



## **Treasury Minute on the Forty-Third to the Forty-Sixth Reports from the Committee of Public Accounts 2002–03**

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**Presented to Parliament by the Financial Secretary  
to the Treasury by Command of Her Majesty  
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THE FORTY-THIRD TO THE FORTY-SIXTH REPORTS  
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# Forty-third Report

## Department for Environment, Food and Rural Affairs

### Fisheries enforcement in England

*The Department welcomes the Committee's report. In responding to its conclusions and recommendations on fisheries enforcement and related matters, the Department has been concerned to take account of recent developments under the Common Fisheries Policy and the importance of working closely with the devolved administrations, with whom common approaches in many areas of fisheries policy are pursued. Account has also been taken of the work of the Cabinet Office Strategy Unit which early in 2003 was invited to consider the development of a long-term strategy for the sustainable future of the UK marine fishing industry.*

*The Committee's main conclusions*

**The Department should aim to reach a greater consensus with the fishing community on a longer-term vision of a sustainable fishing industry, and the catch levels, mix and quality that it might be able to support. They should seek to promote greater understanding of the measures needed to achieve such an outcome, as a basis for enlisting fuller voluntary co-operation in fisheries conservation and management.**

The Department accepts the conclusion: also see answer in response to PAC conclusion(i).

**The probability of a fishing vessel being subject to physical inspection at sea or on landing fish is low, just 1 and 6% respectively on any day of fishing. The probability of documentary checks being carried out is higher, at some 60-70%. If detected and prosecuted fines are on average only some 1.7 times the value of the infringement. The low probability of detection and of prosecution may encourage some fishermen to conclude that the potential economic benefits of over-fishing outweigh the risk of detection and penalty. The Department should therefore increase the options for pursuing and penalising infringements.**

The Department accepts the conclusion.

The current levels of inspection at sea and on land are low when averaged across the full range of fishing activity. In practice the Sea Fisheries Inspectorate and Royal Navy target their activities so that the probability of inspection will be much higher for vessels that are likely to contravene fisheries regulations or the conditions of their fishing licence. Sentencing is a matter for the Courts and while fines may only average 1.7 times the value of the offence, the deterrent effect is considerably more in terms of the profits that a vessel may earn. That said the Department recognises that enforcement must be effective if stocks are to be properly conserved and industry secured a long term future.

The Department currently spends some £12 million a year on monitoring, control and surveillance, on land, in the air and at sea. Given the rapid changes occurring in the patterns of fishing activity and the extension of satellite monitoring to vessels over 15 metres from 1 January 2005 there may be scope for making better use of existing resources. A modest increase in land-based inspection, targeted on the areas and stocks at greatest risk, could have an appreciable impact on levels of compliance. It would also align with the enforcement strategies which are being developed by the Commission whereby Member States would be invited to target inspections and other controls on stocks subject to Community recovery plans.

At the Committee's hearing on 4 June 2003 the Department undertook to consider whether the budget for administrative expenditure on the Sea Fisheries Inspectorate (over £3 million a year) should be merged with that for programme expenditure on fisheries enforcement (some £9 million a year), principally on sea and aerial surveillance of fishing activity. The Department has reviewed the position and agreed with the Treasury that the running costs budget of the Inspectorate should be combined with that for programme expenditure. This change will be effected in a Spring Supplementary Estimate for 2003-04.

Improvements in the utilisation of resources and the better targeting of inspections should help to encourage higher levels of compliance and in turn could reduce reliance on sanctions as a deterrent. Present procedures, involving criminal proceedings, are resource demanding and considerable time can often elapse between an offence being committed and any Court hearing. There could be significant benefits in switching to some form of administrative penalty. Subject to consideration with the devolved administrations, the Department is planning to issue a detailed consultative document before the end of 2004.

**... The Department should consider whether there would be benefit in seeking changes in current European Union enforcement legislation to allow the landing of discards and over quota catches but with proceeds being used to fund research or greater enforcement activity, as is already the case in Iceland.**

The Department will pursue this recommendation.

There is general agreement that discarding should be avoided where possible. It takes several forms and there is no single solution. In response to growing concern amongst Member States, the European Commission published a detailed action plan in November 2002. A number of possible measures to reduce discards are to be discussed and decided upon during 2004. In the meantime the Department has welcomed the plan and offered to speed the process by undertaking pilot projects aimed at ways of reducing the incidence of discards. The Department will also now draw the Commission's attention to the Committee's recommendation.

**Some countries have greater success in conserving fish stocks, though as in the case of Iceland and New Zealand they may benefit from waters and fish stocks which are more isolated and less open to fishing from foreign vessels. Nonetheless, the Department should be alive to opportunities to identify and share best practice on fisheries enforcement with other countries, both within and outside the European Union and to maximise the effectiveness of enforcement through co-operation with other fishing authorities.**

The Department supports this conclusion.

The Department enjoys close links with the enforcement authorities in a number of other countries including those in Ireland, Spain, Belgium, Netherlands, Denmark and Norway. It will continue to foster those links as well as developing better links with other countries.

The Department has adopted a number of measures pursued by other enforcement authorities. It has also organised training and other visits; exchanged enforcement intelligence and undertaken joint operations in the North Sea with the Netherlands and Belgium. There has been close co-operation with a number of Sea Fisheries Committees and the Environment Agency. Regular meetings have been held with the authorities in Scotland and Northern Ireland to ensure the sharing of experience and intelligence as well as a common approach towards enforcement in the UK.

The new framework for control adopted by the Council of Ministers in December 2002, and set out in Chapter V of Council Regulation (EC) No 2371/2002, lays the ground for better co-operation between Member States. In March 2003 the Commission published an eleven point action plan for improving standards of enforcement and co-operation and has since commissioned a feasibility study into setting up a Joint Inspection Structure and Community Fisheries Control Agency to ensure effective co-ordination of inspection and enforcement activities by national authorities. The Department has welcomed these initiatives and indicated that it will be playing a full part in them.

*Working together*

**PAC conclusion (i): To improve compliance, the Department needs to better engage with fishermen on the importance of conservation and regulations aimed to support fish stocks. The Department should enhance consultation with fishermen and Producer Organisations at a local level, and encourage greater discussion between scientists and fishermen to achieve a shared understanding of conservation issues. The Department could, for example, engage fishermen more actively in the collation of scientific data on stock numbers, and consider deploying scientists as observers on fishing vessels.**

1. The Department accepts both this and the Committee's first main conclusion.
2. The Department has placed and continues to place great emphasis on working in partnership with the fishing industry and other stakeholders in shaping and influencing both domestic and Community policies. Since the mid-1980s industry has been actively involved in quota management, with annual discussions being held to set quota management rules and 95 per cent of the UK's quota being managed on a day-to-day basis by Producer Organisations. A number of joint industry and departmental working groups have been established to advise Ministers on issues such as fishing vessel licensing, technical conservation measures and the introduction of fixed quota allocations. There has also been extensive contact between fisheries scientists and fishermen to explain and to provide information on fish stock assessment.
3. The Department recognises that more needs to be done to develop a closer working relationship with the fishing industry and other stakeholders at a time when increasingly difficult decisions are having to be taken at both the Community and national level to safeguard fish stocks. At the Community level the Department has campaigned hard for fishermen and other interests to have a greater role in the formulation of advice and measures to conserve fish stocks. In December 2002 the Council of Ministers agreed to provide for establishment of a network of "regional advisory councils" to advise on fisheries management in respect of certain sea areas or fisheries zones. More recently, in its proposal for a "Council Decision establishing Regional Advisory Councils (RAC) under the Common Fisheries Policy" (COM(2003)607), the Commission has proposed that councils be set up for the North Sea, Baltic, Mediterranean, North Western Waters, South Western Waters and pelagic stocks. Unless the proposal meets with unexpected problems, we can expect the first RACs to be established in 2004.

