House of Commons

Committee of Public Accounts

The compensation scheme for former Icelandic water trawlermen

Eleventh Report of Session 2007–08

Report, together with formal minutes, oral and written evidence

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The Committee of Public Accounts

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Committee staff

The current staff of the Committee is Mark Etherton (Clerk), Emma Sawyer (Committee Assistant), Pam Morris (Committee Secretary) and Alex Paterson (Media Officer).

Contacts

All correspondence should be addressed to the Clerk, Committee of Public Accounts, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 5708; the Committee's email address is pubaccom@parliament.uk.

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Summary

In July 2000 the Department for Business, Enterprise and Regulatory Reform (then the Department of Trade and Industry) announced a scheme to compensate former trawlermen who had lost their jobs when the distant water fishing industry collapsed in the 1970s. The collapse had been due, in part, to the loss of access by UK boats to Icelandic waters following agreements between the UK and Icelandic governments at the end of the 'Cod Wars'. Most trawlermen did not receive compensation at the time they lost their jobs, and the scheme followed a long campaign by former trawlermen and their representatives for better compensation. The scheme was targeted at former UK-based trawlermen who had worked in Icelandic waters.

The scheme was open to claims between October 2000 and October 2002, and the Department received claims from or on behalf of some 7,000 former trawlermen. Over £42 million has been paid to 4,400 former trawlermen or their dependents, around 63% of claims received.

The scheme presented the Department with major challenges. The Department required evidence to verify the eligibility of claims, but the events involved had occurred more than 20 years before. It faced difficulties distinguishing between trawlermen affected by the fishing agreements with Iceland following the 'Cod Wars', who were specifically targeted by the scheme, and those who had lost their jobs as part of the wider decline in the industry. When designing the scheme rules, the Department did not fully understand working practices in the industry in the 1970s, adding to the inherent difficulties in implementing the scheme and producing errors and delays to payments.

In February 2007 the Parliamentary and Health Service Ombudsman reported the results of her investigation into the administration of the scheme following complaints from a number of claimants.[1] Her report made three findings of maladministration: that the scheme was devised and launched before it was appropriate to do so; that there was a mismatch between what the scheme was intended to deliver and what it was capable of delivering through the scheme's rules; and that the problems identified during the operation of the scheme should have led to a comprehensive review of the scheme, which did not happen.

On the basis of a report by the Comptroller and Auditor General,[2] which was conducted in parallel with the Ombudsman's inquiry, the Committee took evidence from the Department for Business, Enterprise and Regulatory Reform on its administration of the scheme.

1 Second Report of the Parliamentary and Health Service Ombudsman, *Put Together In Haste: 'Cod Wars' trawlermen's compensation scheme*, HC (2006–07) 313

2 C&AG's Report, *The compensation scheme for former Icelandic water trawlermen*, HC (2006–07) 530

Conclusions and Recommendations

1. **By November 2007, the Department had paid over £42 million in compensation to 4,400 former Icelandic trawlermen and their dependents.** The scheme was complex to administer, and the Department made many of the same mistakes that it made in managing its Coal Health Compensation Scheme. The Department should set out the lessons in this Committee's reports on these schemes and secure a marked improvement in future schemes of this kind.

2. **The Department did not properly consider how it would obtain and assess the evidence needed to support claims more than 20 years after the end of the 'Cod Wars'.** The Department should test the availability of evidence on real cases before launching new compensation schemes.

3. **The Department did not understand the working practices of the fishing industry when designing the scheme.** So it set complex rules that were difficult to implement. The Department should establish whether it has the appropriate industry knowledge before setting the terms of grant schemes, and seek relevant external advice if it does not.

4. **The Department did not test the impact of the scheme's rules on different types of applicant before launching the scheme.** The Department should pilot the proposed rules using a cross section of different types of applicant. It should use the results of this pilot to determine what changes are needed to enable delivery of the scheme's objectives.

5. **In 25 of 100 cases, there was insufficient evidence to say whether payments made by the Department accorded with the scheme's rules.** The Department needs to put explicit criteria and procedures in place to help officials to exercise discretion on cases where the evidence may be incomplete. Decisions and their justification should be fully recorded.

6. **The Department did not employ proper project planning and risk management arrangements at the start of the scheme.** It needs to improve the project delivery skills and experience of its managers and policy staff by, for example, giving officials practical operational experience; participating in the Professional Skills for Government programme; and seconding staff into operational posts in the commercial sector.

1 Implementation of the compensation scheme

1. In July 2000 the Department for Business, Enterprise and Regulatory Reform (then the Department of Trade and Industry) announced a scheme to compensate former trawlermen who had lost their jobs when the distant water fishing industry collapsed in the late 1970s. The collapse had been due, in part, to the loss of access by UK boats to Icelandic waters following agreements between the UK and Icelandic governments at the end of the 'Cod Wars'. Most trawlermen did not receive statutory redundancy payments at the time, and vessel owners who received compensation for the decommissioning of their vessels were under no obligation to pass any payments on to trawlermen.

2. In 1993, following a successful case in the High Court, trawlermen who could demonstrate two years continuous service with a single employer were able to claim payments in keeping with statutory redundancy payment rules. The Government set up arrangements to make *ex gratia* payments in these cases. But the former trawlermen considered the arrangements provided insufficient compensation for the loss of their industry, because their employment patterns had often required them to move between employers. The scheme announcement in 2000 followed a long campaign by trawlermen and their representatives for better compensation.[3]

3. The scheme was open for claims between October 2000 and October 2002. Over £42 million has been paid to 4,400 former trawlermen and their dependents under the scheme, representing 63% of the 7,000 claims received.[4] The Department's aim was to target former trawlermen whose livelihoods had been affected directly by the outcome of the 'Cod Wars', and to distinguish these trawlermen from those who had lost their jobs as part of the wider decline of the UK's distant water industry. The Department expected to determine from fishing records which vessel a former trawlerman had worked on at any given time.

4. Records did not, however, indicate which vessels had fished in Icelandic waters and when. The Department therefore developed a "proxy" whereby a vessel qualified for the purposes of the scheme if it had undertaken at least two independently-verified trips to Icelandic waters in its lifetime. Compensation payments were linked to the length of time spent working on qualifying vessels, which could be limited by a 'break-in-service' if the former trawlerman had spent a period greater than 12 weeks on paid work outside the industry (on non-Icelandic water vessels or elsewhere).[5]

5. The Department dealt with many claims quickly but had difficulty applying its own scheme rules to a significant proportion of claims and obtaining evidence to support others. Long delays and frustration for some claimants resulted. The median time for the Department to reach an initial decision was eight months compared, for example, to over 20 months under the Coal Health Compensation Schemes also administered by the

