



Treasury Minutes on the Fourth and Sixth to Eighth Reports from the Committee of Public Accounts 2003-2004

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**Presented to Parliament by the Financial Secretary
to the Treasury by Command of Her Majesty
March 2004**

TREASURY MINUTES DATED 30 MARCH 2004 ON
THE FOURTH AND SIXTH TO EIGHTH REPORTS FROM
THE COMMITTEE OF PUBLIC ACCOUNTS,
SESSION 2003-2004

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Fourth Report

Improving service delivery: the Forensic Science Service

PAC conclusion (i): In the four years since we last reported on the Agency, its timeliness performance has been disappointing, with the target for turnaround times missed in each successive year. The Agency should optimise the use and efficiency of its seven laboratories, exploiting its new operational management system and the removal of the Metropolitan Police Service's requirement that all its evidence should be dealt with at the London laboratory.

1. The Forensic Science Service (FSS) accepts the conclusion and welcomes the recommendations, which have directed us to focus on:

- (a) a work structuring project, designed to maximise efficient usage of resources and minimise queue time, which has been piloted in London and Chepstow in 2003-04 and will be rolled out throughout all sites in 2004-05
- (b) the introduction of a new IT based management system which will be optimised in Q1 2004-05
- (c) the redistribution of London work to the provincial laboratories in Q4 2003-04
- (d) the distribution of 'excess' work from one laboratory to another in response to the variation in customer demand across the country.

2. The use of average turnaround time as a key performance indicator has masked significant enhancements in performance during a period of year on year growth of the 'forensic market'. Particularly since 1999, meeting customer requirements in support of the changing criminal justice system (CJS) led to a proliferation of timeliness requirements driven by either legislation (e.g. Crime and Disorder Act) and/or Government policy (e.g. persistent young offenders). In this environment it was inevitable, particularly as more work became prioritised, that this would impact on the supply chain, with cases classified as 'standard' taking longer to deliver, resulting in the 'average' timeliness creep. The situation is now substantially improved with:

- (a) the FSS's Customer (Demand) Management programme promoting a shared understanding of demand (submissions typically within 10 per cent of forecast)
- (b) a better understanding of the demand/timeliness/capacity model
- (c) reformulated training programmes to speed delivery of qualified staff into the operational pool
- (d) overall increases in operational capacity of 15 per cent since 2001 and five per cent throughout 2003-04.

3. Following the agreement of new FSS Targets, a key measure is the delivery time for 95 per cent of casework. 'When assessing performance against new targets it should be appreciated how much more challenging the new targets are. As an example, the target to achieve a 70-day turnaround time in 90 per cent of standard jobs in 2002-03, became a 2003-04 target to reduce turnaround time in 95 per cent of cases to 42 days. Because of the large number of such jobs and the statistics of their distribution, this demands an actual performance improvement by the FSS of the order of 50 per cent for this target.'¹ Apart from London, where the contract for the Metropolitan Police Service is monitored through different criteria, the 95 per cent figure is 48 days at February 2004, compared to 84 days at February 2003.

¹ Dr D V McCaughan, 'Report on interim progress in meeting the 2003/4 targets of the Forensic Science Service Business Plan'.

PAC conclusion (ii): Currently DNA samples found at crime scenes wait 14 days for analysis, yet the analysis itself takes just 36 hours or less. The Agency intends to fully automate this process in the next three years. The analysis of DNA from suspects has been automated and the current turnaround time for such samples is just 3.5 days. The Agency should be in a position to demonstrate similar results through the automation of crime scene sample analysis.

4. The FSS accepts the Committee's recommendation and has brought forward plans to automate the DNA crime stain process. As the first provider in the world to fully automate the DNA crime stain process the Agency's performance is measured in hours and days rather than weeks and months as in other countries. The FSS has delivered enhanced capacity, performance and business continuity with the opening of the second crime stain facility at the Huntingdon site in February 2004.

5. Timeliness of the DNA crime stain process has been improved by:

- (a) routing of samples direct to the crime stain laboratories
- (b) DNA teams now carrying out the entire process
- (c) the introduction of expert systems for assessing the results
- (d) electronically transmitting results from the national DNA database (NDNAD) to the customers.

6. Performance has significantly improved; average turnaround times for the whole process have been reduced from 20 days in 2003 to 12 days in February 2004.

PAC conclusion (iii): A customer satisfaction survey by the Agency in 2002 indicated that one of the three top areas for concern was its failure to notify the police of delays in completing forensic analysis. The Agency must inform the police and the courts if an agreed delivery date is going to be missed to avoid, for example, the rescheduling of court cases.