4. On the domestic front, the Department and its Centre for Environmental, Fisheries and Aquaculture Science (CEFAS) have made renewed efforts to promote a better understanding of fish stock assessment work and to enlist the co-operation of industry in providing data on catch rates, catch composition and discards. In this context the bulk of the extra £1 million the Department committed to assisting the industry in 2003 has been devoted to co-operative monitoring work involving CEFAS and the industry using commercial fishing vessels. Further steps to actively engage the industry will be considered once the Cabinet Office Strategy Unit has published its report on the development of a long term strategy for the sustainable future of the UK fishing industry. Like the Committee, the Strategy Unit is expected to recommend a much more prominent role for industry in determining future measures to conserve fish stocks.

**PAC conclusion (ii): The Department should make it clear how intends to address over-capacity in the United Kingdom fishing fleet in the long term, drawing on best practice from other countries.**

5. The Department notes this recommendation.

6. The Government has used incentive schemes to promote the permanent removal of excess fishing capacity from the fleet. The need for further action to bring fleet capacity into line with fishing opportunities and to provide a viable and sustainable future for the fishing industry are issues which are being considered by the Cabinet Office Strategy Unit in its review of fisheries policy. The Government will be considering the Unit's report carefully in framing future policy on the structure and capacity of the fleet.

*Improving control and better enforcement*

**PAC conclusion (iii): The Department should check periodically that Producer Organisations have robust and effective quota management systems, and require better reporting of the action taken against individual fishermen. The Department should also work more closely with Producer Organisations at each port, for example by sharing data on enforcement problems.**

7. The Department accepts this recommendation.

8. Producer Organisations (POs) are responsible for the day-to-day management of some 95 per cent of the totality of UK quota. In exercising this responsibility POs must have in place effective arrangements for monitoring landings by their members, for enforcing PO catch restrictions and for imposing appropriate penalties on any members who are in breach of those restrictions. They also have to supply their "home" Fisheries Department with details of the catch limits applying to their membership and of the action taken in response to infringements of those limits.

9. The Department believes that there is scope for revisiting these arrangements and for putting them onto a new footing, taking account of changes that have occurred over the last 10 years. It therefore proposes, in partnership with the Fisheries Departments, to open a dialogue with Producer Organisations with a view to incorporating improved measures into the quota management rules for 2005.

**PAC conclusion (iv): The Department should also consider, in discussion with its European partners, whether alternatives to quotas, such as restrictions on the number of days boats might spend at sea each season, might provide a more effective way of limiting catches and the depletion of fish stocks.**

10. The Department notes this recommendation.

11. The outcome of the review of the Common Fisheries Policy in December 2002 included provision for recovery plans for fish stocks which are outside safe biological limits. It was agreed that these plans should include limitations on fishing effort unless these are not required to achieve the objective of the plan. The Government considers that limitations on fishing effort can provide an important complement to the present system of total allowable catches (TACs) and national quotas of fish, for stocks which are heavily depleted and at possible risk of collapse.

12. The Council of Ministers has since adopted a long term recovery plan for cod including limits on fishing effort to apply from 2005. Meanwhile interim limits on fishing effort, introduced in 2003 to restrict the time that vessels catching cod could spend at sea in the North Sea and in the waters to the West of Scotland, have been modified and extended to the Irish Sea and the eastern half of the English Channel for 2004. The Council also envisages the adoption of recovery plans for other stocks.

**PAC conclusion (v): The Department should record and analyse all breaches, even where they only result in a verbal warning, to improve its understanding of the nature and scale of infringements and to better target its enforcement activity**

**PAC conclusion (vi): The Department should issue clear guidance to staff on the types of offence and standards of proof that are appropriate for verbal or written warnings rather than prosecution.**

13. The Department accepts these recommendations.

14. The Department's Sea Fisheries Inspectorate is putting in place from 1 April 2004 new arrangements for the recording of all observed infringements of fisheries regulations, together with revised instructions on the treatment of such infringements.

15. The Department would point out that verbal or written warnings are normally issued where there has been a clear breach of the rules but:

- (i) a prosecution would not be in the public interest because, for example, the scale of the offence would make prosecution a disproportionate response; or
- (ii) strong mitigating evidence exists; or
- (iii) evidence suggests that a genuine mistake was made, backed by no apparent reason to deceive.

The Department also believes that its local fisheries officers should continue to exercise discretion in the treatment of offences. Most of the offences committed by the fishing industry, although absolute, are minor in nature and can be dealt with through advisory rather than punitive action. Repeated and serious offences would continue to be the subject of formal proceedings

**PAC conclusion (vii): The Department should use its records of past infringement to identify patterns of offending behaviour, to better inform the targeting of its enforcement activity.**

16. The Department notes this recommendation.



17. There are a range of factors that need to be taken into account, in addition to patterns of offending behaviour, when targeting enforcement activity. They include the state of the market, the level of quota, the availability of catchable fish, the seasonality of the fishery and the impact of conservation and other measures. Nonetheless within the resources available the Department's Sea Fisheries Inspectorate will look to make wider use of risk analysis techniques to inform future planning and the targeting of enforcement activity. It will also focus activity on stocks at the greatest risk as provided for in Community wide recovery plans and the Commission's action plan for better enforcement.

**PAC conclusion (viii): The Department should match the regional deployment of inspectors more closely to the pattern of fishing activity and the risk of infringements, and should review whether the terms and conditions of employment for inspectors are sufficiently flexible in this respect.**

18. The Department agrees with this recommendation.

19. The Department has already initiated a review of fisheries and environmental enforcement arrangements in England and Wales undertaken by its Sea Fisheries Inspectorate and other bodies. The review, which is due to be completed by 31 March 2004, is focussing on the organisational and delivery aspects of fisheries enforcement. In Wales much of the enforcement is undertaken by the Sea Fisheries Inspectorate on behalf of the Welsh Assembly.

20. Long-term decisions on the deployment of inspectors within the Sea Fisheries Inspectorate will be taken following the review of fisheries and environmental enforcement arrangements. It is expected that most changes, where required, will be carried out during 2004 and 2005, taking full advantage of the flexibility created by staff recruitment, postings and transfers. In parallel with this, and as previously indicated, the running costs budget of the Sea Fisheries Inspectorate is being merged with that for programme expenditure on enforcement activity. Additionally the Department will be reviewing during 2004 the terms and conditions of employment within the Sea Fisheries Inspectorate to see whether and how these should be made more flexible.

**PAC conclusion (ix): The Department should explore the option of imposing other penalties such as on the spot administrative penalties or withdrawing a boat's licence to fish for a fixed time period.**

21. The Department notes this recommendation and intends carrying matters forward as set out below.

22. Under the Common Fisheries Policy Member States may have recourse to administrative action or criminal proceedings in dealing with fisheries infringements. Such measures must be capable of depriving those responsible of the economic benefit of infringements or of producing results proportionate to the seriousness of the infringement, effectively discouraging further offences of the same type. Hitherto the Department has relied on criminal proceedings to deal with fisheries infringements. A system of administrative penalties could have the merit of being more responsive both in time and to the nature of the offence. Further work needs to be done but, in collaboration the other Fisheries Departments, the Department would hope to be able to go out to public consultation on a comprehensive set of proposals before the end of 2004. This might include spot fines for lesser infringements and licence suspension for the more serious.



