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Forty-seventh Report

Department for Culture, Media and Sport

Film Council: Improving access to, and education about, the moving image through the British Film Institute

The Committee's main conclusions

The Film Council has yet to establish itself as the strategic leader for developing access to, and education about, the moving image. The Council has left the BFI to pursue its own agenda, despite insufficient evaluation of the impact of its subsidised activities, incomplete information about how it spends the public money given to it, and incomplete alignment between the Film Council's and BFI's objectives.

The Department for Culture, Media and Sport (DCMS) and the UK Film Council (UKFC) are pleased to be able to report that much progress has been made in these areas.

DCMS has worked closely with the UKFC and the British Film Institute (BFI) to ensure that objectives are fully aligned throughout the sponsorship chain. This work was substantially completed by autumn 2002. DCMS's four strategic priorities apply directly to the UKFC. The UKFC's six strategic priorities support the priorities of DCMS and form the basis of the Funding Agreement with the BFI. Within the terms of the UKFC/BFI Funding Agreement, the BFI is asked to provide monthly management accounts to include details of the subsidy for each activity funded. In parallel, Key Performance Indicators linked to the overall UKFC objectives, and in line with the indicators established with the DCMS, have been produced to assist all parties evaluate the performance of the BFI.

More recently, in June 2003 the BFI under the leadership of a new director, Amanda Nevill, and a new Chairman, Anthony Minghella, commenced a Strategic Review of all the organisation's operations. The Review, which is due to be completed in March 2004 and implemented shortly thereafter, will address issues such as effective evaluation of the impact of its activities and assessment of grant in aid subsidy. The DCMS and UKFC are members of the Review steering group.

The UKFC accepts that it has more to do in terms of establishing itself as a strategic leader for developing access to, and education about, the moving image, especially in terms of its relations with the BFI. It would however draw attention to its achievement in creating nine Regional Screen Agencies throughout England with a brief to develop access to, and education about, the moving image in each region. The imminent completion of the BFI Strategic Review will maximise the effectiveness of the partnership between the BFI and the Regional Screen Agencies which all parties believe is the single most important test of the UKFC's strategic leadership in the area.

While attempting to increase take up in the regions of the opportunities it provides, most of the BFI's activities are most readily available to people in London and the South East. The recently announced fundamental review of the BFI needs to address the relative roles of the BFI, which is London-based, and regional organisations such as the new regional screen agencies created by the Film Council.

DCMS, UKFC and the BFI fully accept this recommendation and recognise that there is work to be done in increasing the take-up of BFI services across the UK. The BFI has made a public commitment, within the framework of its Strategic Review, to refocus its activities to widen geographical access and increase impact.

As part of the Strategic Review, the BFI is currently engaged in the production of a new business plan. This will address the challenge of increasing access to more diverse audiences. The Review will also look at how a closer working relationship between the BFI and the National Screen Agencies of Scotland, Wales and Northern Ireland and the Regional Screen Agencies can be established, to maximise the take-up of film and moving image activities across the nations and regions.

It is worth noting, however, that at present, the BFI services reach nearly 2 million people in the UK every year. This is achieved through a variety of means, including through:

- video/DVD sales
- theatrical releases
- touring festivals
- book publications
- education initiatives
- events
- workshops and courses
- screenings at the National Film Theatre (NFT)
- BFI IMAX and international film festivals
- exhibitions
- Sight and Sound magazine
- library visits
- archive sales for television
- media conferences

In addition, the website was accessed over 14 million times in the last financial year. The BFI has already undertaken some successful work to increase access to its services. Most notably, the BFI launched Screenonline in December 2003. Screenonline is a UK-wide project that will enable schools, colleges and libraries up and down the UK to access text and moving image material from the BFI Film and Television Archive on-line. More than 600 institutions signed up in the first week, with now over 1,100 authorised sites from Shetland to Cornwall. The site contains 450 hours of moving image material – which will double in the next twelve months.

Film in the National Film and Television Archive is decomposing, particularly nitrate film kept by the BFI in old vaults. Film duplicated onto safety stock for safekeeping is now proving more unstable than the original nitrate film. And large quantities of film in the archive which have not been examined and catalogued are not yet accessible to the public, suggesting that the BFI has been unable to keep up with the volume of work. This is an unacceptable state of affairs for the nation's film heritage.