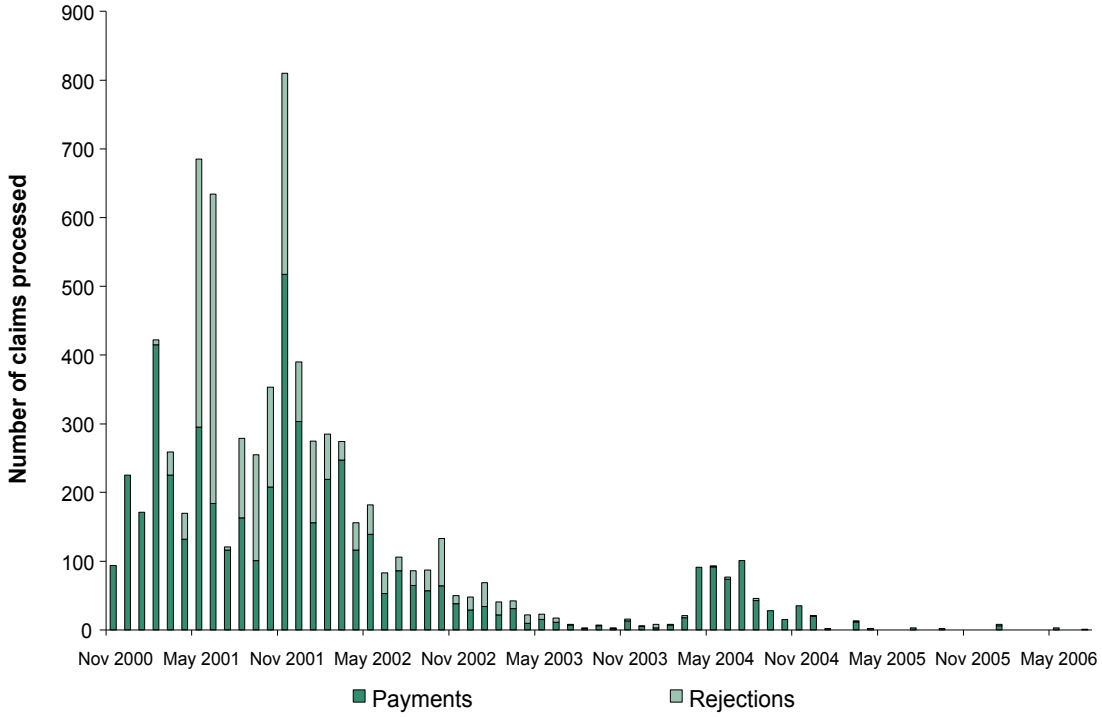
3 C&AG's Report, para 3, 1.5

4 C&AG's Report, para 3

5 Qq 3, 23, 51, 63; C&AG's Report, para 1.7, Box1

Department. But some claims took significantly longer with the Department making the last decisions on claims and payments in July 2006, almost four years after the scheme opened (**Figure 1**).[6]

Figure 1: The profile of processing of claims



Source: National Audit Office

6. The Department did not test the impact of the scheme's rules on different types of applicant before launching the scheme. As a consequence, some rules needed to be reviewed and amended as the scheme evolved. These difficulties added significantly to the complexity of administering the scheme, requiring some claims to be set aside to await decisions, and some cases to be revisited as the scheme evolved.[7] A number of complications arose:

- Under the initial scheme's rules periods of imprisonment counted as an allowable break-in-service if part of a longer period of entitlement. This led to the perverse outcome that a small number of former trawlermen were paid for time spent in prison, because this did not break continuity of service. The Department reported that about 30 cases involved time spent in prison, including two for serious offences. The Department amended the scheme's rules to preclude time in prison from eligibility in November 2003.[8]

- Initially, the Department did not define precisely what it meant by Icelandic waters. In March 2002, the Department defined Icelandic waters as extending to 200 imperial miles from Iceland rather than nautical miles. In March 2004, the

6 Q 68; C&AG's Report, Figures 3 and 4

7 Q 47

8 Q 21; C&AG's Report, Appendix 2

Department decided to extend the limit to include boats recorded as fishing around the Faroe Islands, thereby adding 21 vessels to the qualifying list.[9]

- A pool system operated in some ports whereby trawlermen who could not get work on a distant water trip could be required by the local employment office and vessel owners to work on a North Sea or middle water vessel or risk losing their unemployment benefit. If these periods on other boats exceeded 12 weeks, the work was deemed a break-in-service and reduced the amounts payable to claimants. The Department had not foreseen this outcome in its option papers during the design of the scheme. The Department argued that these trawlermen were less dependent on Icelandic water fishing and therefore the outcome was reasonable. The Ombudsman ruled against the Department on this point in February 2007 when she reported on a specific case put to her by a relative of a former trawlerman.[10]

7. In many instances, the Department lacked the information it needed to calculate and verify the amount of compensation due. The Department did not have a complete and accurate list of vessels meeting its qualifying criteria when the scheme was launched. Shortly before the scheme was launched in October 2000 the Hull branch of the British Fishermen's Association supplied the Department with a list of vessels it believed had operated in Icelandic waters, but the Department did not check before the scheme opened whether these vessels met its qualifying criteria, nor whether there were other vessels which did meet the qualifying criteria. Verification work did not begin until early 2001 after the Department had realised that many vessels named in claims were not on the original list. The Department did not finalise its list until March 2004.[11]

8. The Department did not have a right of access to some of the information which could help it to verify claims. A former trawlerman's National Insurance Contribution records could indicate whether he had undertaken other paid work during gaps in fishing records of greater than 12 weeks, which would break continuity of service. The Department had a statutory right of access to National Insurance Contribution records when it operated the *ex gratia* scheme between 1993 and 1995. But it did not realise when it began the Icelandic water scheme that this right of access had been lost as a result of a machinery of Government change which meant this information was no longer kept within the Department. The Department finally reached agreement with the Inland Revenue in 2002 that records could be released with the former trawlerman's consent.[12]

9. The Department had to exercise discretion in cases where there was insufficient evidence but did not always record the reasoning supporting its decisions. In a sample of 100 claims the National Audit Office was unable to confirm with certainty the accuracy of 25 claims due to a lack of available evidence. The Department had given the benefit of doubt to claimants unless there was clear evidence to the contrary. In 11 further cases, the National

9 Qq 18, 19

10 Qq 22, 23; Second Report of the Parliamentary and Health Service Ombudsman, *Put Together in Haste: "Cod Wars" trawlermen's compensation scheme*, HC (2006–07) 313

11 Qq 6, 7, 16; C&AG's Report, para 2.8

12 Qq 29, 38

Audit Office had identified errors in payments (9 overpayments and 2 underpayments), partly attributable to human error but also to the subsequent receipt of evidence by the Department refuting some aspects of the claims.[13]

10. In February 2007 the Parliamentary and Health Service Ombudsman found that five complainants had suffered an injustice as a result of maladministration by the Department. Eligibility rules for compensation were found to be inconsistent with the objectives of the scheme and these individuals were judged to have been treated unfairly. The Ombudsman made five recommendations to remedy this injustice (**Figure 2**). The Department apologised to the complainants and made consolatory payments to reflect the injustice caused. As recommended in the Ombudsman's report, officials completed a review of the scheme by November 2007 and made recommendations to Ministers. The Department expects Ministers to make an announcement in due course on whether any further action is needed. HM Treasury reported that it had published revised guidance to Departments in October 2007 on setting up schemes of this kind, drawing on lessons to be learned from the Ombudsman's report and the report from the Comptroller and Auditor General.[14]