23. Additionally, and for the purposes of regulating fishing activity, the Department is considering whether a system of special licensing conditions should be introduced for application in circumstances where vessels are deemed to be behaving unacceptably. Vessels would not be prevented from fishing but if their behaviour can be shown to be unacceptable, conditions might be added to the fishing vessel licence requiring the vessel's master to secure the consent of one of the Fisheries Departments before discharging its catch at a nominated port during normal working hours. Such an arrangement would not interfere with a vessel's day -to- day operations but would allow tighter control to be exercised at the point of landing.

**PAC conclusions (x): The Department should reach a conclusion quickly on its consideration of whether controls over fish landings could be enhanced through a system of registration of buyers and sellers, designated sales agencies, and traceable sales notes ... In addition, the Department should consider extending the scheme whereby boats land their catches at designated ports, who would be empowered to police the accuracy of catch declarations.**

24. The Department accepts the recommendation.

25. Draft regulations for the designation of fish markets and the registration of the buyers and sellers of first sale fish are in the process of being finalised following an initial round of consultations with stakeholders. A further round of consultation is planned for the early spring with a view to agreed measures being in place before the end of 2004. The measures should then provide for the independent verification of logbooks and landing declarations and ensure that fish landed into the United Kingdom is properly accounted for.

26. The Department, in partnership with other Fisheries Departments, will also revisit the arrangements for designated landing ports and the prior notification of landings to see how these can be best adapted to provide for the improved monitoring of landings. This would be consistent with the measures that are being adopted by the Community for the monitoring of stocks subject to recovery plans.

# Forty-fourth Report

## Department for Constitutional Affairs

### New IT systems for Magistrates' Courts: the Libra project

#### *The Committee's main conclusions*

**This is one of the worst PFI deals that we have seen. The Department procured a contract to provide services to 42 Magistrates' Courts Committees over which it did not have real authority or control. It ran a poor competition, attracting only one bidder, and it failed to take decisive action when ICL did not deliver what was required. For its part, ICL did not understand the Department's requirements, took on excessive risk and underpriced its bid. It performed poorly throughout and could not meet the target dates for delivery of the core application. As a result of these failures the cost of the project has more than doubled in just four years to almost £400 million and magistrates' courts still do not have the IT systems they need to manage their workload properly.**

The Department welcomes the PAC's investigation of the LIBRA Project as the process has intensified the focus on key opportunities for improved tendering, cost control and project management and has helped to stimulate a more effective risk management regime for Libra and a wider range of specialist suppliers. However, the PAC Report should be assessed in the context of the urgent need at the time to set in train IT support across 42 Magistrates' Courts Committees with varying IT needs before the emergence of a unified administrative system across the whole service.

The Department accepts the statement on the lack of control over the end user. However it did set up mechanisms fully to involve representatives from the Magistrates' Courts Committees (MCCs) from the outset of the Libra project. This is illustrated by the make up of the Governing Boards and also by the secondment into the project team of MCC staff to ensure that up to date knowledge of the business of the magistrates' courts was to hand.

On the competition itself, there were only three credible providers who generated three responses to the prospectus, which reduced to a short list of two. Competitive tension was maintained between the final two bidders up to and including the invitations to tender. It is acknowledged that the withdrawal of one of the tendering bidders meant that the Department was unable to maintain the same competitive tension in the post tender period. However, considerable value for money had been delivered by this process and pressure was continued through independent value for money benchmarking via Gartner. Serious consideration was given within the Department as to whether or not to continue the competition with only one bidder. Although concerns were raised over a possibly weakened negotiating position, a decision to proceed was taken as the delays to the project resulting from halting the procurement were at the time believed to offer the worst option in terms of cost control and delays in service improvement. It was therefore concluded on balance that the best course of action was to pursue the most acceptable deal from the single supplier whilst continuing cost pressure through benchmarking.

The Department was extremely dissatisfied with ICL's failure to deliver the business software to time and budget. The company has acknowledged that its original bid was underpriced.

The Department accepts that the price of Libra escalated significantly over the four-year period, as against ICL's initial bid which the report notes was underpriced. However, in re-negotiating the contract with ICL (now Fujitsu Services) it commissioned an independent price benchmark for the services to be provided. This indicated that the revised price was within the industry price range for what was being provided.

As a result of this process and deciding not to abort the contract, Fujitsu Services has now fully delivered the national infrastructure into the courts, and it is working well, with positive customer satisfaction ratings. The Department is now proceeding with its revised procurement strategy to ensure that the required business application is delivered. The contract with Fujitsu Services has been refocused against their core strengths whilst contracts have been awarded to STL Technologies for the provision of the business software, and to Accenture for the provision of system integration services, i.e. hosting the business software on the national infrastructure and providing it as a managed service to the MCCs. The business software is now being developed and delivered in a phased manner to reduce the risks that were previously inherent in a 'big-bang' implementation.

**Departments will not achieve the full benefits of introducing IT if they do not redesign business processes in parallel. The Department chose to develop IT to support existing processes rather than redesigning business processes in parallel with new IT. This approach contributed to the project's difficulties because the Department was unable to achieve a single view of requirements for the new system across Magistrates' Courts Committees.**

The Department needed to respond to the urgent and varying IT needs of Magistrates' Courts Committees before the advent of a unified administrative system and, whilst accepting the inherent risks, embarked on an IT system that would cope with urgent varying needs and evolve towards a flexible, unified service. The alternative would have been to at best have considerable delays to public service improvement, and at worst the catastrophic failure of near-obsolescent legacy systems being operated by MCCs and the reversion to manual operation. Please also see the response to specific conclusion (i).

**Competitive procurements of PFI projects are essential. The Department was unable to maintain competitive tension as all potential bidders bar ICL dropped out during the procurement process and the Department was left with just one bidder. A single bid for a major complex project is seldom likely to achieve value for money. That only one bid was received should have alerted the Department to the fact that its project may not have been sufficiently well designed to attract competition.**

As mentioned under the first conclusion above, the Department did seriously consider termination, initially when only one supplier was bidding for the work, and again immediately prior to contract award. Termination would have led to serious delays and could not guarantee improved value for money as significant value for money had been delivered prior to one supplier remaining and afterwards through benchmarking.

**Where contractors are not delivering what is required of them, departments should be prepared to terminate contracts. Despite ICL's poor performance, the Department decided to negotiate rather than terminate the contract when ICL was in breach of the contract. Departments need to make their contractors aware that termination is a very real factor in their relationship, which should not automatically be seen as the most difficult and risky option. Risk transfer does not really take place if departments are unwilling to terminate a PFI contract or take legal action when a contractor fails to deliver.**

The Department accepts this conclusion. However it should be noted that the Department had terminated two previous attempts to provide standard IT systems in the magistrates' courts. It should also be stated that the re-negotiation with Fujitsu Services was governed by a Memorandum of Understanding between the two parties which had within it a very real option to terminate, and that Fujitsu Services was aware of this option from the outset. Total termination would have been triggered had the Fujitsu Services revised offer for infrastructure alone been outside the Gartner Value for Money benchmark. The outcome of the re-negotiation was in any event a partial termination, as the development of the business software was removed, and the contract itself was significantly shortened. In reaching its decision to continue with Fujitsu Services for part of the Libra service, the Department weighed up the consequences of termination against the impact that such action would have on the continuing business of the magistrates' courts and concluded that renegotiating and continuing was the right option in all the circumstances.

