



Northern Ireland  
Assembly

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**PUBLIC ACCOUNTS  
COMMITTEE**

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**OFFICIAL REPORT  
(Hansard)**

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**‘Transforming Land Registers: The  
LandWeb Project’**

18 March 2010

**NORTHERN IRELAND ASSEMBLY**

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**PUBLIC ACCOUNTS COMMITTEE**

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**‘Transforming Land Registers: The LandWeb Project’**

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**Members present for all or part of the proceedings:**

Mr Paul Maskey (Chairperson)  
Mr Roy Beggs (Deputy Chairperson)  
Mr Jonathan Craig  
Mr John Dallat  
Mr Jeffrey Donaldson  
Mr Trevor Lunn  
Mr Patsy McGlone  
Mr Mitchel McLaughlin  
Mr Jim Shannon

**Witnesses:**

Mr Craig Apsey ) BT  
  
Mrs Patricia Montgomery ) Land and Property Services  
Mr John Wilkinson )  
  
Mr Stephen Peover ) Department of Finance and Personnel

**Also in attendance:**

Mr Kieran Donnelly ) Comptroller and Auditor General  
Ms Fiona Hamill ) Treasury Officer of Accounts

**The Chairperson (Mr P Maskey):**

We move on to discuss the Audit Office report ‘Transforming Land Registers: The LandWeb Project’. I remind members and visitors to switch off their mobile phones and other electronic

devices, as they interfere with the recording equipment. Mr Stephen Peover, the accounting officer for the Department of Finance and Personnel (DFP), will introduce us to his colleagues.

I also welcome Mr Kieran Donnelly, the Comptroller and Auditor General, and Ms Fiona Hamill, the Treasury Officer of Accounts.

Given that no members wish to express any interests in the matter, we can proceed.

**Mr Stephen Peover (Department of Finance and Personnel):**

With me today are John Wilkinson, chief executive of Land and Property Services (LPS), Patricia Montgomery, director of customer and business improvement and registrar of titles in Land and Property Services, and Craig Apsey from BT.

**The Chairperson:**

We have a lot of questions to get through, so please be succinct and to the point when answering members' questions, and please do not leave out any information. Paragraph 1.2 sets out the key aims for the LandWeb agreement, which include: the electronic accessing of information, thereby reducing turnaround times; improving performance quality; reducing registration costs; and creating a secure archive. To what extent has each of those objectives been achieved? How do you continue to monitor that progress?

**Mr Peover:**

May I begin by focusing on the key positives of the project? I think that, by and large, the project has been a success. As someone who was not in the Department at the time, I can say that without any sense of personal pride about it. The project has won a number of awards and met all its ministerial targets, and it has dealt with a substantial increase in the number of applications and managed to process many more applications within target. In fact, it has processed 86% of applications within target, as opposed to something like 52% in 1999-2000. The project has provided a secure archive for the documents, and it has rolled out compulsory first registration across Northern Ireland. It has also led to customer savings, estimated at up to £6-8 million, on access to land information. That has saved people having to travel to access information.

It has also obviated the criticisms that the Lay Observer for Northern Ireland made about the system in the past, it has reduced the average level of fees to below the level in 2000 and it has

enabled us to begin the implementation of e-registration, subject to take-up by the legal profession. Therefore, it has done quite well in achieving the objectives that were set.

**The Chairperson:**

Thank you. Appendix 3 of the report states that the Westminster Public Accounts Committee expected “substantial progress” to be made on the computerisation of the registry by 1995. However, we can see clearly that the service was not operational until July 2004, which was nine years later. Are you satisfied that that represents a prompt and adequate response to the Westminster Public Accounts Committee’s recommendation in 1995, especially for a system that is key to the effective operation of conveyancing in the North of Ireland? That question needs to be answered.

**Mr Peover:**

It was an adequate response, but it would be difficult to argue that it was prompt. However, there were reasons for that. As you know, the project eventually became a free-standing arrangement under which the contractors are paid through a transactional charge. This was done a very long time ago, and a different Department was involved — the Department of the Environment (DOE) in those days — and, as I understand it, there was no capital money to invest in the system and there was a period during which the resources were not available. Subsequent to that, when a way forward was found through a PFI process, which, I think, DFP suggested originally, it took time to negotiate the contract. You will see that one of the timelines in the report sets out the various stages. Given the nature of the contract, those dates were not unreasonable. However, if you are asking whether it could have been done sooner, the answer is yes.

**The Chairperson:**

Nine years is unreasonable.

**Mr Peover:**

A lot of the delay was due to the unavailability of public money to invest in the project.

**Mrs Patricia Montgomery (Land and Property Services):**

At the time, we were running under departmental running costs, and, therefore, any moneys that were coming in as fees were paid into the Department, and the Department was paying us back moneys. However, we did not have any capital funding. Therefore, we had to change the way

that the organisation was funded. We went into the net running costs, and we were charged with raising fees to cover our costs. We still did not have capital moneys at that stage to invest, or certainly, we did not have enough, and that is why we had to go down the route of the PFI.

**The Chairperson:**

Paragraphs 4.2 to 4.7 deal with the project management arrangements. Any outside observer looking at this matter would be entitled to conclude that there was a very cosy relationship between BT and Land Registers. Are you satisfied that everything was above board and that there was no impropriety in that arrangement?

**Mr Peover:**

Yes, I am satisfied that there was no impropriety. You are right to say that a close working relationship exists. Looked at another way, however, I would regard that as evidence of a good partnership working between the Department and BT. We were not simply hiring a contractor to provide a service and then walking away from it. We were working in a long-term strategic partnership with a contractor to achieve the benefits that we talked about earlier.

If you are asking whether the governance arrangements were adequate, technically speaking, the project board did not meet often enough, and the arrangements about how issues would be signed off were not clear enough. If you ask me whether that made much difference in practical terms, the answer would probably be no.

A diagram in the report shows the project management structure, but it does not show the tier above that, which is where the Department and the Minister gave clearance. Therefore, major decisions were not just kept within the project governance arrangements; they were escalated to the Department and the Minister. In practical working terms, when the project board was not meeting, the people who should have been on that board, had it met, had regular meetings under another guise. In fact, there were hundreds of meetings over a period of time. Craig was located in our buildings, and there was daily contact between him and his equivalent on our side.

I can do nothing but hold my hands up and say that, technically speaking, the governance arrangements did not work in the way in which they should have. However, in practical terms, that has not led to a deficit in the project, and I believe that there was certainly no impropriety in the way in which the project was managed.

**The Chairperson:**

Given the Minister for Regional Development's actions last Friday over the single-tender actions in NI Water and taking paragraphs 3.19 to 3.22 of the Audit Office report into account, is there a difference between what happened in NI Water and the appointment of casework assistance to Land Registers at a cost of approximately £15 million?

**Mr Peover:**

I cannot speak in detail about NI Water; it is not my area of responsibility. I must be careful in what I say, but as I understand it, some of NI Water's contracts may have been particularly manipulated to ensure that tendering was not required. In our case, we entered into a partnership with BT to work on a particular project. During the development of that project, in the post-tender negotiations and as a result of the working relationship that developed along the way, opportunities arose to do additional things. We took legal advice on whether it was legitimate to do those things with our partner, BT, and the advice was that it was legitimate to do so under European contract law. Therefore, we acted with expediency and for other reasons, which are set out in the report. I do not know enough about the situation in NI Water, but, on the face of it, I think that the two cases are not comparable.

**The Chairperson:**

I am not asking you to comment on NI Water; I just made the comparison, because that case received media coverage recently. In your case, appointment caseworks cost in the region of £15 million, and a single-tender action was involved. Did you talk to other companies about the tender for the project?

**Mr Peover:**

The term "single-tender action" does not quite describe what happened with casework assistance. We needed a resource to clear a backlog that was escalating out of control. At one stage, the backlog was as high as 28,000 cases. We were under pressure from the legal profession, the community, the Committee for Finance and Personnel and politicians, so the problem needed to be resolved. Had we tested the market directly, a delay would have been introduced to the process.

**The Chairperson:**

It took you nine years. Rather than talking about delays, we are concerned at this stage to ensure that there was value for money and fairness in the procurement and tendering processes. In 1995, the Westminster Public Accounts Committee said what could and should have been done by then, yet it took you until July 2004. Should those issues not have been addressed in that time?

**Mr Peover:**

Do you mean that we should have addressed the casework assistance problem in 1995? The backlog arose after that time. Many additions to the contract came about as a result of genuinely unforeseeable circumstances. For example, no one — certainly not us — foresaw the increase in the number of transactions that came about as a result of the boom in the housing market here. European legislation allows contracts to be extended or expanded in genuinely unforeseeable circumstances. Furthermore, having taken the best advice that we could at the time, things arose that our specialist advisers did not foresee. That meant that the contract process for working with our partner had to be adjusted. I take your point; however, genuinely unforeseeable and urgent problems arose in a political context that was such that we needed to respond quickly to those pressures. John Wilkinson and I were talking about the matter earlier, so he may wish to say something about the management and operational side of LPS.

**Mr John Wilkinson (Land and Property Services):**

I joined LPS in 2007, which was at the back end of the heat of battle in the project. At that time, the Northern Ireland housing market was experiencing an unprecedented boom. I am a chartered surveyor with 35 or 36 years of experience, and I had not seen anything like that in my life, even in London and the south-east in the late 1980s.

When rolling out the LandWeb project, the Land Registry, as it was, ran into a period when the housing market was booming. That boom added to the volume of transactions and meant that values increased by about 45% over a very short period. All those things added to the complexity and the scale of the project and made it very difficult and very challenging for everyone who was involved at the time. However, looking at it from the other side now, my feeling is that the project was a huge success, as the permanent secretary outlined, and it is moving forward and enabling us to register property in Northern Ireland.

**Mr Peover:**

If we go back to the 28,000 backlog, we estimate that it sits at just over 3,000 cases for 2009-2010. That means that the process has reduced the backlog substantially.

**The Chairperson:**

I was not questioning the effectiveness of the system; I am questioning why it was not put out to tender. You said that time could have been an element and that it could have taken a bit longer. How much longer would it have taken had it been put out to tender?

**Mr Peover:**

If it had gone to tender, it would have taken at least a year, and probably two years, by the time that it went through the processes. It would certainly have taken a year.

**Mr Wilkinson:**

The difficulty was that we were dealing with a problem that was escalating by the month. Patricia has some of the figures on that. However, my take on the situation was that in 2007 in particular, every week was another week of difficulty.

**The Chairperson:**

Conversations were had with BT, and it has put in a very effective system. However, did you even speak to anyone else about putting in a similar type of system?

**Mr Peover:**

Bear in mind, the system that was in use was a BT system. As I understand it, there was no great interest from other people, because they would have had to pick up the system that BT already had in place and they would have had either to try to run a system alongside that or to have a different system. The skills and the staff were available through BT, so we were quite happy with it.

**The Chairperson:**

If you are saying that there was no great interest from other people, that means that you spoke to other people.



**Mr Peover:**

Yes.

**Mrs Montgomery:**

We were aware of who else was in the market, although we did not formally test the market. Certainly, in conversations that we had with other providers, no one was suggesting that they had any interest.

**The Chairperson:**

Who would they have been? Do you have any details?

**Mrs Montgomery:**

We spoke to other providers in Northern Ireland, who were the same people whom we would have talked to about the training project, that is, the computerised learning and reference archive (CLARA) project.

**The Chairperson:**

Do you have names of companies, for example?

**Mrs Montgomery:**

I think that Fujitsu would have been one such company. Of course, we would have gone back to the original people who bid on the contract, who I think were Fujitsu.

**The Chairperson:**

It would be useful if you could give the Committee that information. I am asking those probing questions because some people from outside might see a cosy relationship, and we want to address that to ensure that that was not the case. Therefore, we would appreciate it if we could have the details of who you spoke to and what their thoughts were.

**Mr Peover:**

We regard it as a good relationship, rather than as a cosy relationship.

**The Chairperson:**

Those are your words. We are trying to expel that suggestion from what people on the outside

think. Therefore, more information on that would be useful.

My questions were about setting the scene, so members will have more detailed questions to ask.

**Mr McGlone:**

I want to expand on the Chairperson's point. The Committee's briefing documents state, specifically on the computerisation of the Registry of Deeds function, that BT was clearly involved and that the contract was clearly tied up with BT. However, the notes state that that opportunity was not offered to other bidders, even though one, prior to BT's appointment, had expressed an interest in developing that specific area. Do you not have those details with you?