DCMS, UKFC and BFI are pleased to report that significant progress has been made in this area. As part of the Strategic Review, a fundamental review of the Archive has been instigated. The archive review, which began in September 2003, will be completed by February 2004.

An interim report has already been considered and accepted by the Board of Governors at the BFI. The report recommends a significant shift in the Archive's preservation strategy from simply copying films to preventative conservation of material. The aim is to stabilise the collection in an environment which minimises decay, as well as taking a more strategic approach to specific conservation and preservation on the basis of maximising potential impact.

The detailed conclusions and recommendations

PAC conclusion(i): The Film Council should ensure that its objectives and those of the BFI are fully aligned, and that the BFI delivers value for money from the products and services it provides with the support of public funds. To assess value for money the Film Council needs to understand the relationship between the cost of providing different access and education opportunities and what they are achieving.

1. DCMS, UKFC and BFI welcomes the Committee's acknowledgement in their report that the objectives of the UKFC and the BFI have now been fully aligned. DCMS has worked in partnership with UKFC and BFI to successfully align objectives within the respective Funding Agreements. Key Performance Indicators linked to the overall UKFC objectives, and in line with the indicators established with the DCMS, have been produced to assist in evaluating the performance of the BFI. Within the terms of the UKFC and BFI 2003-04 Funding Agreement, the BFI have been asked to provide management accounts monthly, which will include details of the subsidy for each activity funded.

2. Since the Committee hearing, the BFI has tightened up its financial reporting and procedures. It is currently engaged in preparing a business plan as part of the Strategic Review, which addresses the need for assessing performance. Following on from this work, the BFI will improve the quality of information obtained about grant in aid subsidy for each access opportunity taken up, and introduce measures that will increase value for money across the spectrum of BFI products and services. Restructuring BFI priorities to maximise value for public subsidy is a key focus of the Strategic Review and business planning exercise.

PAC conclusion (ii): To establish whether the public money available to the BFI is being used to subsidise the right activities, the Film Council and the BFI should as a priority complete the development of performance indicators which measure what is being achieved rather than the BFI's own organisational processes, and the full cost of provision. As the BFI London IMAX is a tourist attraction it should be able to operate without public subsidy.

3. DCMS, UKFC and BFI are pleased to report that new performance indicators and financial reporting procedures have been effectively implemented. The alignment of objectives and Key Performance Indicators between the BFI and UKFC and the UKFC and DCMS, has provided a clear framework for measuring achievements and has marked a significant improvement in the reporting structures between the three bodies.

4. As well as a tourist attraction, the BFI London IMAX provides audiences with a distinctive cinematic experience. Importantly, the programme at the IMAX includes a huge number of educational events such as dedicated screenings for schools each weekday morning and previews for teachers. The BFI believes that IMAX is an essential medium for widening participation and for extending an understanding and appreciation of the moving image to a wide demographic and geographic group, and believes that in this context, IMAX justifies some claim on public subsidy.

PAC conclusion (iii): The BFI should review its pricing structure. For example, fees for research viewings and cataloguing enquiries might differentiate between academic researchers and commercial film makers.

5. The BFI accepts this recommendation. The pricing structure of different BFI services and products will be appraised and reconsidered within the framework of the Strategic Review. DCMS and UKFC are overseeing the process to ensure that value for money is a major factor for consideration.

PAC conclusion (iv): In recognition of the work the Film Council and BFI do to promote the cinema, they should actively seek reciprocal financial support from the film industry.

6. The BFI continuously seeks ways to maximise support from the industry across all its activities, and indeed most of these activities are an essential ingredient contributing to a vigorous audience for film in the UK. As a recent example, it has accepted funds from Warner Bros towards the establishment of the Charles Chaplin Foundation, which will ultimately offer film-led activities designed to reach socially or educationally excluded young people. The results of this work will be presented online for the widest possible dissemination across the UK.

7. The cost of the television work of the National Film and Television Archive is substantially met by broadcasters. The current sponsorship of the London Film Festival by The Times is an excellent example of support from elsewhere in the private sector.