7. The FSS accepts the Committee's recommendation and fully appreciates the disruption to the CJS, which might result from poor communication. The new tripartite protocols for Crown Prosecution Service (CPS), Police and FSS will drive improvements in communication throughout the forensic process at a national and local level. The understanding of customer requirements is built through joint work with Criminal Justice Issues Group (CJIG) to develop new definitions of timeliness based on investigative, precharge and post charge requirements. Accordingly, the London Laboratory has established a question/answer based approach to case work, which will be rolled out across the FSS, as appropriate in the coming year. Advances in technology, eg. Criminal Justice Extranet (CJX) enables real time communication between the FSS and its customers; the FSS has linked all of its staff to Police National Network based email. The establishment of a new role of Business Quality Director brings managerial focus to the implementation of FSS business rules and provides assurance of staff adherence to quality management procedures in this important aspect of service delivery.

PAC conclusion (iv): The Agency does not receive regular feedback on the outcome of the cases in which it has been involved. The Agency should work with its partners in the criminal justice system – in particular the police and the courts – to learn the outcome of specific investigations and prosecutions. It should use this information to focus its resources on identifying any areas of weakness on meeting the needs of its customers case by case.

8. The FSS welcomes the Committee's recommendations and is working to understand the contribution of forensic science to outcomes. The ideal scenario for the FSS would be to link into the CJS computerised results, however, this is beyond our remit to deliver. Assessing FSS impact on the outcomes is complex, due to the number of agencies and factors which contribute to the criminal justice process.

9. Customer feedback is being actively sought at several levels:
- (a) customer satisfaction is monitored on a transactional basis (piloted at one site and rolled out across the FSS customer base in February 2004) and through an ongoing programme of targeted surveys
 - (b) focus on effectiveness of forensic evidence is driven by the new agency targets (see below)
 - (c) a 'New Ways of Working' service for sexual offences is piloting the tracking of cases through to disposal
 - (d) through routine meetings to monitor Letters of Understanding or contractual agreements
 - (e) through involvement with CJIG and the Tripartite Protocols where communications are established as an integral part of the new processes and success monitored via an FSS/Police/CPS steering group
 - (f) consultation with the Judicial Studies Board to obtain feedback on the contribution of FSS expert witnesses in the courtroom.

PAC conclusion (v): The Agency should develop a better understanding of training needs and tailor its training more accurately to meet their requirements. As well as surveying course delegates, the Agency should for example analyse over time the evidence handling performance of those police forces which have and have not received training. With more relevant training in place, the Agency should encourage greater take up by police forces. It should, in particular, encourage all police Scene of Crime Officers to attend.

10. The FSS is able to accept the recommendations in part; the need to acquire feedback on training courses and make them more relevant and encourage participation is fully accepted. However, the relationship between the Agency and individual police forces is a 'customer – supplier' relationship; it is not within the FSS's remit to comment on the performance of its police customers.

11. Enhancement of performance throughout the forensic process will be driven in 2004-05 through:

- (a) sharing of effectiveness data at local customer meetings and the DNA Expansion Programme
- (b) working with CJIG and the Police Standards Unit (PSU)
- (c) partnership projects, where at the request of the police, training to deliver the service may be monitored through the performance of Scene of Crime Officers or a project wide basis
- (d) establishment of a dedicated FSS training team, which has registered interest in the Police Skills and Standards Organisation accreditation scheme.

12. In terms of developing a greater understanding of customer needs, the FSS is:

- (a) in the process of agreeing a three year arrangement for training services with the National Centre for Policing Excellence (CENTREX) for Scene of Crime Officers and has agreed to the secondment of a forensic scientist for six months
- (b) as part of the strategic partnership with the National Crime Squad taking part in a training needs analysis workshop in April 2004
- (c) together with the Association of Chief Police Officers (ACPO) National Training Group, developing a new version of the "Think Forensic" training package

- (d) participating in ACPO training strategy group, where it is recognised as a key supplier.

PAC conclusion (vi): The Agency should publicise the impact of partnership projects with individual police forces across all forces and explore the feasibility of further initiatives. Projects such as the *Burglary Reduction Initiative* in Leeds and *Safer Homes* in the West Midlands have resulted in significant increases in criminal prosecutions and guilty verdicts, and reduced crime across the regions.

13. The FSS welcomes the recommendation and the observations of the Committee. Rollout of the benefits of partnership projects has been undertaken within the current resource constraints. 10 police forces have received or are receiving a Property Crime Service and we have discussed the benefits of the service with a further 15. This DNA based service has been enhanced through the use of footwear intelligence and evidence and specialist recovery of DNA material from fingerprints, maximising the value of the two key evidence types. In addition best practice has been shared through contribution to the first ACPO DNA guide and presentations at the National DNA Conference and at the Jill Dando Institute ‘Launching Crime Sciences’ Conference.

PAC conclusion (vii): In considering plans for the future status of the Agency, the Home Office should obtain clear and robust analysis of the merits of different options, including the financial costs and benefits. In the event of public private partnership status, the Home Office should specify how it will manage risks emanating from the separation of the forensic science service from the rest of the criminal justice system.

14. The McFarland Review considered a range of options for the future structure of the FSS and explored in depth the operating parameters of continued Trading Fund status as well as variants of the public private partnership (PPP) option. The Review distinguished between two possible models for PPP:

- (a) Company Limited by Shares (CLS) – a profit distributing organisation and
- (b) Company Limited by Guarantee (CLG) – a not for profit entity

and the incentive structure that each would create.