*On developing the IT project*

**PAC conclusion (i): The Department recognised that the design of a best business process model should normally come before seeking an IT solution. The Department chose to develop IT first mainly because it did not have the authority to impose such a model on the independent Magistrates' Courts Committees. But the lack of a coherent model, allowing IT solutions to be integrated with business processes, increased the risk of project failure.**

1. It should be stated that there were 96 MCCs at the outset of the project. Business practices had developed at each of these locations over the years in an independent manner, varying principally because of the differing sizes and styles of organisation. The Department accepts that existing business processes were not re-designed. However, in the development of the business software, best practice across the service was factored in through the use of a group of experts from the Magistrates' Courts Service. The group was able to influence the design of the software. Given the autonomous nature of MCCs it was at times difficult to achieve a consensus view through this approach, so an additional tier of moderation was put in place, with the use of 'Senior Users' from across the Service. On the current business software development, steps have been taken to ensure that a single view of requirements is achieved. A Senior User Group with representatives from all 42 MCCs has been set up and is responsible for approving the requirement. Additionally, during development of the business software, workshops and prototyping techniques are being employed that fully involving experts from the Service and are accurately capturing the business requirement. Business experts from the Senior User Group are directly involved in the approval of design specifications. The current Senior User Group is better placed to succeed, as it has a wider inclusivity - covering all 42 MCCs. The Group is also structured along lines of accountability and responsibility with designated leads for each specialist area. Working groups within the overall User Group report up the line to the lead officers.

**PAC conclusion (ii): The success or failure of an IT development often depends on its scale and complexity. We have recommended that departments should carefully consider whether projects are too large and ambitious to be undertaken in one go. These lessons were particularly apposite in the case of the Libra project. Departments should think carefully about breaking up big IT projects into manageable pieces that can be delivered incrementally.**

2. The Department accepts the conclusion that projects should be broken up into discrete manageable pieces of work. The current model for the delivery of Libra reduces risk and improves value for money through having a phased development of the new application and by separating the project into three component parts provided by three suppliers.

*On handling the PFI procurement*

**PAC conclusion (iii): The Department did not carry out a market survey to assess how much interest there would be in the Libra project. Competition is an important safeguard for value for money in a procurement contract, and market surveys can help to establish whether proposals are attractive to potential bidders. A lack of interest at this early stage would be a warning sign that a project might not be deliverable.**

3. The Department accepts that it did not carry out a market survey. However, soundings were carried out across the industry, involving major players in the market, with particular reference to those that had experience in the Criminal Justice System. All three of the incumbent suppliers of systems to the magistrates' courts bid for the Libra contract in one form or another. In a niche market this may well have deterred other firms from bidding given the knowledge built up by the existing suppliers. But, it did indicate that the Department had a reasonable expectation that the presence of existing suppliers within the process meant that a valid competition would take place. Subsequently the original contract was sub-divided into three component parts which now have three suppliers playing to their individual niche strengths.

**PAC conclusion (iv): In the absence of competition it is essential that departments benchmark the prices offered by contractors. The Department did not examine ICL's financial model to assess the reasonableness of its bid, though the National Audit Office had already recommended in 1997 that departments should examine bidders' financial models.**

4. The Department acknowledges that it is now accepted good practice to examine suppliers' cost models as part of the procurement process. This was fully employed during the recent procurement for the Libra system integrator, where models were provided and scrutinised as part of the competition.

**PAC conclusion (v): ICL was chosen as the preferred bidder despite the problems the company was having with another government IT project (the Benefits Payment Card project). Knowing of these difficulties the Department needed to satisfy itself as to the technical competence of the bidder to deliver a project of such size and complexity. However, the possibility that the problems with the Benefits Payment Card project might have reflected on ICL's technical competence to deliver the Libra project was not adequately investigated. There needs to be more sharing of lessons and pooling of experience between departments, and the Office of Government Commerce should draw relevant examples to their attention.**

5. The Department did investigate the difficulties surrounding ICL's involvement with the Benefits Payment Card project, speaking to Post Office Counters Limited, the Department of Trade and Industry, and the Benefits Agency. Information from other reference sites was taken up and the conclusion was that ICL's particular problems with the Benefits Payment Card project should not affect the Department's plans for Libra in particular in the delivery of infrastructure. A specific provision was included in the contract to address the financial impact of the Benefits Agency/Post Office Counters Limited project undermining ICL as a viable supplier. The Department fully accepts the conclusion that all government departments should take on board lessons learnt and that experience should be pooled. It has already acted as a reference site for other departments considering inviting Fujitsu Services to tender for future contracts. OGC is leading work across Government to share lessons and pool experience of contracts with key suppliers. OGC currently provides high-level contract performance information on these suppliers based on information provided by departments including DCA, together with commercial and financial briefing for Departments. OGC is building on this approach by developing a more comprehensive system for the sharing and use of information concerning its key suppliers and other suppliers engaged in major projects.

**PAC conclusion (vi): A systematic and thorough comparison of realistic alternative options is required before a decision is made to adopt the PFI approach. A Public Sector Comparator—an estimate of what a project would cost if conventional procurement methods were used—should be one of the factors in such an assessment provided conventional procurement is a realistic option. In the Libra case, the Public Sector Comparator provided no useful information, since the Department had no IT department that could deliver a public sector solution.**

6. A Public Sector Comparator (PSC) was developed. However, a PSC is not intended to be a comparison with a potential 'in house' solution (i.e. a market test). Rather, it was based on the probable costs of delivering Libra through a more traditional procurement route rather than via PFI. It was not an internal bid against the ICL tender. Its purpose was to provide a separate price benchmark. The main differences between the PSC and the PFI were the funding and support arrangements. The PSC described what the Department and the MCCs would have to do to deliver the service themselves. The PSC included the procurement of a systems integrator to provide and support the equipment and software to the MCCs, but the management of the systems would have been left to the MCCs as was the case with the existing systems. Therefore, price benchmarking was used to confirm value for money.

*On the post-contract renegotiations*

**PAC conclusion (vii): ICL performed poorly on this contract. Some three months after contract signature it realised it could not use the software on which it had based its bid, and there was little continuity in ICL's management. As a result, ICL did not meet the target dates for delivery of the core application. In view of these performance weaknesses, the taxpayer should not have had to pay ICL more money than had been agreed in the original contract. When a private sector contractor accepts risks, it should bear the financial consequences if those risks materialise. ICL did not take responsibility for the risks transferred to it and could not deliver the project for the price it had agreed.**



7. The Department's understanding is that ICL's decision not to use the business software produced by Libra's predecessor (MASS) did not affect the contract price. ICL was questioned on its decision and stated that it would bear the risk. In fact the negotiations that took place in 2000 did not in any way touch on the delivery of the business software. Issues regarding delivery of the Core Application had not come to light until early 2001. Negotiations which took place regarding payment of further monies were not as a result of ICL's decision not to use MASS. The Department agreed to reprofile the amounts it had already agreed to pay under the original contract and the perceived increase to the taxpayer was because the contract was extended by four years as part of the payment reprofiling. The conclusion that ICL's decision not to use MASS together with a lack of continuity in management led to target dates not being met is not the full picture. Other issues relating to requirement definition (as one example) impacted the target dates. As a result of this, ICL suffered financial loss, the loss of the application contract and with it associated business development. It also dismissed some of its managers.

8. The Department accepts that there was a lack of continuity in the ICL management team, and that this might well have been a contributory factor on performance. The Department believed that a target date of delivery in July 2001 from an early 1999 start date was achievable providing that the supplier managed the development effectively. It is fully accepted that suppliers should and do take risks in their approach to delivery, but would add that it is now recognised across government that PFI is not normally the most appropriate route to follow for development of large scale bespoke IT systems.

