

EDUCATION, CULTURE AND SPORT COMMITTEE

Tuesday 6 February 2001
(*Afternoon*)

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EDUCATION, CULTURE AND SPORT COMMITTEE

5th Meeting 2001, Session 1

CONVENER

*Karen Gillon (Clydesdale) (Lab)

DEPUTY CONVENER

*Cathy Peattie (Falkirk East) (Lab)

COMMITTEE MEMBERS

*Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)

*Mr Frank McAveety (Glasgow Shettleston) (Lab)

*Irene McGugan (North-East Scotland) (SNP)

Mr Brian Monteith (Mid Scotland and Fife) (Con)

*Michael Russell (South of Scotland) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Mike Watson (Glasgow Cathcart) (Lab)

WITNESSES

Patrick Andrews (Shepherd & Wedderburn)

Eddie D'Silva (Millennium Commission)

Mike O'Connor (Millennium Commission)

CLERK TO THE COMMITTEE

Martin Verity

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 3

Scottish Parliament

Education, Culture and Sport Committee

Tuesday 6 February 2001

(Afternoon)

[THE CONVENER *opened the meeting at 14:34*]

Items in Private

The Convener (Karen Gillon): I am sorry that I am late, folks. I will move straight to the first item on the agenda, which is to decide whether to take items 5 and 6 in private. Although I think that it is appropriate to consider both items in private, I will take committee members' views on the subject.

Michael Russell (South of Scotland) (SNP): We should certainly take item 6 in private, as we will be discussing a draft report. However, I do not see much need to go into private session for item 5. We all have views on increasing the effectiveness of committees and those views should be on the public record.

After we have finished with our witnesses, I want to mention our special educational needs report. I am sure that all committee members will deprecate its being reported on Friday before its publication.

The Convener: As I was about to raise that issue, I appreciate the fact that you have mentioned it.

It has been suggested that we take item 5 in private because all the other committees are discussing committee effectiveness in private, with a view to reporting back to the conveners liaison group. However, if the committee is minded to discuss the item in public, I have no problems with that.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): If other committees are handling the item in private, I see no reason why we should be any different. However, I am not much bothered one way or the other.

Cathy Peattie (Falkirk East) (Lab): Although I am not particularly worried, the committees are very important to the working of the Parliament and perhaps any discussion about how committees can create wider civic participation and so on should be taken in public. However, if the other committees are taking the item in private, perhaps we should do the same.

Michael Russell: Let us be individual in this committee.

The Convener: Do members agree to take item 5 in public and item 6 in private?

Members *indicated agreement.*

National Stadium Inquiry

The Convener: The second item on the agenda is an oral evidence-taking session for our National Stadium inquiry. I welcome Mike Watson, who has an interest in the matter, as Hampden is in his constituency. I also thank representatives from the Millennium Commission for attending today's meeting. I welcome Mike O'Connor CBE, who is the director of the commission; Eddie D'Silva, who is the directorate co-ordination manager; and Patrick Andrews, who is the solicitor acting for the funding bodies. Although we have received large written submissions from your organisation and from others, the committee will be more than happy to listen to any introductory comments. Members will then ask questions.

Mike O'Connor (Millennium Commission): I will be happy to go straight to questions to minimise demands on the committee's time.

The Convener: That is fine. Who would like to kick off?

Mr Frank McAveety (Glasgow Shettleston) (Lab): On page 2 of your September 2000 submission, you state:

"The responsibility for the selection and nomination of suitable Board Members rested with QPFC, subject to approval by the Commission."

What was the process of examination of those who were nominated, and do you have responsibility somewhere down the line for vetting those individuals?

Mike O'Connor: In seeking to approve the nominations for the board of the stadium, we were looking for a spectrum of interests, not just football. Queen's Park Football Club is—obviously—a football club, but in supporting the development of Scotland's National Stadium, we wanted a facility that would be available for community uses that are wider than football. We felt therefore, that a spectrum of interests should be represented on the board. As we were anxious to ensure that proper financial expertise was included and that the local authority was heavily involved, we asked for certain categories of people to be involved. We were given names and, after considering their qualifications, we were satisfied that they formed a competent and experienced board.

Mr McAveety: Have you examined the balance of the board members of the stadium and the process by which they were selected for that role?

Mike O'Connor: It was for QPFC to nominate members of the board. The club gave us those nominations and we believed that they were satisfactory.

Michael Russell: Our inquiry centres around the events of last year and 1999; in particular 26 July 1999, when the commercial company that is involved in the project had to take out an arrestment warrant—a situation that no one wanted. I refer you to page 3 of your submission of September 2000, because I want to ask about the procedures and about what happened—it strikes me that the Millennium Commission is in the middle of this situation.

Your submission says that during 1997 and 1998, you received regular reports that showed "a constant funding gap". You go on to say that, "Unfortunately, progress was disappointing." Did no one from your organisation think that it was, increasingly, inevitable that extra resources would be required?

Mike O'Connor: There are funding gaps in many of our projects throughout the country. When we announce our support for a project and start to work on it, there is often a funding gap. We continue confidently in the hope that the gap will, at the end of the day, be closed. Many aspects of funding, such as sponsorship and so on, emerge relatively late in a project's life. In the case of the National Stadium, the company hoped to fund the development partly from the sale of debentures.

We were aware of that funding gap, which remained significant and constant for some time. It was not until early to mid-spring 1999 that we became alarmed, because the reported gap suddenly started to grow dramatically. That was when we became aware of the nature of the problem and convened a meeting of the public sector funders to see whether we could find a solution to the National Stadium's problems.

Michael Russell: Your submission says that in January 1999, you rejected "an informal approach"—I presume that that is what you are talking about. However, on 9 February—within days of that rejection—you were formally told that the "costs had increased" and that part of the increase was to do with the landfill tax and other requirements. You then decided that you would not assist. Why did you decide not to assist, when you knew that the gap was crucial?

Mike O'Connor: We received an informal approach for an increase in grant, but we rarely provide extra grant to our projects. If you were to look at the extra grants that we have provided, you would see that they amount to only about 2.3 per cent of our total grant. Normally, our first response to applications for extra grant or for grant increases is to say to the applicant, "No. We are a body that has limited funds. We have a limited pot of money, which is virtually all committed." We put the challenge back into the hands of the applicant so that they try to raise the resources elsewhere.