8. The Review is specifically considering the issues of rights and the charging structure for rightsholders of work archived by the BFI. However, this is not an easy issue and is one common to all National Archives.

PAC conclusion (v): The BFI's express aim is to increase and broaden take up of its services, but its patchy customer research means it does not know if this is being achieved. To demonstrate value for money for the public subsidy the Film Council and the BFI need to be clear whom they are trying to reach, and design customer research that establishes whether these constituents are taking up BFI access and education opportunities.

9. DCMS, UKFC and BFI accept this recommendation. They recognise the need to establish robust and transparent information on the take-up of BFI services and products. It should be noted that the BFI does currently collect customer information on the audiences of the National Film Theatre, the London Film Festival, the London Lesbian and Gay Film Festival, IMAX cinema and on BFI members. The BFI has so far prioritised these areas to make best use of customer research resources.

10. Last summer, the BFI created a centralised marketing unit that will oversee all aspects of customer research. This unit is working in partnership with the UKFC's Research and Statistics Unit to carry out research into the existing BFI client base and ways to improve access across the UK. The BFI has formulated a three-year plan to address broader market research issues, and the first part of this work, exploring the profile and reach of all BFI's existing outputs, will report in May 2004. The total cost for implementing this plan has been estimated at £150,000. Although much of the content has been discussed, the remit of the qualitative research strategy will only be finalised once the Strategic Review has concluded.

11. DCMS and UKFC will oversee this process to ensure that decisions made concerning the restructuring of BFI's priorities are measured and appropriate.

PAC conclusion (vi): To ensure that the nation's film heritage is managed effectively, the fundamental review of the BFI will need to determine clear objectives and priorities for the National Film and Television Archive which are capable of being realised within the resources that are likely to be available. The Film Council and the BFI should also consider the scope for collaboration with regional archives as a way of increasing capacity to keep up with the volume of work.

12. DCMS, UKFC and BFI accept this recommendation, and are pleased to report that some significant progress has been made in this area. As part of the Strategic Review, a fundamental review of the Archive has been instigated to assess its objectives. The Archive review, which began in September, will be completed by February. This has included consultation with the regional archives. An interim

report has already been considered and accepted by the Board of governors at the BFI and a detailed implementation plan is currently being assessed with a view to executing measures in February/March.

13. The interim report recommends the implementation of a collection stabilisation programme to deal with the backlog in acquisitions over a period of two years. This will be achieved by prioritising material based on an assessment of its cultural value to the nation. The BFI will also review its collecting policy to negotiate with donors to aid cost of acquisition and the process of acquisitions.

14. The report also recommends the adoption of a new collections policy which emphasises the cultural significance of materials to the nation. A new curatorial function will ensure that the collections feed into the BFI's cultural plan, and will set priorities for conservation. The report also recommends replacing the preservation of film material by duplication with the preservation of such material through preventative measures.

15. The Archive Review has also included consultation with Regional Film Archives and UKFC. Moves are being made to strengthen the relationship between the BFI and the Regional Screen Agencies, so that BFI can assist the Regional Screen Agencies directly in their task of increasing regional access to moving image heritage and culture. The BFI is also working with Regional Screen Agencies to share collections information more effectively and to establish more proactive partnerships to secure joint cultural outcomes.

Forty-eighth Report

The Public Private Partnership for National Air Traffic Services Ltd

The committee's main conclusions

The Department preferred the option of establishing NATS as a profit-seeking, but regulated company, rather than a not-for-profit model such as that used for the privatised national air traffic control business in Canada. The Canadian model was dismissed too readily. The regulatory arrangements, copied from the regulated utilities, have been shown to take insufficient account of the very different business risks which NATS faces.

Please see the Government's response to specific conclusions (i) and (ii).

The Department failed adequately to test the robustness of the Airline Group's proposed financial structure for NATS. The set of scenarios examined was more optimistic than historical experience warranted, and imprudently assumed that the Regulator would always be both willing and able to intervene quickly to protect NATS from any sudden business downturn.

Please see the Government's response to specific conclusions (iii) and (iv-v).

The Department and Treasury took £758 million out of NATS in sale proceeds, leaving the Company burdened with over twice as much debt as it carried before the PPP. The Company's financial difficulties cannot be wholly attributed to the after-effects of September 11th: the Economic Regulator expressed concern at the indebtedness of NATS before those events.