**Mr Peover:**

Do you mean the details of the other contractors?

**Mr McGlone:**

One contractor had specifically expressed an interest in the project.

**Mrs Montgomery:**

That was the other bidder. Originally, there were three bidders for the contract.

**Mr McGlone:**

Is that specifically on the Registry of Deeds function?

**Mrs Montgomery:**

Yes. One of the other bidders was interested in the LandWeb contract.

**Mr McGlone:**

Were they not offered the opportunity to bid?

**Mrs Montgomery:**

They did not want to take it forward.

**Mr McGlone:**

I want to be clear in my mind about this. Did they express their interest and then withdraw it?

**Mrs Montgomery:**

Yes.

**Mr McGlone:**

Did they do that formally to you?

**Mrs Montgomery:**

Yes. I think that that is correct.

**Mr McGlone:**

Was there no question of the contract being tendered to other potentially interested companies at that point?

**Mrs Montgomery:**

No. We did not go out to tender to any other company.

**Mr McGlone:**

Thank you. That probably clarified that point. Mr Apsey, your CV is very extensive. I am sure that you have brought a lot to the project. Your CV states that you joined BT in 1995 with a background in marketing and that you were then a civil servant working in the ICT department of the former Department of Social Security (DSS). Did you work for BT, then the Civil Service, and then go back out again?

**Mr Craig Apsey (BT):**

I joined the Civil Service in 1985 as an executive officer programmer. I worked my way through to senior executive officer, running quite a large IT programme in the DSS. In 1995, I moved to BT.

**Mr McGlone:**

You did not work at the ICT department of the DSS as a civil servant?

**Mr Apsey:**

I worked in the ICT department of the DSS between 1985 and 1995.

**Mr McGlone:**

On behalf of BT?

**Mr Apsey:**

No; as a civil servant.

**Mr McGlone:**

Did you leave BT?

**Mr Apsey:**

No, I did not join BT until 1995. I joined the Civil Service in 1985, and I joined BT in 1995. I have been with BT ever since.

**Mr McGlone:**

OK. That is unclear.

**The Chairperson:**

We need to stick to the —

**Mr McGlone:**

I just wanted to establish the sequence of involvement.

Mr Peover, you referred to the number of processes. I am interested in this matter, because your former colleagues from DOE met the Committee to discuss the Planning Service, problems with electronic planning information for citizens (e-PIC), overspends and running behind times. At one point during the questioning in that meeting, one of your former colleagues highlighted certain issues and referred to the involvement of Central Procurement Directorate (CPD) in the project. Was Central Procurement Directorate, or whatever its equivalent may have been at that stage, involved in this project?

**Mr Peover:**

CPD did not exist as an organisation in that form at that time. I think that that advice was taken from the Central Computer and Telecommunications Agency (CCTA), which was the predecessor of the Office of Government Commerce (OGC). All those organisations have changed over time. Advice was also taken from legal advisers.

**Mr McGlone:**

Was there not an equivalent in DFP to deal with the matter at that stage?

**Mr Peover:**

Central Procurement Directorate did not exist in that form in those days.

**Mr McGlone:**

I want to get it clear in my mind. Was there no equivalent of CPD at that stage in DFP?

**Mr Peover:**

Advice was also taken from the Central Information and Technology Unit for Northern Ireland (CITUNI). Procurement advice was available in the Department.

**Mr McGlone:**

There appears to have been a pattern of issues with procurement and tendering and so on. I am trying to establish the extent of the involvement of DFP and CCTA with the advice that they may have given about the project.

**Mr Peover:**

Advice was taken from them about the extension of the contract.

**Mr McGlone:**

Perhaps it is inappropriate of me to ask that entirely of you today, because that advice was given quite a while ago. However, I am sure that there are documents on that that could be provided to us.

**Mr Peover:**

Bear in mind that documents from that long ago may have been destroyed as a result of the

normal destruction schedules for files and so on. I cannot guarantee that documents are available from as far back as that, but we will check. I am not sure, but the Audit Office may have done some checks as part of the process of preparing the report.

**Mr McGlone:**

They probably would have been flagged up if they had been done. The report that we are considering is nearly two years old. I want to get into a number of details. We clearly want to investigate the demonstration of value for money, and I think that you referred loosely to customer savings of £8.1 million.

**Mr Peover:**

The savings were £6.8 million.

**Mr McGlone:**

How did you come up with that figure?

**Mr Peover:**

That calculation was done as part of the benefits realisation exercise, which looked at the costs to the legal profession of having to inspect deeds manually. Manually inspecting deeds meant having to go to an office in Belfast and spend time getting hold of and looking at deeds, rather than going through LandWeb.

**Mr McGlone:**

Did somebody decide that it would take a solicitor who is based in Cookstown or Magherafelt, for example, a certain length of time to travel to Belfast? Did somebody do that exercise?

**Mrs Montgomery:**

Yes.

**Mr McGlone:**

Are you saying that that is a saving to the customer?

**Mr Peover:**

Yes, it is a saving to the legal profession.

**Mrs Montgomery:**

It is a substantial saving to any solicitor who is now able to use LandWeb to access the information. Previously, they had to go to Belfast whenever they wanted to examine deeds.

**Mr McGlone:**

Given this competitive day and age in which some solicitors are out of work, do you think that perhaps that does not stack up quite as neatly as the figures suggest?

**Mrs Montgomery:**

I actually think that the figures and the hourly rate that we used are probably very low. Pre-LandWeb, it was common practice for solicitors to drive to Belfast, because that was the only place that they could get hold of documents. Therefore, they were taking a large chunk out of their day to look over the deeds.

**Mr Peover:**

The cost of travel is not the only issue; the cost of their time must also be considered. Whenever a solicitor is in the car or sitting in the Land Registry office looking at documents, they are not doing whatever else they should be doing.

**Mr McGlone:**

I am aware of that, but I am also aware that a number of solicitors would write to Belfast to get the information. I used to deal with quite a number of cases in which there were a lot of delays, and, invariably, the solicitors who were involved informed me that they were writing to Belfast for the documents. However, that is only an interesting by the by.

I want to get back to the chronology of the report. Paragraph 1.13 states that since the agreement was signed, Land Registry has encountered an unprecedented increase in business as a result of the buoyancy of the property market. Obviously, that created a windfall. Did Land Registry receive, or benefit from in any way, any of BT's windfall profits? If so, by how much?

**Mr Peover:**

You say "windfall profits", but it is not done that way.

**Mr McGlone:**

Explain to me how it is done.

**Mr Peover:**

BT is paid by transaction cost, and there is a standard rate of charges for specific transactions. Whenever the number of transactions rises, BT gets more money, and whenever the number of transactions falls, BT gets less money. Effectively, if the system does not work, BT does not get paid. The contract is one in which the risk of performance passes to BT. Therefore, whenever the market is up, BT benefits, and whenever the market falls, BT loses. It is paid only by transactions. There is no standing charge, and we are not paying BT a set fee, regardless of the number of transactions. That is the way that it works, so I would not call that a windfall profit.

**Mr McGlone:**

BT, therefore, benefited tremendously from this during the boom. Is it benefiting at all now?

**Mr Peover:**

It is suffering now. I can't speak for BT, but as the number of transactions falls, it earns less money from the contract.

**Mr McGlone:**

Therefore, does that mean that, in boom times, BT benefited and the Department did not?

**Mr Apsey:**

The systems themselves have to be upgraded in times of boom, and BT has to put in additional support and equipment. If the Department had taken a standard procurement route on this project, it would have ended up with a very large change control from the company that it gave the contract to. In the event, going with BT resulted in an upgrade to the systems at no cost to the Department, because we had service levels to run to and we were not going to get paid if the systems could not deal with the transactions that were going through. Having made that investment, there was a downturn in the housing market. That means that that equipment is now sitting idle. The risk was transferred to BT because that is where it was best placed to sit. As a consequence, if you take the overall life cycle of the programme, there is still a real question mark over whether BT will ever make a profit from the deal.



**Mr McGlone:**

You said that upgrades had been done at no cost to the Department. However, there seems to have been quite a cost to the public purse.

**Mr Peover:**

There was no cost to the public purse. It is a transaction-based contract. People who use the service pay for the service.

**Mr McGlone:**

Perhaps I can explain what I mean. The value of the agreement was £46 million at 1999 prices, which is a negotiated increase of 163% on BT's original bid.

**Mr Peover:**

That is not a cost to the public purse; it is a cost to the public.

**Mr McGlone:**

We are dancing on a head of a pin with that point.

**Mr Peover:**

It is an important point that those who use the service pay for it; that is a fairly common feature of systems of this type. You suggested that the Department did not benefit. However, it did.

Another theme in the report is that we should have responded more quickly to the increasing market and that we should have reduced fees. The Department and the public purse benefited because money from the surpluses went into the Consolidated Fund.

**Mr McGlone:**

Forgive me if I am having a wee dull moment, but you are saying that, at one level, there was no benefit to the Department, yet there was benefit to the public purse.

**Mr Peover:**

No, I did not say that. When the market was rising, the Department took in more fees. Some of those fees went out in transactions to BT to pay for its part, and the rest was used to cover the Department's running costs. Indeed, we made a surplus. As you can see in the report, there is a

theme that the surpluses were allowed to accumulate to too high a level. Land Registers was not, and the LPS is not, a trading fund. It cannot accumulate surpluses and build them up as reserves, so it passed them back to the Department, which put them in the Consolidated Fund. They were then used for public expenditure in Northern Ireland.

**Mr McGlone:**

That is the point that I was trying to get to — the overall benefit to the public purse.

We will move on to the actual transaction charges from BT. Based on the model submitted in support of BT's bid, what was BT's estimate of the number of chargeable transactions in a year, and how did that compare with actual throughput?

**Mr Peover:**

Which part of the report are you referring to?

**Mr McGlone:**

I am referring to paragraph 1.13 of the report.

**Mr Peover:**

I do not know what BT's original estimate of the number of chargeable transactions was. Bear in mind that if a number of transactions is involved in an interaction with the Department, only one charge is paid to BT as part of that total.

**Mr McGlone:**

A financial model was apparently submitted in support of BT's bid, which would, presumably, have been based on the number of transactions chargeable in the course of a year. You may not have that model with you today. I am happy enough to have that sent to the Committee.

**Mr Peover:**

Are you talking about the original bid back in 1998?

**Mr McGlone:**

Yes; there was an estimate of the number of chargeable transactions in a year.

**Mr Peover:**

Craig has been with us from the start. He may have that personal knowledge.

**Mr Apsey:**

There was a number of different transaction types, depending on the nature of the transaction. They ranged in price from compulsory first registrations (CFR), which had the highest costs — I am sorry, but I cannot remember what those costs were — right through to land information system charges, which had the lowest. I can assure the Committee that, as is always the way with life, the highest charge ended up coming through at 50% of the transaction volume that we predicted, and the lowest charge came in at about 200% of the predicted volume. However, the two costs did not cover each other. In the end, the overall volume that came through was lower for us.

**Mr McGlone:**

Back to my original question; do you have that financial model?

**Mr Apsey:**

The financial model was submitted as part of the bid.

**Mr McGlone:**

So, we can get that.

**Mr Peover:**

We will look for a copy of the relevant section of the bid.

**Mr Shannon:**

Stephen, I want to raise a concern that I believe the Committee also shares. Paragraphs 1.10 and 1.11 state that the value of the project increased from £17 million to £46 million in the space of eight months. That is quite worrying. Anyone who saw that figure would wonder how that could happen. Who was responsible for drawing up the initial output specification? What skills did they have, and did they have the necessary vision to appreciate how IT could be used to re-engineer and transform the Land Registers' business? That is a big issue, and I am keen to hear your answer, as is the whole Committee.

**Mr Peover:**

I have to admit a number of things. First, I do not think that there was sufficient experience in Land Registers at the time for it to have been fully aware of the potential for IT to transform land registration and the associated processes. We have all learned lessons as the process has gone on. Some mistakes were made, and the failures include the issue with the Registry of Deeds at the outset. That was a mistake, and there is no point in trying to pretend otherwise. We had to deal with the matter subsequently, and it has been successful. The process was very complicated. Craig can describe the practical complexities involved, because the technology was quite difficult. The paper part of the transaction was easy enough, but the mapping part proved to be quite a problem.

