



Northern Ireland Audit Office

Report by the Comptroller and Auditor
General for Northern Ireland

Northern Ireland
Housing Executive

**Report by the
Comptroller and
Auditor General on
the 2011-12
Accounts**

NORTHERN IRELAND HOUSING EXECUTIVE

REPORT OF THE COMPTROLLER AND AUDITOR GENERAL TO THE NORTHERN IRELAND ASSEMBLY

Part 1: Introduction

1. The Northern Ireland Housing Executive (the Housing Executive) is a Non-Departmental Public Body (NDPB) sponsored by the Department for Social Development (DSD / the Department). The Housing Executive is the regional housing authority for Northern Ireland with a wide range of housing responsibilities including acting as landlord for housing stock of approximately 90,000 dwellings.
2. I am required to report my opinion as to whether the financial statements give a true and fair view. I am also required to report my opinion on regularity, that is, whether in all material respects the expenditure and income have been applied to the purposes intended by the Northern Ireland Assembly and the financial transactions conform to the authorities which govern them.
3. This report reviews the results of my 2011-12 audit of the Housing Executive and sets out the reasons why I have qualified my audit opinion on the regularity of expenditure in the following areas:

- Housing Benefit

The Housing Executive spent £603 million on housing benefit in 2011-12. Significant levels of fraud and error in housing benefit expenditure continue to arise and I have qualified my opinion on this for a number of years. (See Part 2); and

- Response and Planned Maintenance Expenditure

The Housing Executive spent £55 million in response maintenance expenditure and £107 million in planned maintenance expenditure during 2011-12. Considerable problems have been identified relating to Housing Executive controls over work done by contractors on its response and planned maintenance programme. (See Part 3).

4. This report also comments on a number of other matters in relation to my audit of the accounts of the Housing Executive which have not led me to qualify my audit opinion:
 - Sale of Housing Executive land to developers (See Part 4); and
 - Payments to Housing Associations (See Part 5).

Part 2: Housing Benefit

Qualification of regularity opinion due to fraud and error in housing benefit payments

Arrangements for reporting and monitoring of housing benefit

5. The Housing Executive administers housing benefit on behalf of DSD. The Department's Standards Assurance Unit (SAU) regularly monitors and measures the estimated levels of fraud and error within the housing benefit system. In order to do this, the SAU randomly selects samples of ongoing claims and subjects them to detailed examination for evidence of official error, customer error or customer fraud¹. The results of this testing are used to produce a range of likely fraud and error in housing benefit and the midpoint of this range is used within note 30 to the annual accounts to estimate the monetary value of the fraud and error in the year.
6. The estimates of fraud and error are by their nature subject to uncertainty because they are based on sample testing but do, however, represent the best measure of fraud and error available. In order to facilitate the timetable for the production of the financial statements, SAU's testing is reported on a calendar year basis, not on a financial year basis. I am satisfied that this is reasonable.
7. I examined the work undertaken by the SAU to assess the levels of fraud and error within the housing benefit system. My staff examined and re-performed a sample of the case work during the year and also reviewed the methodologies applied by the SAU in carrying out these exercises. I am content that results produced by the SAU are a reliable estimate of the total fraud and error in the housing benefit system.

Qualified opinion due to irregular housing benefit payments

8. The entitlement criteria and the method to be used for payment of housing benefit is set out in legislation. Where fraud and error has resulted in an over or underpayment of benefit to an individual who is either not entitled to housing benefit, or is paid at a rate which differs from that specified in the legislation, the payments made are not in conformity with the governing legislation and are therefore irregular.
9. The levels of fraud and error for housing benefit for the year 1 January 2011 to 31 December 2011, estimated by the Standards Assurance Unit, are set out in Note 30 to the accounts and in total represent some 2.6 per cent of housing benefit expenditure (including 0.2 per cent relating to underpayments due to customer error which are not part of my qualification).
10. Table 1 below shows the housing benefit payments made during the calendar year of 2011 and the estimated amounts of fraud and error in relation to these payments, based on the work completed by SAU. The table shows that the total amount paid in the 2011 calendar year was £558.5 million with estimated irregular payments of £13.8 million comprising:
 - overpayments of £10.2 million (1.8 per cent of housing benefit payments); and

¹Official error arises when housing benefit is paid incorrectly due to inaction, delay or a mistaken assessment by the NIHE. Customer error occurs when customers make inadvertent mistakes with no fraudulent intent. Customer fraud arises when customers deliberately seek to mislead NIHE.

- underpayments due to official error of £3.6 million (0.6 per cent of housing benefit payments expenditure).

All of the overpayments are irregular, whereas only underpayments made as a result of official error are deemed irregular. Underpayments due to customer error of £0.8 million are not deemed irregular as customers are not required to conform to governing legislation when making their benefit claims.