15. Although the CLG option was not without merit, the Review considered that it was unsuited to the task of enabling the FSS to tackle the competitive market head on and that existing constraints would continue to impede its progress as a world leader. In addition, it was judged that the CLG option would pose difficulties in securing private sector interest, given that the main stakeholders would be Government departments and agencies.

16. Conversely, as a CLS, the FSS would have the commercial financial freedom necessary to sustain growth in the face of increasing competition, at the same time ensuring that it would continue to serve the public interest and increase the benefits it delivers to the Criminal Justice System. The CLS represents the conventional format for private sector companies, where ownership and control of the company resides with the shareholders. It also allows for any profits made to be distributed to the shareholders as dividends and satisfies HM Treasury’s desire that there should be a separation of the customer and shareholder roles, in order to avoid any potential confusion of priorities or lack of clarity in interests.

17. The Home Office fully endorses the conclusion that CLS offers the best structure through which the FSS can secure its long-term success.

18. Implementation of both this recommendation and others emanating from the McFarland Review, should improve the service that the FSS provides to the Criminal Justice System.

19. The joint Home Office/FSS Delivery Team is currently working on an outline business case that will look in detail at how to optimise performance and economic prospects of the PPP. This will include:

- (a) a financial analysis of the impact of the proposed change in status
- (b) capital structure, including the extent of retained Government shareholding
- (c) potential partners and investors
- (d) risk management, including safeguarding the delivery and integrity of services
- (e) stakeholder, staff and customer, interests on corporate governance and decision making

PAC conclusion (viii): There will need to be adequate safeguards to protect the security and integrity of the National DNA Database, whatever form the Agency's future status takes. Access to and use of this sensitive information on over two million individuals needs to be carefully controlled. As the Home Office develops its plans for the Agency, it should identify and manage risks to the database including improper use of the data, for example for commercial purposes.

20. At present, the FSS has responsibility for the management of the National DNA Database, (NDNAD). The Chief Scientist of the FSS is the Custodian of the NDNAD on behalf of the ACPO. Under Section 64 of the Police and Criminal Evidence Act 1984 and its subsequent amendments, DNA profiles and retained DNA samples may only be used for purposes related to the prevention or detection of crime, the investigation of an offence, or the conduct of a prosecution.

21. The Custodian function of the NDNAD strictly controls access to the information contained on the Database and requests for any information from it. Only staff working within this function has direct access and then, only to the level required.

22. Following the FSS review, the Government has decided that the NDNAD should be separated from the FSS and be retained under public sector control. The Home Office is currently considering how this can be achieved in consultation with the FSS, ACPO and the Database Custodian.

23. The Government fully accepts that, in the future, access to the information contained on the database needs to be strictly controlled and has no intention of widening access to it for commercial purposes. In developing the new arrangements for the management of the Database, the Government will ensure that access to the information contained on it may only be used, as at present, for purposes related to the prevention or detection of crime, the investigation of an offence, or the conduct of a prosecution.

PAC conclusion (ix): The Agencies timeliness targets have changed significantly between 2001-02 and 2002-03, and again between 2002-03 and 2003-04. These changes make it difficult for the ongoing performance of the Agency to be assessed with any degree of certainty. The Agency should agree targets with the Home Office which are measurable and consistent over time.

24. The FSS accepts the recommendation and has welcomed the advice of an independent consultant, Dr D McCaughan, commissioned by the Home Secretary, to review targets. New measures and targets have been agreed for 2003-04 to 2005-06 which are 'more aggressive and customer focussed than earlier years'. The FSS's performance against the new targets is reviewed on a monthly basis and reported to the Ministers. In January 2004, Dr D McCaughan undertook an interim review of performance and concluded that 'In most areas progress is good with most objectives on track'.

PAC conclusion (x): The Agency presented the Committee with performance data which differed from that shown in the C&AG's Report. Departments must ensure that, where they wish to present new evidence to the Committee, they have provided this information to the C&AG in advance of the hearing, with sufficient time to assess its significance and validity. The C&AG can then advise the Committee in good time for the hearing.

25. The FSS accepts the recommendation and apologises for the oversight in not providing the updated information to the C&AG in advance of the September hearing.

Sixth Report

Department of Trade and Industry: Regional grants in England

PAC conclusion (i): Thirty years of regional grants to the Assisted Areas have failed to close gaps between the relative economic performances of the English regions. Since the Committee last took evidence in 1988, unemployment in the least advantaged region was over three times the level of the most advantaged region. Fourteen years and £1.4 billion of regional grants later, that ratio remains unchanged. During that time, the budget for regional grants has not been based on any clear assessment of the contribution these grants could make to the achievement of the Department's regional aims.