You asked me whether we had a clear vision at the outset of what might be achieved by that process, and the answer has to be no. It would be foolish to pretend otherwise. However, the process has developed very effectively along the way as we have learnt the system's potential. I may be doing a disservice to my colleagues and our predecessors by saying that.

**Mrs Montgomery:**

Our problem was that masses of work came through the door. We had a terrible problem with storage. We were unable to turn work around quickly enough; backlogs were building up, and we knew that we had to do something. We were also very concerned that we did not have a secure back-up system.

A combination of those factors meant that we were failing to provide a decent service to the customer, and we had to do something about it. IT seemed the right way to move forward. We initially worked on the basis of the Land Registry being the subject of the IT project. We were going to leave the Registry of Deeds, the idea being that the introduction of compulsory first registration, which was part and parcel of the IT, would mean that property would be moved from the old, unregistered Registry of Deeds system into the new Land Registry system. We were quite hopeful that that would happen fairly quickly. However, as we moved through the process for Land Registry, it became clear that it was not going to be that quick and that we were going to have to hold on to the Registry of Deeds. That is why the Registry of Deeds became integrated into the whole project. We realised that the two systems had to marry to get proper cohesion between a Registry of Deeds sale and a CFR coming into action to provide a land registration.

**Mr Peover:**

To be fair to our predecessors, I would like to add a further comment. The Chairperson opened the session by referring to the objectives set out in paragraph 1.2 of the report. Those objectives have been largely achieved. With more insight, we might have achieved other things, and progress has been made along the way. The systems in our sister agencies in the rest of the UK and in the South are evolving and developing. They have sometimes provided services that they subsequently withdrew because of concerns about security of access, and so on. Therefore, those matters are evolving, and I would not want to be too hard on those who originally drew up the specifications. By and large, they did a good job, and the objectives set out in paragraph 1.2 have largely been achieved.

**Mr Shannon:**

There seems to be agreement that the issue may not be how the system was drawn up and designed. However, the question that we all want answered concerns the amount of money involved in each case.

Without being presumptuous about age, I will say that, as we are all of a similar vintage, we can all remember the TV programme ‘Double Your Money’. Here we have an equivalent Civil Service show that is better than the one on TV, which could be called “Quadruple Your Money”. The cost rose from £17 million to £46 million and then to £78 million. I am sure that those involved could not believe their luck; all their Christmases had come at once. How can you honestly tell Committee members who are accountable to the taxpayer, and who, like yourselves, are taxpayers, that such an astronomical and quick rise in cost constitutes value for money?

Stephen, in your response to an earlier question, you talked about England and elsewhere being involved in similar processes. Compared to what has happened there, does the process here represent value for money? It may be unfair to ask about what happened in England and Wales, but I raise the issue because it was mentioned.

**Mr Peover:**

Sorry, I should have come back to your point about the costs as set out in the report. I want to say a number of things. The report states that we are talking about different price bases. Therefore, the £17.5 million and the £46 million cited represent two different price levels. If we were to do the £46 million at present cost, it would come to £27.5 million or so. That is the more relevant

comparison.

The contract was extended; additional things were done. For example, we have spent almost £15 million on casework assistance, which was a discrete item that was considered in its own right and added to the figure of £78 million. The figure of £78 million is fairly shaky in the sense that we are making assumptions about how things will pan out over the lifetime of a contract. Given the variability in the property market and the present downturn, we believe that the figure is now considerably less than £78 million. However, we do not know what will happen next year or in subsequent years.

Any attempt to predict the value of the contract over its lifetime is fraught with difficulty. As John said, in his experience as a valuer, and in our experience as citizens, there has never before been a property market boom on the scale of that which occurred between 2006 and late 2007 to early 2008. House prices were rising; the average house price rose by 54% in that period. That was an unusual phenomenon, and prices have now dropped. I do not know where prices will go this year, next year or the year after, but it would be unusual if they were to revert to the level of the boom years. It is difficult to estimate the value of the contract over its lifetime. We do not think that it is as high as £78 million, but your guess is as good as ours.

**Mr Shannon:**

The only people who are rubbing their hands are those from BT. Stephen, as paragraph 1.10 outlines, you were, effectively, dealing with one bidder in that eight-month period. I am thinking of the figures of £17 million and £46 million. The Committee and the taxpayer are entitled to see value for money. How can you be sure that the market was tested properly and that the agreement that, according to the report, was signed in July 1999 represented the best value for the taxpayer and for government?

**Mr Peover:**

A process of competitive tendering took place, and I shall save BT's embarrassment by saying that I understand that its bid was the best by far at the time. We went through a process of contract negotiation and added elements such as the Registry of Deeds, casework assistance and training programmes. In a sense, therefore, the contract has been expanded. Our original decision was based on the fact that we thought that the agreement represented good value for money. Having tested the market, we had good reason to believe that.

**Mr Shannon:**

That is open to dispute. I do not think that we all accept your assertions, why is why we are asking our questions. Given that the figures have doubled, tripled and quadrupled, we have to ask where the value is for the taxpayer. I accept your point, but it does not seem to add up. The taxpayer looks at the issue simply. He or she wants to know why the cost of the contract was four times what it was at the start.

**Mr Peover:**

It may sound like a pedantic point, but it is not the taxpayer who stumps up the cost; the fee payer does. It must be considered whether the fees in Northern Ireland are outrageous compared with those elsewhere. We do not think that they are; in fact, our fees are the second lowest, on average, across the UK. Our fees are well within the normal range of fees and are very much like those of our sister agencies. The expansion in value was partly due to the additions to the contract, and it was also substantially due to the fact that the market shot up out of all proportion to our previous experience. The contract is funded by fees rather than by the taxpayer, so if people were to start selling houses like there was no tomorrow, the level of fee income and the level of payments to BT would increase with the number of transactions. Neither the Department nor the system can control that.

**Mr Shannon:**

One might conclude from paragraph 1.10 that BT got all that it asked for from the contract; indeed, Patsy made a similar point last week. That seems to be the case when one considers the amount of money that BT has been able to negotiate. Who negotiated the original agreement with BT? The key question, which was asked last week, is: what training did the Department have in making a deal that would be of good value? What experience did its staff have? Who made the deal with the private sector? I am not suggesting that the person be named, but we want to know whether that person had any training, relevant experience or negotiating skills.

**Mr Peover:**

They certainly had experience in land registry, and they also had the support of consultants on the legal and PFI aspects. A long negotiation process took place with BT as part of the general process. There was a competitive tendering arrangement, and BT's bid was by far the best. Our negotiators could probably have been better, but we think that they did a good job.

**Mrs Montgomery:**

The team of advisers was led by the legal team that was appointed, and they were responsible for drafting and negotiating the documents.

**Mr Shannon:**

Do you believe that they did a good job?

**Mrs Montgomery:**

Yes.

**Mr Shannon:**

You do, even though the costs are very different? Did that ever strike you as being unusual? I am not trying to be smart in asking that question. I believe that it is important that we have the opportunity to ask it.

**Mr Peover:**

As I said at the outset, the fact that our fees are no higher now than they were in 2000 is an indication that we have done quite well in that contract. There was a huge increase in the volume of transactions, which resulted in much more money coming in both to us and to BT, although that has now dropped.

**Mr Wilkinson:**

The other factor that affected the value of the contract was the big rise in house prices in Northern Ireland, because fees were based on an ad valorem scale. Therefore, that was another issue, alongside the volume of transactions. Again, the big increase in house prices added to fee charges.

**Mr Peover:**

I mentioned that the average house price rose by 54% during that period. Obviously, that generated additional resources through the fees that came in.

**Mr Shannon:**

I am not entirely sure that I am satisfied fully with your answers, Stephen. I see things simply. I



believe that the public see things simply, too. We are not convinced.

**Mr Peover:**

If it would be helpful, we can provide a tabulation of fees during that period. It will show you what the fee levels were for each of those years. We can update the figures on the volume of transactions. You can see how the two vary. It was not the case that we quadrupled the fees to the public and, therefore, quadrupled the value of the contract.

**Mr Shannon:**

I wish that I could quadruple my fees in the way that that has been done. I would be a rich man. Yes, that information would be helpful. Thank you very much.

**Mr Lunn:**

At a recent meeting of the Committee for Finance and Personnel, LPS indicated that the introduction of a new fees Order would lead to an increase in income of about £750,000. Figure 8 on page 29 illustrates what has already been mentioned, which is that Land Registry has generated significant surplus income since 2005. How do you justify that increase?

**Mr Peover:**

What increase?

**Mr Lunn:**

I refer to the increase in fees of an estimated £750,000.

**Mr Peover:**

Can you point me to the part of the report to which you refer?

**Mr Lunn:**

The figure of £750,000 was mentioned in a recent statement to the Committee for Finance and Personnel. My other remarks referred to figure 8 on page 29 of the report.

**Mr Peover:**

The matter is complicated, as such matters usually are. The surplus in fees arose because fee levels were not adjusted quickly enough in response to the rise in the market. We could have

reduced fee levels. However, we did not. It took us around two years to bring in a new fees Order, which, if I remember rightly, reduced fees by 32%. That is a key element of the surplus.

Since then, we have performed better. In June, we will introduce a 2010 fees Order, which we managed to complete from start to finish within around four or five months. That timescale is nothing like the two years that it took to complete the Land Registry (Fees) Order (Northern Ireland) 2007. That was exceptional. We also attempted a fees Order in 2008. We thought that because the market would continue to rise, we would have another attempt at it. However, the market dropped, and we suspended work on the 2008 Order.

Therefore, the current position is that the volume of transactions has dropped dramatically. We have carried out a review of fees for the 2010 fees Order. From 1 June 2010, fees will be adjusted. That gives the legal profession a while to get used to new fee structures so that it can incorporate them into its documentation. There will be a number of fee changes. Among other things, we will try to incentivise people to use e-registration rather than paper registration. We will charge for hearings, and so on. We are taking those actions as part of that process.

If you ask why we did not move more quickly to adjust our fees structure in response to the change in the market, I must hold my hands up; we should have moved more quickly. There were reasons for the delay, although they are not reasons that I want to stand over. We were in protracted discussion with our legal advisers. That could have been completed more quickly.

**Mr Lunn:**

I will ask you about legal advisers in due course.

You said that producing a new fees Order within four to five months is exceptional. Forgive my ignorance, but surely the production of a fees Order is a repetitive process. It has been done before; it is not as if you start from scratch each time. Is that right or wrong?

**Mr Peover:**

When constructing a fees Order, we conduct a fundamental review and consult the legal profession and other interested parties, because they are the people who have to apply the fees to their clients. Therefore, there is a fairly extended process of consultation with the legal profession before we settle on a set of fees. The fees structure is quite complicated; there are

some basic fees that people deal with, but there is a range of fees levied for different transactions.

The awkward issue for LPS is that, because it is not a trading fund, it needs to make sure that it does not lose money and that it comes out in the black rather than in the red. It does not have reserves to cushion it during the lean years.

**Mr Lunn:**

I want to explore how you set the fees. As you say, under the present system, there is bound to be a dramatic reduction in your fees during the lean years because of the dramatic reduction in house prices. Similarly, you get surpluses when there is a boom. Does that not indicate that the basis of the fees structure is not right? What is the difference, in time and workload, between a transaction for a house at £150,000 and one for a house at £750,000? Is there more work involved in one than the other?

**Mr Peover:**

Probably not, but, as John said, all the agencies operate within an ad valorem structure. Therefore, if we were to have a flat rate for transactions, those who buy houses at the bottom end of the market would subsidise those who buy houses at the top end of the market for £500,000 or £700,000.

Therefore, there is a principle under which all the agencies across the UK operate; the more your house costs, the more you pay. That may be unfair, but that is the principle that has been adopted. The alternatives to that have downsides, such as, as I said, charging the buyer of a lower-priced house more in order to charge the person buying the larger house less.

That fee structure is a basic principle. We know what it costs, and, when reviewing fees, we look at what is involved in the cost of transactions and try to see whether we are making a loss or a profit on individual transactions. For example, in the 2010 fees Order, we will charge for appeal hearings. We have not charged for hearings in the past, but they cost us money, because we need someone to conduct them and we need support staff for that person. Appeal hearings have, effectively, been subsidised by other parts of the business.

Therefore, we go through all the heads of cost and try to ensure that, by and large — we cannot be exact in these matters — we cover the cost through the fees that we charge.