Michael Russell: That is playing hardball with your applicants, which might be required.

Although you commissioned Deloitte & Touche in June, the result of your rejection of the request for an increase in grant was that on 26 July, a warrant was issued by the principal contractor against QPFC. In retrospect, do you think that you might have been more sensitive than you were? The result of your action was the creation of an enormous legal problem that required much unpicking, as your report admits.

Mike O'Connor: The fundamental reason why the National Stadium ran into financial problems was not that we refused to give it more money in January. It hit financial problems because the project's costs grew from £51 million to £61 million. We brought the co-funders together to lead a rescue attempt to resolve those problems.

Michael Russell: Should you have known that—

The Convener: Mike—

Michael Russell: I am sorry, convener, but I want to make the point.

The Convener: Do so through the chair, please.

Michael Russell: Should you have known that there were financial problems in 1997, 1998 and 1999, given that you were getting, in your own words, regular reports on

“the financial position and progress”?

With hindsight, should you have known that and, therefore, should not you bear part of the responsibility?

Mike O'Connor: The gap of the order of £2 million that existed in the early years—1997 and 1998—was manageable, controllable and could have been resolved. Given the prospects that remained for more funding to be delivered through sponsorship and debenture sales, the gap of £2 million was not a death blow. The crippling point came when cost increases began to emerge. Those were costs to cover the extra things that were done, of which we were unaware. The costs grew by £10 million, but a gap between the costs and the projections is more serious during the later stages, when bills must be paid.

The Convener: I invite Frank McAveety to declare an interest that he now realises he has.

Mr McAveety: I am a former member of the Scottish Football Association Museum Trust. That relates to my former Glasgow City Council responsibilities and was a non-remunerative post. I declare that interest in advance of any difficulties, as it concerns an element of the overall package.

14:45

Mike Watson (Glasgow Cathcart) (Lab): I also wish to declare an interest. Queen's Park Football Club lies in my constituency, and I rent office space from it—not in the plush new building, however.

Michael Russell: In a dugout?

Mike Watson: Mr Russell's suggestion is fairly close.

I am particularly concerned about the overall costs, and about the position in which Queen's Park Football Club finds itself. In July 1999, your consultants provided estimated project outturn costs of £60.5 million. Where did that figure come from? What were its components? For obvious reasons, it could not have included some of the detailed costs that arose subsequently, but it would be helpful to have some breakdown.

Mike O'Connor: The background is that the original cost of the total project was £51 million. The element that the Millennium Commission was funding cost £46 million. The £5 million project was funded mainly by sportscotland. We found out in the latter part of 1999 that the true total costs of the project had increased to £61 million.

The figure increased for a number of reasons, which I will put into three groups. First, there were enhancements in design specification. Secondly, there were acceleration costs; to get the stadium ready for the 1999 Scottish cup final, the work had to be done more quickly, which contributed to the higher costs. Thirdly, additional safety works were undertaken. Taken together, those factors amounted to a £6.2 million increase.

A further £2.7 million increase resulted from additional works that were carried out on the stadium. Those were outwith the project scope that the Millennium Commission or sportscotland had funded. For example, work was done on the pitch that was not in our original project. There were also increases in professional fees and extra costs, of around £1.1 million, associated with the National Stadium.

The costs therefore went up for a number of reasons, but we were not aware or made aware of the total cost until we sent our consultants in to find out the full picture. We depend on reports that are sent to us by the National Stadium. Throughout the first half of 1999, the funding gap for the costs of the project widened rapidly. It was not until we and the other co-funders sent in independent experts that we found out the true cost of the project.

Mike Watson: That breakdown was helpful. If we chart the progress of the costs from the initial stages—I have figures from November 1996 through to the end of last year—it is apparent that

the Millennium Commission was originally going to contribute £23 million, which was 45 per cent of the estimated total of £51 million.

Mike O'Connor: Yes.

Mike Watson: In the end, the Millennium Commission's total input was £24.15 million, which was only about 37.5 per cent of the final total of £63.8 million. My first question is this: why did the Millennium Commission's percentage of the input drop, and why were you not prepared to maintain your percentage?

My second question concerns Queen's Park Football Club, which was not originally asked to put in any money at all, but which eventually ended up putting in £10.3 million—if I read my handwriting correctly. It seems to me that a disproportionate burden has been placed on Queen's Park Football Club, which should not necessarily have had to pay anything. Because it has had to upgrade the stadium for cup finals and subsequent events, it seems that the club must bear a disproportionate cost. What is your view?

Mike O'Connor: Your first question was to ask why the percentage of the total cost that was funded by the Millennium Commission has fallen. One of the main reasons why is that the final cost of the stadium included elements that we did not agree to fund and which were not part of our project. The National Stadium plc chose to do extra work—good work, which was perhaps needed by the stadium—but it was not commissioned by us. I do not think that it was reasonable to expect us to fund work that we had not agreed to.

Mike Watson: Was not that additional work essential? It was not something that the National Stadium had a choice about, was it? There was a new management structure and safety requirements had to be implemented.

Mike O'Connor: There was a solar canopy, an escalator, a raised pitch and other toilets. That was work that the National Stadium chose to do. It was not work that the National Stadium told us it intended to do and wanted us to pay for. To ask the Millennium Commission to pay for it after the event is not reasonable.

We have a limited income. By 1999, we had committed nearly all our funds to projects that are still to open, such as the Glasgow science centre. We were therefore not in a position to increase grants significantly. The increase in grant to the stadium was 5 per cent. If we had to do that for every project throughout the country we would simply not have the money, so we must be restrictive with our money. We always make it clear that our grants are capped and that only in exceptional circumstances would we increase a grant. In this case, we increased the grant to make

the best of a bad job.

Queen's Park Football Club was a grant recipient and we were always open and transparent with it about what our grant was and what we could or could not afford. The club entered into that arrangement and then sought the protection of the courts by going into administration. It had ample chance, even before then, to make clear all the costs and difficulties that it faced. It made its input and did a deal with the administrator for the final solution. We believe that, on that occasion, it had ample opportunity to seek any extra money that it wanted. The committee must remember that the public sector put an extra £5.7 million into that project. It is not the public sector's fault that the project went over budget. It required a huge effort by all the public funders to find the extra money; the Scottish Executive and Glasgow City Council have many other calls on their money, so an extra £5.7 million was a generous donation.