1. Over this period, the Regional Assisted Areas Scheme has targeted unemployment. The Department's independent evaluations of the RSA Scheme show that the Scheme has "contributed to some convergence in the unemployment situation in Assisted and non-Assisted Areas"². In addition to unemployment, there are other reasons for weaker economic performance in some regions. Regional grants are only one of a number of programmes aimed at lifting the economic performance of the English regions. Others, such as English Partnerships and the European Structural Funds also contribute. The Government's aim is to provide a co-ordinated approach, addressing a range of persistent problems holding back the performance of regions. The creation of Regional Development Agencies (RDAs) is expected to focus support where it is most needed and in a more co-ordinated way. The Department's main focus for business support is towards improvements in productivity. New targeting of regional grants, aimed at driving up investment and skills, two of the main drivers of productivity, is expected to make an important contribution to improved economic performance in the Assisted Areas (A-As) in future with knock-on effects for the regions as a whole.

PAC conclusion (ii): Regional grants have done little to reduce unemployment in Assisted Areas. To get the best from grant expenditure such as Regional Selective Assistance, the Department needs to match the grant instrument to the needs of particular disadvantaged areas, which can vary widely. More flexibility is required in the criteria to enable individual regions to adapt them to their specific needs.

2. In the period 1994-2002, the RSA and Enterprise Grant (EG) schemes were expected to create or safeguard a total of 303,000 jobs in England. The Department believes that this level of activity will have had a significant impact on A-As' employment. Earlier independent evaluations of the scheme concluded that it had contributed to some convergence in the unemployment situation in Assisted and non-Assisted areas. The most recent independent evaluation of RSA (1991-95) across Great Britain, found that the scheme had continued to operate in a cost effective manner compared with previous periods, that the level of net job creation was very similar to that identified in both previous evaluations and that it had contributed to some convergence in unemployment between the Assisted and non-A-As.

3. There is a balance to be struck between consistency in a national offering of business support and allowing flexibility to reflect regional and local needs. For example, support can be given to any size of firm in any sector, subject to certain EC restrictions, and a grant or loan, with Treasury approval may be offered on the basis of fixed capital spend or job creation. The transfer of responsibility for RSA from the Government Offices (GOs) to the Regional Development Agencies (RDAs) in 2002, however, is expected to improve regional targeting and better co-ordination of packages of support. In the context of the new business support product, the Department is putting in place arrangements with the RDAs to keep this balance under review.

² Arup Economics & Planning, Evaluation of RSA 1991-95.

PAC conclusion (iii): The net employment effect of RSA is disappointingly low, at only some 40 per cent of the gross number of jobs supported. The Department needs to target improvement in that level. They should review such factors as the relevance of scheme criteria, success of scheme marketing, viability, displacement of other jobs and comparison of administration experience between regions and headquarters, to engender continuous improvement in scheme performance.

4. The Department accepts that it should look for continuous improvements in scheme performance. Independent evaluation has shown RSA to be operating as cost effectively as in previous years, in its achievement of £17,500 (at 1995 prices) cost per net permanent job, leading to a net cost per net job year of £1,050. The Department is not aware of any like-with-like comparisons with other programmes. Nevertheless, we are always seeking to do better, including through improvements to the criteria, as suggested by the Committee. Changes in recent years have included the introduction of a quality criterion to limit the amount of support that can be given to weaker projects. Better quality market advice, which is central to improved analysis of displacement, is also an aim of the current review of the scheme, targeting improved productivity and skills as objectives. The Department will be monitoring and comparing the respective performance of the RDAs in their delivery of regional grants and disseminating best practice.

PAC conclusion (iv): The Department should revise the criteria for RSA to facilitate grants for the services sector and for firms that make investments in Research and Development, product development and skills training.

5. The RSA scheme criteria do not differentiate between manufacturing and service sector projects and the distinction between the two general sectors is becoming less clear-cut. The great majority of grants have, however, gone to manufacturing firms as conventionally categorised. While it is the case that the largest grants will have been offered to support very large capital/jobs projects, the RSA scheme has supported several large service sector projects in recent years. All projects, service and manufacturing, need premises, possibly land, and office equipment, all of which count towards eligible expenditure, including rents. Furthermore, the current EC Regional Aid Guidelines permit offers of assistance to be made on the basis of job creation linked to an initial investment which is also likely to be of greater benefit to the service and research sectors. Since 2000, one of the tests of value for money in terms of appraising the quality of projects has been their investment in Research and Development.

PAC conclusion (v): The Department should market regional grants more actively to elicit a higher level of proposals than it receives at present. A high level of relevant applications should enable the Department to select the best.

6. The availability of regional grants is publicised by the Department, the RDAs, sub-regional partnerships and local authorities in England, as well as by UK Trade and Investment to potential inward investors. It is important, however, to avoid raising expectations that this is an automatic grant offering. Publicity arrangements for the new product are under consideration. Application numbers will, to some extent, reflect the level of investment activity in the economy as a whole and worldwide for internationally mobile investment. There was also a reduction in the A-As map coverage with effect from 2000. The scheme operates on a demand-led basis, within its budget constraints, and offers are made on the basis of individual case appraisal. A higher number of applications would not necessarily raise the overall quality.