Table 1: Trends in estimated overpayments and underpayments due to fraud and error in housing benefit expenditure

	2011 £million	2010 £million	2009 £million	2007 £million	2006 £million
Total Housing Benefit Expenditure*	558.5	568.3	503.6	412.8	411.6
Overpayments					
Official Error	2.6	9.8	3.6	1.2	0.5
Customer Error	4.8	4.0	1.2	6.7	4.1
Customer Fraud	2.8	0.9	4.5	2.8	3.3
Total	10.2	14.7	9.3	10.7	7.9
% of Housing Benefit Expenditure	1.8%	2.6%	1.8%	2.6%	1.9%
Underpayments					
Official Error	3.6	2.4	3.4	0.3	0.5
% of Housing Benefit Expenditure	0.6%	0.4%	0.7%	0.1%	0.1%

*This amount is the population from which a sample was examined by the Standards Assurance Unit. It is based on amounts paid in the calendar year and will therefore differ from amounts in the financial statements which are based on financial years.

Source: Standards Assurance Unit Reports (Standards Assurance Unit did not carry out an exercise covering 2008 due to resourcing issues.)

11. I consider the estimated levels of fraud and error in housing benefit expenditure to be material and I have therefore qualified my audit opinion on the regularity of this expenditure.
12. I recognise the considerable efforts and resources committed by the Housing Executive to address housing benefit fraud and error. However I am concerned that the Housing Executive's performance in addressing the overall levels of overpayments appears to be inconsistent over the period. I would encourage the Housing Executive to continue to focus on strategies to reduce the overall levels of loss, particularly in relation to customer error and customer fraud.
13. I note that the level of overpayments due to official error appears to have reduced significantly compared to last year, from £9.8 million to £2.6 million. The size of this reduction in the estimated level of overpayments due to official error indicates that the high level of error in 2010 may have been atypical and discussions with the SAU have highlighted that a large part of the reduction may have been

due to improvements in the way that the Housing Executive have responded to SAU's requests for information.

14. In 2010 in several cases selected for sampling the Housing Executive did not provide responses within a reasonable time and these cases were therefore deemed to be in error. In 2011 there has been a considerable effort to minimise the impact of this by providing all information to SAU promptly. I asked the Housing Executive to comment on the impact the reduction in deemed errors might have had in reducing the overall level of estimated overpayments due to official error. It told me that while the elimination of deemed errors, of which there had been five in 2010, had contributed to the reduction in the estimate of the level of official error, it had also implemented a range of additional measures during 2011 following a major review of its causes which also contributed to the change in the estimate for the year.
15. The estimated level of customer fraud has increased substantially from £0.9 million to £2.8 million this year, although the figure is less than that estimated in 2009. The Housing Executive has advised that this increase stems from successful detection activity, including the outworking of the National Fraud Initiative (NFI). I asked the Housing Executive to comment on the initiatives it is undertaking to try to reduce this figure in the future and it told me that it will continue its efforts to prevent and detect housing benefit fraud and will review the content of its counter-fraud strategy to ensure that effective measures are in place to address this issue. These include the introduction of the Atlas system of electronic notification of changes in benefits and tax credit and a new area of data-matching involving the use of data held by a credit reference agency. The Housing Executive accepted that customer fraud at 0.5 per cent of housing benefit expenditure for the year was higher than in 2010, but pointed out that the percentage was actually lower than in the five years prior to 2010.
16. I also note that the estimated level of underpayments due to official error has increased by 50 per cent from £2.4 million to £3.6 million. While this is consistent with the figure in 2009 I note that there appears to be an increasing trend and the figure is significantly more than the levels of underpayments due to official error achieved in 2007 and 2006. I asked the Housing Executive to comment on these figures and what it is doing to reduce them in the future and it told me that as part of its review of the causes of official error it identified the main causes of such error, including those relating to underpayments, and guidance was issued to staff on steps to be taken to reduce them. Furthermore the Housing Executive intends to consider the measures taken as part of the review of its fraud and error strategy during the current year. In addition, the Housing Executive considers that the automatic processes of updating benefit and tax credit information associated with the Atlas system should assist in reducing the potential for error.

Other types of housing benefit fraud

17. Tackling fraud is currently seen as one of the major sources of improved efficiency in the UK public sector and the Audit Commission² considers housing tenancy fraud to be the largest category of fraud affecting local government services. Tenancy fraud is the possession of a social housing tenancy by someone who is not entitled to it. This deprives those on housing waiting lists of the chance of a permanent home and gives rise to additional costs for temporary accommodation and additional house building. It is estimated that tenancy fraud costs the public purse £1 billion a year in England and Wales. To date NIHE's counter fraud work has not addressed this irregular activity and its implications for those in need. I asked the Housing Executive to explain how it intends to address this important area of potential fraud and it told me that a number of years ago over 30,000 Housing Executive properties were

² Audit Commission: Protecting the Public Purse 2011: Fighting fraud against local government (10 November 2011)

visited and tenancy details checked with occupants of the property and 262 Abandonment Notices³ were served during 2010-11.