**PAC conclusion (viii): ICL recognised management inadequacies and dismissed some of its managers involved in the procurement and running of the contract. The Department suffered from a lack of professional and commercial expertise and management continuity. Some of the Department's staff were transferred and new management was brought in but no staff were penalised for inadequacies in their performance. If the quality of public sector management is to be improved and failures like Libra prevented, departments must get the right people in place at the start with the skills and experience to deliver major projects successfully and provide them with incentives to succeed.**

9. The history of Libra has led to a dynamic personnel strategy where human resources are taken from both the public and private sector according to the particular needs of the project at that time. The evolution of the project during the time considered by the PAC Report has led to significant management changes and the personnel needs continue to evolve as Libra progresses. In general, the practice of the Department now for the management of projects of this size would be to advertise and recruit managers from both the internal and external markets, on a national basis. The recently appointed Project Director was recruited on this basis.

**PAC conclusion (ix): Although ICL was in breach of the contract by failing to meet the contractual delivery date of July 2001 for the first site, the Department chose not to terminate the contract. It considered that such action might have led to costly litigation and counter claims from ICL. The Department might consider whether its lack of confidence in the prospects of redress has anything to say about the effectiveness of the court system, for which it is responsible.**



10. The decision not to terminate in full the contract with ICL was taken firstly with the interests of the users of the magistrates' courts and wider justice system in mind. The decision was neither based on concerns as to the effectiveness of the court system nor on the effectiveness of the law which is applied within it. Rather the key issue was to find the most effective way forward to successfully deliver modern IT across the magistrates' courts to time.

**PAC conclusion (x): The infrastructure element of the project increased in price from £94 million in ICL's original bid to £232 million in the latest contract, which is for a shorter period of service, albeit with some expansion in the scope of the requirement. The Department used independent consultants to benchmark the price, which was not tested in competition and appears very expensive for what is being provided. The Department was nevertheless unable to say how ICL's price for the infrastructure element of the Libra project was constructed and we remain unconvinced that £232 million was a fair price to pay. More thorough analysis is needed before departments agree to pay more than twice the tender price.**

11. The Department acknowledges that the re-negotiated price for the Fujitsu Services contract is at the higher end of the range supplied by the firm providing an independent benchmark. Throughout the final negotiations with Fujitsu Services the financial model was made available to the Department and all component costs were vigorously evaluated via the Gartner Report and challenged during talks.

*On the accuracy of evidence*

**PAC conclusion (xi): The Accounting Officer told us that he had been less forthcoming than he might have been at the Committee's hearing on 24 June 2002 because some of the matters under consideration were commercially confidential. Evidence supplied at the Committee's hearings needs to be accurate and complete. Where a department feels that it cannot put evidence in the public domain on the grounds of commercial confidentiality, it should make the position clear so that the Committee can consider whether to take evidence in closed session.**

12. The Department fully accepts the Committee's procedural conclusion. However, the Accounting Officer provided further written evidence in March 2003 which explained why a full answer was not provided at the time.

# Forty-fifth Report

## Food Standards Agency

### Protecting Public Health and Consumer Interests in Relation to Food: the Food Standards Agency

*The Committee's main conclusions*

**The Agency has not yet demonstrated convincingly that it is able to lead on issues of food safety and standards and is an authoritative and trusted voice where there is public doubt. In the case of hygiene in catering establishments, for example, where the Agency is responsible for ensuring that regulations on food safety and standards across the UK are enforced to protect consumers, the Agency needs to disseminate more widely and more quickly information from its audits of local authority enforcement activity in order to reassure the public that monitoring and control are adequate.**

The Food Standards Agency (FSA) believes that it is making significant progress in demonstrating convincingly that it is able to lead on issues of food safety and standards. It has dealt with a number of issues such as the possibility that BSE exists in sheep and advice on risks from dioxins, associated with carcasses burned during the foot and mouth disease outbreak in 2001, in ways which have been commended by a range of its stakeholders. Its latest annual Consumer Attitudes Survey, which will be published in early 2004, shows that it has a higher rating for trust and reliability of information than consumer groups, other government departments or supermarkets. Whilst the FSA already publishes a substantial amount of information about local authority food law enforcement activity, it accepts the need to promote greater consumer awareness in this area and is taking steps to do so.

**Greater clarity is needed about the Agency's roles and responsibilities. A lack of clarity in the relationship of the Agency to other government departments and agencies creates a risk that important issues of food standards and safety could be missed or action not taken sufficiently quickly by any one body. The Agency needs to establish a stronger presence and profile among other government bodies with which it works, principally DEFRA. Where there are shared responsibilities, such as over the control of imported food, the Agency should be proactive, clearly defining its own role and clarifying the responsibilities of others so that the potential for confusion or gaps in oversight is minimised.**

The FSA's roles and responsibilities are set down in the Food Standards Act 1999 and in its Strategic Plan, which are available on the FSA website. The FSA works closely with a number of other government departments such as Defra, which have responsibilities in similar areas and, where appropriate, such relationships are underpinned by concordats. These have been agreed with Defra, the Department of Health (DoH), the Department of Trade and Industry, the Department for Education and Skills, the Health and Safety Executive and other agencies and copies are available on the FSA website. In addition, the FSA Chairman, Deputy Chair and Chief Executive hold regular meetings with Ministers and senior officials in other government departments to discuss matters of mutual interest and agree how they will work together on major emerging issues.

**The Agency should adopt a more concerted and consistent approach to communicating with the public. The Agency communicates with the public through the media, its website, information circulated to local authorities and through specific campaigns about food. Despite the importance of its work, however, the Agency remains largely unknown to the public as a primary source of information and advice about food. A long term strategy to increase awareness of the Agency's role is needed to raise its profile. As a first step the Agency should make arrangements to monitor the extent to which its advice and information is being used by the public. It should also assess which media activities have most impact; for example, whether selective continuous advertising is more effective than one-off campaigns.**

The FSA agrees with the Committee that a concerted and consistent approach to communicating with the public is vital and its work is designed to achieve this. It also agrees with the Committee on the importance of monitoring the extent to which its advice and information is being used by the public and undertakes considerable research and evaluation to assess the impact of its work. Its latest annual Consumer Attitudes Survey shows that public awareness of the FSA is now at 75 per cent. However, the FSA accepts that it must do more not just to increase its profile but also to strengthen awareness of food safety, hygiene and nutritional advice and information. It will be developing a range of plans for such activity during 2004.

#### *Safeguarding the public*

**PAC conclusion (i): The Food Standards Agency was set up as an independent body operating at arm's length from Ministers, responsible for protecting public health and consumers' interests in relation to food. Even with these arrangements in place, the Agency has not yet demonstrated convincingly that it is able to lead on issues of food safety and standards and is an authoritative and trusted voice where there is public doubt. The Agency should exploit its independence and freedom of action to position itself firmly as the champion of the consumer.**

1. The Committee questions whether the FSA has yet demonstrated convincingly that it is an authoritative and trusted voice where there is public doubt on food issues. The FSA's annual Consumer Attitudes Survey (CAS) shows that in 2003 it had the highest rating in relation to its information being perceived as very or fairly reliable (86 per cent); higher than consumer groups, as well as other government departments, supermarkets and local councils. It also believes that it has already demonstrated convincingly that it is able to lead on issues of food safety and standards. Examples include its advice to consumers about the possibility of BSE in sheep, which created neither public panic nor market collapse; advice on risks from dioxins, associated with carcasses burned during the Foot and Mouth disease outbreak in 2001; and the finding of semicarbazide in bottled baby food, when the FSA issued timely and constructive advice to consumers.