PAC conclusion (vi): It is not clear how regional grants fit in with other instruments the Department employs, such as infra-structure grants and the promotion of economic clusters, and with the work of other Departments, for example, on skills. Noting the Department's Public Service Agreement (PSA), shared with the Treasury and Office of the Deputy Prime Minister, to make sustainable improvements in the economic performance of all the English regions and to reduce the gap in growth rates between regions. The Department for Trade and Industry needs to identify the role that regional grants can best play within this framework.

7. With delivery mainly through the RDAs and RDA advice sought for cases appraised at national level, all offers of grant are assessed for their contribution to Regional Economic Strategies, including developing clusters. The role of the RDAs in appraisals also ensures an appropriate co-ordination of other assistance to projects where relevant, including land and property and training assistance. The current review of the criteria of the scheme by the Department has identified two new objectives relating specifically to the PSA target – productivity and skills, which is a driver of productivity, in addition to employment, for the programme.

PAC conclusion (vii): The Department has not specified the market weaknesses that RSA is designed to mitigate. As a result, it is difficult to judge whether the scheme is fit for purpose The Department should rectify this omission as part of its on-going Business Support Review.

8. The Department's Business Support Review considered those areas where traditional industries are in decline and there has been migration of skilled labour outside the area. This can perpetuate a low skills equilibrium which may deter firms from investing in these areas in part because of the high unit wage costs associated with low productivity of the unskilled. These factors contribute to the continuation of pockets of relatively high and persistent levels of unemployment and inactivity, low skills, low incomes and low investment which affect in different degrees the economic performance of the regions, and which regional grants can help address. The project appraisal process in the new replacement product for RSA will give more importance to the extent to which productivity and skills are improved, alongside employment, in line with the emphasis on these in the PSA target work.

PAC conclusion (viii): The Department need to define measures against which scheme performance can be tracked. The measures should cover all the scheme objectives and facilitate comparison with other regional development instruments.

9. The Department's review of the schemes has identified two key new objectives – productivity growth and skills – on which the new product will be targeted, in addition to its traditional aim of job creation. A balanced scorecard system is being developed to track progress and achievements in these key areas across the range of cases supported. The system is being adopted for all the Department's business support products and will enable performance against objectives to be monitored in real time. Its contribution to the Regional Economic performance, PSA target will be assessed in conjunction with other measures aimed at this target.

PAC conclusion (ix): The three evaluations of Regional Selective Assistance have led to improvements in scheme specification. Future evaluations need to develop further, for example, to reflect administrative costs, to arrive at better-supported assumptions on matters such as assisted job life, and to consider effects of assisted jobs based on local labour markets.

10. The Department agrees that evaluations provide important evidence of value for money as well as suggestions for future improvements. Administrative costs will be collected as part of the Department's new BS data management system. Job lives are monitored in the development phase of projects and for a period thereafter, but not for the whole life of the project, for which assumptions have to be made, nor do the necessary economic models exist for considering local labour market effects. These and other issues will be considered when commissioning future independent evaluation work.

Seventh Report

Progress on 15 Major Capital Projects Funded By Arts Council England

Of the 15 projects we examined, nine were completed late, six went over budget by 20 per cent or more, and the total cost overrun was £94 million. Ten of the projects received supplementary grants from Arts Council England, totalling £32.5 million, in addition to their original lottery award. These projects were funded in the early days of the National Lottery, however, and since then Arts Council England has taken action to improve its handling of capital grants and reduce the likelihood of similar problems on future projects. ...

All in all the things that Arts Council England has done are sensible and in the spirit of our previous report on these projects. Of course, the impact of the changes will be seen on projects funded under the new capital programme, launched in 2000, and we may wish to come back to this subject and examine the effectiveness of the steps that have been taken and confirm that Arts Council England has delivered on the assurances it has given that performance in the future will be better.

Areas also remain where Arts Council England and the Department for Culture, Media and Sport still need to take action.

The Department for Culture, Media and Sport (DCMS) and Arts Council England welcome the comments and recommendations of the Committee. Arts Council England welcomes the recognition that the action it has taken since the Committee's previous report on these projects is sensible. The Department and Arts Council England are working together to ensure that, where action has not already been taken, the Committee's recommendations are addressed as soon as possible.

PAC conclusion (i): With nearly £19 million of its lottery money spent on two projects which have closed and a further £78 million tied up in five projects experiencing financial difficulties, Arts Council England does not have a strong track record on project viability. The Council should be satisfied that recipients of capital grants have a robust strategy for their project's ongoing operation and funding once construction has been completed, and the management capacity to deliver it.

1. DCMS and Arts Council England agree that the viability of a project following its completion should be a key consideration at all stages of the application process. Arts Council England's procedures for assessing project viability have been subject to constant review and improvement, and it now attaches particular importance to ensuring that organisations have the right management capacity to ensure delivery and successful operation once construction is completed. Any project experiencing financial difficulty is closely monitored.

2. Although the Committee believes that Arts Council England does not have a strong track record on project viability, the 15 projects examined represent a small number of the earliest, most complex and difficult projects. The vast majority of Arts Council Capital projects have been very successful. Arts Council England is confident that this strategy is justified. In addition, one of the two projects that closed, the Dovecot, has reopened.