Figure 2: The Ombudsman's recommendations and the Government's response

Recommendations	Government response
"My first recommendation is that DTI should apologise to and make a consolatory payment to Mrs A, and to the other complainants identified in this report, to reflect tangibly the inconvenience and distress caused by the maladministration I have identified."	The Department agreed to make a consolatory payment of £1,000 to each of the complainants identified in the Ombudsman's report, and apologised to them for the shortcomings that she identified.
"My second recommendation is that DTI should review the eligibility criteria and scheme rules to ensure that they are consistent with the policy intention underlying the scheme."	The Department agreed to undertake a review of the eligibility criteria and scheme rules to ensure that they are consistent with the policy intention underlying the scheme, and said that it intended to start that review immediately. Officials are awaiting a Ministerial decision on next steps, having completed their review.
"My third recommendation is that, once that is done, DTI should fully reconsider Mrs A's case, and the cases of the other complainants identified in this report, in line with the criteria which it determines are consistent with the policy intention as a result of the above review. In the event of any additional award, interest for loss of use of those funds should also be paid"	The Department accepted the third and fourth recommendations saying that it would design a scheme to ensure the rules were consistent with the policy intention, should Ministers decide that the criteria were not consistent with the policy intention, and that new criteria should be devised. If the criteria were then designed in such a way as to widen eligibility, they would reassess all claims (where the maximum payment of £20,000 had not already been made) against the new criteria. Any additional entitlement would be paid with interest. In addition, the Department would apologise and make consolatory payments to all those who received additional awards as a result, to reflect the injustice they would have suffered. If any criteria were narrowed, the Department would not seek to recover payments from those who had
"My fourth recommendation is that, following the review, DTI should consider the cases of any individuals who claim to have suffered similar injustice as a consequence of the maladministration I have identified. If that is shown to be the case, DTI should apologise and make consolatory payments to them; should review their cases in line with criteria it determines are consistent with the policy	

13 Qq 9, 10

14 Qq 13, 32–34, 40–46

intention; and, in the event of any additional award, interest for loss of use of those funds should be paid"	received more than they would have been entitled to under the revised criteria.
"My final recommendation relates to ex gratia compensation schemes more generally. During my investigation—and others that I have conducted into similar schemes—it struck me that no central guidance exists for public bodies that specifically relates to the development and operation of ex gratia compensation schemes. Such guidance can, in my view, only be helpful to them—and may well assist in preventing a reoccurrence of the problems I have identified in this report. I therefore recommend that such guidance be developed across government."	The Government accepted the need for central guidance on the development and operation of ex gratia compensation schemes, and HM Treasury published guidance on schemes of redress in October 2007 as part of *Managing Public Money*.

Source: Ombudsman's report, paragraphs 154 to 167

2 Lessons to be learned from the scheme

11. The Department underestimated the challenges of providing redress for hardship suffered in a complex industry 20 years ago. It assumed incorrectly that the scheme would be routine to administer because it had operated (through the Redundancy Payments Service) the earlier *ex gratia* scheme for former distant water trawlermen without any significant difficulties. But payments in that scheme had been linked to length of service with individual employers, which was relatively straightforward to verify since the Department had access to records of time spent with each employer. The scheme announced in July 2000 sought to link payments to time spent working in Icelandic waters, where evidence was far harder to obtain.[15]

12. The Department acknowledged that it had not understood the nature of the industry before it began designing the scheme rules and planning for implementation of the scheme. It held just one meeting with representatives of former trawlermen on the scheme's rules between announcing the scheme and opening it to claims, and did not consult with industry experts or any other potential sources of information before the scheme opened. Much of the information that the Department relied upon in arriving at the scheme's rules, for example the initial list of qualifying vessels, had been provided by representatives from the Hull Branch of the British Fishermen's Association, but the Department did not take steps to verify this information until too late. While these representatives were knowledgeable, they did not speak for the industry as a whole, and could not have been expected to.[16]

13. Trawlermen had waited over 20 years for compensation and the Department was under pressure to get the scheme operating quickly. Departmental officials had worked on options for a scheme from May 1998, but did not begin detailed consideration of how the scheme would be administered until July 2000, the month the scheme was announced. Officials responsible for policy did not involve those who would be responsible for administering the scheme until one month before the scheme announcement. The Department suggested officials needed to make clear to senior management and Ministers the practical implications for delivery of policy objectives if tight deadlines were involved.[17]

14. Although this scheme differed from the Coal Health Compensation Schemes recently examined by this Committee, the Department acknowledged that there were parallels in the problems encountered. Both cases were complex, and it had not stood back sufficiently, consulted properly, or conducted proper risk and project planning. The skills and experience of the people responsible for designing and running these projects was the key to their success. The Department, in keeping with efforts in other parts of the Civil Service, was trying to make sure new graduate entrants were given operational experience early on in their careers. The current Professional Skills for Government programme, a training and

15 Qq 5, 64

16 Qq 14, 15, 19, 23, 53, 54

17 Q 3; C&AG's Report, paras 3.4, 3.5

development programme supported by the Cabinet Secretary, is intended to help broaden the experience of officials and inculcate programme and project management skills.[18]

18 Qq 4, 47–50

Formal Minutes

Monday 18 February 2008

Members present:

Mr Edward Leigh, in the Chair

Mr Richard Bacon
Mr Ian Davidson
Mr Philip Dunne
Mr Nigel Griffiths
Mr Keith Hill
Mr Austin Mitchell
Dr John Pugh
Geraldine Smith
Mr Alan Williams

Draft Report (*The compensation scheme for former Icelandic water trawlermen*), proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 14 read and agreed to.

Conclusions and recommendations read and agreed to.

Summary read and agreed to.

Resolved, That the Report be the Eleventh Report of the Committee to the House.

Ordered, That the Chairman make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned until Wednesday 20 February 2008 at 3.30 pm.

Witnesses

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Oral evidence

Taken before the Public Accounts Committee

on Monday 12 November 2007

Members present:

Mr Edward Leigh (Chairman)
Mr Richard Bacon
Mr Philip Dunne
Keith Hill
Mr Austin Mitchell
Phil Wilson

Sir John Bourn KCB, Comptroller and Auditor General, **Tim Burr**, Deputy Comptroller and Auditor General, and **Peter Gray**, Director, National Audit Office, were in attendance and gave oral evidence.

Paula Diggle, Treasury Officer of Accounts, was in attendance and gave oral evidence.

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL

The Compensation Scheme for Former Icelandic Water Trawlermen (HC 530)

Witnesses: **Sir Brian Bender,** Permanent Secretary, and **Tim Soane,** Director, Employment Relations Directorate, Department for Business, Enterprise and Regulatory Reform, gave evidence.

Q1 Chairman: Good afternoon. Welcome to the Public Accounts Committee, to which we are delighted to welcome two new Members—Keith Hill and Phil Wilson, who have declared their interests to the Committee. I understand that there are no changes in their declarations of interest.
Today we shall consider the Report of the Comptroller and Auditor General on the compensation scheme for former Icelandic water trawlermen. We welcome back Sir Brian Bender, the Permanent Secretary at the Department for Business, Enterprise and Regulatory Reform. Sir Brian, would you introduce your colleague?
Sir Brian Bender: Yes. On my left is Mr Tim Soane, who is a director in our employment relations department.

Q2 Chairman: Thank you. This inquiry is the result of the sterling efforts of our colleague Austin Mitchell, the Member for Great Grimsby. But for him, this inquiry would not have taken place—we are grateful to you, Mr Mitchell—and he will follow me in asking questions. No doubt, he is far better informed than I could ever be as the matter is so close to home. We are talking about only £42 million, but it is a sorry tale, is it not, Sir Brian? May I direct you straight away to paragraph 3.4 on page 17 of the Report, which states: "The Department had been aware of the possibility of a scheme for some time before it was announced, but it did not start detailed preparations until a late stage. Policy officials had been working on options from May 1998, but did not begin detailed consideration of how the scheme would be administered until July 2000"? People have been waiting more than 20 years for compensation, so how could you launch such a scheme, which was plagued with such weaknesses and poor planning? I am not referring to you personally, Sir Brian, but to your colleagues.
Sir Brian Bender: First, I accept absolutely that the Department should have planned better and should have consulted, but questions such as "Why did we?" or "Why didn't we?" are difficult to answer several years after the event. There are two reasons. First, there was understandable pressure to get the scheme up and running. Secondly—I am sorry, I have forgotten my second point, but I will return to it.