**Mrs Montgomery:**

I take the point about income and the money that we will generate from the new fees Order. Let me give you some examples of costs. Our running costs in 2005 were £14.214 million, and our income was £17.94 million. Looking at the boom years, in 2007, our costs were £16.69 million and our income was £25 million, and in 2008, our costs were £16.5 million and our income was £25 million. However, in March 2009, our costs were £12.548 million, and our income was £14.787 million. Therefore, by March 2009, the 2007 Order had kicked in big time, as had the drop in the property market.

Our costs and our income are both radically reducing, and this year we will be very close to just covering our costs. That is what we aim to do.

**Mr Lunn:**

That is what you are charged to do; it is not just an aim. It was also a recommendation of the Comptroller and Auditor General in a past report.

**Mr Peover:**

The situation is genuinely difficult, Mr Lunn. If we had a stable property market and we knew that we were going to have 250,000 transactions a year, we could plan fairly straightforwardly for the fee that we would need to charge to cover our costs. When we have a market that is either shooting up or falling off dramatically, which is what we have had over the past few years, it is very difficult to forecast what level of fees we need to cover our costs.

**Mr Lunn:**

By the looks of things, you will not have too much of a problem over the next couple of years, because stability has arrived.

**Mr Wilkinson:**

That is quite an interesting point, Mr Lunn. As a chartered surveyor, I am interested in house prices and markets, and I have never seen anything like the situation in Northern Ireland. One of the Audit Office's reports said that the increase in property prices and the volume of transactions looked set to continue, and then they nosedived. Every month, the management board at Land and Property Services conducts a review of the volume of transactions in the housing market and

the scale of the fees.

**Mr Lunn:**

You sound like you have come in from abroad. You will probably find that one or two things are different over here.

Earlier, I heard that the fees here are less than those in Scotland and only slightly more than those in England and Wales. I am not all that familiar with the figures, but I might challenge you on them. Are you comparing LandWeb fees with non-computerised fees in England, or are you comparing what the fee would have been here without the benefit of computerisation with the equivalent fee in England?

**Mrs Montgomery:**

We are trying to equate our registration fees with the registration fees elsewhere, because it is quite difficult to equate what others charge for land information services to what we charge here. The fees that we charge in Northern Ireland for straightforward registrations put us second in line when compared with Scotland and England and Wales. The fee level in England and Wales is slighter lower than here. However, at the top end of the ad valorem scale, Northern Ireland has the lowest fees in the UK. Furthermore, our fees are substantially lower than those in Scotland.

**Mr Lunn:**

Do you have those figures in front of you?

**Mrs Montgomery:**

No, I do not, but I will send them to the Committee.

**Mr Peover:**

Our maximum band is £250,001. In Scotland, it is £5 million, and in England and Wales, it is £1 million. The maximum fee in England and Wales is £920, while the maximum fee here is £450, but that amount will drop a bit in June. We will provide the Committee with a tabulation showing the comparative fees jurisdiction by jurisdiction.

**Mr McGlone:**

When we compare those three property markets, we are not comparing like for like. It is

acknowledged that, even during the boom times, the average valuation of properties here was lower than in England. Therefore, I am wee bit concerned that you are saying that we did wonderfully in circumstances in which the average valuation of properties in England was higher than the average here. I know that Trevor has a better insight into that issue than I do.

**Mr Lunn:**

Patsy, I know that you are asking the victims that question. However, from my point of view, it is a straightforward read across according to the value on the scale.

**Mr Peover:**

That goes back to the point that Patricia made. When one factors in the average cost issue that Mr McGlone raised, one can see that our fees are only slightly higher than those in England and Wales and are lower than those in Scotland and the Republic of Ireland. We will give you a copy of the figures.

**Mr Lunn:**

My next question is about surpluses, which Patsy asked about earlier. I wish to get further clarification on what happened to the major surpluses that were generated in 2007-08. Where did that money go?

**Mr Peover:**

The surplus money went back into the Northern Ireland Consolidated Fund and was used for public expenditure in Northern Ireland. The Executive use the resources when they make allocations, for example, during monitoring rounds.

**Mr Lunn:**

Was that also the case under direct rule?

**Mr Peover:**

Yes, I think so.

**Mr Lunn:**

So Northern Ireland never lost that money?

**Mr Peover:**

No.

**Mr Lunn:**

It is obvious from paragraph 2.19 that there are benefits in streamlining the relationship with the Departmental Solicitor's Office (DSO). What new procedures have been put in place to streamline the consultation process? You mentioned that completing a fees Order in four to five months is exceptional. However, I see that, in once case, it took 29 months.

**Mr Peover:**

To be fair to our colleagues, I think that that was untypical. The report proposes that a service level agreement between us and the Departmental Solicitor's Office be part of the process. That is certainly worth doing, and our colleagues in the Departmental Solicitor's Office are very happy to consider it. If I may speak on their behalf, they say that a mechanism for year-on-year business planning arrangements is already in place. Before the beginning of the year, the DSO asks all Departments for an assessment of the work that they are likely to require from its legal advisers. That gives the DSO some way of planning its workload over the year. It then slots Departments into its programme of work. The DSO also makes the qualification that, at the end of the day, there are issues of political priority. Therefore, if a Minister wants to implement a decision that requires a piece of legislation or urgent legal advice, for example, the planned programme of work may have to suffer so that the DSO can respond to that immediate priority. That is something that we, as officials, do not have much control over. If the Executive or a Minister decide to do something, the planned programme may have to be pushed around a bit. The DSO makes the point that that may still be the case regardless of whether we have a service level agreement. The DSO does not have limitless resources, and it has to respond to the priorities that the Executive set for it.

We could do better, we have done better and we are doing better now than we have done in the past. I think that 29 months was probably untypical and was due partly to the tying up of two elements of the Fees Orders, that is the Land Registry element and the Registry of Deeds element. The second of those, which is the much less important element, was more technically complex and raised more issues and, therefore, held up the bigger, more important element. With the benefit and experience of hindsight, to get the Order moved on, it may have been better to separate the two elements and to have taken them forward separately, as Patricia got very close to

doing. However, that case was untypical, and certainly, it is much better now.

**Mrs Montgomery:**

That instance was really the first time that we tried to introduce two Fees Orders at the same time. We did that following consultation with professionals and law searchers in particular, because the Registry of Deeds fees were going up, but the Land Registry fees were coming down. The professionals and the law searchers asked us to introduce the Orders together, because it would be easier for them deal with their clients. We agreed that we would do that. In hindsight, and realising that producing the Registration of Deeds (Fees) Order (Northern Ireland) 2007 took over two years, I would definitely have separated the Orders. I certainly will not go down that route again.

**Mr Lunn:**

Is the achievement of four to five months a compliment to your Department or to the DSO?

**Mrs Montgomery:**

It is probably a compliment to both. We have got our act together, we are prepared and we now have a very regular review of fees. We know how to do it now, and the process is much quicker for us. We managed to get the consultation with the professionals through much more quickly, and, I am afraid to say, I badgered the DSO. That is why we got the Order through much quicker this time.

**Mr Lunn:**

Are you satisfied with the performance of the DSO?

**Mr Peover:**

Yes.

**Mr Lunn:**

Do you think that the DSO does anything that an outside contractor could not easily do?

**Mr Peover:**

I think that it does things that an outside contractor could not easily do. The experience in administrative law is extensive in the DSO. I am sure that there are things that the DSO does that



could be transferred to the private sector, and that has happened. For example, very little conveyancing is now done by the Government's legal services; it is done by private sector solicitors. Other matters may fall into that category.

**Mr Lunn:**

I am nearly done, Chairman. LandWeb has certainly significantly changed the delivery of the Land Registers's services, and it was aimed at improving efficiency in customer service. Yet, for various reasons, the fees had to go up in 2010. Are you satisfied that the system has, by and large, delivered the expected efficiencies? How do you assess whether it has?

**Mr Peover:**

The system has delivered improvements and efficiencies, and it has delivered the range of objectives that the Chairman mentioned at the outset of the meeting. We have reduced fees, and the average fee is now 36% lower than before the introduction of the 2007 Fees Order. Through the Land Registry (Fees) Order (Northern Ireland) 2010, we now have a system that is better adjusted to the range of work that is undertaken.

Earlier, I mentioned the comparison with our sister agencies, and we will flesh that out for you. We have a fair range of information that shows that we are doing a good job and that the Northern Ireland public are getting decent value for money from the system.

**Mrs Montgomery:**

Our turnaround times are much better, and the profession is able to view our information online through LandWeb Direct. In addition, we have just launched the e-registration service, which is built on the back of LandWeb Direct. The new service will help us and the profession. At the moment, the rejection rate for applications is about 25%, whereas for the e-registration service, it is 2%. That will result in huge savings for us and the profession and will bring about improved customer care.

**Mr Lunn:**

Some of the solicitors who I know are still using quill pens. I suppose that that comment has been recorded.

**Mr Dallat:**

It is too late now.

**Mr Craig:**

I will probably get into as much trouble as Trevor over this. Paragraph 2.9 deals with the legal profession and with how successful the e-registration pathfinder project, which is described in case study 2, has been. There seems to be an issue in that a lot of work seems to have been duplicated. What other steps can you take to reduce the number of what looks like poor-quality applications? I shall refrain from going any further.

**Mr Peover:**

As Patricia said, paragraph 2.9 sets out the range of ways in which we have been involved and are working with the profession. That includes delivering seminars and being involved with trainees. Those are ongoing measures, and we are still working with the Institute of Professional Legal Studies at Queen's University Belfast. Patricia mentioned that the rework rate is more than 12 times lower as a result of the e-registration scheme. Currently, about only 9% of applications are submitted through the e-registration scheme. However, that is a good deal better than the rate in the rest of the UK, where the figure is about 2%. Our long-term aim is to get a majority of applications through the e-registration system. When we reach that critical mass, we will achieve huge savings in staffing, because the system does not allow people to make major mistakes and it filters them out, which results in better-quality applications. Therefore, promoting e-registration is important.

Land law is complicated. Arthur Moir, who is one of our colleagues, produced a handbook on how to deal with some matters. That handbook is available as an aide memoire for solicitors to draw on. We are also involved with the Law Commission in looking at how land law in Northern Ireland might be simplified. That would be of major benefit to lots of people, and we engage with the Law Society and other representatives of the legal profession on that. A lot of work is going on that Patricia may wish to expand on.

**Mrs Montgomery:**

The answer is to get as many people as possible to use the e-registration system. When I spoke to BT and the chaps on our staff, my remit to them was that if they were going to develop a system, they should make it a bit like easyJet's, where you cannot continue if you make a mistake. That

is what we have done; we created a system in which you cannot move to the next question if you have got a previous question wrong. My team put in an awful lot of effort to ensure that we ask the right questions. We instigated a pilot project with a small group of solicitors — seven practices — to develop the system. A further 30 practices joined in, and we are now rolling the system out.

The proof of the pudding is in the eating, and to have reduced the rejection rate from 25% to 2% is phenomenal. We went for the Fees Order to bring down the fees for Land Registry applications. As we move forward, we will try to encourage more people to use the e-registration system. Stephen is right; when e-registration was introduced in New Zealand, only 2% of applications were submitted through it, so, eventually, they had to go for compulsory e-registration. Now, 95% of applications are signed on, whereas we have 9%.

We have 180 practices that are trained, and another 50 practices will be trained in the next couple of months. It is a very easy system to use. I asked that it be made easy enough for me to use, given that I am not the most computer literate person. That is the answer for us, because training for young lawyers who are doing conveyancing has been cut back over a number of years. They do not have the same skills as someone who was trained at the same time as I was, so we have to do something. We still go out and talk to the profession; indeed, we are conducting a half-day training session with the profession in April. We are doing everything that we can, and I must say that we have had a substantial amount of help from the Law Society, so it can only get better.

**Mr Peover:**

Earlier, I mentioned that the new fees structure is being introduced in June. It provides a financial incentive to use e-registration, with costs varying from £20 to £95. A practice that uses e-registration will save its client up to £95 on the transaction.

**Mr Craig:**

The obvious follow-up question is: is there a disincentive for those whose manual application is rejected in that that would incur a fee or a charge? Is there some way for the Department to tell people that it is far better to move to the e-registration system, because otherwise, they cost themselves money?

**Mrs Montgomery:**

There is a rejection fee, and that depends on how far the application has gone into the system. We try to turn away paper applications at the door whenever they come in at the intake section. If they are rejected at the casework section, a fee applies for rejected applications. That certainly helps to some degree.

