:

Well —

Mr McDevitt:

As I said, you have not —

The Minister for Regional Development:

I do not consider it —

Mr McDevitt:

Your Department, based on your reply to me, has not challenged any of that. You have not contested any of what was reported by UTV. So, I presume that if you are not contesting it you are not fundamentally disagreeing with any of it.

The Minister for Regional Development:

Well, that is —

Mr McDevitt:

Otherwise, would you not seriously wish to contest it?

The Minister for Regional Development:

Well, on what — I do not know whether you saw the UTV programme. You said you did.

Mr McDevitt:

I did indeed.

The Minister for Regional Development:

I did a fairly lengthy interview with Jamie Delargy on the programme in which I contested quite a lot of what he put to me in relation to all of that. Therefore, it is not simply a question that those issues are being disregarded or present no concern to me. Of course I have been concerned since then to satisfy and continue to satisfy myself of the independence of that report. I have had many discussions with departmental officials in relation to all of that. However, I have had nothing presented to me, seen nothing and not been presented with any evidence from all of the sensational leaks and exchanges of e-mails that have been drip-fed to the media or to other political parties that has caused me to reconsider my view in terms of the independence of the report or made me question the correctness of the action that I took on the back of it.

Mr McDevitt:

Is there not something of the Chinese monkey going on here? Is it just such an overwhelming problem? We in the Committee agree and support you in trying to get to the bottom of what is a very significant crisis of governance in Northern Ireland Water — one that probably predates the establishment of Northern Ireland Water. You also have a duty to look into the actions of the Water Service from 1999 up to —

The Minister for Regional Development:

We are also restricted in examining the actions of previous Ministers.

Mr McDevitt:

I understand some of that and I accept it, but there is a public finance issue that probably merits investigation.

The Minister for Regional Development:

I know that this Committee discussed with the Public Accounts Committee how it envisaged that Committee taking forward the investigation into all of this. I do not know whether that included a suggestion that the Public Accounts Committee go back further in the history of the former Water Service to investigate any other matters.

Mr McDevitt:

The point that I am making is that given what we know today about what happened in the Department for Regional Development between 18 January and 25 February, there are many questions outstanding as to —

The Minister for Regional Development:

I can stay here all day and answer them, if you like.

Mr McDevitt:

You have not been able to answer most of them, to be honest with you.

The Minister for Regional Development:

Which ones have I not answered? Let us go over them again.

Mr McDevitt:

You say that you are not aware of the fact that Mr MacKenzie sent a communication to senior officials on the date of his letter of resignation.

The Minister for Regional Development:

But you are also saying that, if it is the case that he sent it, it in some way influenced what the

Department did. So you are extending that further than simply a communication. You are saying that that means that the Department's course of action in setting up the IRT was as a consequence of and was influenced by the communication from Laurence MacKenzie.

Mr McDevitt:

I am asking a question with the benefit of hindsight. Now you know that information, does it not cause you some concern about the subsequent course of action that the Department took under the stewardship of Mr Priestly, who is a man in whom you lost confidence when he behaved in an entirely inappropriate way?

The Minister for Regional Development:

That is a different issue.

Mr McDevitt:

It is a different but linked issue. If you had reason to lose confidence in Mr Priestly as a result of information which was brought to your attention about e-mails that he sent to a member of the Independent Review Team, do you not think that you should wonder about what might have been going on in your Department during the period of the Independent Review Team's report?

The Minister for Regional Development:

You have to act on the evidence that is in front of you and the information that is brought to your attention.

Mr McDevitt:

You might want to watch the UTV programme —

The Minister for Regional Development:

If you consider —

Mr McDevitt:

There was quite a lot of evidence in there that I would want to follow up on, if I were a Minister.

The Minister for Regional Development:

I have looked at all of the information.

Mr McDevitt:

You said that you have not seen the programme.

The Minister for Regional Development:

All of the information that was used in the programme has been in circulation before and since.

Mr McDevitt:

Are there no outstanding questions in your mind from any of the issues that were raised?

The Minister for Regional Development:

Let me go over again what I said to you last time. There have always been questions. I have continued to discuss the outworking of all of this with officials in the Department. To try to present a notion that, somehow, I disregarded any of this or that I had no concern about it — of course I have continued to examine any allegations of impropriety in the production of the report, even though I find them all unsubstantiated. I have examined all of those, but I have seen and heard nothing that leads me to question the independence of the report or the propriety of the actions that I took on the back of that report.

Mr McDevitt:

Thank you, Minister.

The Minister for Regional Development:

Is that the questions done?

Mr McDevitt:

You take the opinion that the material that arose in the UTV programme is not material to what we are discussing. That is fine. If you take that opinion, that is it. My opinion, for what it is worth, is that, if I were you, I would watch that programme. That is what I would do if I were Minister. That is my opinion.

The Minister for Regional Development:

Fair enough, and you are entitled to it, but I assure you that all of the information that was produced before that programme, on the programme or since the programme has been examined.

If I do not have UTV tapes sent over to me when I am on holiday —

Mr McDevitt:

It is on the Internet, Minister.

The Minister for Regional Development:

I assure you that all of the information has been examined. You are also drawing some conclusions.

Mr McDevitt:

I am not.

The Minister for Regional Development:

You are.

Mr McDevitt:

I am not; I am asking questions.

The Minister for Regional Development:

Allow me to speak. You are drawing the conclusion that if I take issue with something that the permanent secretary of the Department has done, every single action that he has taken as far back as the year dot is somehow tainted. That is not the case.

Mr McDevitt:

I am not saying that.

The Minister for Regional Development:

You did put that to me.