Mike Watson: Are you saying that Queen's Park Football Club should therefore have borne the additional costs?

Mike O'Connor: TNS was Queen's Park Football Club's company. It oversaw that company and had a responsibility to know what was going on. The people at Queen's Park Football Club were the people with whom we were in contract. We looked to Queen's Park Football Club and TNS to control the costs of the project and to bring it in on budget. They were not able to do so, and the public funders helped out quite significantly with an extra £5.7 million of funding. Private sector funders also put in more money.

Mike Watson: You talked about the project coming in on budget. Could you give the committee a rough idea of the proportion of the projects that you fund that come in on budget?

Mike O'Connor: Many complex projects come in over budget. We have some excellent projects that come in under budget and others that come in over budget. However, the average increase in grant that the commission has been able to make has been only 2.3 or 2.4 per cent. In the case of Hampden Park, we went to 5 per cent. It would be very difficult to do more than we have done to help.

Ian Jenkins: In a sense, Mike Watson has covered some of my points. Would you say that there was a breakdown in communications between you and the National Stadium? At which point did you realise that something was seriously amiss?

Mike O'Connor: The Millennium Commission is a provider of grant, so we can do three things: we can give grant; we can give more or less grant; or we can take away grant. We cannot run projects.

We depend on the information that we receive, although we validate it. Every month we go along, look at the bills that are coming in and check that the work is being done. We then pay our share of the bills, but ultimately, we depend on high-quality corporate governance and efficient management to deliver projects. We cannot go in and take over, move people and institute new procedures.

In retrospect, the information that was coming to QPFC from TNS was not as good as it should have been. I understand that QPFC was not as aware as it should have been of what was happening with costs. Indeed, we were not aware—I do not think that QPFC was aware—of the true cost of the project until the second half of 1999. When we identified that, we put together a consortium of funders to resolve the situation.

Ian Jenkins: So TNS was not being transparent with Queen's Park, and therefore Queen's Park was not able to pass on the true picture to you.

Mike O'Connor: QPFC did not have all the information that it needed to know what the true situation was and, because QPFC was the recipient of our grant, neither did we know the full cost of what was going on until we sent in the auditors to check it out.

Ian Jenkins: I have figures that say that the funding gap rose from £1.8 million to £4.5 million by 14 July. At that point you called in Deloitte & Touche and found that the gap was in fact £6.2 million. It was a big step to call in Deloitte & Touche—you must have been really worried.

Mike O'Connor: Yes, we became alarmed. As I said, a funding gap of £1 million to £2 million in the early or mid-life of a project is not necessarily a killer blow, but it becomes more worrying if, near the end of the project, the gap remains. In this case, not only did the gap remain, it grew from month to month. In January, February and March, TNS told us that it had a bigger and bigger funding gap. That is when the alarm bells rang and we sent in the auditors to find out what was going on.

Ian Jenkins: Was there an inadequate effort to gain sponsorship or to fill the gap in some way? Was there enough activity to address the growing gap?

Mike O'Connor: TNS's problems arose from three things: costs were going up; it was commissioning work for which it did not have funding; and the debenture sale scheme seemed to start quite late, which meant that money that TNS had hoped for did not emerge until later. TNS did not manage to achieve all the objectives and goals that it needed to achieve to deliver the stadium on time and on budget.

Michael Russell: The remit of the inquiry is to look at the original contractual and financial

arrangements and the monitoring thereof; the causes of the financial difficulties and their solutions; the role of, and funding by, public agencies; and the future viability of the stadium. While we have been round all sorts of issues, there are two key issues that we have not got to grips with. The first is monitoring. The Millennium Commission had a role in monitoring, as did Queen's Park and everybody else. Therefore to some extent—I do not think that you can avoid this—the Millennium Commission's monitoring failed at a crucial time, if the commission did not know that what it thought was an acceptable gap was rapidly becoming an unacceptable one. That is my first point. Do you wish to respond to it?

Mike O'Connor: Our monitoring relates to the work that we fund. If a project is carrying out other work for which it does not have funding, and that leads at the end of the day to a funding problem, the problem is not with our monitoring. What we paid for was delivered, and every month when we went to Hampden to check that the work was being done, it was being done. The bills that we were being presented with were legitimate bills, and the work was being done. There were problems elsewhere, with work being carried out for which there was no funding, which presented problems for the stadium as a whole.

Michael Russell: If you went there every month and the pitch was being raised without your noticing, what were you looking at?

15:00

Mike O'Connor: We asked TNS whether it had the money and—until early 1999—we received constant reassurance that it would find the money. We are not here to check whether people who tell us that they are out there fundraising and finding sponsorship are doing their job of chasing money; we are here to check that they are doing the work that we are paying for.

Michael Russell: But surely a natural part of your job and your officials' job is to be sceptical. This is an important point. You are confronting an organisation that says that there is a funding gap and that it is working on that gap. Meanwhile, it is saying that it is doing all sorts of other stuff, for which it will also raise the money. It sounds strange to me that that did not ring any alarm bells.

Mike O'Connor: The alarm bells rang—

Michael Russell: But not very loudly.

Mike O'Connor: The question is when it is appropriate for the alarm bells to ring. In the early part of the project, it was still hoped that the debentures would come in on time and that sponsorship would be raised. The alarm bells rang

in the later part of the programme, when the gap persisted and then began to grow. That was in 1999.

Michael Russell: I am not convinced by that.

My second point relates to something that Queen's Park raised twice in its supplementary memorandum, which is a model of its type. On page 20, it draws out some lessons for complex projects that have run into financial difficulties, including

"Response by agencies within 8 days—as at the Dome—when 'trading wrongfully' risks emerge."

The submission analyses when those risks emerge. It goes on to say:

"Approved funds 'up to £X'—with the actual sum confirmed in subsequent detailed appraisal of application for grant payment—as at the Dome."

On page 20—and earlier in the report—Queen's Park points out that, on the evidence of its experience during 1999, it does not feel that it was treated in the same way as the New Millennium Experience Company was treated in 2000. The treatment of the New Millennium Experience Company is not something to be proud of, but Queen's Park might have a point in feeling that it was not treated in the same way. Indeed, the hardball that you tried to play with it in January and February 1999 was the opposite of how the New Millennium Experience Company was treated.