18. The Housing Executive accepted that enhanced tenant profiling is required and that it would, in tandem with initiatives within Welfare Reform, pilot an exercise later this year to verify occupancy. This will require its staff to visit approximately 1,100 dwellings in one district area and establish, along with other issues, who is currently occupying the property. Once this exercise is completed it told me that an evaluation will be conducted and measures identified and introduced to provide it with comprehensive and collated information on tenants, households and properties.

Benefit overpayments to be recovered

19. Benefit overpayments arise whenever benefits are paid in error to customers. During the year the gross level of housing benefit overpayments owed by claimants increased to £45.4 million from £41.8 million in 2010-11. Table 2 below shows the total value of benefit overpayments to be recovered by the Housing Executive as at 31 March for each of the last five financial years.

Table 2: Trends in the recovery of Housing Benefit Overpayments

£million	2012	2011	2010	2009	2008
Gross debt recoverable in year	45.4	41.8	37.5	31.8	30.4
Written off	(1.3)	(1.8)	(1.3)	(1.0)	(1.6)
Provided for	(15.8)	(13.1)	(12.1)	(10.8)	(11.1)
Recovered	(13.9)	(13.1)	(12.8)	(10.5)	(10.2)
Net debt at year end	14.4	13.8	11.3	9.5	7.5
Recovery %	31.4%	32.7%	35.3%	34.0%	35.4%

Source: Housing Benefit Overpayment Returns and NI Housing Executive financial statements

20. The Housing Executive has examined this gross level of benefit overpayments and assessed how much of this debt may not be recovered from the customer (i.e. is written off) based on a number of factors. It told me that levels of recovery are typically very high while a customer is in receipt of housing benefit and recovery can be made from ongoing benefit payments. Once payment of housing benefit ceases, it commented that the percentage recovered decreases significantly although a high percentage of this group will claim housing benefit again in the future and direct recovery can be implemented again. Based on this assessment, the gross level of housing benefit overpayments recoverable in the year of £45.4 million has been written down by £17.1 million this year through amounts being written off and provided for. As £13.9 million was recovered during the year the amount of housing benefit overpayments due on the 31 March 2012 is £14.4 million.
21. I recognise that dealing with the recovery of housing benefit overpayments remains a priority for the Housing Executive. However I am concerned that the Housing Executive's performance in recovering the overall levels of overpayments has continued to reduce this year. Over five years recovery has dropped

³ An Abandonment Notice is a notice served on a tenant where it is believed that the tenant is no longer occupying the named property. This is the first step in the possession recovery process.

from 35.4 per cent in 2008 to 31.4 per cent in 2012. I asked the Housing Executive to comment on this reduction and it told me that it is extremely difficult for the percentage of recovery to increase in line with the increasing overpayments balance as recovery levels are restricted and the write-off criteria requires it hold some overpayment cases for 20 years before abandonment. Currently there is over £4 million of overpayments awaiting write-off which equates to 13 per cent of the outstanding overpayment balance. The Housing Executive commented that while actual monies recovered in respect of overpayments has improved each year over the past five years the Housing Executive is not complacent and will continue to prioritise the recovery of overpayments.

22. The recovery of benefit debt is complicated by the significant restrictions that are placed by legislation on the amounts that can be recovered, particularly in the case of those customers who are still on benefits who are often only able to repay very small amounts each week and therefore will take many years to fully repay the debt. Nevertheless it is important that the Housing Executive is doing all it can to manage this debt and this is an area which I will continue to examine closely in future years.
23. I also note that in February 2012, the Cabinet Office published a report, 'Tackling Debt Owed to Central Government – An Interim Report of the Fraud, Error, Debt Taskforce'. This report highlighted that benefit debt was significant and suggested a number of actions necessary to improve collection levels, one of which is the appointment of a 'Debt Controller' to develop strategic direction and increase recovery. In response to this report, the Housing Executive told me that it is currently in the process of moving the management of overpayments recovery into their Housing Benefit offices from the accounts' team and this has been shown to be successful to date. The Housing Executive commented that it would consider further measures through the year to ensure recovery is managed effectively in the offices and performance is maintained and improved where possible. It noted that the policy for overpayment recovery is managed within the Housing Benefit Policy Unit where strategies are produced and reviewed for implementation by all staff managing overpayments.
24. I commented in my report last year that the Housing Executive was taking steps to derive comparative housing benefit overpayment performance figures of local authorities within the UK. When asked what progress had been made in this area the Housing Executive told me that benchmarking with a number of GB authorities was undertaken on performance levels for 2010-11 and measured against the following two DSD Key Performance Indicators in Table 3 below:

Table 3: Debt recovery key performance indicators

Key Performance Indicator	NIHE target	NIHE performance	Average for participating authorities in GB
Value of overpayments recovered as a % of overpayments created during the year	85%	71.29%	68.57%
Value of overpayments recovered as % of overpayments created during year plus amount outstanding at beginning of year	45%	31.3%	28.57%

Source: NI Housing Executive

25. The Table shows that the Housing Executive performed marginally better than the average for participating authorities against these indicators however it has not managed to achieve the targets set by the Department. I asked the Housing Executive why it has not been able to achieve this target and it

told me that the Department accepts that these targets are not a true reflection of the actual recovery action taken. It advised that one of the issues regarding the percentage targets is with the high levels of counter fraud overpayments raised, for example, over £4 million in 2012-13, and the comments noted in paragraph 22. The Housing Executive considers this to present an anomaly for this target and advise that it has agreed a target for 2012-03 with the Department of the recovery of £13 million on all outstanding overpayments.