PAC conclusion (ii): The National Centre for Popular Music is the latest in a series of publicly funded projects to get into difficulty because its visitor number forecasts were greatly in excess of what was actually achieved. Forecasts of visitor numbers should be based on an appraisal of the product and its potential to generate interest, including sensitivity analysis and an assessment of the risk that visitors might not generate and sustain the expected levels of income.

3. Arts Council England and DCMS agree that a thorough and robust market assessment is vital in all cases. This is, and has always been, an essential requirement of Arts Council England's application process. All applications for capital funding must be supported with detailed visitor forecasts and an associated risk and sensitivity analysis. These are subject to independent expert assessment on Arts Council England's behalf and are kept under constant review during the construction period. There will always be greater difficulty assessing innovative and novel projects like the National Centre for Popular Music which have no immediate comparators.

4. The Committee's recommendation will be taken into account by the new Lottery distributor as its role as a centre of excellence for managing major capital projects is developed.

PAC conclusion (iii): ...Grant making bodies should secure legal charges on assets developed with public funds and the Treasury should draw this point to the attention of government departments, agencies and non-departmental public bodies.

5. Arts Council England now takes a legal charge on any building constructed or redeveloped using lottery funding, without exception. The Treasury agrees in principle that a similar approach should be taken in respect of other assets developed with public funds and will consult Departments on how this should be taken forward.

PAC conclusion (iv): Through its regional structure, Arts Council England needs to achieve a more equitable distribution of lottery funding across the country. It should reach beyond the large, well established arts organisations concentrated in London and encourage applications from smaller bodies and from communities that have tended not to benefit from lottery funding.

6. Arts Council England and DCMS agree with the Committee that an equitable distribution of Lottery funding is desirable. The National Lottery policy directions issued by the Secretary of State for Culture, Media and Sport require Arts Council England to take account of the need to ensure that all parts of England have access to funding. The reorganisation of Arts Council England to strengthen regional decision making and funding is already helping to address this. One of Arts Council England's strategic aims for its new capital programme is to support projects in areas of the country where arts provision has been low in the past.

7. As well as considering geographical distribution, Arts Council England also aims to address inequalities by increasing arts provision for areas of deprivation and for communities at risk of social exclusion, including ethnic minority communities. In excess of £875 million of Arts Council England's Lottery funding (over half the total Lottery money spent on the arts) has been awarded to the 99 most deprived boroughs in England. In addition, three-quarters of awards have been made for amounts less than £100,000.

PAC conclusion (v): The information provided by Arts Council England on the socio-economic profile of audiences at the projects indicates that the audiences remain disproportionately drawn from particular sections of society. It took Arts Council England some months to provide us with this data so we infer that the Council is not routinely collecting it and monitoring the diversity of audiences. Arts Council England should as a matter of course collect the information it needs to assess the progress made by the organisations it funds in reaching out to new audiences.

8. Arts Council England does not require every project it funds to collect the type of detailed information the Committee asked for in respect of the 15 projects examined because this would be expensive and burdensome. However, Arts Council England has a very strong commitment to increasing access to the arts and increasing diversity, and has a programme in place to collect regular evidence on the characteristics and diversity of audiences. In 2003, it published *Focus on Diversity* which presented the first ever statistics on attendance, participation and access to the arts and culture among different ethnic groups.

PAC conclusion (vi): The Department for Culture, Media and Sport should ensure that the lessons learnt by Arts Council England from these and other projects are shared with other lottery distributors which have capital grant programmes. It should identify examples of good practice and develop guidance, for example on selecting and incentivising contractors. It should also work with distributors to identify how the Office of Government Commerce's gateway review process might best be applied to the lottery sector.

9. DCMS has already taken steps to ensure that lessons are learnt. As highlighted in the *National Lottery Funding Decision Document* published in July 2003, the new distributor will act as a centre of excellence, identifying best practice and guidance which draws on the experience of those involved in capital projects.

10. DCMS and the Lottery distributors are working closely with the Office of Government Commerce during the formative stage of the new distributor to ensure that rigorous review processes are established. Arts Council England has already invited the Office of Government Commerce to accredit its processes.

Eighth Report

Department for Culture, Media and Sport

The English national stadium project at Wembley

PAC conclusion (i): The Football Association's request in 2001 for further public funding triggered a detailed review of the financing and viability of the project, and the corporate governance and accountability arrangements. These matters should have been dealt with at the outset of the project before any public money was committed.

1. The Department and Sport England accept that certain elements at the early stages of the project development could have been better defined and structured, principally corporate governance. However as the project progressed the obstacles and risks to successful delivery became clearer. Both the Department and Sport England have learned valuable lessons from the experiences on this project. We have acted upon those lessons and the project is now much improved as a consequence. The Government welcomes the Committee's conclusion that a detailed review of the financing and viability was carried out. This supports the NAO's conclusion that following the Football Association's (FA's) request for further public funds in 2001 the Department working closely with Sport England "...put the project through a thorough review process in what is an example of well managed risk taking."³

PAC conclusion (ii): In handing over £120 million at the very beginning of the project without requiring the Football Association either to contribute funding itself or to provide a guarantee to underwrite the grant, Sport England left itself exposed. Had the project collapsed, it is doubtful that the lottery money would have been recovered.