Mike O'Connor: I have not seen the submission. I am happy to deal with the points about the dome, although in many ways the cases are not strictly comparable. You will know that this Government and the previous one assured us that, should the dome need extra money, that money would be provided to us over and above our existing budget. We therefore had the money to help the dome—money that could not go elsewhere. Because of a Government decision, we were not in the same position with the dome as we were with Hampden or any other project in our portfolio.

On our speed of response, in July—before we were aware of McAlpine's action—I convened the meeting of the co-funders. We wanted to act as quickly as we could, but the co-funders around the table did not know what was happening with the stadium. They were concerned about the way in which costs were escalating and about the lack of information, but nobody was willing to move until they knew what the facts were—nobody was willing to fund a solution until they knew that better management and corporate governance arrangements could be put in place. That made handing over the money somewhat slower. We moved as quickly as we could but, as you will know from the submissions, bills kept coming out

of the woodwork throughout 1999—£0.5 million here, £0.5 million there. The state of the financial management within TNS was such that it was difficult for us to act quickly.

I assure you that we knew far more about and had a far better grip on the state of the finances at the dome, which enabled us to act more quickly. If we had not acted so quickly on every occasion, the dome would have gone into insolvent liquidation. That was never the case with Hampden Park. The Millennium Commission took a risk to prevent Hampden from going into insolvent liquidation by providing an extra £250,000 in advance of the final solution.

Michael Russell: However, it was a near-run thing. The directors were concerned that the company was trading wrongfully. Their argument was that the Millennium Commission did not act quickly enough and that it put them at a risk that the dome did not face. I understand the point that you make, but the directors do not accept it. I must admit that, on the basis of their memorandum, I have some sympathy with them.

Mike O'Connor: I am surprised that you say that. We worked with TNS and QPFC throughout the period. We showed our good intent to try to find a solution. The Millennium Commission was the first investor to put money on the table. It was a surprise to us when QPFC chose to go into administration. It did not consult us or tell us that it would go to the courts because it feared that it was trading insolvently. The decision was taken unilaterally.

At the end of 1999, we and the other co-funders believed that the money that we had put on the table would be enough to resolve the situation. That is why we were surprised when QPFC decided that the money was not enough and went into administration. In administration, the final outcome was similar to the initial outcome, except that huge costs were run up in legal fees. We were always conscious of QPFC's responsibilities, but it did not tell us that it would go into administration. It did so unilaterally.

Mr McAveety: You made great play of the information flow or lack of it. Did any of the commissioners attend any of the National Stadium board meetings in 1999? The visibility of the pitch is reasonably important in a football stadium. I would have thought that the debate about the view of the pitch was critical.

Queen's Park's submission to the committee says that it is key that the stadium should be fit for the purpose. Unless the stadium is part of a museum or is a performance venue, the pitch is its focal point. I was intrigued by your suggestion that the pitch was not something on which debate with Queen's Park could have been started.

Mike O'Connor: We could have considered the issue if TNS had approached us and said, "We need to raise the pitch. Will you increase the grant?" However, it did not do that. It undertook the work without financial cover from us, certainly. We were not aware whether TNS had financial cover from elsewhere. Raising the pitch may have been essential but, if so, one might ask why it was not thought of at the outset. If TNS had asked us for money, we would have considered the request.

I am not aware that any of my commissioners has ever attended a board meeting of TNS or QPFC. We are not directors of the company and we cannot be shadow directors. It is not for us to take part in the governance of the project. We can become alarmed when we think that the project is not being run properly and we can send people in, but we cannot be alongside, helping to run the project.

Mr McAveety: The debate was not about whether the commission should run the project but about whether it was aware of issues. When issues arose in the latter part of 1999, did it cross your mind that—given the public interest—it might have helped to have been a bit more hands-on than you give the impression of having been?

Mike O'Connor: In 1999, we became hands-on. We no longer accepted TNS's reports. We sent in our auditors to discover the true state of affairs, which we found out. We also became hands-on by offering to fund a solution only if the management and corporate governance arrangements at the stadium were improved. That is more or less the limit of what a public sector body that cannot take control of a project can do.

Irene McGugan (North-East Scotland) (SNP): You said that a crucial factor in your ability to contrast the dome project with the Hampden project was the fact that you had a firm understanding of the financial situation in London and were able to respond more quickly. If you were able to understand what was happening in London, why were you unable to have a complete understanding of what was happening at Hampden? Are you saying that the fault lay with Queen's Park because it did not tell you about the situation? Do you accept no responsibility for not knowing about the developments in order to be able to respond more quickly? Why were the situations different?

Mike O'Connor: The quality of the information from the dome was better and more accurate than that from the National Stadium. Is it the job of a body such as the Millennium Commission to probe more deeply into the running of organisations that it funds? A balance needs to be struck. We have 200 projects across the country and the grant contract that we have with them says that, if the project does X, we will give it Y cash. I do not think

that we can hold an organisation's hand throughout the process. We have to rely on the external auditors, internal auditors and finance officers of what are mainly public bodies and on the oversight from Parliament. We also have to rely on the bodies to carry out their business properly. We act when we see smoke signals that suggest that there is a serious problem. With Hampden, there was no sign that there was a significant problem until the early part of 1999.

Eddie D'Silva (Millennium Commission): I would add that, from time to time, when we received reports during our monitoring of Hampden, we raised questions with the recipient about the state of co-funding and project costs and received assurances that there were ways of covering those costs through sponsorship and debentures. During the project, cost reductions were made through adjustments to tenders and so on. In that way, we followed up on doubts and worries that we had about the way in which the Hampden project was going. We did not simply accept reports at face value.

Patrick Andrews (Shepherd & Wedderburn): When the co-funders appointed the consultants in August to carry out the audit work, it was with a view to solving the problem as quickly as possible. What was fundamentally wrong was the financial records of the project held by TNS. When Deloitte & Touche reviewed the project accounts for TNS, they discovered accounts that the auditors had not signed off from the previous year end, December 1998, and—unbelievably—they did not find any postings in the ledger between December 1998 and the appointment of Deloitte & Touche in August. Had the consultants been presented with a clean set of books that made it easy to understand where the costs had gone, the outcome would have been different and the work would not have taken a number of months.