**Mr Craig:**

Hopefully, the quill pens will be replaced by laptops some day.

Paragraphs 2.6 to 2.8 and appendix 1 deal with Land Registers's performance. The report indicates that, when that was a stand-alone body, there was greater transparency in its financial and operational performance. Stephen, are you satisfied that those issues are being addressed so that the body's work is sufficiently transparent?

**Mr Peover:**

I think so. I do not think that there has been any loss of transparency. A set of ministerial targets still has to be met, and reporting against those targets is required. Patricia mentioned the financial performance, and we have access to the volumes of transactions. I think that the level of transparency in workload and output is the same as in the old days, before LRNI was merged into LPS.

**Mr Craig:**

You are indicating that it has not really changed.

**Mr Peover:**

It has changed in the sense that it is now part of a wider agency. The aim of merging the agencies was to try to create a more seamless arrangement for the public. Its basic functions have not changed; it still has to deliver security of title for the public of Northern Ireland so that the property transactions in which they need to engage can be managed efficiently and effectively. That has not changed.

**Mrs Montgomery:**

In fact, because the Land Registry uses Ordnance Survey for its base maps, it has been good for us to be part and parcel of the same organisation, because we have much better and closer

working relationships with the guys who do the mapping.

**Mr Craig:**

It sounds almost as though you are talking about joined-up government, which is almost unheard of. Registers of Scotland operates as a trading fund, and the whole idea behind that was to put it on more of a stand-alone economic and commercial basis. Has the Department considered anything like that? Has anyone considered alternative ways of finding out what is most economical for the public and the Government?

**Mr Peover:**

The only trading fund in Northern Ireland is the MOT test system, for which an agency was set up as trading fund. There are advantages to that system in the sense that income can be balanced and reserves can be saved to invest in capital in the medium to long term. That status has operational advantages from the agency's point of view. It is also quite transparent because there is a memorandum of trading account and people can see what the costs are. They can spot whether they are being overcharged for the service that they are getting. In that sense, it would possibly be helpful.

Now that the agency has merged, the difficulty lies in having a bit of a bigger agency that is a trading fund when the rest of it is not. That problem affected the Driver and Vehicle Agency when it merged the old Driver Vehicle Testing Agency (DVTA) and the Driver and Vehicle Licensing Northern Ireland (DVLNI) into a new agency, one bit of which was a trading fund while the other was not. That raises accounting and systems difficulties. People have to be fairly careful about how that is managed. Registers of Scotland is a trading fund, and although it is certainly a neat and tidy way of operating, it is just a bit more complicated if it is part of a wider agency arrangement.

**Mr Craig:**

Was the idea looked at? Did somebody assess it and decide not to go that way because of A, B or C?

**Mrs Montgomery:**

Certainly, we looked at it. We thought about trading fund status in 2004 or 2005 and had some discussions about it, but we did not take it any further. I know that the Ordnance Survey also

looked at trading fund status, but it was indicated at that stage that the Government were not overly committed to trading funds. We were then merged.

**Mr Peover:**

There is only the one trading fund in Northern Ireland. Those things were all part of the old DOE, which everybody fondly remembers as doing everything. It was known as the “Department of Everything”. It had a very large number of operational arms, including water, roads, Land Registry, Ordnance Survey, DVLNI and DVTA. If I remember correctly, 11 agencies were created in DOE in 1996. The only trading fund was the DVTA, which was the vehicle testing function. I do not honestly know why that was the only one that became a trading fund. I do not know why one was suitable but the other 10 were not. More than one probably could have been suitable, but I would need to delve into the mists of time to find out why my predecessors thought that it was important to keep DVTA as the only trading fund.

**Mr Craig:**

That is certainly a new interpretation of DOE — the “Department of Everything”. I have heard other interpretations that are a lot less complimentary.

Paragraphs 3.3 and 3.4 deal with the high level of interdependency between the Registry of Deeds and the Land Registry systems. When I read this report, I found it hard to figure out how that interdependency was missed. Why did it make sense only after a commercial company such as BT told you that that the functions of both had to be addressed? Did alarm bells not go off prior to the commencement of the exercise, with somebody knocking on your door telling you that you had to address both functions?

**Mr Peover:**

We have compulsory first registration. Patricia pointed out that if that had been rolled out to every piece of land in Northern Ireland, the Registry of Deeds function would have disappeared. The original assumption was that it would wither on the vine and that the computerised part of Land Registry would, over time, effectively mean the disappearance of the Registry of Deeds. That was a mistake in interpretation.

**Mr Craig:**

Did that not leave you in a weak negotiating position? Fair play to BT; one has to admire it.

When it spotted the issue, it was in a very strong negotiating position because you had already handed it contract.

**Mr Peover:**

I understand the point, and I sympathise with it. To be fair, though, BT funded all the costs that were associated with the computerisation of the Registry of Deeds. It recovers those costs by the same transactional payment arrangement that exists for the rest of the contract. When we get to the contract break point, we expect BT to demonstrate the value for money that we get from that arrangement.

If the process were undertaken again, the whole lot would be tendered for at the outset; bits would not be added later. It is a pity that that was not done at the time, and we all regret that it was not, but we still got a pretty good deal out of it. That is my assessment, but we will see when we come to the contract break point.

**Mr Craig:**

Do you think that the problem was due to a lack of the correct skills and knowledge that were required to carry out the IT projects and deal with the interlinks between them?

**Mr Peover:**

I will not use Mr Lunn's point about quill pens, but to be fair, the Land Registry had a paper-based system. In some cases, the system was parchment based, because we have old deeds that are written on parchment. Therefore, the skill was in being able to handle quickly quite complicated land transactions using paper. All the participants in the process used paper and were comfortable with it. Therefore, recording information electronically was a very novel thing for us. There was not a high level of IT skills in Land Registry, hence the need to buy in expertise from outside.

Therefore, the problem probably could and should have been foreseen. However, Patricia made the point, which I repeated a few minutes ago, that there may have been a mistaken expectation that the need for a registry of deeds would disappear over time and would be absorbed through compulsory first registration. If the volume of land transactions had continued at the ferocious rate that it had been over the previous few years, there would probably be a bigger dent in the number with the Registry of Deeds. However, there will always be some

transactions that never come into the system, such as those for a piece of farmland that has been passed from father to son to grandson to great-grandson.

One of the issues is to ask whether we need an incentive to push people out of the Registry of Deeds system and into the Land Registry system. That comes back to your point about incentives and disincentives and the question of how such a move could be enforced. It could be done, but we have not yet reached that point.

**Mr Craig:**

It is good to hear that some people have handed in their quills and picked up the laptops.

**Mr McLaughlin:**

Mr Apsey, I may have had a senior moment and missed your answer when you were talking to Patsy, but did you say when you joined BT?

**Mr Apsey:**

Yes; it was 1995. I joined on 9 January, if you are interested.

**Mr McLaughlin:**

Thank you very much.

Mr Peover, paragraph 3.24 sets out the implications of BT's ownership of the intellectual property rights to LandWeb and the resultant overdependence on that single supplier. Paragraph 3.26 recommends that the risks need to be managed effectively. What steps have you taken to do that?

**Mr Peover:**

There are two elements to that, and there has been a discussion about how the situation arose. Our view is that when the contract was signed in 1999, it was not that common to have intellectual property rights. If we wanted to acquire those rights, we would have had to pay for them, and we would have had to have some prospect of using them elsewhere in the public sector to justify acquiring them in that way.

We are approaching a contract break point in 2014, and the process of discussion and



negotiation on that will begin next year. At that point, we will also want to look at other issues that are raised in the report, such as open-book accounting and benchmarking.

If you asking whether we would look for intellectual property rights now, it is now common practice for us to look for those rights whenever we enter PFI contracts. For example, we have done so with the Civil Service reform projects. Therefore, the standard practice is to do that, but we have to look at the cost as part of the business case. If we have to pay for something, we need to be sure that it is worth paying for and that we can get some value out of it. We have the ability to buy a licence to use the intellectual property rights from BT at the contract break point at whatever the fair market value might be. Therefore, we would do things differently now.

**Mr McLaughlin:**

Is that an acceptance that there are risks, which may be significant, and an overdependence on the contract?

**Mr Peover:**

The issue that it raises is that there has to be a case for doing it, and it must be worth our while to pay the money that is required. The risk has to be balanced against the cost, and, if the cost is high and the risk is low, it may not be worthwhile.

**Mr Apsey:**

When we come to negotiate next year for the 2014 break point, it is our intention to ensure, as a minimum, that we have the licensing right to use in the future. That would be needed in any event if we were no longer to be the supplier of choice. I do not think that that will be an issue in the long term.

**Mr McLaughlin:**

I will leave it there, because I think that some of my colleagues wish to discuss some aspects of that issue.

Paragraph 3.24 goes on to say that the contract was extended in 2006 through change control provisions following a business training review that BT submitted. Appendix 4 discusses the fact that BT was to provide training as a discrete service under the original agreement. If that was the case, why was BT paid an additional £1.8 million for those services?

**Mr Peover:**

There are two separate elements to that. Under the original contract, BT had a responsibility to train our staff in the use of LandWeb, which it did. The review considered the need for further training. We lost a number of experienced staff through retirement and so on. We were training staff online. They had to be supervised, and it took a long time — up to two years — to get a member of staff trained to be able to use the systems and to understand them properly.

The separate contract allowed us to provide training on the desk. Staff were given offline prompts, and the training ensured that they had access to a help system throughout their handling of cases. Therefore, there was a difference. The original contract included a budget for training, but we saw the need for a further training resource, the CLARA project, on which a further figure of just under £2 million was spent.

**Mr McLaughlin:**

Are you saying that the initial implementation phase of the training exercise was time limited?

**Mr Peover:**

No.

**Mr McLaughlin:**

It did not take account of the haemorrhaging of staff who had been trained and needed to be replaced.

**Mrs Montgomery:**

Stephen was trying to explain that there were two separate aspects to the contract. The training that took place under the initial LandWeb contract was intended to make our staff IT literate. When we entered the negotiations, only 10% of our staff were using computers, so the whole thrust of that part of the contract was to get people operational and able to use LandWeb.

The training that takes place under the new CLARA contract is all about Land Registry practice and procedure. It trains staff in how the Land Registry operates, and it gives them all the information that they require to be able to process an application. It is the legal knowledge part of the operation, and it is now being put online for staff so that we no longer have to wait two or

three years before a member of staff is sufficiently well trained to operate and sign off a dealing on their own.

They can train in-house on CLARA. That is done in the training suite, and they are signed off when they reach the appropriate levels and standards. They then go back to their desks, where they can start to process casework. The IT system includes CLARA, so staff can access help through it. If a member of staff were to come up against something unusual, they could access CLARA for help. Therefore, two very different training elements exist.

**Mr McLaughlin:**

Was the need for that second level of training not anticipated when the move to digital data was made?

**Mrs Montgomery:**

It replaces the way that we used to train staff in-house. I did not think that that method was sufficient for our purposes. It was my view that our training was taking far too long and that we were losing far too many experienced staff. Their knowledge was not being passed on quickly enough to the younger staff who were coming in, and we were not getting them operational quickly enough.

It was a way of getting people trained in the legal elements of what we do, rather than just showing them how to use a computer.

**Mr McLaughlin:**

I can see the benefit in that. Another possible consequence of the over-dependency on BT is that it would have been cost-prohibitive to put the contract out to open competition because other providers would have needed to access the software, etc. Was that not considered to be a natural development that would, therefore, need to be built into the training aspect of the initial contract?

**Mrs Montgomery:**

I was not in post when the contract was signed in 1999, so I do not know whether anyone thought about the long-term training of staff. When I was appointed in 2002, I saw how staff were being trained, and it struck me that it was taking far too long for people to become operational. We needed to think about a way of training people faster, and the obvious way seemed to be through

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**Mr McLaughlin:**

That was an extant requirement of the overall service. Someone was providing that technically correct legal approach even during the time of the quill pens that we discussed earlier. Is that not so? The nature of the registration, records, archiving and the service to fee-paying customers was basically the same except that the system had now become digitised. Is that correct?

**Mrs Montgomery:**

But the training under the original contract was devised solely to train staff in the use of LandWeb.

**Mr McLaughlin:**

You have already told me that; that is clear as a bell. I do not understand why you did not anticipate that a need existed before the service went digital.