Q3 Chairman: All right. They have been waiting 20 years. Since 1998, they knew that this would happen. Paragraph 3.5 states that: "officials from the Redundancy Payments Service, who would have responsibility for administering the scheme, were not involved in the planning until one month before its announcement". I see from your CV, Sir Brian, that you joined the Department of Trade and Industry in 1973. You have not been there all the time, but you have been in Government service and reached a pinnacle after 34 years. Why do Departments keep making such mistakes? The purpose of this Committee is to find out how that can happen. It was known that such a scheme would be introduced at least two years in advance, but officials in a key part of the service were apparently not involved in its planning until one month before its announcement. What was going on?
Sir Brian Bender: The difficulties arose primarily because of the problem of obtaining firm evidence to show when vessels fished in Icelandic waters and whether people had worked outside the Icelandic fishing industry during gaps in service. As you said, Mr Mitchell knows far more about the particular issues involved than the rest of us.

Q4 Chairman: We know that those ships had to have done two trips out there.
Sir Brian Bender: They did, but the Department was in error in not involving the redundancy payments service sooner because it had a false sense of security as a result of the 1993 scheme. Having run that successfully, the Department thought that the matter was fairly routine, but it was not. It was far more complicated, particularly with the late change

in the qualifying period,[1] which made it a much more complex arrangement to run. The Department should have planned. It should have paused when the change in rules was announced, looked at the implications, talked more widely, and consulted properly.

Q5 Chairman: Paragraph 3.6 states: "The practical challenge faced by the Department was to distinguish these trawlermen from those who lost their jobs at around this time as a result of the parallel contraction of the distant water fleet." It is pretty obvious, is it not?
Sir Brian Bender: It is obvious, but distinguishing what was an Icelandic vessel when there was no such register, and given the nature of the industry and the way in which people worked in it—when they were in work or out of work, as opposed to between work—was far more complicated. The Department was lulled into a false sense of security by the 1993 scheme, which it had managed to administer with more simplicity.

Q6 Chairman: Paragraph 2.8 states that the scheme opened in 2000, and we know now that there was not a complete list of qualifying vessels. Why did it take so long to realise that you did not have a proper list of qualifying vessels?
Sir Brian Bender: The Department initially relied on information from the trade association—the British Fishermen's Association (BFA)—and soon realised that a number of vessels named in claims had not appeared on the list, but it was too slow to doubt the BFA list.

Q7 Chairman: Paragraph 2.8 states: "Representatives from Grimsby supplied a list of more than 100 vessels not on the list that they said had fished in Icelandic waters from their port. The Department began verification work and continuously added vessel names". You wonder why that was not done quietly and sensibly over a two-year period before the scheme was up and running.
Sir Brian Bender: As I have said, it was mistakenly believed that the BFA list is comprehensive. Defining Icelandic vessels is far from straightforward. No official records showed where each trawler had fished, so we had to find a proxy of some sort. The proxy was identified in the Report and it turned out to be far more complicated. You are right. The Department should have pressed the pause button, so to speak, and engaged more comprehensively and consulted, rather than pressing ahead despite the pressure to proceed.

Q8 Chairman: You do not think that it was odd that your Department was taken by surprise by how many people applied. After all, those men had been waiting 20 years for the scheme. Apparently, you were surprised, according to paragraph 2.2, that you received claims from: "over 3,700 former trawlermen and their dependants (54% of the eventual total) . . . The Department did not expect to receive such a large number of claims". Did it not occur to your officials that the trawlermen had been waiting for 20 years, that there had been considerable local publicity about the matter, that presumably they knew whether they had been fishermen or not and that they might all apply fairly quickly? Why did it surprise you?
Sir Brian Bender: As stated in that paragraph, 54% of the total claims were made in the first month. We had a reasonable estimate of 4,000 compared with the 4,400 that eventually came in, but of those that came in the first surge, 2,600 were ineligible and 4,000 were duplicates. The primary problem was not the volume, but the unexpected complexity.

Q9 Chairman: What also worries me is whether we can be sure that the scheme was administered properly. I refer to paragraph 2.17. When the NAO carried out a test, it was unable to confirm proper payment in 36 out of 100 cases that it examined. That raises a real possibility of a very large number of errors. There were delays and then there were errors in how the process was carried out.
Sir Brian Bender: Absolutely, Chairman. A deliberate element of judgment was used by the case officers.

Q10 Chairman: Judgment or hit and miss?
Sir Brian Bender: They used some judgment, and they deliberately erred on the side that, unless there was incontrovertible evidence to say that the claim was not correct, they should proceed with the claim. The couple of cases of underpayment were the result of human error, but most of the cases identified are ones in which the case officers had reached the view that, on the basis of the evidence, rather than check more and more, they would pay the money. It is not satisfactory: I accept that.

Q11 Chairman: So you apologise to the men.
Sir Brian Bender: Well, I do not apologise to those who received an overpayment.

Q12 Chairman: You apologise for all the mistakes.
Sir Brian Bender: I do apologise. If Mr Mitchell wants to take this back to his constituency, he is certainly welcome to do so. I apologise for the length of time that it took after the 20 years to sort it out. That is deeply regrettable and I apologise on behalf of the Department.

Q13 Chairman: My last question is about why did you not conduct a formal review of the scheme, when it was clear that it was going badly wrong—or had gone badly wrong? Paragraph 3.18 states that: "the Ombudsman said that the extent of the issues identified should have led to a review of the scheme with the aim of realigning the detailed scheme rules with the policy intention behind the scheme."

[1] *Note by witness*: The late change related specifically to the treatment of continuity of service. A month before the launch of the scheme, the rules were amended to allow gaps in service of more than 12 weeks without breaking continuity of service, provided that the trawlermen had not worked outside the industry in that period (i.e. any work apart from service on a qualifying vessel).

Sir Brian Bender: The Ombudsman said that and, as the Committee may know, the Department has made an initial response to the Ombudsman's report. It has accepted the recommendations, but the issue of whether or not we should be rerunning the scheme is currently before Ministers, as Mr Mitchell in particular knows. The primary problems with the scheme were the difficulties of finding supporting evidence 20 years after the event, not with the rules themselves. Although that is a finding of the Ombudsman—the question of whether the Ombudsman's findings are legally binding is currently before the courts—I am not myself persuaded that rerunning the scheme along the way was the right thing to do, as opposed to getting it right in the first place, which I completely accept.
Chairman: Thank you, Sir Brian.

Q14 Mr Mitchell: As the individual responsible for part of the Report, and certainly for the Ombudsman's report, I am not in any way critical of the scheme. I thought that it was a good scheme. It did justice to the fishermen and achieved a very important social purpose. I am also not interested in the value for money aspect; it is the value for Grimsby that concerns me. That is what interests me in politics. Why were the fishermen so little involved? Why was the scheme formulated without the close knowledge of the industry and its practices, which was necessary? Why was the scheme formulated without the close knowledge of the industry and its practices, which was necessary?
Tim Soane: I think the officials concerned at the time believed that, in talking to the British Fishermen's Association, they were talking to the industry. They were given every reason to believe that from those who were putting forward the case. It turned out, with the benefit of hindsight, that that was not fully the case.