The Convener: That is a serious point. You are telling us that, when the auditors went in in July 1999, there were no records in the books of TNS for the previous seven months.

Patrick Andrews: That is what I am saying.

Michael Russell: Your documents use the word "monitoring". The problem was undoubtedly appalling for TNS, but surely the Millennium Commission must have known about it from January. Were the monthly reports that you received made up? If they were, and you began to have doubts, why did it take you seven months to find out that things were so bad? I do not blame you, but the fact that that could happen for seven months without your knowledge says something.

Patrick Andrews: The Millennium Commission monitored the work that it was funding through quantity surveyors, whom it employed with a

watching brief. Those surveyors looked at reports that were produced, I think monthly, by Gardiner & Theobald, the quantity surveyors who were employed on the main contract. Because the spreadsheets that Gardiner & Theobald produced for the Millennium Commission surveyors to review tallied with the bits of the project that the Millennium Commission funded, they did not represent a full picture of the overall project at Hampden, which included items that were outwith the management contract or that were not funded by the Millennium Commission.

15:15

Michael Russell: To whom was the money paid? Was it paid to TNS?

Patrick Andrews: To QPFC.

Michael Russell: Therefore, the money went from QPFC to TNS. If TNS was not recording things on its books, what money went through its hands? Was any of it Millennium Commission money? If so, I think that you had a legal obligation to monitor the people who received the money, their systems and their fitness to receive it. That strikes me as an important point for the Millennium Commission to consider.

Patrick Andrews: The structure was that the Millennium Commission grant award was given to QPFC, which entered into the management contract with McAlpine for the construction of the parts of the project that the Millennium Commission was funding. In legal terms, the Millennium Commission's relationship was with QPFC.

Michael Russell: I do not understand this. You complain about books not being in a certain condition in an organisation, which you then say did not receive any of your money. The key point is that if that organisation received some of your money—I am not trying to be difficult—you had an obligation to monitor that organisation's systems. If it did not receive any of your money, what the hell? You have made a substantive point, about which we are all concerned, but, frankly, I think that you are not entirely sure how it ties into the story. How does it tie into the story?

Patrick Andrews: I am clear as to how it ties into the story. TNS had overall responsibility for the redevelopment of Hampden. That included the parts of the south stand project that the Millennium Commission funded, but it also included other elements of the refurbishment of Hampden, such as the pitch, the museum and the parts of the medical centre that were funded by sportscotland.

Michael Russell: Therefore, you should have supervised the ability of that company to undertake the normal functions of a company. It is

a simple point. According to your statement, that company was unable to run its own accounts and was in dereliction of its duty; therefore, there was an obligation on you to monitor the project and to ensure that the people working on it were capable of doing so. You seem to have indicated strongly that they were not capable of doing so.

Patrick Andrews: I did not say that they were not capable of doing so. I said that, when we were brought in to investigate, that is what we discovered. The two points are importantly different. The monitoring policy of the Millennium Commission was directed at the parts of the project that it was funding. It had no reason to question the management and governance of QPFC or TNS. It was only once we were employed to audit and investigate the position that the significant shortcomings became apparent.

Mike O'Connor: I am satisfied that all the money that we paid over was paid to the contractors and so on for work that was done and that everything that was done was value for money. It is our duty to ensure that the money that we hand over is handed over properly. We do not have control over whether the company is carrying out proper reporting to its parent company. Our job is to ensure that we get what we paid for. We got what we paid for; we got the stadium. However, TNS did other things that meant that its finances were in a mess. It was not our responsibility to look everywhere across TNS's wider affairs to ensure that it was operating as it should; that was the job of the directors of TNS and its parent body, QPFC. QPFC directors were on the TNS board and regular reports were going between the two bodies. We did not have corporate governance responsibility for TNS or QPFC.

Cathy Peattie: I am not sure where to start. Mike Russell mentioned monitoring. Are you saying that you were funding items of work and that you knew that other work was happening, but that no one knew how it would be paid for? It was assumed that other money would be raised through sponsorship and so on. Did not that concern you? Surely if money is to go into a company, that company must be viable.

Mike O'Connor: We were aware that there was a funding gap of about £2 million throughout 1997 and 1998. We sought TNS's assurances that it was confident that it would be able to raise that money and it gave us those assurances. Only when the gap escalated did we become sufficiently concerned to send in our auditors to find out what was going on across the breadth of the company's activities.

Cathy Peattie: Do you agree that, if those assurances had been sought more diligently in 1997-98, some of last year's mess might not have occurred?

Mike O'Connor: The gap was £2 million in 1997-98. It was reasonable for us to believe that TNS's hope for sponsorship and debenture deals would ensure that that gap was closed. We are still working on other projects across the country that have a funding gap, but we are confident that the gaps can be closed. If, however, six months down the line the funding gap has doubled, trebled or quintupled—as it did in the case of Hampden—we would have to take drastic action.

The action that we can take is to stop paying grant—to withdraw money. We have no power to run the company. We can make our concerns known, but we are dealing with public bodies, which have boards and corporate governance duties. The directors carry responsibilities and are highly qualified; they must produce annual reports and abide by company law. We must rely on those statutory and other measures to ensure proper governance of the companies. We cannot check every aspect of how a company works. We got what we wanted; we got what we paid for.

Cathy Peattie: But you have told us that the governance of the companies was not good. When public money is involved, there is a responsibility to check out the governance of companies if you have concerns.

Mike O'Connor: The concerns emerged only when the problems emerged. The governance structure was in place—eminent people were on the QPFC board and the TNS board. On paper, it did not look as though things should give us concern. It was only when the smoke signals emerged that we went in to see that the systems were not working as we had hoped—and had been assured—that they would work.

Cathy Peattie: Do you accept that you were slow to see the smoke signals?

Mike O'Connor: No. The £2 million gap, which existed throughout 1997-98, was not a sign that something was fundamentally wrong. There was a reasonable hope—and we were given assurances—that TNS could raise the money. It was only when the gap grew as the project came towards its end that there was a real problem. As I said, gaps exist in other projects across the country, but we are confident that those gaps will be closed.

Cathy Peattie: How many other projects across the country run into such problems?

Mike O'Connor: Many of our projects have come in costing more than they set out to cost, but the organisations concerned have raised the additional money. I am not aware that any other project has been completed with significant debts; one could not complete them, because the people who were owed money would do what McAlpine did.

