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Committee of Public Accounts

Equality and Human Rights Commission

Fifteenth Report of Session 2009–10

Report, together with formal minutes, oral and written evidence

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The Committee of Public Accounts

The Committee of Public Accounts is appointed by the House of Commons to examine "the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure, and of such other accounts laid before Parliament as the committee may think fit" (Standing Order No 148).

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The following members were also members of the committee during the parliament:
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Mr Philip Dunne MP (*Conservative, Ludlow*)

Powers

Powers of the Committee of Public Accounts are set out in House of Commons Standing Orders, principally in SO No 148. These are available on the Internet via www.parliament.uk.

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at http://www.parliament.uk/pac. A list of Reports of the Committee in the present Session is at the back of this volume.

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The current staff of the Committee is Sîan Woodward (Clerk), Lori Verwaerde (Senior Committee Assistant), Pam Morris and Jane Lauder (Committee Assistants) and Alex Paterson (Media Officer).

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Summary

The Equality and Human Rights Commission (the Commission) was established by the Equality Act 2006 and came into existence on 18 April 2006. It took up its new powers, and those of the former Commission for Racial Equality, the Disability Rights Commission and the Equal Opportunities Commission (the Legacy Commissions), on 1 October 2007. The Commission is a Non-Departmental Public Body reporting to the Government Equalities Office, a government department set up in October 2007 with responsibility for equality strategy and legislation.

Serious errors were made in setting up the Commission, not helped by three changes of sponsor department in the months immediately before its launch. The Commission now accepts that it was not ready for business when the doors opened on 1 October 2007 and that its set-up process, which cost £39 million, was flawed and inefficient. The Commission's Chairman recognised his personal share of responsibility and told us that the Board did not exercise the level of scrutiny it might have done, despite early warning signs being clearly visible. For example, a report from the Office of Government Commerce in May 2007 expressed serious concern about the Commission's readiness to open for business later that year as it did not have in place: sufficient senior staff, a transition strategy, business strategy, organisation design or job descriptions.

Mistakes were made by the then sponsor department (the Department for Communities and Local Government), the Legacy Commissions and the Commission's transition team in the handling of an early exit scheme which was offered to employees of the Legacy Commissions. The Commission had no control over which staff transferred to it or who left under the scheme, leaving it 140 people short and with skills gaps in key areas. Some of these gaps were filled by bringing back former employees of the Commission for Racial Equality as consultants, even though they had all received severance payments through the early exit scheme. The Commission failed to follow the correct process and did not obtain approval from the Treasury before entering into these arrangements. The Treasury did not grant approval retrospectively on the grounds that the Commission could not prove that these re-engagements gave good value for money. This expenditure was therefore deemed irregular and the Comptroller and Auditor General issued a qualified opinion on the Commission's 2006–08 accounts.

Weaknesses in the Commission's controls have continued beyond the period covered by the Comptroller and Auditor General's (C&AG) report. The Commission has made an additional payment of £15,000, which it cannot adequately explain, to one of the re-engaged consultants, and it has also breached its pay remit and staff complement levels. This is not the way that this Committee expects public bodies to be run. The Commission has been without a permanent Chief Executive since May 2009. When the new Chief Executive has been appointed, he or she will need to ensure that strong controls are in

place to ensure that such errors do not recur.

On the basis of a Report by the C&AG,[1] we examined the Commission and the Government Equalities Office (the Department) on the events leading to the qualified audit opinion on the Commission's 2006–08 accounts and on the continuing weaknesses in the Commission's controls.

1 C&AG's Report, *Equality and Human Rights Commission Annual Report and Accounts 2006–08*, HC (2008–09) 632

Conclusions and recommendations

1. **Delays in appointing key staff meant that the Equality and Human Rights Commission was not ready for business on 1 October 2007.** Fifteen out of 25 Directors had yet to be appointed and the team put in place to manage the start up did not have the right balance of skills for the job. When new bodies are set up the Government should ensure that a comprehensive project plan is in place from the very start, which identifies when key staff need to be appointed and what skills they should have.

2. **Three changes in sponsor departments in the months immediately before the launch undermined Departmental leadership and led to a lack of continuity in Departmental guidance.** When machinery of government changes are being planned, Departments must undertake a thorough evaluation of the risks that would arise from changing governance arrangements for high risk projects. Sponsorship for sensitive and time-critical projects should not be transferred to a new Department where there is a risk that transferring responsibility would undermine the success of the project.

3. **Problems with the start-up were exacerbated because the Commission did not delay its launch date, even though its business plan, job descriptions and the allocation of staff to roles had not been finalised.** The Commission now acknowledges that its launch date should have been delayed. When new bodies are being set up, management and the sponsor department should take an objective view of how ready the entity is to take on its functions. Accounting Officers should flag up clearly where there is a risk that pressure to adhere to an unrealistic start date will result in poor value for money, and should be prepared to seek an Accounting Officer Direction where necessary.

4. **The Board did not effectively oversee or scrutinise the set-up process or management's decisions.** The Chair of the Commission should have ensured that the Board more closely reviewed and scrutinised the progress in setting up the Commission, particularly in the period before the Chief Executive was appointed. The Board should have challenged management's proposals more robustly and should have been more proactive in holding management to account. The Commission's Board should clarify the respective roles of the Board and the management team and be proactive in seeking evidence to satisfy itself that management have processes in place to effectively deliver their responsibilities.

5. **We are surprised and concerned that the process of setting up the Commission cost over £38.8m.** This Committee has commented previously on problems with set-up of new bodies, most recently in our report on HM Revenue and Customs Prosecution Office. HM Treasury should draw up best practice guidelines for the creation of future public sector bodies. The guidelines should highlight the common risks and the steps which should be taken to mitigate those risks, and provide benchmarks for the reasonable cost of a merger.

6. **Staff with valuable skills were allowed to leave the Legacy Commissions through an early exit scheme and then had to be re hired by the new Commission at a cost of £338,708.** The Commission had no control over who left through the scheme. The Treasury and the Cabinet Office should ensure that they provide clear guidelines on the need to consider the retention of key skills when devising early exit schemes and on who should be responsible in such circumstances for designing schemes and communicating with the staff affected.

7. **The Comptroller and Auditor General qualified the Commission's accounts for 2006–08 because it did not follow proper process in re-engaging former staff as consultants.** The Commission did not understand what needed to be included in the business case, did not hold an open competition for the appointment of the consultants, and did not obtain formal approval before the consultants started work. The Department should issue clear guidelines to the Commission on how future business cases should demonstrate the achievement of value for money. The Department should also clarify with the Commission at what point it expects to be brought into these decisions, especially where prior approval from the Treasury is required before action can be taken.

8. **Serious weaknesses in the Commission's controls have continued beyond the period covered by the 2006–08 Accounts.** The late disclosure of an additional £15,000 paid to one of the re-engaged consultants and the breaches of the Commission's pay remit and staff complement show that the Commission's controls over staff costs remain weak. We welcome the Accounting Officer's assertion that stronger controls are now in place. The Department and the Accounting Officer must ensure that the Commission follows proper procedures with regard to the management and use of public money in future.

9. **The Commission has not had a permanent Chief Executive since May 2009.** An interim Director General has been in post since May 2009 and is paid at a daily rate of £1,000 (excluding VAT), which will have cost a total of £138,000 (excluding VAT) by the end of January 2010. A new Chief Executive will need to tackle the continuing weaknesses in the Commission's controls. The Commission, with the agreement of the Department, should seek to appoint a permanent Chief Executive as soon as possible, having followed a rigorous competitive appointment process designed to ensure the appointment of the best-equipped candidate.

1 Weaknesses in setting up the Commission

1. The Equality and Human Rights Commission (the Commission) was established by the Equality Act 2006 and came into existence on 18 April 2006. It took up its new powers, and those of the former Commission for Racial Equality, the Disability Rights Commission and the Equal Opportunities Commission (the Legacy Commissions), on 1 October 2007. The Commission has a wider mandate than the Legacy Commissions, having responsibilities also for protecting against discrimination on the grounds of age, religion or belief, or sexual orientation and for promoting human rights in the United Kingdom.[2]

2. In May 2006, the Office of Government Commerce (OGC) reported that the timetable for creating the Commission was high risk.[3] The OGC subsequently carried out a Gateway Review in May 2007, which expressed serious concerns that the Commission would not be ready to start operations on 1 October.[4] At this point, the Commission did not have a transition strategy, business strategy, organisational design, or job descriptions.[5]

3. The Commission explained that the main reason it had slipped so far behind by May 2007 was delays in appointing senior officers (**Figure 1**).[6] The Chair of the Commission was appointed in September 2006, five months after the Commission was created. However, he could not begin working full time at the Commission until November 2006, after he had been replaced as Chair of the Commission for Racial Equality.[7] The Chief Executive was not then appointed until January 2007, and did not take up post until March.[8] Senior management could not be appointed until the Chief Executive was in post and after the lengthy process of advertising and interviewing for senior positions had taken place.[9] Consequently, when the Commission opened its doors on 1 October 2007, only ten of the complement of 25 Directors were in post.[10] Unsurprisingly, the Chair and the 12 Commissioners appointed in December 2006 had been unable to formulate a fully fledged business plan with no senior management in post.[11]

4. Before the Board was appointed, the sponsoring Department had set up a transition team to manage the set-up of the Commission.[12] By December 2006, this team had carried out work on a proposed organisational design for the Commission. However, this was done before the Board had discussed what kind of organisation it wanted the Commission to be, and there appears to have been an assumption that the Board would simply accept

2 C&AG's Report, para 1

3 Q 90; Ev 20, Annex A

4 Ev 17, para 15

5 Qq 44–45 and 89

6 Q 17

7 Qq 1–2 and 17

8 Q 3

9 Q 17

10 Q 5; Ev 17, para 18

11 Q 43

12 Q 72

the design as presented. The Chair therefore stopped progress on this work when he took up post.[13]

Figure 1: Timeline for senior appointments

Date	Appointment
September 2006	Chair of the Commission appointed
November 2006	Commission Chair begins to work full time at the Commission
December 2006	12 further Commissioners appointed to the Board
January 2007	Chief Executive appointed
March 2007	Chief Executive takes up post
July–September 2007	Four members of the Senior Management Team and one Director appointed
1 October 2007	One member of the Senior Management Team appointed and four Directors transferred from the Legacy Commissions
October 2007–March 2008	Remaining one member of the Senior Management Team and fourteen Directors appointed

Source: Qq 1–3 and 17; Ev 20, Annex A

5. The transition team also suffered from a high level of turnover in the appointment of Programme Directors, with four appointed in the space of 20 months.[14] The Programme Directors had varying degrees of merger experience and some came from outside the civil service.[15] The Department acknowledges that the transition team needed a better balance between people with merger experience and people who understood the government sector.[16]

6. There were also a number of changes in the Department overseeing the set-up of the Commission.[17] The Equalities Unit, which sponsored the Commission, was originally part of the Department for Trade and Industry. It was subsequently moved to the Department for Communities and Local Government, then to the Department for Work and Pensions, and finally was set up as a stand alone Department called the Government Equalities Office in October 2007. Although many of the staff within the Unit who dealt with the Commission remained the same, the Finance and HR functions they relied upon for specialist advice and guidance changed each time the responsibilities transferred to a new Department.[18] Consequently, important agreements such as the Commission's pay remit were not finalised until after the Commission was launched.[19] The Department

13 Q 107

14 Q 96

15 Q 99 and 100

16 Q 99

17 Q 10

18 Q 90

19 EV 16, para 12 and Ev 18, para 28

acknowledged that these changes in the sponsoring Department did not help the process of setting up the Commission.[20]

7. In response to these problems the Commission decided to have a phased launch. The original launch date of 1 October 2007 was to be a 'soft launch', building up to a 'full launch' of the Commission in April 2008.[21] The staff transferred from the Legacy Commissions on 1 October 2007, and the Commission's offices and helpline were open for business on this date.[22] However, the Commission was not able to address all of the recommendations from the May 2007 OGC report before October 2007. For example, members of staff could not be assigned individual job descriptions because each had to be negotiated with the trades unions.[23]

8. The Board discussed delaying the start date at its first and second meetings. However, it decided not to delay because it was under pressure to get the doors open. The Board did not want to disappoint Parliament, ministers and the Commission's other stakeholders.[24] The Commission accepts that it should have been less optimistic in its assessment of what it could achieve in the short time available, and that the launch date should have been delayed.[25] The Chair also acknowledged that the Board did not exercise the level of scrutiny that it might have done.[26] In particular, issues relating to staff shortages and the need to re-engage former employees as consultants should have been drawn to the attention of the full Board at an earlier stage.[27]

20 Q 10

21 Q 16

22 Q 46

23 Q 72

24 Q 91

25 Qq 17 and 71

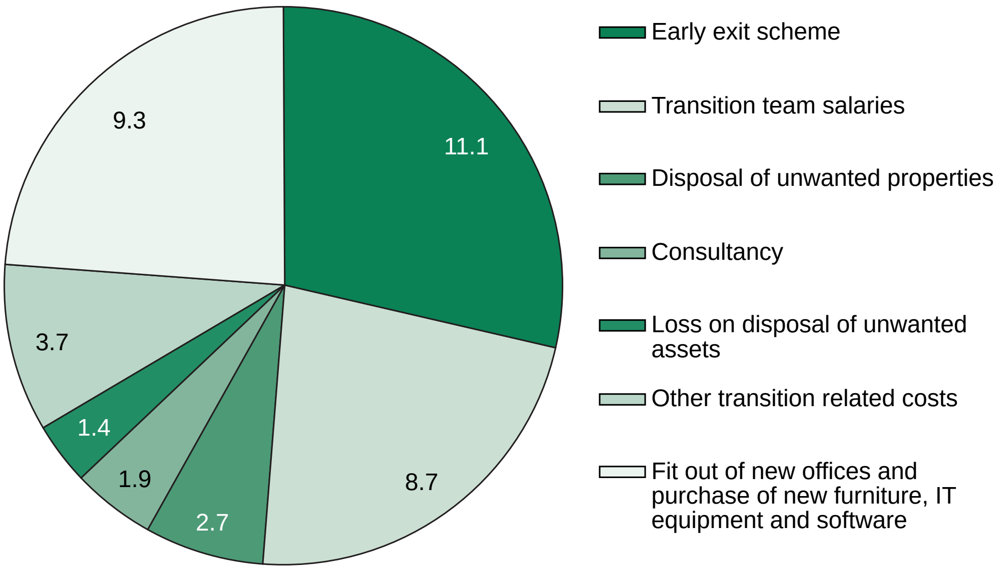
26 Q 13

27 Q 13

2 The cost of setting up the Commission

9. The Commission spent £38.8 million on setting itself up and winding down the Legacy Commissions in the period covered by its 2006–08 accounts (**Figure 2**). This includes the cost of the early exit scheme of £11.1 million, and the transition team's salaries, which cost £8.7 million.[28] The transition team had 83 members of staff who were employed for varying amounts of time over a period of 18 months. The members of the transition team therefore received an average of over £100,000 each.[29] The cost of the early exit scheme crystallised when the Legacy Commissions closed. The Commission's best estimate is that around 70% of the other set-up costs were also incurred after the Commission was launched; this indicates the extent to which the Commission was not ready for business on 1 October 2007.[30]

Figure 2: Set-up costs reported in the Commission's 2006-08 accounts (in £ million)



Source: Ev 25, Annex B

10. A further £9.3 million was spent by the Commission on purchasing new equipment, such as computer terminals, even though it inherited equipment from the Legacy Commissions. The Commission wrote off assets inherited from the Legacy Commissions at a cost of £1.4 million. The Commission could not explain why it chose not to use the equipment it inherited from the Legacy Commissions.[31]

11. The cost of reconfiguring the Commission's estate has also been high. Each of the Legacy Commissions had a head office in London, as well as offices in Scotland and Wales. The Commission decided that 14 of these leased properties were not suitable for the new Commission.[32] In particular, it considered that the old London head office buildings were

28 Qq 92–93; Ev 25, Annex B

29 Q 69

30 Ev 32–33

31 Qq 112–114

32 Q 118

too small to house the 160 staff the Commission wanted to base in London, and that some of the buildings did not meet accessibility standards.[33] Disposing of these leases cost the Commission £2.7 million during the 2006–08 period, and the Commission is still trying to dispose of a long term lease for one London property.[34] The Commission is continuing to review the properties it occupies, and intends to rationalise its holdings to reduce costs.[35] The Department confirmed that the Commission will be expected to transfer more staff to its Manchester offices when the lease on its current headquarters building expires in 2013.[36]

12. This Committee and its predecessors have previously taken evidence on the creation of public bodies, most recently in the case of the creation of HM Revenue and Customs Prosecution Office.[37] We are disappointed to see that the same mistakes continue to be made and at a significant cost to the tax payer.[38]

33 Qq 115, 123 and 124

34 Qq 116 and 120

35 Q 125

36 Qq 122, 126 and 128

37 Qq 136 and 137; Committee of Public Accounts, Fifty-first Report of Session 2007–08, *Revenue and Customs Prosecutions Office*, HC 601, para 4–5

38 Qq 92 and 137

3 Re-engagement of staff without HM Treasury approval

13. A voluntary early severance and early retirement scheme was offered to employees of the Legacy Commissions.[39] 185 individuals joined the scheme.[40] Those employees who chose not to take the scheme transferred to the new Commission under TUPE arrangements.[41]

14. The Department supported the scheme because the Commission needed fewer staff than the combined Legacy Commissions. Allowing some staff to leave also gave the Commission room to bring in new skills.[42] However, the scheme was run by the Legacy Commissions and endorsed by the then sponsor department (the Department for Communities and Local Government), and the Commission could not dictate who stayed and who left.[43] The Commission recognised that it risked losing some important skills and that both it and the Department could have made better efforts to persuade staff that the Commission would be a good place at which to work.[44] Consequently the Commission was left 140 people short of its complement.[45]

15. The Commission was particularly short of senior officers, including a Director of Communications, and lawyers.[46] The Chief Executive decided to bring back five senior officers who had worked for the Commission for Racial Equality, and subsequently for the transition team, and two more junior officers, to fill these gaps.[47] The Chair of the Commission was aware that the Chief Executive wanted to bring back these individuals, and that these individuals had received severance payments.[48]

16. The five individuals were appointed as consultants without an open competition being held, because the Commission was in a great hurry to be ready for the start up on 1 October 2007. The Chair was asked for his opinion on some of the individuals, but had no formal involvement in the appointment process.[49] The Commission accepts that it made mistakes in not holding a competition and now carries out all recruitment on a competitive basis.[50]

39 Q 28

40 Q 34

41 Q 32

42 Qq 29 and 34

43 Qq 23, 24 and 29

44 Qq 38 and 43

45 Q 32

46 Q 24

47 Qq 20, 21 and 64

48 Qq 5–7

49 Qq 20, 53 and 54

50 Qq 56–67

17. The consultants were appointed on day rates of up to £822 per day.[51] In total the seven re-engaged staff received consultancy fees of £338,708 (**Figure 3**).[52] The Accounting Officer stated that at least some of the consultants, who were working for the transition team at the time, had good reason to expect before they accepted their severance packages that they would be re-engaged.[53] Their severance packages, which cost the Commission £629,276 in total, were calculated on the basis of the number of years for which they had worked for the Commission for Racial Equality.[54] Five of the consultants moved to the new Commission without a break in service, but were not asked to repay their severance packages.[55] The Commission was unable to argue that re-employing them on this basis represented good value for money.[56]

Figure 3: The cost of re-engaging former staff as consultants

Period of time employed as consultants	Number of individuals	Severance costs	Consultancy fees
Under three months	2	231,259	21,102
Three to six months	4	293,892	197,390
Over six months	1	104,125	120,216
Totals	**7**	**629,276**	**338,708**