Q15 Mr Mitchell: I have to interrupt. In fact, you were talking only to one section of the British Fishermen's Association—the Hull section. There had been a split—a breakdown in communication, shall we say?—between Hull and Grimsby and between Hull and Fleetwood. Only Hull was invited to the initial meeting, which was called about a month before the scheme was unveiled—that is to say, in September 2000. It was not until I started kicking up a stink that I got both Grimsby and Fleetwood invited. Why was that so? Why the reliance on Hull?
Tim Soane: It certainly was not the intention to invite only Hull. I think officials at the time believed that they were inviting the industry. As it turned out, they were not. As Sir Brian has said, we should have consulted more widely when we were setting up the scheme. That is a matter of fact.

Q16 Mr Mitchell: Okay. The problem was that the Hull BFA presented you with a list, and it was only later, according to paragraph 2.8, that Grimsby added vessels to the list, after you had started working with the list provided from Hull. The problem was, of course, that even when Grimsby had made its additions, the list was not complete. It was not until 2004 that the consultation regarding what vessels should finally be on the list took place. I pay great tribute to Mr Askwith, because he did a lot to consult the industry and work with it, which is something to be said for somebody who came from Hull and who was therefore cordially disliked in Grimsby—he did a good job. Nevertheless, that situation must have caused a lot of problems.
Tim Soane: I completely accept that, were we to do that over again, we would do it differently—we would consult on the list, although it is unlikely that it would be a list of vessels. But if we were to pass back in time, we would have consulted on the list of vessels before the scheme was introduced.

Q17 Mr Mitchell: Okay. There are two other things in respect of which there seemed to be an incredible ignorance of fishing. Compensation was for people who had been working in the industry up to 1979, but Icelandic fishing finished in 1976. Who would extend it to 1979 and why?
Chairman: You're on your own.
Tim Soane: I do not have a complete answer about how the precise date was arrived at. That proposition was put to Ministers, and they decided that it was a reasonable time frame to catch the people who were in that industry in that period.
Sir Brian Bender: As you will know, Mr Mitchell, in 2001 claims were allowed from trawlermen who worked after 1979, so some of that lesson was learned—but later.
Mr Mitchell: Yes, but the extension from 1976 to 1979 caused problems.
Sir Brian Bender: It did.

Q18 Mr Mitchell: The second incredible thing was that officials originally insisted that the provision applied to vessels fishing within the Icelandic limits, which they set in imperial miles rather than nautical miles, which was barmy. How did that happen?
Tim Soane: I think that that was just a misunderstanding, but I do not believe that it had any material effect on the scheme.

Q19 Mr Mitchell: It had a material effect, because nautical miles extend the limit to Faroese waters—disputed waters between Iceland and the Faroes. Vessels—middle-water vessels, we call them—fishing north of the Faroes were actually fishing in Icelandic territorial limits and were therefore eligible for compensation. However, they only got it very belatedly.
Tim Soane: And those waters were included in the scheme by the time it finished. I admit that that should have been spotted in the first place, but they were included in the scheme by the time it finished.
Sir Brian Bender: It is not a satisfactory explanation, but the reason for all this is that the Department thought that by talking to the BFA, it was getting a complete picture, but it plainly was not, for the reasons that you are explaining very clearly, Mr Mitchell. There is no doubt that the fundamental

lesson is to consult properly with all the players before introducing a scheme like this. That must be right.

Q20 Mr Mitchell: The Department was also extraordinarily grudging about putting vessels on the list. I supplied a list, which I got from the Icelandic Ministry of Fisheries, of vessels that had been spotted fishing in Icelandic waters by the Icelandic coastguard. Even then, it took several months to get those vessels, which were not on the original list, on to the list. One middle-water vessel, the Thessalonian, is still not there, although it has demonstrably been fishing in Icelandic waters. Why was that so sticky?

Sir Brian Bender: I guess that it was just coping with the sheer complexity. I think that the Ombudsman looked to see whether the vessel that you have mentioned should have been added but did not find maladministration. I do not think that the Department has a defence on these issues. It did not cover itself with glory, because it did not stand back and plan properly for introducing a scheme like this.

Q21 Mr Mitchell: There was a further problem regarding lack of knowledge of the industry's practices in relation to the 12 week break in service. That has caused an enormous number of problems, which are dealt with in the Ombudsman's report. At first, we were told that the 12 week break in service did not include service in prison, so we had the extraordinary case of a Hull fisherman—this would never happen in Grimsby—whose wife had been raped by another fisherman. The second fisherman got compensation because he was in prison serving a sentence for the rape, but the first fisherman did not get compensation. That prison thing was a farce.

Sir Brian Bender: I have asked about that case, which was very odd. I understand that the issue arose because of the decision to allow gaps in service of more than 12 weeks, provided that the person had not worked outside the Icelandic industry. This is not a satisfactory answer, but the Department did not then appreciate that that would mean that time spent in prison would not create a break in service, whereas time spent working for another employer would. We were therefore faced with that farcical position. I understand that about 30 of the cases involved time spent in prison, although the overwhelming majority were for relatively minor offences. There were a couple of cases with long prison sentences—no doubt, the one you mention is one of those. However, the Department should have been informed about that and should have got it right.

Q22 Mr Mitchell: The 12 week break was also difficult because, in Grimsby, if fishermen could not get an Icelandic trip—this was also the case in Fleetwood—they were put, by the employment office on the dock, on a North Sea or middle-water vessel. They had no alternative but to take those jobs, but it was not allowed and it became a 12 week break. That is why the Ombudsman ruled in my favour, but I was arguing that from the start and the Department was extraordinarily resistant to that argument.

Tim Soane: The reason for the 12 week break was primarily because we were advised by the industry that a 12 week period would typically cover most of the eventualities that involve fishermen, whether it be getting a master certificate, doing a training course or not fishing for whatever other reason. So the 12 week period was settled on to include all those sorts of eventualities. The point about people having breaks of longer than 12 weeks was that there had to be some point at which you could say that the service before that period was rendered ineligible. The rules of the scheme were that if you worked in excess of that 12 week period, that would—

Q23 Mr Mitchell: But they were still fishing; they were fishermen. They were forced to act by employment law.

Tim Soane: But the point of the scheme was to deal with the loss of the industry from the Icelandic settlement, and if they were fishing in other boats, they were less dependent on Icelandic water fishing. That seems like a reasonable conclusion to come out of that rule.

Sir Brian Bender: The Department was, as you well know, Mr Mitchell, trying to compensate for the effects of the cod war, not for other impacts of the decline of fisheries. That was extremely difficult in practice.

Q24 Mr Mitchell: Well, I think that they have now come clean on, or coughed up on, the 12 week fishing period in the North Sea. Just quickly, were the Hull claims paid faster, because the Hull branch of the BFA had put a red stamp on them? That is something that is strongly felt in Grimsby. I do not know. Was that the case?

Tim Soane: Absolutely not. The National Audit Office Report that investigated 100 claims found that to be the case. The fact is that the claims from Hull were often simpler. There was better evidence available and fewer inquiries of the fishermen were needed.

Q25 Mr Mitchell: That is true, but, as you can see on table 4, from May 2001 you were rejecting a much higher proportion of cases. That meant that the early cases coming in from Hull got a lot more acceptances than the later cases coming in from Grimsby, because you were being tougher.

Tim Soane: There was no change in the toughness of the application of the rules of the scheme throughout its life. Every claim was treated the same, and some claims were re-examined later in the light of the changes to the rules, which we have talked about before. There is no difference in time. It is simply the case that Hull was more dependent on Icelandic water trawling. The claims from fishermen in Hull were clearer and the evidence was clearer, and that enabled the claims to be processed more quickly.