Please see the Government's response to specific conclusions (viii) and (ix-x).

One of the Department's main reasons for preferring the profit-seeking but regulated company model for NATS rather than the Canadian not-for-profit model was to give NATS freedom to invest outside public sector financial controls. In the event, the chosen regulatory structure, combined with the high withdrawal of cash from the business, barred NATS from access to external finance for over a year, just when it was embarking on a ten year £1 billion investment plan.

Please see the Government's response to specific conclusions (vi-vii).

The choice of a public private partnership for NATS

PAC conclusion (i): The Department rejected the option of a not for profit corporation on the grounds that such a body would be less efficient and its expenditure would be classified to the public sector. Its reasons look even weaker now than they did then. There is growing evidence of the successful use of a not for profit model for Canada's air traffic control system. And in 2002 the Office of National Statistics classified the not for profit Network Rail to the private sector. Departments should evaluate all options thoroughly, and base their conclusions on objective evidence.

1. Much has changed since the National Audit Office conducted its investigation into the National Air Traffic Services (NATS) public private partnership (PPP) and the Committee began its deliberations. Despite its early troubles, the PPP is a success. The company, which suffered like the rest of the aviation industry after the September 11th attacks, is performing better than ever. It is handling record numbers of flights, with delays at a record low, a consistently high safety record, reducing unit costs and a financially stable future. This is all thanks to a composite solution to

which all contributed – the company, the regulator, the shareholders, and the Government. Furthermore, although proceeds were not the Government's main objective, the taxpayer benefited from proceeds of £0.75 billion from the PPP.

2. When taking its original decision on the PPP, the Government considered very carefully both its objectives for NATS and the options available to it for meeting those objectives. Then, as now, the Government regards the PPP as the optimum model for achieving the objectives. The main strategic partner in the PPP is a consortium of airlines – NATS' customers, the other private sector investor is the BAA which is also a customer, and the employees are represented in the company through a share trust. Furthermore, the Airline Group bought into the PPP on a "not for commercial return" basis. Although the Government preferred a part -private sector solution to a wholly-public sector one, the makeup of the PPP is not dissimilar from that of NavCanada.

PAC conclusion (ii): NATS' prices are capped through the RPI-X model developed for relatively predictable domestic utilities like gas and water supply. Only belatedly are NATS' price controls being modified to reflect the greater risks from exposure to volatility in international air traffic. PPPs and privatisations should not just be based on standard approaches, but should be tailored to reflect the particular characteristics of the business.

3. The Government agrees that a standard approach is likely only rarely to be satisfactory. In constructing the PPP, the Government took care to tailor its model to the needs of the business and its customers. Although NATS is not the same as a utility, it is, nonetheless, a monopoly supplier and needs to be subject to incentives for efficiency if its customers are not to pay unnecessarily high prices for its services. Even a not for profit monopoly supplier, which is what NATS was while it was in the public sector, needs incentivising to maintain a downward pressure on its costs and hence on the charges which are passed on to customers. Other European air navigation services providers, who are not for profit publicly-owned bodies, have responded to the downturn in traffic by increasing their prices – on average, by some 12 per cent. The underlying trend in NATS' charges is down.

4. With benefit of hindsight, the Government acknowledges that a volume term in the initial formula for controlling NATS' charges would have offered NATS' income stream some protection against the aftermath of September 11th. This was considered but there was, at the time, no enthusiasm from any quarter for such a mechanism. A volume term has been introduced by the Civil Aviation Authority as part of the refinancing package (see paragraph 8 below).

PAC conclusion (iii): The Department accepted that NATS looked inherently riskier than a utility like water, but how risky depended on the Regulator, and was difficult to determine in the absence of clearly stated regulatory policy which was only now being agreed. We agree with this view from the Department, which is however hard to reconcile with its assumption, when testing NATS' financial robustness, that no financial risk for NATS would arise from the behaviour of the Regulator.

