

**Department of
Finance and Personnel
Memorandum on the Twelfth and
Thirteenth Reports from the
Public Accounts Committee
Session 2009-2010**

Review of the Gateway Process

The Management of Personal Injury Claims

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

22 June 2010

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Glossary of Abbreviations

CCU	Central Claims Unit
COPE	Centre of Procurement Expertise
CPD	Central Procurement Directorate
DFP	Department of Finance and Personnel
DOJ	Department of Justice
DRD	Department for Regional Development
DSO	Departmental Solicitor's Office
NI	Northern Ireland
RPA	Risk Potential Assessment

Twelfth Report

Department of Finance and Personnel Department for Regional Development

Review of the Gateway Process

PAC Recommendation 1

Projects which have not undertaken Gateway review and which subsequently experience significant delivery problems, should be subject to particular scrutiny. The Committee recommends that the Comptroller and Auditor General bears this in mind in framing his future work programme across the wider public sector.

Department of Finance and Personnel (DFP) notes this recommendation for the Comptroller and Auditor General.

PAC Recommendation 2

DFP intends to review the operation of the new guidance in twelve months and report the findings to the Procurement Board. The Committee recommends that this review examines the coverage of Gateway in each department and Centre of Procurement Expertise to ensure that a sufficient proportion of their capital spend is subject to Gateway. The outcome of the review should be reported to the Committee.

DFP accepts this recommendation. In December 2010, one year on from implementation of the new guidance (CPD GN 03/09), Central Procurement Directorate (CPD) will commence a review to determine, for each department (which will also include expenditure by Centres of Procurement Expertise (CoPEs)), the number and value of projects which, under the new guidance, should have been subject to Gateway Review together with the total number and value that actually were. The findings of this review will be reported to the Procurement Board and to the Committee.

PAC Recommendation 3

There is a risk associated with using de minimis capital values to exclude projects from risk assessment. The Committee recommends that Accounting Officers approach the setting of de minimis limits with caution, ensuring not only that Gateway will be applied to a reasonable proportion of their capital spend, but also that limits do not rule out projects below £20 million which may, nevertheless, carry a significant risk.

DFP accepts this recommendation. DFP notes the Committee's concern that using de minimis capital values could exclude projects from risk assessment and would like to assure the Committee that all programmes and projects with a value of £500k and above are required to complete a Risk Potential Assessment (RPA) which enables areas of risk to be assessed and determines whether they should be subject to a Gateway Review or an internal peer review conducted in line with Gateway principles. Every project or programme initially assessed as either medium, high or very high risk will be subject to Gateway Review – those assessed as low risk will undergo an internal peer review. An RPA recognises that cost (or capital value) is only one component of a composite risk profile. The upper de minimis limit of £20m will continue to ensure that lower risk programmes and projects above that value will be subject to Gateway Review.

The guidance (CPD GN 03/09) allows an Accounting Officer to determine an alternative de minimis cut off point where, for example, a department is dealing with a large number of projects of a similar nature with a low level of risk. However, this must be based on a full understanding of the implications and can only be done in conjunction with the Head of the appropriate CoPE.

PAC Recommendation 4

Quality assurance of risk assessments is fundamental to CPD's role and the Committee welcomes its intention to undertake a test drilling exercise. The Committee recommends that CPD examines a representative sample of low risk assessments in each Centre of Procurement Expertise, each year.

DFP accepts this recommendation. All programmes and projects, including those initially scored as 'low' at RPA, are validated by CPD or by a departmental Project Management Office under arrangements with CPD. Following agreement with the project/programme's Senior Responsible Owner, CPD will issue a formal 'low risk letter' which provides evidence of the agreed assessment for the record.

CPD will provide a report annually to the Procurement Board on the assessment of a representative sample of lower risk RPAs.

Thirteenth Report

Department for Regional Development

The Management of Personal Injury Claims

Recommendation 1

Effective use of resources will rely on accurate information to identify areas of higher claims activity. The Committee recommends that CCU consults with Roads Service to clarify what information is required and that it reviews the operation of its management information systems to ensure that this information can be provided accurately, consistently, and on a timely basis.

Department for Regional Development (DRD) accepts this recommendation. DRD's Central Claims Unit (CCU) has consulted with Roads Service to ascertain if the information it currently receives in order to identify areas of high claims activity meets its needs. CCU has confirmed that Roads Service is satisfied with the accuracy, consistency and timeliness of the information provided. CCU has recently reviewed and made improvements to the operation of its management information system which has improved the quality of information provided to Roads Service. Further improvements have been identified which will further assist in improving the quality of information that can be provided.