Q26 Mr Mitchell: Why was the Department justified in deducting from the compensation scheme in 2000 not only the *ex gratia* payment made in the mid-1990s—that payment was a legal obligation on the Department because it had been proved in the tribunals that fishermen were not casual but were employed and therefore entitled to the redundancy that had been withheld from them—but the interest on it. No interest was paid on the compensation, even though it was due from 25 years before.
Sir Brian Bender: Mr Mitchell, I know that that is a subject of correspondence between you and our Ministers and that you both disagree. Our view is that it is neither unfair nor unlawful to do that. It was a matter of policy rather than law. As you know, the Ombudsman looked at the matter in 2004 and concluded that the Department was entitled to offset the interest and principal sum of the 1993 scheme payments. I am conscious that that is something that you do not agree with, but that is the Department's position. The last thing that I saw was a letter from Pat McFadden back to you.

Q27 Mr Mitchell: One final quickie: I want to check whether two names have been paid. A problem has been raised from Grimsby. I do not want to give out the names here, so I will give you a note. Perhaps you can tell me whether they have been paid.
Sir Brian Bender: Of course.

Q28 Mr Dunne: Can I be clear about the timing of this whole episode? It says on page 24 that the last case was paid in July 2006. Is that the end of it as far as the Department is concerned, subject to the Ombudsman's inquiry?
Sir Brian Bender: Subject to the decision Ministers make in response to the Ombudsman's recommendation that we should look at whether or not to run some aspect again.
Tim Soane: And we have always maintained that if a claimant were to bring forward new evidence—for example if they discovered some lost records that might have affected their claim—we would obviously look at the case again. In principle, however, it finished at that point.

Q29 Mr Dunne: I am glad that you raised the issue of records. One of the things that comes through from this Report is the difficulty for individuals in establishing whether they have a case or not. You had to go to the Inland Revenue, as it then was, to get corroborating details of individuals' national insurance contributions and other payments. How long does the Inland Revenue have to retain records by law?
Paula Diggle: I think it is six or seven years, but I can check that for you.

Q30 Mr Dunne: Obviously, there used to be a seven-year requirement, and now it is six years.
Paula Diggle: I will check that for you.[2]
Tim Soane: It is worth saying that we would have asked for the National Insurance records in order to reduce the amount of the claim. That would not have been in support of the claim, but only in order to deal with circumstances in which there was a break of more than 12 weeks and—

Q31 Mr Dunne: And where you could prove that other work had been undertaken?
Tim Soane: Correct.

Q32 Mr Dunne: That was to reduce the cost to the Department. I understand. However, my point is that it is extremely hard to substantiate a claim going back over a decade. Have you undertaken an estimate of the cost to those undertaking such claims or appeals?
Tim Soane: We have not.
Sir Brian Bender: Unless there was evidence that the claim was wrong, we erred on the side of paying it. That is implicit in a later paragraph in the NAO Report. If you understand my point—we did not crawl over the details and ask for more and more evidence.

Q33 Mr Dunne: Although, in some cases, it took many years to reach a conclusion.
Sir Brian Bender: Oh yes.

Q34 Mr Dunne: What was happening in those intervening years, if you were not crawling over more evidence?
Sir Brian Bender: We were trying to get more evidence. My point is that where there was doubt, we gave the former fishermen the benefit of the doubt. For example, in one or two cases—this comes out later in the report—we actually paid them before they got their national insurance records.

Q35 Mr Dunne: The number of successful appeals seems to be very small. If I read table 7 on page 15 correctly, only five decisions were changed on appeal out of 18 already paid, and none of those rejected were changed. That does not give the impression that you were erring on the side of the generous. It gives the opposite impression.
Tim Soane: In a sense, it could prove that we were erring on the side of the generous. Had we been erring in the opposite direction, you would have expected more appeals to have been upheld, because we would have investigated further, found more information and then paid that person more. As it is, the low number of appeals is commensurate with us having erred on the side of generosity.

Q36 Mr Dunne: Approximately one third of the cases of those sampled by the NAO were appealed.
Sir Brian Bender: That is true.

[2] Ev 10

Q37 Mr Dunne: Was any compensation paid for the cost of taking those to appeal? Do we have a sense of what it would have cost an individual to appeal a case?
Tim Soane: The appeal mechanisms were not onerous on those appealing. The first course of appeal was to an official in the Department, who was separate from the redundancy payment service, and was simply a review of the case papers and a check to see whether the case officer had done the calculations and interpreted the evidence correctly. If the outcome was unsatisfactory for the claimant, we had a further appeals mechanism to an independent person whom we had appointed. Again, that was done with a fairly light touch; it was not like a court of appeal. It was done in a relatively straightforward way. So the evidence that had been presented as part of the claim was re-examined at each of those two stages in order to see whether an error had been made.

Q38 Mr Dunne: When you applied to the Inland Revenue for access to the historical records, did you have to go through a procedure? Have lessons been learned that could apply in other cases?
Tim Soane: Yes, we had to ask each of the individual claimants to authorise the Inland Revenue to release the information to us. That happened as a result of a machinery of Government change: previously, those administering the scheme had been in the same Department and, therefore, had access to those records as a matter of interdepartmental information exchange. When they became separate Departments, different legal arrangements applied and that information was not available. If we ran a similar scheme again in another Department, we would put on the application form an authorisation for us to have access to the records, so that we could make that happen as a matter of course.

Q39 Mr Dunne: Has that lesson been learned across Government? If not, could you encourage other Departments to consider it?
Sir Brian Bender: Certainly, if that has not been learned, we need to encourage it. I think that the general question about the potential conflict between data protection and data sharing is under very active consideration in Government, and it is more common now to encourage individual citizens to tick a box—or not, if they do not want the material shared—so that they can get what they want, unless they are obsessed with protecting their privacy. I think that the lesson has been more generally shown, but we are happy to reinforce it with help from the Treasury.

Q40 Mr Dunne: Thank you. Given the passage of time, we really need to be coming from a perspective of lessons learned. The Ombudsman's fifth recommendation, as set out in page 28, about dealing with *ex gratia* payments, suggested that there was no established system within government for dealing with *ex gratia* compensation schemes. Are you able to enlighten us on where the Government have got to in responding to that?
Paula Diggle: I can help on that. We have, in fact, made quite a few steps on that. In the summer, we issued some fresh guidance about the use of public money, which came into force last month and has a whole annexe on remedies and a whole section on setting up schemes of any kind. All that is set out in that guidance.

Q41 Mr Dunne: Is that based on the recommendations?
Sir Brian Bender: Absolutely, it picks up the good practice guides in this report and some of the recommendations of the Ombudsman's report. They have been very much taken into account.
Paula Diggle: They follow on from the Ombudsman's principles for remedy, which came out recently.

Q42 Mr Bacon: Sir Brian, in one of your earlier answers you said that the Department had responded initially to the Ombudsman. When did it do that?
Sir Brian Bender: I would say in the spring, maybe March or April. It was shortly after the Ombudsman's report was published.

Q43 Mr Bacon: Was that just a holding reply?
Sir Brian Bender: We responded to the recommendations in the Ombudsman's report and, therefore, I have written personal letters to the five complainants, including Mr Mitchell's constituent, who was the initial complainant. We have made consolatory payments, as recommended, with interest[3] to those five. The second recommendation was to review the scheme criteria and rules to see whether they were consistent with the policy intention underlying the scheme. This internal review has taken place and the matter is with Ministers in my Department. They have not reached a decision on that. The third and fourth recommendations flow from the decision that will be taken by Ministers in response to that, and the fifth recommendation is the point that Mr Dunne was just asking about.

Q44 Mr Bacon: Was that all given to the National Audit Office?
Tim Soane: Yes.