5. The regulator's statutory duties, which were imposed by Parliament, is to find the appropriate balance in each individual circumstance between the interests of the regulated entity itself and the interests of its customers. In the case of NATS, one of the regulator's duties is to secure that licensed air navigation services providers do not find it unduly difficult to finance their licensed activities. This is a safeguard against a regulator behaving in such a way as to penalise financially an efficient provider.

Testing the Airline Group's financial proposals

PAC conclusion (iv): Of the nineteen scenarios modelled by the Department's advisers and by the Airline Group, only one catered for the risk of a (brief) downturn in NATS' income from traffic. The Department ignored historical evidence of downturns in air traffic. Scenario testing should be designed to reflect the main exposures to risk of the entity concerned.

PAC conclusion (v): In limiting their testing, the Department and their advisers drew comfort from the optimism of the Airline Group and its four funding banks. Departments should recognise that private sector entities investing in essential public services will have divergent objectives, and may well assume that the government and the consumer will bear the brunt of adverse events.

6. The Government, its advisers, the lending Banks and the Airline Group all tested the robustness of the proposed financial structure of NATS against a wide range of adverse scenarios. These scenarios were detailed in the Supplementary Memorandum supplied by the then Permanent Secretary in the Department for Transport in December 2002. The Government acknowledges that it did not test against the possibility of an unprecedently severe and sustained downturn in the market. With benefit of hindsight, it would have done well to do so. At the time, however, and in the light of events over the previous 20 years – which included record growth in air transport, Lockerbie in 1989, the Gulf War in 1991, and a gradual decrease in the importance of oil to world economies – there was no reason to believe that a severe and sustained downturn in the market was a realistic risk.

PAC conclusion (vi): The arrangements for obtaining a price increase are inherently slow to implement and uncertain as to outcome. In practice the Regulator has required a more comprehensive solution which shares the pain between NATS, its investors, and its customers. Until such a solution is negotiated, NATS is unable to access the commercial funds it requires to invest in new capacity. Nor can it be assumed that the Regulator would be able and willing promptly to bail out NATS in the event of a severe downturn in traffic.

PAC conclusion (vii): A proper appreciation of the regulatory risk facing NATS might have led the Department to leave more cash in NATS and thus avoid the current financial difficulties that NATS faces. When departments analyse risk, they should take care that their analysis is comprehensive and not based on unwarranted optimism.

7. In response to NATS' financial difficulties in the aftermath of September 11th, the Government, NATS, its other shareholders, its lending Banks and the aviation industry, through the CAA as regulator, embarked on a wide-ranging restructuring (which has become known as the Composite Solution) of NATS' balance sheet. The BAA, as a new investor, and the Government each invested £65 million in the company comprising £5 million ordinary share capital in NATS Holdings, £27.5 million new loan notes in NATS Ltd and £32.5 million new loan notes in the licensed subsidiary, NATS En Route Plc (NERL). This introduced an additional layer of finance in the form of shareholder debt, which allowed NATS to repay £130 million of its existing debt. The process of consolidating NATS' debts was completed on 11th August with the highly successful replacement of £600m of bank debt with bond finance.

8. The regulator has made a number of changes to NERL's operating licence including strengthening the financial ring fencing and relaxing the price cap to inflation-2 per cent for the remainder of the current control period up to the end of 2005. The regulator has also introduced an element of risk sharing in the form of a volume term. This allows the price cap to vary according to the amount of traffic handled by NATS.

9. The National Audit Office has examined the Composite Solution and, in its report "Refinancing the Public Private Partnership for National Air Traffic Services", published on 6 January, confirms that the re-financing has put the company on a much more robust financial footing, enabling it to make further vital investment to expand the capacity of air traffic control to meet future growth and limit delays.

The financial structure that was imposed on NATS

PAC conclusion (viii): The maximisation of sale proceeds seems to have taken precedence over the financial robustness of NATS. No operable contingency plan existed to cope with the risk of a severe and sustained downturn in air traffic. Departments undertaking deals should ensure that such plans exist and that financial structures are robust enough to support them.

10. The Government accepts that, because of September 11th, the initial financial structure of NATS proved insufficiently robust. However, the Government does not accept that it placed maximisation of sale proceeds above financial robustness. Each bid was carefully evaluated against a strict set of criteria, including the quality of the strategic investment plan, safety management strategy; financial credibility; management capability; and net sale proceeds. Although the bids were of a high quality, it was decided that, on balance, the Airline Group had submitted the stronger bid – and not solely on grounds of sale price.