Source: Qq 11 and 40; C&AG's Report

18. The Comptroller & Auditor General qualified his opinion on the Commission's accounts because it had failed to seek Treasury approval for these payments and the Treasury refused to grant such approval retrospectively.[57] The Treasury requires that bodies seek approval from it and their sponsor department before entering into such re-engagements.[58] The Commission obtained approval from its then sponsor department for one appointment for a limited period and began to discuss the other re-engagements with its subsequent sponsor department in July 2007. However, the Commission had not obtained approval for the other appointments before five of the staff in question started work as consultants on 1 October 2007.[59] The Government Equalities Office formally referred the matter to the Treasury in January 2009.[60] The Treasury found that the re-engagement salaries were significantly higher than the salaries the individuals had

51 Q 140
52 Qq 11 and 40
53 Q 130
54 Qq 61 and 40
55 Qq 59 and 60
56 Q 40
57 C&AG's Report, para 12
58 C&AG's Report, paras 11 and 12
59 Qq 8 and 25
60 Q 27

previously received at the Commission for Racial Equality and concluded that the payments did not represent good value for money.[61]

19. The witnesses could not agree when the Department had made clear to the Commission what information it needed for the business case to be submitted to the Treasury for approval of the payments made to the re-engaged staff. The Department argues that it told the Commission in August 2007 that it should re-engage staff as consultants only if the Commission could justify the rates it wanted to pay them, and that this would most likely be achieved through open competition.[62] The Commission accepts that it should have prepared an adequate business case at the time. However, the Commission told us that it had provided information to the Department which it thought justified the re-engagement and that the Department had taken a very long time before it had told the Commission that a more formal business case was needed.[63]

61 C&AG's Report, para 12

62 Qq 9 and 87

63 Qq 8 and 25

4 Major issues yet to be solved

20. At the end of November 2009, the Commission discovered it had paid an extra £15,000 directly to one of the re-engaged staff three months after the individual had stopped working for the Commission. The Commission had not included this amount in the £323,708 of consultancy costs reported to the Treasury in January 2009. The Commission's Accounting Officer had launched an investigation, but had not yet been able to find out the justification for why the payment was made. He apologised for not having informed this Committee of this amount sooner, and accepted the Committee's criticism that this was not the way to run a public body.[64]

21. The Commission has also breached its pay remit and staff complement.[65] The pay remit is an agreement between the Commission, the Department and the Treasury, which sets the limit for pay increases for permanent employees. The Commission's first pay remit was agreed with the Treasury in September 2008 and was based on estimated staff numbers. However, the estimated staff numbers were higher than the number of permanent staff actually employed. Although the total cash paid by the Commission was in line with the pay remit, it was shared amongst fewer staff. This meant that staff had received an average increase of 6.81% for 2007–08 and 4.8% for 2008–09, which exceeded the limits of 4% and 4.5% set out in the pay remit.[66]

22. The Commission had also discovered in July 2009 that it was employing a total of 574 full time equivalent staff, whereas the Department had authorised it to employ only 525. This arose because of weak processes for recording, monitoring and reporting staff numbers.[67] The Commission's Accounting Officer stated that it had learned the lessons from these problems, and had put in place strong arrangements to control its staffing numbers. The Commission has now successfully reduced its staff complement from 574 to 511.[68]

23. The Commission's first Chief Executive resigned in May 2009. This left the Commission in a difficult position as there remained major issues to be resolved. A competition was held to appoint an interim Director General to lead the organisation and act as Accounting Officer while the Department carried out a full recruitment exercise to appoint a permanent Chief Executive. The recruitment exercise took place during the summer but has not yet been concluded.[69] The interim Director General's contract runs only until January 2010.[70] As he costs £1,000 per day, this interim arrangement will cost the Commission £138,000 (excluding VAT) by the end of January 2010.[71]

64 Q 11; C&AG's Report, para 9

65 Q 12

66 EV 18, paras 28 and 29

67 EV 19, paras 31 and 32

68 Q 12

69 Qq 82–86

70 Q 80

71 EV 30

Formal Minutes

Monday 22 February 2010

Members present:

Mr Edward Leigh, in the Chair

Angela Browning	Mr Austin Mitchell
Rt Hon David Curry	Rt Hon Don Touhig

Draft Report (*Equality and Human Rights Commission*), proposed by the Chairman, brought up and read.

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

Paragraphs 1 to 23 read and agreed to.

Conclusions and recommendations 1 to 9 read and agreed to.

Summary read and agreed to.

Resolved, That the Report be the Fifteenth 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 till Wednesday 24 February at 3.30 pm

Witnesses

Wednesday 2 December 2009	*Page*
Mr Jonathan Rees, Director General, Government Equalities Office, **Mr Trevor Phillips OBE,** Chair and **Mr Neil Kinghan CB,** Interim Director-General, Equality and Human Rights Commission	Ev 1

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Oral evidence

Taken before the Committee of Public Accounts

on Wednesday 2 December 2009

Members present:

Mr Edward Leigh, in the Chair

Mr Richard Bacon	Geraldine Smith
Nigel Griffiths	Mr Don Touhig
Mr Austin Mitchell	Mr Alan Williams

Mr Amyas Morse, Comptroller and Auditor General, **Mr Robert Prideaux,** Director, Parliamentary Relations and **Mr Neil Sayers,** Director, National Audit Office, were in attendance.

Ms Paula Diggle, Treasury Officer of Accounts, HM Treasury, gave evidence.

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL

EQUALITY AND HUMAN RIGHTS COMMISSION ACCOUNTS

Witnesses: **Mr Jonathan Rees**, Director General, Government Equalities Office, **Mr Trevor Phillips OBE**, Chair, and **Mr Neil Kinghan CB**, Interim Director-General, Equality and Human Rights Commission, gave evidence.

Q1 Chairman: Good afternoon and welcome to the Public Accounts Committee. First of all I would like to welcome the Beijing Municipal Audit Bureau headed by Mr Yan Kiu Wai, who is Director of the Disciplinary Inspection Team of the Beijing Municipal Audit Bureau. The group is visiting the UK for eight weeks to understand the best practices of British auditing. You are all very welcome and I hope you learn something from our hearing and our disciplinary procedures. Mr Rees, the Comptroller and Auditor General sets out the reasons why he qualified his audit opinion on the Commission's accounts and the supplementary memorandum indicates that the Commission's problems with managing its staff expenditure are going on beyond the period covered by these accounts with more recent breaches of its pay remit and staff complement. These Reports highlight serious errors made by the Commission as well as weaknesses in its systems and controls. It is important that people understand what happened so that they can understand this hearing, Mr Rees. The Comptroller and Auditor General qualified his audit opinion on the accounts of the Commission for the period ending 31 March 2008 because the Commission incurred irregular expenditure by paying £323,000 of consultancy fees to seven consultants for various periods between June 2007 and June 2008. These staff were engaged despite having previously worked for one of the legacy commissions, the Commission for Racial Equality and having received voluntary early severance payments of £629,000 in respect of their service at the Commission. Today we are joined by, I should have said right at the beginning and I welcome our witnesses, Jonathan Rees, who is Director General and Accounting Officer of the Government Equalities Office, Trevor Phillips, who is Chair of the Commission, and Neil Kinghan, who is the Interim Director-General and Accounting Officer of the Commission. I will ask you all three to comment on this but perhaps I should start with you, Mr Phillips. This is a serious state of affairs. What was going on at the time that this Commission was being set up? Were you not told or, if you were told, why did you not stop this?
Mr Phillips: First of all, thank you very much, Chairman, for inviting us here to essentially try to explain where we are. I think the answer to your question about what was going on is as follows. I was appointed Chair of the Commission in September 2006. I took up office that month but in effect started work in November. We had 11 months to get the Commission into place and to open its doors, bringing together three rather different bodies, plus taking on responsibility for new mandates—sexual orientation, religion and belief, age and promotion of human rights. That is the context. It took some months to bring our Chief Executive into role.

Q2 Chairman: Can I just stop you there to get the timeline right? You were in place by December 2006?
Mr Phillips: By November 2006.

Q3 Chairman: And the Chief Executive was not appointed until April 2007, is that right?
Mr Phillips: She was appointed in January 2007. She was able to gain release from her employers to start work in March 2007.

Q4 Chairman: So this thing we are looking at today, the re-employment of staff, when did this happen? Was it in the time before the Chief Executive was appointed or after?

Mr Phillips: In practice I think the time period you are concerned with is after the Chief Executive came into office.

Q5 Chairman: Were you told what was going on?
Mr Phillips: I was told at the time, because we had discussed it, that when we had to open our doors on 1 October 2007 we were desperately short of senior management. I think we were starting with fewer than half of our director level staff. The Chief Executive and I discussed how we would fill the skills gaps, and amongst the things that she wanted to do was to bring back some of the senior officers who had worked for the legacy commissions and who had worked on the transition team into the new Commission. This was not, as far as I knew, a novel arrangement, and in fact from the information that you have it was permissible. The manner in which we did it, I regret to say, caused our accounts to be qualified. That was certainly our responsibility and we would certainly acknowledge that, but I just want to make the point that the context in which this happened was one of immense pressure to get the doors open.

Q6 Chairman: So you knew what was going on and you yourself took a conscious policy decision, working with the Chief Executive, to re-employ these people as consultants despite the fact that they had already received voluntary early severance payments?
Mr Phillips: I knew that the Chief Executive wanted to bring back some people who had previously worked. I was not fully aware of the details, though I knew some of them had—

Q7 Chairman: Did you know or did you not know that they had already received severance payments?
Mr Phillips: I knew that some of them had, but, to repeat my point, as far as I was aware there was nothing novel about this, and indeed I do not think that was a point on which the accounts were qualified.

Q8 Chairman: Thank you for that. Mr Kinghan, you have to answer for this now. Why did you ignore clear Treasury rules and re-engage senior staff from the Commission for Racial Equality without proper authority?
Mr Kinghan: The Commission has accepted that we did not make an adequate business case before re-engaging the staff. We did in fact obtain approval in one case for the re-engagement of one member of staff up to 30 September. The Chief Executive wrote to the Permanent Secretary at CLG in May about that and that approval was given, but that was only up until 30 September and I think the main issue is about the re-engagement of staff after that. We accept the criticism in the Comptroller and Auditor General's report; we should have made a proper business case, but the Report itself does recognise that there were intense pressures on the Commission during that period to be ready for opening on 1 October and the skills which the re-engaged staff brought were needed in the Commission. They also brought a level of expertise which would not have been available elsewhere. There were exchanges between the Commission and the sponsor department about re-engagement at the time and the Commission was under the impression that the sponsor department was sympathetic to the case, but again I accept that we did not make—

Q9 Chairman: Stop there. Over to you now, Mr Jonathan Rees. Were you aware of the Commission's plan to re-engage staff? Why did you not stop it?
Mr Rees: Thank you, Chairman. We were aware that the Commission planned to re-engage staff. As Mr Kinghan and Mr Phillips said, that is not in itself something that is not allowed in Managing Public Money. However, the position of the Department throughout was very clear, that this could only be done if value for money was shown, and that almost certainly means a competitive tendering process. Indeed, the Department made absolutely clear to the Commission before 1 October that they should only re-engage those staff if they could justify the pay rates, and the fact was that they were not able to justify the pay rates to our satisfaction either then or subsequently and therefore, when we did eventually come to put the case to the Treasury, we were not able to support it.

Q10 Chairman: Why was your Department then not more in control of what was going on? Clearly, in the setting up the Commission was in trouble. There was a failure to plan, there was no clarity of purpose, some of the problems were obviously massively underestimated. Why did you not act more promptly as the sponsoring department, Mr Rees, to get a grip on this?
Mr Rees: There were three phases. There was the phase whereby the Commission was set up running up to the period on 1 October 2007 and, as you know, I think there are lessons to be learned from the way the then department handled this, and indeed there were about three departments involved as responsibility moved from one department to the other, about how that phase was handled. The second phase, of course, was after the Commission went live. The Commission had its own Accounting Officer, who is responsible for managing public money for the operations of the organisation. I think it is also fair to say that when Parliament set up the Commission they amended the Government's proposals to lessen the powers that the Government had over the Commission and put in a specific clause to say that we should have regard to the desirability of putting as few constraints on the Commission's operations as possible. I think the position that we were in was that Parliament had said that they wished the Commission to have as few constraints as possible. We ensured that there was an accounting officer, an audit and risk mechanism, and we relied on the Commission to abide by the rules.

Q11 Chairman: Mr Kinghan, I was quite upset to receive this letter from you only yesterday. This hearing has been timed for some time. This letter was received with no warning. "In the case of one individual the total consultancy fee quoted was £105,000." This is you writing to me yesterday. "I have now been told that a further payment of £15,000 was made directly to the individual concerned after he had left the Commission". You go on to say, "I am not yet clear why the payment was made". This is not the way, Mr Kinghan, to run a public body in this country.

Mr Kinghan: I understand your concern, Chairman. I regret that I found it necessary to write to you. As I said in my letter, I found out about this last week and immediately tried to find out exactly what had happened and why, and whether the £15,000 had been included in the £105,000. After such researches as we were able to carry out, it appeared clear that it had not been. I did tell both the Government Equalities Office and the National Audit Office about it last week but I wanted to give you the best understanding of what happened that I could, and I regret that it was not possible to write to you until yesterday. I still am not clear exactly what the circumstances were which led up to the payment and I have put in hand an inquiry into that which I will, obviously, report back to you and the National Audit Office on when I have the results of that. The payment was authorised by the Interim Chief Operating Officer of the Commission, who had the authority to do so, but that does not in itself give an adequate explanation of what happened and I do apologise that I did not write earlier.

Q12 Chairman: Do these breaches of the pay remit and staff complement indicate that you still do not have effective control over this Commission?

Mr Kinghan: This particular issue relates back to something that happened in 2008. The problems with the pay remits were earlier this year and also in 2008. We do now have effective control over staffing numbers in the Commission. We have learned the lessons of the problems that were experienced. We do recognise the significance of those problems, but in the course of this year we have put in hand strong arrangements to control our staffing numbers and I am pleased to be able to say that our staffing complement, having been at 574 in the middle of July, which was well above the level that we were legitimately allowed to have, is now down to 511, and we do now have proper procedures to make sure that we will not exceed those limits in the future, but I do recognise that that is not a story that is particularly good.

Q13 Chairman: A last question for you, Mr Phillips, before I pass to my colleagues. Do you accept that you were not sufficiently proactive yourself in monitoring the performance of the Commission and planning for its set-up in an efficient way?

Mr Phillips: Yes, I accept my share of responsibility personally. I think the board would now say that it did not exercise the level of scrutiny that it might have done. I think that we would also say that we were too ready to accept that the difficulties of the speed of our set-up meant that there were things which were happening which we were uncertain about but we were too ready to accept the explanation that that was the cause. With hindsight I would say there were definitely two things. First of all, the judgment which we made was that moving the start date of the Commission later would have been at too great a cost both financially and reputationally for us to go to ministers with that case. I think with hindsight that judgment was probably wrong. We should have taken a leaf out of the book of Ofcom, who did move their start date by six months. I do not know if they had a similar problem but certainly they decided to do that when their first Chief Executive appeared. Secondly, over the period which we have been discussing the board, and particularly its audit and risk committee, of which I am not a member, should have been more active in drawing the full board's attention to some of these issues.

Chairman: Thank you, Mr Phillips.

Q14 Mr Mitchell: Mr Phillips, you say that you accept your share of responsibility. Why did you not know what was going on? Was it that you were doing too many things? I see there is an enormous list of other activities besides chairing this Commission that you are embarked on. Why did you not know what was going on?

Mr Phillips: First of all, I do not think that I do have an enormous list of other things. I have actually only done one other thing.

Q15 Mr Mitchell: Pepper Productions, Aldeburgh Productions, the Bernie Grant Centre, the Sickle Cell Society, Chair of the Runnymede Trust. It is not light stuff.

Mr Phillips: I am no longer Chair of the Runnymede Trust, I have not been for some 10 years, but I take the point that you are making. I am associated with a number of charitable endeavours but they are not ones that take my attention away from the Commission.

Q16 Mr Mitchell: But you have a production company as well.

Mr Phillips: Yes, and we have not made any programmes since 2002, I am afraid, which I am not very proud about, but that is the nature of the work that I am engaged in. I understand the import of your question and the answer is that all of us, including all members of the board and the executives, were absolutely stretched to the maximum to get the Commission on the road. In the end we decided to launch the Commission in two phases, with a soft launch in October 2007 and a full launch in April 2008. Otherwise we would really just not have been able to meet either Parliament's expectations, indeed, the GEO's expectations, or indeed those of other stakeholders, so the issue is not that I or anybody else was distracted by other things; it was simply that there was too much to do. The problem there was a judgment that I made and it was probably, with hindsight, the wrong judgment.

Q17 Mr Mitchell: Why was there such a mess and such a rush? The Report says that at the start there was an underestimation of the size and complexity of the programme which resulted in limited due diligence work, some weaknesses in budgeting and a particularly acute shortage of staff at senior management level. Why were these problems there? Why were they not tackled in advance?
Mr Phillips: I think the principal answer is simply one of time. For example, as I said, I was appointed in September. I could not start full time with the Commission until November because the Government had to appoint a new Chair for the Commission for Racial Equality so that I could be released to work full time for the Equality and Human Rights Commission. That happened in November. At that point I had to start the process of advertising and interviewing for a new Chief Executive at the same time as supporting the then Secretary of State in appointing commissioners. The truth of the matter is that no matter how hard you work, I mean hours a day you work, if you are going to advertise you have to allow six weeks, so in the end the earliest we could have got our Chief Executive in was pretty much the date that we did. We could not appoint the next tier of managers until she had arrived and she then had the same problem. This is not a complaint; it is simply a fact, and the responsibility I take here is that I think we should have been as a board more conservative, I guess, in our estimation of what we would be able to do in those 11 months.

Q18 Mr Mitchell: You said in answer to the Chairman, if I heard it properly and I am a bit deaf, that you had a conversation with the Chief Executive and she decided to employ these staff. Was that a joint decision or her decision?
Mr Phillips: It was her decision.

Q19 Mr Mitchell: And you concurred?
Mr Phillips: She is the responsible officer.

Q20 Mr Mitchell: Who recommended it?
Mr Phillips: The discussion that we had was first of all about the shortage of skills that we had. For example, we had not appointed a Director of Communications, which is a pretty essential post when you are opening a new organisation. She and I discussed quite what skills were necessary. We agreed. She then proceeded to fill those posts in the best way that she could. I was consulted about a couple of the individuals who were taken on as consultants because I had worked with them previously at the CRE; she just asked my opinion of the individuals, but I would not have wanted to be involved in the process of recruiting people, nor would I be allowed to.

Q21 Mr Mitchell: But why these seven staff in particular and why did they all come from the Commission for Racial Equality?
Mr Phillips: I will just say that most of the people involved were people who had worked in the transition team.

Q22 Mr Mitchell: So you knew them?
Mr Phillips: I knew most of them because they had worked at the CRE, not all of them, but the decision was made by the Commission's managers, not by me.

Q23 Mr Mitchell: Okay, but they had got pretty good deals, had they not, in terms of payoffs and redundancy? You are telling us, are you, that they were brought back because of the immediate pressure, not because of some sweetheart understanding that they would be right?
Mr Phillips: I do not do nudges and winks, Mr Mitchell. That is not my style. All the conditions under which these people received voluntary early retirement and voluntary early severance payments were the same as for everyone else, and, by the way, that scheme was not one run by the Equality and Human Rights Commission. It was run by the legacy commissions. It was not in our control at all. The decision to re-hire these people, and also, by the way, to bring in other people who had not been associated with the legacy commissions, was a decision for the Chief Executive. I felt that she did what was necessary and right at the time.