Q45 Mr Bacon: I have just spoken to the National Audi Office. Since this Committee hearing has started, our brief says that the Department is considering the Ombudsman's report. It would have been helpful to have been able to compare the Ombudsman's report with a detailed analysis by the Department of what it thinks of the report.
Sir Brian Bender: The central aspect of the Ombudsman's report, apart from the payments to the five individuals, was to review the scheme criteria and rules to see whether they were consistent with the policy intention underlying the scheme. The NAO is correct that we are still reviewing that.

[3] *Note by witness*: The payment was a single consolatory payment of £1,000 each. Interest was not involved.

Q46 Mr Bacon: How long does that take? I know that the Department took 20 years to get on with that. You said, "I apologise for the length of time, after 20 years, it has taken to sort this out." This report was published on 21 February. Today is 12 November. That is nearly nine months.
Sir Brian Bender: The issue is with Ministers. Mr Mitchell has had, I think, a private meeting to discuss it. It is not straightforward, because rerunning the scheme would create a lot of losers and aggrieved people. Therefore, managing expectations and getting—if I may put it frankly—the least bad decision moving forward is what Ministers are presently considering.

Q47 Mr Bacon: I really want to know how the civil service, in compensation schemes of this kind, manages to get it so wrong. We looked at the miners health compensation scheme recently, which you will be aware of. Of course, more was spent on administration and so on than was paid in compensation. The scheme made some lawyers multi-millionaires. Here we have a different scheme with huge problems. The civil service hires bright people from the best universities. The Ombudsman's report, in paragraph 79, states: "I consider that, in order for any *ex gratia* compensation scheme both to accord with principles of good administration and to have a reasonable prospect of being run effectively, a number of conditions need to be satisfied." Then those conditions are gone through. In paragraph 82, having regard to those conditions, the Ombudsman says: "I would expect an effective scheme to have scheme rules that are clearly articulated and which directly reflect the policy intention behind the scheme"—that is pretty obvious—"to have systems and procedures in place to deliver the scheme which have been properly planned and tested"—again, that is pretty obvious—"to have built in sufficient flexibility in rules and procedures to recognise the level of complexity in the subject matter covered by the scheme". Again, that is pretty obvious. You yourself said that it is important to consult all the players and that was not done, and that the Department mistakenly thought that merely talking to the BFA was sufficient when it plainly was not—that was in parentheses. The quote from the Ombudsman continues: "and to have mechanisms which enable the success of the scheme in delivering its objectives to be kept under review." All of this is pretty good solid, basic stuff and principles of good administration. You are the Permanent Secretary of a major Department. You are on a very high salary and will have a very high pension. To go back to the Ombudsman's report, paragraph 22 refers to Mrs A, one of the complainants, who said that in February 1972 her husband would have much preferred to stay at home, particularly because his wife, Mrs A, was unwell. However, the operation of the pool system was such that he had no choice. The report states: "She said that 'the trawler owners behaved like Gods'. Her husband had been told, a few weeks after he had been discharged from the Ross Rodney, that he was required to work aboard a North Sea vessel, the Saxon Forward. If he had refused he would not have been able to obtain unemployment benefit. It was simply not possible to keep a family of five without any income at all and it was in that sense that her husband had had no choice. It was literally a question of taking the job offered or the family would starve." The people doing the administration, such as yourselves, will not starve, as I pointed out. You will be fine. They will not necessarily be fine. You hire the brightest people from the best universities. Why is it that with the miners scheme and with this one, the Department manages to get these things this badly wrong?
Sir Brian Bender: First, there are differences between the two schemes, but in both cases there was enormous complexity as a result of the rules, going back over a very long time, and the Department did not stand back, consult properly and do the proper risk planning and risk management, proper project planning. In this case, matters were made more difficult by the changes of the rules along the way, but those are the fundamental points on it.

One of the lessons that I hope we have learned along the way is the much closer and better involvement of those who will be responsible for doing it, because the bright people, as you describe them, who sit in headquarters do not have much experience of operational delivery on the ground. One of the issues that the Cabinet Secretary has often discussed with other permanent secretaries is how we can ensure that the future generations of people at the top of the civil service have the operational delivery experience of turning bright ideas into things that work on the ground. We are working on that at the moment to make sure it is built into people, that a graduate entrant to a Department will have to do one spell somewhere in operational delivery—

Q48 Mr Bacon: One?
Sir Brian Bender: Sorry, in their first three or four appointments. The point is that you will not get into the senior civil service without operational delivery experience. It does not matter how bright you are, if you do not have practical experience and you do not stand back and plan these things with programme/project management and risk management techniques, you risk screwing up. I would say this, wouldn't I, but I do believe the civil service has got better at these things. Both the schemes—the last one I was here for and this one—date back to 1998, 1999, 2000, but they are very powerful lessons and we need to make sure they are learned, rather than that we come here saying again, "We must learn the lessons."

Q49 Mr Bacon: You have been very candid and acknowledged many mistakes. The points you have just made are generic.
Sir Brian Bender: Yes.

Q50 Mr Bacon: They affect a whole range of things that this Committee sees. I have to say that in my six years on the Committee, I have not noticed things getting a whole lot better. You have been more candid than many permanent secretaries have been

in the past, which is very welcome, because if you are to make things better, you need to have an intelligent discussion about what is wrong. The Chairman intervened on me in the Public Accounts Committee debate on the very point that only one programme manager—I think he used the phrase "project manager"—had been made a permanent secretary, rather than that being a matter of routine. When do you see this kind of change percolating through the civil service?

Sir Brian Bender: There is a little known, little read NAO Report from about a year ago called, *Successful IT Projects in Government*. There are cases and areas where Departments are doing these things successfully. The question is about whether we are learning lessons from the successes as well as the failures. The short answer to your direct question is that the Professional Skills for Government programme, launched by the last Cabinet Secretary and pursued enthusiastically by the present one, is intended to ensure that people have a broader experience and have things such as programme project management skills, and that these things are inculcated. These changes cannot be made overnight, but they must be made.

Q51 Mr Bacon: You mentioned complexity. That is a theme that I see in lots of the issues that we look at. I wonder whether civil servants, because they are bright people, have an unhealthy attachment to complexity.

Sir Brian Bender: Well, I must be careful. We have a tendency not to respect what I call the 80:20 rule. If someone in the business sector sees something that seems to be about 80% right, they will take the risk and go for it. However, the sector that we work in has, quite rightly, issues of public accountability, and we tend to spend rather a long time on the remaining 20%. Sometimes, that is absolutely right and justified; sometimes, it can add unnecessary complexity. In this case, the problem was that we were looking at something that was not directly measurable and we therefore had to find proxies. There was no register of vessels that had fished in Icelandic waters; there were no full employment records; and in each case, we were looking for proxies, which turned out to be very complicated to find. Everything really flowed from that.

Q52 Mr Bacon: Is it just that the world is very complex, or, to repeat my question, is this interest in complexity unhealthy?

Sir Brian Bender: We need to be better at working out what needs to be done, and where there is complexity, standing back, consulting and thinking through the matter, rather than just adding another bell or whistle to it.

Q53 Mr Bacon: You mentioned not consulting all the players. That is blinding common sense. Anyone with any sense would say, "Let's figure out who are the main players in this," and not just take the opinion of some of them, or one organisation. They would ask whether that is an accurate portrayal of the universe that we are dealing with—would they not?