**Mr Peover:**

We were training our own staff, and that was an in-house cost. We could have carried on doing that, but this was an opportunity to use a new system, and to use it as a training resource.

It is hard to look back to 1999 and know whether the facilities were there. We were working on older operating systems and not using single-screen and dual-screen technology. At that time, the IT systems were probably not sophisticated enough to use in staff training. However, that need could probably have been better anticipated.

**Mr McLaughlin:**

OK. I have probably taken that point as far as I can.

The change in the agreement resulted in £1.8 million of additional costs. Given that, might you, in other circumstances, have considered opting for a more open competition? That does not seem to have been the case here. I am asking a question in the hope that someone can answer it. Did the particularly strong agreement that you had with BT and the fact that BT controlled the intellectual property rights mean that you did not have the option of inviting competition for that training service?

**Mr Peover:**

Three other possible suppliers were consulted about whether they wanted to participate in a tendering process. However, they did not want to do so, partly for the reasons that you have outlined. They thought that it would be too complex to integrate their systems with the BT system and deal with those sorts of issues. So, there was an attempt to look at whether others might be interested, but they were not.

**Mr McLaughlin:**

I presume that that is one of the reasons why you would take a different approach to intellectual property rights now. You should be keeping all options open.

**Mr Peover:**

Yes. The context has changed. I return to the point that I made earlier: one would have to factor in the costs on one hand against the risks on the other hand and decide whether the benefits of acquiring the intellectual property rights would be sufficient to justify the costs.

**Mr McLaughlin:**

Moving on, paragraphs 3.28 and 3.29 of the report deal with change requests. To date, over 300 change requests have been initiated, and, from the updated information provided, we can see that the value of those add-ons equates to £25 million. Why were there so many add-ons? Is that process fair to other shortlisted bidders, particularly as, according to information supplied to the Committee, at least one of them was interested in some of those areas?

**Mr Peover:**

Almost £19 million of the £25 million is down to a few major specifics, such as training, which you mentioned, caseworker assistance, which came to almost £15 million, and so on. A large part of the money is locked up in those arrangements. Of the 300-odd change requests that we have now, 139 were charged for and, I think, 230 were not charged for. A relatively small number were charged for. About £6 million worth of change requests arose as a result of changes in legislation and changes in process, such as the need to integrate systems when Land Registry moved to DFP from DOE. DFP used a different computer programme — Lotus Notes — and the new system had to integrate with that, so there was a charge for that. There were various issues with the move.

We would not regard the number of change requests in that process as unusual. Although such things as caseworker assistance are counted as change requests, they are not really change requests. That is a way of extending the contract to do different things. That big chunk is rather different from us going back to Craig's people and saying that the legislation has changed and that we need them to amend the system to show A, B or C. Not unreasonably, if there is a lot of work involved, they might expect to charge us for it.

**Mr McLaughlin:**

According to the report, a separate application was made for the casework, was it not? Paragraph 3.22 says that:

“BT submitted a further paper to the Project Board in February 2005 on proposals to extend casework assistance to 2008, but to date this has not led to a subsequent revised Agreement Change Request.”

I presume that was because you had already breached the EU regulations on increased value on the original contract. Does that square with the information that you have just given me? The casework issue seems to have emerged subsequently. Why that should be the case is not clear either, as it would be fairly evident that casework would be an aspect of the work that would have to be addressed.

**Mr Peover:**

The casework contract has been extended a couple of times. I think that 35 people were involved in the team when the property market was at its height. I think that that number is now down to 10, and we expect it to reduce further. The fact that those people are BT staff gives us some flexibility. They are not civil servants, so we do not have to redeploy them in our system, and there is no redundancy cost, for example.

**Mr McLaughlin:**

Has the volume of work decreased, or have you outsourced more of it to BT?

**Mr Peover:**

The volume of work has decreased. The casework assistance people were there to support us through the backlog and the peaks in workload. The backlog has not entirely gone, but it has reduced from 28,000 to 3,000 cases. The volume of transactions has reduced because of the depressed property market. BT has adjusted its staffing levels in response, and its staff get paid only for the work that they do.

**Mr McLaughlin:**

Have you had any feedback or complaint from any of the other shortlisted bidders?

**Mr Peover:**

Not that I am aware of.

**Mr McLaughlin:**

As regards paragraph 4.8, are you satisfied that the legal advice received up to the time of signature of the agreement and afterwards was of the standard required for such a complex PFI contract? We keep coming back to the issue of BT's retention of intellectual property rights, and that appears to be a decision that is open to criticism.

**Mr Peover:**

I am satisfied with the quality of legal advice. I have no reason to be dissatisfied; that is perhaps a better way of putting it.

You will have seen from the report that the Department and the Audit Office have a difference of view on the issue of intellectual property rights. It is not a significantly different view. The Department's view is that, when the contract was being negotiated and subsequently signed in 1999, it was very unusual, because most PFI contracts deal with building a school, a hospital, a road or whatever. This was a different sort of contract. It was not simply an IT project; it was not just a matter of outsourcing the provision of a network. We did not think that many, if any, models existed that we could draw upon. The National Audit Office report that is referred to in the NIAO report lists 121 projects and says that some 55% — I cannot remember the exact figure — had various elements to them.

It is our view that the matters that are now on the table, such as open-book accounting and intellectual property rights, were not really on the table in 1997, 1998 and 1999. If you are asking me whether we would do things differently now, the answer is, yes, we would. However, I say that with the benefit of hindsight and a series of National Audit Office and Northern Ireland Audit Office reports, as well as a range of guidance from the Office of Government Commerce, and so on. So, yes, we would do things differently, and we are doing things differently now.

**Mr McLaughlin:**

I refer the witness to paragraph 4.19 and appendix 5, which sets out a useful overview of provisions that should be considered for inclusion in any long-term contract to ensure value for money. However, the agreement that was signed with BT specifically precludes information, as stated in paragraph 4.19, relating to:

“the make-up of the charges, including, without limitation, BT costs, overheads and profit”.

There is an argument that that was the commercial reality of the time, but previous Audit Office reports indicate that that is not the case. The Audit Office demonstrated in a report that it produced in November 2000 that quite a range of PFI contracts — 55% — operated on the basis of open-book accounting.

**Mr Peover:**

That was the point that I was trying to make earlier. I was confusing the matter. We had a look at that report, but all that it does is list the projects; it does not state which projects were subject to any of those particular arrangements. As I said, most of them are construction projects, such as building roads, schools, hospitals or whatever.

Our project was unusual: we do not know of an example of a project of this type being done in that way back then. That is why I can say, with the benefit of hindsight, that if we were doing it now, we would do it differently. We would certainly take account of the guidance that is around and incorporate those types of conditions into the contractual position, which has been done in other projects that have been let more recently.

**Mr McLaughlin:**

In the light of experience, would you stand over the statement that that was the commercial reality of the time and that no company would have given government open-book access? In fact, they would and they did.

**Mr Peover:**

Yes, but that would depend on whether they were on this sort of contract. This is a very different contract from most PFIs, and I do not know which companies gave what access on which contracts. Unfortunately, the National Audit Office report is not clear about which contracts were involved in specific bits of the provision of information.



**Mr McLaughlin:**

I am sure that by this stage you are familiar with appendix 5. Have you considered the value and applicability of those measures to the current contract?

**Mr Peover:**

Yes. As I said earlier, we will address all of those issues with the contractor as part of the negotiation leading up to the contract break point in 2014.

**Mr McLaughlin:**

OK. Thanks. I must leave early, so I apologise in advance. If the witnesses see me getting up, it will have nothing to do with what they have said.

**Mr Beggs:**

I accept that LandWeb has improved the process for service users and their view of the service. At the same time, it is yet another computer project in which costs have got out of control. In earlier answers, the witnesses indicated that they were satisfied that the costs here were on a par with those in England and Wales. Would controlling costs better have kept fees paid in Northern Ireland substantially lower than those in England and Wales and in Scotland?

**Mr Peover:**

I am not sure that I accept the basic point that costs have got out of control. The service fee — the cost charged to the public — is one element, the volume of transactions is the other, and the total cost package is calculated by multiplying those two amounts. Therefore, to a large extent, any growth in income depends on an increase in the volume of transactions, which has been dropping.

As regards whether there is value for money and whether house buyers and land transactors in Northern Ireland get value from the system, we want to say that our fees, on average, are the second lowest in the UK.

**Mr Beggs:**

To demonstrate exactly what I mean by unnecessary costs and fees increases, I refer to paragraph 3.28 in particular, which relates to various amendments and additions to contracts, and appendix 6, which relates to change requests. For example, change request number 190 appears to

compensate BT for its loss of income. Your Department failed to enact legislation to allow fees to be charged for the service. How did that come about? Essentially, BT was paid an additional £2.6 million because of your Department's failures to control how it operated and to charge appropriate fees. Therefore, other moneys had to be used to compensate BT.

**Mr Peover:**

Change requests were part of the contract. We asked BT to do things for us. The registry of deeds search function was an interim solution. It took a while to put the final solution in place. I do not regard that as an extra charge to the public. It was part of the cost of the contract. There would have been a charge for a search fee anyway. That is not meant to be a super-profit gain for anybody.

**Mr Beggs:**

Presumably, therefore, BT got almost £2.7 million for doing nothing. It did not actually do any searches. Why does that notional cost appear?

**Mrs Montgomery:**

The cost for doing searches was too low. The Registration of Deeds (Fees) Order (Northern Ireland) 2007 would bring in a higher fee, which would be the appropriate fee for the cost of the service. Therefore, because there was delay, BT did not get a proper return.

**Mr Beggs:**

Why was the Order not brought in sooner? Who was responsible for that failure?

**Mrs Montgomery:**

The Registration of Deeds (Fees) Order (Northern Ireland) 2007 and the Land Registry (Fees) Order (Northern Ireland) 2007 were both drafted in 2005. They proceeded through the correct consultation process. They went to DSO for final sign off. There was considerable correspondence between LPS and DSO on that particular Order. It had a number of views on fees that we wanted to charge for services. It had considerable doubt as to whether the fees that we sought were, in fact, *intra vires*.

**Mr Beggs:**

Do you think that excessive time was taken to resolve that?

**Mrs Montgomery:**

Yes. It was excessive.

**Mr Beggs:**

Why was that? During a previous session, we were told that the Departmental Solicitor's Office did not charge other Departments for services that it carried out. There seems to have been a degree of unaccountability. You requested that that service be dealt with. I want to pass that to the Treasury Officer of Accounts. What was going on in the Departmental Solicitor's Office? Why did it not deliver the service within an appropriate period?

**Ms Fiona Hamill (Treasury Officer of Accounts):**

You can appreciate that I cannot answer that specifically. As Mr Peover has already pointed out, DSO must balance its workload. One can assume only that it had to balance that with the rest of its workload and with regard to correspondence that was going back and forth between the two parties.

**Mr Peover:**

The issue took too long to resolve. We must acknowledge that that was unacceptable. Patricia was at the point of pressing ahead with the Land Registry (Fees) Order. The Registration of Deeds (Fees) Order was proving to be more awkward.

**Mr Beggs:**

Was the then Minister made aware of that difficulty? I do not understand why that happened.

**Mr Peover:**

I would have to check whether the Minister was made aware of that; I am not sure.

**Mr Beggs:**

Certainly, if a private sector company was unable to charge for a service to be delivered and it had to pay extra money to a private contractor because that service was not being delivered, the individual who was responsible would be held to account. Those responsible should not be able to hide in the public sector.

I move to paragraph 3.10, which records that Land Registers was content to change the LandWeb agreement, including modifying the back conversion timetable and introducing arrangements to help BT absorb the costs. How much did it cost to allow BT to absorb additional costs, and why did you feel it appropriate to help BT absorb the costs for not delivering what was contractually required?

**Mr Peover:**

The back conversion process proved to be very difficult and gave rise to technical problems that no one had anticipated. BT was not generating any income as a result of that. It was funding the process, but it was getting no income as a result of the transactions because they were not being made. That was the basis of discussion. The cost of reworking the transfer of operations was borne by BT and its subcontractors. The timetable was adjusted to help them to absorb the costs without increasing the transactions. We did not want to increase the transaction charges to the staff.

**Mr Beggs:**

Because of failings in the Departmental Solicitor's Office, you made an additional payment to BT for that loss of £2.6 million. In this instance, BT did not deliver according to the contract to which it had agreed. Did you just give BT gifts? Were no penalties imposed? Was there not a penalty in the contract for failure to deliver? What risk was passed to BT? You paid for extras, but BT carried no risks for not developing a complicated piece of software.