The Roads Network Management Board intends to keep this issue under review and has included the adequacy of information provided by CCU to Roads Service as a new agenda item for its monthly Board meetings.

Recommendation 2

The Committee recommends that Roads Service identifies specific locations where there have been high numbers of claims and where no statutory defence was available and takes steps to ensure that inspection and maintenance are carried out to the required standard.

DRD accepts this recommendation. Roads Service will identify those locations where there have been high numbers of claims and where no statutory defence was available. The Roads Service Maintenance Committee will consider whether the current controls need to be altered to ensure that inspection and maintenance are carried out to the prescribed standard.

Recommendation 3

The Committee recommends that Roads Service considers the scope for a more flexible approach to what it regards as an actionable defect, particularly in the busy pedestrian areas of town centres and areas with a history of accidents.

DRD accepts this recommendation. The Roads Service Maintenance Committee will consider the current "Road Maintenance Standards for Safety" to see if there is scope for a more flexible approach to current standards, particularly in the busy pedestrian areas of town centres and areas with a history of accidents.

Recommendation 4

The Committee recommends that the Department of Finance and Personnel consults with the Northern Ireland Court Service to determine how more effective arrangements might be put in place to reflect the views of key stakeholders in future decisions on scale fees and compensation.

Department of Finance and Personnel (DFP) notes this recommendation. Statutory power to make rules for the payment of professional costs of solicitors and barristers in the County Court is conferred on the County Court Rules Committee. When policing and justice powers were devolved to the Northern Ireland (NI) Assembly the Department of Justice (DoJ) assumed the power to allow or disallow those Rules. DFP has drawn the attention of DoJ and the Rules Committee Secretariat to the Committee's report.

In the past, the Rules Committee has undertaken targeted consultation and an Impact Assessment on changes to the costs. It is expected that if consideration is given to any changes in the future consultation will have to take place with relevant bodies, including DFP, which has an interest in the cost of the litigation, as with all public expenditure. In such circumstances, DFP will consider the Committee's recommendations in formulating its response.

Recommendation 5

The Committee further recommends that DFP and Court Service consider how the guidelines for compensation in Northern Ireland could be harmonised with levels in England and Wales.

DFP notes this recommendation. As the Committee recognises, determining the amount of compensation payable in a personal injury claim is a judicial decision and NI departments must be mindful of the principle of judicial independence. The Court of Appeal in NI has previously noted that awards in NI are higher than in England and Wales but has held that NI need not conform to standards observed in other jurisdictions since NI constitutes a separate jurisdiction with its own judicial and social outlook.

The Committee's Report has been provided to the Judicial Studies Board.

Recommendation 6

The Committee notes that DSO will be in a position to inform departments of notional charges based on a time recording system introduced in September 2009 and a memorandum trading account which is expected to be operational from April 2010. The Committee recommends that DSO sets a clear timetable for the provision of charging information to all of its clients as a matter of urgency.

DFP accepts this recommendation. In April 2008 Departmental Solicitor's Office (DSO) initiated a project to improve its financial recording systems. An IT-based Case Management and Time Recording system went live in September 2009 and the management information module was completed and rolled out in April 2010. As a result, from June 2010 onwards, DSO will provide all of its clients with charging information on a quarterly basis. Starting in 2010-11 DSO will also produce an annual Memorandum Trading Account.

Recommendation 7

The Committee recommends that, in keeping with long established government accounting principles, where any service is provided interdepartmentally there should be a presumption that customer departments will be hard charged. Where charges are not levied or are charged notionally, this decision should be fully and explicitly justified.

DFP notes this recommendation. Government accounting principles are written and frequently amended to reflect current practices and as there have been significant changes to the way many internal government services are provided, so the guidance on interdepartmental charging has been amended to reflect this.

Guidance on interdepartmental transactions, including charging, is less prescriptive now than it has been in the past. Many significant services, like accounting services through AccountNI, human resource services through HR Connect, IT services through IT Assist and records management services through Records NI are provided by DFP to other NI departments. A policy decision was taken not to hard charge for these services on the basis that departments are 'tied' to DFP for their provision and therefore are unable to obtain them from other sources. In these circumstances, it is difficult to see the value for money benefits that would accrue from the introduction of a complex charging regime. The ultimate decision on whether a charge should be levied on a service provided by a public body lies with the relevant Minister and guidance on the calculation and levying of such charges is provided in Managing Public Money NI.

DFP agrees with the Committee that where charges are not levied or are charged notionally then the decision to do so should be fully and explicitly justified.



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