2. However the FSA understands why the Committee places such importance on this point and it is not complacent in its efforts, particularly as fewer than a third of CAS respondents also believed that the Agency provides information that is independent/unbiased. The FSA agrees, therefore, that more needs to be done to position itself firmly as the champion of the consumer, using its independence and freedom of action. A strategic review is currently underway and a new strategic plan will be published in 2004 following a 3 month consultation period. Consultation with stakeholders has highlighted the fact that the FSA needs to strengthen its activities on nutrition. In line with this, the FSA has already initiated a programme of work on salt reduction in the diet and is planning future work on fat and sugar. It is also leading a national debate on the impact of promotion of foods to children.

3. The FSA published its core values on the day it started work. The first of these is to put the consumer first. This means ensuring the FSA understands and takes full account of the broad range of consumer views when developing its policies but does not mean just doing what consumers, or consumer organisations, say they want it to do. The FSA seeks to take action that is proportionate to the associated risk, basing its decisions on sound scientific advice. Reflecting its independence, it makes its own decisions on what action is most effective in terms of protecting consumer interests.

4. Where there is scientific uncertainty but there is a risk of serious damage to public health, the FSA adopts a precautionary approach by acting quickly to implement appropriate measures to reduce health risks. The absence of certainty is not allowed to delay proportionate action. By giving consumers information, the FSA enables them to make informed choices about food and to understand why decisions are taken, allowing them to respond constructively.

**PAC conclusion (ii): In the light of increasing public concern about hygiene in catering outlets, the Agency needs to aim for a higher profile in the enforcement of standards by local authorities, in order to reassure the public that monitoring and control are adequate.**

5. The FSA accepts the need for greater consumer awareness of local authority food law enforcement activity. It already makes publicly available a substantial amount of information about local authority food law enforcement and actively seeks to develop both the information it publishes and the communication routes it uses.

6. The FSA currently issues detailed individual reports on all local authorities subject to a FSA audit of their food law enforcement service. To make these reports more accessible to consumers, they include an Executive Summary, which summarises the audit findings and details any particular strengths of the authority or key areas where improvement is needed. The reports also contain an action plan which details the action to be taken by the authority in response to each audit recommendation. Reports are issued approximately three months after the completion of the audit, which allows necessary time for the writing of the report and agreement of the report and accompanying action plan. In the case of audit programmes focusing on specific areas of enforcement activity such as food sampling, a summary report of the programme findings is also published, usually a few months later than the individual authority reports, following consideration of the report with stakeholders.

7. All audit reports are published on the FSA website and, since September 2003, on a dedicated enforcement portal on the website. This portal was launched to bring together and make more easily accessible all FSA information on local authority food law enforcement. Copies of audit reports are also placed in the British Library, the Copyright Library and the Houses of Parliament Libraries. In addition, where a local authority has been subject to a full audit of its service, publication of the report is accompanied by a press release, which is issued to the local press in the authority's area and which summarises the audit findings. The FSA routinely follows up on the implementation of audit action plans following which updates are published on the website with links to the initial report.

8. In addition to the FSA's audit role, it also collects data from all local authorities on their food enforcement work and uses these data to assess and report on overall levels of enforcement across the UK and within individual authorities. This information is reported each year to an open meeting of the FSA Board in a paper which is publicly available. In addition, more detailed information is published in an annual report on local authority food law enforcement activity. These papers and the data on which they are based are accessible on the recently introduced local authority food law enforcement portal within the FSA website.

9. The FSA is working to expand the nature of its assessment of local authority food law enforcement activity in order to produce a broader-based reflection of each local authority's performance. Changes will be introduced in April 2004. These will include publishing more detailed enforcement data for every local authority across a wider range of key enforcement activities and will include recognition of the work that such authorities do in advising and assisting businesses to help them to be able to comply with the law. The benefits of this new approach will include making it easier for consumers to identify the activity levels of their own authority and to make comparisons with other authorities. Beyond these immediate changes, FSA is continuing to work with stakeholders to develop further the criteria it uses to assess the performance of local authorities. In particular, it is aiming to develop measures which reflect the outcomes of local authority food law enforcement activity and which can be used alongside the existing measures of input activity.

10. The Framework Agreement, which was developed by the FSA with local authority stakeholders, also requires local authorities to take action to raise the profile of their work. This includes requiring every local authority to develop and make publicly available a service plan detailing the work of the authority and to carry out an annual review of its performance against the plan, the result of which must also be made publicly available.

**PAC conclusion (iii): The Agency's campaign to raise hygiene awareness in catering establishments has not so far brought about the necessary change in behaviour. Survey results show that more than one third of staff still neglected to wash their hands after using the toilet and half of those surveyed did not appear to wash their hands before preparing food. The Agency's further work in this area should target specific changes in behaviour and should establish clear measures to assess the effectiveness of these activities.**

11. The FSA agrees with the Committee's conclusion that its campaign to raise hygiene awareness in catering establishments has not so far brought about the necessary change in behaviour. This is not surprising as behavioural change takes time to achieve. The Committee cites data in relation to catering staff failing to wash their hands as an indicator of this lack of success. These data come from a benchmarking exercise done by the FSA before the campaign was launched to caterers in February 2002. Subsequent research by the FSA showed that awareness of the campaign and its key hygiene messages had reached 70 per cent of caterers.

12. Research has also shown that caterers are now taking food hygiene more seriously. Following the 2002 campaign 36 per cent of catering managers were now talking to their staff about the importance of food hygiene, compared with fewer than a quarter beforehand and over 55 per cent were using FSA materials to educate their staff.

13. However the FSA agrees with the Committee that further work is necessary and that it should focus on specifics. A new phase of the food hygiene campaign is planned for 2004 and it will focus on tackling the food bug *Campylobacter* in chickens, with an emphasis on both consumers and caterers. The campaign will include TV advertising, direct marketing and media relations.

*Clarity of the Agency's relationships with other bodies*

**PAC conclusion (iv): A lack of clarity in the relationship of the Agency to other government departments and agencies creates a risk that important issues of food standards and safety could be missed or action not taken sufficiently quickly by any one body. The Agency needs to establish a stronger presence and profile among other government bodies with which it works, principally DEFRA. A proposal by the Agency to DEFRA to take over responsibility from it for the controls over imported meat and products of animal origin has yet to be implemented, and we encourage DEFRA to resolve this matter without delay.**

14. The FSA agrees the importance of establishing a strong presence with departments such as Defra. The concordats, which the FSA has agreed with other government departments, including Defra, set out the roles and relationships it has with those departments. The FSA and DoH, who work in partnership on nutrition issues in particular, have agreed to review their concordat to take account of latest developments. The FSA has good day-to-day working relationships at official level with other departments and strengthens those by holding regular meetings at ministerial/Board Chairman and permanent secretary/chief executive level to ensure that there are no misunderstandings about their relevant roles in important matters of food standards and safety.

15. Detailed discussions have started with Defra about the transfer of work on controls over imported meat and products of animal origin.