National Fraud Initiative

26. The National Fraud Initiative (NFI) is an exercise to conduct data matching reviews to assist in the prevention and detection of fraud and I welcome that the Housing Executive has fully engaged with this process. The outcomes to date of this exercise in Northern Ireland have demonstrated the value of NFI in identifying and countering benefit fraud and error.
27. The Housing Executive has taken part in two NFI exercises which have involved matching data from a number of databases such as payroll and occupational pension details with its housing benefit records.
28. A number of matches⁴ were passed by the Housing Executive to the Social Security Agency's Benefit Investigation Service (the Agency). The first matching exercise identified 6,000 cases to be investigated and resulted in 1,238 fraud investigations. To date, overpayments of £2.3 million have been identified in 1,033 cases and 52 cases resulted in Court convictions. Work is continuing on the remaining 205 cases.
29. The second NFI data matching exercise produced 9,100 cases to be investigated. To date the Agency has examined 5,826 of these cases resulting in errors being identified in 176 cases with overpayments of £248,300 and underpayments of £6,000. A further 382 cases are currently awaiting investigation for potential fraud.

⁴ These figures relate to housing benefit data matches only. The Housing Executive is also investigating matches in other data sets, for example, creditors and payroll.

Part 3: Response and Planned Maintenance

Qualified opinion due to weaknesses in the control of expenditure on response maintenance and planned maintenance

30. Last year I qualified my opinion on the regularity of response maintenance expenditure⁵ because I was unable to gain sufficient evidence to support this opinion. My concerns in respect of this expenditure have not been resolved and now also extend to expenditure on planned maintenance⁶. The total expenditure on response maintenance and planned maintenance during 2011-12 was £55 million and £107 million respectively.
31. Significant weaknesses in control have continued to emerge in the Housing Executive's management of response maintenance contracts and this year similar weaknesses have emerged for planned maintenance. I consider weaknesses within these areas of expenditure to be systemic and this has led me to qualify my opinion on the regularity of this expenditure.
32. I have also been undertaking a value for money review of Housing Executive management of response maintenance contracts which will be published in a report to the Northern Ireland Assembly in September 2012. This report is currently at draft stage.
33. The basis of my concerns is set out below:

33.1 Response Maintenance

- (a) The response and planned maintenance work undertaken by the Executive covers a huge range of expenditure and I therefore seek to rely on their internal controls to ensure that all work is properly inspected and payments are not made until the work has been satisfactorily completed. One of the key controls in ensuring that proper inspections are taking place within district maintenance sections is the Repairs Inspection Unit (RIU), now part of the Corporate Assurance Unit (CAU). This unit selects samples of maintenance work done and re-performs the checks that have already been carried out in each of the districts. This year the work of the unit has identified a large number of instances where inspections carried out by the district offices are failing to identify poor standards of work or work that has not been carried out.

Normally the unit seeks to examine all 35 districts within the Housing Executive every year and present a report for each district listing scores for four specific areas⁷ rating them according to their compliance within four bands namely, unacceptable, limited, satisfactory and substantial. I was disappointed to note that this year only 12 of the 35 districts had been inspected and reported on by the date of this report. The Housing Executive told me that this was partly due to the RIU programme being put on hold during a large part of the year in order to accelerate investigation work referred to in paragraph 33.1 (c) below.

However I also note that it has taken an increasingly long time for many of the reports produced by the unit to be agreed with management following their publication in draft. In many cases this has taken more than six months and, in my view, reflects an excessive degree of challenge to RIU's work

⁵ Response maintenance relates to work that is undertaken in response to problems identified by tenants

⁶ Planned maintenance relates to schemes that are planned from time to time to maintain or upgrade a property

⁷ Contract Management; Probity; Inspection (on site) and Procedures

by management given the importance of that unit's work and the serious issues that are being identified. This is discussed further at paragraph 35.

The results of the work of the unit that has been completed to date show that, in general, the standard of inspections in each of the districts has deteriorated over the year with more of their reports being classified as either limited or unacceptable. These results are summarised below:

Table 4: Results of inspection work by the Repairs Inspection Unit

Rating	Number of districts	
	2011-12	2010-11 ⁸
Substantial	-	5
Satisfactory	1	16
Limited	2	11
Unacceptable	9	3

Source: NI Housing Executive

Included within these reports are numerous issues that appear to indicate poor management of the work of contractors. Examples of these issues have included:

- Wall units not being securely fixed to walls;
- Smoke detectors being claimed for and paid but not fitted;
- Cistern overflow warning pipes not piped externally or securely fitted; and
- Glass being fitted inside out to a front door.