Q24 Mr Mitchell: Mr Kinghan, why these seven?
Mr Kinghan: First of all, you asked earlier on about why it was necessary to bring people back in this way. Part of the explanation for that does lie in the voluntary early retirement scheme. As Mr Phillips has just said, it was something that was run by the legacy commissions, so the Equality and Human Rights Commission did not have any control over it. The Commission did not have any ability to say that it would like to keep some of the people who were leaving as a result of that scheme. The Commission did make representations to the sponsor department, I think, in July 2007 to suggest that the scheme might be delayed, at least in respect of some of the individuals, but the answer was that that was not possible, so that was part of the background. As far as the seven are concerned, the first thing to say is that actually there were only five of them who came back in 2007. The other two came back in 2008 in slightly different circumstances. As far as those five are concerned and the skills they brought, as Mr Phillips said, one of them was a Director of Communications, most of the others were lawyers. They were bringing corporate law skills which were the sorts of skills that the new Commission needed both in order to go forward but also to deal with some other aspects of its inheritance because it had inherited leases from the previous commissions and these people had skills which were helpful.

Q25 Mr Mitchell: You have got these jokers. They have got their money. Why did you not provide the full information to the Government Equalities Office until January 2009?
Mr Kinghan: I think the sequence of events starts from discussions in July 2007. The Commission provided information which it thought justified their re-engagement, which included an assessment of how much was being paid for each of them by

comparison with the market rates that were being charged at the time on the basis that these people were being re-engaged on a by-the-day basis as contractors, so there was a lot of exchange between the EHRC and its sponsor departments both in 2007 and subsequently. What then happened was that it took a very long time before it became clear that a business case should be put formally to the GEO and the Treasury and that was the basis on which the Treasury eventually decided that—

Q26 Mr Mitchell: It seems pretty slapdash. Let me ask the Treasury, was the Treasury aware of the re-engagement before January 2009?
Ms Diggle: No, we were not. That was the first time that we heard about it and we looked at the information provided. It was not sufficient for us to make the proper decision. There was some more information and it was only by May, I think it was, that we were able to make a firm decision, so we had to get information in order to make the decision.

Q27 Mr Mitchell: Thank you.
Mr Rees: Just to be clear, it was fair that the formal case went to the Treasury in January 2009. The Treasury were informed about it earlier.

Q28 Mr Touhig: Mr Phillips, you said that when the Commission was set up you were desperately short of senior management. It would have been obvious to you, I am sure, that you did need some really key people, so who thought it was a good idea for all staff with the legacy commissions to be offered a voluntary severance package? My question is to all of you. Who thought it was a good idea?
Mr Phillips: I do not think we actually had any choice about that. Once we had a package I think it had to be offered to everyone, but, as I say, it was not the Equality and Human Rights Commission's own scheme.

Q29 Mr Touhig: No, I appreciate that, but what about the sponsoring department? Were any representations made to the sponsoring department that this was not a good idea, that clearly the new Commission was going to want some people to get it off the ground?
Mr Rees: Yes. To be clear, it was the decision endorsed by the sponsor department and the Treasury that, as the three existing bodies were to be subsumed into the new body and the three existing bodies actually employed between them over 600 people and the new body would employ, as it does now, around 500 people, then clearly, given that the new body was going to have a much wider scope, so it was not just going to deal with race, equal opportunities and disability; it was going to deal with age, sexual orientation and human rights, it was not an unreasonable decision for the transition team to take, endorsed by ministers, to run a voluntary early retirement and severance scheme.

Q30 Mr Touhig: But this cost £11 million.
Mr Rees: That is correct.

Q31 Mr Touhig: £11 million, and nobody had the foresight to think, "Hang on: some of these people might be needed by the new Commission. Are we doing the right thing?"?
Mr Rees: A number of the people in the existing organisations did indeed transfer to the new Commission but I think it was not an unreasonable decision to take.

Q32 Mr Touhig: But the new Commission was left with 140 people short of its complement. Was anybody managing this?
Mr Phillips: May I offer a point here? You are right: it has cost £11 million, but on the other hand, since Parliament had decided that we were required to TUPE across all staff, this gave us the opportunity to have an establishment that was 100-plus people fewer, and therefore the number of people that we are paying is far less than we would otherwise have been paying.

Q33 Mr Touhig: That is for the Commission but I am talking about the fact that the overall package has cost £11 million. Was that figure anticipated? Did you know that was what it was going to cost? I am not sure who is going to answer but somebody must have had some responsibility somewhere.
Mr Rees: I think we would have anticipated a figure of that sort.

Q34 Mr Touhig: Did you have a firm figure? You say "anticipated"—on the back of a cigarette packet or what?
Mr Rees: When the scheme was set up I do not think people would know, and indeed you cannot know, how many people are likely to take advantage of that VER scheme. The eventual numbers were: just over 200 actually sought information about what they would get and about 185 took the VER. I was not there at the time but it seems to me that that would have been a reasonable figure to have so that you would have the right balance of continuity and a significant number of people transferred from the three, as we call them, legacy commissions, and also giving headroom to bring in new skills for the new body, so yes, I think that that was anticipated.

Q35 Mr Touhig: It was anticipated?
Mr Rees: Yes.

Q36 Mr Touhig: So this vast amount of money was anticipated and then it was not anticipated right at the beginning that certain of these key people would definitely be needed by the new Commission.
Mr Phillips: If I could add to this, I think it is worth re-stating that we had no choice about the way this could be done. Once Parliament had decided that staff had to be TUPE-ed across we had no option but to offer this on a voluntary basis. I think the view was that we would certainly need and would have fewer staff and that in itself would in the long term put us

in a favourable public expenditure position. The cost of that, as you rightly point out, was that we could not then dictate who stayed and who went.

Q37 Mr Touhig: I understand that, Mr Phillips, but you said that you were definitely short of senior management, so you had the foresight to know you were going to need those people. Were any representations made to the sponsoring department or anybody else to say, "We are really going to need some of these people to come across. We have got to get to work on trying to persuade them to come across"?
Mr Phillips: There would not have been any point because no-one could have insisted that those people would stay.

Q38 Mr Touhig: What I am saying is were you proactive in trying to keep these people because what has happened at the end of the day is that they have had a fortune in redundancy pay and they have spent a fortune in re-engaging them?
Mr Phillips: I can say that as far as I could discern the Commission's transition team managers did their best to make the case for people to regard the new Commission as a good place to work.

Q39 Mr Touhig: I am sure, but some of these people were part of the transition team.
Mr Phillips: But in the nature of things once the original TUPE decision had been made we could not create a situation in which we could tell people to stay.

Q40 Mr Touhig: I am trying to discover whether you were proactive, because what you did was spend £629,000 on severance pay and then re-engage people at £323,000, so was that value for money?
Mr Kinghan: I think on balance it would be hard to say that represents value for money overall; I think that is true.

Q41 Mr Touhig: So would I.
Mr Kinghan: The issue is primarily about the operation of the early retirement scheme and the way in which that operated, but overall it would be hard to say that was—

Q42 Mr Touhig: You accept it was not value for money?
Mr Kinghan: I think the decision to re-engage the staff in the circumstances that the Chief Executive then faced was a reasonable one, but I would find it—

Q43 Mr Touhig: I think we have established that better efforts could have been made to keep the staff in the first place and save the taxpayer money. I understand the point you just made. The C&AG has qualified your accounts, of course, and we see in his Report that six months prior to going live the Commission had not agreed a business strategy, an organisation design or a transition strategy. What were you doing in all that time?
Mr Phillips: Since I was the only one of us who was there, what we were doing first of all was appointing a board. The board met for the first time in December 2006. We appointed a Chief Executive who was not able to start until March. It was, I think, pretty inconceivable that we would have been able to assemble a fully fledged business plan within the 60 days without any of our senior management.

Q44 Mr Touhig: And so you accept you had no business strategy, organisation design or transition strategy in place six months before you went live?
Mr Phillips: I am not accepting—

Q45 Mr Touhig: That is what the C&AG's Report says.
Mr Phillips: I do not think that none of this was in place. It certainly was not in place to my satisfaction and I would say that it is reasonable that in an ideal world we should have been better placed, but the circumstances that we were in meant that it was impossible to make certain things happen.

Q46 Mr Touhig: You delayed going live from 1 October until 1 April—April Fool's Day, a pretty good date to start.
Mr Phillips: We did not delay going live. We opened our help line, we opened our offices. We transferred staff on 1 October. What we did not do was make a great fanfare about our launch in October. We delayed certain things until April when we felt that we were better able to cope with, for example, some demands by stakeholders.

Q47 Mr Touhig: The NAO says that those responsible for setting up the Commission initially underestimated the scale and the complexity of the task. I know the most perfect view is always the one looking back. Would you agree with that?
Mr Phillips: Yes, I think so.

Q48 Mr Touhig: In conclusion then, what we have got is a Commission that has been set up. First, a lot of staff were allowed to go at great expense. Then it was realised that they were needed so they were re-engaged at great expense. You initially employed too few people, then too many people. Then you had to get key people back. You had no strategy or direction for this Commission six months before you were going live. Of the three gentlemen before us you were the person who was there the whole time, Mr Phillips; the other gentlemen were not involved to that degree. Do you accept that this is your responsibility for this debacle?
Mr Phillips: I would not accept the form of words that you have just given. May I—

Q49 Mr Touhig: What would you accept?
Mr Phillips: May I offer an alternative way of framing this? We were given the responsibility to get the Commission open in a certain time. I was myself over-optimistic about what we could do in that time and I would certainly accept the responsibility that as Chair of the Commission I might have persuaded the board to ask me to approach ministers to extend

the time. I did not. I would say that in the time that we had we did things as quickly as it was possible to do, and, given all the circumstances, I would also say that the important point was, by 1 October were we able to offer advice to disabled people, people who were victims of discrimination, were we able to take their cases? Yes, we were. Were we able to undertake compliance action against public authorities who had breached public sector duties? The answer, yes. There were a number of other things that I would like to have been able to do that we had to put to one side. In regard to the matter of recruiting staff, I would simply say that there was a choice for us: did we continue to employ over 600 staff at the public's expense when it was certainly the view of myself and of the board that we did not need that number of people for this Commission? Indeed, that was one of the points, and, though it meant that we risked not having a certain number of skilled staff, in the end the balance in relation to public expenditure we thought was, and I think in retrospect proved to be, massively favourable. Of course it created problems for us but that was the decision we took.
Mr Touhig: My time is up. You have had the last word.

Q50 Geraldine Smith: Mr Phillips, you said you do not do nudges and winks, but you did not do open recruitment processes either, did you?
Mr Phillips: I did not do what? I am sorry?

Q51 Geraldine Smith: It was not an open recruitment.
Mr Phillips: Which one?

Q52 Geraldine Smith: The people that got the large severance packages were just recruited as consultants. Other people were not given the opportunity to apply for those jobs.
Mr Phillips: I think that was true in some cases. I was not involved in it.
Mr Kinghan: That is correct.

Q53 Geraldine Smith: Do you think that sets a very good example? Does it not look like equality for the in-crowd? You said yourself the manager had asked you what you thought of some of these individuals. Presumably you gave them a good reference for the jobs they were going to get. These were transition team staff. They had been on an average of £100,000 per year. They had got a large severance and they were taken back as consultants, £197,000 for four of them, for three to six months. It does not look very good, does it?
Mr Phillips: May I make two points. First of all, you cannot presume what my opinion of the individuals was because it was asked of me privately by one of my colleagues.

Q54 Geraldine Smith: Not a very good way of conducting a selection process, I would say. Not one that I would be happy with.
Mr Phillips: All I am saying is you cannot presume what my opinion was and, secondly, the normal way of appointing people to the Commission is indeed by open selection. I think there were particular circumstances in these cases which meant that the management decided to do something different.

Q55 Geraldine Smith: It seems that when it suits, you have an open selection process.
Mr Phillips: May I finish my sentence. I do not set the process or make recruitment for anyone in the Commission other than the Chief Executive. I was not involved in that process at all.

Q56 Geraldine Smith: Do you think that process was wrong?
Mr Kinghan: I think we would accept that they should have been recruited in a competitive way. We have accepted that before now and I accept it now. The circumstances at the time, as we have discussed before, were that the Commission was in a great hurry to be ready. These people were, as you have said, in place, they had special expertise, which was not only their professional expertise but also their knowledge about the position of the Commission. In those circumstances the decision was made to keep them, but, actually, they should have been recruited for on a competitive basis. I accept that and, as Mr Phillips said, the Commission does now make all of its recruitment on a competitive basis.

Q57 Geraldine Smith: You would accept that that sets a very bad example for other people?
Mr Kinghan: I accept that it was a mistake at the time, yes I accept that.

Q58 Geraldine Smith: Was there a break in the contracts of those individuals?
Mr Kinghan: You mean was there a gap between them?

Q59 Geraldine Smith: Yes.
Mr Kinghan: No, I do not think so. There are seven people here. Two of them were re-engaged in 2008 so there was a gap so far as they were concerned, but the other five, no, I think they carried on.

Q60 Geraldine Smith: Were they asked to give any of the severance back then because there was no break in the contract?
Mr Kinghan: No. That issue was considered at the time and the Commission consulted the Cabinet Office about whether they should be asked to give their severance back and the advice was they should not be asked on the basis that it was not necessary to ask them, to be more precise.

Q61 Geraldine Smith: It was not necessary, so taxpayers' money did not really matter in that case?
Mr Kinghan: I think the point that was under consideration was first of all their entitlement to their severance payments. I think you would agree that their severance payments were calculated on the basis of the years that they had worked for the previous Commissions, so actually they were on that basis entitled to the amount that they were given. They were then reemployed on a contractual basis and we have said some aspects of the procedures

were wrong, but they were reemployed on a daily basis and when people are employed in those terms their pay per day may look quite large but of course that reflects the fact they do not get paid when they are not there and there is no contribution to their pensions.

Q62 Geraldine Smith: What I would say is that you do not make people redundant or give them early voluntary retirement if you still need them. That would seem like a bit of a shambles in the senior management.
Mr Kinghan: I think, as we said earlier, that was the result of the voluntary early retirement scheme over which the Equality and Human Rights Commission had no control. That was why they went on that basis.

Q63 Geraldine Smith: But you managed the more junior staff, the less well paid staff. Presumably you managed to TUPE them across?
Mr Kinghan: We did, but we also TUPE-ed across some more senior.

Q64 Geraldine Smith: You did not make any mistakes with any of the low paid staff and grant severance to them and end up paying them again?
Mr Kinghan: Some of the staff in this group were relatively lowly paid. They were not all highly paid.

Q65 Geraldine Smith: Excuse me, relatively lowly paid? Can you give me some examples?
Mr Kinghan: I am sorry, I have not got—

Q66 Geraldine Smith: Because it does not look too bad, an average of around £50,000 for three to six months' work. I think most people would settle for that when they were taken on as consultants.
Mr Kinghan: I am sorry, I have not got all the details in front of me.

Q67 Geraldine Smith: So you would say that is low paid, would you? Can I ask how much you are paid then just so as we can have some comparison?
Mr Kinghan: Yes, I am paid £1,000 a day.

Q68 Geraldine Smith: Yes, I guess maybe you would think it was low pay.
Mr Kinghan: Can I answer. One member of staff was paid by the previous Commission £37,000 which is, you may say, a reasonable rate of pay but not very highly paid. There were two others paid in the 40s of thousands of pounds.

Q69 Geraldine Smith: But your transition team averaged around £100,000 a year, the 83 staff in the transition team which some of these people came from?
Mr Kinghan: The transition team were employed over a period of, I think, 18 months and were paid varying amounts of money depending on how long they were there and what their expertise was and so on.
Mr Rees: Can I just say that the figures in annex B, if you are drawing it from there, are of course the figures for two years so I think you will find the average is nearer £50,000 and not £100,000.

Q70 Geraldine Smith: £50,000 is still not low pay I would have thought for most people. Job descriptions—that would be another thing the Commission is concerned about, making sure that everything is above board. Did everyone have job descriptions to start with?
Mr Kinghan: Every member of the Commission when they started in October 2007? No, I do not think they did because some people were moved across on a team basis from the areas of work they had worked for with the previous Commissions into the new one.

Q71 Geraldine Smith: From my trade union background I would say it is not a very good way to run things in terms of equal opportunities. People have jobs; people get early voluntary retirement and then they can come back and they are paid as consultants; no real job descriptions for a while, for five months I think for some staff. It does not really set a very, very good example at all. In fact, it is a terrible example.
Mr Kinghan: I think Mr Phillips has made the point that everything was done very quickly. With hindsight I think we all take the view that it might have been better to delay starting the Commission which would have made it possible to address those issues. It is also relevant to say that it would have cost the taxpayer more overall if that had happened. I accept that it would have been better if people had started with job descriptions for every individual job. I entirely accept that.

Q72 Geraldine Smith: You could argue that it would cost the taxpayer more if you employed a couple of hundred more people but you are not going to do that, so I do not think that is a very good argument.
Mr Phillips: May I make a couple of points about the points you have just made. I completely concur with the sentiment of what you said and it is certainly where I would have liked to have been. There are two points. First of all, the transition staff were not employed by the Commission. When I arrived the whole transition team had already been employed and we were not in a position to employ them, dis-employ them, reduce their salary or anything of that kind. It was not until the Chief Executive became the accounting officer in May 2007 that any of us—the board or the senior staff—had control of these matters. Secondly, on the issue of job descriptions, this of course was part of the problem with the set-up. You will know the whole process of TUPE then leads you to job matching and we had to negotiate every single job description with our trade union colleagues individually for 500-plus people. This is a mighty task, not just for the Commission but for the trade union side, too. I completely concur with what you are saying in general but the circumstances did not allow us to do it.

Q73 Geraldine Smith: Mistakes were made and I think you have accepted that. Was anyone disciplined at any level for these mistakes?
Mr Kinghan: There was no disciplinary action taken against individuals responsible for the issues that we have just been talking about. It is however the case that a number of people have left the Commission for various reasons since we started and, among those, four people left under terms which were confidential by virtue of compromise agreements.

Q74 Geraldine Smith: So they got payments as well?
Mr Kinghan: I think we have sought to learn as many lessons as we can from the exercise and that is one of the reasons why Mr Rees and I jointly commissioned a report about the experience, and we will obviously want to learn from that for the future.
Chairman: Thank you. Mr Bacon?

Q75 Mr Bacon: May I start with Mr Kinghan. When did you become interim Chief Executive?
Mr Kinghan: In May this year.

Q76 Mr Bacon: May 2009?
Mr Kinghan: Yes.

Q77 Mr Bacon: And you have been paid £1,000 a day since then?
Mr Kinghan: I have.

Q78 Mr Bacon: How much have you been paid so far in total?
Mr Kinghan: I think it is now about £110,000 or maybe £115,000 up to the end of November.

Q79 Mr Bacon: Can you send us a note with the exact figures?
Mr Kinghan: Certainly.

Q80 Mr Bacon: How much longer are you expecting to be the interim Chief Executive?
Mr Kinghan: My present contract runs until the end of January.

Q81 Mr Bacon: Perhaps you could include in your note how much you expect to earn during that period?
Mr Kinghan: I will.

Q82 Mr Bacon: When I heard you say that and it says in the Annual Report that you are the interim Director General and there is a photograph of you here—I thought you were some sort of interim management specialist like the Sir John Cuckneys (as was) or David Jameses of this world, but when I looked at your CV you are from a classic Whitehall background. You were Private Secretary to Michael Howard, John Patten and Ian Gow. You were Director General of Local and Regional Governance at the Department for Communities and Local Government, a classic Whitehall background in many respects. You left Whitehall in February 2007 and you took on this role because the previous Chief Executive had left; is that right?
Mr Kinghan: Well, the previous Chief Executive left in May.

Q83 Mr Bacon: So you overlapped.
Mr Kinghan: No, she technically left on May 14. In practice she had some leave so I started on 7 May. I was recruited via a competition that was held for the interim post and I took part in that in April.

Q84 Mr Bacon: Why was it a competition? You are perhaps not the person to answer this. Maybe Mr Rees but either of you: why was it a competition for an interim post? Why did they not just hire and appoint a Chief Executive?
Mr Kinghan: I think Mr Rees or Mr Phillips might want to answer that.