2. Sport England acknowledged that had the project collapsed recovery of the grant would not necessarily have been straightforward. They did, however, have a legal entitlement to recover the grant if the project did not proceed.

3. The Football Association decided not to pursue a parent company guarantee for the reasons outlined in the NAO Report, "...the Football Association considered that a parent company guarantee would not be meaningful since, without a profitable stadium, it would be unlikely to be able to honour a guarantee in practice. Furthermore the Association felt that a guarantee would undermine the arm's length relationship that it had developed with Wembley National Stadium Limited. In the end, Sport England decided not to pursue the question of the guarantee, concluding that the other elements of security, which Wembley National Stadium Limited was to provide, would be adequate to protect the grant."

4. Sport England had regard to Policy and Financial Directions issued by the Secretary of State. It took the decision that a first charge over the facility, a staging agreement, and a Lottery Funding Agreement placing legal obligations on the FA and Wembley National Stadium Ltd (WNSL), offered the necessary and best protection for the Lottery Funds while at the same time enabling the building of a National Stadium for Football and Rugby League with the potential to stage athletics.

PAC conclusion (iii): Sport England's position was further weakened by the closure of the old stadium, which reduced the value of the assets acquired with the lottery funding and cut off a source of revenue which could have financed repayment of the grant. The old stadium should not have been allowed to close until the financing package for the project had been secured.

³ The English National Stadium Project at Wembley HC 699 2002-2003.

5. Sport England agreed to closure when they were given assurances that the Project was on track to reach financial close imminently. This consent was given in order to assist a speedy commencement to construction once financial close had been reached. (Unfortunately the financing deal by the then bankers collapsed). Sport England had acknowledged that there was a potential risk and, for these reasons, secured the additional commitments from the FA and WNSL referred to in the NAO report to protect their position going forward.

6. These additional commitments, involved receiving assurances from WNSL and the FA that the stadium would be reinstated within a reasonable period and that the FA would take their events back to the reinstated stadium. This would allow funds to be raised to secure repayment of grant. In addition, as Sport England stated in evidence before the Committee on June 16 2003, the Football Association were "...required to commit around £350,000 a month to ensure that WNSL remained solvent during that period." There is no doubt, as noted by the NAO, that recovery of the grant at this stage would not necessarily have been straightforward. Nevertheless, Sport England remain of the view, as they indicated consistently and publicly at the time and afterwards, that they had rights to seek recovery on this basis.

PAC conclusion (iv): Now the decision has been made, after much toing and froing, to include athletics provision, it is not clear that the new stadium will ever actually be used to stage a major athletics event. It seems to us therefore that the decision to restore provision for athletics was little more than a device to keep in the project the £20 million that the Football Association would otherwise have had to repay.

7. The Department notes the Committee's conclusion but wishes to point out that it became clear that there were technical problems associated with hosting athletics at the proposed Stadium which undermined the viability of the project. This being the case the FA's offer in December 1999 to return £20 million was deemed by the then Secretary of State to be an acceptable starting position for outline heads of terms on which WNSL and Sport England could then focus detailed discussions. The agreed repayment figure was negotiated with the Football Association.

8. During the English National Stadium Team Review, which started in 2001, the issue of athletics was revisited. In the interim period the construction technology for WNSL's deck solution had significantly improved to an extent that hosting athletics at the proposed stadium became viable. At current prices the deck solution will now cost circa £12 million compared to the £20.6 million cost of the 1999 proposal. Further, it will only take 11 weeks to construct and 6 weeks to dismantle compared to the previous 24-32 weeks.

9. The Lottery Funding Agreement signed at financial close in September 2002 obligates WNSL to provide a stadium capable of staging athletics events, including the obligation in respect of Olympic athletics events. It is ultimately the decision of the London 2012 bid team to determine what role Wembley will play in a future London Olympic Games and the current proposal earmarks the stadium for the football finals. Nonetheless the Stadium has the design capability to host major athletic events and a decision on whether to bid for such an event at Wembley in the future, for example a World Championship, rests with UK athletics.

PAC conclusion (v): Best procurement practice has not been followed on what is a high profile project with significant public sector financial support. Organisations responsible for managing projects, which are supported with public money, should be expected to set out a formal procurement process, which treats all bidders equally to avoid giving any one a potential advantage over the others, and to adhere to it.

PAC conclusion (vi): The cost increases on the project are being borne directly by the Football Association and not the public purse. But ultimately the value for money from the public sector contribution depends on a successful project and the cost increases can only serve to make the delivery of a financially viable stadium less certain. To protect the public interest, the Department and Sport England should obtain regular and comprehensive information on the progress of the project and be ready to act as soon as they become aware of concerns or difficulties.