While each of these examples are not individually significant, it is the number of these type of issues that are being found coupled with the fact that they were not identified through Housing Executive inspections before the work was paid for, that is particularly concerning.

- (b) In July 2011 the Housing Executive Board terminated all of its contracts with a contractor, Red Sky, who was providing response maintenance services across a number of districts. In their 2011-12 Statement on Internal Control the Housing Executive notes that a number of staff have received disciplinary penalties in relation to this matter. I reported last year that the Housing Executive had recovered £262,560 from identified overpayments of approximately £500,000. I asked the Housing Executive what progress had been made in recovering the remaining overpayments. It told me that by July 2011 it had withheld a total of £506,000 (excluding VAT), representing the full estimated overpayment, from payments due to Red Sky. However, on 18 April 2011 the Red Sky Group went into administration and the court appointed administrators have questioned deductions made after the date of administration. The Housing Executive is currently seeking legal advice on this matter.

Following the identification of the significant overpayments involving Red Sky the Department commissioned a firm of accountants to carry out an independent review. The scope of this review is a forensic investigation into the work of a sample of maintenance contractors performing response maintenance work for the Housing Executive. The Department has advised me that a report will be published later this year.

⁸ Following revisits to 6 of the districts the overall change in ratings was a shift of one to satisfactory from limited.

- (c) The Housing Executive is also currently investigating significant potential overpayments with respect to a further contractor. Concerns surrounding these payments were initially identified in August 2011. In their May 2012 report RIU have indicated that overpayments of £240,000 may have been made to the contractor over three years representing around 3.2 per cent of contract spend over the period. It is my view that the nature of these overpayments is such that they should have been prevented by controls within the Housing Executive, particularly if inspections had been properly carried out and appropriate action taken.

I also note that in August 2011 the Housing Executive paid £250,000 to this contractor as a payment on account against completed work invoices which had been submitted but not yet inspected or approved for payment. The Housing Executive has told me that this payment was made because there were a significant number of jobs awaiting inspection at that time. However I note that at 31 March 2012 only £47,000 from this advance to the contractor had been repaid.

Department of Finance and Personnel (DFP) guidelines are clear that advance payments to contractors should be exceptional and only be made on the basis of good value for money. The guidelines also point out that such advance payments are novel and contentious and normally require DFP approval which was not sought in this case.

I am very concerned that the Housing Executive made such a large payment in advance to a contractor that it was investigating in relation to potential overpayments and that it did not seek approval of this unusual transaction from the Department or DFP. I asked the Housing Executive to explain why it had done this and it told me that the decision to make a payment on account was taken because at that time there had been a significant backlog of claims for payment for maintenance jobs which had been submitted by the contractor but not yet examined by its staff.

Furthermore the Housing Executive commented that the contractor was claiming that its alleged failure to process these claims for payment within the required timescale constituted a potential breach of contract and was having an adverse impact on its business. The Housing Executive informed me that the backlog had arisen because staffing issues at the district had caused delay in the inspection and approval of these jobs. Furthermore it said that the payment on account to the contractor represented a proportion of the estimated value of jobs awaiting approval and was considerably less than that requested. The Housing Executive noted that while the payment on account was approved internally, the requirement to obtain separate DFP approval had not been identified and this was regretted. In the unlikely event that a similar circumstance should arise in the future the Housing Executive has assured me that it will obtain all the necessary approvals from DSD and DFP before any payment on account is agreed and made.

The Housing Executive told me that as at 18 June 2012 a total of £233,157 had been recovered against the payment on account and arrangements are in place to recover the remaining balance of £16,443 by the end of June 2012.

- (d) An internal audit review of heating (response maintenance) completed during the year was assigned an unacceptable rating due mainly to significant control weaknesses being identified and non-compliance in management of contractors. In a number of cases there were issues of poor quality of work or value for money concerns over work invoiced for payment. Examples of the issues found in the report included:

- contractor wrongly charging for repairs when they had to return for a second time to fix something they had previously repaired shortly before;
- excess and incorrect charging for the installation of radiators;
- servicing charged for but not actually carried out; and
- poor quality insulation work.

33.2 Planned Maintenance

(a) The Schemes Inspection Unit (SIU), which is also part of the CAU, performs a similar role to the RIU in respect of planned maintenance schemes⁹. During 2011-12 20 scheme inspections were completed which led to nine limited classifications and two unacceptable classifications.

Examples of issues identified through these inspections were:

- tenants' fireplace / fire reused but the contractor charged and was paid for new ones;
- fire valve sensors not secure or not the required distance from the boiler; and
- loft insulation and ventilation not properly installed.

(b) In November 2011 the SIU reviewed five kitchen replacement schemes, one from each geographical area. This was out of a total of 112 schemes covering over 8,000 individual dwellings. The SIU identified potential overpayments to contractors in those five schemes of approximately £500,000. Issues identified by this inspection included:

- cupboards being attached to walls before the new plaster was fully dried out;
- meter boxes not adequately fire lined; and
- metal trims not properly fitted to worktops with protruding edges.