**PAC conclusion (v): The Agency does not have data on how well it performs compared with other national organisations, such as the United States' Food and Drug Administration. The Agency should take steps to examine regularly its position and activities against that of other national bodies in order to benchmark its performance against the best.**

16. The FSA accepts the value of learning from the experience of comparable organisations in other countries. A wide range of countries, from among EU and applicant countries and elsewhere, have looked to the FSA as a model to follow. Since its establishment, representatives from over 50 countries have visited the FSA or invited FSA representatives to visit them, in order to learn from the FSA's experience. The FSA has developed an excellent network of contacts with other national food agencies and authorities in order to promote an exchange of views on policies and sharing best practice generally. The Chief Executive hosted a successful meeting of the EU Food Agencies in London in May 2003 of issues for exactly this purpose.

17. Given the differing scope of responsibilities and approaches in each country, the FSA considers that formal benchmarking against other national bodies would be difficult. However, the FSA will continue to explore the possibilities and to seek appropriate opportunities to make structured comparisons of performance in relation to specific issues. This will build on recent experience in comparing with other EU agencies the handling of work on acrylamide, a contaminant in some cooked foods.



**PAC conclusion (vi): The Agency communicates with the public through the media, its website, information circulated to local authorities and through specific campaigns about food. Members of the public are only likely to look to the Agency for information and advice about food standards and safety when they understand better its role and the information and advice that it can provide. As a first step the Agency should make arrangements to monitor the extent to which its advice and information are being used by the public. It should also assess which media activities have most impact; for example, whether selective continuous advertising is more effective than one-off campaigns.**

18. The FSA agrees with the Committee that a concerted and consistent approach to communicating with the public is vital and its work is designed to achieve this. The FSA makes use of a targeted approach utilising the best communications methods to reach the relevant audience on each issue.

19. The Committee suggests that the FSA is “largely unknown as a primary source of information and advice about food”. The FSA’s annual Consumer Attitudes Survey (CAS) shows that awareness of the FSA has risen since its inception from 58 per cent to 75 per cent. Similarly, the 2003 CAS shows that the FSA is now spontaneously considered the top source of information by consumers, higher than local councils, supermarkets, other government departments etc.

20. Many consumers consider local newspapers and radio to be a trusted source of information. The FSA aims to get coverage for its activities in all these media. For example, a FSA nutritionist has a syndicated weekly Question and Answer column in a range of local newspapers read by nearly half a million people. The FSA website is also an important tool to reach consumers. The website now averages over 100,000 visitors a week, compared with fewer than 15,000 a week in January 2002. In February 2003 the FSA site received 214,676 unique visitors.

21. The FSA agrees with the Committee on the importance of monitoring the extent to which its advice and information is being used by the public. Accordingly, it already undertakes a range of monitoring. For example, awareness of the FSA’s messages around its food hygiene activity in 2002 increased from 32 per cent before the campaign initiative to 66 per cent afterwards. The impact was particularly high amongst a key target audience, young people.

22. The FSA accepts that it needs to continue to increase its profile and strengthen awareness of food safety, hygiene and nutritional advice and information. Plans are being prepared for initiatives in 2004 including a new phase of the food hygiene campaign, which will focus on poultry and the food bug *Campylobacter*, targeting consumers as well as caterers through advertising, media relations and direct marketing. Other initiatives will include a campaign to increase awareness and secure reductions in the levels of salt in foods, as high salt intake is linked to high blood pressure, which increases the risk of stroke and heart disease.

**PAC conclusion (vii): There is considerable public interest and debate about issues such as nutrition and diet with only limited availability of clear and authoritative information. The Agency currently publishes general advice on its website about eating more healthily, but in view of its strategic objective to improve diet and nutrition in the UK, the Agency should clearly define how it will do so, and the extent to which it feels able to offer advice on matters such as the value and safety of specific diets or foods.**



23. The FSA works in partnership with DoH on issues of diet and nutrition. It has a comprehensive programme of work underway in support of its strategic objective to improve diet and nutrition in the UK. This, including the activity referred to below, is set out in its Nutrition Action Plan approved by the FSA Board, which is subject to annual progress reports to the Board in open public session. The plan and progress reports are published on the FSA website. The FSA will be looking to strengthen the focus on outcomes and targets still further in the current review of its strategic plan.

24. The website also provides information and advice on a wide range of diet and nutrition issues. It is regularly updated to reflect new scientific evidence as it becomes available, and provides advice relevant to food types and specific diets being promoted to the public. The purpose of this is to give consumers information they need to make informed choices about how they can achieve a healthy balance diet reflecting their own personal circumstances.

25. In addition, the FSA is closely involved in cross government action on a range of initiatives, and in work with local government, industry and consumer organisations. An important part of this work is with the Department for Education and Skills to promote a whole school approach (i.e. covering all food and nutrition work in the school environment) based on the Healthy Schools Standards. Another example of cross government action is the work that the FSA is currently doing in concert with DoH to promote salt reduction in processed foods. This has generated firm commitments on industry action from the Food and Drink Federation and Sainsbury's, with the likelihood of more to follow in the near future.

**PAC conclusion (viii): On the issue of advertising to children the Agency should launch a programme of consultations with food manufacturers, to get them to focus more on nutritional and health aspects in promoting food products to children.**

26. On 7 November 2003 the FSA published a discussion paper setting out a wide range of policy options to tackle the issue of food promotions and children's diets. This followed publication of its funded review of evidence referred to in paragraph 32 of the Committee's report. These policy options include encouraging the industry to provide more information on the nutritional properties of foods aimed at children and to place more emphasis on promotion of healthier foods.

27. These options were discussed at a stakeholder meeting on 4 December 2003 and a public debate is planned for 27 January 2004. The FSA Board will discuss its policy on food promotions and children's diets at its open meeting in March 2004.

**PAC conclusion (ix): The Agency consults widely with consumer groups and other parties, but it needs to demonstrate greater transparency in its decision-making processes, by setting out publicly the reasons for the decisions it takes and how stakeholders' views have been taken into account.**

28. All the major food policy decisions taken by the FSA are reached by its Board after discussion in open Board meetings, which are also webcast. Many of the policy papers on which those discussions are based are developed following discussion (often in open meetings) with stakeholders, who can see how their views have been taken forward. Board papers and minutes of Board meetings, which detail how the Board reaches its decisions, are published on the FSA website. Similarly, public consultation documents which inform policy decisions are often the result of preparatory work with stakeholders. They are also published on the website. The FSA seeks to publish a summary of responses from stakeholders with an indication of how these have been taken into account. The FSA has perhaps been less efficient at providing feedback to individual stakeholders about how their views have been taken into account in the development of its policies. The FSA aims to improve its performance in this area.

**PAC conclusion (x): The Agency should be able to demonstrate measurable progress on major issues of importance to consumers, including the authenticity and labelling of food, both from a food standards point of view and in respect of nutritional issues. Labelling should for example be clear about whether food has a genetically modified content or not. The Agency could use its powers to make the public aware of manufacturers whose labelling is misleading or inaccurate.**

29. The FSA is undertaking a range of initiatives to improve food labelling so that consumers can make informed choices and to tackle authenticity problems. It has pressed for a number of important changes in EU labelling rules, notably comprehensive labelling of allergens, tighter controls on health claims and nutrition labelling of all foods. This has resulted in new rules on allergen labelling being agreed and controls on health claims being actively discussed and the FSA understands that the European Commission now plans to publish a discussion document or adopt a proposal on nutrition labelling early in 2004.

30. The FSA has also developed a range of advice notes on, for example, clear labelling and use of claims like 'fresh, natural, pure'. It plans to publish results of a survey to check take up of its advice on claims in early 2004 and will provide full information on products it has checked.

31. During 2003 the FSA published on its website three surveys checking the authenticity of salami, chicken products and potato varieties. Full information on the products tested has been published, except where the information related to cases where enforcement proceedings were in hand.