11. The robustness of the new financial structure has been tested against a wide range of scenarios, including more demanding combinations of possible traffic shocks with adverse trends on costs, as agreed between all the parties. NATS has a much larger buffer of cash reserves with which to cope with possible future crises.

PAC conclusion (ix): The Airline Group acquired a 46 per cent share, a majority on the Board and operational control of NATS despite having paid only one sixteenth of the purchase price, the rest being financed by loans repayable by NATS itself. Departments undertaking PPPs should ensure that their chosen strategic partners accept risk commensurate with their control of the business and the accompanying responsibilities.

PAC conclusion (x): The Airline Group declined to provide NATS with further financial support. Leaving only the government shareholder to meet such financial requirements is difficult to reconcile with the concept of risk sharing in public / private partnerships.

12. The Government understands that the initial structure of the balance sheet was not unusual for a company where there is a reasonable expectation of a sound income stream which would be used, among other things, to offset interest payments on debt. The Government, the Airline Group and the lending banks all believed that there was a reasonable expectation of a sound income stream for the PPP. Under these circumstances, it can be argued that building up the company's equity capital would be an inefficient way of protecting the company from the risk of financial stress, and that it would be better for the shareholders to respond to the company's needs if and when risks transpired.

13. Far from leaving the government shareholder to meet all its financial requirements, NATS embarked on a search for new private sector equity, which the Government undertook to match on equal terms. Indeed, the Government regarded it as a pre-requisite that public sector investment should be matched, pound for pound, by further private sector investment. This requirement has been achieved in the Composite Solution with BAA as a new equity investor in NATS. And, although the Airline Group was unable to make a financial contribution to the Composite Solution, it contributed through seeing the value of its shareholding diminish from 46 per cent to just under 42 per cent.

Forty-ninth Report

The operational performance of PFI prisons

The committee's main conclusions

PAC conclusion (i): The Home Office and the Prison Service should promote greater co-operation and exchange good practice between publicly and privately managed prisons. Prisoners held in PFI prisons feel that they are shown greater respect and are treated better than prisoners in public prisons. But the relative inexperience of staff in PFI prisons can compromise security through staff being conditioned by some prisoners to 'turn a blind eye'. Public prisons could import good practice on the treatment of prisoners from PFI prisons, and PFI prison staff could benefit from joint training on security issues with their more experienced counterparts in the public sector.

1. The Home Office accepts this recommendation. Joint training is already undertaken across a wide range of prison functions and activities including for example Control and Restraint training and management of security, race awareness and the tutoring of the Sex Offender Treatment programme. Staff from both public and contracted prisons are encouraged to attend conferences and area meetings where experience and good practice is shared. The Office for Contracted Prisons and the training department for the public sector Prison Service are undertaking a short review of entry level training of both Prison Officers and Prison Custody Officers to ensure that the course content remains substantially common across both sectors. Entry level training will adapt to changing needs in the light of service reorganisation and will explore opportunities for joint training and delivery.

2. A new measure of decency developed by the Institute of Criminology at Cambridge is now being assessed in all prisons, to allow comparisons and share best practice across both sectors.

3. Concerns that security is weaker in contracted prisons are being addressed through security assessments and comparative analysis with public sector prisons. We are also examining ways to improve private sector access to security information and briefing material.

4. There is no evidence that there is any discernible difference in the level of occurrences of staff corruption in contracted prisons. Responses to incidents are normally swift and decisive.

PAC conclusion (ii): The Home Office and Prison Service should expand staff exchanges during the next two-years. The interchange of staff between privately managed and publicly managed prisons is a way to broaden perspectives and gain an appreciation of different working methods. Such interchanges have been encouraged at senior management levels but not at more junior grades, where day-to-day contact with prisoners is much greater.

5. We accept this recommendation in principle and are examining the practical implications.

6. Although until now there has been no formal process for exchanges, staff do move between the sectors as a career choice. Apart from the moves of senior staff which the Committee noted a significant number of Prison Custody Officers move to the public sector. In addition, contracted staff at Blakenhurst and Buckley Hall were transferred to the public sector under the Transfer of Undertakings Protection of Employment Act. A public sector accelerated promotion scheme middle manager was seconded to a contracted prison.