Q85 Mr Bacon: Mr Rees, do you want to answer that?
Mr Rees: I am happy to answer it although it is indeed the Chair who appoints the Chief Executive and not the Government. In practice, when the previous Chief Executive resigned to take up a new post as High Commissioner in South Africa, it clearly left the Commission in a difficult position. The view was taken that we needed to have someone who was capable of helping the Commission and, as we have seen today, there were some major issues, so the Department with the Commission agreed that we would hold a very quick competition to see whether people were interested in filling the post on an interim basis whilst the main Chief Executive post as it were was publicly advertised and that then took place during the summer.

Q86 Mr Bacon: And that process is on-going now, is it?
Mr Rees: That process is still on-going, yes.

Q87 Mr Bacon: Mr Rees, you said earlier "We told the Commission before 1 October that it would require Treasury approval". Those were your words right at the beginning of the hearing in answer to the Chairman. How soon before 1 October did you tell the Commission that it would require Treasury approval?
Mr Rees: I think the Comptroller and Auditor General's report sets out the very clear email traffic and I have read all of those emails between the two parties. It was clear in August that we said that we were not opposed to certain key staff being reengaged provided that there was a clear process of competition and provided that the salaries were properly tested in the market. There are clear email exchanges which make it clear that we did not believe that the salaries the Commission was proposing to pay were appropriate.

Q88 Mr Bacon: Can you explain this question of TUPE-ing people across because it seems if you are TUPE-ing somebody across then they have a right to the new job in the new institution, which precludes open competition. How many of the people were affected by the TUPE-ing across?

Mr Rees: In a sense, the three old Commissions, as I said, employed just over 600 people. The decision was taken that the new Commission, which had a much broader remit, would need a staff of around 500 people, and therefore clearly if all those 600 people wished to come across there would have been a problem, so that was the reason why it was felt that we would see whether there were people who did not wish to come across to the new Equality Commission and there could have been people who, for whatever reason—because they were passionate about their particular strand and wished to pursue it in a different area—decided not to come across. That process took place and, as I say, 185 people decided not to come across. The rest decided to come across.

Q89 Mr Bacon: Mr Kinghan, you said a moment ago that you took over in May 2009. The OGC flagged up that there was a problem with the lack of clear organisational design and that there were no job descriptions in place and so on. Five or six months prior to the doors opening why could not have all the things that needed to be done to get an organisational design in place, to have a clear business strategy, to get a budget organised and so on be done in not quite six months, or five months?
Mr Kinghan: It was May 2007 the OGC report you are referring to, and I think the answer is that most of the things that the OGC report recommended were done. A business strategy was put in place, a budget was sorted out and an organisational design was created, though, as I was discussing with Ms Smith, the time constraints only allowed people to be moved across on a team basis. The recommendations of the OGC report were followed and I think it is fair to say that the OGC went back in May 2008 and actually recognised that the Chief Executive had taken action to address the issues that had been identified in May 2007. The trouble was that everything had to be done very quickly and some things, as we have discussed, were not done according to the right procedures.

Q90 Mr Bacon: Mr Rees, can you say something about the change in the sponsoring department because it went from one government department to another and from one accounting officer to another. Why was that necessary?
Mr Rees: I think it is fair to say that the accounting officer throughout this period did not in fact change. That was the accounting officer Peter Housden who remained accounting officer until I took up my post on 25 February 2008. What happened was that in June 2007 it was decided to create a new office, the office that I head, the Government Equalities Office. At that stage it was thought that that would be part of the Department for Work and Pensions. It was then subsequently decided to create a self-standing department and that actually took place in October 2007. What you had, and clearly what those involved at the time did think was an issue, was that the original decision to set up the EHRC was when the Equalities Unit was in the then Department of Trade and Industry. It then transferred to the Department for Communities and Local Government. It then transferred to the Department for Work and Pensions. It then became a self-standing department. In practice the people who were dealing with the Commission did not change, they remained with those departments, but clearly different departments have different finance and HR functions. I think we would accept, as the Comptroller and Auditor General says, that those moves did not actually help the process of setting up the Commission which was always going to be a high-risk process. The original OGC report in May 2006 notes that this was a high-risk exercise.

Q91 Mr Bacon: Mr Phillips, you said right at the beginning there was immense pressure to get the doors open. From whom?
Mr Phillips: To start with from Parliament itself, also from ministers and also from our stakeholders. There were two real issues. The board discussed this at its first and second meetings and the view that the board took was that though we thought it was going to be immensely difficult, the cost in disappointed expectations and also the cost of keeping the old Commissions going were unacceptable and I think that was the basic reason that we pressed ahead to open in the way we did on 1 October.

Q92 Mr Bacon: The amazing thing to me is Mr Rees has just described this as a high-risk process but we were not getting a rocket to the moon. We were taking three agencies and turning them into one agency with related but differing responsibilities. It ought not to have been that difficult to figure out the things that were required, whether it was a business strategy, whether it was organisational design, whether it was a budget, how many directors you had and the timetable for hiring them, and then implementing a set of milestones for when you had done all those things by, including making sure you had got skills like an HR function and a finance function and so on. Where was the problem? This is what I am struggling with? You spent £38 million doing it of which £8.7 million were the salary costs for the transition team. It is one thing to make a Horlicks of it; to spend an enormous amount of money making a Horlicks of it takes some doing, does it not?
Mr Phillips: I have been fortunate or unfortunate enough to have been through four mergers in the commercial world. I have been lucky enough to be part of a takeover team and I have been taken over, and in the commercial world what you say might be true, although in my experience it is not always the case. In this case, what we were merging to begin with were three organisations, two of them with 30-year histories with very different ways of operating, different financial systems and different cultures. We also had to take on responsibility for areas where there were very substantial expectations from NGOs and indeed from Members of this House. The issue was not just a straightforward can we fix the financial systems, can we get HR together. We also had to deal with the expectations and needs of the stakeholders. We had to deal with the different ways of working of the various groups of staff. If I may say

so, I empathise with your bafflement, as I say, having been through this in the commercial world several times, but this was not a process that was as straightforward as that.

Q93 Mr Bacon: You certainly do not have to persuade me that commercial mergers do not always go smoothly. Plenty of people make money out of the fact that they do not. I am running out of time but one quick question perhaps for a note. The Comptroller and Auditor General's report to us includes a summary of the expenditure on transitions, which is a total of £38.8 million of which £11 million was redundancies and £8.7 million was these salary costs for the transition. I take it that is the bit that was paid at day rates? Is that correct?
Mr Kinghan: Some of it.
Mr Rees: Just to be absolutely clear, we are talking about two years here.

Q94 Mr Bacon: Exactly and you come to my question. What I want to know is when was each bit of this £38 million spent. I want a breakdown. I want to see how much of the £8.7 million was spent when, how much was end-loaded in the last three for four months, and so on. Can you do that for me for the entire £38.8 million?
Mr Rees: We will certainly try. It is worth underlining that the costs of the embryonic Commission, like the new Chief Executive, the Chair and all those staff, were also part of those transitional costs, but we can break it down.

Q95 Mr Bacon: Each bit of the business expenditure must have a date attached to it. All you have to do is look up the cheque stubs.
Mr Rees: We will endeavour to do that.
Chairman: Thank you. Nigel Griffiths?

Q96 Nigel Griffiths: If I look at some of the posts that were created I am a little surprised that when this whole exercise was embarked on that there was not a bit of brainstorming as to who should be in place, especially a programme director to lead with the transition, who seems to have come in at a late stage and had been one of those consultants. How did that gap appear, to your knowledge, Mr Rees?
Mr Rees: One of the issues throughout the programme was that there were in fact four programme directors for a programme that lasted not much more than 20 months and that is a very high turnover of programme directors. What I think you are referring to is the programme director who was appointed in May 2007 following the second OGC report.

Q97 Nigel Griffiths: Were these programme directors civil servants?
Mr Rees: That one was not.

Q98 Nigel Griffiths: Sorry, I meant the first, I am going back to the brainstorming. What you are saying is that you had a programme director in that very initial phase?
Mr Rees: Yes, I am saying that there was always a programme director.

Q99 Nigel Griffiths: And then?
Mr Rees: I think one of the issues that has come out of the lessons learned report that we commissioned was that these were actually outsiders, and there is a case that we should have had a better balance of skills within the whole of the transition team between people who may understand how you do mergers but also people who understand how the public sector works.

Q100 Nigel Griffiths: So all the programme directors were outsiders?
Mr Rees: Not all of them.

Q101 Nigel Griffiths: The reason I put that is because you will well know in the Civil Service we have all worked with civil servants who have been asked to delay appointments. I do not know if our new High Commissioner to South Africa was asked to delay that appointment as well. Was that considered?
Mr Rees: Are you asking whether it was considered whether to delay the start-up of the Commission?

Q102 Nigel Griffiths: It is classic. To lose one programme director is careless, to lose four—
Mr Rees: The position, as far as I can understand it from looking at the papers, was that at no stage did anybody advise that the programme be delayed to give more time. With hindsight, again looking at the papers, I am surprised that that was not done.

Q103 Nigel Griffiths: I am not going to dwell on it much longer but it seems to me a programme director is a critical post and if it is a civil servant then it is part of a career move and they should not be, except in an emergency, promoted or moved out of that job. I am not sure from your answer whether you can guarantee that that did not happen or whether you know it did happen and should not happen again. Those are the sorts of lessons we are trying to draw out from this session.
Mr Rees: I would be happy to give you a note on why the programme directors moved. Some of them were there for relatively short periods of time and, as I said at the beginning, four programme directors in 20 months is not the best way to ensure that a programme of this size succeeds.

Q104 Nigel Griffiths: I have some sympathy for a Chief Executive who comes in in March and faces a report from the Office of Government Commerce Gateway in May which highlighted some of the problems that Mr Bacon spotted in paragraph 23. I am just not sure whether they might not have got to grips with some of those issues and why they inherited them anyway. This is "no agreed organisational design, no clear understanding of what the Commission would do"—although I gather amendments in Parliament may have affected that.

Mr Kinghan: May I just say that one of the points I made to Mr Bacon was that the recommendations of that OGC review were acted upon very quickly by the Chief Executive.

Q105 Nigel Griffiths: That is great but it is looking back the way, I am afraid, that we are trying to learn the lessons. If we were to go through this again we would want to know how we got there and also whether the Chief Executive did and should in two months have got to grips with that or, as I suspect, there may have been an overlap in the review.
Mr Phillips: Could I try to help here? May I just make one point because I would not like an unfortunate subtext here to stick which is that civil servants are not capable of doing extremely good jobs in these circumstances. In my own case, if I may, saving their blushes, Mr Rees and Mr Kinghan have been incredibly helpful in getting us to a place where we can actually report to you some of the things that you find unbelievable or difficult.

Q106 Nigel Griffiths: Mr Phillips, that was not the thrust of my question.
Mr Phillips: I just want to answer your point because I understand exactly the point you are trying to make.

Q107 Nigel Griffiths: If it was four or five private sector people they can move on unless it is in their contract. When it is civil servants—and I am not questioning their quality—it is the moves.
Mr Phillips: I think the lesson to be learned here is this: there had been a transition programme in place prior to the chair and the board being appointed. I think it was strange to imagine that the board of an independent body would not arrive with views of its own about what that body should do, how it should do things and so on. I think that somewhere there was a thought that all the work that had been done would somehow be presented to the board and the board would simply say, "That's fine, get on with it." For example, when I arrived there had been some work done on organisational design and there was a proposal to spend a really extremely large amount of money on further work along that line and I simply said, "No, stop," because I do not think you can make those presumptions until the board has had a chance to discuss what kind of organisation it should be. I think the lesson that we might learn here is that if you are going to appoint an independent board to lead an NDPB do not presume that it will simply accept what has been set in place by a transition team set up by the government.

Q108 Nigel Griffiths: Okay. Let me ask finally about the procurement process. Was there a justification for not having a competitive procurement process? In other words, were time constraints such that that was not deemed practical?
Mr Kinghan: You are talking now about the reengagement of the staff?

Q109 Nigel Griffiths: This is for the reengagement, yes.
Mr Kinghan: I think I have accepted already that there should have been a competitive procurement process. The Commission as a matter of course uses competitive procurement.

Q110 Nigel Griffiths: If I may be blunt Mr Kinghan, I know you have accepted that but are you just telling us that because you feel that that is necessary or if you look at it empirically at the time with all the pressures that were on it was that also a practical option as well and should have been followed?
Mr Kinghan: It would have been very difficult to do it competitively at the time. The pressures that the Commission was under to move from addressing the issues identified in the Office of Government Commerce report to the launch, by then four or five months later, made it very, very difficult. I think it would still have been better to pause and recruit people competitively but it was very difficult at the time because of the time constraints.

Q111 Nigel Griffiths: If this had been entirely private sector what do you think they would have done?
Mr Kinghan: I would not venture to comment. It seems to me it is quite likely they may have proceeded by retaining the people whom they had who had the special expertise that was thought necessary.
Mr Phillips: Yes.
Chairman: Your last questioner is Mr Alan Williams.

Q112 Mr Williams: There is nothing much left you will be glad to hear. When you were setting up you disposed of assets from the previous organisations and you lost £1.4 million in getting rid of them. Why? Is £1.4 million not worth considering?
Mr Kinghan: I think this is a reference to the write-offs that were made by agreement with the auditors, by agreement with the National Audit Office, on the closing down of the old Commissions. I think that is what you are talking about?

Q113 Mr Williams: Yes, that is right, but there were these assets which you sold at a loss of £1.4 million and then you spent £9.3 million on new equipment, so there is a total cost there of nearly £11 million.
Mr Kinghan: Some of this is about property and about the fact that—
Mr Williams: I am coming to the property in a moment.

Q114 Mr Bacon: Property is 2.7 and that is a different line.
Mr Rees: Perhaps I could help about the new capital expenditure because I was just talking to my officials about that before I came here to try and understand it. I think it is worth being clear that for instance a new computer terminal with all of its associated on costs can be quite considerable, well into £3,000, so when you have to provide, as the Commission did, for about 400 new staff, new computer terminals, and so on, that is where that cost comes from. I think your question about what were the losses from disposal of unwanted assets, unless colleagues can answer it now, we will provide you with a note.

Mr Kinghan: I think that would be the best thing to do.

Q115 Mr Williams: I am surprised that you are not able to give an account of it. Then you inherited a series of relatively low-cost old leases. Why did you not stay with them?
Mr Kinghan: A judgment was made that some of the leases related to buildings which would not be suitable for the new Commission, partly because the new Commission was going to be differently organised geographically, it needed a bigger office in London than was available from the old Commissions, partly because the accessibility standards of some of the buildings that were inherited were quite low and the new Commission was keen to ensure that it was an exemplar in relation to accessibility standards.

Q116 Mr Williams: But it cost you another £2.7 million to dispose of those old leases. Why did it cost you that much?
Mr Kinghan: We will give you a detailed note on this—

Q117 Mr Williams: That is another detailed note instead of an answer.
Mr Kinghan: May I say I think what that relates to is getting rid of the leases that were still left on those buildings and the payment—

Q118 Mr Williams: Why did you need new buildings? The NAO for example recently had to make a decision on what to do when its building was running into considerable trouble and it stayed where it was and it was far cheaper than the options that were available.
Mr Rees: I think it is fair to say that the three legacy bodies each had a head office in London. They also had head offices in Scotland and in Wales and in Scotland some were in Edinburgh and some were in Glasgow, so these costs relate to getting rid of about 14 buildings.

Q119 Mr Williams: All outside London?
Mr Rees: No, some of them were in London.

Q120 Mr Williams: Where in London?
Mr Rees: There is one called Fox Court which is the building that the Disability Rights Commission entered into a long lease of which we are still trying to dispose.

Q121 Mr Williams: I was reading in the *Guardian* the other day that the Government is about to cut the number of quangos across Whitehall and persuade you all to move out. Is that likely to affect you?
Mr Kinghan: Sorry, could you say that again?

Q122 Mr Williams: We are told the Government is going to cut the number of quangos across Whitehall and move the work out to other parts of the country. Will you be affected by that?
Mr Rees: If I can answer on behalf of the Government. We have been having discussions with the EHRC, which has a significant number of its staff already in Manchester with, as Mr Kinghan said, some staff in London and some staff elsewhere, and we believe that one of the things the Commission should be doing is to be having more of its staff in Manchester and fewer of its staff in London. I do not think it would be feasible for the Commission to have no staff in London given the nature of its work, but that is an on-going discussion and I think that is what you are referring to. It is part of the Government's approach across all NDPBs.

Q123 Mr Williams: Will you explain to us why you needed new buildings as opposed to the buildings you already had? They were obviously convenient for the previous occupants. Why were they not convenient for you?
Mr Kinghan: They were convenient for the previous Commissions who had different numbers of people in London but there was no building in London that was big enough to accommodate the number of people whom the EHRC thought it was necessary to have in London.

Q124 Mr Williams: How many is that?
Mr Kinghan: We now have about 160 in the building near London Bridge, in our headquarters building. The Commission did retain the accommodation in Manchester which it inherited from the Disability Rights Commission and the Equal Opportunities Commission in the Arndale Centre, and we are still in the process of working out how we can maintain that site for the future.

Q125 Mr Williams: What is the problem with that site?
Mr Kinghan: The building needs refurbishment. It needs work doing to it, but we are negotiating with the landlords about that. We are actually reviewing our estates across the country, partly with a view to reducing the number of buildings that we have in order to save money. Some of our buildings, for example the building that we have in Birmingham, are not satisfactory on accessibility grounds and we are looking at what we should do about that. We are looking, as I say, at rationalising our buildings across the country in order to reduce costs. So far as the London building is concerned the lease lasts until 2013, and I think we will then reduce the number of people in London.

Q126 Mr Williams: So if you rationalise you will rationalise with a reduction in London rather than with a reduction out in the country?
Mr Kinghan: We will undoubtedly have a smaller team in London after we move out of the existing buildings. The question of how many buildings we will need in the rest of the country will depend in part on how many staff we have in the future which obviously depends on other factors to do with public expenditure.

Mr Phillips: May I add one point to perhaps put in context the question you have raised about why we needed to move. As Chair of the Commission for Racial Equality, I worked in the CRE building in Borough High Street which I do not know if it would have accommodated all the number of staff but what was absolutely certain—and this goes back to the point I guess that Mr Bacon made and also Ms Smith—the standards that we set for ourselves have to be high. For example, we could not contemplate using that CRE building because it did not have appropriate facilities for escape in case of fire for wheelchair users. It would have been inconceivable that we could use that building at the same time as we were offering guidance to other people saying they should not have buildings like that. So to take your point, some of the requirements for us are not simply about what is the lowest price; it is also about, as you put it rightly, that we have as best we can to set an example.

Q127 Mr Williams: So from your point of view how important is it that you retain the numbers of staff in London that you have here at the moment?
Mr Kinghan: As I said earlier, when the lease runs out on the building we have in London at the moment in More London, our plan will be to reduce the number of people working in London at that point.

Q128 Mr Williams: The timescale?
Mr Kinghan: The lease runs out in 2013 so it is likely by the end of 2012 we will be in that position.
Mr Rees: Just to be clear, the Government's position is that we think they should have fewer people in London and we will obviously be discussing that with the Commission in terms of what makes best value for money in terms of lease run-outs and things like that.

Q129 Mr Mitchell: I am just interested in the seven people who did so well for themselves as to where I can send them my begging letters. Here we are, you have got 600 people shrinking into 500 and they are transferred under Transfer of Undertakings which meant nowt basically, no money for them, and you have got seven who took a more cunning decision. They took the early exit scheme and that got them £629,276 and they then got £323,708 in consultancy fees, so there is a total between the seven of them of 952,000 quid, nearly a million quid. These really are the Magnificent Seven! Were they just lucky or were they extraordinarily cunning? Why was money showered on them in this way when most of the staff transferred got so little?
Mr Kinghan: The payments which they received, as you say, were partly severance costs which reflected the amount of time that they had worked for the previous Commissions and were calculated in line with the normal rules of those schemes. They were then reengaged on a contractual basis and—

Q130 Mr Mitchell: And they had no idea that was coming?
Mr Kinghan: I am sure that they knew that was a possibility. We need to be clear that of those seven five were reengaged in 2007, the other two came back in 2008, but the payments they received under the severance scheme were the payments that they were entitled to and they were then reengaged on a contractual basis. The Chief Executive at the time had to decide how best to recruit the skills which they provided and took the view that retaining those staff was the best way to do that, bearing in mind both that they had the expertise that was needed and clearly the knowledge of what they had done in their previous time.

