

**Department of  
Finance and Personnel  
Memorandum on the Thirty Second  
Report from the  
Public Accounts Committee  
Mandate 2011-2016**

**Department for Social Development -  
Advanced Land Purchases**

**Presented to the Northern Ireland Assembly  
by the Minister of Finance and Personnel**

**21 December 2015**



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## **Glossary of Abbreviations**

<b>ALP</b>	Advanced Land Purchase
<b>DFP</b>	Department of Finance and Personnel
<b>DSD</b>	Department for Social Development
<b>LPS</b>	Land and Property Services
<b>NIAO</b>	Northern Ireland Audit Office
<b>NIHE</b>	Northern Ireland Housing Executive
<b>PAC</b>	Public Accounts Committee
<b>SHDP</b>	Social Housing Development Programme
<b>TCI</b>	Total Cost Indicator

## Thirty Second Report

### Department for Social Development

#### Department for Social Development - Advanced Land Purchases

##### *PAC Recommendation 1*

**The Department for Social Development (DSD) should remind Housing Associations, who are all in receipt of significant amounts of public funding, that they should expect to come within the remit of the Committee and should attend if requested. This requirement must be made a clear condition of future grant funding.**

The Department for Social Development (DSD) accepts this recommendation.

DSD has written to all Housing Associations advising them that whilst they are not public bodies, as recipients of public funding they are required to make themselves available to provide any explanation as and when required to do so by DSD on matters associated with public funding. This included that Housing Associations should expect to come within the remit of the Public Accounts Committee (PAC) and attend if requested in respect of any matters associated with that funding. Appearance by Housing Associations at PAC hearings when required will become a condition of grant funding from April 2016.

##### *PAC Recommendation 2*

**The Department should update its guidance to Housing Associations on identifying and handling conflicts of interest to ensure it is in line with best practice. It should also ensure that appropriate training on governance requirements is in place for all Board members within Housing Associations.**

DSD accepts this recommendation.

DSD's Housing Association Guide already contains detailed and comprehensive guidance on identifying and handling conflicts of interest, and refers to perceived and potential conflicts as well as actual conflicts of interest. However, DSD is currently reviewing this guidance and will strengthen it as appropriate. The review will take cognisance of the Northern Ireland Audit Office's (NIAO) Good Practice Guide on Conflicts of Interest published earlier this year and lessons learned through this Committee. DSD will ensure that any new guidance is in line with best practice.

Training on good governance and how to handle conflicts of interest has been organised by the NI Federation of Housing Associations through the Chief Executives' Forum for Board Members and Senior Management Teams within the Housing Associations. DSD and the Northern Ireland Housing Executive (NIHE) have also arranged similar training for their staff on these matters. These issues will also be covered in any future induction training for new staff and Board Members of Housing Associations.

##### *PAC Recommendation 3*

**When the current court case has been completed, the Department should seek to have the investigation into the circumstances of the purchase of Great George's Street re-opened to attempt to reach some conclusions as to what exactly happened at that time. This will involve liaison with Helm, PSNI and HMRC. The conclusions should be reported to the Committee.**

DSD accepts this recommendation.

The litigation in respect of Great George's Street was settled on 29 September 2015. DSD will refer the purchase of Great George's Street to its Corporate Investigations Unit to review the evidence and advise on the best way to proceed. In taking forward any subsequent investigation, DSD will liaise with relevant bodies as appropriate. DSD will inform the Committee of the conclusions of this work once it has been completed.

*PAC Recommendation 4*

**The Department and the Housing Executive should review their due diligence procedures prior to paying over large amounts of grant funding. At the very least this should include making its own high level enquiries with the planning authorities and also with valuation experts in Land and Property Services.**

DSD accepts this recommendation.

NIHE is responsible for the operational management of the Social Housing Development Programme (SHDP) which includes the payment of grant at agreed project milestones (acquisitions, on-site and completion). Housing Associations are required to complete each stage and obtain the appropriate certifications before grant payment is made. DSD is content that this process is operating effectively and that due diligence is applied.

Further, DSD has already reviewed and revised the Housing Association Guide. From 1 October 2012, Housing Associations have been required to consult with the relevant Planning Authority in advance of submitting an Advanced Land Purchase (ALP) application to NIHE. Evidence of this engagement must be provided in the form of a written response as part of the Pre-Application Discussion. In addition, as part of the operational management of the SHDP, NIHE regularly engages with the Planning Authority to monitor the progress of individual social housing applications.