PAC conclusion (iii): In awarding contracts or negotiating Service Level Agreements there should be as much emphasis on the sustained delivery of an acceptable service as there is on contract price. The Prison Service had to put in its own management team at Ashfield Young Offenders Institution for five months in 2002. There was a high level of staff turnover, and the contractor was unable to recruit staff to meet indicative staffing levels set out in the contract. Staffing levels at recent PFI prisons and two public sector prisons now managed under Service Level Agreements have also given cause for concern.

7. The Home Office accepts this recommendation. In all past competitions the evaluation of tenders has included a requirement that bids must pass an operational deliverability threshold. Of the nine PFI contracts awarded, there have been four occasions where the cheapest bid was not selected.

8. The latest contracts, for the new prisons at Ashford and Peterborough, contain performance measures that will penalise the contractor if he fails to ensure that the designated number of staff are on duty.

9. Bids received from public sector prisons are subject to the same assessment of deliverability. Once awarded, Service Level Agreements (SLAs) for public sector prisons focus on achievement of key deliverables and failures trigger a formal escalation route. Ultimately, if the required level of performance is not restored the agreement could be terminated and the prison contracted out.

PAC conclusion (iv): The Prison Service should not shy away from terminating prison contracts. The contractor was in breach of contractual obligations at Ashfield, but the Prison Service chose not to terminate the contract. Although the contractor suffered substantial financial penalties, there were also knock-on costs to the public sector as young offenders had to be moved to other, already overcrowded, institutions.

10. The Home Office accepts this recommendation.

11. All the contracts provide a clear escalation route to address breaches designed to effect the required improvement and sustain a high level of performance, and the contracts are monitored by Home Office staff permanently attached to each prison. Contracts should only be terminated as a last resort but should this prove necessary it will be done.

12. In the case of Ashfield there was a clear, serious and sustained breach of contractual obligations, which was robustly, tackled using the appropriate escalation process. The replacement of the Director in 2002 with a Prison Service Governor combined with the imposition of significant financial penalties began the process of improvement. Changes by the contractor to the management of the prison, and to staff terms and conditions, have delivered and sustained that improvement, and the prison is now operating well. It was the judgement of the Prison Service in this case that the necessary improvements would be made most quickly using the penalty procedures provided in the contract. Had that improvement not been achieved the Service would have terminated the contract.

PAC conclusion (v): Some PFI prison Controllers have become too close to the contractor, whilst others have been over stringent and adversarial. PFI prisons are monitored on a day-to-day basis by Controllers, whose job it is to assess the prison's performance against the contract. There needs to be greater consistency in how Controllers approach their role, supported by improved training and clear career progression.

13. The Home Office accepts this recommendation. The creation of the Office for Contracted Prisons in March 2003 established a single point of focus and a consistent approach to managing controllers and to the operational management of contracted prisons.

14. Regular Controllers' meetings provide a forum for exchange of information and to update staff on issues affecting the prison estate. There is now greater consistency of monthly reports and meetings between Controllers and Directors.

15. In future controllers will be selected using competency-based assessment process. To assist with this, and ensure that there is no detriment to those on secondment to the Home Office, a protocol is being developed with the Prison Service, which will address the need for interchange, including a managed return for Controllers to the Prison Service.

16. A review of training needs for Controllers is currently taking place and proposals being developed in conjunction with the Civil Service College.

PAC conclusion (vi): The monitoring and recording of performance data is at present less reliable in the public sector than in the PFI sector. The Prison Service should examine the feasibility of introducing within the next year a performance data monitoring function, similar to the Controller function in PFI prisons, throughout publicly managed prisons. The cost of such an initiative could be reduced by making such monitors responsible for a number of prisons within a geographical area.

17. The Home Office accepts this recommendation.

18. Historically, the monitoring and recording of performance data has tended to be less reliable in the public sector prisons due in the main to the lack of up-to-date IT making data collection burdensome and error prone. The Prison Service has nevertheless done much through other means to improve the quality of performance data. Results from standards audit reviews confirm that initiatives such as improving guidance and training for practitioners and raising awareness about the importance of good quality data have had a positive impact.