32. The FSA supports consumer choice in relation to GM food ingredients and considers such choice should be provided through practical and enforceable labelling. New European Commission rules on GM labelling will become operational in member states on 18 April 2004. The FSA has held a series of stakeholder meetings to discuss the scope of the new labelling requirements and will continue to work closely with stakeholders to determine whether the new rules are providing reliable and practical information in practice.

# Forty-sixth Report

## Ministry of Defence

### **Building an Air Manoeuvre Capability: The Introduction of the Apache helicopter**

#### *The Committee's main conclusions*

**Errors in introducing the Apache have resulted in additional costs and delays in delivering the operational capability to the Armed Forces. Separating the procurement of training and weapons from the prime contract has led the Department to assume additional risks and costs. The Department's approach to acquiring the training has led to additional costs of over £24 million, and meant that the introduction of the new capability has been delayed by two years. The arrangements for providing spares to support the helicopter for its first 30 months of operation, whilst sensible in concept, were also flawed because they were linked to a forecast schedule of flying rather than actual rates of flying.**

The Department accepts that there are lessons to be learned from the Apache procurement, many of which are already encompassed in the new Smart Acquisition procedures. These individual points are dealt with in the responses to the Committee's detailed conclusions and recommendations.

**... The capacity for the Apache to have secure voice and data communications with other aircraft and with United Kingdom ground troops will be restricted. As a result there remains a risk that the Armed Forces will not be able to fully utilise the Apache capability. As our recent Report on Combat Identification and recent experience in the Gulf has highlighted, such shortcomings also raise the risk of friendly fire incidents.**

Integration of modern communications systems into any helicopter is expensive, and for older helicopters this rapidly becomes uneconomic. However, the Apache has secure air-to-air communications with newer systems, such as Chinook, Merlin, Tornado and Harrier, the C-130 aircraft and also, of course, with other Apaches, both UK and US-owned. The Department accepts that some UK helicopters with older communications equipment and some ground troops will not have the capacity for *secure* communications with Apache. Most importantly though, as a result of the innovative Apache Bowman Connectivity programme (ABC+), Apache will have two-way secure fixed frequency *voice and data* communications with Bowman-equipped ground forces. This will help to improve situational awareness, which is an important part of Combat Identification, (together with well thought-out complementary tactics, techniques and procedures).

**The Apache project provides important lessons on how to manage a major new capability. These include the value of a single focus for the programme management of the delivery of a complex capability; the need to set more realistic timescales; and the importance of putting in place better arrangements for the supply of data on equipments developed in the United States.**

The lessons learned by the Department from the introduction of the Apache are covered in the responses to the Committee's detailed conclusions and recommendations.

*The detailed conclusions and recommendations*

**PAC conclusion (i): ... The Department should adhere to its policy of appointing a prime contractor responsible for all aspects of an acquisition programme, unless it is able to demonstrate that there are clear and justifiable reasons which outweigh the potential risks.**

1. The Department accepts that the experience on Apache has shown the clear benefits of prime contractorship. The splitting out of munitions and training from the prime contractor has had variable results. In the case of munitions, it was a good decision as it was £30 million cheaper. In the case of training, whilst the Department was able to procure a high quality training service at a lower cost, the timescale risk was not fully appreciated. The Department now has considerably more experience of the time it takes to complete a Private Finance Initiative (PFI) deal. The Department plans, as the Committee recommend, that future helicopter systems will be delivered through a prime contractor, unless it can be demonstrated that there are clear and justifiable reasons to pursue an alternative approach.

**PAC conclusion (ii): .... The Department should make the realism of contractors programming assumptions an important part of the assessment of tenders and pre-contract award negotiations.**

2. The Department accepts the Committee's recommendation. Apache was a pre-Smart Acquisition project. Smart Acquisition puts the emphasis on addressing, and reducing, risk up front, as well as managing and reviewing it throughout the procurement process. Consideration of the realism of contractors' planning assumptions is now an important part of this assessment phase process.

**PAC conclusion (iii): .... The Department should agree spares contracts which cover actual activity levels and... could cost-effectively make more use of industry to supply spares directly.**

3. The Department accepts the Committee's assessment. As the Accounting Officer made clear in his oral evidence to the Committee, the support service contract signed with Westland for the provision of spares was an innovative one, and reduced the spares stockpile needed compared to that using traditional, legacy methods. Also, as a result of the flying rates in training being lower than anticipated, a larger than expected stockpile of spares remain available to the MOD on the shelf.

4. The concept of contracting for initial support with acquisition of the initial capability and then developing longer term arrangements for sustainment is no longer the norm. In keeping with the 'whole life approach' to acquisition, projects now examine long term and innovative support arrangements as part of the acquisition package. The Defence Logistics Organisation (DLO) Strategic Intent envisages: contracted availability, which minimises downtime for maintenance; optimum spares usage; and reliability improvements, as the best method for providing in-service support. For example, contracted solutions are likely to require prime contractors to manage support cost drivers such as spares scaling. Underlining this Intent is a partnering approach with industry, and reinforcement of the principle that there is, in most cases, no realistic alternative to the Prime Contractor providing whole platform availability. The Partnering contract must at the very least maintain or improve military capability and reduce costs, the realisation of which must therefore include close observation of contractors' programming assumptions.

5. Moreover, projects are obliged to seek, where cost effective, support provisions which provide contractual outputs of (ideally) capability or availability, or (failing that) increased contractor logistic support. This approach is being pursued throughout the Department. Flying rates feature in many of these arrangements but this is not itself a reliable output measure. Availability for, and achievement of, missions, are more effective measures. In addition, significant elements of support (e.g. Post Design Services, Safety Management, Configuration management, etc) are largely independent of flying rates.

**PAC conclusion (iv): .... For programmes involving technology sourced from the United States, the Department should negotiate specific Memorandums of Understanding on data issues in parallel with the negotiation of the main acquisition contract.**

6. The Department is working with the US on a range of ways in which we might better share information on defence-related issues. For example we are negotiating an amendment to the US/UK General Security Agreement to improve the flow of technical information and co-ordination of the US/UK acquisition process to ensure that programme objectives are met, so that such problems might be resolved in future. Work continues to obtain an International Traffic in Arms Regulations (ITAR) waiver, which should give us freer access to unclassified information from the US. We hope that the waiver will come into force this year, subject to the necessary Congressional and Parliamentary approval. As regards Apache itself, initially, procurement was supported by an Exchange of Letters; this was followed up by agreeing the US/UK Attack Helicopter Memorandum of Understanding (MOU) in May 2000, to align future developments; this has improved the timely exchange of information.

**PAC conclusion (v): .... The Department should provide a clearer single focus for the programme management of new capability.**

7. The establishment of the Air Manoeuvre Policy Group (AMPG) in 2001 has improved the focus of the Apache programme. More generally, the Department is exploring how best to apply the Senior Responsible Owner approach to the delivery of new military capability, building on and broadening the role of the Directors of Equipment Capability in the Equipment Capability Customer (ECC) area, to embrace the effective planning and management of all elements involved.

**PAC conclusion (vi): ... The Department should examine whether other parts of the Armed Forces [aside from the Army] could use Non-Commissioned Officer (NCO) pilots.**

8. The Department addressed this question in 1996 and concluded then that there was no requirement to change the existing system. However, work that informed the creation of the Joint Helicopter Command (JHC) indicated that it would be appropriate for the issue to be re-examined once the JHC had become firmly established. The Department accepts the Committee's conclusion that a further review of this issue would be timely and intends to examine the issue in the course of this year.



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