The extent of overpayments to contractors was disputed by Housing Executive management and as a result Internal Audit was asked to carry out a detailed examination to determine the validity of the estimated overpayment by looking in detail at one of the schemes where the overpayment had been estimated at £90,000. Internal Audit had not finalised their opinion on the magnitude of the potential overspend at the time of audit. No action has yet been taken to recover the potential overpayment nor have other similar schemes been examined to determine if there is further potential for overpayments.

The Housing Executive told me that the Audit Committee had previously considered a paper on potential over-charging in a review of five kitchen replacement schemes and that one of the key concerns, arising from this paper, was the difference in views that existed regarding the scale of potential overpayments between the various parties (Internal Audit, Corporate Assurance Unit, Design and Property Services and the contractor). It advised that in an effort to bring this matter to a conclusion an officer from the Housing Executive's Contract Claims' Unit had conducted an analysis indicating a sum of £27,000 as a potential overpayment. Furthermore it told me that Internal Audit are reviewing these findings and will have a finalised report for consideration at the September 2012 Audit Committee. The outcome of this exercise will inform the Housing Executive on what further investigation needs to be carried out and actions to be taken.

The Housing Executive has advised that in respect of SIU findings to do with health and safety, for example the firelining of meter boxes, there is no statutory duty requiring it to upgrade fire regulations within planned kitchen schemes. However, as an organisation, it has always

⁹In 2011-12 the unit completed audits on kitchen replacement schemes, windows replacement scheme, external cyclical maintenance schemes, heating replacement schemes and major heating schemes.

attempted to introduce a betterment provision. It told me that the health and safety measures identified in the SIU reports are inconsistent with the original specification on a couple of schemes and this specification will be rectified. For example, the firelined meter box in the original specification now applies to newbuild schemes and is being assessed on refurbished properties. The Housing Executive asked me to note that they are satisfied there is no risk to tenants in these dwellings.

- (c) I reported last year that the Housing Executive was investigating alleged overcharging by certain contractors in relation to major adaptations to Housing Executive properties carried out over the period 1999-2010. These contractors were managed by an agent on behalf of the Housing Executive. Estimates of the total amount involved were more than £500,000 excluding legal and professional fees estimated at £200,000. The Housing Executive has disclosed in its Statement on Internal Control that agreement has been largely reached on a quantified level of overcharging which is now the subject of recovery procedures. Once this issue is resolved the Housing Executive has assured me that it will also investigate other planned maintenance schemes with which this agent was involved.
- (d) Internal Audit reported during the year that a number of external maintenance schemes, some dating back to December 2008, with a gross value of £17.3 million have not been subject to final account reconciliations¹⁰. These reconciliations should be carried out shortly after the contract has been fully completed to identify any under or overpayments to the contractor. Delays in reconciliations may lead to difficulties in recouping any identified contractor overpayments and impact on the Housing Executive's ability to complete a post-contract assessment¹¹. I asked the Housing Executive why it has taken so long to complete these reconciliations and how lessons could be learnt from previous contracts when assessments were not completed promptly. It told me that it accepts that a number of planned maintenance schemes have not yet been financially reconciled. It advised that its records show that there are 245 external cyclical maintenance and revenue replacement schemes under the auspices of current Egan contracts for the period 2008 - 2012. Of these, 102 have been reconciled and 143 remain to be reconciled. The Housing Executive told me that in order to expedite the currently unreconciled schemes a dedicated team of quantity surveyors has been set up to work solely on closure of these schemes, albeit with a few cases which will be live up to termination of contract. Furthermore a new control has been introduced with the Assistant Director now required to sign off project managers' preliminary SIU reports and the Director of Design and Property Services required to sign off project managers' final reports.
34. In general in relation to planned maintenance the Housing Executive told me that SIU reports have highlighted a number of issues to do with the current specification for aspects of planned maintenance work. It considers it to be clear that modifications are required to the specification particularly as replacement contracts are scheduled to be in place from February 2013 onwards. A Chief Executive led team is considering policy and standards and specification revisions will be considered by the Chief Executive's Business Committee (CXBC) for approval. Those SIU reports highlighting quality defects will be addressed with the contractors.

¹⁰ At the end of each contract reconciliations should be prepared to ensure that the total work completed on the contract is in line with payments that have been made – this could result in payments being recovered from contractors or additional payments being due to the contractors.

¹¹ These assessments include an appraisal of cost predictability, quality assessment, health and safety and time predictability.