Q131 Mr Mitchell: They did well for themselves, did they not?
Mr Kinghan: As I said, the—

Q132 Mr Mitchell: Do you think they did well for themselves?
Mr Kinghan: The payments they received were ones that they were entitled to. Lots of people leave public sector bodies, or indeed private sector bodies, under various terms, and then take on new jobs and that is in a sense what they did.

Q133 Mr Mitchell: Are they still there?
Mr Kinghan: No.

Q134 Mr Mitchell: Where are they? In the south of France? Tahiti?
Mr Kinghan: I do not know exactly where they are. One of them—

Q135 Mr Bacon: Grimsby!
Mr Kinghan: They may well be in Grimsby for all I know. To be absolutely clear with you, one of them who was not one of the five who stayed on in 2007 but who was reengaged in 2008 has done further work for the Commission. He is a graphic designer and that has been on a competitive procurement basis.

Q136 Mr Bacon: Just a couple of requests for notes, if I may. The first one is about the programme directors. There was a whole swathe of them and they came from different backgrounds. Can you send us a list of who they were, not a huge CV but a couple of sentences on their background, where they came from, the date of their appointment and then the date they left, so we have some sense of who they were and why there were so many because it seems to be very odd, as you yourself Mr Rees acknowledged, to have so many. The whole point surely of a programme director is you appoint them with the job of delivering the programme of getting an agency up and running. I would like to know more about that. The second thing is to follow up from what Mr Williams was saying about property. This relates to the schedule of total cost of the transition. There was a figure in there of £2.7 million arising from the disposal of unwanted property and a further £1.4 million on other assets. As far as the property is concerned, could you give us a list of all those properties, their individual addresses, where they

were, their rent, their square feet, how many staff worked in each one, the length of the lease and the cost of terminating it. If you want to check the transcript to get all those that would be excellent. Also your current costs in relation to the new buildings which, Mr Kinghan, you said you are now in the process of reviewing through an estates review. Finally, one for the Treasury really because when I read the phrase about the lack of an adequate finance and HR function, of course I thought back, as I am sure you did, to the Revenue and Customs Prosecutions Office.
Ms Diggle: I did indeed, yes.

Q137 Mr Bacon: Therefore I am wondering when is the Treasury document "Setting up a new organisation in the public sector" going to be finalised and circulated, because it does seem to me this is getting to be a bit of a scratched record, and were there such a document—and if you want I will help you write it but it would be better if it had a Treasury imprimatur, I am sure they would take more notice of it—that many of these problems could be solved if there were very clear guidance from the Treasury: here are the 23 things you need to consider when you are setting up a new organisation and here is the timescale within which you could reasonably expect to deliver those 23 things, and anything less than that would be high risk. Presumably there is no guidance of that kind at the moment otherwise these mistakes would not keep on occurring?
Ms Diggle: There is and there is not, Mr Bacon. There is a part of "Managing Public Money" that sets out what you do when you organise and run what is called an arm's length body, of which EHRC is one such, so whenever any such organisation is being set up the advice that we give is look at that and that will tell you the basic things to check.

Q138 Mr Bacon: There is "The responsibilities of an accounting officer" and there is "Spending Public Money". The title of the booklet I think you ought to publish is "Setting up a new organisation in the public sector" and make sure you cover all of those points in some detail.
Ms Diggle: If I may what I was going to say was we are in the process of considering, how can I put it, how to refresh "Managing Public Money" for the various things that have changed since the last edition. Could I think about putting something together as part of that?
Mr Bacon: Thank you.
Chairman: A last one from Geraldine Smith.

Q139 Geraldine Smith: Just a quick question. The five individuals who received severance and then were kept on, I understand that they received higher payments than previously. Why was that the case? Why were their salaries increased?
Mr Kinghan: They received payments on a per day basis when they were kept on which are, if you annualise them, higher than they received as employees of the CRE or the transition team but that reflected the fact that they were being paid on a per day basis.

Q140 Geraldine Smith: What was the highest payment per day?
Mr Kinghan: £822 per day.
Geraldine Smith: Very good.

Q141 Chairman: Gentlemen, that concludes our hearing. Mr Rees, we do not expect to see such significant weaknesses in the Commission's performance in the future and we will expect you to undertake to sort the matters out so that if you are summoned back in a year's time you can give it a clean bill of health. Mr Rees, you are nodding and that is a yes. On a lighter note, may I say that as you managed to control me as an aberrant junior minister 16 years ago, doing this should be very easy for you!
Mr Rees: I assure you, Chairman, this is much more difficult.
Chairman: Thank you very much.

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1. Supplementary memorandum of the Comptroller and Auditor General, National Audit Office

Introduction

1. In my Report of 18 June 2009, I explained the background to the qualification of my audit opinion on the accounts of the Commission for Equality and Human Rights for the period from 18 April 2006 to 31 March 2008. The purpose of this supplementary memorandum is to provide further details of the problems faced by the Commission before it took on its powers on 1 October 2007 and update the Committee on some more recent issues with the Commission's controls over staffing and staff costs. The Commission is still investigating these latter issues and as a result I have yet to complete my audit of the Commission's 2008–09 accounts or to conclude on my audit opinion.

2. Under the Equality Act 2006, the new Commission, which is now known as the Equality and Human Rights Commission, took on the responsibilities of the three legacy equality Commissions; the Commission for Racial Equality, the Disability Rights Commission and the Equal Opportunities Commission, as well as taking responsibility for protection against discrimination on the grounds of age, religion or belief, sexual orientation and the promotion of human rights in the United Kingdom.

Qualified Audit Opinion owing to Irregular Expenditure on Re-engaged Consultants

3. During the 2006–08 accounting period the Commission incurred expenditure of some £11,136,000 in relation to the voluntary early severance and voluntary early retirement of former employees of the three legacy equality commissions. Such employees mostly ended their employment at 30 September 2007, when the legacy commissions ceased to exist.

4. In the period up to and after 1 October 2007, the new Commission realised it did not have sufficient senior staff in post to operate effectively. It attempted to resolve this problem by re-engaging seven former employees of the former Commission for Racial Equality on short term consultancy contracts, but did so without obtaining the requisite approval from the Government Equalities Office and the Treasury.

5. These seven staff had left the Commission for Racial Equality under the early exit scheme at a cost of £629,276, and were then paid a total of £323,708 in consultancy fees by the Commission. Some £308,434 of these fees related to the 2006–08 period, with the remainder being paid in 2008–09. The total amount paid per individual varied between £2,702 and £105,216, in line with the contracts given to these individuals by the Commission. In all cases the fee rates paid were higher than the salaries previously paid. Five of these staff were re-engaged from 1 October 2007 without a competitive procurement process, and their contracts had all ceased by 31 March 2008. The other two were re-engaged in 2008 after a break in service. Further details of the amounts paid are set out in my report on the Commission's 2006–08 accounts.

6. When it was eventually formally consulted in January 2009, the Treasury concluded that it could not grant retrospective approval for the payments to legacy commission staff, as they did not represent value for money. The Treasury particularly stressed that there was insufficient evidence to demonstrate that re-engaging the staff provided value for money compared to other options. As the Treasury did not approve the payments, I qualified my audit opinion on the Commission's accounts. Further details of the Treasury's concerns are included in my report on the accounts.

The Set Up of the Commission

7. There was a difficult and convoluted process of setting up this new body, with delays in making a number of key decisions about the Commission's policies and staffing. A timeline, showing what decisions were made and when, is set out at Annex A to this Memorandum.

8. The Commission's 2006–08 accounts show that it incurred expenditure of £38.8 million on activities specifically related to the transition to the new Commission. These activities including formally closing down the three legacy commissions, and transferring their assets, liabilities, buildings and residual staff to the new Commission. A breakdown of the Commission's 2006–08 transition expenditure is set out at Annex B.

9. After the £11.1 million cost of the voluntary early retirement and early severance scheme, the most significant area of expenditure was the £8.7 million salary costs for the team set up to manage the transition. The accounts show that this team consisted of, on average, 83 individuals of whom the majority were agency staff.

Government Oversight

10. In the period preceding the Commission's start up on 1 October 2007, there were changes in where Government responsibility for managing the start up of the Commission lay. The changes created a degree of distraction and confusion in the process of setting up the Commission, which complicated the decision making process at a crucial time.

11. Prior to July 2007, responsibility lay with the Department for Communities and Local Government. In July 2007, the Government announced that it was setting up a new Government Equalities Office, which would sponsor the Commission. Initially this Office was to be part of the Department for Work and Pensions, but by September 2007 Government had decided that the Office would be a separate Government Department with its own Accounting Officer. Until an individual could be appointed to that post, the Accounting Officer for the Department for Communities and Local Government retained Accounting Officer responsibility for the Office.

12. Despite these changes, many of the staff responsible for sponsoring the Commission, including those at senior levels, remained the same and the Office successfully put in place the legal and statutory framework required to establish the Commission on 1 October 2007. However, because this sponsor team was small, it was not self-sufficient and relied on support and advice from the wider Department, particularly in areas such as Finance and Human Relations. As the responsible Departments changed, so the people responsible for this wider support changed, causing delays in some elements of the transition. Consequently, important agreements were not finalised on a timely basis. For example, the Framework Document setting out the Commission's managerial responsibilities and the Department's delegations to the Commission, was not formally approved until April 2008.

13. On the particular issue of the re-engagements, the Commission first raised in writing issues relating to the possible re-engagement of one of these staff with the Accounting Officer of its then sponsor Department (Department for Communities and Local Government) in May 2007 and obtained approval for this individual's re-engagement on condition this was only up to the end of September. In July 2007 it made a more substantial submission to the Accounting Officer of the Department (Department for Work and

Pensions) that was then expected to take over the sponsor role. While these Departments agreed the principle that the Commission could retain essential staff on a casual basis to support the transition during this period, the Commission accepts that it pursued these matters with an inadequate level of formality and detail. In particular, the Commission did not present a clear business case for either the number of staff involved or the duration of their re-engagement.

14. In the light of these problems, and given the changes in sponsorship of the Commission which make an overall assessment of the success of the set-up programme difficult, the Government Equalities Office and the Commission have jointly commissioned an independent "lessons learned" review. The review is focussing on the implementation of decisions taken in setting up the Commission. The review is due to report shortly and a copy will then be made available to the NAO.

The Readiness of the Commission

15. The Commission's perceived need to re-engage staff from the legacy commissions arose from its own lack of senior staff and organisational capacity in the period immediately before and after the 1 October 2007 start date. A number of these problems were first properly identified by an Office of Government Commerce Gateway review in May 2007, which expressed serious concerns that there was a high risk of the Commission not being ready to start operations on 1 October.

16. The report expressed particular concern that, at the time of the review, the Commission was not ready to start operations on 1 October 2007, and that there was a lack of clarity on what it would be offering stakeholders or staff on day one of its existence. Underlying this lack of readiness were two key problems; a lack of senior staff and a lack of strategic development. The report made eleven urgent recommendations for improvement.

17. However, the origin of many of these problems lay in the start up of the programme to set up the new Commission. At the start there was an underestimation of the size and complexity of the programme, which resulted in limited due diligence work, some weaknesses in budgeting and a lack of investment in the skills necessary to run the programme.

The Initial Staffing of the Commission

18. The lack of staff was particularly acute at senior management level. When the Commission started operations on 1 October, it did so with only 10 out of the agreed complement of 25 Directors in post. The first Chief Executive only took up post on 1 March 2007, and was not appointed as Accounting Officer until 24 May. Four members (including the Chief Executive) of the senior management team joined in the period leading up to 1 October and, while they had considerable specialist skills, they had insufficient time to develop as a team before the Commission started operations. At the same time, the Secretary of State had appointed 11 Board members (including three transition members from each of the legacy commissions), as well as the Chair and the Deputy Chair, by the end of 2006.

19. The delays in appointing the senior staff was a crucial failing, as a newly created organisation needs to have a senior management team in place sufficiently early to prevent a decision making vacuum, ensure effective operational management is in place from the beginning and to develop a business strategy and transition plan. As a consequence, the senior management team were developing the strategic direction of the Commission whilst at the same time, being required to shape and direct immediate operational matters including the stabilisation of the transition programme.

20. These staffing problems were mirrored throughout the organisation. The legacy commissions offered all their staff voluntary early severance in July 2007, and some 185 people elected to leave through this scheme. The new Commission had very little influence over which staff agreed to take the severance, and lost staff who filled key roles in the legacy bodies. Furthermore, the number of staff who accepted severance meant that as at 1 October 2007, the new Commission started operations with a shortfall of some 140 staff against its approved complement of 525. Of the staff who did transfer, the new Commission did not have sufficient time to finalise job descriptions or complete job evaluations before starting operations. Consequently, the Commission was unable to match people to roles or confirm the content of individual jobs. Understandably, this had a negative impact on the morale of the staff in post, and matters were worsened further because of an unresolved pay remit, leading to ongoing uncertainty about staff terms and conditions. Indeed, the pay remit was not finally agreed by the sponsor Department and the Treasury until September 2008.

The Strategic Development of the Commission

21. The Office of Government Commerce report in May 2007 identified that six months before going live the Commission had not agreed a business strategy, an organisational design or a transition strategy for the period leading up to 1 October. While work was ongoing to put together a business structure, there was a risk that this structure would not reflect the eventual requirements of the organisational design. The lack of an organisational design also meant that the Commission could not be clear on the content of individual jobs or agree job descriptions.

22. The report expressed particular concerns that the period between the first OGC report in May 2006 to May 2007 was not subject to effective programme management. The business case for the setting up of the Commission had not been updated and the report noted there was a failure to work in a joined-up way across projects and workstreams. The report also commented that risk and issue management was limited, with incomplete risk documentation and a lack of any real contingency planning.

23. At the same time, not enough work had been done to either fully define the Commission's budget requirements or to be clear on the level of funding that would be available. While the Commission did subsequently progress this issue sufficiently quickly that it had a working budget in place by 1 October, the Government Equalities Office did not formally approve the Commission's 2007–08 budget until November 2007. Further to this, the Commission's financial infrastructure remained weak as at May 2007, with financial procedures not yet in place and difficulties in getting financial information transferred from the sponsor departments' and legacy commissions' systems into its own systems.

24. Following recognition of these weaknesses, the Commission initiated a phased programme for going live. Instead of a full launch on 1 October, the Commission went from transition to a build up phase on 1 October 2007, with a full operational launch from 1 April 2008. This phased process followed best practice, as it allowed the Commission to focus on achieving basic operational readiness on 1 October and to present a "business as usual" face to stakeholders. The Commission accepted that achieving full integration could only be achieved over a longer timescale, which meant extending the transition programme to March 2008. The initial delays in developing important strategies and plans contributed, along with subsequent factors, towards the Commission's continuing problems during 2008, and to some extent in 2009, in finding itself unprepared or acting reactively on matters of administration or internal control.

25. While the Commission's new Chief Executive acted promptly on the May 2007 report's recommendations, there was insufficient time to rectify all the identified problems fully before 1 October. Consequently, while the Chief Executive was able to quickly recruit some expert consultants, including a Programme Director to lead the final stage of the transition programme, the Commission still recognised that it would face a number of skills gaps at 1 October 2007. It considered that it needed to put interim arrangements in place to minimise the risks to the start up, including the continuation of the transition team. In the Commission's view, this required the temporary recruitment of specific former staff from the legacy commissions.

26. Part of the problem was the legacy commissions' voluntary early severance scheme, which was agreed by the Department for Communities and Local Government and the Treasury in January 2007. The scheme was managed by the legacy commissions, although the new Commission would actually pay for it, and as a result the new Commission had little say in determining which staff left the legacy commissions under this scheme. In the end more people than expected took the severance and thus many important skills and much corporate knowledge was not available to transfer to the Commission. The Commission did discuss with the Government Equalities Office the option of deferring the departure of the re-engaged staff under the voluntary early severance scheme, but as the scheme was tied to the bodies which were due to expire before 1 October, this proposal was not considered feasible.

27. In the view of the National Audit Office, those responsible for setting up the new Commission initially underestimated the scale and complexity of the task. As permanent senior staff started to be appointed in early 2007, this was increasingly realised and the Commission put in place the phased start referred to in paragraph 24. The OGC Report in May 2007 made clear the scope of work that still needed to b e completed to ensure a successful start for the Commission. While the Commission was able to put in place all the recommendations made by the OGC Report and deliver a high volume of outputs by the end of September 2007, it was starting from too low a point to allow all appropriate actions to be taken before the Commission started operations in October 2007.

2007–08 and 2008–09 Pay Remits

28. All non departmental public bodies, such as the Commission, are required to agree annual pay remits with their sponsor Department and the Treasury, which set out the maximum level of pay increases for permanent employees. The Commission agreed its first pay remit with the Treasury in September 2008, using estimates of the number of permanent staff who were expected to be in post by the end of the remit period. The agreement allowed a maximum pay increase of 4% for permanent staff in post in the last six months of 2007–08 and a maximum of 4.45% for 2008–09, which assumed that the Commission would recruit sufficient permanent staff to fill the vacancies. The Commission has, however, breached these limits.

29. Following the September 2008 agreement, the Commission and the Government Equalities Office agreed a phased harmonisation of pay within the limits. The Commission made the first backdated pay increase in December 2008 and paid the final element in June 2009. However, in March 2009, the Commission revisited its baseline pay calculations to reflect the actual number of permanent staff in post, rather than the estimated number used in the initial calculation. As the Commission had fewer permanent employees in post during 2007–08 and 2008–09 than it had anticipated when agreeing the pay remit, it actually paid average increases for staff in post of 6.81% for the six month period of 2007–08 and 4.8% for the twelve month period of 2008–09. Whilst the total cash increase paid was in line with the agreed pay remit and phased harmonisation plan, the average increases were above the maximums agreed with the Treasury. While this breach of the pay remit was not intentional and reflects the unexpected lack of permanent

employees referred to earlier, it does mean that the Commission has incurred total expenditure of some £221,000 without proper authority. The Commission started to pay these increases in December 2008, and so only £163,000 of this unauthorised amount was actually paid in 2008–09, with the remainder being paid in 2009–10.

Human Resources Information

30. While the breach of the pay remit relates to the use of estimated staff numbers rather than actual, it needs to be considered as part of the continuing difficulties that the Commission has experienced in maintaining accurate and complete information on its staff.

31. As noted above, the Commission employed fewer permanent staff in its first two years than it had planned for. In response, it employed agency and interim staff to fill the staffing gaps. In May 2009 the Commission noted that it had a growing overspend in its expenditure on agency and interim staff and therefore undertook a comprehensive review of its use of such staff. This identified that the total staff employed, including agency and interim staff, exceeded the authorised complement. As noted above, the Government Equalities Office had authorised the Commission to have a complement of 525 full time equivalent staff. In July 2009 the Commission actually had 574 full time equivalent staff, once temporary and agency staff were included.

32. Once the senior management team had identified the problem, they notified the Chair, the Chair of the Audit and Risk Committee, the Government Equalities Office and the National Audit Office. This issue indicates weaknesses in the Commission's processes for the recording, monitoring and reporting of staff numbers, as well as problems with the processes for approving temporary staff appointments. The Interim Director General has commissioned an inquiry to determine in detail how the situation arose and the Commission hopes that this report will allow it to further strengthen the oversight and governance by the Board and the Remuneration Committee. A copy of the report will be made available to the NAO in due course.