Mr McDevitt:

I am saying that it would raise questions, given that it is a related process. It was not a bolt out of the blue; it is an e-mail that relates to the same investigation.

The Minister for Regional Development:

We have dealt with issues on an ongoing basis since I came into the Department. We have raised questions on an ongoing basis with NIW and various other arms of the Department and discussed them with officials. We are continuously questioning processes and decisions and actions taken. That is an ongoing issue of being in charge of a Department. Your conclusion is that if someone takes issue with something that the permanent secretary has done, every issue that he has been involved in since he came into the Department should be re-investigated or re-examined. That does not necessarily hold water.

You also said that the e-mail that had been sent by Laurence MacKenzie to someone in the Department had somehow dictated the entire pace, nature and conduct of the investigation. There is nothing to back that up.

Mr McDevitt:

Fair enough; thank you.

Mr Lunn:

Minister, when I asked earlier about the appointment of the IRT, you confirmed that they were your appointments and that you made them quickly in the interests of expediency. I do not mean to criticise you, Laurence MacKenzie or Peter Dixon. However, I have here a letter to Paul Priestly from one of the non-executive directors who was dismissed, and in that letter he wrote:

“I know that the Independent Review Panel convened by you and Laurence MacKenzie as joint Accounting Officers is due to report their findings shortly”.

Was he completely wrong about that? You said that Laurence had no input into those appointments.

The Minister for Regional Development:

Laurence is the accounting officer in NIW, and there is an overlap in responsibility. He brought that information to the Department in the first place and, as the accounting officer for NIW, he is responsible for carrying out the recommended course of action and any further investigatory work in NIW into the individuals involved. Obviously, those who produced the report had a duty to report to the accounting officer of NIW, the accounting officer of the Department and, ultimately, me.

Mr Lunn:

This was before the report came out. There are two schools of thought on this: one, which I do not subscribe to, is that Laurence MacKenzie and Peter Dixon were too close for comfort; the other, as you have said, is that Laurence MacKenzie had no input into the appointments and did not know that Peter Dixon was going to be on the review team. However, one of the non-executive directors appears to think that Laurence MacKenzie, as the joint accounting officer, had some input and must have agreed to Mr Dixon's appointment.

The Minister for Regional Development:

Ultimately, accounting officers are the ones who are responsible; that is why they are called accounting officers. Paul Priestly was the permanent secretary and accounting officer for the Department and Laurence MacKenzie is the chief executive and accounting officer for NIW. The consequences of the report obviously have a very significant impact on them, and through them to me, but that does not necessarily mean that Laurence MacKenzie had a role in deciding who was appointed. I had no conversation with him on who was appointed to the review team. The names were brought to me for my views as to whether they were suitable, and I appointed them.

Mr Lunn:

Were those names brought to you by Mr Priestly?

The Minister for Regional Development:

In any appointment process in the Department — whether on a limited piece of work such as this or for interim or full-time appointments — a list of names of people who have gone through a filtering process is brought to me and, on the basis of my examination, I ultimately decide who to appoint.

Mr Lunn:

It actually sounds as if you are both correct. You sanctioned the list that was given to you, but that list was perhaps prepared with the co-operation of Mr MacKenzie. If he had something to declare about his relationship with Mr Dixon, he could perhaps have said so prior to the list ever coming near you.

The Minister for Regional Development:

You are also assuming that because people have said that they were friendly —

Mr Lunn:

No, I am not.

The Minister for Regional Development:

You say that Mr MacKenzie may have had something to declare. When the team was appointed on 20 January 2010, no conflicts of interest with any members of the team were brought to my or the public's attention. It was only as the investigation was coming to its conclusion that some of the directors came forward and made allegations about an inappropriate relationship between Peter Dixon and Laurence MacKenzie. However, they did not give me any information to stack those allegations up.

Mr Lunn:

I am not aware —

The Minister for Regional Development:

I have heard no evidence since then, either.

Mr Lunn:

Nor have I, in either this Committee or the Public Accounts Committee. However, I would draw it to your attention that it looks as if Mr Priestly and Mr MacKenzie compiled a list of potential board members.

Dr McKibbin:

We need to be careful, because we are speculating about what someone did or did not do. What I know is that the accounting officer, Paul Priestly, and the sub-accounting officer, Laurence MacKenzie, jointly commissioned the project for the IRT. However, I am not aware what input Laurence may or may not have had into the selection of the individuals involved in carrying out that project, and it does not seem as though anyone else here is either.

The Minister for Regional Development:

There is also speculation about the nature of the relationship between them. People have said that these people were too friendly, but I do not know. However, if someone is indicating that there was an inappropriate relationship or a conflict of interest they should back that up with some

evidence, rather than firing out vague statements and flinging mud with the hope that it will stick by association. That is what has happened over the past number of months. That is not to say that I do not take accusations seriously and do not examine them. However, a lot of vague suggestions have been made about people. In my opinion, that has been done to try to, through accumulation, damage the inquiry rather than to challenge the findings.

Mr Lunn:

As you rightly say, everybody in this country knows everybody else. The country is not big enough.

The Minister for Regional Development:

Unfortunately so.

The Deputy Chairperson:

That concludes the questions from the Committee at this stage. However, we may wish to submit further questions to you in writing. You indicated that you are content to come back to the Committee.

The Minister for Regional Development:

Yes, absolutely.

The Deputy Chairperson:

The timescales and so on will be dictated by the PAC's findings and what it intends to do. However, we will be in contact.

The Minister for Regional Development:

Thank you very much.

The Deputy Chairperson:

Thank you very much.