Land and Property Services (LPS) already play a key role in the formulation of the Total Cost Indicator (TCI) which is used as a bench mark for the payment of Housing Association Grant. TCI covers land, construction and ancillary costs and is based on land and property costs supplied by LPS, scheme cost data produced by monitoring approved schemes and construction cost indices.

Where costs exceed the TCI, they are subject to additional scrutiny by NIHE to identify the underlying reason and confirm that the proposals represent value for money. As part of this additional scrutiny, NIHE may engage with LPS to seek, for example, a further valuation or where it is considered excessive abnormal costs are presented. DSD and NIHE will review existing procedures to determine whether further guidance is needed on the circumstances when LPS should be engaged.

*PAC Recommendation 5*

**The evidence to the Committee was that under the Housing Order interest can be charged from the time that the decision is made to recover the grant but this has not been done in the cases of either Trinity or Helm. The Committee's view is that in future, any decisions not to charge interest should be exceptional and if so made, then the justification for the decision should be fully documented and approved. In the particular cases of Helm and Trinity the Committee consider that the Department should revisit the decision not to charge interest.**

DSD partially accepts this recommendation.

There is a robust process in place for obtaining approval for any decision not to charge interest, which includes fully documenting the justification for any such decisions taken and obtaining appropriate approvals. The decision not to charge interest is made on a case by case basis and in the past interest has been charged where this has been deemed appropriate. The fact that an ALP scheme fails to come to fruition does not indicate that the Housing Association has done anything wrong, or that it has made any financial benefit from the ALP grant, particularly where this has already been applied for site acquisition. It may just mean that the development opportunity has not materialised.

NIHE's decisions in respect of the Trinity and Helm schemes were fully documented and appropriate approvals were obtained. DSD has already considered NIHE's decisions not to charge interest on these particular schemes. DSD is content with NIHE's original decisions and has no plans to further revisit these decisions.

*PAC Recommendation 6*

**Departments should seek to resolve differences with bodies it has provided funding to by negotiation and should inform those bodies that a very dim view will be taken by this Committee of bodies taking legal action other than as a last resort. Nevertheless the threat of legal action should not prevent a Department doing what is right and provided it is reasonably secure in its position it should proceed.**

DSD accepts this recommendation.

In all cases, DSD will seek to resolve any differences with bodies it has provided funding to. While DSD will inform the Housing Associations that the Committee will take a dim view of bodies taking legal action other than as a last resort, DSD cannot expressly advise any independent bodies that they should not take legal action. That said, DSD can assure the Committee that the threat of legal action by a Housing Association would not deter DSD from doing what is right and taking whatever action it deems appropriate in the circumstances.

*PAC Recommendation 7*

**Grants should be recovered within a clear time period if the development does not proceed as planned. The Department now has a timetable of a maximum of three years from the date of the grant and the Committee would expect to see this enforced in future.**

DSD has already implemented this recommendation.

Since the difficulties associated with the Helm and Trinity cases, the Housing Association guidance has been revised to make the process more robust and prevent similar events occurring. The Guide was updated in October 2012 to advise that ALP schemes have up to two years to be on site from the ALP approval date (three years with the prior approval of NIHE) otherwise the ALP grant has to be repaid. DSD will continue to monitor this requirement to ensure it is complied with.

With regards to the repayment of grant by Helm and Trinity, the decisions to seek return of the ALP payments were made in March 2013, and from that date the relevant Housing Associations entered into discussions with NIHE to agree an appropriate approach to repayment. This resulted in a formal agreement with Helm in July 2014 for a full recovery of the grant over a three year period (2014-2017) and full repayment of the grant by Trinity by the end of the 2014-15 financial year.

*PAC Recommendation 8*

**Before grants are paid for the purchase of land, the Department/Housing Executive should consider whether the valuation provided is up to date and represents value for money. In all cases there should be a maximum period of three months between the date of the valuation and the date the grant is paid.**

DSD partially accepts this recommendation.

DSD will carry out a review of the current arrangements to see if a shorter more workable timeframe can be achieved. As part of the review DSD will engage with LPS regarding the valuation processes, given their role in the formulation of the TCI and the proposed time frame referred to above, to see if this can be achieved.