35. I am concerned with the time taken to clear various RIU, SIU and Internal Audit reports and the level of challenge exercised by management over the issues being raised. The governance report commissioned by the Department¹² emphasised the importance of the Board being fully informed of the results of internal inspections and of taking quick and decisive action when the results of these inspections identified potential weakness in control. In many cases such action has not been possible because of the extent of debate over the results of the various reports and it is essential that the Housing Executive takes action to address this in future to ensure that the independence of these units is not undermined.
36. I asked the Housing Executive to explain why it considered that the current level of management challenge to the work of CAU and Internal Audit was appropriate. The Housing Executive told me that it accepts there has been considerable internal discussion and exchange of views around these important matters and regrets that this has led to any perception of excessively robust challenge by management. The Housing Executive believes it is therefore entirely appropriate for it to state, without any equivocation, that its management is fully committed to and appreciative of the valuable contribution that all its internal monitoring and inspection functions provide in terms of improving controls and supporting effective assurance processes. These functions are a fundamental element of the internal governance framework established by management and overseen by the Board.
37. Based on all of the issues above I have therefore qualified my opinion on the regularity of both response and planned maintenance expenditure because I was unable to obtain sufficient assurance that the Housing Executive's control of this expenditure of £162 million was adequate to ensure the payments had been applied for the purposes intended by the Northern Ireland Assembly.

¹² Review of Governance in the Northern Ireland Housing Executive (8 December 2010)

Part 4: Sale of Housing Executive land to developers

38. The Statement on Internal Control identifies the management of land and property as a key risk, and refers to the investigation of several questionable land deals undertaken over a number of years and the findings of an internal review which has identified more widespread problems of a similar nature. These problems have occurred over a number of years. I did not however find that the issues were replicated in disposals made during 2011-12.
39. Because these matters are, or may be, subject to police investigation it has not been possible for me to report in the detail I would wish. However, they have been referred to in successive Statements on Internal Control and given the significance of the problems identified I feel it is important to draw them to the Assembly's attention at this stage.

Nelson Street

40. A site at Nelson Street in Belfast was included in the Housing Executive's Social Housing Programme prior to 2004 and subsequently zoned for social housing in the Belfast Metropolitan Area Plan at its request. Following an internal investigation concerning the Housing Executive's response to a planning application, details of the case were referred to the Police Service in Northern Ireland (PSNI) in March 2010. A police file was passed to the Public Prosecution Service in May 2011 and is currently under consideration.

Hardcastle Street

41. In September 2010 the Ombudsman issued a report on the Housing Executive's conduct of the sale of land at Hardcastle Street in Belfast. The Ombudsman found in favour of the complainant who had been denied the opportunity to bid for the land on the open market and recommended that he should receive a payment of £20,000 and a letter of apology from the Chief Executive. The complainant did not accept this award and initiated legal action against the Housing Executive. The total cost to the Housing Executive of an out of court settlement, including legal fees, was £73,000.
42. In 1998 the Housing Executive was approached by the original developer of the apartment block at Hardcastle Street to vest a piece of land to allow him to provide car parking for the apartments. In September 1999, before the sale was completed, the developer applied for planning permission for four apartments. Planning approval was granted and in January 2000 a second potential buyer (the complainant) expressed an interest in purchasing the site. Consequently in July 2000, the CXBC approved a sale on the open market to obtain the best price.
43. Little progress was made in the next four years. In July 2000 the developer threatened legal action against the Housing Executive because of the decision to put the land on sale on the open market, then in 2002, indicated that he would revert to the car parking option. In June 2003 the developer indicated that he no longer wished to purchase the land and would withdraw litigation if his costs were paid. In April 2004, CXBC again approved sale on the open market with planning permission.
44. However, in November 2004, the land was sold to the developer for £98,000 (based on a valuation for car parking) in direct contravention of the CXBC decision. The Housing Executive also paid the developer's planning costs of £16,500. The complainant later indicated that, based on the value of the

town houses which were subsequently built; he would have been prepared to pay up to £250,000 for the site.

Sale to a Community Group

45. A third case concerning the sale of property to a community group and subsequent sale to a third party was the subject of a whistleblowing report to NIAO. I provided details to the Housing Executive who referred the case to the PSNI in 2012. Because of an ongoing police investigation I am unable to give further details at this time.

DSD Review of Governance

46. In response to the issues raised by these sales and other governance concerns, the Department set up a team to carry out a review of governance in NIHE which reported in December 2010 (also referred to in paragraph 35). The review found that:
- not all sales were being presented for appropriate Board or Chief Executive approvals. Six out of ten cases examined had not been approved;
 - information was being withheld from Board and Chief Executive meetings; and
 - Internal Audit had given repeated limited and unacceptable ratings to land and property systems.

The review recommended that further analysis of the specific cases highlighted should be undertaken and that the Housing Executive Board may wish to ask Internal Audit to examine a sample of disposals “to ensure there are no issues with the disposals where specific approval had not been sought.”

Land Disposals Review Project

47. In January 2011 the Housing Executive set up a team to carry out a review of land disposals since 2004 with the following terms of reference:

“To review a number of land and property transactions to determine whether they were managed in line with agreed policy / procedure and to highlight any cases of suspected fraud. Where there is evidence of suspected fraud to prepare a report which meets the requirement of the agreed protocol with PSNI for submission in such cases.”