The situation across the country is not as bad as the one with TNS. In 99 cases out of 100, we can rely on the corporate governance that is in place, the auditors, the reporting and accounting procedures and all the due diligence. We send in firms such as KPMG to carry out due diligence, as do all the other lenders. The Bank of Scotland, which lent a lot of money to the project, had due diligence done. The Bank of Scotland—a commercial company, remember, not a public funder—had confidence that TNS would meet its targets. Sportscotland and all the public funders believed that those targets could be delivered. On paper, there did not seem to be a problem. When signs of serious problems emerged, we reacted and solved them.

Mike Watson: Like members of the committee, I am rather surprised at the revelation that TNS made no entries in any books for seven months. That prompts me to ask about something that is even less clear now than it was before. The plans for the stadium under new management arrangements were being pulled together by the co-funders. As I understand it, the Scottish Football Association was asked to produce a business plan. Queen's Park Football Club was not asked to produce a business plan.

If I have got the chronology right, the seven-month period that you mentioned ended in the summer of 1999 and the new management arrangements were being put together in September and October of that year. If you were concerned about TNS's well-known links to QPFC, it seems odd that you did not ask QPFC for a business plan, even though it was the head landlord and owner of Lesser Hampden, which was going to be part of the complex. Why was that the case?

Patrick Andrews: The business plan was originally produced by Deloitte & Touche, not for the benefit of the SFA or of QPFC, but to demonstrate to the public funding bodies that it would be possible to run the stadium as a business and that that business could be made to wash its face. At the time, there was talk of the virtual business plan, which is indeed what it was. The business plan was not structured around a specific entity; it was structured around the asset—the stadium—and the portfolio of sponsorship contracts and other arrangements that sat with that asset.

Deloitte & Touche had input from QPFC and from KPMG, which had been involved in working with QPFC and TNS at the stadium. It also sought input from a wider range of sources to get some market evidence on the costs of repairing football stadiums and on the profile of sourcing pop concerts and other non-football events. It sought to produce a business plan that was objective and

that took account of some of the comments that had been relayed on behalf of TNS and QPFC. However, it did not take account of absolutely everything that they said, because it was not writing the plan for a specific body. It was asked to produce a business plan that reflected a balanced view, if not a conservative view, on whether the stadium could be run as a viable concern.

Mike Watson: So are you saying that the business plan that you put together included comments or input from QPFC and TNS?

Patrick Andrews: Yes, it did.

The Convener: I would like to ask you about the additional funding package that was put together. Paragraph 4.7 on page 5 of your submission says that

“the Commission agreed to conditionally offer a further £1.2m”

as part of the publicly funded package of £4.4 million. One of the conditions attached was that

“a new structure for the management and governance of the Stadium”

should be put in place, with the preference that the SFA should play a key role. In your view, why did the co-funders insist that the SFA took on that role?

Mike O'Connor: It is clear that the co-funders were willing to put money into the project, although we had lost confidence in TNS as QPFC's vehicle for managing the stadium and therefore had to find an alternative. The SFA had a clear interest and we were conscious of the parallel situation at Murrayfield, in which the Scottish Rugby Union had played a role. The SFA appeared to have a close interest in the success of the stadium and was one of the organisations that was deeply involved in the project. It seemed to us that the SFA was the obvious candidate to provide a more robust and sound management structure. QPFC had to be happy with that proposal, of course.

15:30

The Convener: On page 3 of your submission, you talk about

“the failure to secure the £0.5 million generally understood to have been promised as part of the matched funding by the Scottish Football Association”.

In the light of that failure by the SFA to deliver the £0.5 million, could the fact that the SFA became responsible for the management of the stadium have bred some resentment among the members of TNS?

Mike O'Connor: I understood that that might happen, but Scotland's National Stadium might have gone into liquidation, been sold or been demolished. The situation was serious and,

although we wanted to make progress with the maximum agreement from all parties, we could not avoid treading on some toes. We had to find a solution quickly. As Mr Russell said, the QPFC directors were standing on the edge of being held personally liable. We had to move quickly and the SFA was a willing bird in the hand. If QPFC was willing to allow the SFA to assume responsibility, it seemed that the solution was at hand and had to be pursued quickly.

The Convener: Can you explain in more detail why the Glasgow City Council rescue package was rejected?

Mike O'Connor: I am not aware of the Glasgow City Council rescue package. No proposals about such a package were put to the Millennium Commission.

The Convener: Do members have any final questions?

Michael Russell: I want to go back to the issue of monitoring. I am sorry to labour this but, in response to Cathy Peattie, you made two interesting points. You suggested that it was not your responsibility to look at every aspect of governance, which is probably true. You also said that issues about the governance of a project emerge only when problems emerge. Is that the right way to run a railroad, so to speak? Would not it be better to have confidence in the systems of governance of organisations that take Millennium Commission money?

There may be a parallel to be drawn between Hampden and the dome because, on your evidence, both organisations appear to have been badly managed. You might get more bangs for your buck if you were confident that organisations were well managed. You have a responsibility to justify that confidence by inquiring into the governance of those organisations.

Mike O'Connor: You make a good point. We have a duty, as the provider of lottery players' money, to ensure that the money that we grant is given to fit recipients. You also make a good point by referring to the dome, although the Hampden project was smaller than the dome project. I could refer to other projects, as corporate governance problems can arise in the smallest organisations and in the largest. We have a responsibility to check on those matters; at the outset, when we make a grant, we undertake a due diligence report, examine the corporate governance structures that are in place and ensure that they are acceptable. However, although the arrangements might be acceptable on paper, they may not always work—a structure that appears to be an acceptable model may not work properly when tested. A company could produce the world's best business plan but, if it is not operated

properly, the company will go bankrupt.

We were satisfied with the arrangements that seemed to be in place at QPFC and at TNS. QPFC was also satisfied that TNS was under proper control. However, in practice, the structure turned out not to work. One knows that there is a practical problem only when results start to show that something is radically wrong with the body. When we see a problem emerging, we act on it.

Michael Russell: That is not strictly true. If your monitoring systems were sufficiently robust, you could pick up problems almost before they emerged. You must accept that that is one of the purposes of monitoring. We could debate that point for ever, but that would not get us anywhere. Apart from some of the things that we learned today, no one is trying to say that the problem was the fault of you or of anyone else. However, do you regret anything that the commission did? In particular, do you regret not picking up on the problem fast enough?