Sir Brian Bender: I find it hard to understand why it did not happen. It was partly because it was believed that the BFA was representative, and partly due to an understandable pressure to get a move on. One of the other things that the civil service needs to be better at doing under those circumstances is to say to Ministers, "We need to think this through more for the following reasons." It is our job to do that, and not to be pressed into doing things that add to complexity and then are very difficult to deliver.

Mr Bacon: Thank you.

Q54 Chairman: Sir John, do you think that it is strange that, 150 years after the Northcote-Trevelyan reforms created the modern civil service—incorruptible, with promotion by examination—that we still have a system that takes until 2007 for the Cabinet Secretary to say that, to enter the top civil service, you must have run a project? Do you find that strange?

Sir John Bourn: I find it strange, although if you look at the history of the country, you can understand how it comes about. Sir Brian is quite right when he draws attention to the possibility that clever people make things more complex than they need to be. We saw that with the Rural Payments Agency a few weeks ago, when it came to the Committee. There we again saw a scheme that was more complex than it needed to have been and more complex than the one in other parts of the country. There has been a tendency, sitting in the confines of Whitehall, to think up ways of laying off for everything that we could think might happen and other things as well. Sir Brian is right to say that that is recognised and that efforts are being made with the development of career experience in the civil service, to get people with a wider range of operational experience. Also very relevant is the idea of having more secondments into the business sector, so that people who reach the senior civil service will have been expected to spend two, three or four years in the private sector on their way to a senior appointment.

Chairman: Thank you very much.

Q55 Keith Hill: How many claims were there in total?

Tim Soane: We paid out on 4,400 claims, but there were a further 2,600 claims that were not paid out on.

Q56 Keith Hill: Where does this figure of 7,000 come from?

Tim Soane: Those two figures—those that we paid out on and those that we rejected. There was duplication or misunderstanding on another 4,000. There was a total of 11,000 claims: 7,000 were genuine claims, of which we paid out on 4,400.

Q57 Keith Hill: And were the remaining 4,000 not genuine claims?

Tim Soane: They were duplicates; misunderstandings between the parties supporting the trawlermen and their dependants, which occurred when two copies of the same material came in within different letters.

Q58 Keith Hill: So you paid out on about 60% of the claims?
Tim Soane: Yes.

Q59 Keith Hill: Is that an unusually high or low percentage?
Tim Soane: I do not think that there is any precedent.

Q60 Keith Hill: What about miners' compensation or the National Bus Company pension fund?
Tim Soane: They are all fundamentally different. The scheme was designed specifically for this purpose. I do not have an analysis of the grounds on which the people who were not compensated were refused, but they had the appeal mechanism should they have wanted to use it. Quite a lot of them did, as we have seen from earlier data.
Sir Brian Bender: If it helps, although the Department got a lot wrong on this, as we have discussed, it estimated that there were about 4,000 eligible claimants, and the final number was 4,400.

Q61 Keith Hill: All those claims would be based on 20-year-old evidence? In many cases, the applications have been made on behalf of deceased trawlermen, and the fact that a trawlerman had been on a specific vessel did not guarantee that he had been in Icelandic waters.
Tim Soane: In order to qualify, the trawlerman first had to satisfy the criterion of two years of service on an Icelandic vessel—that is, one of the vessels on the list. That got them an entry into consideration; having got to that point, you look at their whole period of service for up to 20 years, which was the maximum available under the scheme. Then you look at whether the vessels they served on during that period were Icelandic, and you calculate how much—

Q62 Keith Hill: So you made a presumption in a number of cases?
Tim Soane: No, we had their logs, which showed where they had worked during that period. That is what they would present; or if that evidence was not available, they would present affidavits of equivalent evidential value.

Q63 Keith Hill: What did Sir Brian mean by the expression "proxies"?
Sir Brian Bender: There was not a full list of registered vessels, so we found a proxy for it, made up of ships that had made a couple of trips to Iceland, for example. We did not start off with perfectly neat definitions of what we were looking for, so we found something that approximated to it in the case of the type of vessel or the type of service that would apply, because the records did not exist in an ideal way, where you could just press a button.

Q64 Keith Hill: And that was nothing to do with your not getting proper and complete advice, ab initio, as it were. Was there always going to be this problem?
Sir Brian Bender: There was always going to be this problem, because of the peripatetic nature of the industry, the nature of the work in it and the nature of what a fishing boat does. What the Department could and should have done better, before launching the scheme, is to have stood back and looked at what the implications of the inadequate evidence base might have been. But the Department knew that it was an imperfect base.

Q65 Keith Hill: But it was never going to be easy.
Sir Brian Bender: It was never going to be easy. The NAO report talks of this being a significant challenge, particularly so long after the event.

Q66 Keith Hill: What was the average length of time taken to settle a claim?
Tim Soane: Of the order of six to eight months.

Q67 Keith Hill: How does that compare with other schemes?
Sir Brian Bender: I do not have that information, but the answer is that it is not as good as it should be.

Q68 Keith Hill: Is that correct? Is there any evidence about the length of time that it has taken to settle claims on the miners compensation schemes, for example?
Peter Gray: Yes, the miners compensation scheme took quite a bit longer—you are probably talking on average about over a year at least in that case.
Chairman: Thank you very much. I think Mr Mitchell has a supplementary before we end.

Q69 Mr Mitchell: It is just a brief one. As I hope I said at the beginning, I received every help and courtesy and very efficient service and answers from every official I dealt with at the Department. As I said, I pay particular tribute to Mr Askwith, who came to Grimsby, and to Ted Whybrew, the adjudicator, who took a lot of trouble with the cases. My question is simple. From what you said, the Department does not appear to have any history in this matter. Is it correct that, for some reason, the Board of Trade records of fishing vessels, which would have answered all the questions about crewing, about where people were fishing and particularly about the log books, have been sent to Nova Scotia and sit there out of contact with the Department?
Sir Brian Bender: I do not know about the Board of Trade, but at the outset, the Department thought it would be possible to verify Icelandic trawlers through reference to Ministry of Agriculture, Fisheries and Food licensing. But on checking, we found that MAFF was able to provide only a list of vessels licensed to go to Iceland for a three-year period—from 1973 to 1976. So a definitive list

simply did not exist. Whether the Board of Trade had it at some stage in the annals of the past, I do not know, but the Ministry of Agriculture was the Department that the discussions were taking place with in the late '90s and in 2000, and, as I say, the BFA thought that it would have a more complete record.

Q70 Mr Mitchell: But are the Board of Trade records in Canada?

Tim Soane: I have no idea, but I can assure you that very extensive searches were made for any records that might shed some light on what actually happened, going back to 1954, and nothing further than what we have been able to use was found.

Q71 Chairman: Thank you. Sir Brian, are there no other compensation schemes that we will be seeing?
Sir Brian Bender: As I have said a couple of times in this hearing, Ministers are looking at the implications of the Ombudsman's report. If the Department is to launch any further such schemes, I will personally want to crawl over the lessons of this hearing and the last hearing before we do so.
Chairman: Then we will have fulfilled some purpose, Sir Brian. Thank you very much.

Supplementary memorandum submitted by the Treasury Officer of Accounts

Question 30 (Mr Philip Dunne): *National Insurance Records*

I understand that HMRC retains National Insurance information indefinitely, while personal tax records are retained for six years (PAYE) or nine years (self assessment).

In fact the information problem mentioned in the NAO Report was not caused by absence of records. There were two aspects:

- when the work on compensation for former Icelandic trawlermen transferred to DTI, there was no legal gateway to enable routine disclose of NI information;
- even where the NI information could be made available, it did not always provide enough to say whether claimants had been working in the industry. This is because the NI records keep data on each employer and the length of time worked for each year, but not dates.

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