The project has been undertaken in two phases. Phase I identified breaches of policy and procedures. Phase II is assessing the evidence for criminal wrongdoing and is still ongoing.

48. Phase I identified disposals between 2004 and 2010 with a total value of £84 million. The Housing Executive has a statutory duty¹³ to obtain “best consideration” for land disposals, except with the Department’s consent, and its Land and Property Manual states that this means selling on the open market by way of public tender. However, a significant proportion of these disposals were sold “off-market” to preferred buyers. Phase I examined 27 disposals in detail, and reported a range of compliance issues including:

¹³ Housing (NI) Order 1981 Article 88

- Favouritism towards buyers in most off-market sales. Interest from other parties was not declared or considered;
- No justification for off-market sales. No exceptional circumstances were given to justify the off-market approach, no other options were considered and economic appraisals were only carried out in those cases where properties were vested;
- Disposals without proper valuations. These included cases where there were no valuations, out-of-date valuations, reduced valuations negotiated by buyers and valuations only obtained after approval had been given for the sale;
- Disposals without proper approval. Housing Executive procedures require Board approval for sales over £100,000 and CXBC approval over £50,000. The review found sales of up to £8 million approved at Director level; and
- Board and Chief Executive approvals without key information or with wrong information.

Twenty-one cases including Hardcastle Street were passed to the Counter Fraud and Security Unit for Phase II of the review to consider whether actions constituted fraud or misconduct. Three cases have been referred to PSNI and a further eleven cases are still under consideration.

Financial Losses

49. Based on independent valuations commissioned by the Housing Executive there are indications that financial losses in some of the cases examined could be significant. There are also indications that higher than normal values were paid for social housing subsequently built on these sites by developers. This in turn resulted in higher rates of Housing Association Grant being paid by the Housing Executive.
50. Given the significance and extent of these matters I intend to keep this area under review and to provide a detailed report to the Assembly at the earliest opportunity.

Part 5: Payments to Housing Associations

51. The Northern Ireland Housing Executive pays grants on behalf of the Department to the Housing Association sector each year and this amounted to £139 million during 2011-12. In order to satisfy itself that this money is being properly spent, the Department arranges for its Regulatory and Inspection Team (the Team) to conduct regular reviews of all housing associations in Northern Ireland examining governance, finance, property management and property development.
52. Last year, I was unable to satisfy myself as to the regularity of £12.1 million issued to Helm Housing Association as a result of a draft report prepared by the Team which raised some very serious issues and I qualified my opinion on this matter. Since then the Team published its report on Helm in January 2012 and issued a “No assurance” rating, highlighting a number of significant failures across all areas, indicating substantial failings by the Senior Management Team of Helm and a failure by the Board to offer an adequate challenge function to the decision-making process within the Association. These issues are currently being addressed and I have reported in greater detail on this in my report accompanying the Department’s 2011-12 accounts.
53. In response to the significant concerns raised in the Helm report, the Department asked the Team to carry out targeted inspections of the seven main housing associations involved in building new houses (namely Apex, Clanmil, Fold, Trinity, Connswater, Oaklee and Ulidia) to provide assurance that the issues identified in the Helm report are not also prevalent in these Associations and that they are “fit for purpose”. Results from the targeted inspections to date have been largely reassuring showing that one housing association received substantial assurance; five housing associations received satisfactory assurance, while one, Connswater, received limited assurance.
54. The Team has also continued with its usual round of inspections during 2011-12 and in addition to the seven targeted inspections, a further ten inspections were completed. Of these only four housing associations received satisfactory assurance while four received limited assurance and two no assurance.
55. The associations which obtained limited or no assurance in the second round of inspections are included within the nine associations currently suspended from carrying out development work. I was concerned to find that these suspended housing associations still received housing association grant of £25.6 million during 2011-12 of which Helm received £21.5 million. The Housing Executive has explained this by saying that these grants relate to schemes that had been approved prior to the Associations being suspended and which the Department were content to allow to be progressed as the schemes were already sufficiently advanced.
56. Given the serious breakdown in controls at Helm in particular, I am surprised that such a large amount of housing association grant was awarded to it during 2011-12 and I asked the Executive what controls it has in place to ensure this grant is spent correctly. The Housing Executive told me that the figure of £21.5 million paid to Helm is an accruals based figure and actual cash paid to the Association was £11 million. Furthermore it commented that the money paid was in recognition of additional costs associated with continuing work on schemes already progressing on site before the Helm suspension was announced and that any payments to Helm after June 2011 have not been sanctioned until a full additional assurance check has been satisfactorily completed by its staff.
57. Although I still have concerns relating to the governance of the Housing Association sector, I recognise the work undertaken by the Department during the year in its inspection regime across all Housing Associations. I also noted that the Executive has put additional checks in place before it makes any payments to suspended housing associations in respect of schemes commenced before they were suspended. I have therefore not qualified my audit opinion on this area of expenditure, but I will continue to monitor this area and may report further in due course.

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29 June 2012