Mike O'Connor: My biggest concern about QPFC and TNS is that the corporate governance arrangements, while appearing to be acceptable on paper, did not work in practice. I wish that we had known more about the problems of the relationship between TNS and QPFC; in particular, it was an extraordinary risk to have one person as the chairman of TNS, the chief executive of TNS, contracted to TNS and the main conduit of information between TNS and QPFC. That should not have happened—there should have been more diversity in those roles and links. Without that diversity, a problem arose.

I do not quite agree with Mike Russell on monitoring. The question comes down to deciding what it is proper for us to monitor and what it is not our job to monitor. I can put my hand on my heart and say that we bought a good-quality product with the money that we paid. The problems that arose in other parts of the farm led to the overall crisis that the enterprise faced. The biggest problem faced by Hampden and QPFC was the corporate governance arrangements.

The Convener: I thank the witnesses for their evidence and for their time. Given the importance of some of the information that we have received this afternoon for our discussions next week, I ask that we have the *Official Report* of this part of the meeting as quickly as possible. I know that that puts a burden on the official reporters, but it would be helpful to the committee.

I suggest that we break for five minutes.

15:37

Meeting adjourned.

15:46

On resuming—

Scottish Opera

The Convener: We now come to item 3, which is on Scottish Opera. Members have a letter from the Minister for Environment, Sport and Culture, Sam Galbraith. I apologise to the committee: our letter to him was signed and sent, but did not arrive with the minister. The first that he was aware of it was when he received his papers late on Friday afternoon—he was subsequently contacted by the press on Monday. Although our letter was sent, I accept that he had not received the letter.

His response is now in front of us. It contains some clarification on the position, and suggests that, once the full business plan is produced, the minister could come before the committee to discuss some of the issues again. If folk are content, that is how we will proceed. I am happy to hear any comments that members may have.

Michael Russell: We need answers on this matter, which is causing considerable concern. There are two grounds for that. First, Scottish Opera has now received additional funding in 12 of the past 14 years. Secondly, there is now an admission that it is structurally underfunded. That means that it is not viable in the terms that we have been discussing.

There is a linked question: the power of the minister to direct money to an organisation. We should think carefully about that. I am no fan of arm's-length funding, but it remains in place and, on this occasion, the arrangement appears to have been breached.

We have two issues to raise with the minister, one being the specific matter concerning Scottish Opera, the other being the wider issue of arm's-length funding. I would be happy if the minister was agreeable to answer questions on those matters on a future occasion.

The Convener: I will convey that to the minister. I spoke to him briefly this morning on the telephone, and he indicated his willingness to come to the committee to discuss the issues that were contained in my letter to him. We can write again, adding the issues that Mike Russell has outlined and seeking to arrange a suitable date, once the business plan is in place.

Irene McGugan: Given that Cathy Peattie is to do a report on the traditional arts, it should not be forgotten that the additional money for Scottish Opera is more than the whole funding allocated to all the traditional arts. That puts things into perspective.

The Convener: That is a well-made point, which the committee has raised on a number of occasions.

Michael Russell: Judging by the look on her face, Cathy Peattie has not forgotten that.

Cathy Peattie: And she will not forget it in her report.

Children's Commissioner

The Convener: Item 4 on the agenda is on the issue of a children's commissioner. As I indicated last week, I have received correspondence on this from Save the Children. The committee has had much correspondence with Sam Galbraith, in his former capacity as Minister for Children and Education. The issue has been on the table for some time. The suggestion is for the committee to conduct an inquiry into the question of a children's commissioner, covering whether to have one and what the roles and responsibilities of the commissioner should be.

Given the committee's timetable, it would be virtually impossible for oral evidence to be taken prior to the Easter recess. However, I suggest that we now seek written evidence from organisations to aid us in our discussions and in our oral evidence taking. I have written to the National Assembly for Wales and the Northern Ireland Assembly, asking for the input of their relevant committee conveners and ministers. Wales and Northern Ireland are pressing ahead with similar proposals. It would be useful for us to get information from them and, if appropriate, arrange meetings at a future date.

That is the current position, and I thought it useful to have the issue on the agenda. I welcome members' comments.

Cathy Peattie: I welcome what you have said, convener, as well as this opportunity to put the question of a children's commissioner on to our agenda. I accept your proposals for getting written submissions prior to Easter. It is important that we take oral evidence and that we have an opportunity to hear what young people think. Organisations such as Save the Children might be able to help facilitate a session involving young people.

I assume that we will get an opportunity to list the agencies from which we may want to gather evidence. I am keen to ensure that they include voluntary organisations and other organisations with an interest in children. It might also be worth examining the arrangements in other countries, to see whether they have children's commissioners with real bite, as it were. We should not set up a position that just pays lip service to the concept of having a commissioner or that means little. I welcome the opportunity to examine the issue, and hope that we can make progress and take evidence from all sorts of people with an interest in the matter, particularly from young people.

Irene McGugan: It is very important not just to have the matter on the agenda, but to prioritise it. I commend the convener for the steps that she has

taken to get this moving. Scotland should not be left behind, as it is in danger of being. We should note that calls for a Scottish commissioner for children predate the establishment of this Parliament. Some people have been campaigning for as long as five years. Now that we have the Parliament, it is important that we have a children's commissioner, as long as the commissioner has the correct remit and balance of responsibilities to make a difference for children and young people in Scotland.

There are illustrations of why we need somebody to safeguard the interests of vulnerable children in today's press, which covers the experiences of youngsters in Fife children's homes. Two years ago, when the report on the inquiry into Edinburgh children's homes came out, one of the clear recommendations was for a children's commissioner to be in post to help promote good practice and to ensure that children have some redress when their rights and needs are so flagrantly disregarded.

I view the appointment of a children's commissioner as a priority and urge the committee to move forward on it as quickly as possible.

The Convener: I suggest that we post an invitation to organisations to submit evidence on the issues as outlined by the Scottish Parliament information centre. Clearly, we will wish to contact some organisations directly, including the Convention of Scottish Local Authorities, Who Cares? Scotland and the adoption and fostering services, which were represented last week. All those organisations, as well as Save the Children, Children in Scotland and Children 1st, need to be contacted directly. We should also put out a general invite for people to submit information and evidence to us.