33. On identifying the problem, the Commission took action to resolve it. It has frozen recruitment and is reducing temporary staff numbers, such that at the end of August 2009 the Commission employed 547 full time equivalent staff. In the light both of this problem and more general experience since it started, the Commission is also reviewing its organisational design with a view to ensuring that it is fit for purpose.

Audit of 2008–09 Accounts

34. The Commission is still in the process of preparing its 2008–09 accounts, and I have yet to complete the audit and to reach my audit opinion. Nevertheless, as part of my audit report on the 2008–09 accounts, I will comment further on the problems with the pay remit and the staff complement, as well as the Commission's progress in improving its general internal controls.

The Governance of the Commission

35. In the period since the issues covered by my original report occurred, the Commission has developed its financial and performance reporting, reviewed and strengthened its governance arrangements, strengthened procurement arrangements, developed financial guidance to staff and worked to enhance the budget and business planning framework. As the problems with the pay remit and the staff complement demonstrate, there are continuing issues which the Commission will need to address and continue to prioritise, as set out below.

36. The Commission's Audit and Risk Committee was established in August 2007 and has scrutinised the way in which the Commission has addressed the issues referred to in my report. The Committee agreed and oversaw a programme of internal audit reviews, which focused on the set up of systems and framework of delegated authorities, governance, procurement and staffing. The Audit and Risk Committee has consisted of four Commissioners and two independent members. While three of these Commissioners and the two independent members were due to end their terms of office during the period October to November 2009, two of the Commissioners (including the Chair) have either resigned or announced their intention to resign. The two independent members on the Committee have announced their intention not to accept a further appointment to the Committee.

37. Despite this loss of members, the Commission needs to ensure that the Committee is able to continue to function effectively. It has commenced recruitment to replace the members and is seeking to appoint high calibre individuals with the skills to provide the necessary scrutiny, constructive challenge and guidance to successfully deliver the Committee's delegated governance role.

38. In accordance with the terms of the framework agreed between the Government Equalities Office and the Commission, the Commission's Board is responsible for setting and monitoring the delivery of the Commission's strategy, objectives and budget and ensuring that effective arrangements are in place to provide assurance on risk management, governance and internal control. However, the Board did not formally discuss the issue of re-engaging staff from the legacy commissions at the time it took place, which suggests, in my opinion, a weakness in its monitoring of the Commission's performance and operational

management. Nevertheless, the Board has a key role to play in ensuring that the Commission continues its efforts to develop effective internal controls and that management are properly discharging their responsibilities.

39. The Commission undertook a review of its corporate governance in 2008–09 and one of the recommendations was that a reduced size of Board (from the current 17 Commissioners including the Chief Executive and the three temporary Transition Commissioner positions to around 10 to 12 Commissioners) would help to improve the effectiveness of the Board. Of the 17 Commissioners, two resigned in March 2009 (which included the Chief Executive), three resigned in July 2009 and a further Commissioner's term of office ended in September. Of the remaining Commissioners there are eight whose term of office will end in December.

40. The Board is therefore entering a time of considerable change and will need to continue to prioritise its development, particularly in respect of its oversight of the effectiveness of the Commission's risk management, governance and internal control. With the need to appoint a number of new Commissioners, a skills review has been completed and this has influenced the recruitment process currently being undertaken by the Government Equalities Office and the Commission. In particular the Department and the Commission are seeking to strengthen the business and administrative skills on the Commission Board, and this is reflected in the skills specification used for the recruitment.

Other Current Developments in Improving Management and Control

41. In addition—or where appropriate as a complement—to the Commission's improvement measures already mentioned, the Government Equalities Office and the Commission have been reviewing their relationship and ways of working in the light of experience of the Commission's first 18 months of operation with a view to developing specific improvements in process. These include:

- Preparation of a new Framework Agreement, currently in discussion between the two bodies. This covers a wider range of Commission and Government Equalities Office responsibilities, and in more detail than the existing Agreement. It also makes provision for a formal review of the Commission's performance three times a year;
- a new approach to supervision and scrutiny of the Commission's financial performance based on detailed financial information reaching down to individual programmes and staffing areas;
- revised Departmental spending limits for 2009–10 and 2010–11, in agreement with Treasury, to achieve a better balance between administrative and programme limits, and to tighten budgetary forecasting and profiling in both the Government Equalities Office and the Commission. For the Commission, reductions in both programme and capital funding will reinforce other, existing work to improve the importance of close monitoring and effective use of public money.

Amyas C E Morse
Comptroller & Auditor General

27 October 2009

Annex A

1. Timeline of the Key Events Leading Up to the Establishment of the Commission

Date	*Event*
18 May 2005	Equalities Bill: 1st Reading (Lords).
September 2005	Transition programme starts, Programme Director appointed.
11 November 2005	1st Reading (Commons).
16 February 2006	Royal Assent given to Equalities Act.
March 2006	Commissioner and Chair positions advertised.
18 April 2006	Commission for Equality and Human Rights becomes a body corporate.
May 2006	OCG Gateway review flags "amber" status with 6 amber recommendations.
11 September 2006	Trevor Phillips appointed Chair of the Commission.
4 December 2006	Baroness Prosser of Battersea took up appointment as Deputy Chair.
	The following Commissioners took up their appointments: Kay Allen, Baroness Campbell of Surbiton, Kay Carberry, Jeannie Drake, Baroness Greengross, Professor Kay Hampton, Professor Francesca Klug, Sir Bert Massie, Ziauddin Sardar, Ben Summerskill and Dr Neil Wooding.
September 2006	Commission for Racial Equality agrees to merge into the Commission in October 2007 rather than March 2009.
18 December 2006	First meeting of the Board.

Date	Event
	— Membership of Board committees was agreed; and — The report of the Interim Programme Director noted that the transition project was on a "red" rating due to delays in appointing Commissioners and a Chief Executive.
January 2007	Appointment of CEO announced.
25 January 2007	Second meeting of the Board. — A Business Plan Working Group and a Finance and Development Committee were formed; — The report of the Interim Programme Director to the Board noted that the project was still on a "red" rating; and — The Board considered the broad principles of the Organisational Design and agreed that the Chair and Interim Programme Director should report back with more detailed proposals to the Finance and Development Committee and to the February Board meeting.
22 February 2007	Third meeting of the Board. — The interim Programme Director's report showed the project was still rated as "red".
1 March 2007	Dr Nicola Brewer took up appointment as Chief Executive.
22 March 2007	Fourth Meeting of the Board. — Reports were submitted on the early exit scheme, pay and grading models, and assimilation process. However, the transition project remained at "red".
29 March 2007	Morag Alexander took up appointment as a Commissioner.
26 April 2007	Fifth meeting of the Board. — The Board discussed the Estates Strategy. Overall, the Transition project continued to be "red" rated.
30 May 2007	The OGC Gateway Review was issued, which gave the transition project a red rating. There were 11 red recommendations and one amber.
17 May 2007	Sixth Meeting of the Board. — The Chief Executive presented a paper to the Board on lessons learned from previous mergers; — Organisational principles were discussed, and the Board agreed that the intention was to create an organisation that was fluid and task based. An organogram was presented and it was decided that it should be developed further, tested with working groups and circulated to Commissioners; — The Board approved the appointment of Commissioners and an external member to the Audit Committee; and — The Chief Executive advised the Board of the three phases of the Commission's development; from transition up to 1 October, the build-up phase of the Commission up to spring of 2008, then further development thereafter.
24 May 2007	Nicola Brewer was formally appointed as Accounting Officer.
7 June 2007	First meeting of the transition Programme Board. — Terms of reference and the OGC Gateway Review were discussed.
19 June 2007	Second meeting of the transition Programme Board. — The "Day 1" Offering was discussed. Only 50% of office accommodation in London was expected to be ready for 1 October 2007; and — Draft budgets were discussed. The operating budget for the period post 1 October 2007 was not considered to be as robust as the budget for the transition project.
21 June 2007	Seventh Meeting of the Board. — The Board received and noted a paper tabled at the meeting by the Chief Executive that set out her responsibilities as AO, and the implications for the Board; — The Chief Executive also presented the findings of the OGC Gateway review; — The Board agreed that consequent to the establishment of a

Date	Event
	Programme Board, as recommended in the OGC report, the Finance and Development Committee and Business Plan Working Group would be disbanded; — The Chief Executive submitted a paper seeking the views of the Board on the content and structure of a first version of the Interim Business Plan, and outlined the budget set out in the Plan; and — The Chief Executive submitted a draft paper providing an early sight of the emerging Organisational Design.
3 July 2007	An "all staff" meeting was held to introduce staff to the Organisational Design, and to introduce the group directors in post.
6 July 2007	Third meeting of the transition Programme Board. — The Programme Board approved the "Day 1 Offering"; — Noted that the interim budget had not yet been approved by government; and — Noted that the change of sponsor presented a major risk to the transition project.
16 July 2007	Eighth meeting of the Board. — The Board noted that there would be c515 FTE posts in the Commission, but that after the Early Exit Scheme only 370 staff were expected to transfer from legacy bodies. This would then be followed by an external recruitment exercise, which would include recruitment to many of the Director level posts.
24 July 2007	Fourth meeting of the Programme Board. — The Programme Board made decisions on which legacy properties were not required.
26 July 2007	Machinery of Government change, with a Government Equalities Office to be established as part of the Department for Work and Pensions.
20 September 2007	Ninth meeting of the Board.
1 October 2007	The Commission took up its powers as set out in the Equality Act 2006 and the Legacy Commissions ceased to exist.
11 October 2007	Machinery of Government change, with the Government Equalities Office to have its own Director General and Accounting Officer.

2. Timeline of Appointment of Directors

Date	Event
1 March 2007	The Chief Executive took up appointment.
2 July 2007	Group Director—Corporate Management took up appointment.
6 August 2007	Group Director—Legal took up appointment.
25 August 2007	Group Director—Strategy took up appointment.
17 September 2007	Finance Director took up appointment.
24 September 2007	National Director for Scotland took up appointment.
1 October 2007	National Director for Wales took up appointment.
1 October 2007	Directors for Casework, People, IT and Buildings, and Policy (Private Sector) transferred from the Legacy Commissions.
22 October 2007	Acting Director of Information appointed on temporary promotion.
23 October 2007	Acting Director of Legal Enforcement appointed on temporary promotion.
28 October 2007	Acting Director of Legal Policy appointed on temporary promotion.
5 November 2007	Directors of Legal Policy and the Disability Programme took up appointment.
12 November 2007	Director of Foresight (job share) took up appointment.
19 November 2007	Director of Business Planning took up appointment.
26 November 2007	Director of Commissioners' Office took up appointment.
1 December 2007	Director of Foresight (job share) took up appointment.
4 December 2007	Group Director—Communications took up appointment.

Date	*Event*
7 January 2008	Directors of Legal Enforcement and Stakeholder Management took up appointment.
14 January 2008	Director of Research took up appointment.
28 January 2008	Directors of English Regions and Information took up appointment.
4 February 2008	Director of Corporate Law and Governance took up appointment.
10 March 2008	Director of External Affairs took up appointment.

3. Timeline of Discussions over the Re-engagements of Staff as Contractors

This timelines provides details of the key written and e-mailed communications between the Commission and the Government Equalities Office on the re-engagement issue.

Date	*Event*
25 May 2007	The Commission's Accounting Officer wrote to the Department for Communities and Local Government (CLG) requesting approval for the possible re-engagement of a specific CRE staff member.
19 June 2007	CLG wrote agreeing to this re-engagement on interim basis providing it did not extend beyond 30 September and that treatment is in line with any other staff leaving under early exit scheme—ie that any re-engagement thereafter requires express CLG approval.
16 July 2007	Machinery of Government change sets up the Government Equalities Office within the Department for Work and Pensions.
31 July 2007	The Commission wrote to the DWP Accounting Officer regarding Director appointments and raised the possibility of varying the early exit release date. The Accounting Officer responded on 9 August promising a more detailed response once advised by DWP colleagues.
02 & 04 August 2007	Emails from GEO to the Commission in response to this proposal. Concern expressed about various aspects of the proposal to delay the early exit scheme, and it is ultimately rejected on the grounds that the staff's employment contracts relate to the legacy commissions, which will no longer exist after 30 September.
24 August 2007	The Commission emailed the GEO stating that there were a number of skills gaps in the Commission and transition team as a result of staff leaving through the early severance scheme, and that it was the Commission's intention to retain a select number of legacy commission staff for a short period on a contract basis.
6 September 2007	The GEO emailed the Commission, noting that the Commission was no longer proposing to vary the terms of the early exit scheme, but was now considering re-engaging selected staff. In this context, the GEO drew attention to the letter from CLG of 19 June, given that the Commission was now proposing retaining the services of a number of staff beyond 30 September.
24 September 2007	The Commission emailed the GEO to set out some proposed temporary arrangements to cover transitional staff gaps in certain key business areas and the significant business risks to the Commission if these gaps were not filled (eg 72% vacancy rate at director level as at 1 October 2007).
25 September 2007	The Commission e-mailed the GEO to confirm that the rates quoted by the Commission to the GEO were market rates from OGC's "Catalist" suppliers of agency staff.
26 September 2007	The GEO emailed the Commission seeking assurance that the staff concerned could be re-engaged on a casual or consultancy basis without constituting a continued contract, and requesting more information to support the research done on market rates. The GEO was not convinced from rough calculations that some of the proposed rates represented best value for money and on this basis refused to endorse the business case, which it considered went beyond the permission given by CLG on 19 June.
28 September 2007	The GEO emailed the Commission seeking information on what was happening to the staff in the interim, pending agreement on the business case?

Date	*Event*
28 September 2007	The Commission emailed the GEO noting that 7 named staff were being re-engaged from 1 October on a contractual, interim basis and that it would provide more detailed documentary evidence.
10 October 2007	The Commission emailed the GEO with the additional information promised on 26 September.
15 October 2007	The GEO emailed the Commission replying that the business case was not adequately based on market rates and that it could not therefore progress the case.
26 October 2007	The GEO wrote to the Commission setting out concerns expressed by the Finance team of Communities and Local Government, which it had consulted about the proposal. These issues included possible Commission liability for Employers' National Insurance contributions and assurance on the pension position.
29 February 2008	The Commission wrote to the GEO outlining which legacy commission staff had been re-engaged and the reasons for those re-engagements.
11 March 2008	The GEO responded to the Commission's letter of 29 February asking for additional information on the voluntary early exit scheme and details of the staff re-engaged.
12 March 2008	The Commission sent the GEO the completed transitional staffing information in the table format requested in the GEO's letter of 11 March.
14 March 2008	The Commission received internal legal advice that it had a legal duty to pay the re-engaged staff and, on the basis of this advice, the Transition Team agreed to authorise payments that it had previously withheld pending sponsor Department approval.
18 March 2008	The GEO wrote to the Commission seeking information on the re-engaged staff and liability to pay compensation, National Insurance contributions and tax.
19 March 2008	The Commission responded to the GEO confirming that it had received and acted on Cabinet Office guidance.
1 May 2008	The GEO wrote to the Commission noting that information relating to the re-engagement of legacy commission staff was still outstanding.
5 June 2008	The GEO wrote to the Commission confirming what further information it required on the re-engaged staff before it could give approval.
7 August 2008	The Commission replied to the GEO's letter of 5 June and supplied the information requested.
1 October 2008	The Commission provided further documentary evidence to the GEO relating to the re-engagement.
11 November 2008	The GEO wrote to the Commission explaining that the papers supplied on 1 October were not sufficient and requested detailed answers to further questions.
12 December 2008	The Commission replied to the GEO with detailed information on the questions raised in the letter of 11 November.
5 January 2009	The GEO wrote to the Commission seeking assurances on the contracts of staff re-engaged.
14 January 2009	The Commission replied to the GEO with the documentary evidence requested on 5 January.
19 January 2009	The GEO submitted a business case to the Treasury presenting the case for retrospective approval of the re-engagement of former members of legacy commission staff as consultants. The GEO, however, made it clear that it did not recommend that approval should be granted.
12 March 2009	The Treasury confirmed it could not grant retrospective approval for the re-engagement of former members of staff as consultants.

Annex B

2006–08 Expenditure on the Transition

The following costs were incurred by the Commission on managing its set up and the final closure of the legacy commissions. It excludes costs incurred by the sponsor Departments on managing the set up before the Commission came into legal existence on 18 April 2006.

	Costs £m	*Accounts Reference*
Revenue Expenditure		
Voluntary early retirement and early severance scheme for employees of the Legacy Commissions	11.1	*p64, Income and Expenditure Account, line 7*
Salary costs for the Transition Team	8.7	*p74, Note 3,b line 7*
Costs arising from the disposal of unwanted properties inherited from the Legacy Commissions	2.7	*p76, Note 4, lines 4 and 5*
Consultancy costs	1.9	*p76, Note 4, contained within line 6*
Loss on disposal of unwanted assets inherited from the Legacy Commissions	1.4	*p64, Income and Expenditure Account, line 14*
Other costs relating to the Transition	3.7	*p74 and p76, Notes 3 and 4*
Total Revenue Expenditure	29.5	
Capital Expenditure		
Fit out of new offices and purchase of new furniture, IT equipment and software	9.3	*p77, Note 5a, line 3 and p78, Note 5b, line 4*
Total Expenditure	38.8	

2. Memorandum from Public and Commercial Services Union (PCS)

Introduction

1. The Public and Commercial Services union is the largest trade union in the civil service with 300,000 members working in government departments, non departmental public bodies and related areas.

2. PCS has 360 members in the Equality and Human Rights Commission, comprising over 85% of permanent staff below director level.

3. We had offered to discuss this briefing with the Interim Director General before his appearance before the PAC but unfortunately the offer was declined.

4. Our members include policy officers, lawyers, caseworkers, advisers, information officers, administrators, regional officers, ICT and communications staff. They are all highly committed to using their expertise and experience to ensure that the Commission achieves the goals with which it has been tasked as a robust, authoritative body that can deliver its remit.

PCS Concerns

5. PCS believe that the EHRC should be above reproach as a government funded body (we have attached the *Nolan Principles* as an Appendix to this briefing). The budget cut, and recent revelations including the NAO report,[1] regarding the Commission's financial and operational failings could have a detrimental impact on EHRC's unique statutory role, service delivery, capacity building and its essential grants programme for voluntary bodies.

6. PCS questions how the budget cuts will impact on how the commission plans to maintain ongoing essential work programmes, for example the flagship Codes of Practice & Guidance project and what impact it will have on law enforcement or the grants programme.

7. We have grave concerns over the EHRC's inefficient use of public money. For example we do not believe that the commission could demonstrate value for money on their information and communication projects. We are also concerned that there has been an over reliance on using high profile QCs rather than making better use of in-house expertise.

Use of Consultants

8. Another area where EHRC has used its finances ineffectively has been on its expenditure on consultants. PCS understands from written parliamentary answers that it is the high number of temporary staff, mostly consultants, which has led to the staff numbers exceeding the agreed complement of 525. The number of permanent staff remains at approximately 450.

[1] National Audit Office—Report of the Comptroller and Audit General to the House of Commons, 18 June 2008

9. Written answers on 19 October 2009 reveal that the cost of interim staff in 2008–2009 was £6.2 million, all paid from the overall staffing budget. Meanwhile, the internal pool of talent with years of experience advising external organisations on best practice has been wasted. PCS believe that this short sighted approach has damaged staff morale and offers poor value for taxpayers' money.

10. We understand that apart from a small number of agency administrative staff, the majority of interim staff are engaged as consultants paid between £450 and £1,000 a day. A recent freedom of information request revealed that one interim director alone was paid £231,750 in ten months. Compare this with the starting salary of £15,000 for a helpline operator.

11. We understand that the EHRC is now reducing the number of consultants, but that gives rise to how the Commission will maintain continuity of delivery and transfer of knowledge when handing over to in-house staff who to date have been largely excluded from this work.

Impact on Staff Pay

12. Both unions and staff have been informed that for reasons including a breach of the 2008 and 2009 pay remits and exceeding its authorised headcount, the Commission may not be able to award any pay increases this year. This could not only impact on cost of living rises, but also any incremental progression or entitlement to back pay for those staff previously appointed at the wrong grade.