19. Since the Comptroller and Auditor General's (C&AG) review, a new management information system (PSIMON) has been implemented in all establishments. New IT systems for finance, personnel and prisoner administration currently being developed will further improve data quality.

20. In April 2000, the Prison Service introduced an Area Performance Co-ordinator in each geographic and functional area. Although the role differs somewhat from that of the Controller in the contracted sector, their responsibilities do include oversight of performance data for the Area Manager. In light of the C&AG's Report, the Prison Service is considering further the Controller model as part of a review of the impact and effectiveness of Area Office performance monitoring.

PAC conclusion (vii): The number of performance measures should be reduced and made more consistent between the public and private sectors. Public prisons have to report regularly on up to 48 Key Performance Targets and 61 Prison Service Standards and privately managed prisons have to report on a further 30 to 40 contract measures. Prisons, both publicly managed and privately managed, are overburdened with performance measures, making the monitoring of performance and prioritisation between targets difficult. The large number of measures does not lead to any better understanding of individual prison performance.

21. The Home Office accepts this recommendation.

22. Key Performance Targets (KPTs) currently include a mix of internal corporate management measures for public sector prisons (eg staff sickness and staff reports) as well as local operational establishment targets that contribute to whole prison system Key Performance Indicators (KPIs) such as number of completed Offending Behaviour and Education Programmes. The value of the current set of 48 measures lies in their scope, their capacity to link the Prison Service's strategic objectives to operational delivery outcomes and the ability to use them to drive and demonstrate performance across the board.

23. We accept the need to identify a smaller number of high level measures with which to monitor the performance of all prisons, both public and contracted, on a common and easily understood basis.

24. However, there will continue to be a need for a number of subordinate, enabling targets in public sector prisons in the same way as the contracts for private sector prisons include a range of performance measures.

PAC conclusion (viii): There are inconsistencies between the performance measures and targets used for different prisons. For example, in areas such as purposeful activity for prisoners, PFI prisons are set higher targets than public prisons. The performance of some public prisons in providing purposeful activity for prisoners needs to improve significantly if they are to make progress in helping to reduce the rate of re-offending. Targets in public prisons should be brought in line with those used in the private sector.

25. The Home Office accepts this recommendation.

26. As part of the current review of targets, there will be greater consistency between performance measures and targets in public and contracted prisons, although different measures will always be needed to reflect the type of prison. For example, public protection targets for Category A Prisons will be different to those for Open prisons. This will be the case with purposeful activity also where the design and infrastructure of individual prisons (such as the provision of workshops) will affect what can be provided to prisoners. Modern prisons are more likely to offer the facilities needed to maximise purposeful activity. However, we recognise the need for greater clarity on the essential regime activities in prisons. In this context, the Prison Service has recently commissioned a project to look at building a model for the benchmarking of regimes in all local prisons, including those in the high security and women's' estates.

27. The Purposeful Activity indicator was introduced to provide a measure of success of constructive regime delivery across the estate. The indicator was used to provide a focus for improving literacy, numeracy, and work skills as well as running programmes to address offending behaviour. However, since its introduction, the focus for the Service has shifted significantly to identifying positive outcomes rather than just the processes involved. In recent years additional targets we have been introduced to measure the outputs that we know impact upon reducing re-offending.

PAC conclusion (ix): The use of Service Level Agreements should be extended to all prisons found to be performing unsatisfactorily. Service Level Agreements specifying the standard of performance expected in return for a fixed budget have been used successfully to encourage better performance in public prisons that have been failing to meet required standards. However, at present, only four failing prisons have been identified for this approach. The development of the Weighted Scorecard ranking of prisons should make it simpler to identify prisons where intervention is needed.

28. The Home Office accepts this recommendation but proposes to extend the use of SLAs to all prisons.

29. Following the Home Secretary's announcement on 6 January on the Government's plans to transform the management of offenders and create a National Offender Management Service, it is intended in due course to create Regional Offender Managers who will contract with providers for the provision of prison places and intervention programmes. In the case of public prisons this will require formal SLAs specifying the standard of performance and cost.

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