To return to one of Irene McGugan's points, it may be useful for us to contact Cathy Jamieson MSP. She was involved in the Edinburgh children's homes investigation, and it may be helpful to discuss some of the issues with her, perhaps informally at first.

Michael Russell: One of the things that we are being encouraged to do in the paper on the effectiveness of committees, which is our next agenda item, is to have events of some sort. Instead of holding formal hearings on the issue of a children's commissioner, we could host an event—perhaps in the chamber—that would enable organisations to come together, give their views and debate the matters. Such a slightly different approach might allow ideas to spark off each other.

Irene McGugan: Will that include children?

Michael Russell: Yes.

The Convener: That is a very helpful suggestion, Mike.

I should also say that the Parliament's education service is putting together a full-day event on another issue for children across Scotland which will take place in March. Perhaps the committee could find an issue for children to discuss on any future debating day. I have been invited to attend this full-day event on behalf of the committee, and think that it will be very good. We can press ahead with this matter, and I will keep the committee up to date with any information that we receive from Northern Ireland and Wales.

At this point, I want to raise the issue of the special educational needs inquiry. I am somewhat perturbed by the leaking of the inquiry report last Friday. The report has been some considerable time in the making and has involved a lot of work from committee members; it was neither helpful nor necessary for it to be trailed in the way that it was before its publication. As convener, I ask members for permission to write to the Standards Committee seeking an investigation into the source of the leak. As Mike Russell has also raised the issue, perhaps he will want to comment on it.

Michael Russell: This matter raises a number of problems. First of all, it is just not on to leak reports. Mr McAveety and I have often been accused of all kinds of calumnies and crimes, but leaking a committee report is utterly pointless and shows contempt for one's colleagues. We have had many opportunities in the past to leak a report, or at least to say something about it, and most of us have been scrupulous about not doing so.

Not only were the report's general conclusions leaked, but *The Times Educational Supplement* contained specific quotations. However, the TES report is inaccurate; this committee is not "Labour-controlled"—quite the reverse. There is no Labour majority on the committee; it is an all-party committee which reached most of its conclusions unanimously. Despite the fact that one member tried to move some amendments, he did not push them to a minority report. The situation is quite unacceptable.

I should mention another unacceptable development. We are all politicians and can do what we like, but it was unnecessary for the individual member—who is not here—to hold a briefing on the issue this afternoon before the committee met. Because we are sitting here doing our job, we cannot answer some of the questions that are being asked. For the record, we should make it absolutely clear that the special educational needs report was mostly unanimous and in no sense jeopardises the position of special schools. Although its keenness for mainstream

education should be commended, it does not pose a threat to the very good job that special schools do.

Two weeks ago in this committee room, Karen Gillon and I jointly hosted a visit from Stanmore House School. Furthermore, we have both visited the place, which does a tremendous job. I would hate to see its work damaged in any way, and the implication that this committee, of which Karen is convener and I am a member, will do so is itself very damaging to both of us. We must make that point absolutely clear.

The Convener: I have been asked to take part in a discussion this evening on the future of special needs schools with Brian Monteith MSP. Unfortunately, I am not able to accept that offer, but I have spoken to my colleague Cathy Peattie, who is the deputy convener, about taking my place. If she accepts that invitation, she is doing so as the deputy convener of the committee, not as a Labour member, and she will put forward the committee's views on our published report.

The report was, to all intents and purposes, unanimous and it is very unfortunate that it has been sidelined in such a manner. Some of the committee's recommendations, particularly our request for a review of the reporting process, form a very important step forward for young people with special educational needs. With the committee's agreement, I ask Cathy Peattie to accept that invitation on behalf of the committee, not on behalf of any one political party.

16:00

Michael Russell: If Cathy Peattie speaks to the report, as she will be doing, she is essentially speaking on behalf of the Liberal Democrat, SNP and Labour members. Indeed, she will be speaking for the whole committee, as there was no dissent over most of the report. I hope that she will very strongly make the point that there is no threat to special schools, rather that there is an encouragement of mainstream education and that to present the report in any other way is to pervert it.

Returning to the convener's point about the Standards Committee, I think that this is a textbook case of the damage that leaking can do. The report, which was meant to be placed in the public domain as a positive contribution by the committee, has now been damaged by what has happened. I hope that the Standards Committee will take note of that point.

The Convener: Do members agree to refer the leak to the Standards Committee for an inquiry by its commissioner?

Members *indicated agreement.*

Mr McAveety: I am on the Standards Committee, so that will be fun.

The Convener: I will write formally to the convener of the Standards Committee to ask that it take up the matter, and Cathy Peattie will accept tonight's engagement on "Newsnight Scotland" on the committee's behalf. Although it is unprecedented to raise items that are not on the agenda, I felt that it was in the interests of the committee and the public to discuss the item in public session.

Committee Effectiveness

The Convener: The fifth item on the agenda is consideration of a paper on increasing the effectiveness of committees. The paper has been drawn up by the conveners liaison group and focuses on a number of issues about how committees can increase their effectiveness. I welcome members' comments, which I will take back to my colleagues on the group. The paper makes a number of worthwhile and valuable points and, unless members are otherwise minded, I suggest that the committee endorse its contents and implementation.

Michael Russell: We have already been operating many of the suggestions in the paper. However, we would probably find it difficult to have fortnightly meetings, given our programme of work and the type of things we are asked to do. Apart from that, we should just be endlessly imaginative in the way we work.

The Convener: I told the conveners liaison group that we will not be entering into a schedule of fortnightly meetings certainly this side of the summer and probably for the foreseeable future.

Ian Jenkins: I agree with that. Mike Russell's earlier suggestion about hosting events is one way of taking our work to the public.

The Convener: One of the issues that has emerged is the need for committees to move around the country. No committee has yet had a meeting in Dundee, which has particular cultural interest because of significant changes that have been made in the city over the past number of years. When we consider the cultural strategy after the Easter recess, it might be appropriate to visit Dundee and take evidence from the north-east.

Michael Russell: That is an excellent idea. We should visit both Dundee and Stornoway.

Mr McAveety: And Memphis.

The Convener: We move on to the sixth item on the agenda, which we shall take in private.

16:02

Meeting continued in private until 16:43.

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