13. The impact on the morale of hardworking staff will be demoralising because they are being penalised for actions not of their making. Over a quarter of EHRC staff earn less than £25,000 per year, and over half earn less than £33,000 per year. According to a written parliamentary answer on 19 October, over a quarter of EHRC staff have received no pay rise or incremental progression since the Commission opened in 2007, rising to 32% of the lowest paid administrative staff (earning between £15,000 and £18,000 per year) who have received no pay increase at all for over two years.

Helpline Cuts

14. The helpline is the public face of the EHRC and therefore a key measure of its credibility. Staffing levels at the helpline and knowledge centre were recently cut from 115 posts to 65, despite a high profile TUC supported campaign. The cuts have included the closure of the helpline team in Manchester.

15. PCS believe that this decision was based on a false economy in terms of service delivery. We are concerned that stakeholders and service users were not consulted, and two years since it opened for business, the Commission is still delaying the public launch to promote and advertise the helpline service.

16. We have major concerns over the impact on public services that the helpline cuts will have:

— The helpline provides an essential advice service on human rights and all six equality strands to the public, and to organisations such as large employers, small businesses, public and private sector bodies, schools, colleges, universities, service providers, solicitors, students and the media. The queries range from older people denied insurance, abuse in care homes, forced retirement, disabled people unable to access work or services, and parents or carers denied flexible working to remain in employment rather than rely on state benefits.

— Calls are increasing to a large extent because of the impact of the recession —a point recognised by ministers who have recently emphasised the need for individuals and employers to be more aware of their legal rights and duties when making redundancies.

— Since job cuts have been introduced, the helpline has been increasingly run as a regimented call centre operation. Callers are waiting in queues of up to an hour, and if they request a call back are allowed limited scope to specify a time. If the helpline adviser does not reach the caller at the first attempt, they are under instruction not to leave a message or call again.

— The outcome of such an inadequate system is that more members of the public are likely to go to a high street solicitor who immediately lodges an employment tribunal claim on a no-win no-fee basis, increasing the burden on employers who will face being tied up defending more ET claims and their associated costs. In contrast, an experienced helpline adviser can often suggest ways for the caller to resolve the situation without recourse to legal action and save on expenditure.

17. The EHRC has recently awarded £4.2 million in grants to voluntary sector bodies offering legal advice on equality and human rights issues. PCS supports this important funding for voluntary organisations, but that should not be a reason to cut the in-house advice service. Unlike external advice providers, the helpline is a cost effective way to feed emerging sectoral issues, strategic legal concerns or knowledge gaps requiring employer capacity building into the EHRC's legal and policy development.

18. As well as hampering service delivery PCS believe that the helpline staff cuts are also a waste of taxpayers' money. £450,000 was spent on the recruitment and training of helpline staff only two years ago. We also estimate that over £500,000 has been spent on consultants to take forward the helpline restructuring. We believe this money would have been better spent on promoting this service to the public.

19. PCS strongly believe that the EHRC should reverse its decision and prioritise a service which will benefit some of the most vulnerable people in society as well as employers.

Staff Turnover

20. Low morale is leading to an increased number of staff leaving the EHRC. This is resulting in a loss of expertise. These are staff who chose to join the commission two years ago, eager to play their part in developing a new equality agenda to benefit all UK citizens. PCS are concerned that the high number of costly consultants, staff departures and low morale will adversely affect output, and create a negative financial impact.

30 October 2009

Appendix

The Nolan Principles

The Seven Principles of Public Life

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

These principles apply to all aspects of public life. The (Nolan) Committee has set them out here for the benefit of all who serve the public in any way.

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3. Memorandum from the Government Equalities Office

Lessons Arising from the Establishment of the Equality & Human Rights Commission (EHRC)

The Comptroller and Auditor General's Supplementary Memorandum on the EHRC, being prepared for the PAC hearing now scheduled for 2 December, mentions that the Government Equalities Office and the EHRC jointly commissioned an independent "lessons learned" review into the setting up of the EHRC.

As discussed with Amyas Morse, I enclose a summary of the report of the review for your information. I am not presenting the report formally as evidence for the hearing although I would of course be happy to send copies formally to your Committee once the hearing has taken place if you think the Committee would find that helpful. I think the review (by Jo Durning, a former senior civil servant) helpfully brings out some key lessons applicable to the setting up of new Non Departmental Public Bodies (and mergers of existing ones). They include the importance of:

— realistic timetables and a willingness to consider delaying start dates when faced with major risks to successful set–up, such as machinery of government changes;

— early recruitment of leaders to give them time to shape the organisation and recruit the right staff;

— effective interim governance arrangements, especially whilst a new Chair/Board is working with an interim executive team; and

— both transition teams and sponsor departments having the right mix of skills (including knowledge of Government and, ideally, experience of setting up an NDPB).

I hope this is of interest.

As the purpose of the review was to identify lessons for NDPB mergers and start–ups, including where machinery of government changes affect the sponsoring arrangements within Government, I have sent a copy of the report to Cabinet Office and Whitehall Principal Accounting Officers to encourage inter–departmental consideration of the issues it raises.

4 November 2009

Report to GEO and ECHR

LESSONS FROM THE ESTABLISHMENT OF THE EQUALITY AND HUMAN RIGHTS COMMISSION

SUMMARY

The review was asked to identify lessons for future NDPB mergers and start ups, from the establishment of the Equality and Human Rights Commission (EHRC), drawing on the experience of similar programmes. Issues specified in the terms of reference were timetable, the early severance scheme, recruitment and secondment processes, governance and the impact of machinery of government changes. Communications and culture change were also identified as common issues for NDPB start ups and mergers.

The programme was successful, in that the transition took place to the timetable agreed by Ministers. It was high risk for much of its duration.

The EHRC programme ran for a year before the appointment of the Chair, 18 months before the Chief Executive was appointed, itself only six months before the start of the new organisation. Though it was rephased, and day one expectations managed down, the delays in appointments and consequent delays in organisational design and other workstreams made the programme high risk.

The key lesson echoes one from Ofcom. Incoming leaders need time to shape the organisation and recruit the right staff. They should agree a realistic start date.

While delivery built up to 30 March 2008, change on 1 October 2007 included people, buildings, IT and other systems. All the legacy bodies wound up one working day before the EHRC opened.

With hindsight, a staged transition would have been lower risk

The transition team was technically expert, but for much of the programme it lacked people with experience of operating with central Government. Sponsor department resources were stretched, particularly in the early stages,

Transition teams and sponsor departments need the right mix of skills.

Pressures on the team led to quick fixes to bring in people with the necessary skills. This contributed to low staff morale.

Where possible, timetables should allow for open recruitment procedures. If full competition is not possible, reasons and selection criteria should be widely communicated.

Governance of the programme was seen as good by Office of Government Commerce (OGC) Gateway reviewers in May 2006. It did not adapt well to the appointment of the Chair and Board. The NAO report on Ofcom also reports lack of clarity in governance in the period between the appointment of the Chair and the Chief Executive.

Sponsor departments need help in planning transition arrangements, in particular any period where a Chair and some Board members need to co-exist with an executive interim team.

[2] The Department for Trade and Industry sponsored the ECHR transition programme to May 2006.
The Department for Communities and Local Government (CLG) was the sponsor from May 2006 to July 2007.
The creation of a Government Equalities Office as part of the Department for Work and Pensions was announced in July 2007.
The GEO became a separate department in October 2007.
Accounting Officer responsibility remained with CLG until the GEO Accounting Officer was appointed in February 2007.

Machinery of Government changes increased programme risks.[3] The second change in July 2007 was particularly difficult, creating uncertainty and extra work at a period of intense activity. It put back the negotiation of the Framework Documents, which had been agreed in draft in May 2007.

Delaying the start date should be considered as a risk management option if significant change in the external environment, such as machinery of government changes, impact on future NDPB set ups.

Stakeholder communication, including with legacy commissions and their staff, was a challenge. Early good practice was not maintained throughout the programme.

Communication with stakeholders and culture change for staff is an important element in successful transition.

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4. Memorandum from Equalities and Human Rights Commission

EHRC Accounts, 2006–08

I am writing to let you know of an issue that has been brought to my attention in the last few days in relation to the Comptroller and Auditor General's report on the Equality and Human Rights Commission's accounts which the Public Accounts Committee will be considering on Wednesday.

The Comptroller and Auditor General's report refers to consultancy fees which were paid to seven individuals re-engaged by the Commission on short-term contracts without the Treasury's authority. In the case of one individual, the total consultancy fee quoted was £105,216. That figure is drawn from the business case which the Commission put to the Government Equalities Office and subsequently to the Treasury.

I have now been told that a further payment of £15,000 was made directly to the individual concerned, after he had left the Commission. The papers that I have seen describe the payment as a "rate change".

The payment was authorised by the Interim Chief Operating Officer of the Commission but I am not yet clear why the payment was made. Many of the individuals directly concerned have now left the Commission and I am contacting them to try to understand the decision-making process which led to the payment. I will pursue these inquiries and let the Government Equalities Office and the National Audit Office have a report on this as soon as I am able to do so. The NAO have told me that they will review the circumstances of the payment. The payment was treated as an accrual in the Commission's accounts for 2006–08.

It does not seem that the extra payment was included in the calculation of the business case that was put to the Government Equalities Office and the Treasury, nor was it notified separately to the National Audit Office when the Comptroller and Auditor General's report on the Annual Report and Accounts was in preparation.

As the Commission's present Accounting Officer, I considered it essential to draw the payment to the attention of the Government Equalities Office and the Comptroller and Auditor General, as I did last week, and to write to you about it now. I very much regret it was not included in the numbers previously notified and that I cannot yet fully explain it. I apologise on behalf of the Commission.

I am copying this letter to the Comptroller and Auditor General, to Neil Sayers at the National Audit Office and to Jonathan Rees at the Government Equalities Office.

Neil Kinghan
Interim Director-General

1 December 2009

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5. Supplementary memorandum from the Government Equalities Office

At the Committee hearing on EHRC on 2 December, we undertook to provide members with:

— The profile of expenditure of the transition programme that set up the Commission.

— A breakdown of the costs arising from the disposal of unwanted properties inherited from the Legacy Commissions.

— A breakdown of the loss on disposal of unwanted assets inherited from the three Legacy Commissions.

— Notes on the legacy and current EHRC property portfolios.

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[3] The Department for Trade and Industry sponsored the ECHR transition programme to May 2006.
The Department for Communities and Local Government (CLG) was the sponsor from May 2006 to July 2007.
The creation of a Government Equalities Office as part of the Department for Work and Pensions was announced in July 2007.
The GEO became a separate department in October 2007.
Accounting Officer responsibility remained with CLG until the GEO Accounting Officer was appointed in February 2007.

— A note on the four Programme Directors in the Transition Team.

I enclose notes on all these issues, which we have already shared informally with the National Audit Office. I also attach a summary note setting out the context for this information.

In addition, the Committee also asked for confirmation of Mr Kinghan's rate of pay, and his expected earnings as interim Director-General of the Commission until the end of his current contract at end-January 2010. As an interim employee, Neil Kinghan works a four-day week and is paid a non-pensionable sum of £1,000 a day. By 31 January, he is expected to have been paid £138,000.

Jonathan Rees
Director General

18 January 2010

Annex

Transition Expenditure

The transition programme to establish the EHRC commenced in September 2005, with the Chair appointed by September 2006, the Board during December 2006 and the Chief Executive by March 2007. The transition programme had to deliver the start-up of the new EHRC and at the same time to manage the integration and transfer of business from the Disability Rights Commission, the Equal Opportunities Commission and the Commission for Racial Equality (as they would concurrently cease to exist as EHRC came into being on 1 October 2007). This all had to be achieved within 24 months.

It is important that the costs of the transition programme—£27.7 million and a further £11.1 million for the associated voluntary early retirement and severance scheme—are seen in the context of what needed to be done, and in what timescale. The transition programme had to deliver the establishment of a new, single organisation infrastructure and at the same time rationalise and integrate the three former Commissions' staff, estates portfolio and associated office fittings, furniture and ICT and telephone systems and equipment. The profile of the full £38.8 million transition expenditure for the set up of the EHRC and costs that arose from the bringing together the three former Commissions into one organisation is set out in Annex 1. The main deliverables for the transition programme were;

— the establishment of EHRC with an organisational design for around 500 staff; and

— a suitable infrastructure for the business, including accessible office accommodation and centralised office, IT and telephone systems to be operational by 1 October 2007.

In seeking to establish the EHRC with an organisational design for around 500 staff, it was essential not only that skills and knowledge from the former Commissions were retained, but that there was the scope to recruit new skills to support the considerably wider remit of the EHRC. In addition to race, equal opportunities and disability the EHRC deals with age, religion and belief, trans–gender, sexual orientation and human rights. The three existing bodies employed between them over 600 people and the plan was to transfer around 350 staff to EHRC to provide the right balance between continuity and the necessary flexibility to bring in new skills.

To achieve this, the sponsor Departments responsible for the three out going Commissions agreed with Treasury the setting up of a voluntary early retirement and severance scheme. The terms of this needed to be in line with the Civil Service rules, as the staff of the legacy bodies were members of the PCSPS, which determined their retirement and redundancy arrangements. The scheme facilitated the departure of 185 individuals at a total cost of £11.1 million and gave the EHRC the flexibility in its staffing levels (with around 347 former Commission staff transferring) to recruit the additional skills and expertise it needed.

In establishing a suitable infrastructure for the business (including accessible office accommodation and centralised office, IT and telephone systems) the combined portfolio of property and the former Commissions' IT and business support systems were reviewed against the EHRC business needs and current Government guidelines.

EHRC was bringing together three different organisations into a new, single–culture organisation and this was to be achieved by 1 October 2007 without any handover period or gradual transfer of undertakings, as the former Commissions ceased operations on the 30 September 2007. Ultimately, the transition from three functioning organisations with helplines and regulatory functions to a single body with much a much wider remit had to take place over a single weekend.

The three existing bodies had twenty separate office locations across GB ,many in the same cities (particularly London, Manchester, Edinburgh and Cardiff). It was necessary to consolidate these into single locations which resulted in some instances in EHRC establishing a new office and the need to dispose of the former Commissions' lease holding. A number of the offices were either not able to accommodate the combined number of staff transferring staff from the former Commissions or had poor accessibility or inadequate facilities (of particular concern for an equality body advocating good practice in employing a diverse workforce). As a consequence of the changes in the offices, a number of the existing fixtures and fittings, IT and office systems were also disposed of (details are given in Annex 3). Where possible, the better quality equipment and furniture from the former Commissions were relocated to the new EHRC offices. In the case of the Manchester offices, as these were in the same office block they were remodelled to give single reception, security access and a standardised fit out for the EHRC.

The transition programme expenditure included the costs of accommodating the transition team through their inception in 2006 through to March 2008, the costs associated with the initial lease and running costs for new EHRC offices (as they were being prepared to accommodate the transferring staff on 1 October 2007), and the costs of winding down and ultimate disposal for the former Commission offices found to be surplus to requirement. The details of the £2.7 million costs arising from these activities are shown in Annex2. The details of the legacy Commission properties and how they were integrated into the EHRC or disposed of are shown in Annex 4.

Overall the rationalisation of the legacy commission portfolio and improved use of the floor space has meant that whereas the legacy commission portfolio consisted of 20 separate offices, with 122,534 square footage and accommodating 580 work stations, the current portfolio (shown in Annex 5) involves a 25% reduction in office locations (down to 15), a one-third reduced square footage (now 82,435) but with the potential to accommodate a higher number of work stations if needed. Further rationalisation is planned with the '151 BPR' site being disposed of in March 2010, and when the lease for 3 More London ends it is planned that the staffing requirement in London will be reduced and an alternative location found.

The Commission is still seeking the disposal of legacy body properties—Fox Court, London; The Old Tun, Edinburgh and Ty–Nant Court, Cardiff. The on going liabilities for these properties have been accounted for in the 2008/09 financial statements.

The final major undertaking was to develop a suitable infrastructure for EHRC to be operational on 1 October 2007, including the web site, the help desk and all business support systems (such as the intranet, finance systems, case and contact management, data storage and office systems). The former Commissions' IT and business support systems were reviewed against the EHRC business needs and current Government guidelines. In some cases a former Commission's base system was adopted by EHRC (for example the finance system, the telephone system), which had the advantage that some transferring staff would be familiar with the system and it helped in the transfer of skills and archive data. A consequence was that some former Commissions' own supporting infrastructure systems were therefore obsolete or incompatible with the EHRC infrastructure and so the associated IT software, IT and telephone hardware and linked office equipment was disposed of. The cost of this is included in Annex 3.

Note on the Accounting Entries

The profile of the £38.8 million transition spend is shown by month in the attached Annex 1. In reviewing this schedule it should be noted that the £38.8 million transition programme costs were recorded in the DCLG and transition finance systems on the basis of when the invoices were received and payments made. At the year end the EHRC finance team reviewed all of the financial details, and in agreement with the NAO re–allocated, corrected and restated that transition team monthly expenditure which properly related to the EHRC operations and also that in relation to the fixed asset acquisitions. The work also included making year end accruals and some corrections to the categories some expenditure was being reported under in the draft financial statements. These adjustments are reflected in the 'Year End' column shown in the schedule. Accordingly the schedule provides the best estimate of when expenditure took place for the period 2006–2008.

The details of the disposal of legacy Commission properties are shown in Annex 4. The accounting treatment for these transactions is complex, with some costs recorded in the liabilities of the closing Commissions and other costs being recorded in the EHRC costs of transition. For these reasons it is not possible to cross refer this schedule to the details of the £2.7 million expenditure (shown in Annex 2) reported within the £38.8 million transition costs. The accounting treatment for the disposal of the legacy properties has been reviewed and agreed with the NAO.

Annex 2 sets out the expenditure details for the costs arising from the set up of the EHRC and disposal of unwanted properties inherited from the Legacy Commission £2.7 million. The detailed review of these costs by property has been limited as the transition programme records did not capture the property location for every transaction. The analysis therefore captures the regional location and where possible the exact property. The schedule gives an indication of the cost of rationalising the legacy Commissions' holdings in Cardiff, Edinburgh, Glasgow and London.

Annex 3 sets out the Loss on disposal of unwanted assets inherited from the Legacy Commissions. The analysis is by the type of fixed asset and by the legacy Commission. This reflects both the disposal of assets, fixtures and fittings, IT infrastructure associated with Legacy Commission properties disposed of together with the disposal of IT equipment considered obsolete or surplus to needs.