**Mr Peover:**

BT did not get paid because there were no transactions.

**Mr Beggs:**

Yes, but you then made an arrangement with BT to enable it to absorb its costs.

**Mr Peover:**

Only in the sense that we adjusted the timescale. Is that not right, Patricia?

**Mrs Montgomery:**

Yes.

**Mr Beggs:**

Was there not a penalty for not meeting the timescale? Earlier, we learnt how excessively long this process took.

**Mr Peover:**

I am not sure that this process was excessively long. Craig, do you want to comment on the timescale?

**Mr Apsey:**

BT had already significant experience of back conversion with the land registries of England and Scotland. When we looked at the maps originally, we did a joint exercise with the Land Registers Northern Ireland and created a set of rules on how we were going to back convert the documentation.

However, we had 20,000 paper maps, so we could not check each one before we started. At one point, we came across a batch of maps that were very old and did not bear Ordnance Survey reference points. As a consequence, we could not convert them without significant manual intervention. We agreed with Land Registers that, while that manual intervention would cost a lot of money, BT would pay for it. Because it was outside the rules agreed in the contract, all BT asked in return was that it be given extra time to do so. That created a win-win situation for us both. BT had the time to complete the work, and it gave Land Registers a set of back converted maps that BT would otherwise not have bothered to back convert because it was outside the remit of the contract.

**Mr Beggs:**

Thank you for that information. Mr Peover, you indicated that there was nothing in the contract about delays in the conversion. Is that the case?

**Mr Peover:**

Yes. This contract does not operate on the basis of penalties but on the basis of transaction costs. BT gets its revenue stream from transactions. If there are no transactions, BT gets no revenue. That is the penalty that it suffered.

**Mr Beggs:**

Would you accept that you had a poor system and gave a poor service to customers and that the longer it took to get a solution, the longer everyone suffered?

**Mr Peover:**

I do not think that everyone was suffering. We now have a better solution for customers.

**Mr Beggs:**

I will move on. Paragraph 3.15 details the backlog of applications that Land Registers failed to implement in a timely manner, for instance, compulsory first registration. Should those risks not have been foreseen and managed? Had you not carried out a risk analysis of what would happen if transaction numbers went up or down? Why did you wait until there was a threat of compensation before taking action to reduce the backlog? We heard earlier that there was limited choice. You were unable to go out to competition to provide the service because you had waited until the last minute and were about to be hit by penalties. Why did you wait so long? Had you not foreseen that possibility? As part of your planning process and risk analysis when developing the system, why did you not plan how you would manage different transaction numbers?

**Mr Peover:**

The intention was that the process would scale up to deal with increased transactions, so that was straightforward enough. The backlog is different. A growing backlog emerged. I do not have the figures to hand, but we can give you the figures for the backlog over the years. There was a significant growth in the backlog, and the Department was under pressure from the legal profession, politicians and others to resolve the situation. That was when we chose to use the casework assistants. In normal circumstances, we would have used our own staff, but it was difficult to recruit our own staff and train them from scratch.

We did not foresee that a backlog of that size would grow. In planning terms, we did not envisage that the backlog would have risen quite so dramatically. Perhaps it was a failure in planning, but we did not expect a backlog of 28,000 cases.

**Mr Beggs:**

Appendix 6 details the reasons for the change requests and the costs. Approximately £1 million was spent on PCs to deal with increases in the volume of business. How many PCs did you get

for that £1 million?

**Mrs Montgomery:**

I do not know offhand.

**Mr Peover:**

I do not have the figure to hand.

**Mr Beggs:**

I note that you were not happy with the original price that you were given for monitors, so you negotiated and achieved a 12% reduction. If you buy your computers from a single supplier without competition, are you not at risk of paying above the market price? I am not aware that BT makes computers, so I presume that it buys them in, makes a profit and hands them to you. I am very concerned about whether value for money was achieved in purchasing £1 million worth of PCs.

**Mr Peover:**

We need to go back to the basic contract: it was a contract to provide a service. BT tendered for a particular service, including the technology and the refreshment of it. We achieved value in respect of those additional PCs. We also received the dual screen technology when it came along and other updated software. It was not simply that we were buying something from BT and buying something else from somebody else. It was a contract for provision of a service, which was funded through the transactions. It was not simply a case of taking out a bit, going to PC World and buying PCs there because it is cheaper. It was a contract into which we entered and for which BT's bid was the best that we received.

**Mr Beggs:**

I am curious about why you built in the purchase of PCs through a single supplier at such an early stage. If you could come back with an equivalent price for similar spec PCs that were used elsewhere in the public sector at that time, I would be interested to hear it. How can a price be put on those PCs if they are bought from one supplier?

I want to ask Mr Apsey about PFI contracts in which BT is involved. We heard that you have been involved in projects in England, Wales and Scotland. How many of them use open-book

accounting and how many of them use closed-book accounting, like this one?

**Mr Apsey:**

I honestly do not know. When the OGC guidelines changed to include mandatory open-book accounting, all of BT's policy changed similarly. At the time at which we drew up the contract, the guidelines did not force open-book accounting.

To be fair, the argument that we made when we submitted our bid was that we were doing it on the basis of best value for money. We took an arcane system — I am talking truly arcane: people painting on pieces of paper with paintbrushes — and we took the risk of turning that into a digitised system and creating the largest digital database in Europe at the time. We took the risk of retraining 200 staff, many of whom had never come across a computer, let alone used Windows-based software. We said that that was a significant risk. Surely the goal was to reduce the cost of the transactions in Northern Ireland for the end supplier. That is how value for money is measured.

If you look at what we put on the table and what we delivered, you will see that we delivered exactly what we promised. There has been a reduction in the fees to the end user and a significant reduction in the number of staff in Land Registers. There has been a significant increase in productivity, and all the staff are computer literate. There is now a clear breakdown of the different types of work that Land Registers undertook to enable people to progress, and one person can now do all sorts of work.

It was a very risky project, and the nature of the deal reflected that. Moreover, it was financially free-standing, and, at the time, it was the only project of its type in the UK. We invested well over £20 million in the deal before we received a single penny back from Land Registers. That is in the figures that came with the bid. The delays that back conversion caused cost us a significant additional sum. If you consider the cost of money alone on £20 million, you will soon realise, especially when taking inflation into account, that a significant sum of money is needed to recoup that.

At the time, Land Registers turned over only £6 million a year. Therefore, more than three years' worth of turnover was being invested in that organisation to support a £16 billion housing market. If that market had collapsed in Northern Ireland when the housing market was at its



peak, it would have caused major embarrassment to the area and would have had a major effect on inward investment and a range of other issues. The fact that we, as a team, managed to keep that alive is a testament to the excellent management in Land Registers and a testament to how PFI can work when it works well.

**Mr Beggs:**

That is useful information. I want to know about the risk to BT. Did you invent new technology from scratch, or did you simply apply technology that was already operating in other parts of the world?

**Mr Apsey:**

It was probably a bit of both, to be fair. We used packages that were available, because obviously we do not want to be using something that is not. However, we must bear in mind that land law in Northern Ireland is unique to Northern Ireland, as is the history of how documentation in Northern Ireland has been dealt with. The situation is not the same as it is in England or Scotland, and, as a consequence, we had to tailor our work to ensure that it fitted in Northern Ireland. It would not have operated successfully otherwise.

**Mr Peover:**

Paragraphs 4.11 and 4.12 of the report indicate that the risks were, as part of the process, appropriately shared between the Department and BT.

**Mr Beggs:**

You say that the risks were “appropriately shared”. Were the successes appropriately shared?

**Mr Peover:**

Yes; the Northern Ireland public have done very well out of the project.

**Mr Beggs:**

Without open-book accounting, I do not know whether they did. That is my difficulty.

**Mr Peover:**

The report says that, in line with good practice, we are in the process of updating a joint project risk register. I am comforted by the Audit Office’s findings on risk management.

**Mr Beggs:**

It strikes me that the scanning and digitisation of maps is cutting-edge computer technology. However, given that the technology in question is probably applied worldwide in many similar offices, it does not strike me that the adjustment of software roles for land law is cutting-edge technology. I would have thought that that is simply a case of working out the rules in particular regions and writing them into the software system. I am trying to ascertain the risk to BT.

**Mr Apsey:**

The introduction of LandWeb Direct was unique. At that time, in 1998 and 1999, the Internet had not taken off and nobody knew whether it would be a success. We took a gamble that investment in the project would work for the good of Northern Ireland. We put significant sums into marketing it to the solicitors, and we helped to train the solicitors. We supported various events in different companies around Northern Ireland. That was groundbreaking work, and land registries in other parts of the world have pinched those ideas and taken them forward. Without a shadow of a doubt, we were absolutely the first to do what we did.

**Mr Beggs:**

Do you own the intellectual property rights to the system? Have you sold the system anywhere else?

**Mr Apsey:**

No, we have not. Intellectual property rights for software are very easy to work around. Somebody simply has to get the same thing to work using a different look and feel. To some extent, the argument about intellectual property rights is moot, because, by the time that a contract reaches a conclusion, technological leaps and advances that have been made since the first day of a system's introduction reduce its market value. As we said, when it comes to the break point negotiations next year, we will put the matter on the table so that we can resolve it and get a clear and unambiguous statement about how it will be handled.

**Mr Dallat:**

Forgive me for depicting Land Registry before the arrival of BT like a scene from a Charles Dickens novel, with people still writing with quills. It looks as though we should have investigated Land Registry a long time ago, when it was like that, because the argument seems to

be in favour of BT's rescuing it. I did not think that Government agencies were supposed to be run like that. I never believed that it was possible for a company, albeit a very successful one, to put itself in the position of having total control of a particular situation, thereby turning the procurement process upside down. That is what really annoys me. I do not take issue with any particular thing that you said; it is just the crazy set-up. BT is a commercial company, so I cannot criticise you for seeking commercial advantage, but you certainly scooped on this one. They were in no position to argue with anybody. Is that right?

**Mr Peover:**

I do not agree with that analysis. As I said, we think that we have a good system and a good strategic partnership with BT in which one body does not take advantage of the other. When going through the various amendments, we looked at the options, and we went with what seemed to be most sensible at the time. Therefore, I do not accept that BT has run away with the process.

**Mr Dallat:**

I am sorry; you cannot have it both ways. I have listened to how bad you were before BT came to the rescue, and now you want to tell me something different. That is not on.

**Mr Peover:**

As Craig Apsey just said, the situation in the late 1990s was very different to the situation now. In 1988, when I left the Health Department to go to the Department of Education, there were two PCs, which were not networked, and no staff had a PC on their desk. When I went to the Department of Education, I found it unusual for people to have such resources. The roll-out of ICT to Departments and its expansion in their work is a relatively new phenomenon.

**Mr Dallat:**

I have no problem with that, although I agree that many Departments made a right hames of things, leaving the whole procurement and tendering for contract processes up the left. They just did not work.

**Mr Peover:**

I did not say that I agreed with that point.

**Mr Dallat:**

Do not worry; you have done all right so far.

Paragraphs 3.20 and 3.21 deal with BT supplying additional caseworkers at a cost of £14.8 million. Why did you not source those staff through open competition, and why did you feel that specific legal advice on extending the contract in that way was not needed? Was the reality at that stage that you had managed to privatise government?

**Mr Peover:**

The £14.8 million is the total cost of the process, which was completed in a series of phases. For the reasons that I explained, at the time, the Department took the view that, given the pressure that we were under, the appropriate and right way to proceed was to buy in casework assistance. We looked at other options. We could have recruited staff ourselves, but, as I explained, the arrangement with BT is more flexible, and it has enabled us to scale up and scale down the input from casework assistance and to clear up the backlog. Therefore, it was an effective way of dealing with a problem that we faced.

**Mr Dallat:**

Paragraphs 3.20 and 3.21 also indicate that you disclosed your in-house costs to BT; that is some craic. Do you think that showing your hand demonstrated good business acumen and produced a competitive deal for Land Registers? Why did you not first seek a quotation from BT and use the public sector cost as a benchmark to assess whether that was a good price?

**Mr Peover:**

I was not in the Department at that time, so I do not know the process or whether we asked BT. We quoted a figure for the daily cost of our own staff in the evaluation of options, and that is the rate at which we charged. You may be right; it may be that we should have sought BT's quote before we showed it what we had. However, I will need to check how the process was managed, because I do not know the chronology of the case.