*PAC Recommendation 9*

**The Department should review its rules on the extent of any allowable costs on schemes which do not progress. The Committee is of the view that the Housing Association and not the Department should bear the costs of any schemes which do not progress. These rules should ensure that the costs are reasonable in the circumstances. In the specific case of the Crossgar site the Committee considers that the £194,000 of costs that has been allowed by the Department is completely excessive considering that this is a site on which nothing has been built. The Committee is of the view that all of this money should be recovered.**

DSD partially accepts this recommendation.

DSD will review its rules and guidance on allowable costs for housing schemes that fail to go on site taking account of the Committee's views above. However, as outlined in recommendation 5, the fact that an ALP scheme fails to come to fruition does not indicate that the Housing Association has done anything wrong, or that it has made any financial benefit from the ALP grant. It may just mean that the development opportunity has not materialised.

In respect of the Crossgar scheme, in agreeing the recovery of grant, NIHE recognised that Trinity Housing had incurred a substantial outlay in their efforts to take forward a social housing scheme on the Crossgar site. As NIHE

was satisfied that these costs were incurred in good faith it determined that the recovery of these costs would not be sought, given that the Housing Association had made every effort to develop the site. This remains the view of both NIHE and DSD.

*PAC Recommendation 10*

**This Committee expects full co-operation, honesty and candidness from all those who attend. This includes witnesses who attend from charities and other bodies in receipt of public funds. Departments should remind all bodies in receipt of public funds of this requirement.**

DSD accepts this recommendation.

DSD has written to all Housing Associations reminding them that it expects all Housing Associations who access public funding to fully co-operate with the Committee as outlined above and that it expects them to uphold the seven principles of Public Life.

The Department of Finance and Personnel (DFP) will highlight this recommendation to departmental Accounting Officers to remind them of the Committee's views and will ask them to ensure that this is brought to the attention of all those bodies who are in receipt of public funds.

*PAC Recommendation 11*

**The Department should remind all Housing Associations that they should have procedures in place to identify potential conflicts of interest. Once potential conflicts have been addressed then action should be taken to appropriately deal with them. If the Department becomes aware of potential conflicts of interest in bodies that they provide funding to then they should ensure they are appropriately managed.**

DSD accepts this recommendation.

As stated in the response to recommendation 2, DSD is currently reviewing its guidance contained in the Housing Association Guide on identifying and managing conflicts of interest. As part of this review, DSD will ensure that the guidance on identifying and handling potential conflicts of interest is strengthened as appropriate and that it is clear. Once this guidance has been developed it will be circulated across the housing movement. The proposed training on conflicts of interest for Housing Associations, NIHE and departmental staff will also supplement this new guidance.

In addition, DSD will endeavour through its oversight role to ensure that all conflicts of interest of which it becomes aware, are dealt with appropriately.

*PAC Recommendation 12*

**The stone-walling of reasonable questions and the subsequent involvement of legal advisers to prevent these questions being answered is not acceptable behaviour for a Chief Executive of an organisation in receipt of a significant amount of public expenditure. In any future similar situations the Committee recommends that the Department should take robust action and not be deterred by the threat of legal action.**

DSD accepts this recommendation.

As stated under recommendation 6, DSD will not be deterred by the threat of legal action by any Housing Association and will take whatever action is appropriate in the circumstances. DSD will remind Housing Associations in receipt of public funding that it expects them to co-operate fully, and in an open and prompt way in responding to requests for the provision of any information.

*PAC Recommendation 13*

**The Committee recommends that training and guidance for the Department, NIHE and Housing Associations is provided on how to deal with perceived and potential conflicts of interest. The Audit Office has recently published a Good Practice Guide on Conflicts of Interest which helps Board members and staff in key positions recognise when they have a conflict of interest and how they should act when such a situation arises. Public Bodies must ensure that conflicts of interest are identified and managed in a way**



**that safeguards the integrity of staff and Board members and maximises public confidence in the organisation's ability to deliver public services properly.**

DSD accepts this recommendation.

As stated previously, the current guidance on how to identify and deal with any type of conflict of interest, including perceived and potential, is being reviewed and strengthened where necessary. The new guidance will take cognisance of the NIAO Good Practice Guide in this area. Once finalised, the new guidance will be issued across the housing movement and, to supplement the new guidance, training has been organised for Board Members and Senior Management teams within Housing Associations, and for departmental and NIHE staff.

DFP has also recognised the need for further guidance in this area and will be developing specific guidance on conflicts of interest for the wider public sector, drawing on various sources already available including the On Board Guide, the lessons learned through the PAC and NIAO's Good Practice Guide.





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