10. The Department and Sport England accept conclusions (v) and (vi) in that we acknowledge that the procurement process did not follow best practice. Whilst it is important to point out that there was no evidence of impropriety or criminal intent at Wembley, in relation to major projects we have learned:

- the importance of using the OGC;
- the need to put in place robust monitoring practices; and
- the importance of a partnership approach with clear and comprehensive roles and responsibilities.

11. In addition the Secretary of State, in December 2001, set four tests for the Football Association and Wembley National Stadium Limited to address before the Government would proceed with support for the project. These included tests relevant to the concerns about procurement practices. The Department concluded in September 2002 that the tests had been met and that the project was worthy of further support (£20 million of government funding to the project to cover non-stadium infrastructure costs).

12. Specifically on Wembley, the Department, Sport England and the London Development Agency now have robust monitoring arrangements in place and all indications are that the project is being managed well. The Department, together with Sport England and the London Development Agency, have:

- worked with WNSL to strengthen corporate governance structures including a revamped Board;
- adopted a joint monitoring and project development approach with the OGC covering technical, financial, corporate governance, audit functions and full access to board/management papers. The project monitors communicate with the Public Sector Funders regularly and produce monthly reports highlighting project progress and issues for consideration;
- appointed the Chief Executive of WNSL as the chief compliance officer and meets with WNSL on a monthly basis to discuss project issues; and
- ensured that Sport England have a reserved right to appoint three new directors to the Board.

PAC conclusion (vii): In the event that the stadium is financially successful, the Football Association will receive all the profits even though the public sector is providing a fifth of the funding. The Department, in conjunction with the Treasury, should develop guidance for its sponsored bodies on providing for the public sector to share in the financial gains generated by ventures that have received public money.

13. The Department accepts the Committee's conclusion. The Department undertakes to develop guidance in this area, and to review the advice in Guidance Note 1/98, Private Finance and the National Lottery. The existing guidance refers to the need for profit-sharing arrangements to be put in place in the event that a Lottery project realises a profit, which is distributable among its owners or shareholders. However, this guidance was primarily concerned with PFI projects, as the title suggests. Guidance will be developed looking more widely at projects which could generate a profit.

14. The Department's policy decision was not to request a share of any profits. The Department's view was that any profits should be used by the FA, a non-profit making organisation, for the development of football; there are a number of protections to safeguard the public interest and prevent the FA from profiteering or destabilising the project by taking windfall gains. These include ensuring that the FA continues to retain a £100 million stake in the project and restrictions on the FA selling shares in WNSL.

PAC conclusion (viii): The number of public access seats (which has already been reduced once to help make the project viable) and the restrictions on anchor tenancy and the sale of naming rights to the stadium are real public benefits. These benefits have been secured with public money and any proposal to diminish them as a way of providing further support for the project if it gets into financial difficulty should be considered as if it were a request for additional funding.

15. The Department notes this conclusion. The new stadium will have 90,000 seats and premium seating will generate around 70 per cent of the project income even though they only make up 20 per cent of the total. As identified by the English National Stadium Team Review this is an important factor, which will allow the stadium to operate without ongoing public subsidy. In responding to any proposal to relax one or more of the public benefit conditions, regard will be had to the overall public interest and the extent to which the proposal will diminish the public benefit in the project.

PAC conclusion (ix): It is surprising that the Department and Sport England seemed unable to provide us with meaningful information comparing the costs of this project with those of new stadiums in other countries. Benchmarking of this kind would have been helpful in making an assessment of the value for money of the project.

16. The Department and Sport England considered the assessment of value for money as a fundamental requirement in determining whether final Government support for the project could be provided in September 2002. Therefore as an integral aspect of the government review into the National Stadium project, independent consultants, Cyril Sweett, were commissioned by WNSL to determine whether the cost of the design and build proposals represented value for money and they confirmed that the design and construction works did represent value for money.

17. The figures available to the Department show that for example, in terms of construction costs, Wembley costs approximately £4,500 per seat (90,000 seats), compared to the Millenium Stadium at £2,200 per seat (72,500 seats) and the Sapporo stadium in Japan at £5,800 per seat (42,122 seats). In addition, only £161m out of the total cost of the Wembley stadium will be borne by the public sector and without the need for an ongoing public subsidy.

PAC conclusion (x): Departments and their sponsored bodies should apply the lessons drawn from this project – including the need for straightforward management structures, strong corporate governance and trust with other stakeholders – in taking forward other large publicly funded ventures, including the forthcoming Olympic bid.

18. The Government has learned lessons from Wembley and from the very successful Commonwealth Games. The Government carried out an exhaustive analysis of risks and possible costs before making the decision to support an Olympic bid and the Department has established a dedicated Olympic bid project team. The Department, working extensively with the other stakeholders, the Mayor, the British Olympic Association (BOA), the London Development Agency (LDA), Sport England and the bidding company (London 2012), are developing staging structures, with proper accountability, to be used if our bid to host the Games is successful.



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