**Mr Dallat:**

I am sure that you are familiar with the phrase "two for the price of one". If I have got it right, this is an example of one for the price of two. You paid BT to help to reduce the backlog, but did BT not also benefit by being able to levy transaction charges for each application that its staff

processed? Was BT paid twice?

**Mr Peover:**

No; it was not paid twice. BT would have benefited from the transaction charges as they went through. However, that is a different issue. There would have been a transaction cost regardless of whether we, BT or a third supplier processed that transaction.

**Mr Dallat:**

Do you know how much BT received in transaction charges in helping to clear your backlog of 20,000, or whatever the figure was? Should that not have been taken into account when negotiating the supply of additional caseworkers?

**Mr Peover:**

I think that the two things are different. If we had recruited our own staff to clear the backlog, transaction charges still would have been going to BT as the backlog was processed. If we had gone to a recruitment agency such as Grafton and bought in additional temporary staff, we would have had to pay that agency. Therefore, transaction charges would have been coming through in that situation as well. Therefore, I think that the two things are entirely separate.

**Mr Dallat:**

Mr Apsey and his company won every time; you have not won once.

**Mr Peover:**

I think that we have won quite a lot from this contract. We have done very well out of it for the reasons that I outlined to the Chairman at the outset. I think that the public have done well out of it.

**Mr Dallat:**

I notice that you keep saying "I think".

**Mr Peover:**

I believe, then. I have given the reasons why I think that.

**Mr Dallat:**

I am not complaining; I am only making an observation.

**Mr Peover:**

The public have done well out of it; I will say it emphatically.

**Mr Dallat:**

OK; let us move on. I note that appendix 6 does not include the costs for back conversion, although paragraph 3.11 discusses those additional costs. What exactly was to be provided through the agreement change request process? How much did it cost? Is this yet another instance of Land Registers failing to meet its obligation under the agreement and of BT bailing it out?

**Mr Peover:**

I am not sure that I follow that point, Mr Dallat. What are you asking me?

**Mr Dallat:**

Essentially we are asking what exactly was to be provided through the agreement change request process, and how much it cost. Do you understand that?

**Mr Peover:**

For back conversion?

**Mr Dallat:**

Yes.

**Mr Peover:**

Conversion of maps and so on?

**Mr Dallat:**

This is all taken from this report, you know.

**Mr Peover:**

I am sorry; I am not sure what the point is. Back conversion is different. As Craig described,

back conversion refers to converting maps, documents and Registry of Deeds into a digitised form so that they can be used on the system.

**Mr Dallat:**

Does it, or does it not, include the cost?

**Mr Peover:**

Does what include the cost? I am lost. The reference in appendix 6 to back conversion is one thing, but the backlog that is referred to in 3.11 is different. We paid for the backlog and casework assistance. Transaction fees were paid for the transactions that were processed.

**Mr Dallat:**

You are obviously as confused as I am.

**Mr Peover:**

I am not confused; I am quite clear about this. There are two different things here.

**Mr Dallat:**

I will read the question to you again. I note that appendix 6 does not include the costs for back conversion, although paragraph 3.11 discusses those additional costs. Exactly what was to be provided through the agreement change request process, and how much did it cost?

**Mr Peover:**

The back conversion process is cited in appendix 6. I am still not sure of your point. The casework assistance was one issue in dealing with the backlog; the back conversion and map reconstruction were different issues. Am I missing something, Patricia?

**Mrs Montgomery:**

No.

**The Chairperson:**

When we are seeking further information later, perhaps you could write to us about that. We need some clarity on that point.

**Mr Dallat:**

Can the chief executive clarify the confusion? It is important that the question is answered.

**The Chairperson:**

We can clarify that by writing to the Department to get that information.

**Mr Dallat:**

Were the chief executives of Land Registers awarded any bonuses during that period?

**Mr Peover:**

I would need to check that; I do not have those details with me. I made the point that the project was successful, so it would not surprise me if senior staff in the Department were awarded bonuses as a result.

**Mr Dallat:**

I have no comment to make on that.

**The Chairperson:**

We will write to you for clarity on some of those issues.

**Mr Donaldson:**

Figure 11 in the report records that an excess of £1.5 million has been spent on financial and technical advisers since the LandWeb agreement was signed in 1999. Why did you continue to need that type of support after the agreement was signed and even after the system became operational?

**Mr Peover:**

The need for that support reduced significantly over the period, but we still needed legal advice on the kinds of issues that we spoke about earlier, such as taking advice on the management of the contract, extensions to the contract so that other items could be added, and the charges that were being levied. A range of advice is needed in a contract, and the specialist advisers were there for that purpose.



**Mr Donaldson:**

I note that in 2007 the cost of financial and technical advice was £100,000, whereas in 2006 it was £55,000.

**Mr Peover:**

There was no cost at all in 2008.

**Mr Donaldson:**

The report does not show a cost for 2008.

**Mr Peover:**

The cost has gone up and down, but it is now at zero. We use those contracts only as required.

**Mr Donaldson:**

Paragraph 4.11 details the issues on the adequacy of the output specification and advice on the allocation of risk. Given that, what formal evaluations of those consultancy services have been completed? What was your conclusion?

**Mr Peover:**

Are you asking whether we are happy with the consultants' advice or with the evaluation of the project as a whole?

**Mr Donaldson:**

Are you happy with the consultancy services that you were provided with?

**Mr Peover:**

I am not sure that we have formally evaluated the consultancy services. We have taken their advice, but we have not employed anyone else to evaluate whether the independent advice was good. We have not done a double evaluation. The consultants were there to evaluate the interaction with BT and the management of the contract.

**Mr Donaldson:**

Are you satisfied that the costs that were incurred were reasonable and that the services that were provided offered value for money?

**Mr Peover:**

Yes. Business cases covered the costs as we went along. Unfortunately, some of those were approved retrospectively, but they were approved nevertheless.

**Mr Donaldson:**

On how many occasions were they approved retrospectively?

**Mr Peover:**

Approval for the original agreement was for £200,000 to cover the original appointment of the financial and technical consultancy in the run-up to the contract. Land Registry then thought that it had approval for the subsequent consultancy. However, in 2004, it transpired that we could not find any record of a formal approval, so the rest of the consultancy was approved as a block in 2004 at a cost of around £1.4 million.

**Mr Donaldson:**

Is it correct that the rates for consultancy advice have been renegotiated and agreed annually since then?

**Mrs Montgomery:**

There was a call-off contract and reduced rates.

**Mr Donaldson:**

Ms Hamill, paragraph 4.19 raises the issue of Departments' access to information on charges, costs and, indeed, profits. You will also be aware that this Committee made recommendations on open-book accounting, about which your predecessor expressed concern. In the light of that further example and the information that is presented in paragraph 4.19, does DFP wish to reconsider its stance?

**Ms Hamill:**

Open-book accounting is now standard practice for PFI contracts. Mr Peover, the accounting officer, indicated that there has been an undertaking to review that at the next break point. We expect to see that happen with all PFI contracts that are being considered at that point.

**Mr Donaldson:**

Will you take into account the information that has emerged in this case?

**Ms Hamill:**

Yes, of course. That is standard practice now. My predecessor's concerns were about reopening contracts. Certainly, that is standard practice for all contracts that are being either agreed to or reviewed. Open-book accounting is an expectation.

**Mr Donaldson:**

Mr Peover, paragraph 4.22 records that benchmarking and market testing are key elements of good practice in ensuring value for money. What steps have you taken since June 2008 and ahead of the break option in the agreement in 2011-12 to press BT to undertake such benchmarks? What comparative information are you gathering for that process?

**Mr Peover:**

Those are key elements of the renegotiation process up to the break point in the agreement, which will begin next year. BT will have to produce for us a value-for-money report and proposals on the benchmarking of such issues. BT is very comfortable with that. Value for money is quite difficult to benchmark, because systems vary from place to place and it is quite hard to find an exact analogue of any system. For that reason, the points that I made earlier about benchmarking the value, charges and cost to the Northern Ireland public as opposed to the public in Scotland, England and Wales or the Republic of Ireland are important to us, and we want to ensure that there is value for money in them. We also have a challenging set of ministerial targets against which our performance and that of the system as a whole are being benchmarked. We, therefore, know how that operates, and we will certainly want to see evidence that there is an acceptable level of operation. We will be working with and challenging BT as part of the process of contract renegotiation to ensure that we are getting good value for money and that there is as much benchmarking and information available as possible.

**Mr Donaldson:**

I note that the break point in the agreement is not that far away and that it may, therefore, be difficult for you to answer these questions with a BT representative present. However, what thought have you given to your negotiating strategy? What plans are in place for establishing a suitably experienced negotiating team to match and challenge the undoubted commercial skills of

BT?

**Mr Peover:**

I should be careful in my answer.

**Mr Donaldson:**

Perhaps you should just let us know whether you have given that much thought.

**Mr Peover:**

We have given it thought, and we will be engaging in robust negotiations with BT. We will use in-house support or, if necessary, buy in support to ensure that we robustly challenge the BT offer. As part of that process, we will explore all the issues that we have described and talked about this afternoon, such as open-book accounting and intellectual property rights.

**Mr Wilkinson:**

To go back to an earlier question about the use of consultants, senior managers in registration have benefited from working in this partnership. Indeed, there has been a lot of mentoring, and they have learned a lot and developed their skills. They will be some of the people who will be fielding in the negotiation, and we will benefit from what we have learned over the years.

**Mr Donaldson:**

I am sure that the Audit Office and the Committee will want to keep a close watch on how things end up with the negotiations. We wish you well with that.

**Mr Beggs:**

I have a supplementary question to ask. Mention was made of using external advisers at a cost of £1.5 million. You indicated that you did not employ a consultant to assess their effectiveness. Have you assessed how effective they were? Did you get good or bad advice? There have been some very painful IT projects, so it is important to have an appropriate assessment. Have you done that?

**Mr Peover:**

We think that we got good advice from the consultants, and we do not think that it is a failed or a bad IT project. It is a good project.

**Mr Beggs:**

Others have been poor.

**Mr Peover:**

I would challenge other people's views on that.

**Mr Beggs:**

If you asked anyone in local government about the LPS and the variance in its rates charges, which fluctuate hugely, you would find that there is enormous pain. A number of properties are occupied, yet rates on those properties are not being paid. Some IT projects have not worked.

**Mr Peover:**

I am not talking about those projects; I am talking about the Land Registry project, which is a good project. I do not dispute your view that people are critical of the LPS. I see the correspondence that comes in to the Minister criticising the rating system. Again, if we were talking about that topic, I would argue that things have got considerably better over recent years. John and his colleagues have good liaison arrangements with local government to try to improve that working relationship. Indeed, they are improving that relationship.

**The Chairperson:**

Can I have a brief answer to this question? If you were to do the project again, would you do anything differently?

**Mr Peover:**

Yes.

**The Chairperson:**

What would that be?

**Mr Peover:**

Balls were dropped during the process. We should have foreseen the Registry of Deeds issue, and we should have handled the contractual arrangements better. If we could have managed the process of modernising the agency in a situation where we were not under constant workload

pressure, we could have had a better arrangement. However, some of those issues were outside our control. With the benefit of hindsight, we would do things differently. It would be amazing if we did not, and the report points to some of the things that would be done differently if we were doing it now.

However, to go back to my original point, the Northern Ireland system and the person who is involved in a land transaction, the legal profession and the other stakeholders have actually benefited quite substantially from the project. It could have been done better. Certain human elements could have been done better, but it was done well.

**The Chairperson:**

Have you shared your experiences of this project with other public bodies?

**Mr Peover:**

We have. We did not talk about the post-project evaluation. That has now been done, and the lessons learned from that will be shared with colleagues in other Departments. Again, this is a somewhat unusual project, and I am not sure that there are many direct analogies. However, some of the general lessons will be of value to the system. No doubt, you will produce a report that will be available generally to the system.

**Mrs Montgomery:**

We underestimated the amount of time that it would take our own staff to be involved in the project and how much they would have to give. However, it worked out well for us in the long run, because our in-house good knowledge and expertise have fed in well. Nobody should underestimate that, and that would certainly be a lesson learned for other projects.

**The Chairperson:**

You will be glad to know that there are no other questions at this stage. It has been a long enough session. You have said that you will forward us more information. If we have any additional questions, we will correspond with you. Patricia, John, Stephen and Craig, thank you very much.