13 January 2010

Annex 1

PROFILE OF TRANSITION SPEND 2006–08

	Jan 06	*Jan 07*	*Feb 07*	*Mar 07*	*Apr-07*	*May-07*	*Jun-07*	*Jul-07*	*Aug-07*	*Sep-07*
Revenue Expenditure										
Voluntary early retirement and early severance scheme for employees of the Legacy Commissions									6,567.31	
Salary costs for the Transition Team	−42,108.98	13,574.78		27,052.03	−12,230.27	116,030.64	350,096.18	527,158.33	766,349.76	1,601,910.41
Costs arising from the set up of the EHRC and disposal of unwanted properties inherited from the Legacy Commissions. See Annex 2					3.36		41.76	23,500.00	142,845.70	119,344.39
Consultancy costs			10,400.00		3,062.50	−0.01	406,550.07	17,500.00	287,351.03	381,258.31
Loss on disposal of assets inherited from the Legacy Commissions due to the disposal of unwanted properties or found obsolete or incompatible with the adopted EHRC business support systems. See Annex 3										
Other costs relating to the Transition		940.00	3,997.59	511.52	3,832.98	61,117.22	401,610.44	312,688.98	990,615.83	927,801.50
Total Revenue Expenditure	**−42,108.98**	**14,514.78**	**14,397.59**	**27,563.55**	**−5,331.43**	**177,147.85**	**1,158,298.45**	**880,847.31**	**2,193,729.63**	**3,030,314.61**
Capital Expenditure										
Fit Out										252,625.00
F&F										
Furniture										
ICT							1,475.13	8,765.39	35,286.13	43,317.47
Telecomms										
Website							11,844.00	193,734.00	260,324.80	
Intangibles										141,369.03
Total Capital Expenditure	–	–	–	–	–	–	**13,319.13**	**202,499.39**	**295,610.93**	**437,311.50**
Total Expenditure	**−42,108.98**	**14,514.78**	**14,397.59**	**27,563.55**	**−5,331.43**	**177,147.85**	**1,171,617.58**	**1,083,346.70**	**2,489,340.56**	**3,467,626.11**

	Oct-07	*Nov-07*	*Dec-07*	*Jan-08*	*Feb-08*	*Mar-08*	*Year-End*	**Total**
Revenue Expenditure								
Voluntary early retirement and early severance scheme for employees of the Legacy Commissions	11,129,313.10							**11,135,880.41**
Salary costs for the Transition Team	785,454.41	1,356,041.08	920,920.88	712,995.99	572,314.14	448,697.42	538,805.09	**8,683,061.89**
Costs arising from the set up of the EHRC and disposal of unwanted properties inherited from the Legacy Commissions. See Annex 2	382,065.48	938,434.18	616,723.45	248,955.72	362,500.24	116,920.31	−256,978.96	**2,694,355.63**
Consultancy costs	404,599.86	274,990.07	132,904.91	16,025.87	22,387.60	761.85	−97,319.76	**1,860,472.30**
Loss on disposal of assets inherited from the Legacy Commissions due to the disposal of unwanted properties or found obsolete or incompatible with the adopted EHRC business support systems. See Annex 3							1,396,167.89	**1,396,167.89**
Other costs relating to the Transition	1,698,956.83	1,485,902.11	326,754.09	1,144,644.31	212,562.18	59,346.23	−3,940,708.86	**3,690,572.95**
Total Revenue Expenditure	**14,400,389.68**	**4,055,367.44**	**1,997,303.33**	**2,122,621.89**	**1,169,764.16**	**625,725.81**	**−2,360,034.60**	**29,460,511.07**
Capital Expenditure								
Fit Out	1,282,292.91	431,681.20		946,492.38	666,914.04	560,719.75	93,789.46	**4,234,514.74**
F&F						30,512.75		**30,512.75**
Furniture		3,409.85			593,477.22	114,149.28		**711,036.35**
ICT	462,015.05	252,608.81		33,400.36	10,616.13	95,197.67	34,335.02	**977,017.16**
Telecomms						764,484.54	793.12	**765,277.66**
Website	261,995.63	227,451.84					240,600.00	**1,195,950.27**
Intangibles	607,839.61	79,917.90			10,716.00	593,375.00		**1,433,217.54**
Total Capital Expenditure	**2,614,143.20**	**995,069.60**	–	**979,892.74**	**1,281,723.39**	**2,158,438.99**	**369,517.60**	**9,347,526.47**
Total Expenditure	**17,014,532.88**	**5,050,437.04**	**1,997,303.33**	**3,102,514.63**	**2,451,487.55**	**2,784,164.80**	**−1,990,517.00**	**38,808,037.54**

Annex 2

COSTS ARISING FROM THE SET UP OF THE EHRC AND DISPOSAL OF UNWANTED PROPERTIES INHERITED FROM THE LEGACY COMMISSIONS

"Birmingham"	**12,245**
Rationalisation of offices held	
Bus. Rates	10,051
Cleaning	1,898
Security	296
"Cardiff"	**10,116**
Rationalisation of offices held	
Bus. Rates	1,209
Electricity	103
Rent	68,804
"Edinburgh"	**3,432**
Rationalisation of offices held	
Bus. Rates	3,432
"Glasgow"	**21,840**
Rationalisation of offices held	
Car park rent	452
Cleaning	2,304
Rent	19,084
"Nottingham"	**4,790**
Rationalisation of offices held	
Service Charge	4,790
3 More	**393,809**
Lead in costs to have new offices ready for 1 Oct 07	
Bus.Rates	92,636
Property Ins	8,934
Rent	238,766
Service Charge	53,474
36 Broadway	**27,906**
Rationalisation of offices held	
Rent	27,906
Arndale	**1,494**
Office Reorg.	1,494
Capital Tower	**61,513**
Rationalisation of offices held	
Bus.Rates	8,556
Electricity	353
Maint Contracts	9,020
Property Ins	1,090
Reactive maint	220
Rent	28,011
Service Charge	14,265
Fox Court	**366,558**
Rationalisation of offices held	
Bus.Rates	193,178
Rent	173,380
Lowry House	**257,913**
Lead in costs to have new offices ready for 1 Oct 07	
Rent	257,913

Riverside House	**63,284**
Rationalisation of offices held	
Rent	15,047
Service Charge	48,237
St Dunstans	**742,593**
Rationalisation of offices held	
Cleaning	5,688
Cleaning Equip	5
Electricity	48,732
Gas	1,778
Maint Contracts	4,836
Rent	332,655
Security	39
Water rates	449
Disposal costs including dilapidations	348,411
St Stephen's House	**125**
Rationalisation of offices held	
Maint Contracts	9
Security	116
The Tun	**74,101**
Rationalisation of offices held	
Electricity	1,990
Rent	65,712
Service Charge	6,398
Transition	**577,037**
Lead in costs from 2006 start up to have EHRC and new offices ready for 1Oct 07	
Bus.Rates	1,252
Car park rent	1,528
Cleaning	501
Electricity	1,379
Fixed maintenance	833
Maint Contracts	30,356
Office Reorg.	6,193
Property Ins	5,689
Rent	313,357
Security	58,161
Service Charge	3,222
Storage	45
removals	154,522
Ty-Nant Court	**17,878**
Rationalisation of offices held	
Rent	17,878
Windsor House	**709**
Rationalisation of offices held	
Rent	709
Grand Total	**2,694,356**

Annex 3

LOSS ON DISPOSAL OF ASSETS INHERITED FROM THE LEGACY COMMISSIONS DUE TO THE DISPOSAL OF UNWANTED PROPERTIES OR FOUND OBSOLETE OR INCOMPATIBLE WITH THE ADOPTED EHRC BUSINESS SUPPORT SYSTEMS

	CRE	*DRC*	*EOC*	*Total*
Furniture				
Net Book Value transferred	77,139.00	189,597.82	181,874.00	448,610.82
Disposed	23,810.16	69,257.25	77,335.84	170,403.25
Remaining	53,328.84	120,340.57	104,538.16	278,207.57

The furniture disposed of was the older items and those associated with the legacy properties that were disposed of.

CRE: The assets disposed were at St Dunstan's and transfered at nil value to PADA on transfer of the buildings. EHRC completed a physical verification of the assets and £24 thousand could not be found. The NAO had noted in prior years concerns on the robustness of the fixed asset register and controls, so EHRC undertook to validate the assets and make necessary write offs in agreement with the NAO as part of the inherited assets and liabilities of the CRE. Given the prior year conerns of the NAO, it is not possible to establish over what timescales the discrepency arose in the fixed asset register.

DRC: Furniture at offices no longer used was disposed of, most from Fox Court was moved to Manchester, some furniture in Manchester disposed as surplus to requirements.

EOC: Furniture at offices no longer used was disposed of, some furniture in Manchester disposed surplus to requirements as DRC furniture from Fox Court used.

	CRE	*DRC*	*EOC*	*Total*
Intangible assets, IT, Telecomms and Software				
Net Book Value transferred	316,386.00	120,101.01	251,707.00	688,194.01
Disposed	258,504.18	81,109.17	243,177.00	582,790.35
Remaining	57,881.82	38,991.84	8,530.00	105,403.66

The IT, Telecomms and Software disposed were as a consequence of adopting a single suite of systems and hardware. Items were incompatible, obsolete or surplus to requirements.

CRE: £258 thousand of IT assets were disposed of. Of the £258 thousand, £188 thousand was physically verified by EHRC and disposed as not required by the business. £70 thousand could not be found. The NAO had noted in prior years concerns on the robustness of the fixed asset register and controls, so EHRC undertook to validate the assets and make necessary write offs in agreement with the NAO as part of the inherited assets and liabilities of the CRE. Given the prior year conerns of the NAO, it is not possible to establish over what timescales the discrepency arose in the fixed asset register.

DRC: IT assets surplus to requirements disposed of, TT put new servers and kit in.

EOC: IT assets surplus to requirements disposed of, TT put new servers and kit in.

	CRE	*DRC*	*EOC*	*Total*
Fixtures & Fittings				
Net Book Value transferred	0.00	623,150.21	19,824.00	642,974.21
Disposed	0.00	623,150.21	19,824.00	642,974.21
Remaining	0.00	0.00	0.00	0.00

The fixtures and fittings disposed of was associated with the legacy properties that were disposed of. In addition the Arndale offices were re-fitted to accomodate the single organisation which led to the disposal of some existing fixtures and fittings.

DRC: Arndale House was refurbished so existing Fixtures and fittings no longer used had to be disposed.

EOC: Arndale House was refurbished so existing Fixtures and fittings no longer used had to be disposed.

	CRE	*DRC*	*EOC*	*Total*
Total disposals	**282,314.34**	**773,516.63**	**340,336.84**	**1,396,167.81**

Annex 4

LEGACY PROPERTY LEASE HOLDINGS DISPOSED OF BY EHRC OR RETAINED

Location	*Address*	*Floor*	*F/H or Lease Expiry*	*Breaks*	*Employees*	*Area m²*	*Area ft²*	*Car Parking Spaces*	*Cost per parking space £p.a.*	*Total car parking cost*	*Rateable Value*	*Estimated Service Charge pa*	*Rates Payable 02–03*	*Rent per ft²*	*Total Rent*	*PPMaintenance*	*Total Cost*	*Observation*
DRC																		
Manchester	Arndale House, Arndale Centre, Manchester, M4 3AQ	2nd/3rd	24–Jun–10	25–Dec–07	105	1,392	14,985	12	£12,690	£152,280	£171,000	£32,500	£74,663	£12.50	£187,313	£12,486	**£459,241**	Now occupied by EHRC. See "Property Cost Summary 2009/10"
London	Fox Court, 14 Grays Inn Road, London, WC1X 8HN	3rd	31–Mar–18	23–Jun–13	51	1,001	10,780	8	£0	£0	£0	£78,256	£110,000	£30.00	£323,400	£1	£511,657	Disposal is ongoing, and subject to active marketing. Lease contains mutual break option on 23–06–2013.
Edinburgh	Riverside House, 502 Gorgie Road, Edinburgh, EH11 3AF	1st	24–Feb–10	24–Feb–10	20	377	4,058	8	£0	£0	£57,200	£16,000	£23,571	£15.60	£63,305	£9,842	£112,718	"Property disposed of in August 2008. Savings over lifetime of lease calculated at £82,330."
Cardiff	Unit 5-6, Ty–nant Court, Ty–nant Road, Morganstown, Cardiff. CF 15 8LW	Grd.	6–Oct–10	6–Oct–10	16	211	2,266	8	£0	£0	£33,500	£5,333	£12,100	£12.50	£28,325	£6,645	£52,403	Unit 5 disposed of in June 2008. Savings over lifetime of lease calculated at £31,365. Unit 6 disposal remains ongoing and subject to active marketing.
Bangor	Swyddfa Gogledd Cymru, Canolfan, Lafan, 2 Glanrafan, Bangor, Gwynedd, LL57 1LH	1st	21–Oct–07	21–Oct–07	2	35	380	0	£0	£0	£0	£3,040	£0	£32.23	£12,247	£15,287	Lease ended	
CRE																		
Manchester	Maybrook House, 40 Blackfriars Street, Manchester	5th	23–Jun–08	24–Jun–06	15	568	6,114	0	£0	£0	£73,632	£30,803	£25,080	£11.49	£70,251	£1	£126,135	Lease ended
Edinburgh	The Tun, 12 Jackson's Entry, Edinburgh, EH8	2nd	14–Dec–26	14–Jun–12	10	350	3,767	0	£0	£0	£71,800	£21,215	£19,640	£24.95	£93,998	£1	£134,854	Disposal is ongoing and subject to active marketing. Lease includes teant only break point at June 2012.
Cardiff	Capital Tower, Greyfriars Road, Cardiff	3rd	26–Apr–11	26–Apr–06	9	508	5,468	0	£0	£0	£47,750	£28,968	£16,724	£8.38	£45,824	£1	£91,517	Property handed back to landlord October 2008 following activation of break clause
Birmingham	Lancaster House, 67 Newhall Street, Birmingham, B3 1NA	3rd	20–Jun–10	20–Jun–10	14	493	5,307	2	£293	£586	£43,000	£18,603	£16,180	£11.02	£58,480	£1	£93,850	Now occupied by EHRC
	Lancaster House, 67 Newhall Street, Birmingham, B3 1NA	part 4th	24–Dec–11	25–Dec–06	200	2,153	0	£0	£0	£0	£6,042	£7,248	£12.25	£26,372	£1	£39,663	Lease ended	
London	St. Dunstan's House, 201-211 Borough High Street, London, SE1 1 GZ	B/G/1st/2nd/3rd/4th	21–Dec–13	25–Dec–06	154	3,043	32,755	8	£0	£0	£515,000	£0	£126,310	£20.23	£662,643	£1	£788,954	Property disposed of to Personal Accounts Development Authority at 31 Mar 2008

Location	Address	Floor	F/H or Lease Expiry	Breaks	Employees	Area m^2	Area ft^2	Car Parking Spaces	Cost per parking space £p.a.	Total car parking cost	Rateable Value	Estimated Service Charge pa	Rates Payable 02–03	Rent per ft^2	Total Rent	PPMaintenance	Total Cost	Observation
Govt Office Bristol	In local office of government, work station rental				4												£26,167	EHRC maintained relationship for English Regions activity
Govt Office Leeds	In local office of government, work station rental				4												£26,167	EHRC maintained relationship for English Regions activity
Govt Office Nottingham	In local office of government, work station rental				6												£26,167	EHRC maintained relationship for English Regions activity
Govt Office Newcastle	In local office of government, work station rental				4												£26,167	EHRC maintained relationship for English Regions activity
Govt Office Cambridge	In local office of government, work station rental				4												£26,167	EHRC maintained relationship for English Regions activity
Govt Office Guildford	In local office of government, work station rental				4												£26,167	EHRC maintained relationship for English Regions activity
EOC																		
Manchester	**Arndale House, Arndale Centre, Manchester, M4 3EQ**	**4th & 5th with 50% of the 3rd sublet to DRC**	**24–Jun–10**	**25–Dec–07**	**101**	**2,337**	**25,156**	**0**	**£0**	**£0**	**£277,000**	**£127,000**	**£130,000**	**£11.77**	**£296,085**	**£55,000**	**£608,085**	**Now occupied by EHRC**
London	**36 Broadway, St James's, London, SW1H 0BH**	**2nd**	**6–Jun–10**	**31–Dec–07**	**20**	**263**	**2,831**	**0**	**£0**	**£0**	**£86,500**	**£46,000**	**£35,000**	**£39.56**	**£112,000**	**£14,000**	**£207,000**	**Schedule of dilapidations agreed with lanlord following activation of break clause (2007). Dilapidations settlement of £27,000**
Cardiff	**Windsor House, Windsor Lane, Cardiff, CF10 3GE**	**2nd**	**5–Nov–11**	**29–Sep–06**	**18**	**287**	**3,090**	**3**	**£0**	**£0**	**£32,000**	**£17,000**	**£13,000**	**£14.89**	**£46,000**	**£9,000**	**£85,000**	**Early surrender of lease negotiated with landlords at Jan 2008, at a cost of £40,000.**
Glasgow	**St Stephens House, 279 Bath St, Glasgow, G2 4JL**	**G**	**31–Dec–09**	**31–Dec–08**	**19**	**318**	**3,423**	**2**	**£0**	**£0**	**£51,000**	**£21,000**	**£14,000**	**£16.94**	**£58,000**	**£11,000**	**£104,000**	**Schedule of dilapidations agreed with landlord following activation of break clause. Property handed back to landlord in December 2007. Dilapidations settlement of £30,000**
Total	**20 office locations**				**580**	**11,383**	**122,534**				**£1,459,382**	**£451,760**			**£2,084,243**		**£3,587,364**	

Annex 5

ESTATES PORTFOLIO 2009–10

Address	*Floors Rented*	*Area ft²*	*Tenure*	*Lease Start*	*Rent Start*	*Rent Free*	*Lease end*	*No of Workstations*	*Cost per sq ft*	*Cost per Workstation*	*Total Building Costs*
3 More London Car Park (1)	2nd Floor	17,280	6 yrs	10/8/07	27/11/07	4 months	1/2/13	178	75	7,285	1,373,665
	Added car parking spaces	15,625									
Arndale House	Part 3rd Floor & 4th & 5th	25,162	10 yrs	25/12/99	11/2/00	24 months	24/6/10	143	23	4,130	680,317
Arndale House	2nd & Part 3rd Floor	14,860	10yrs	25/12/99	11/2/00	24 months	24/6/20010	144	25	2,629	437,526
Optima Glasgow	G	5,847	5yrs	10/8/07	1/4/08	9 months	9/8/12	37	48	7,518	300,447
Optima Glasgow	1st	4,062	5yrs	10/8/07	1/4/08	9 months	9/8/12	34	27	3,284	117,440
New Tun Edinburgh		1,000				None		N/A	22	0	22,489
Calln.Sq Cardiff	3 fl Front Suite		10yrs	21/12/07	14/1/11	36 months	5/3/18				0
	3 fl Rear Suite	7,375	10yrs	21/12/07	14/4/08	6 months	5/3/18	56	35	4,573	276,043
Lancaster Hse, Birmingham	3rd Floor	5,780	12yrs	14/7/98		None	20/6/10	55	21	2,163	130,594
Canolfan Lafan, Bangor	1st Floor Office Suite—Rooms 1–4	0	2.75yrs	21/1/05		None	21/10/07	4	0	5,488	23,652
151 BPR London	5th Floor	1,069	2.42yrs	1/10/07		None	31/3/10	12	97	8,629	104,362
Govt Office Bristol		4	N/A	6,542	26,167						
Govt Office Leeds								4	N/A	6,542	26,167
Govt Office Nottingham	Retained workspace rental through GO network.							6	N/A	4,361	26,167
Govt Office Newcastle	Total bill £157,000 to 31/03/09 spread equally across offices.							4	N/A	6,542	26,167
Govt Office Cambridge								4	N/A	6,542	26,167
Govt Office Guildford								4	N/A	6,542	26,167
New Edinburgh	Retained workspace rental through BWP Business Exchange, Andrew Sq, Edinburgh							8	N/A	3,081	24,650
Total	**15 office locations**	**82,435**							**697**		**3,663,811**
Legacy Commission Properties where disposal is still being pursued, costs and details in Annex 4											
Fox Court, London											
The Old Tun, Edinburgh	Part 2nd Floor	2,774	25yrs	14/12/01		None	14/12/26				
Ty Nant Court, Cardiff	Ground floor Unit 6		10yrs	6/10/00		None	5/10/10				

EHRC TRANSITION TEAM—PROGRAMME DIRECTORS

Name	*Background*	*Start*	*End*	*Reason for Leaving*
Patrick Boyle	NHS/Local government; CEO of The Rent Service	September 2005	October 2006	Left at end of 1st phase of transition following arrival of new EHRC Chair
Duncan Campbell	Civil Service (was Head of Women & Equality Unit Sponsor Team for EHRC)	October 2006	November 2006	Appointment was interim measure pending arrival of permanent replacement
Chris Bowman	Private sector (Ernst & Young), then jobs in DH/ DWP management	November 2006	May 2007	Resigned (to resume private sector career)
Dr Norma Wood	Private Sector—Coopers & Lybrand; Galileo International—then consultant working with OGC; carried out 2007 Gateway Review of Transition Programme	June 2007	March 2008	End of transition programme

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